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Exhibit 4a

ARTICLE III: NONCONFORMING PROVISIONS

Chapter 19.080

NONCONFORMITIES

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DIVISION I: GENERAL NONCONFORMING PROVISIONS - LOTS, STRUCTURES AND USES.

- 19.080.010 Intent and Purpose.
- 19.080.020 Establishment of Nonconforming Status.
- 19.080.030 Continuation and Maintenance.
- 19.080.040 Loss of Nonconforming Status.
- 19.080.045 Amortization.

19.080.010 Intent and Purpose.

- A. This Article provides for the orderly termination of nonconforming rights for lots, structures and uses that were legally established but, due to revisions to the provisions of the Zoning Code, no longer comply. The orderly termination of legally established nonconforming lots, structures and uses is necessary to promote the public health, safety and general welfare, and to bring such lots, structures and uses into conformity with the goals, objectives and policies of the Zoning Code and the General Plan. Where a lot, structure or use is referred to as nonconforming it shall mean that it is legally nonconforming.
- B. This Article limits the expansion of nonconforming lots, structures and uses and establishes the circumstances under which they may be continued, and provides for the correction, maintenance, and removal of such lots, structures and uses.
- C. The City finds that nonconforming lots, structures and uses within the City, both those that are legally established and those that are illegal, are detrimental to the orderly development

of the City and are detrimental to the health, safety, peace, comfort and general welfare of persons and property within the City.

- D. Nonconforming lots, structures and uses shall be eliminated as rapidly as possible as set forth in this Article and without infringing upon the constitutional rights of the owners of legally established nonconforming properties.

E. These provisions shall regulate the continuation, termination, and modification of lots, structures and uses that were lawfully established, but which no longer conform to the provisions of the Zoning Code due to a change in zoning boundaries, change in zoning regulations or upon annexation.

F. Only the provisions contained in DIVISION IV of this Chapter shall apply to property zoned RA-5 or RC and described in Sections 3 or 4 of Measure R, enacted November 13, 1979.

#### **19.80.20 Establishment of Nonconforming Status.**

~~A. These provisions shall regulate the continuation, termination, and modification of lots, structures and uses that were lawfully established, but which no longer conform to the provisions of the Zoning Code due to a change in zoning boundaries, change in the regulations for the zone in which it is located or upon annexation. A change in ownership or tenancy without any change in use, occupancy, or development shall not affect any of the legal nonconforming rights, privileges and responsibilities provided under this Article.~~

~~B.~~ Lots, structures and uses not having previously acquired proper permits are illegal and subject to immediate abatement.

~~C.~~ It shall be the property owner's responsibility to provide evidence or information to justify the establishment of nonconforming rights.

D. All decisions and determinations, related to nonconforming uses, structures, and lots including whether a lot, structure or use qualifies as nonconforming, whether a nonconforming structure or use can be restored after partial destruction, or whether a building permit can be issued for work on a nonconforming structure or use shall be the Community & Economic Development Director or his/her designee's responsibility. The Community & Economic Development Director or his/her designee may approve, deny, conditionally approve or refer any determination request to the Planning Commission. Any approval, denial, or conditional approval of the Community & Economic Development Director or his/her designee may be appealed in accordance with Chapter 19.680 (Appeals).

E. Any nonconforming situation that becomes specifically authorized under the terms of an approval pursuant to the Zoning Code, such as but not limited to the granting of a Conditional Use Permit or Variance, shall henceforth be governed by the terms of such approval and shall no longer be considered to be a nonconformity, unless and until such approval expires or is revoked.

#### **19.080.030 Continuation and Maintenance.**

A. Continuation

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1. Except as otherwise provided herein, any lot, structure or use legally established on the effective date of the Zoning Code, may continue as a nonconforming lot, structure, or use.
2. Any lot, structure, or use legally established prior to the annexation of the property may continue as a nonconforming lot, structure, or use, respectfully.
3. A change in ownership or tenancy without any change in use, occupancy, or development shall not affect any of the legal nonconforming rights, privileges, and responsibilities provided under this Article.
4. Any lawfully created lot that becomes nonconforming with regard to lot area, street frontage, lot width, lot depth, or accessibility may continue indefinitely with such nonconformity and may be developed and used as if it were a conforming lot.

