

## **§ 151.11 VARIANCES, PLANNING COMMISSION RECOMMENDATIONS, STANDARDS.**

(A) *Findings.* The Planning Commission may recommend a variance from the minimum standards of this chapter (not procedural provisions) when, in its opinion, undue hardship may result from strict compliance. In recommending any variance, the Commission shall prescribe, conditions that it deems necessary, to or desirable for the public interest. In making its recommendations, the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number, of persons to reside or work in the-proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A variance shall only be recommended when the Planning Commission finds:

(1) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his or her land.

(2) That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which the property is situated.

(3) That the variance is to correct inequities resulting from an extreme physical hardship such as topography, etc.

(4) After considerations of the Planning Commission recommendations, the City Council may grant variances, subject to division (A)(1), (2) and (3) above.

### *(B) Procedures.*

(1) Requests for a variance or appeal shall be filed with the City Administrator-Clerk on an official Application form. Such application shall be accompanied, by a fee as established by City Council resolution. Such application shall also be accompanied by ten copies of detailed written and graphic materials necessary for the explanation of the request.

(2) Upon receiving said application, the City Administrator-Clerk shall refer the application, along with all related information, to the City Planning Commission for a report and recommendation to the City Council.

(3) The Planning Commission shall consider the variance at its next regular meeting unless the filing date falls within 15 days of the meeting in which case the request would be placed on the agenda and considered at the regular meeting following the next regular meeting. The City Administrator-Clerk shall refer the application, along with all related information to the City Planning Commission for consideration and a report and recommendation to the City Council.

(4) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed variance request.

(5) The variance application shall be referred to the city staff for a report and recommendation to be presented to the Commission. A preliminary draft of the city staff's report and recommendations shall be given to the City Planning Commission at least seven days prior to the meeting of which the report and recommendations are to be presented. The final report and recommendations to the city staff is to be entered in and made part of the permanent written record of the Planning Commission meeting.

(6) The Planning Commission and city staff shall have the authority to request additional information from the applicant concerning the variance or to retain expert testimony with the consent and at the expense of the applicant concerning the variance where the information is declared necessary to insure preservation of health, safety and general welfare.

(7) The Planning Commission shall request the City Administrator-Clerk to set a date for a public hearing. Notice of the hearing shall be published in the official newspaper at least ten days prior to the hearing, and individual notices shall be mailed not less than ten days nor more than 30 days prior to the hearing to all owners of property within, 350 feet of the parcel included in the request.

(8) Failure of a property owner to receive the notice shall not invalidate any proceedings as set forth within this chapter.

(9) The Planning Commission shall make a finding of fact and recommend actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this chapter. The recommendation shall be in writing and accompanied by the report and recommendation of the city staff.

(10) The City Council shall not grant a variance until they have received a report and from the Planning Commission and the city staff or, until 60 days after the first regular Planning Commission meeting at which the request was considered.

(11) Upon receiving the report and recommendation of the Planning Commission and city staff, the City Council shall place the report and recommendation on the agenda for the next regular meeting. The reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.

(12) Upon receiving the report and recommendation of the Planning Commission and city staff, the City Council shall make a recorded finding of fact and impose any condition it considers necessary to protect the public health, safety and welfare.

(13) The City Council shall decide whether to approve or deny a request for a variance or an appeal within 30 days after the public hearing on said request.

(14) A variance of this chapter or grant of an appeal shall be by a majority vote of the full City Council.

(15) The City Administrator-Clerk shall notify the originator of the variance request or appeal of the City Council's decision in writing.  
(Ord. passed - -)