ORDINANCE NO. 2018-01-23-1503


BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON AS FOLLOWS:

SECTION I: AMENDMENT OF CODE
Title 16, Chapter 16.88, section 16.88.050 is amended to read as follows:


A. Review Without Notice Procedure.
   1. Applicability. The review without notice procedure applies to applications, which are reviewed to determine their consistency with established policies and standards and do not require action by the Commission.
   2. Notice Not Required. Notice is not required for actions taken in compliance with this section.
   3. Review. The Director shall review the application for completeness and accuracy and refer the application to staff and applicable agencies for review and comment.
   4. Action by Director. The Director shall approve or disapprove the application based upon its consistency with established policies and standards.
   5. Effective Date of Action. Action on any application, unless otherwise identified, shall be effective upon expiration of the 10-day appeal period in compliance with Section 16.92.090 (Effective date).

B. Administrative Review Procedure.
   1. Applicability. The review with notice procedure applies to discretionary applications which require public notice, but which do not require a public hearing before the Commission.
   2. Preliminary Action by Director. Following the initial review period, the Director shall either:
      a. Proceed with the review; or
      b. Refer the application directly to the Commission based on:
i. The importance of the issue in carrying out the General Plan, the cumulative effect of similar applications, policy guidance previously received from the Commission or Council, and the possibility that the decision may set a precedent for future decisions. The Commission shall give notice and conduct a public hearing in compliance with subsection C of this section (Public hearing review procedure).

ii. An EIR being required. All projects requiring the preparation of an EIR shall be automatically referred to the Commission for final action.

3. **Notification.** Notification of the application and any hearing that is requested in compliance with subsection (B)(5) of this section, shall be given in compliance with Section 16.88.030(B)(2) (Mailed notice).

   a. There shall be a 14-day review period (e.g., administrative use permit and home occupation permits) during which time:
      i. Comments, for or against the application, may be submitted to the Director before the application is considered; and/or
      ii. A request for a public hearing may be submitted to the Director.
   b. All comments/requests shall be in writing and signed by the person submitting the comments/request.

5. **Action by Director.** Following the review period, including the time required for the applicable environmental documents, the Director shall either render a decision or refer the application to the Commission. Any decision of the Director shall require a public hearing if a request for a public hearing has been filed in compliance with subsection (B)(4) of this section (Administrative review process).
   a. **Decision on Application.** If the Director elects to make a decision on the application, including the environmental documents:
      i. **Environmental Determination.** Before the Director makes a decision on the application(s), the Director shall make an environmental determination in compliance with Section 16.88.040 (Environmental determination).
      ii. **Application.** At the conclusion of a review or hearing, whichever is applicable, the Director shall approve, conditionally approve, or disapprove the application. The Director may take specific items under advisement and reach a decision and announce it at the later date.
   
   b. **Refer Application.** Refer the application and related environmental documentation directly to the Commission based on the response from notifications and the criteria in subsection (B)(2)(b)(i) of this section. The
Commission shall give notice and conduct a public hearing in compliance with subsection C of this section (Public hearing review procedure).

6. **Finality of Decision.** The decision of the Director is final unless appealed in compliance with Chapter 16.100 (Appeals).

7. **Written Decision.**
   a. **Contents of Decision.** The decision shall contain applicable findings, any conditions of approval, and related monitoring provisions deemed necessary to mitigate any impacts and to protect the public health, safety, and welfare of the City.
   b. **Notice.** Following the rendering of a decision, a notice of the decision and any conditions of approval shall be mailed to the applicant at the address shown on the application, any interested party commenting on the application or requesting a public hearing, and any interested party that provided a written request for a copy of the decision.

8. **Notice of Determination.** Following the hearing, any notice of determination shall be filed with the County Clerk and the State Clearinghouse, as applicable, in compliance with the City’s CEQA Guidelines.

9. **Effective Date of Action.** Action on any application, unless otherwise identified, shall be effective upon expiration of the 10-day appeal period in compliance with Section 16.92.090 (Effective date).

C. **Public Hearing Review Procedure.**

1. **General Provisions.** The applicable Review Authority (e.g., Commission or Council) shall conduct a public hearing with notification for the purpose of receiving oral and written evidence relative to the application(s). This evidence shall be reviewed to determine if the application is consistent with existing policies, standards, and required findings.

2. **Notification.** Notification of the public hearing shall be given in compliance with Section 16.88.030 (Public hearing notices).

