



CITY OF ROLLINGWOOD COMPREHENSIVE RESIDENTIAL CODE REVIEW COMMITTEE AGENDA

Tuesday, April 09, 2024

Notice is hereby given that the Comprehensive Residential Code Review Committee (CRCRC) of the City of Rollingwood, Texas will hold a meeting, open to the public, in the Municipal Building at 403 Nixon Drive in Rollingwood, Texas on Tuesday, April 09, 2024 at 5:00 PM. Members of the public and the CRCRC may participate in the meeting virtually, as long as a quorum of the CRCRC and the presiding officer are physically present at the Municipal Building, in accordance with the Texas Open Meetings Act. The public may watch this meeting live and have the opportunity to comment via audio devices at the link below. The public may also participate in this meeting by dialing one of the toll-free numbers below and entering the meeting ID and Passcode.

Link: <https://us02web.zoom.us/j/5307372193?pwd=QmNUbmZBQ1lwUjNjNmM5RnJreIRFUT09>

Toll-Free Numbers: (833) 548-0276 or (833) 548-0282

Meeting ID: 530 737 2193

Password: 9fryms

The public will be permitted to offer public comments via their audio devices when logged in to the meeting or telephonically by calling in as provided by the agenda and as permitted by the presiding officer during the meeting. If a member of the public is having difficulties accessing the public meeting, they can contact the city at dadair@rollingwoodtx.gov. Written questions or comments may be submitted up to two hours before the meeting. A video recording of the meeting will be made and will be posted to the City’s website and available to the public in accordance with the Texas Public Information Act upon written request.

CALL COMPREHENSIVE RESIDENTIAL CODE REVIEW COMMITTEE MEETING AND PUBLIC WORKSHOP TO ORDER

1. Roll Call

PUBLIC COMMENTS

Citizens wishing to address the Comprehensive Residential Code Review Committee for items not on the agenda will be received at this time. Please limit comments to 3 minutes. In accordance with the Open Meetings Act, the Committee is restricted from discussing or taking action on items not listed on the agenda.

Citizens who wish to address the Comprehensive Residential Code Review Committee with regard to matters on the agenda will be received at the time the item is considered.

CONSENT AGENDA

All Consent Agenda items listed are considered to be routine by the Comprehensive Residential Code Review Committee and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a Board Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

- 2. Discussion and possible action on the minutes from the March 26, 2024 CRCRC meeting

REGULAR AGENDA

- 3. Discussion and possible action on emails and letters to the CRCRC from March 23, 2024 to April 4, 2024
- 4. Discussion and possible action regarding next steps following the April 3, 2024 Planning and Zoning Commission presentation of Building Height recommendations
- 5. Discussion and possible action on the Tree Subcommittee recommendations
- 6. Discussion and possible action on Lighting Subcommittee membership and recommendations
- 7. Discussion and possible action regarding the creation of an Impervious Cover/Drainage subcommittee
- 8. Discussion regarding Special Exceptions
- 9. Discussion and possible action on future meeting dates and agenda topics for discussion

ADJOURNMENT OF MEETING AND PUBLIC WORKSHOP

CERTIFICATION OF POSTING

I hereby certify that the above Notice of Meeting was posted on the bulletin board at the Rollingwood Municipal Building, in Rollingwood, Texas and to the City website at www.rollingwoodtx.gov at **5:00 PM** on **April 5, 2024**.

Desiree Adair
Desiree Adair, City Secretary

NOTICE -
The City of Rollingwood is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please contact the City Secretary, at (512) 327-1838 for information. Hearing-impaired or speech-disabled persons equipped with telecommunication devices for the deaf may call (512) 272-9116 or may utilize the stateside Relay Texas Program at 1-800-735-2988.

The City Council will announce that it will go into executive session, if necessary, to deliberate any matter listed on this agenda for which an exception to open meetings requirements permits such closed deliberation, including but not limited to consultation with the city's attorney(s) pursuant to Texas Government Code section 551.071, as announced at the time of the closed session.

Consultation with legal counsel pursuant to section 551.071 of the Texas Government Code;
discussion of personnel matters pursuant to section 551.074 of the Texas Government Code;

real estate acquisition pursuant to section 551.072 of the Texas Government Code;
prospective gifts pursuant to section 551.073 of the Texas Government Code;
security personnel and device pursuant to section 551.076 of the Texas Government Code;
and/or economic development pursuant to section 551.087 of the Texas Government Code.
Action, if any, will be taken in open session.



