

## **COUNTY OF SANTA BARBARA LANGUAGE ON MODIFICATIONS AND VARIANCES**

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### **BACKGROUND**

At the February 27, 2008 meeting, the SunPAC requested background information and policy language on Modifications and Variances, which are part of the County's Land Use Development Code (LUDC). The Summerland Community Plan contains the following policy which pertains to the consideration of modifications and variances:

*Policy CIRC-S-15: The County shall not grant a modification or variance that will reduce the number of required off-street parking spaces, unless the finding is made that the modification or variance will not result in an increase in on-street parking.*

Currently, Modifications may be granted for setbacks, ~~height~~ (changed 3/18/08), and parking based on LUDC §35.82.130.B.3. Variances are more difficult to approve since it requires the finding of a "hardship" due to physical characteristics of the site. Variances may be granted on any regulation Land Use regulation except for uses, procedures and parking (based on specific criteria). Existing Modification and Variance language has been included for your reference and consideration.

## **COUNTY OF SANTA BARBARA LUDC LANGUAGE ON MODIFICATIONS**

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### **35.82.130 - Modifications**

- A. Purpose and intent.** The purpose and intent of this Section is to allow for minor modifications of certain zone standards, where, because of integrity of design, practical difficulties, topography, tree or habitat protection, or other similar site conditions, minor adjustments to the regulations, requirements, or standards would result in better project design, land use planning, and resource protection.
- B. Applicability.**
- 1. Allowed for permitted uses only.** The provisions of this Section shall apply to specific development proposals that are allowed in the zone in which the project is located which are not otherwise subject to Conditional Use Permit ([Section 35.82.060](#)) or Development Plan ([Section 35.82.080](#)) requirements.
  - 2. Activities or uses not otherwise allowed.** In no case shall a Modification be granted to allow an activity which is not otherwise allowed in the zone in which the property is situated, nor shall a Modification be granted which alters the procedural or timing requirements of this Development Code.
  - 3. Allowed Modifications.** Modifications may only be granted in conjunction with a specific development proposal and are limited to the following:
    - a. Maximum setback reduction of 20 percent.** The area of each front, side, or rear setback area shall not be reduced by more than 20 percent of the minimum setback area required in compliance with the applicable zone regulations.

- b. Setback reductions for structures, except unenclosed, attached entryways or porches.** No setback reduction for structures, except for unenclosed, attached entryways or porches [see Subsection 3.c (Front setback reductions for unenclosed, attached entryways or porches) below] shall result in:
- (1) **Front.** A front setback depth, as measured from the right-of-way or easement line of a street, of less than 16.5 feet.
  - (2) **Side.** A side setback width from property lines of less than three feet.
  - (3) **Rear.** A rear setback depth from property lines of less than 15 feet.
- c. Front setback reductions for unenclosed, attached entryways or porches.** No front setback reduction for an unenclosed, attached entryway or porch shall result in a front setback depth, as measured from the right-of-way or easement line of a street or driveway, of less than 10 feet.
- d. Increase in maximum zone height limitations.** Up to a 10 percent increase in the maximum zone height limitations, excluding lots located within the Montecito Coastal Area.
- e. Increase in the maximum Floor Area Ratio.** Up to a 10 percent increase in the maximum Floor Area Ratio (FAR) requirements for structures originally constructed before the adoption of the FAR regulations (e.g., if the FAR is 0.50, the maximum modification would allow a FAR of 0.55), excluding lots located within the Montecito Coastal Area.
- f. Reduction of parking spaces.** A reduction in the required number and/or a modification in the design or location of parking spaces and loading zones may be allowed provided that in no case shall:
- (1) The number of required parking spaces be reduced in the High Density Student Residential (SR-H), Medium Density Student Residential (SR-M) or Single Family Restricted overlay (SF) zones.
  - (2) The required number of bicycle parking spaces be reduced,
  - (3) The number of spaces required for a residential second unit be reduced or allowed to be located within the required front setback area.
  - (4) Any parking or screening requirement for a vehicle with more than two axles, a recreational vehicle or bus, a trailer, or other non-passenger vehicle be modified.
  - (5) A reduction in the required number of parking spaces for development within the Summerland Community Plan Area be allowed that results in an increase in on-street parking.

- 4. Prohibited Modifications.** In no case shall a Modification be granted for a reduction in buffer, landscape, open space, or other requirements of this Development Code, except as identified above.
- C. Contents of application.** An application for a Modification shall be submitted in compliance with [Chapter 35.80 \(Permit Application Filing and Processing\)](#).
- D. Processing.**
1. After receipt of Modification application, the Department shall review the application in compliance with the requirements of the California Environmental Quality Act.
  2. The project shall be subject to the provisions of [Section 35.82.070 \(Design Review\)](#), and shall be scheduled to be heard by the Board of Architectural Review for preliminary review and approval only, before the project is heard by the Zoning Administrator.
  3. The Zoning Administrator shall hold at least one noticed public hearing on the requested Modification and approve, conditionally approve, or deny the request.
  4. Notice of the hearing shall be given and the hearing shall be conducted in compliance with [Chapter 35.106 \(Noticing and Public Hearings\)](#).
  5. The Zoning Administrator in approving the Modification may require conditions as deemed reasonable and necessary to promote the intent and purpose of this Development Code and the public health, safety, and welfare.
  6. The action of the Zoning Administrator is final subject to appeal in compliance with [Chapter 35.102 \(Appeals\)](#).
- E. Findings required for approval.** An application for a Modification shall be approved or conditionally approved only if the Zoning Administrator first makes all of the following findings:
- 1. Findings for all Modifications.**
    - a. The project is consistent with the Comprehensive Plan, including any applicable community or area plan.
    - b. The project complies with the intent and purpose of the applicable zone including overlays, and this Development Code.
    - c. The Modification is minor in nature and will result in a better architectural or site design, as approved by the Board of Architectural Review, and/or will result in greater resource protection than the project without the Modification.
    - d. The project will be compatible with the neighborhood, and will not create an adverse impact to aesthetics, community character, or public views.