3. **Public Hearing.** The applicable Review Authority shall hold a public hearing on the application(s), including review of applicable environmental documents. An applicant, an applicant’s representative, or any interested party may make a presentation on the application.
   a. **Applications for which the Commission is the Review Authority.** Following the conclusion of a public hearing:
      i. **Environmental Determination.** Before making a decision on the applications, the Commission shall make an environmental determination in compliance with Section 16.88.040 (Environmental determination).
      ii. **Application.** The Commission shall approve, conditionally approve, or disapprove the application(s).
(A) **Finality of Decision.** The decision of the Commission is final unless appealed in compliance with Chapter 16.100 (Appeals).

(B) **Written decision.**

1. **Contents of Decision.** The recorded decision shall contain applicable findings, any conditions of approval, and related monitoring provisions deemed necessary to mitigate any impacts and to protect the public health, safety, and welfare of the City.

2. **Notices.** Following the hearing a notice of the decision and any conditions of approval shall be mailed to the applicant at the address shown on the application and to any interested party that provided a written request for a copy of the decision.

iii. **Notice of Determination.** Following the hearing, any notice of determination shall be filed with the County Clerk and the State Clearinghouse, as applicable, in compliance with the City's CEQA Guidelines.

iv. **Effective Date of Action.** Action on any application, unless otherwise identified, shall be effective upon expiration of the 10-day appeal period, in compliance with Section 16.92.090 (Effective date).

b. **For Actions in Which the Council is the Review Authority.** The Council shall take the final action on all development agreements, Development Code amendments, General Plan amendments, historical landmarks/sites/districts, master development plans, precise road plan, prezoning, specific plans/amendments, street name changes, and Zoning Map amendments based on recommendation by the Commission, and appeals to Commission decisions.

i. **Recommendation by Commission.** The Commission shall hold a public hearing in compliance with subsection (C)(3)(a) of this section (Applications for which the Commission is the Review Authority), except that at the conclusion of the public hearing, the Commission shall forward a written recommendation to the Council.

(A) **Environmental Determination.** Before the Commission makes a recommendation on the application(s), the Commission shall review and consider the environmental documentation in compliance with Section 16.88.040 (Environmental determination).

(B) **Application.** The Commission shall either:

1. **Approve the Application.** Approve or conditionally approve the application. The resolution for the recommendation shall contain applicable findings, any conditions of approval, and reporting/monitoring requirements deemed necessary to mitigate any impacts
and protect the public health, safety, and welfare of the City; or

(2) **Disapprove the Application.** The Commission's action for disapproval shall be final and conclusive unless an appeal to the Council is filed in compliance with Chapter 16.100(Appeals). Following the Commission's action, a notice of the recommendation shall be mailed to the applicant at the address shown on the application.

**ii. Decision by Council.** Upon receipt of the Commission's recommendation and following the conclusion of the public hearing, the Council shall:

(A) **Environmental Determination.** Before making a decision on the application(s), make an environmental determination in compliance with Section 16.88.040 (Environmental determination).

(B) **Application.** Approve, approve in modified form, or disapprove the proposed application in compliance with Chapter 2.04 of the Municipal Code (Council Meetings) based on the applicable findings of fact.

(1) **Modification to Proposed Projects.** If the Council proposes to adopt a substantial modification to the proposed project that was not previously considered by the Commission during its hearings, the proposed modification shall be referred back to the Commission for its recommendation before the Council makes a final decision.

(2) **Overrule of Commission Decision.** It shall take four (4) concurring votes of the Council to overrule a decision of the Commission.

(3) **Decision.** The Council shall approve, conditionally approve, or disapprove the application(s).

(a) **Finality of Decision.** The decision of the Council is final.

(b) **Written Decision.**

(i) **Contents of Decision.** The decision shall contain applicable findings, any conditions of approval, and related monitoring provisions deemed necessary to mitigate any impacts and protect the public health, safety, and welfare of the City.