CITY OF ROLLINGWOOD COMPREHENSIVE RESIDENTIAL CODE REVIEW COMMITTEE MINUTES

Tuesday, March 26, 2024

The Comprehensive Residential Code Review Committee of the City of Rollingwood, Texas held a meeting, open to the public, in the Municipal Building at 403 Nixon Drive in Rollingwood, Texas on March 26, 2024. Members of the public and the Comprehensive Residential Code Review Committee were able to participate in the meeting virtually, as long as a quorum of the Comprehensive Residential Code Review Committee and the presiding officer were physically present at the Municipal Building, in accordance with the Texas Open Meetings Act. A video recording of the meeting was made and will be posted to the City's website and available to the public in accordance with the Texas Public Information Act upon written request.

CALL COMPREHENSIVE RESIDENTIAL CODE REVIEW COMMITTEE MEETING AND PUBLIC WORKSHOP TO ORDER

1. Roll Call

Chair Dave Bench called the meeting to order at 5:03 p.m.

Present Members: Chair Dave Bench, Alex Robinette, Jay van Bavel, Brian Rider, and Thom Farrell

Also Present: City Administrator Ashley Wayman, Assistant to the City Administrator Makayla Rodriguez, and Development Services Manager Nikki Stautzenberger

PUBLIC COMMENTS

There were no public comments.

CONSENT AGENDA

2. Discussion and possible action on the minutes from the March 18, 2024 CRCRC meeting

Thom Farrell moved to approve the minutes. The motion was seconded by Brian Rider.

Thom Farrell stated that he did not vote on an item in the last meeting and would like the minutes to reflect that.

Thom Farrell amended his motion to approve the minutes with the correction. Jay van Bavel seconded the motion. The motion passed with 5 in favor and 0 against.

REGULAR AGENDA

3. Discussion and possible action on emails and letters to the CRCRC from January 5, 2024 to March 22, 2024

Chair Dave Bench discussed that the CRCRC received a letter from Amy Patillo regarding the tree ordinance and that Jay van Bavel responded. He continued to say that the response should be sent to all of the CRCRC members. Thom Farrell explained that best practice would be to send any letter from the CRCRC to City Secretary Desiree Adair who would forward the letter to all CRCRC members.

4. Discussion and possible action on residential building height, size and setback recommendations

Chair Dave Bench explained that this item is a continued discussion from the last meeting. Alex Robinette discussed bringing items to the Planning and Zoning commission to review recommendations relating to maximum height, height measurement, setbacks, and foundation.

Alex Robinette discussed a document she created that described how the recommendations would apply to properties. Alex Robinette and the CRCRC discussed her findings. The CRCRC thanked Alex Robinette for creating the document.

The CRCRC discussed height and setbacks. The CRCRC asked Development Services Manager Nikki Stautzenberger questions regarding existing grade and height.

City Administrator Ashley Wayman discussed the building code with the CRCRC.

Alex Robinette continued to review her document she created with the CRCRC. The CRCRC discussed corner lots, recommendations, the current building code, and setbacks.

Alex Robinette clarified her document is meant to support the CRCRC's previous discussions.

The CRCRC discussed exposed foundation height. Chair Dave Bench agreed that the CRCRC is ready to take these recommendations to the Planning and Zoning Commission.

5. Discussion and possible action on residential trees ordinance recommendation

Jay van Bavel would like to present the tree ordinance recommendations at the next meeting as well as discuss his response to the letter received regarding the tree ordinance.

Brian Rider explained that he and Thom Farrell had a subcommittee meeting about lighting. Thom Farrell would like to discuss lighting in the next meeting.

6. Discussion and possible action on future meeting dates and agenda topics for discussion

The CRCRC would like to discuss lighting, the tree ordinance, and the April 3rd Planning and Zoning meeting in the next CRCRC meeting.

Jay van Bavel asked questions regarding the subcommittee reviewing lighting. He would like to be removed from the subcommittee in the next meeting.

ADJOURNMENT OF MEETING AND PUBLIC WORKSHOP

The meeting was adjourned at 6:35 p.m.

Minutes adopted on the _____ day of _____, 2024.

Dave Bench, Chair

ATTEST:

Desiree Adair, City Secretary

Ms Amy Pattillo,

Thank you for your recent email to the CRCRC committee with comments on our proposed changes to the Tree Canopy Ordinance. I am answering at the request of Dave Bench (committee chairman) in my capacity as chairman of the Subcommittee on Tree Canopy Ordinance Revisions.

