



## COMMUNITY DEVELOPMENT DEPARTMENT

- Subject:** Downtown Office Uses on Commercial Row
- Issue:** Under what circumstances is an existing, nonconforming real estate office along Commercial Row in Downtown Truckee allowed to change business owners?
- Reference:** Section 18.07.070
- Policy/Procedure:** In 2007, the Town of Truckee adopted Ordinance 2007-02 to safeguard the mix of retail uses along Commercial Row by prohibiting the establishment of new non-retail, non-restaurant, and non-bar uses. The ordinance contained a provision regarding existing, nonconforming office uses (codified as 18.20.070.E), which reads as follows:

**E. Nonconforming Uses.** *All existing non-retail, non-restaurant, non-bar uses on Commercial Row as of the effective date of this section are allowed to remain until a change of or intensification of use. At that time, any proposed use will have to comply with the –CR Overlay District. This district does not apply to lease renewals with no change of use. Additional information on nonconforming uses is provided in Chapter 18.130.*

Further, the definition of “use” comes into play here as well – for clarification from a change in tenant or business:

**Use.** *The purpose for which land or a structure is designed, arranged, intended, occupied, or maintained.*

- Change from one real estate business to another real estate business does not constitute a change in use.

While it may be argued that one real estate office may have more agents than another, or sell commercial versus residential properties, the general use remains the same and there is no change in use. The development code recognizes **Offices, business and professional** as the definitive term regarding allowed uses in the Downtown Commercial zoning district, with the definition of **Offices, business** including real estate offices, without further clarification (18.220.O). The development code does not

impose any specific restrictions regarding occupancy or hours of operation of office uses.

- Change from one real estate business to another with no increase in the floor area assigned to that business does not constitute an intensification of use.

The definition of intensification of use includes 1) more parking required per chapter 18.48, or 2) change in operational characteristics. With no increase in the floor area associated with the business, there is no additional parking required for a new business to occupy the space. Changes from one real estate office to another does not result in a change in operational characteristics, even if the number of employees may increase, due to the normal increases and decreases in activity associated with a real estate office over the life of the business.

- Change in tenancy involving one real estate office to another, with a new lease, does not terminate the nonconforming use.

The ordinance states that the prohibition of office uses associated with the –CR district does not apply to lease renewals with no change of use. This is the only reference to leases within the ordinance. Except for this one exclusion, existing non-conforming uses are governed by the standards of 18.130 – nonconforming uses. The ordinance refers to a change in use, but not to a change in tenancy, nor to a change in business. Therefore, a change in tenancy from one real estate office to another does not constitute a change in use, and does not terminate the nonconforming use.

**Effective Date:** February 20, 2008

Approved by: \_\_\_\_\_  
John McLaughlin, Director

Approved as to Legal Form and Sufficiency:

\_\_\_\_\_  
Dennis Crabb, Town Attorney

Date: \_\_\_\_\_