### B. Maintenance

1. Routine maintenance and repairs may be performed on a nonconforming lot, use, or structure, provided such work does not involve structural alterations or any enlargement of the structure subject to the granting of building permits as required by the Building Official.

## 19.080.040 Loss of Nonconforming Status.

- A. When any nonconformity is eliminated or brought into conformance with the current regulations of the Zoning Code, the nonconforming rights and privileges with respect to that nonconformity are terminated and shall not be restored.
- B. Except as otherwise provided ~~herein for nonconforming single-family residential uses and except for nonconforming uses involving the on-sale or off-sale of alcoholic beverages,~~ whenever a nonconforming use has been discontinued for a continuous period of ~~180 days~~ one year or more or whenever a nonconforming use is changed to another use, the nonconforming use shall not be reestablished, and the use of the structure or site thereafter shall be brought into conformity with the zone in which it is located. Discontinuation shall mean any termination of a use, regardless of intent to resume the use. Payment of a valid business tax certificate shall in and of itself not be considered to be a continuation of the use.
- C. A nonconforming ~~single-family~~ residential use that has been discontinued, ~~for a period of 180 days or more~~ may be reestablished subject to the granting of a Nonconforming Status Determination of a minor conditional use permit and affirmative determination by the Community & Economic Development Director or his/her designee based on the following findings:
  1. The continuation of the nonconforming ~~single-family~~ residential use will not adversely affect or be detrimental to the health, safety and general welfare of the public or property or improvements within the area.
  2. The nonconforming ~~single-family~~ residential use is substantially compatible with existing and proposed uses in the general area, including factors relating to the nature of its location, operation, building design and site design.

3. The continuation of the nonconforming ~~single-family~~ residential use will protect a valuable property investment.

D. A nonconforming non-residential use that has been discontinued for a continuous period of more than one year but no more than three years may be reestablished subject to the granting of a conditional use permit.

#### **19.080.045 Amortization.**

The Zoning Code gives the City Council the authority to establish Amortization Regulations for nonconforming uses or structures.

### **DIVISION II: NONCONFORMING LOTS**

#### **19.080.050 Continuation and Use of a Nonconforming Lot.**

#### **19.080.055 Landlocked Lots.**

#### **19.080.060 Modification of Nonconforming Lots.**

#### **19.080.050 Continuation and Use of a Nonconforming Lot.**

Any lawfully created lot that becomes nonconforming with regard to lot area, street frontage, lot width, lot depth or accessibility may continue indefinitely with such nonconformity and may be developed and used as if it were a conforming lot. ~~However, any property proposed for development with multi-family dwellings shall be fully conforming as to lot area and lot width.~~

#### **19.080.055 Landlocked Lots.**

Any lawfully created lot zoned for residential uses with no direct access to a public street (landlocked) may be developed provided the owner/developer demonstrates that legal access has been secured through an easement or other binding document. In determining setbacks, all lots lines shall be considered "side lot lines."

#### **19.080.060 Modification of Nonconforming Lots.**

A nonconforming lot may be modified through a Lot Line Adjustment/Consolidation/Merger or Map without a variance or modification, provided that such modifications do not increase the degree of nonconformity.

### **DIVISION III: NONCONFORMING STRUCTURES AND USES**

#### **19.080.06070 Modification or Expansion of Nonconforming Structures or Uses.**

#### **~~19.080.070 Modifications or Expansions of Nonconforming Uses.~~**

#### **19.080.080 Restoration of a Destroyed Nonconforming Structure ~~or Use.~~**

#### **19.080.090 Revocation of Nonconforming ~~Structure or Use~~ Rights.**

#### **19.080.100 Loss of Nonconforming Status for Alcoholic Beverage Sales.**

#### **19.080.06070 Modification or Expansion of Nonconforming Structures or Uses.**

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~~No~~ A nonconforming structure or use shall not be altered, ~~reconstructed~~ or expanded to increase the degree of nonconformity, except as follows:

