



Variations

17.50 Variations

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17.50.01 Purpose

The purpose of this chapter is to establish procedures for processing variance applications. A variance may be granted where practical difficulties, unnecessary hardships and conditions inconsistent with the purpose and objectives of this Ordinance may result from the strict application of certain provisions of this Ordinance. The granting of a variance shall not constitute a special privilege inconsistent with the limitations on other properties in the vicinity and in other like districts within the city.

17.50.02 Applicability

The Planning Commission and City Council may grant a variance from district regulations, including setbacks, lot dimensions, height of structures, lot coverage, parking and loading standards, and sign regulations. The power to grant variations shall not extend to district permitted and conditional use regulations.

17.50.03 Application and Fee

An application for a variance shall be made to the Planning Department on a form prescribed by the Department. The application shall be accompanied by a fee set by resolution of the City Council.

17.50.04 Hearings and Notice

Upon receipt of a variance application, the Planning Department shall prepare a notice for a public hearing consistent with the requirements contained in Chapter 17.04 Public Hearings.

17.50.05 Report and Findings

The Planning Department shall prepare a report on the variance application. The Department shall provide a recommendation based on the following findings, which are pursuant to Government Code Section 65906.

- A. That there are special circumstances applicable to the property, including size, shape, topography, location or surroundings, and that the strict application of this Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical classifications;
- B. That granting a variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same vicinity and district and denied to the property for which the variance is sought;
- C. That granting the variance will not be materially detrimental to the public health, safety, or welfare, or injurious to the property or improvements in such vicinity and district in which the property is located;
- D. That granting the variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and district in which such property is located;
- E. That granting the variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel; and
- F. That granting the variance will not be inconsistent with the General Plan.

17.50.06 Action of the Planning Commission

Following the public hearing, the Planning Commission shall take action on the variance. The Commission can approve, approve with conditions or deny the variance based on the finding listed above. To approve a variance, the Commission shall find that all of the

above the findings are true. The Commission's decision shall be final unless appealed to the City Council consistent with the requirements contained in Chapter 17.06 Appeals.

Within 10 days of adopting a resolution on the variance, the Commission shall transmit a copy of its resolution to the person that filed the variance application.

17.50.07 Conditions

The Planning Commission can approve a variance subject to the conditions. Such conditions will assure that the approved variance shall not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is located.

17.50.08 Appeal to City Council

Upon an appeal of the Planning Commission's action, the City Council shall hold a public hearing and take action by resolution on the variance. The Council shall consider the Commission's decision, the claims contained in the appeal, and the findings contained in Section 17.50.05 of this chapter. The Council can approve, approve with modifications or deny the decision of the Planning Commission. The decision of the Council shall be final. The variance shall become effective three days following the date of Council approval. Within 10 days of adopting a resolution on the variance, the Council shall transmit a copy of its resolution to the person who filed the variance application.

17.50.09 Lapse of Variance

A variance shall lapse and become void one year from the date it became effective, unless conditions of the variance allow a greater time, or unless a building permit is issued by the Chief Building Official and construction has commenced on the use that is the subject of the variance.

17.50.10 Revocation

Where the City finds that a use or activity, which is the subject of a variance, violates its conditions or no longer complies with the findings contained in Section 17.50.05 of this chapter, the holder of the variance shall be notified of the noncompliance finding. Within 60 days of this notification, the Planning Commission shall hold a public hearing on the revocation of the variance. Based on a report from the Planning Department, findings contained in Section 17.50.05 of this chapter, and public testimony, the Commission may revoke the variance, reinstate the variance or reinstate the variance with conditions that may be necessary to assure compliance with the purpose and objectives of this Ordinance. The decision of the Commission can be appealed to the City Council consistent with the requirements of Chapter 17.06 Appeals.

17.50.11 New Application

Following the denial or revocation of a variance, no application for the same or substantially the same variance shall be filed within one year of the date of denial or revocation.

17.50.12 Variance to Run With the Land

A variance shall run with the land and shall continue to be valid upon change of ownership of the property or structure which was the subject of the variance application.

Exhibit 50-1: *Variance Permit Process*



