REPORT TO COUNCIL
City of Sacramento

915 I Street, Sacramento, CA 95814-2604
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CONSENT
August 21, 2007

Honorable Mayor and
Members of the City Council

Title: Disaster Reconstruction of Nonconforming Single-Family and Two-Family Properties (M06-060)

Location/Council District: Citywide

Recommendation: 1) Review a **Resolution** approving the Environmental Exemption per the California Environmental Quality Act Section 15061(b)(3); 2) review an **Ordinance** amending sections 17.24.050 and 17.88.030 of Title 17 (Zoning Code) of the Sacramento City Code relating to the Disaster Reconstruction of Nonconforming Single-Family and Two-Family Properties; and 3) pass for publication the Ordinance title as required by the Sacramento City Charter 32c, to be adopted September 4, 2007.

Contact: Robert W. Williams, Associate Planner, (916) 808-7686; Sandra Yope, Senior Planner, (916) 808-7158

Presenters: Not Applicable

Department: Development Services

Division: Current Planning

Organization No: 4885

Description/Analysis

Issue: Staff has prepared an ordinance to amend the Zoning Code which will allow, in the event of a disaster, for the reconstruction of the destroyed structure(s) without requiring an entitlement, as is required by existing regulations. The proposed changes to the Zoning Code will be for properties which contain a single-family or a two-family use.

Currently, any legally constructed nonconforming (not in conformance with the development standards of current City codes) building, structure or use that is damaged by a disaster by less than 50% of the replacement cost can be repaired by right, regardless of the type of nonconformance. If a disaster destroys the structure or use at a cost greater than 50% of the replacement cost,

nonconforming residential structures and uses are required to apply for a Zoning Administrator Special Permit in order to reconstruct.

The proposed ordinance changes will remove the existing 50% replacement cost limitation on any legally constructed structure (including accessory structures) on any property that contains a legal single-family or two-family use. The reconstruction will be limited to the existing building envelope of the destroyed structure(s). A Special Permit from the Zoning Administrator would still be required to reconstruct any structure on a property that contains a multi-family use (three or more units).

Policy Considerations: The proposed ordinance is consistent with the City's Strategic Plan Focus Area to achieve sustainability and livability and foster economic development within the City of Sacramento.

Committee / Commission Action: The proposed ordinance was reviewed by the Planning Commission On June 28, 2007. The Planning Commission voted eight ayes, zero noes, and one absent to recommend approval of the proposed Zoning Code amendments. The Planning Commission had concerns about the balance of the public good to phase out nonconforming structures and uses versus an individual property owners right to reconstruct. The Planning Commission also had concerns about whether or not reconstruction would always be appropriate in a major disaster that could affect a larger area than just an individual property. Staff intends to provide the Planning Commission with an overview of the nonconforming code and policies at a future meeting. At the time of the writing of this report, the proposed City Code amendments were to be reviewed by the Law and Legislation Committee at their August 9, 2007 meeting.

Environmental Considerations: The proposed ordinance is exempt from the provisions of the California Environmental Quality Act (Section 15061(b)(3))

Rationale for Recommendation: The proposed code amendments will create a more appropriate regulatory environment by allowing property owners who have been the victims of a fire or similar disaster to be able to promptly reconstruct their nonconforming single-family and two-family residences and accessory structures, rather than subjecting them to the additional time and fees that are required to process entitlements.

Financial Considerations: None

Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.

Respectfully Submitted by: _____
David Kwong
Planning Manager

Approved by: _____
William Thomas
Director of Development Services

Recommendation Approved:

_____
Ray Kerridge
City Manager

Table of Contents:

	Report	Pg	1
Attachments			
1.	Background Information	Pg	4
2.	Summary of Proposed Code Changes	Pg	5
3.	Resolution Approving CEQA Exemption	Pg	6
4.	Redlined Ordinance Amending Zoning Code	Pg	7
5.	Ordinance Amending Zoning Code	Pg	19

Attachment 1

Background Information: In 1990, the nonconforming chapter of the Zoning Code was revised to require entitlements to reconstruct nonconforming residential structures and uses that were damaged greater than 50% of the replacement cost. Prior to 1990, all residential uses were exempt from the nonconforming regulations; therefore all legally constructed residential structures that were damaged or destroyed by any means could be reconstructed without any entitlements.

The staff at Housing and Dangerous Buildings (a division of the Code Enforcement Department) recently developed new policies and procedural improvements for "Major Catastrophic Repair for Residential and Small Commercial Usage", which were presented to the Development Oversight Commission on February 5, 2007. These policies provide for a streamlined process in the event of a disaster, which includes the issuance of building permits by a building inspector in the field to reconstruct structures damaged or destroyed by a disaster. Some of these cases involve nonconformance issues which are reviewed by a Zoning Investigator.

As an outgrowth of the new policies developed by Housing staff, and to promote a more appropriate regulatory environment, staff has proposed changes to the nonconforming regulations in relation to the reconstruction of single-family and two-family uses. The proposed code amendments may also help homeowners by providing them with greater assurance that their structures can be reconstructed if their property experiences a calamity.