First let me thank you for your work on the current ordinance years ago. It has served the community well. There is strong interest in the community preserving this feature of Rollingwood and the CRCRC is suggesting an update to strengthen the current ordinance.

Specific responses to your 2 points:

1. You are correct that the statement should read "Remove Sections (d) and (e) of section 107-372, not section 107-373. Thank you for picking up on this typo.
2. The goal of the CRCRC is to strengthen the ordinance to preserve the current tree canopy, not necessarily to increase the number of protected trees. In order to do this, we propose:

- Instituting a Heritage Tree definition and protection clauses that will do more to protect these trees. Currently an Oak tree with a diameter of 24 inches can be removed without special permit and replaced with small diameter trees.
- We removed the loophole in the current ordinance that allows one to remove a protected tree from a setback area and replace it with "shrub like" trees in the utility line setback area. (e.g. removing a 12-inch oak from the front yard setback can be remediated by planting 3 Mountain Laurels in the 20 ft utility setback area, if there is one.)
- Changed the criteria for a tree that straddles the buildable area and a setback area to be, if 25% of the tree diameter is in the setback area, it will be classified as a setback tree and will need to be replaced with multiple trees. Currently it is 50%. This will increase the number of setback trees that would require replacement.
- The current ordinance states that one only needs to replace a total of 7 replacement trees. (not 7 protected trees) If one replaced 4 protected trees removed from a setback, which currently requires 12 replacement trees, only 7 would need to be replaced. (see section 107-375 (h).) We are removing this limitation as there are many lots that have 3 or more protected trees in setback areas.
- Because these proposed changes will result likely in more protected trees to be replaced, we felt it was necessary to give some and reduce the replacement ratio to 2:1 from 3:1.

I hope this clarifies our reasoning behind these suggested changes.

Thank you again for your interest in working with us to help preserve the "wood" in Rollingwood.

Regards,

Jay van Bavel

From: Desiree Adair <dadair@rollingwoodtx.gov>
Sent: Tuesday, April 2, 2024 9:37 AM
To: Desiree Adair <dadair@rollingwoodtx.gov>
Cc: Ashley Wayman <awayman@rollingwoodtx.gov>
Subject: FW: Rollingwood Comprehensive Residential Code Review Comments

**** Please do NOT reply all to this email because more than one of the boards/commissions are copied on this email. ****

Good morning Planning and Zoning Commission and CRCRC members,
 Please see email discussion below requested to be sent to you by Dave Bench.

Best,

Desiree

Desiree Adair
Assistant City Administrator

City of Rollingwood

512.327.1838

www.rollingwoodtx.gov



From: Dave [REDACTED]
Sent: Tuesday, April 2, 2024 8:03 AM
To: Desiree Adair <dadair@rollingwoodtx.gov>
Cc: Ashley Wayman <awayman@rollingwoodtx.gov>
Subject: Fwd: Rollingwood Comprehensive Residential Code Review Comments

Good Morning, Desiree

Please forward the attached discussion to members of P&Z and CRCRC

Thanks very much,

Dave

From: "Brook Brown" <bbrown@rollingwoodtx.gov>
To: "Ricky Joshi" [REDACTED]
Cc: "dcbench" [REDACTED]
Sent: Tuesday, April 2, 2024 2:04:16 AM
Subject: Re: Fw: Rollingwood Comprehensive Residential Code Review Comments

Ricky,

Sorry for the delay in responding - I am on vacation at present. There is a P&Z meeting on Apr. 3 at 6pm. I would recommend you contact Dave Bench, who chairs that committee and the CRCRC and let him know of your concerns. I have copied him on this reply, so that you will have a direct email.

I will be in touch when I get back in town.

Thanks,

Brook

From: Ricky Joshi [REDACTED]
Sent: Saturday, March 30, 2024 4:36 PM
To: Brook Brown <bbrown@rollingwoodtx.gov>
Subject: Re: Fw: Rollingwood Comprehensive Residential Code Review Comments

Hi Brook,

Thank you again for all the work you do. As a reminder I'm the resident who bought a home to renovate at 303 Pleasant Drive. I'm not sure the best way to re-enter the conversation on the Residential Code? The house next to me (301 pleasant) becomes further dominating as it gets built, to the point where we've considered selling our home (unfortunately currently under construction) to not live next to it towering over us. My realtor has stated that there is no question this has negatively impacted the quality and value of my lot.

