

**1      Sec 34-403 Standards For The Approval Of A Variance**

2      (a)      The zoning administrator or the commission, as the case  
3      may be, shall approve a variance only upon specific evidence  
4      supported by the record: That with respect to the property in  
5      question:

6      (1) (a)      The particular physical surroundings, shape or  
7      topographical conditions of the property result in a  
8      particular hardship to the owner, as distinguished from a  
9      mere inconvenience, if a strict letter of regulations were  
10     carried out; and

11     (2) (b)      The unique conditions to the property for which  
12     the variance is sought and are not applicable, generally,  
13     to other property within the same zoning classification;  
14     and

15     (b) (c)      The alleged difficulty or hardship that is caused  
16     by the ordinance and has not been created by any person  
17     presently having an interest in the property; and

18     (c) (d)      The requested variance in all other respects is in  
19     conformance to the applicable regulations of the district in  
20     which it is located, except as such regulations may in each  
21     instance be modified by the city pursuant to the  
22     recommendations of the commission; and

23     (d)      ~~The requested variance is, in all other respects, in~~  
24     ~~conformance to the applicable regulations of the district in~~

1       which it is located, except as such regulations may in each  
2       instance be modified by the city pursuant to the  
3       recommendations of the commission.

4       **Sec 34-504 City Council Action**

5       (a)      For each ~~petition for~~ a conditional use, the commission  
6       shall report to the city council its findings and  
7       recommendations, including the stipulations of additional  
8       limitations and guarantees that such conditions will be  
9       complied with when they are deemed necessary for the  
10      protection of the public interest.

11      (b)      In deliberating upon a petition for a conditional use,  
12      the city council shall consider the record made by the  
13      commission, but shall not be bound by any findings of fact  
14      made by the commission upon such record.

15      (c)      ~~Except as provided in paragraph (b) of this section,~~  
16      ~~Approval of a petition for~~ a conditional use shall require  
17      the concurrence of a majority of the members elected to the  
18      city council. Unless the city council determines otherwise,  
19      approval of a conditional use consistent with the  
20      commission's recommendations shall constitute the city  
21      council's adoption of the commission's findings of fact as  
22      its own.

23      (d)      ~~Reserved In the event of written protest against any~~  
24      ~~petitioned conditional use, signed and acknowledged by the~~

1       owners of twenty (20) percent of the frontage adjacent  
2       thereto, or across an alley, or directly opposite there from,  
3       such conditional use shall not be granted except by the  
4       favorable vote of two thirds of all the members of the city  
5       council.

6       (e)      A denial of a petition for a conditional use is deemed  
7       to have occurred if, and only if:

8           (1)     The city council with the concurrence of a majority  
9       of its members present votes affirmatively to approve a  
10      motion rejecting the approval of the petition for a  
11      conditional use and accompanies such motion with a  
12      findings of fact based on the record of the commission  
13      that articulates a basis for such denial; or

14           (2)     The city council fails to approve a motion  
15      authorizing the approval of a conditional use within six  
16      (6) months of the last action on the petition taken by  
17      the commission or has affirmatively voted to  
18      indefinitely postpone such approval.

19       (f)      No petition for a conditional use which has been denied  
20      wholly or in part by the council shall be resubmitted for a  
21      period of one (1) year from the date of a denial under  
22      paragraph (e) said order of denial, except on the grounds of  
23      substantial new evidence or proof of changed conditions found  
24      to be valid by the commission and the city council.

1       (g)     The city council may reconsider any vote approving,  
2       failing to approve, or denying a petition for a conditional  
3       use so long as it confines any decision to the record created  
4       by the commission.

5       **Sec 34-602 Petition Application Process**

6       (a)     The petition application for establishment of a  
7       conditional use planned development shall be filed with the  
8       zoning administrator. No petition application shall be  
9       accepted unless a preapplication review has been completed  
10      with the zoning administrator unless the review is waived by  
11      the zoning administrator planning director or said review has  
12      been waived by the planning director. The preapplication  
13      review must be arranged with the mutual agreement of the  
14      zoning administrator. At the preapplication review, the  
15      zoning administrator and prospective applicant shall review  
16      the following as they relate to the petition proposed  
17      application for establishment of a planned development:

18       (1)     The city's general plan and physical development  
19       policies.

20       (2)     Existing zoning and land use in the general area of  
21       the property in question.

22       (3)     The zoning history in the general area of the  
23       property in question.

1       (b)     After the completion of the required preapplication  
2       review, a conditional use planned development petition may be  
3       filed with the zoning administrator. The petition shall  
4       include all plans and data as required by the zoning  
5       administrator. Copies of such petition shall be submitted to  
6       the commission with the request that the commission conduct  
7       a public hearing.

8       (c)     (b) The petition application filed with the zoning  
9       administrator for the establishment of a conditional use  
10      planned development as set forth above shall be forwarded to  
11      the commission. The requirements of a public hearing by the  
12      commission and the standards upon which the commission shall  
13      make a recommendation to the city council shall be the same  
14      as set forth in article v with respect to conditional uses.  
15      The commission may further recommend limitations or  
16      guarantees upon the approval of a conditional use for a  
17      planned development in the manner and to the extent set forth  
18      in sec. 34-505.

19      (d)     (c) The city council shall consider and pass upon a  
20      petition for a conditional use planned development in the  
21      manner set forth in Sec. 34-504 of this code for approvals or  
22      denials of petitions for conditional uses may disapprove or  
23      grant a conditional use for planned development by ordinance,  
24      but such development shall not be approved except by three-

1       fourths of the members present, when the commission  
2       ~~recommends denial of the request for a conditional use permit~~  
3       ~~for planned development.~~

4       (e)       ~~(d)~~ The ordinance granting a petition for a conditional  
5       use ~~for~~ planned developments shall set forth all the  
6       requirements, special conditions and agreements made a part  
7       of the planned development. The plans and other documents  
8       required as part of the petitions for a conditional use for  
9       a planned development special use application shall be  
10       attached to and made a part of the ordinance granting the  
11       permit for said planned development.

12       **Sec 34-909 Standards For Rezoning**

13       In considering a proposed amendment to the regulations imposed  
14       and the districts created under chapter 49 (as a restatement of  
15       the regulations set forth in Ordinance 3100 as amended from time-  
16       to-time) or to the zoning map, the commission shall consider  
17       whether the proposed amendment

18       (a)       Is in accord with all applicable official physical  
19       development policies and other related official plans and  
20       policies of the city; and

21       (b)       Represents the logical establishment and/or consistent  
22       extension of the requested classification in consideration of  
23       the existing land uses, existing zoning classifications, and

1       essential character of the general area of the property in  
2       question; and

3       (c)     Is consistent with desirable trend of development in the  
4       general area of the property in question, occurring since the  
5       property in question was placed in its present zoning  
6       classification, desirability being defined as the trend's  
7       consistency with applicable official physical development  
8       policies and other related official plans and policies of the  
9       city; and

10      (d)     Will permit uses which are more suitable than uses  
11       permitted under the existing zoning classification; and

12      (e)     Is a consistent extension of the existing land uses,  
13       existing zoning classifications, and essential character of  
14       the general area; and

15      (f)     ~~Is consistent with desirable trend of development in the~~  
16       ~~general area of the property in question, occurring since the~~  
17       ~~property in question was placed in its present zoning~~  
18       ~~classification, desirability being defined as the trend's~~  
19       ~~consistency with applicable official physical development~~  
20       ~~policies and other related official plans and policies of the~~  
21       ~~city.~~