Notice of the public hearing for the Zoning Code amendment has been given by publication for September 4, 2007 pursuant to Sacramento City Code Section 17.208.010.

Attachment 2

Proposed Amendments to Title 17 (Zoning Code):

The ordinance amendment includes changes to Footnote 3 of Section 17.88.030 (Nonconforming Structures and Uses) which is the Footnote for reconstruction when a property is damaged or destroyed by a disaster. The existing code to reconstruct a residential property that has been damaged greater than 50% of the replacement cost of the structure(s) will be split up into separate regulations in the proposed code. The nonconforming multi-family uses will still require a Zoning Administrator Special Permit to reconstruct, but the single-family and two-family uses will now be allowed to reconstruct by right.

Other changes to Footnote 3 of Section 17.88.030 are to provide for consistency of deadlines to submit for a Special Permit or reconstruct. Current code requires that a by right reconstruction of a nonconforming structure or use (damage of less than 50% of the replacement cost) file for a building permit within one year following the disaster, however if the damage requires a Zoning Administrator Special Permit to reconstruct, that application must be filed within six months from the date of the disaster. To provide consistency for timelines the code is proposed to be amended to require either a building permit application or a Zoning Administrator Special Permit application to be filed within six months. The Zoning Administrator can still grant a one year extension for all residential projects. (This action does not require an entitlement).

Changes that are proposed to Footnote 4 and 7 of Section 17.88.030 are made to provide for consistency with the wording of the proposed changes to Footnote 3. No policy changes are proposed by the changes to Footnote 4 and 7. All nonconforming residential uses or structures, whether damaged at a replacement cost of less than 50% or greater than 50%, will still require a Special Permit to reconstruct, if they are removed or demolished other than by a disaster. All nonconforming commercial uses continue to be able to apply for a Zoning Administrator Special Permit to reconstruct only if the cost of damage is less than 50%, regardless of whether the site was destroyed by disaster or other than by disaster.

Finally, staff is proposing some minor changes to Footnote 13 of Section 17.24.050 (Land Use Regulations). This footnote deals with Residential Uses in the Heavy Commercial and Industrial Zones. The existing wording has caused some confusion about when a residential use is allowed in these zones. The proposed wording revisions should help clarify the residential use requirements in these zones.

Attachment 1

RESOLUTION NO.

Adopted by the Sacramento City Council

DETERMINING PROJECT EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, CODE AMENDMENT RELATING TO DISASTER RECONSTRUCTION OF NONCONFORMING SINGLE-FAMILY AND TWO-FAMILY PROPERTIES. (M07-060)

BACKGROUND

A. The City of Sacramento's Environmental Planning Services has reviewed the ordinance relating to Sacramento City Code Amendment for Somatic Practitioners' Establishments and has determined the Project is exempt from review under the California Environmental Quality Act as follows:

1. The Project is exempt under the following provisions of the California Environmental Quality Act (CEQA): Section 15061 (b) (3);

2. The factual basis for the finding of exemption is as follows:

Exemption 15061 (b) (3) consists of an activity covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Council has reviewed and considered the Environmental Planning Services determination of exemption and the comments received at the hearing on the Project and determines that the Project is exempt from review under the California Environmental Quality Act for the reasons stated above.

Attachment 3

Redlined
ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AMENDING SECTIONS 17.24.050 AND 17.88.030 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO NONCONFORMING USES (M06-060)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote (13) of section 17.24.050 is amended to read as follows:

13. Residential Uses in the C-4, M-1, M-1 (S), M-2, and M-2(S) Zones.

Residential uses are not allowed in this zone except as provided below:

a. Property zoned C-4, M-1, M-1(S), M-2, or M-2(S) on which a building or structure had been previously used for lawful residential purposes may be restored to a residential use pursuant to a special permit issued by the zoning administrator in accordance with the requirements of Chapter 17.212.

b. Property located within the central city and zoned C-4, M-1, M-1 (S), M-2, or M-2(S) may be used for residential purposes pursuant to a special permit issued by the zoning administrator in accordance with the requirements of Chapter 17.212.

c. Property located within a quarter-mile radius of a light rail station (measured from the center of the platform, as determined by the planning director, to the edge of the parcel closest to the station) and zoned C-4, M-1, M-1 (S), M-2, or M-2(S) may be used for apartments, duplexes, or halfplexes pursuant to a special permit issued by the planning commission in accordance with the requirements of Chapter 17.212.

~~d.~~ Notwithstanding the provisions of Chapter 17.64, projects that incorporate both residential uses authorized by this ~~section~~subsection (13)(c) and commercial retail or commercial service uses may have the required off-street parking for the ground floor commercial retail or service use waived by fifty (50) percent or less

by a zoning administrator's special permit or by more than fifty (50) percent by a planning commission special permit, in accordance with the requirements of Chapter 17.212.

B. Except as specifically amended by the amendments to footnote 13, all other provisions of section 17.24.050 remain unchanged and in full force and effect.

