

ARTICLE 21

VARIANCES AND EXCEPTIONS TO THE DISTRICT REGULATIONS

21.1 VARIANCE - PROCEDURE

The Board of Zoning Appeals may authorize, upon appeal, such variances from the terms of the Subdivision Ordinance and the Zoning Ordinance as will not be contrary to the public interest, where owing to special conditions the literal enforcement of the provisions of the Subdivision Ordinance and the Zoning Ordinance will result in unnecessary hardship; provided, that the spirit of these Ordinances be observed and substantial justice done. Before any variance may be authorized however, it shall be shown that:

1. (a) The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant.
- (b) The granting of the variance will not adversely affect the rights of adjacent property owners or residents.
- (c) The strict application of the provisions of these regulations from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
- (d) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
- (e) Granting the variance desired will not be opposed to the general spirit and intent of these regulations.

21.2 ALLOWABLE VARIANCES

Variances to the Zoning Ordinance shall be limited to setback, parking and height regulations only, and shall not be allowed for changes in land use.

21.3 WRITTEN FINDINGS

Every variation granted or denied by the Board shall be accompanied by a written finding of fact, based on testimony and evidence and specifying the reason for granting or denying the variation, a copy of which shall be filed in the office of the City Clerk, there to be available for perusal by the public.

21.4 CONDITIONAL USE PERMITS - PROCEDURE

The Board of Zoning Appeals may authorize, as an exception to the provisions of these zoning regulations, the establishment of those conditional uses that are expressly authorized to be permitted as a conditional use in a particular zoning district or in one or more zoning districts. No conditional use shall be authorized as an exception to these regulations unless the Board is specifically authorized, by these regulations, to grant such conditional use and unless such grant complies with all of the applicable provisions of these regulations.

The purpose of the conditional use permit is to allow proper integration of uses into the community which may only be suitable in specific locations, and may have potentially detrimental characteristics if not properly designed, located, and conditioned. A conditional use permit may be granted only for uses listed as conditional uses in respective zones, and for such other uses as are set forth in various provisions of this Title.

The following requirements and procedures shall apply in the issuance of a conditional use permit:

1. Application for a conditional use permit must be filed with the Code Enforcement Administrator. The Chairman of the Board of Zoning Appeals will call a meeting of the Board within at least thirty (30) days following the application for permits but no earlier than fifteen (15) days after the permit application. Application forms are available at the Office of the Code Enforcement Administrator. The application shall contain the following information:
 - (a) Plots, plans, or drawings, drawn to scale, as may be required to clearly show how a conditional use will occupy a site and/or buildings; and what the effect of said conditional use will be upon adjacent properties.
 - (b) Legal description of the tract to be used.
 - (c) Location of all proposed improvements, including curb-cut access, off-street parking, and other such facilities as the applicant proposes to install.

- (d) Grade elevations.
- (e) Building setback from all property lines.
- (f) Such perspective drawings of the proposed improvements in such detail as the Board may require to clearly show the finished appearance of the improvements proposed.
- (g) Location and type of planting, screening or walls.
- (h) Such other items on the Board shall deem reasonably necessary to properly process the application.

21.5 CONSIDERATION OF A CONDITIONAL USE

1. In considering any application for a conditional use permit hereunder, the Board of Appeals shall give consideration to the Comprehensive Zoning Plan of the City; the health, safety, morals, comfort, and general welfare of the inhabitants of the City, including but not limited to the following factors:
 - (a) The stability and integrity of the various zoning districts.
 - (b) Conservation of property values.
 - (c) Protection against fire and casualties.
 - (d) Observation of general police regulations.
 - (e) Prevention of traffic congestion.
 - (f) Promotion of traffic safety and the orderly parking of motor vehicles.
 - (g) Promotion of the safety of individuals and property.
 - (h) Provision for adequate light and air.
 - (i) Prevention of over-crowding and excessive intensity of land uses.
 - (j) Provision for public utilities and schools.
 - (k) Invasion by inappropriate uses.
 - (l) Value, type, and character of existing or authorized improvements and land uses.
 - (m) Encouragement of improvements and land uses in keeping with overall planning.

(n) Provisions for orderly and proper urban renewal, development, and growth.

2. The Board of Appeals shall impose such restrictions, terms, time limitations, landscaping, and other appropriate safeguards to protect adjoining property.

21.6 PERMITTED CONDITIONAL USES

Conditional uses which may be authorized by the Board of Zoning Appeals are listed for each zoning district in Articles 3 through 12 of this Ordinance.

21.7 PERFORMANCE BOND REQUIRED

The Board shall require a performance bond for improvements such as parking lot surfacing, landscaping, etc.. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the City Engineer, and shall be enforceable by or payable to the City in the sum equal to the cost of constructing the required improvements.