(ii) **Notice of Decision.** Following the hearing, a notice of the decision and any conditions of approval shall be mailed to the applicant at the address shown on the application and to any interested party that provided a written request for a copy of the decision.
(C) Notice of Determination. Any notice of determination shall be filed with the County Clerk and the State Clearinghouse, as applicable, and in compliance with the City's CEQA Guidelines.

iii. Effective Date. The date on which the action of the Council becomes effective shall be in compliance with Section 16.92.090 (Effective date). (Prior code § 16-420.050)

SECTION II: AMENDMENT OF CODE

Title 16, Chapter 16.100, sections 16.100.020 is amended to read as follows:

16.100.020 Appeal Of Action.

A. Types of Appeals. The following determinations and decisions may be appealed:

1. Director's Decisions. Any determination or decision rendered by the Director, except Site Plan Review, may be appealed to the Commission; and

2. Commission's Decisions. Any decision rendered by the Commission may be appealed to the Council.

B. Appellants. The following may appeal a decision of the Review Authority.

1. Applicant. The applicant, or the applicant's representative, may appeal a decision.

2. Interested Parties. Any interested party may file an appeal.

3. Director. The Director may file an appeal.

4. City Manager. The City Manager may file an appeal.

5. Commission Appeals. The Commission may appeal a decision rendered by the Director to itself (Commission), if:

   a. A member of the Commission files an appeal in compliance with Section 16.100.040(B) (Form of appeal);

   b. The member of the Commission filing the appeal requests that the Commission discuss the Director's decision to determine if the Commission should appeal the decision to itself; and

   c. A majority of the Commission members vote to consider appealing the decision.

6. Council Appeals. The Council may appeal a decision rendered by the Director to the Commission or by the Commission to itself (Council), if:

   a. A member of the Council files an appeal in compliance with Section 16.100.040(B) (Form of appeal);

   b. The member of the Council requesting the appeal requests that the Council discuss the decision to determine if the Council should appeal the decision of the Commission to itself or the decision of the Director to the Commission; and
c. A majority of the Council members vote to consider appealing the decision.

C. **Time for Filing.**
   1. **Director/Commission.** An appeal of a decision of the Director or Commission shall be filed within 10 days of the decision of the Review Authority in compliance with this chapter. The decision shall be final in 11 days if not appealed.
   2. **10-day period.** An appeal may not be filed after expiration of the 10-day appeal period.
   3. **Council.** The decision of the Council cannot be appealed and shall be final and become effective in compliance with Section 16.92.090 (Effective date).

D. **Reconsideration.** The Commission or Council may only reconsider a decision if there are four (4) concurring votes of the Commission or Council, as applicable, to reconsider the decision and the reconsideration is held at the next public meeting of the Commission or Council, as applicable. A decision of the Director shall not be subject to reconsideration. (Prior code § 16-450.020)

**SECTION III: AMENDMENT OF CODE**

Title 16, Chapter 16.100, section 16.100.040 is amended to read as follows:

**16.100.040 Filing and Processing of Appeals.**

A. **Filing.** Appeals shall be submitted in writing and filed with the Department for appeals to the Commission and with the City Clerk for appeals to the Council.

B. **Form of Appeal.** At a minimum, the appeal application shall include the following:
   1. **Statement.** A signed, written statement specifying the basis for the appeal;
   2. **Fee.** A fee in compliance with the Council's fee resolution; there shall be no appeal fee for an appeal brought by the Commission, Council, or City Manager.

C. **Scheduling.** After an appeal has been received in compliance with the procedures identified in subsection A of this section (Filing), or the Commission or Council has voted to appeal, the appeal shall be transmitted to either:
   1. **Appeals to the Commission.** The Director who shall place the item on the next available Commission agenda; or
   2. **Appeals to the Council.** The City Clerk who shall schedule the matter for the next available Council agenda.

D. **Consolidation of Hearings.** The City may consolidate hearings on all timely filed appeal applications for the same project.

E. **Appellant is Not the Applicant.** If the appellant is not the applicant, a copy of the appeal application shall be sent by the City to the applicant at the address listed on the application within seven days of its filing.
F. **Notice.** If the matter originally required a noticed public hearing, the Director or City Clerk shall notice the hearing in compliance with Section 16.88.030 (Public hearing notices).

G. **Action.** At the hearing, the appeal body may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for the appeal, and:

1. **Affirm or Reverse an Action.** By resolution, the Commission or Council may affirm, affirm in part, or reverse the action, the decision, or determination that is the subject of the appeal. It shall take four (4) concurring votes of the Commission to overrule or modify a decision of the Director or four (4) concurring votes of the Council to overrule or modify a decision of the Commission;

2. **Adopt Additional Conditions.** When reviewing an appeal, the appeal body may adopt additional conditions of approval that may address other issues or concerns than the subject of the appeal; and

3. **Refer the Matter.** If new or different evidence is presented on appeal, the Commission or Council, may, but shall not be required to, refer the matter to the Director, or Commission, as appropriate, for further consideration.