SECTION 2. Section 17.88.030 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The Nonconforming Regulations Chart set out in Section 17.88.030 is amended to read as follows:

	Nonconforming Building or Structure	**Nonconforming Use**
Maintenance of a	1	1
Additions, enlargements or relocations of a	2	2
~~Restoration~~ Repair or ~~replacement~~ reconstruction of a .... damaged or destroyed by disaster	3	3
~~Restoration~~ Repair or ~~replacement~~ reconstruction of a .... ~~damaged~~ removed or demolished not by disaster	4	4
Change in ordinance or policy that results in a	5	5
Change in zone that results in a	6	6
Reconstruction, enlargement or alteration of building, structure or use that required a special permit or plan review	7	7
Change from .... to a conforming use	N/A	8
Change from .... to another nonconforming use	N/A	9
Discontinuance of a	N/A	10
Nonconforming adult entertainment use	N/A	11
.... converted to an artist's live/work space	N/A	12
Nonconforming hazardous waste facility	N/A	13
.... located in the Alhambra Corridor SPD	14	14
Listed historic structure that is a .... or is proposed to be a	15	15

B. Footnote (3) of section 17.88.030 is amended to read as follows:

3. ~~Restoration~~Repair or ~~Replacement~~Reconstruction of a Nonconforming Building, Structure or Use Damaged or Destroyed by Disaster.

a. ~~Disaster—Definition~~Definitions.

i. For purposes of this section, "disaster" means a fire, flood, wind, earthquake, or other calamity or destruction by the public enemy.

~~b. Replacement Cost—Definition and Procedure to Determine.~~

ii. For purposes of this subsection, "replacement cost" means the cost at the time of the application to replace the building or structure as it existed immediately prior to the damage or partial or complete destruction with a building or structure of like kind and quality. The determination(s) as to the cost of repair or reconstruction and the replacement cost shall be made by the zoning administrator or his or her authorized representative. Any person dissatisfied with the determination of the zoning administrator may appeal that decision to the city planning commission within the time period and pursuant to the procedures set forth in Section 17.200.030(A) of this title.

~~c~~b. Cost of ~~Damage~~Repair or Reconstruction Is Less Than Fifty Percent of the Replacement Cost.

i. Repair or Reconstruction Permitted.

A nonconforming building or structure, or any building or structure devoted to a nonconforming use, ~~which~~ that is damaged or partially destroyed by a disaster may be ~~restored~~repaired or reconstructed and the occupation or use of that building, structure, or part thereof, ~~which~~ that lawfully existed at the time of its damage or partial destruction, may be continued, provided that~~. (i)~~ the cost of repair or ~~restoration~~ reconstruction is less than fifty (50) percent of the replacement cost of the building or structure~~; and (ii) the restoration is started within a period of one year following the date of the damage or destruction and is diligently prosecuted to completion. Except as provided in subsection (3)(c)(i) of this section, if the restoration is not started within one year following the date of the damage or destruction, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all regulations of this ordinance for the zone in which it is located.~~. This subsection applies without limitation to accessory buildings, structures, or uses including garages, storage sheds, or pools. Any ~~restoration,~~ repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the ~~regulations of the~~ Sacramento building code existing at the time of repair or reconstruction.

~~i. Exception—Residential Uses—Time for Restoration—Extension of Time—Appeal~~ ii. Time for Application for Building Permit-Prosecution of Work.

~~Restoration~~ An application for a building permit for the repair or reconstruction authorized by this subsection shall be ~~started~~filed not later than ~~one year~~six months

following the date of the damage or partial destruction~~.~~, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of the damage or partial destruction, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

iii. Time for Repair or Reconstruction Work—Residential Buildings or Structures, Residential Uses--Extension of Time—Appeal.

The zoning administrator ~~or his or her authorized representative~~ may approve a single, one year extension of the period for ~~restoration~~commencement and prosecution of the repair or reconstruction ~~specified above~~work authorized by this subsection for nonconforming residential buildings or structures or a building or structure devoted to a nonconforming residential use if substantial and diligent progress towards commencement and completion of the work has been made or~~,~~ if ~~not,~~ the delay in or inability to begin or complete the ~~restoration~~work is attributable to factors not reasonably within the applicant's control including~~, but not limited to, the~~ without limitation weather~~, a change in ownership,~~ or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator ~~thereof~~ concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

~~d~~

c. Cost of ~~Damage~~Repair or Reconstruction is Fifty Percent or Greater Than Replacement Cost.

~~Except as provided in subsection (3)(d)(i) of this section, if the~~ . Non-residential Buildings or Structures, Nonresidential Uses.

If a nonconforming nonresidential building or structure, or any building or structure devoted to a nonconforming nonresidential use, is damaged or destroyed by a disaster and the cost of repair or reconstruction ~~of a building or structure damaged by a disaster~~ is fifty ~~(50)~~ percent (50%) or more of the ~~reconstruction~~replacement cost of the building or structure, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all ~~regulations~~requirements of this title for the zone in which it is located.

~~i. Exception—~~i. Multiple Family Residential Uses.

