

ARTICLE XVII

VARIANCES

17.1 **GENERAL.**

Where the Planning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations. Any application for a variance shall first be submitted to the Public Works Director for recommendation to the Planning Commission. The applicant shall submit an application for a variance in writing at the time when the Preliminary Plat is filed for the consideration of the Planning Commission. The application shall state fully the grounds for the variance and all of the facts relied upon by the applicant. The variance if approved by the Planning Commission shall become part of the official record of the Planning Commission and shall be noted on the Final Plat. The Planning Commission shall not approve a variance unless it shall make findings based upon the evidence presented to it in each specific case that:

1. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property;
2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;
3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out;
4. Owners of land who deed property to a descendent or next of kin shall be exempt from these regulations; however, descendants must comply with all regulations, if further land subdivision is undertaken by them.
5. The variance will not in any manner vary the provisions of other adopted policies and regulations of City of Robertsedale.

17.2 CONDITIONS.

In approving variances, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives, standards or requirements of these regulations.

The Planning Commission shall not grant any variance within the Flood Plain unless the developer submits a study prepared by a registered professional engineer certifying that no increase in the 100-year flood level would result from the proposed development.

Within other areas subject to flooding, variances shall only be issued upon a determination by the Planning Commission that the relief granted is the minimum necessary considering the flood hazard.

17.3 EXPERIMENTAL SUBDIVISIONS/DEVELOPMENTS.

The Planning Commission may waive, vary, or modify the standards and requirements of these regulations, if in its judgment; (1) an unusual or experimental subdivision/development might prove of considerable merit toward the use of unusual materials in constructing required improvements or (2) a new or untried design concept in the City of Robertsdale area which appears promising.

Special attention may be given to experimental subdivisions, which are related to low-cost housing design or energy conservation. The Planning Commission shall require the applicant to provide a written proposal stating the nature of the experiment and cost-benefit study following the implementation of it.

- A. Conditions. In granting variances, modifications, and approval for experimental subdivisions/developments, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied, modified, or approved. These may include, without being limited to: personal, surety, performance, or maintenance bonds, affidavits, covenants, or other legal instruments.

17.4 SPECIAL REQUIREMENTS FOR NONRESIDENTIAL SUBDIVISIONS

- A. General Procedural Requirements It is recognized that the applicant, in creating nonresidential subdivisions/developments, faces unique problems of lot design not normally encountered in residential subdivisions. For this reason, the initial emphasis of the Planning Commission shall be upon street layout and block arrangement. Generally, the procedural requirements shall be for the applicant to follow the regular procedure outlined in Article XIV and to show the entire tract to be subdivided with necessary improvements and as many parcels as he cares to show but must include at least two parcels. Then, from time to time, as prospective buyers express interest in lots sized to their required specifications, and following informal discussions with the Planning Commission if the applicant

so requests, the applicant shall submit directly at a regular meeting of the Planning Commission an amendment to the preliminary plat for approval. Regular procedural requirements of the Planning Commission following receipt of a Final Plat shall then apply.

B. Other Special Requirements. In addition to the principles and standards in these regulations which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Planning Commission that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed.

1. Proposed nonresidential street layout, blocks, and parcels shall be suitable in area and dimensions to the types of development anticipated.
2. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas, nor connected to streets intended for predominantly residential traffic, but shall be connected insofar as is possible to expressways, arterial, or collector streets in such a way that the number of intersections with such expressways, arterial, or collectors shall be minimized.
3. Street rights-of-way and pavement shall be adequate and in accordance with Section 14.9 to accommodate the type and volume of traffic anticipated to be generated thereon. Curb radii at driveway intersections shall be at least 25 feet.
4. The applicant shall insure that the nonresidential subdivision as a whole may be self-sufficient with regard to providing necessary off-street parking. The applicant may make parking self-sufficiency a requirement of individual lots.
5. With respect to physical improvements, special requirements may be imposed by the Planning Commission with the advice of the Public Works Director within the nonresidential subdivision.
6. Every effort shall be made to protect adjacent residential areas from potential nuisances from nonresidential subdivisions, including the provision of extra depth in parcels backing up on existing or potential residential developments and provision for a permanently landscaped buffer strip when necessary.

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