H. **Continuance.** A request for a continuance of the scheduled appeal hearing may be requested by either the applicant or the appellant. The continuance may or may not be granted by the appeal body.

I. **Withdrawal.** If the appellant withdraws the appeal, and there are no co-appellants who have filed an appeal in compliance with subsection A of this section (Filing), the appellant shall submit a written request for withdrawal to the Director. The Director shall withdraw the appeal and remove the request from any agenda and notify the applicant, if other than the appellant.

J. **Action Becomes Effective.**

1. **Action of Director.** An action of the Director appealed to the Commission shall not become effective until after the 10-day appeal period following final action by the Commission; the action of the Commission may be appealed to the Council.

2. **Action of Commission.** An action of the Commission appealed to the Council shall not become effective until after final action by the Council. (Prior code § 16-450.040)

SECTION IV: AMENDMENT OF CODE

Title 16, Chapter 16.128, section 16.128.070 is amended to read as follows:

16.128.070 **Application filing, processing, and review.**

A. **Pre-Application Conference.** If the development agreement is initiated by the owner of the property, an authorized agent, or an affected party, a pre-application conference with the Director is strongly encouraged before the filing of a development agreement.
B. **Filing.** An application for a development agreement shall be completed, filed with the Department, and processed in compliance with Chapter 16.84 (Application Filing, Processing, and Fees).

C. **Review for Completeness.**
   1. The Director is authorized to receive, review, process, and prepare, together with recommendations for Commission and Council consideration, all applications for development agreements.
   2. Each City division or department, as applicable, shall review, comment upon, and recommend any necessary or desirable changes.
   3. The City Attorney shall review and approve the development agreement as to form.
   4. The City may request any additional information or documentation necessary to complete the agreement.
   5. In the event the application is determined not to be complete, the City’s determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete.
   6. When the application is deemed to be complete, it shall be accepted for filing and the applicant shall be notified.

D. **Concurrent Processing.** All development related applications shall be processed and scheduled for public hearing(s) concurrently with the application for a development agreement, to the extent practicable. The development agreement shall not constitute a substitute for, or an alternative to, any other required permit(s) or approval(s), and the applicant shall comply with all other required procedures for development project approval.

E. **Withdrawal.** The applicant, the Commission, or the Council, whoever initiated the application, may withdraw an application for a development agreement at anytime during the review process. Withdrawal shall terminate the processing of the development agreement.

F. **Development Review Committee (DRC).** The DRC shall review the development agreement and make a recommendation to the Director.

G. **Notice and Hearings.** Except for the following, notices and the public hearing for a development agreement shall be in compliance with Chapter 16.88 (Review Procedures) for actions requiring final approval by the Council.

1. **Commission’s Action.** The Commission shall not recommend approval of a development agreement without the findings required by Section 16.128.080 (Findings and decision).
   a. **Approval.** The Commission shall not be required to recommend the identical development agreement as initiated by the applicant, but may recommend any changes it deems necessary, desirable, or in the public interest.
   b. **Disapproval.** The Commission’s action for disapproval shall be final unless an appeal to the Council is filed in compliance with Chapter 16.100 (Appeals).
2. Council's Action.
   a. Determination. The Council shall not approve the development agreement without the findings required by Section 16.128.080 (Findings and decision).
      i. Approval. The Council shall not be required to approve the identical development agreement recommended by the Commission or initiated by the applicant, but may make any changes it deems necessary, desirable, or in the public interest.
         (A) The vote of four (4) Council members shall be required to approve a development agreement in substantial compliance with the agreement recommended by the Commission.
         (B) Any substantial change, not previously considered by the Commission, to the development agreement requires that the development agreement be referred back to the Commission who shall consider the change(s) proposed by the Council in compliance with the procedures identified in this section and make a recommendation to the Council.
         (C) If the Commission did not approve the development agreement and that decision has been appealed to the Council, it shall take four (4) concurring votes by the Council to overturn the Commission's decision and approve the development agreement.
      ii. Disapproval. If the Council does not approve the development agreement:
         (A) That determination shall be final and conclusive; and
         (B) The same or similar application shall not be filed within 12 months from the date of the final disapproval, except with the permission of the Council.
   b. Ordinance.
      i. Adopting Ordinance. A Council action to approve or conditionally approve the application shall also direct the preparation of a development agreement containing the conditions and terms of the application that the Council approved or conditionally approved, as well as an ordinance authorizing execution of the development agreement by the Council, in compliance with State law (Government Code Section 65867.5).
      ii. Referendum. A development agreement adopted by ordinance is subject to a referendum in compliance with Government Code Section 65867.5.