~~Notwithstanding any other provisions of this ordinance, the zoning administrator may issue a zoning administrator's special permit pursuant to Chapter 17.212 of this title authorizing the construction or restoration of a~~ (A) Repair or Reconstruction with Zoning Administrator's Special Permit.

A nonconforming multiple family residential building or structure~~ lawfully~~ , or any building or structure devoted to a nonconforming multiple family residential use, that is damaged or destroyed by a disaster may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its destruction may be continued, even though the cost of ~~restoration~~repair or reconstruction is fifty ~~(50)~~ percent (50%) or more of the ~~reconstruction~~replacement cost for the building or structure, upon issuance of a zoning administrator's special permit pursuant to and subject to the findings required by Chapter 17.212. This ~~exception~~subsection applies to accessory residential buildings, structures, or uses including~~, but not limited to,~~ without limitation garages, storage sheds, or pools. ~~Such a zoning administrator's special permit may be approved if the zoning administrator finds that issuance of the special permit will not be detrimental to the public health, safety or welfare and will not result in the creation of a nuisance. In granting a zoning administrator's special permit, the zoning administrator may impose such conditions as may be necessary to carry out the intent and purpose of this title or to protect the public health, safety or welfare~~Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

~~(A~~
(B) Time for Application for Special Permit.

An application for a zoning administrator's special permit pursuant to this subsection shall be filed not later than six months following the date of the damage or destruction. If an application is not filed within six months following the date of the damage or destruction, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all ~~regulations~~requirements of this title for the zone in which it is located.

(~~B~~C) Time for ~~Restoration~~Application for Building Permit-Prosecution of Work.

Notwithstanding the provisions of section 17.212.100 to the contrary, an application for a building permit for the repair or reconstruction work authorized by this subsection shall be filed not later than six months following the date of issuance of the special permit, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of issuance of the building permit, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(D) Time for Repair or Reconstruction—Extension of Time—Appeal.

~~Restoration shall be completed not later than one year following issuance~~ Notwithstanding the provisions of ~~the special permit. The~~section 17.212.100 to the contrary, the zoning administrator ~~or his or her authorized representative~~ may approve a

single, one year extension of the period for ~~restoration~~commencement and prosecution of the repair or reconstruction ~~specified above~~work authorized by this subsection if substantial and diligent progress towards commencement and completion of the work has been made or~~,~~ if ~~not,~~ the delay in or inability to complete the ~~restoration~~work is attributable to factors not reasonably within the applicant's control including~~, but not limited to, the~~ without limitation weather ~~and~~or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator ~~thereof~~ concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

iii. Single Family and Two Family Residential Uses.

(A) Repair or Reconstruction Permitted.

A nonconforming single family or two family residential dwelling, or any building or structure devoted to a nonconforming single family or two family residential use, that is damaged or destroyed by a disaster may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its destruction may be continued, even though the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost for the building or structure, as long as the repair or reconstruction does not project beyond the three dimensional form of the building or structure as it existed at the time of its damage or destruction. This subsection applies to accessory residential buildings, structures, or uses including without limitation garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

(B) Design Review.

Repair or reconstruction under this subsection of a non-conforming single family or two family residential dwelling, or any building or structure devoted to a nonconforming single family or two family residential use that is not otherwise subject to design review shall be subject to design review for ministerial projects under section 17.132.180.

(C) Time for Application for Building Permit-Prosecution of Work.

An application for a building permit for the repair or reconstruction work authorized by this subsection shall be filed not later than six months following the date of the damage or destruction, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of the damage or destruction, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(D) Time for Repair or Reconstruction Work—Extension of Time—Appeal.

The zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to begin or complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

C. Footnote (4) of section 17.88.030 is amended to read as follows:

4. ~~Restoration~~Repair or ~~Replacement~~ Reconstruction of a Nonconforming Building, Structure or Use ~~Damaged~~Removed or Demolished Other than by Disaster.

~~Except as provided in subsection 3 of this section or in the exceptions set forth below, a~~a. Definitions.

i. For purposes of this section, "disaster" means a fire, flood, wind, earthquake, or other calamity or destruction by the public enemy.

ii. For purposes of this subsection, "replacement cost" means the cost at the time of the application to replace the building or structure as it existed immediately prior to the damage or partial or complete destruction with a building or structure of like kind and quality. The determination(s) as to the cost of repair or reconstruction and the replacement cost shall be made by the zoning administrator or his or her authorized representative. Any person dissatisfied with the determination of the zoning administrator may appeal that decision to the city planning commission within the time period and pursuant to the procedures set forth in Section 17.200.030(A) of this title.

b. Cost of Repair or Reconstruction Is Less Than Fifty Percent of the Replacement Cost.

i. Repair or Reconstruction with Zoning Administrator's Special Permit.

