

## VARIANCES AND SPECIFIC PLAN EXCEPTIONS

### Sec. 562, Los Angeles City Charter

The Area Planning Commission may permit an exception from a specific plan if it makes all the following findings:

- (a) That the strict application of the regulations of the specific plan to the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the specific plan;
- (b) That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area;
- (c) That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question;
- (d) That the granting of an exception will not be detrimental to the public welfare or injurious to the property or improvements adjacent to or in the vicinity of the subject property; and
- (e) That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.

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Los Angeles Municipal Code,  
Chapter I, General Provisions & Zoning.  
Article 2, Sec. 12.27, Variances

D. Findings for Approval. The decision of the Zoning Administrator shall be supported by written findings of fact based upon evidence taken, written or oral statements and documents presented, which may include photographs, maps and plans, together with the results of any staff investigations.

Consistent with Charter Section 562, no variance may be granted unless the Zoning Administrator finds all of the following:

1. That the strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations;
2. That there are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity;
3. That the variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question
4. That the granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located; and
5. That the granting of the exception is consistent with the principles, intent and goals of the Specific Plan.

Court Decisions

In *Orinda Assn. v. Board of Supervisors of Contra Costa County*, the California Appeals Court ruled that a building height variance could not be granted, regardless of the alleged benefits of the project, absent a finding detailing the special circumstances that justified its issuance. In its decision, the court majority said, "Thus, data focusing on the qualities of the property and Project for which the variance is sought, the desirability of the proposed development, the attractiveness of its design, the benefits to the community, or the economic difficulties of developing the property in conformance with the zoning regulations, lack legal significance and are simply irrelevant to the controlling issue of whether strict application of zoning rules would prevent the would-be developer from utilizing his or her property to the same extent as other property owners in the same zoning district." (The Contra Costa County conditions for granting variances were virtually identical to those in the L.A. City Charter)