SECTION V: AMENDMENT OF CODE

Title16, Chapter 16.220, section 16.220.070 is amended to read as follows:

16.220.070 Landmarks.
A. **Criteria for Designation of Landmarks.** In considering an artifact, natural feature, or structure for designation as a landmark, the Board shall apply any or all of the following criteria:

1. **Archaeological Interest.** Its potential for yielding significant information of archaeological interest;
2. **Architectural Craftsmanship.** Its embodiment of elements demonstrating outstanding attention to architectural and/or engineering craftsmanship, design, detail, or materials;
3. **Architectural Style.** Its exemplification of a particular architectural style or way of life important to the City, the State, or the Nation;
4. **Architectural Type.** Its exemplification of the best remaining architectural type in the City;
5. **Historic Event.** Its location as a site of a significant historic event;
6. **Heritage.** Its character, interest, or value as a significant part of the heritage of the City, the State, or the Nation;
7. **Visual Feature.** Its unique location or singular physical characteristic representing an established and familiar visual feature of the City;
8. **Relationship to Another Landmark.** Its relationship to any other landmark, if its preservation is essential to the integrity of that landmark;
9. **Significant Person.** Its identification with a person(s) who significantly contributed to the culture and development of the City, the State, or the Nation;
10. **Work of a Significant Person.** Its identification as the creation, design, or work of a person(s) whose effort has significantly influenced the heritage of the City, the State, or the Nation; or
11. **Natural Environment.** Its integrity as a natural environment that strongly contributes to the well-being of the people of the City, the State, or the Nation.

B. **Procedures for Designation of Landmarks.**

1. **Initiation.** Upon its own initiative, or upon an application filed with the Department by any person or entity, the Board may recommend to the Commission the designation as a landmark for any artifact, natural feature, or structure having aesthetic, archaeological, architectural, cultural, or historic significance.

2. **Environmental Compliance.** A landmark designation shall be subject to the requirements of CEQA and the City’s CEQA Guidelines.

3. **Procedure.** The procedure for designation of a landmark shall be as follows:
   a. **Filing.** The applicant shall file an application with the Department on a form provided for that purpose, and accompanied by any applicable fee in compliance with the Council’s fee resolution.
   b. **Board’s Recommendation.** The Director shall transmit the application to the Board for review and evaluation.
      i. The Board shall view any structure in the City nominated for landmark designation.
ii. The Board may adopt a resolution recommending that the artifact, natural feature, or structure be designated as a landmark. The recommendation shall contain a brief description of the artifact, natural feature, or structure and a written finding that the artifact, natural feature, or structure for designation as a Landmark meets one or more of the criteria identified in Section 16.220.080(A) (Criteria for designation of historic preservation districts).

iii. The Board shall transmit to the Commission its written recommendation for designation of a landmark.

c. Commission's Action. The Commission shall conduct a public hearing in compliance with Chapter 16.88 (Review Procedures) for action in which the Council is the Review Authority:

i. Notice of the time, place, and purpose of the hearing shall be given not less than 10 days before the date of the hearing by publication in a newspaper of general circulation in the City and by mailing to the owner(s) of the subject property by certified mail, in compliance with Chapter 16.88 (Review Procedures).

ii. After the hearing is conducted, the Commission shall:

(A) Recommend to the Council that the structure be designated as a landmark. The recommendation shall be by a majority vote of the Commission membership and shall be supported by a written finding that the artifact, natural feature, or structure for designation as a landmark meets one or more of the criteria identified in subsection A of this section (Criteria for designation of landmarks); or

(B) Disapprove the application, which action is final unless appealed to the Council in compliance with Chapter 16.100 (Appeals).

iii. If the Commission fails to reach a decision within 50 days after the close of the public hearing, the application shall be sent to the Council with a recommendation that the structure be designated as a landmark.