A nonconforming building or structure, or any portion thereof, or a building or structure lawfully used for a nonconforming use~~, which~~ that is removed or ~~otherwise destroyed or~~ demolished~~, shall not be restored or replaced unless every portion of the building or structure and its use are made to conform to all regulations of this title for the zone in which the building or structure is located.~~

~~a. Exception—Partial Removal or Destruction.~~

~~Notwithstanding any other provisions of this title, the zoning administrator may issue a zoning administrator's special permit pursuant to Chapter 17.212 of this title~~

~~authorizing the reconstruction or restoration of a nonconforming~~ other than by disaster may be repaired or reconstructed and the occupation or use of that building or structure~~, or a building or structure~~ that lawfully ~~devoted to a nonconforming use, provided that (i) the cost of restoration or reconstruction is less than fifty (50) percent of the replacement cost of the building or structure as defined in subsection (3)(b) of this section; and (ii) the restoration or replacement is started within a period of one year following the date of the removal, destruction or demolition and is diligently prosecuted to completion. If the cost of the restoration or reconstruction is fifty (50) percent or more of the replacement cost of the building or structure as defined in subsection (3)(b) of this section or the restoration or replacement is not started within a period of one year following the date of removal, destruction, or demolition, no restoration or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all regulations of this title for the zone in which it is located. Any reconstruction or restoration shall be in accordance with the regulations of the Sacramento building code existing at the time of the restoration or reconstruction. Such a zoning administrator's special permit may be approved if the zoning administrator finds that issuance of the special permit will not be detrimental to the public health, safety or welfare and will not result in the creation of a nuisance. In granting a zoning administrator's special permit, the zoning administrator may impose such conditions as may be necessary to carry out the intent and purpose of this title or to protect the public health, safety or welfare.~~

~~b. Exception—Residential Uses.~~

~~Notwithstanding any other provisions of this title, the zoning administrator may issue a zoning administrator's special permit pursuant to Chapter 17.212 of this title authorizing the reconstruction or restoration of a nonconforming building or structure lawfully devoted to a residential use~~ existed at the time of its ~~damage or partial destruction, even though the damage or destruction is such~~removal or demolition may be continued, provided, that the cost of repair or reconstruction is less than fifty ~~(50)~~ percent ~~or more~~(50%) of the replacement cost ~~for~~of the building or structure, upon issuance of a zoning administrator's special permit pursuant to and subject to the findings required by Chapter 17.212. This ~~exception~~ subsection applies without limitation to accessory ~~residential~~ buildings, structures, or uses including~~, but not limited to,~~ garages, storage sheds ~~and~~ , or pools. ~~Such a zoning administrator's special permit may be approved if the zoning administrator finds that issuance of the special permit will not be detrimental to the public health, safety or welfare and will not result in the creation of a nuisance. In granting a zoning administrator's special permit, the zoning administrator may impose such conditions as may be necessary to carry out the intent and purpose of this title or to protect the public health, safety or welfare~~Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

ii. Time for Application for Special Permit.

An application for a zoning administrator's special permit pursuant to this subsection shall be filed not later than six months following the date ~~demolition~~

~~commenced on the building or structure.~~of the removal or demolition. If an application is not filed within six months following the date of the removal or demolition, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all ~~regulations~~requirements of this ~~ordinance~~title for the zone in which it is located.

~~Exception. Within the central city, for projects of up to four residential units, located within a residential zone, an application for a special permit pursuant to this subsection shall be filed not later than two years following the date demolition commenced on the building or structure.~~ iii. Time for Application for Building Permit-Prosecution of Work.

~~ii. Time for Restoration—Extension of Time—Appeal.~~

~~Restoration~~ Notwithstanding the provisions of section 17.212.100 to the contrary, an application for a building permit for the repair or reconstruction authorized by this subsection shall be ~~completed~~filed not later than ~~one year~~six months following the date of issuance of the special permit~~.~~, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of issuance of the building permit, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

iv. Time for Repair or Reconstruction Work—Residential Buildings or Structures, Residential Uses--Extension of Time—Appeal.

The zoning administrator ~~or his or her authorized representative~~ may approve a single, one year extension of the period for ~~restoration~~commencement and prosecution of the repair or reconstruction ~~specified above~~work authorized by this subsection for nonconforming residential buildings or structures or a building or structure devoted to a nonconforming residential use if substantial and diligent progress towards ~~completion~~commencement and completion of the work has been made or~~,~~ if ~~not,~~ the delay in or inability to begin or complete the ~~restoration or reconstruction~~ work is attributable to factors not reasonably within the applicant's control including~~, but not limited to, the~~ without limitation weather ~~and~~ or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

c. Cost of Repair or Reconstruction Is Fifty Percent or Greater of the Replacement Cost.

i. Non-residential Buildings or Structures, Non-residential Uses.

If a nonconforming nonresidential building or structure, or any building or structure devoted to a nonconforming nonresidential use, is removed or demolished other than by disaster, and the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost of the building or structure, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

ii. Residential Buildings or Structures, Residential Uses.

(A) Repair or Reconstruction with Zoning Administrator's Special Permit.

A nonconforming residential building or structure, or any portion thereof, or a building or structure lawfully used for a nonconforming residential use that is removed or demolished other than by disaster, and the cost of repair or reconstruction is fifty percent (50%) or greater of the replacement cost of the building or structure may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its removal or demolition may be continued, upon issuance of a zoning administrator's special permit pursuant to and subject to the findings required by Chapter 17.212. This subsection applies without limitation to accessory residential buildings, structures, or uses including garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

(B) Time for Application for Special Permit.