I believe the neighboring home took advantage of every loophole, especially with a very high foundation that essentially makes the home 12+ feet higher than its natural (already high) design). It really has taken away the residential feeling on our side of the street, with my home being the most impacted. Rollingwood's rolling hills are such an asset, except when homes are allowed to tower over their neighbors due to rules that are not restricting this development. I cannot imagine what would happen if the same developer were to build on other lots on the street.

I don't believe CRCRC meetings are public. Is the best way to make my voice heard to go to the next City Council meeting?

Thanks,

Ricky

On Fri, Jun 16, 2023 at 1:54 PM Ricky Joshi [REDACTED] wrote:

Hi Brook,

Thank you for responding! I'm sorry you are most likely correct, it's likely 10 feet. One other thing i didn't mention is that there was absolutely no need for a non livable first level in this home. Also a permanent structure including permanent stairs are being built within the front setback.

I have been disheartened to see this home going up. I cannot imagine what could possibly happen with future homes on my street. An unscrupulous builder could easily build 45 feet upwards across from me for example, having a home almost 65 feet above street level.

I personally feel that, within reason, anyone should be able to build a dream house. However when it impinges on quality of life for those surrounding these homes it becomes an issue.

I appreciate all of your hard work on this!

Ricky

On Fri, Jun 16, 2023 at 11:03 AM Brook Brown <bbrown@rollingwoodtx.gov> wrote:

Dear Ricky,

Thank you for your letter addressing concerns with our current residential building code. I am hopeful that with comments like yours, we can make progress on these issues.

One question - your letter says there is a 7.5ft. setback between the property at 301 Pleasant and your property line. I have not looked at the building permit for the 301 Pleasant property as yet, but my understanding was that the minimum side setback under the code is 10 feet. Do you know how this setback came to be less than the 10 feet?

Thanks,

Brook Brown

From: Ashley Wayman <awayman@rollingwoodtx.gov>
Sent: Friday, June 16, 2023 9:06 AM
To: Comprehensive Residential Code Review Committee <CRCRC@rollingwoodtx.gov>
Subject: FW: Rollingwood Comprehensive Residential Code Review Comments

Good Morning CRCRC Members,

Please see the email below from Ricky Joshi. There was an error in our domain names when he shared this email with you, so I am forwarding this on.

Mayor and Council are blind copied since they were also intended recipients of this email.

Thanks,

Ashley

Ashley Wayman

City Administrator

City of Rollingwood

(512) 327-1838

www.rollingwoodtx.gov



From: Ricky Joshi [REDACTED]
Sent: Thursday, June 15, 2023 1:16 PM
To: Ashley Wayman <awayman@rollingwoodtx.gov>; dadair@rollingwoodatx.gov;
arobinson@rollingwoodatx.gov; kglasheen@rollingwoodatx.com; bbrown@rollingwoodatx.com;
pmcduffee@rollingwoodatx.gov; shutson@rollingwoodatx.gov; gmassingill@rollingwoodatx.gov;
crcrc@rollingwoodatx.gov
Subject: Rollingwood Comprehensive Residential Code Review Comments

Hi All,

I'm a new resident moving into 303 Pleasant Drive.

It's my strong feeling that the integrity of Rollingwood's residential nature is critical to keeping the beauty and cohesiveness of our wonderful community. I feel that without restrictions, opportunistic builders will continue to overbuild on lots. This significantly diminishes the quality of life for surrounding neighbors, and I feel is also deleterious to neighboring property values.

I personally am faced with a straight wall building edge on a new home going up next to mine that is 3 high stories tall (right at the 7.5ft setback). While nothing can be done about this building, I'm very worried about new homes that are 3 and 4 stories tall significantly impacting the sanctity of the community. It feels like this will be a race to the bottom (or "top") as more developers realize they can maximize square footage and height at the expense of their neighbors' sunlight and views.

Here are a few points:

1) The 45 ft height allowance for sloped lots allows for "high rise" type buildings that significantly overshadow neighboring homes - Neighboring flat lots below them are significantly now disadvantaged. Even the 35 foot allowance, right at the setback, seems overbearing to neighboring homes.

2) The 45ft height allowance can currently be taken advantage of to make super tall front facing highrise type homes which do not sit the spirit of a residential community.

2) The lack of fair FAR restrictions allows for overbuilding that will impact drainage and negatively impact neighborhood feel.

Here are a few proposed ideas:

1) Eliminating the 45ft slope allowance (with exceptions for houses whose front yards on a downward slope or back-facing).

2) **McMansion Ordinance** (tent rule) to allow neighbors to keep their signlines and sense of space. Walls going up to the edge of lots are problematic in my opinion.