A. Expansion of a nonconforming structure with respect to development standards ~~for~~, including but not limited to, ~~the~~ setbacks, height ~~of structures~~, distances between structures and the parking facilities ~~as prescribed in the regulations for the zone in which the structure is located, regulations, is~~ shall be subject to the granting of a variance ~~unless a variance is granted pursuant to this Title. The granting of a variance for the expansion of the nonconforming structure shall not authorize any expansion of the use. A minor conditional use permit shall also be required for expansions to a nonconforming use according to the applicability of the provisions found in paragraphs B and C.~~

**19.080.070 — Modifications or Expansions of Nonconforming Uses.**

B.A. Expansion of a nonconforming non-residential use is permitted ~~only with~~ subject to the granting of a minor conditional use permit. ~~To~~ In the granting of a minor conditional use permit, all of the following findings shall be made:

1. ~~Such~~ The expansion of the use will protect a valuable property investment;
2. ~~Such~~ The expansion of and the ~~proposed~~ use will not adversely affect or be materially detrimental to the surrounding neighborhood;
3. There is a need for modernization in order to properly operate the use and protect valuable property rights;
4. The expansion of the use which includes expansion of a structure shall be architecturally compatible with the existing building;
5. The expansion of the use shall be compatible with the character of the surrounding area; ~~and~~
6. The expansion shall not displace on-site parking; ~~and~~
7. The use has not been discontinued for a period of one year or more, except as provided in section 19.080.040.

C. B. Expansion of a nonconforming residential use is ~~permitted on the legally recognized parcel upon which it is established~~, subject to the granting of a minor conditional use permit. ~~In the~~ To granting of a minor conditional use permit, all of the following findings shall be made:

1. The expansion shall not ~~be for the purpose of increasing~~ increase the number of living units on the property;
2. The expansion of the use shall benefit the health, safety, and welfare of the occupants;
3. The expansion of the use which includes expansion of a structure shall be architecturally compatible with the existing building;

4. The expansion of the use shall be compatible with the character of the surrounding area; and
5. The expansion shall not displace on-site parking.

~~C. The provisions of paragraph A and B of this Chapter do not apply to property zoned RA-5 or RC and described in Sections 3 or 4 of Measure R, enacted November 13, 1979.~~

#### **19.080.080 Restoration of a Destroyed Nonconforming Structure ~~or Use~~.**

- A. ~~Except as otherwise provided for nonconforming residential uses under 19.080.080 C below, w/V~~ whenever a nonconforming structure ~~that does not comply with the development standards of the underlying zone, including setbacks, height of structures, distances between structures, parking or the use of which does not conform with the regulations of the underlying zone,~~ is destroyed by fire or other calamity, by act of God, or by the public enemy to the extent of 50 percent or less, as outlined in subsection D below, the structure may be restored and the nonconforming use may be resumed, provided that all required permits are obtained and the restoration construction is started within one year ~~90 days~~ and diligently pursued to completion.
- B. ~~When~~ever a nonconforming non-residential structure is destroyed by fire or other calamity, by act of God, or by the public enemy, and the destruction exceeds 50 percent, as outlined by subsection D below, or the nonconforming structure is voluntarily demolished or is required by law to be demolished, the structure ~~shall not~~ may be restored subject to the granting of a conditional use permit, except in in full conformity with the regulations of the zone in which it is located.
- C. ~~A~~Whenever a nonconforming ~~single or multiple family~~ residential ~~use structure is destroyed by fire or other calamity, by act of God, or by the public enemy, and the destruction exceeds that has been destroyed by more than~~ 50 percent as outlined in subsection D below, the structure may be restored subject to the granting of a minor conditional use permit and affirmative determination of all of the following findings:
  1. The restoration of the nonconforming ~~single or multiple family~~ residential use will not adversely affect or be detrimental to the health, safety, and general welfare of the public or property or improvements within the area.;
  2. The restoration of the nonconforming ~~or multiple family~~ residential use is substantially compatible with existing and proposed uses in the general area, including factors relating to the nature of its location, operation, building design, and site design; and
  3. The restoration of the nonconforming ~~or multiple family~~ residential use will protect a valuable property investment.
  4. ~~The restoration of the nonconforming multiple family residential structure(s) shall comply with the minimum development standards for multiple family residences in effect at the time of re-construction. The number of units allowed to be re-established through the granting of a Minor Conditional Use Permit within any given project site cannot exceed the number of non-conforming units that existed on the~~