(i) Except as provided in subsection (ii) immediately following, an application for a zoning administrator's special permit pursuant to this subsection shall be filed not later than six months following the date of the removal or demolition. If an application is not filed within six months following the date of the removal or demolition, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(ii) Within the central city, for projects of up to four residential units, located within a residential zone, an application for a special permit pursuant to this subsection shall be filed not later than two years following the date demolition commenced on the building or structure.

(C) Time for Application for Building Permit-Prosecution of Work.

Notwithstanding the provisions of section 17.212.100 to the contrary, an application for a building permit for the repair or reconstruction work authorized by this subsection shall be filed not later than six months following the date of issuance of the special permit, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of issuance

of the building permit, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(D) Time for Repair or Reconstruction—Extension of Time—Appeal.

Notwithstanding the provisions of section 17.212.100 to the contrary, the zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

D. Footnote (7) of section 17.88.030 is amended to read as follows:

7. Reconstruction, Enlargement or Alteration, of Buildings, Structures or Uses that Required a Special Permit or Plan Review.

~~Notwithstanding~~a. Except as provided in subsection (b) of this footnote 7, and notwithstanding any other provisions of this title, a building, structure, or use which currently requires a special permit or plan review, but which was lawfully established at a time when no such special permit or plan review requirement existed, shall be considered to have a special permit or plan review. Such a building, structure, or use may be reconstructed, enlarged, or altered pursuant to the special permit modification or plan review modification procedures established in Section 17.212.070 of this title and Section 17.220.050 of this title respectively. This provision shall only apply to uses that are consistent with the use ~~regulations~~requirements established by this title at the time the modification is sought. This provision may apply to uses on property which were lawfully established at the time of the annexation or consolidation of that property with the city.

b. If a nonconforming residential building or structure, or any building or structure devoted to a nonconforming residential use, is considered to have a special permit or plan review under this footnote 7 and is damaged or destroyed in whole or in part by a disaster, the building or structure may be repaired or reconstructed and the occupation or use of that building, structure, or part thereof that lawfully existed at the time of its destruction, may be continued as provided in subsections (3)(b) and (3)(c) of this section. No special permit modification or plan review modification shall be required under this footnote 7.

E. Except as specifically amended by the amendments to the Nonconforming Regulations Chart and footnotes 3, 4, and 7, Section 17.88.030 shall remain unchanged and in full force and effect.

Attachment 4

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AMENDING SECTIONS 17.24.050 AND 17.88.030 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO NONCONFORMING USES (M06-060)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote (13) of section 17.24.050 is amended to read as follows:

13. Residential Uses in the C-4, M-1, M-1 (S), M-2, and M-2(S) Zones.

Residential uses are not allowed in this zone except as provided below:

a. Property zoned C-4, M-1, M-1(S), M-2, or M-2(S) on which a building or structure had been previously used for lawful residential purposes may be restored to a residential use pursuant to a special permit issued by the zoning administrator in accordance with the requirements of Chapter 17.212.

b. Property located within the central city and zoned C-4, M-1, M-1 (S), M-2, or M-2(S) may be used for residential purposes pursuant to a special permit issued by the zoning administrator in accordance with the requirements of Chapter 17.212.

c. Property located within a quarter-mile radius of a light rail station (measured from the center of the platform, as determined by the planning director, to the edge of the parcel closest to the station) and zoned C-4, M-1, M-1 (S), M-2, or M-2(S) may be used for apartments, duplexes, or halfplexes pursuant to a special permit issued by the planning commission in accordance with the requirements of Chapter 17.212. Notwithstanding the provisions of Chapter 17.64, projects that incorporate both residential uses authorized by this subsection (13)(c) and commercial retail or commercial service uses may have the required off-street parking for the ground floor commercial retail or service use waived by fifty (50) percent or less by a zoning administrator's special permit or by more than fifty (50) percent by a planning commission special permit, in accordance with the requirements of Chapter 17.212.

B. Except as specifically amended by the amendments to footnote 13, Section 17.24.050 shall remain unchanged and in full force and effect.

SECTION 2. Section 17.88.030 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The Nonconforming Regulations Chart set out in Section 17.88.030 is amended to read as follows:

	Nonconforming Building or Structure	**Nonconforming Use**
Maintenance of a	1	1
Additions, enlargements or relocations of a	2	2
Repair or reconstruction of a .... damaged or destroyed by disaster	3	3
Repair or reconstruction of a .... removed or demolished not by disaster	4	4
Change in ordinance or policy that results in a	5	5
Change in zone that results in a	6	6
Reconstruction, enlargement or alteration of building, structure or use that required a special permit or plan review	7	7
Change from .... to a conforming use	N/A	8
Change from .... to another nonconforming use	N/A	9
Discontinuance of a	N/A	10
Nonconforming adult entertainment use	N/A	11
.... converted to an artist's live/work space	N/A	12
Nonconforming hazardous waste facility	N/A	13
.... located in the Alhambra Corridor SPD	14	14
Listed historic structure that is a .... or is proposed to be a	15	15