- e. Any Modification of parking or loading zone requirements will not adversely affect the demand for on-street parking in the immediate area.
  - f. The project will not be detrimental to existing ambient noise levels, physical access, light, solar exposure, or ventilation on or off the subject site.
  - g. Any adverse environmental impacts will be mitigated to a level of insignificance.
2. **Additional finding required for sites within the Summerland Community Plan area.**
- a. The development will not adversely impact existing recreational facilities and uses.

**F. Expiration.**

- 1. **Expiration in 12 months.** A Modification shall expire 12 months from the effective date if a Coastal Development Permit or Land Use Permit has not been issued for the project for which the Modification was approved unless otherwise specified by conditions of project approval or unless a time extension has been approved in compliance with [Section 35.84.030 \(Time Extensions\)](#).
- 2. **Once granted a Coastal Development Permit or Land Use Permit.** Once the project for which the Modification was approved has been issued a Coastal Development Permit or Land Use Permit in compliance with [Section 35.82.050 \(Coastal Development Permits\)](#) or [Section 35.82.100 \(Land Use Permits\)](#), the Modification shall have the same expiration date as the issued Coastal Development Permit or Land Use Permit.

- G. Post approval procedures.** The procedures and requirements in [Chapter 35.84 \(Post Approval Procedures\)](#) and those related to appeals in [Article 35.10 \(Land Use and Development Code Administration\)](#), shall apply following the decision on an application for a Modification.

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**COUNTY OF SANTA BARBARA (LUDC) LANGUAGE ON VARIANCES**

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**35.82.200 - Variances**

- A. Purpose and intent.** The purpose and intent of this Section is to allow variances from the strict application of the provisions of this Development Code where, because of exceptional conditions (e.g., the location, shape, size, surroundings, or topography, or other extraordinary situation or condition of the subject property), the literal enforcement of this Development Code would impose practical difficulties or would cause undue hardship unnecessary to carry out the intent and purpose of this Development Code.

**B. Applicability.**

1. The provisions of this Section shall apply to all zones.
2. In no case shall a Variance be granted:
  - a. To allow a use or activity which is not otherwise allowed in the zone in which the property is located;
  - b. From the procedures identified in this Development Code; or
  - c. From the required number of parking spaces specified for Medium Density Student Residential (SR-M) zone, High Density Student Residential (SR-H) zone and Single Family Restricted (SF) overlay zone in compliance with [Section 35.36.050 \(Required Number of Spaces: Residential\)](#).

**C. Contents of application.** An application for a Variance shall be submitted in compliance with [Chapter 35.80 \(Permit Application Filing and Processing\)](#).

**D. Processing.**

1. In the Inland area, an application filed in compliance with this Section that is determined by the Director to be inconsistent with the use and/or density requirements of this Development Code or the Comprehensive Plan shall be accompanied by an application to make the project consistent.
2. In the Inland area, the Department may refuse to accept for processing any application the Director finds to be inconsistent with the Comprehensive Plan.
3. The Zoning Administrator shall hold at least one noticed public hearing on the requested Variance and approve, conditionally approve, or deny the request.
4. Notice of the time and place of the hearing shall be given and the hearing shall be conducted in compliance with [Chapter 35.106 \(Noticing and Public Hearings\)](#).
5. The Zoning Administrator, in approving the Variance may require conditions as deemed reasonable and necessary to promote the purpose and intent of this Development Code and the public health, safety, and welfare.
6. The action of the Zoning Administrator is final subject to appeal in compliance with [Chapter 35.102 \(Appeals\)](#).
7. Prior to the issuance of any planning permit required to effectuate the approved Variance, the applicant shall agree, in writing, to comply with all conditions imposed by the review authority in the granting of the Variance.

**E. Findings required for approval.** A Variance application shall be approved or conditionally approved only if the Zoning Administrator first makes all of the following findings:

- 1. Findings required for all Variances:**
    - a. Due to special circumstances applicable to the subject property, including location, shape, size, surroundings, or topography, the strict application of this Development Code deprives the subject property of privileges enjoyed by other property in the vicinity and under identical zone classification.
    - b. The granting of the Variance shall not constitute a grant of special privileges inconsistent with the limitations upon other property in the vicinity and zone in which the property is situated.
    - c. The granting of the Variance will not be in conflict with the purpose and intent of this Development Code or the Comprehensive Plan.
  - 2. Additional finding required for sites within the Summerland Community Plan area.**
    - a. The granting of a Variance to reduce the number of required parking spaces shall not result in an increase in on-street parking.
- F. Post approval procedures.** The procedures and requirements in [Chapter 35.84 \(Post Approval Procedures\)](#) and those related to appeals in [Article 35.10 \(Land Use and Development Code Administration\)](#), shall apply following the decision on an application for a Variance.