d. Appeal. The applicant or any person or entity dissatisfied with any action of the Commission may appeal to the Council in compliance with Chapter 16.100 (Appeals). It shall take four (4) concurring votes of the Council to overrule or modify the decision of the Commission.

e. Council's Action. After receipt of a recommendation for designation from the Commission, the Council may designate any property as a landmark by adopting a resolution of designation in compliance with Chapter 16.88 (Review Procedures) for actions in which the Council is the Review Authority. The resolution shall be supported by a written finding that the artifact, natural feature, or structure for designation as a landmark meets one or more of the criteria identified in subsection A of this section (Criteria for Designation of Landmarks).
f. **Recordation.** Upon designation as a landmark, the City Clerk shall record the resolution on the parcel in the County Recorder’s office. The resolution shall include the legal description of the parcel and the name(s) of the property owner(s).

4. **National Register and California Register Designation.** If an artifact, object, natural feature, structure, or site is placed on the National Register of Historic Places or the California Register of Historical Resources, the Board shall initiate the designation of that artifact, object, natural feature, structure, or site as a landmark, in compliance with this section.

C. **Certificate of Appropriateness.** A certificate of appropriateness in compliance with Section 16.220.060 (Certificate of appropriateness) shall be required for landmarks. (Prior code § 16-730.070)

SECTION VI: AMENDMENT OF CODE

Title 16, Chapter 16.220, section 16.220.080 is amended to read as follows:

**16.220.080 Historic preservation district.**

A. **Criteria for Designation of Historic Preservation Districts.** In considering the artifacts, natural features, sites, or structures within an area for designation as a Historic Preservation District, the Board shall apply any or all of the following criteria. The artifact, natural feature, site, or structure:

1. Has substantial value as part of the development, cultural, or heritage characteristics of, or is associated with, the life of a person(s) important in the history of the City, the State, or the Nation;

2. Is associated with an event that has made a substantial contribution to the broad patterns of our history;

3. Is constructed in a distinctive architectural style characteristic of an era of history;

4. Is the work of an architect or designer who has substantially influenced the development of the City, the State, or the Nation;

5. Is part of, or related to, a park, square, or other distinctive area and should be developed or preserved in compliance with a plan based on an aesthetic, architectural, cultural, or historic motif;

6. Contains elements of craftsmanship, design, detail, or materials, which represent an important innovation;

7. Embodies distinguishing characteristics of an architectural style or engineering specimen;

8. Owing to its unique location or singular physical characteristic, represents an established feature of the neighborhood, community, or City; or

9. Would help preserve and protect a historic area or place of historic interest in the City, by retaining the structure.

B. **Procedures for Designation of Historic Preservation Districts.**
1. **Initiation.** Proceedings to establish, change boundaries of, or repeal a historic preservation district may be initiated by the Council, Commission, or Board, or by the filing of an application by any person or entity.

2. **Environmental Consideration.** The establishment, change in boundaries, or repeal of a historic preservation district shall be subject to the requirements of CEQA and the City’s CEQA Guidelines.

3. **Application.** The application shall be filed with the Department, on a form prescribed for that purpose, and accompanied by any applicable fee in compliance with the Council’s fee resolution.

4. **Board.** Upon receipt of the application, a copy shall be submitted to the Board for review and evaluation.

   a. **Survey Required.** As a part of the evaluation of an application for establishment or change of boundaries of a historic preservation district, the Board shall coordinate an architectural/historical survey of the involved area, including significant artifacts, natural features, sites, or structures, unless a recent survey has been conducted.

      i. **Minimum of 50 Years.** For purposes of the architectural/historical survey, artifacts, natural features, sites, or structures, unless of exceptional importance, shall be at least 50 years of age to be considered historic.

      ii. **Finding of Significance.** The architectural/historical survey shall also include a factual statement, supporting or opposing a finding that at least 30 percent of the artifacts, natural features, sites, and structures, not including accessory uses, within the involved area are significant. To be significant the artifact, natural feature, site, or structure shall meet one or more of the criteria identified in subsection A of this section (Criteria for designation of historic preservation districts).

   b. **Boundaries.**

      i. **Appropriateness of Boundaries.** The Board shall consider and comment upon the appropriateness of the boundaries of the proposed, or changes to the existing, historic preservation district.

      ii. **Frequency of Change.** Once established, the boundaries of a historic preservation district shall not be changed more frequently than once every 12 months.