B. Footnote (3) of section 17.88.030 is amended to read as follows:

3. Repair or Reconstruction of a Nonconforming Building, Structure or Use Damaged or Destroyed by Disaster.

a. Definitions.

i. For purposes of this section, "disaster" means a fire, flood, wind, earthquake, or other calamity or destruction by the public enemy.

ii. For purposes of this subsection, "replacement cost" means the cost at the time of the application to replace the building or structure as it existed immediately prior to the damage or partial or complete destruction with a building or structure of like kind and quality. The determination(s) as to the cost of repair or reconstruction and the replacement cost shall be made by the zoning administrator or his or her authorized representative. Any person dissatisfied with the determination of the zoning administrator may appeal that decision to the city planning commission within the time period and pursuant to the procedures set forth in Section 17.200.030(A) of this title.

b. Cost of Repair or Reconstruction Is Less Than Fifty Percent of the Replacement Cost.

i. Repair or Reconstruction Permitted.

A nonconforming building or structure, or any building or structure devoted to a nonconforming use, that is damaged or partially destroyed by a disaster may be repaired or reconstructed and the occupation or use of that building, structure, or part thereof, that lawfully existed at the time of its damage or partial destruction, may be continued, provided that the cost of repair or reconstruction is less than fifty (50) percent of the replacement cost of the building or structure. This subsection applies without limitation to accessory buildings, structures, or uses including garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

ii. Time for Application for Building Permit-Prosecution of Work.

An application for a building permit for the repair or reconstruction authorized by this subsection shall be filed not later than six months following the date of the damage or partial destruction, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of the damage or partial destruction, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

iii. Time for Repair or Reconstruction Work—Residential Buildings or Structures, Residential Uses--Extension of Time—Appeal.

The zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection for nonconforming residential buildings or structures or a building or

structure devoted to a nonconforming residential use if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to begin or complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

c. Cost of Repair or Reconstruction is Fifty Percent or Greater Than Replacement Cost.

i. Non-residential Buildings or Structures, Nonresidential Uses.

If a nonconforming nonresidential building or structure, or any building or structure devoted to a nonconforming nonresidential use, is damaged or destroyed by a disaster and the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost of the building or structure, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

ii. Multiple Family Residential Uses.

(A) Repair or Reconstruction with Zoning Administrator's Special Permit.

A nonconforming multiple family residential building or structure, or any building or structure devoted to a nonconforming multiple family residential use, that is damaged or destroyed by a disaster may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its destruction may be continued, even though the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost for the building or structure, upon issuance of a zoning administrator's special permit pursuant to and subject to the findings required by Chapter 17.212. This subsection applies to accessory residential buildings, structures, or uses including without limitation garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

(B) Time for Application for Special Permit.

An application for a zoning administrator's special permit pursuant to this subsection shall be filed not later than six months following the date of the damage or destruction. If an application is not filed within six months following the date of the damage or destruction, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(C) Time for Application for Building Permit-Prosecution of Work.

Notwithstanding the provisions of section 17.212.100 to the contrary, an application for a building permit for the repair or reconstruction work authorized by this subsection shall be filed not later than six months following the date of issuance of the special permit, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of issuance of the building permit, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(D) Time for Repair or Reconstruction—Extension of Time—Appeal.

Notwithstanding the provisions of section 17.212.100 to the contrary, the zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

iii. Single Family and Two Family Residential Uses.

(A) Repair or Reconstruction Permitted.

A nonconforming single family or two family residential dwelling, or any building or structure devoted to a nonconforming single family or two family residential use, that is damaged or destroyed by a disaster may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its destruction may be continued, even though the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost for the building or structure, as long as the repair or reconstruction does not project beyond the three dimensional form of the building or structure as it existed at the time of its damage or destruction. This subsection applies to accessory residential buildings, structures, or uses including without limitation garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

(B) Design Review.

Repair or reconstruction under this subsection of a non-conforming single family or two family residential dwelling, or any building or structure devoted to a

nonconforming single family or two family residential use that is not otherwise subject to design review shall be subject to design review for ministerial projects under section 17.132.180.

(C) Time for Application for Building Permit-Prosecution of Work.

An application for a building permit for the repair or reconstruction work authorized by this subsection shall be filed not later than six months following the date of the damage or destruction, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of the damage or destruction, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(D) Time for Repair or Reconstruction Work—Extension of Time—Appeal.

The zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to begin or complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

C. Footnote (4) of section 17.88.030 is amended to read as follows:

4. Repair or Reconstruction of a Nonconforming Building, Structure or Use Removed or Demolished Other than by Disaster.

a. Definitions.

i. For purposes of this section, "disaster" means a fire, flood, wind, earthquake, or other calamity or destruction by the public enemy.

ii. For purposes of this subsection, "replacement cost" means the cost at the time of the application to replace the building or structure as it existed immediately prior to the damage or partial or complete destruction with a building or structure of like kind and quality. The determination(s) as to the cost of repair or reconstruction and the replacement cost shall be made by the zoning administrator or his or her authorized representative. Any person dissatisfied with the determination of the zoning administrator may appeal that decision to the city planning commission within the time period and pursuant to the procedures set forth in Section 17.200.030(A) of this title.

b. Cost of Repair or Reconstruction Is Less Than Fifty Percent of the Replacement Cost.

i. Repair or Reconstruction with Zoning Administrator's Special Permit.

A nonconforming building or structure, or any portion thereof, or a building or structure lawfully used for a nonconforming use that is removed or demolished other than by disaster may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its removal or demolition may be continued, provided, that the cost of repair or reconstruction is less than fifty percent (50%) of the replacement cost of the building or structure, upon issuance of a zoning administrator's special permit pursuant to and subject to the findings required by Chapter 17.212. This subsection applies without limitation to accessory buildings, structures, or uses including garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

ii. Time for Application for Special Permit.

An application for a zoning administrator's special permit pursuant to this subsection shall be filed not later than six months following the date of the removal or demolition. If an application is not filed within six months following the date of the removal or demolition, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

iii. Time for Application for Building Permit-Prosecution of Work.

Notwithstanding the provisions of section 17.212.100 to the contrary, an application for a building permit for the repair or reconstruction authorized by this subsection shall be filed not later than six months following the date of issuance of the special permit, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of issuance of the building permit, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

iv. Time for Repair or Reconstruction Work—Residential Buildings or Structures, Residential Uses--Extension of Time—Appeal.

The zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection for nonconforming residential buildings or structures or a building or structure devoted to a nonconforming residential use if substantial and diligent progress

towards commencement and completion of the work has been made or if the delay in or inability to begin or complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

c. Cost of Repair or Reconstruction Is Fifty Percent or Greater of the Replacement Cost.

i. Non-residential Buildings or Structures, Non-residential Uses.

If a nonconforming nonresidential building or structure, or any building or structure devoted to a nonconforming nonresidential use, is removed or demolished other than by disaster, and the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost of the building or structure, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

ii. Residential Buildings or Structures, Residential Uses.

(A) Repair or Reconstruction with Zoning Administrator's Special Permit.

A nonconforming residential building or structure, or any portion thereof, or a building or structure lawfully used for a nonconforming residential use that is removed or demolished other than by disaster, and the cost of repair or reconstruction is fifty percent (50%) or greater of the replacement cost of the building or structure may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its removal or demolition may be continued, upon issuance of a zoning administrator's special permit pursuant to and subject to the findings required by Chapter 17.212. This subsection applies without limitation to accessory residential buildings, structures, or uses including garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

(B) Time for Application for Special Permit.

(i) Except as provided in subsection (ii) immediately following, an application for a zoning administrator's special permit pursuant to this subsection shall be filed not later than six months following the date of the removal or demolition. If an application is not filed within six months following the date of the removal or demolition, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(ii) Within the central city, for projects of up to four residential units, located within a residential zone, an application for a special permit pursuant to this subsection shall be filed not later than two years following the date demolition commenced on the building or structure.

(C) Time for Application for Building Permit-Prosecution of Work.

Notwithstanding the provisions of section 17.212.100 to the contrary, an application for a building permit for the repair or reconstruction work authorized by this subsection shall be filed not later than six months following the date of issuance of the special permit, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of issuance of the building permit, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(D) Time for Repair or Reconstruction—Extension of Time—Appeal.

Notwithstanding the provisions of section 17.212.100 to the contrary, the zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

D. Footnote (7) of section 17.88.030 is amended to read as follows:

7. Reconstruction, Enlargement or Alteration, of Buildings, Structures or Uses that Required a Special Permit or Plan Review.

a. Except as provided in subsection (b) of this footnote 7, and notwithstanding any other provisions of this title, a building, structure, or use which currently requires a special permit or plan review, but which was lawfully established at a time when no such special permit or plan review requirement existed, shall be considered to have a special permit or plan review. Such a building, structure, or use may be reconstructed, enlarged, or altered pursuant to the special permit modification or plan review modification procedures established in Section 17.212.070 of this title and Section 17.220.050 of this title respectively. This provision shall only apply to uses that are consistent with the use requirements established by this title at the time the

modification is sought. This provision may apply to uses on property which were lawfully established at the time of the annexation or consolidation of that property with the city.

b. If a nonconforming residential building or structure, or any building or structure devoted to a nonconforming residential use, is considered to have a special permit or plan review under this footnote 7 and is damaged or destroyed in whole or in part by a disaster, the building or structure may be repaired or reconstructed and the occupation or use of that building, structure, or part thereof that lawfully existed at the time of its destruction, may be continued as provided in subsections (3)(b) and (3)(c) of this section. No special permit modification or plan review modification shall be required under this footnote 7.

E. Except as specifically amended by the amendments to the Nonconforming Regulations Chart and footnotes 3, 4, and 7, Section 17.88.030 shall remain unchanged and in full force and effect.