

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

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

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

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

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

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

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

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

**Sec 34-504 City Council Action**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The zoning history in the general area of the 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) ~~(e)~~ 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.~~