      iii. **Resubmittal.** An application for a boundary change previously disapproved shall not be resubmitted within 12 months of its disapproval.

   c. **Consultation With Property Owners.**

      i. The Board shall conduct one or more meetings with owners and residents of the area proposed for designation as a historic preservation district to acquaint them with the benefits and restrictions, which would result from the designation.
ii. The Commission shall be notified of the meeting(s) and may send representatives to participate.

iii. A report of the meeting stating the pros and the cons of the designation shall be prepared by the Board and shall be submitted to the Commission along with the architectural/historical survey.

d. **Board's Recommendation.** The Board may recommend the approval of the establishment, change in boundaries, or repeal of a historic preservation district only upon:

i. A two-thirds vote of the appointed membership; and

ii. A written finding that:

   (A) At least 30 percent of the artifacts, natural features, sites, and structures, not including accessory uses, within the involved area, or the area as a whole meet one or more of the criteria identified in subsection A of this section (Criteria for designation of historic preservation districts), for establishment or change in the boundaries of a historic preservation district; or

   (B) The historic preservation district no longer meets the criteria identified in subsection A of this section (Criteria for designation of historic preservation districts), for the repeal of a historic preservation district.

5. **Commission's Action.**

a. Upon recommendation of the Board, the application, architectural/historical survey, and comments, regarding the proposed establishment, change in boundaries, or repeal of the historic preservation district shall be transmitted to the Commission for consideration.

b. The Commission shall conduct a public hearing upon any recommendation of the Board for the designation, change in boundaries, or repeal of a historic preservation district.

c. Notice of the hearing shall be mailed at least 10 days before the hearing to the owners of properties located within the proposed historic preservation district and all persons owning property within 300 feet of the proposed historic preservation district in compliance with Chapter 16.88 (Review Procedures) for actions in which the Council is the final authority.

d. The Commission, in its deliberations, shall carefully consider the survey and factual statements of the Board.

e. After the hearing is conducted, the Commission may recommend to the Council that the area or site be established, changed, or repealed. A determination to recommend approval by the Council to establish, change the boundaries of, or repeal a historic preservation district shall be by a majority vote of the Commission membership and shall be supported by a written finding that:

i. **To Establish or Change the Boundaries.** At least 30 percent of the artifacts, natural features, sites, and structures, not including
accessory uses, within the involved area, or the area as a whole, meets one or more of the criteria identified in subsection A of this section (Criteria for designation of historic preservation districts); or

ii. **To Repeal.** The historic preservation district no longer meets the criteria identified in subsection A of this section (Criteria for designation of historic preservation districts).

f. Upon close of the public hearing, if the Commission fails to reach a decision within 50 days, the application shall be sent to the Council with a recommendation to approve the application.

g. The applicant or any person or entity dissatisfied with any action of the Commission may appeal to the Council in compliance with Chapter 16.100 (Appeals).

6. **Council's Action.**

a. Upon the recommendation of the Commission for the processing of an application for, or the initiation of, the establishment, change in boundaries, or repeal of a historic preservation district, the Council shall hold a public hearing in compliance with Chapter 16.88 (Review Procedures) for actions in which the Council is the final authority.

b. The City Clerk shall give notice of the time, place, and purpose of the hearing at least 10 days before the date of the hearing by publication at least once in a newspaper of general circulation within the City and by mailing the notice to any applicant involved, to the owner(s) of record of any property which is the subject of the application, and to all property owners living within 300 feet of the proposed designation area, in compliance with Chapter 16.88 (Review Procedures).

c. After the public hearing, the Council may, by resolution, establish, change the boundaries of, or repeal a historic preservation district as recommended by the Commission and shall be supported by a written finding that:

i. **To Establish or Change the Boundaries.** At least 30 percent of the artifacts, natural features, sites, and structures, not including accessory uses, within the involved area, or the area as a whole, meets one or more of the criteria identified in subsection A of this section (Criteria for designation of historic preservation districts).

ii. **To Repeal.** The historic preservation district no longer meets the criteria identified in subsection A of this section (Criteria for designation of historic preservation districts).

d. The concurring votes of four (4) Council members shall be required to overrule or modify the recommendation of the Commission.