3) FAR restrictions of 45-50% that fairly allow for large homes but with reasonable lot presence.

4) Impervious cover rules to allow for reasonable drainage

Thanks!

Ricky

Recommended Changes to Rollingwood Tree Maintenance Ordinance from the CRCRC.

Based on the strong support in the survey (question 15) for maintaining the tree canopy in Rollingwood (74% said maintaining the tree canopy had either high or very high priority). When asked whether they thought the current tree ordinance was adequate to this task (question 16), 51% of respondents said “yes”. However, in the comments from those “yes” votes, many were either uncertain what the current tree ordinance stated and/or had not any occasion to refer to the ordinance for recent tree work on their property.

Based on these survey results, the CRCRC had made the following recommendations to strengthen the current tree ordinance to make it more effective in maintaining the current tree canopy and try to keep the “wood” in Rollingwood of our beautiful city. Exact proposed wording or specific change is in green.

1. Change the name of Article II, Division 10, Subdivision 2 to “Residential Landscape and Tree Canopy Management.”
2. Introduce the concept of xeriscape landscaping into the ordinance, with some suggestions to use native and adapted low water use plants, and drought tolerant turf grasses for lawns. (no regulations, only education) “Landscape: Because the city experiences frequent drought conditions, low water demanding landscapes (Xeriscapes) are encouraged by using native and adapted low water use plants from the Austin Grow Green Guide (https://services.austintexas.gov/watershed_protection/publications/document.cfm?id=198301). Consideration should also be given to planting turfgrass on less than 50% of the total landscaped areas, with that turf grass preferably having summer dormancy capabilities such as Buffalo grass, Zoysia grass, or non-seeding varieties of Bermuda grass.” Section 107-369 (a): Purpose
3. Insert a definition for a “heritage tree” category into ordinance for those trees 24 inches in diameter measured 4 ½ feet above natural grade. “A heritage tree means a tree that has a diameter of 24 inches or more, measured four and one-half feet above natural grade, and is one of the protected species.” (Sec 107-371 Subdivision b- 2)
4. Change the criteria for planting alternatives to protected species (from the utility setback tree list) to limit it to only protected trees removed from areas 20 feet from a utility line. In other words, a protected species removed from setbacks, right of way and buildable area must be replaced with a protected species, if not removed from the 20 ft utility setback area.” For protected trees removed from within 20 feet of an above-ground power, cable, or telephone line the following species can be used for replacement: These species CANNOT be used to replace a protected tree removed from areas that are not 20 feet from an above ground power cable, or telephone line.” Sec 107-369 (c)-2
5. Adding a definition for Critical Root Zone (CRZ) that is area around tree trunk with a radius of one foot for every inch of diameter. “Critical Root Zone (CRZ) means an area around the trunk with a radius of one foot for every inch of trunk diameter. No construction or disturbance shall occur within an area that constitutes more than (50%) of the total critical root zone, and one half the radial distance of the CRZ for each tree being preserved as a protected tree or heritage tree.” Sec 107-369 (g).
6. Redefine the definition of “city arborist” used 13 times in the current ordinance indicated to review, approve, and implement all tree removal permits. The definition of “City Arborist” used throughout would be amended to include a city official. “City Arborist means an ISA certified arborist, OR an administrator or designated officer of the city appointed by the city council to perform the duties of the “city arborist” when a certified arborist is not available.” Sec 107-369 (e).