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~~property prior to destruction, even if a project can be designed to comply with current development standards with more units than the number existing prior to destruction.~~

- D. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the nonconforming structure to its condition prior to such damage or partial destruction to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the Building Official and the Community & Economic Development Director or his/her designee and shall be based on the minimum cost of construction in compliance with the Building Code.

**19.080.090    Revocation of Nonconforming ~~Structure or Use~~ Rights.**

The City may revoke the right to continue a nonconforming use or structure pursuant to the procedures for permit modification and revocation contained in Chapter 19.700 (Modification and Revocation of Permits/Variances and Other Approvals).

**19.080.100    Loss of Nonconforming Status for Alcoholic Beverage Sales.**

Any ~~nonconforming use business~~ that sells on-sale or off-sale alcoholic beverages, ~~including beer and wine~~, may not be continued or reestablished ~~as a business that sells on-sale or off-sale alcoholic beverages, including beer and wine~~, without a conditional use permit or a minor conditional use permit in accordance with the Zoning Code if any of the following occur:

- A. There is a change in type of retail liquor license within a license classification; or
- B. The sales of alcoholic beverages is abandoned or discontinued (including but not limited to circumstances such as suspension, cancellation or revocation of an existing retail liquor license) for any period of time, excluding a maximum 30-day closure required to perform necessary repairs or restoration that does not increase the square footage of the business used for the sale of alcoholic beverages; or
- C. There is a substantial change in the mode or character in the operation of the alcoholic beverage sales business (e.g. due to physical expansion of the alcoholic beverage sales business floor area or increased hours of operation).

**DIVISION III: NONCONFORMING STRUCTURES AND USES IN THE RA-5 AND RC ZONES**

**19.080.110    Nonconforming Uses and Structures Generally.**

**19.080.120    Structural Alterations.**

**19.080.130    Building Permit Issuance.**

**19.080.110    Nonconforming Uses and Structures Generally.**

Except as specifically provided elsewhere in this chapter, any nonconforming use or structure may be continued indefinitely. If a nonconforming use is changed to any different use, such different use shall conform to the provisions of this chapter. Any discontinuance of a nonconforming for a continuous period of one year shall be deemed to constitute an abandonment of such nonconforming use and any future use shall conform to the provisions of this chapter. If any nonconforming building be destroyed by fire, explosion or other casualty, act of God or the

public enemy, the owner may reconstruct a building of the same size or smaller to continue the previous use, provided a building permit is obtained and repairs are commenced within one year, then the right to continue the nonconforming use shall terminate and the use of the property must thereafter conform to the provisions of this chapter for the zone in which it is located.

#### **19.080.120 Structural Alterations.**

The nonconforming use of a nonconforming building may be expanded or extended throughout such building; provided that no structural alterations, except those required by law or ordinance, shall be made therein unless a conditional use permit is obtained. The nonconforming use of a conforming building may be expanded or extended into any other portion of such conforming building, subject to the granting of a conditional use permit.

#### **19.080.130 Building Permit Issuance.**

A building permit for ordinary and routine maintenance and repair work may be issued by the building official if such maintenance and repair work will not require a structural alteration, reconstruction or enlargement of a nonconforming building or improvement or increase the floor area or cubical content of a nonconforming building or improvement. The alteration and reconstruction of a nonconforming buildings or improvements requiring building permits may be permitted subject to the granting of a conditional use permit. Within the limitations hereinafter set forth a building permit for a new building, enlargement of an existing building, or increase in floor area or cubical content may be permitted. Such building permit may be granted if all of the following conditions do exist:

- A. Such expansion will protect a valuable property investment;
- B. Such expansion and proposed use will not adversely affect or be materially detrimental to the adjoining properties;
- C. That there is need for relief of overcrowded conditions or for modernization in order to properly operate the use and protect valuable property rights.