7. **Recordation of Resolution.** Upon designation, change in boundaries, or repeal of a historic preservation district, the City Clerk shall record the resolution on the parcel in the County Recorder's office.
C. **Certificate of Appropriateness.** A certificate of appropriateness in compliance with 16.220.060 (Certificate of Appropriateness) shall be required for property within a historic preservation district. (Prior code § 16-730.080)

**SECTION VII: AMENDMENT OF CODE**

Title 16, Chapter 16.220, section 16.220.090 is amended to read as follows:

**16.220.090 Historic sites.**

A. **Criteria for Designation of Historic Sites.** In considering an area, neighborhood, property, or site for designation as a historic site, the Board shall apply any or all of the following criteria:

1. **Archaeological Interest.** Its potential for yielding significant information of archaeological interest;
2. **Heritage.** Its character, interest, or value as a significant part of the heritage of the City, the State, or the Nation;
3. **Visual Feature of the City.** Its unique location or singular physical characteristic representing an established and familiar visual feature of the City;
4. **Way of Life.** Its exemplification of a particular way of life important to the City, the State, or the Nation;
5. **Historic Event.** Its location as a site of a significant historic event regardless of its current configuration, development, or use;
6. **Significant Person.** Its identification with a person(s) who significantly contributed to the culture and development of the City, the State, or the Nation; or
7. **Significant Person of a Specific National Origin.** Its identification with a person(s) representative of a specific national origin who have contributed to the culture and development of the City, the State, or the Nation.

B. **Procedures for Designation of Historic Sites.**

1. **Initiation.** Proceedings to designate a historic site may be initiated by the Board or by the filing of an application by any person or entity.
2. **Environmental Compliance.** A historic site designation shall be subject to the requirements of CEQA and the City’s CEQA Guidelines.
3. **Application.** The application shall be filed with the Department, on a form prescribed for that purpose, and accompanied by any applicable fee in compliance with the Council’s fee resolution.
4. **Board’s Recommendation.** Upon receipt of the application, a copy shall be submitted to the Board for review and evaluation.
   a. The Board shall view any area, neighborhood, property, or site in the City nominated for a historic site designation.
   b. The Board may adopt a resolution recommending that the property be designated a historic site. The recommendation shall contain a brief description of the site and a written finding that the area, neighborhood, property, or site for designation as a Historic Site meets one or more of the
criteria identified in subsection A of this section (Criteria for designation of historic sites).

c. The Board shall transmit, to the Commission, its written recommendation for designation of a historic site.

5. **Commission's Action.**
   a. The Commission shall conduct a public hearing in compliance with Chapter 16.88 (Review Procedures) for actions in which the Council is the final authority.
   b. Notice of the time, place, and purpose of the hearing shall be given not less than 10 days before the date of the hearing by publication in a newspaper of general circulation in the City, in compliance with Chapter 16.88 (Review Procedures).
   c. After the hearing is conducted, the Commission may recommend to the Council that the area, neighborhood, property, or site be designated as a Historic Site. The recommendation shall be by majority vote of the Commission membership and shall be supported by a written finding that the area, neighborhood, property, or site for designation as a Historic Site meets one or more of the criteria identified in subsection A of this section (Criteria for designation of historic sites).
   d. If the Commission fails to reach a decision within 50 days after the close of the public hearing, the application shall be sent to the Council with a recommendation to approve the application.
   e. The applicant or any person or entity dissatisfied with any action of the Commission may appeal to the Council in compliance with Chapter 16.100 (Appeals).

6. **Council's Action.**
   a. After receipt of a written recommendation for designation from the Commission, the Council may designate any property as a historic site by adopting a resolution of designation following a public hearing in compliance Chapter 16.88 (Review Procedures) for actions in which the Council is the Review Authority.
   b. The resolution shall be supported by a written finding that the area, neighborhood, property, or site for designation as a historic site meets one or more of the criteria identified in subsection A of this section (Criteria for designation of historic sites).
   c. It shall take four (4) concurring votes of the Council to overrule or modify the recommendation of the Commission. (Prior code § 16-730.090)

**SECTION VIII: SEVERABILITY**

If any of this ordinance or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given without the invalid provision or application, and to this end, the provisions of this act are severable.
SECTION IX: EFFECTIVE DATE

This Ordinance shall take effect and be in full force thirty (30) days after its passage.

ADOPTED: January 23, 2018
EFFECTIVE: February 22, 2018

MICHAEL D. TUBBS
Mayor of the City of Stockton

BRET HUNTER, CMC
Interim City Clerk of the City of Stockton