7. Remove Sections (d) and (e) of Section 107-372 as we believe all protected trees and heritage trees removed from a lot should be replaced on that lot unless a variance is obtained to replant elsewhere. 107-372 (d) and (e).
8. Removal of Heritage trees would require a separate “Heritage Tree Removal Permit” that can only be approved by a majority vote of the city council. 107-373 (a).
9. Protected trees (12–24-inch diameter) removed from the buildable area must be replaced by one protected species tree. “Replacement of a Heritage tree removed from the buildable area, with City Council approval, must be replaced with one tree 6 inches in diameter, or more, for every 12 inches in diameter of the removed tree. For example: 24 inches = 2 six-inch diameter trees, 36 inches = 3 trees, etc. to be replaced. To determine the diameter of a multi-trunk tree, measure all the trunks; add the total diameter of the largest trunk to ½ the diameter of each additional trunk.
10. If a protected or heritage tree straddles the boundary between setback line and buildable area line, it shall be considered removed from the setback area if 25% or more of the trunk diameter is in the setback area. Sec 107-375 (c).
11. An application for a tree removal permit must include a tree survey that shows all trees that are at least 12 inches in diameter 4 ½ feet above natural grade and indicate the Critical Root Zone of these trees as well. Sec 107-376 (a)-1.
12. Inserted statement that “the site plan and project design will preserve the existing natural character of the landscape and the retention of protective trees as much as possible” This statement inserted into Purpose” Section of Sec 107-369.
13. Change the maximum number of replacement trees from “7” to “unlimited”, no matter what the size of the lot. See section 107-375 (h).
14. Change the requirement for replacement of protected trees removed from the setback areas to 2 replacement trees for each removed. (Currently it is 3:1.) Sec 107-375 (a).
15. Development application requirements must include a tree survey indicating the location of all protected and heritage trees together with their CRZ. A protection plan must be submitted for these trees to include evidence that sufficient care must be demonstrated to ensure survival of these protected trees, including adequate watering before and during construction. Sec 107-376 (a)-1
16. All replacement trees must survive for at least three years, and the city arborist or other suitable city employee (see item #6) shall keep tract of these replacements, so that at 3 years post planting their survival and health can be assessed. Sec 107-378 (d).
17. Section 107-380 requires all vendors doing tree trimming, removal, or demolition, to have an annual permit to do so from the city secretary. The city website should be amended so that residents can easily access the up-to-date list of approved and permitted tree service vendors and how a preferred vendor can obtain a no cost permit from the city. Sec 107-380.
18. The CRCRC strongly supports a program to plant “commemorative trees” on city property, especially parks, where the cost would come through citizen donations. This program is under consideration by the Parks Commission.
19. The CRCRC also supports a proposal that was very strongly supported in the survey (question 17, 85% said “yes”) to consider a plan sponsored by the city, or private donations, to plant additional trees, with owner approval, in public ROW. The CRCRC did not include any proposed changes to the current ordinance, to accommodate this proposal, and will investigate further the practical and legal ramifications of this idea and present it later.

Zoning Board of Adjustment

- LGC Sections 211.008-211.011
- Decide appeals from a decision of an administrative official regarding the Zoning Ordinance
 - May reverse, affirm, or modify an administrative official's order, requirement, or decision
- Authorize a variance, if:
 - Public interest is served;
 - Substantial justice is achieved; and
 - Unnecessary hardship would otherwise result.
- Decide other matters authorized by ordinance (Special Exceptions, etc.)

What the Board of Adjustment CAN do

- Interpret the Zoning Ordinance and how to apply the facts
- Grant special exceptions when authorized by an ordinance
- Grant variance that will:
 - Not be contrary to public interest
 - Where due to special conditions literal enforcement would result in unnecessary hardship
 - So that the spirit of the ordinance is observed, and substantial justice is done
- Board of Adjustment is the escape valve for the Zoning Ordinance when land does not fit ordinance mold

Special Exceptions

- Special exceptions must be specifically set forth and be found in the ordinance provisions themselves.
- Ordinance should include a procedure for processing and granting special exceptions.
- Criteria for evaluating special exceptions should be included in the ordinance. Criteria does not have to require an unnecessary hardship.
- Special exceptions can be used as a relief valve for regulations where the City wants the ability to grant relief or alternative compliance.
- Special exceptions cannot create an incompatibility.

Special Exception Examples

- Reduce required off-street parking if it can be shown that the required minimum as herein established will not at any time be necessary because of the character of the proposed uses at a probable limited quantity of employees, clients, customers or tenants.
- Permit such modification of the height, yard, area, coverage, and parking regulations as may be necessary to secure appropriate development of a parcel of land that differs from other parcels in the district by being of such restricted area, shape, or slope that it cannot be appropriately developed without such modification.
- Reduce, substitute, or allow alternative screening and buffering between districts when the proposed alternative provides equal or greater mitigation of nuisances created by the non-residential or multi-family development and result in an equal or greater level of compatibility between the uses.

Variance vs. Special Exception

- Variances have been defined as suspensions of the literal enforcement of the ordinance against a particular use. Therefore, a variance is a permission to use land in a manner prohibited by the ordinance, while a special exception allows a deviation from the ordinance that is specifically provided for in the ordinance.
- A variance may be granted where the application of the law or use may present a practical difficulty or unnecessary hardship, and the literal enforcement of the regulations may be disregarded.
- Special exception must be specifically set forth and be found in the ordinance provisions themselves and may not be altered.
- Special exceptions and variances are not mutually exclusive, and it is possible for relief requests to qualify for both processes.