

ORDINANCE NO. O-15482
(New Series)

O-81-145

APR 6 1981

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1,
DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTIONS 101.0500, 101.0501 AND 101.0502
REGARDING VARIANCE, CONDITIONAL USE PERMIT AND
RECONSTRUCTION PERMIT PROCEDURES.

BE IT ORDAINED, by the Council of The City of San Diego,
as follows:

Section 1. That Chapter X, Article 1, Division 5 of
the San Diego Municipal Code be and it is hereby amended by
amending Sections 101.0500, 101.0501 and 101.0502 to read
as follows:

DIVISION 5

VARIANCE, CONDITIONAL USE PERMIT AND
RECONSTRUCTION PERMIT PROCEDURES

SEC. 101.0500 ZONING ADMINISTRATOR - POWERS AND DUTIES

The Zoning Administrator shall have the following
powers and duties:

1. [No amendment to this subsection.]
2. [No amendment to this subsection.]
3. To grant a Reconstruction Permit, pursuant to
Municipal Code Section 101.0502, to allow for the
reconstruction of nonconforming buildings to the
building's original configuration in the event that
such buildings have been or are in the future damaged
or destroyed by fire, explosion, act of God or act of
the public enemy.

SEC. 101.0501 BOARD OF ZONING APPEALS

A. CREATION OF MEMBERSHIP

[No amendment to this subsection.]

B. MEETINGS

[No amendment to this subsection.]

C. POWER AND DUTIES

The Board shall hear and determine appeals from the rulings, decisions and determinations of the Zoning Administrator, granting or denying applications for Conditional Use Permits, Reconstruction Permits or for variances from the zoning provisions of the Municipal Code or zoning ordinances.

SEC. 101.0502 ZONE VARIANCE OR RECONSTRUCTION PERMIT GRANTED BY ZONING ADMINISTRATOR

A. APPLICATION - FORM AND CONTENTS

Application for a zone variance or Reconstruction Permit may be made by the owner of the property affected or it may be initiated by the Zoning Administrator. Application shall be filed with the Zoning Administrator upon forms provided by him. The application shall state fully the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate plans (including landscaping plans) and a legal description of the property involved.

B. HEARING BEFORE THE ZONING ADMINISTRATOR - PROCEDURE

1. An advertised public hearing shall not be required when the application is for limited relief in the case of:

- a. [No amendment to this subsection.]
- b. [No amendment to this subsection.]
- c. [No amendment to this subsection.]
- d. [No amendment to this subsection.]
- e. A Reconstruction Permit.

2. In all those cases listed in paragraph B.1. of this section, the Zoning Administrator shall set a reasonable time for the consideration of the variance or Reconstruction Permit and give notice thereof to the applicant and may give notice to any other interested persons. Upon the date set for the hearing, the Zoning Administrator shall hear the application unless for cause he shall on that date continue the matter. If a date certain for the continued hearing is announced in the open meeting, no further notice thereof need be given.

- 3. [No amendment to this subsection.]
- 4. [No amendment to this subsection.]
- 5. [No amendment to this subsection.]
- 6. [No amendment to this subsection.]

C. DECISION OF THE ZONING ADMINISTRATOR

1. [No amendment to this subsection.]

2. [No amendment to this subsection.]

3. The Zoning Administrator may grant a Reconstruction Permit, not to exceed its existing nonconformity, when it shall appear from the facts contained in the application, from information obtained by the Zoning Administrator, and from the evidence presented, that the following conclusions can be reached:

a. The building is nonconforming and such nonconformity was not the result of any action by any owner after the application of any zoning regulation with which the building is not in conformity.

b. The granting of the reconstruction permit will not permit the reconstruction of a building, the nonconformity of which has been or will be materially detrimental or injurious to the neighborhood or public welfare.

4. If the Zoning Administrator, after considering the facts presented in the case, is unable to reach the conclusions set forth in paragraph C.2 or C.3 of this section, he shall deny the variance or Reconstruction Permit.

5. In granting a variance or Reconstruction Permit, the Zoning Administrator may impose such conditions as he deems necessary and desirable to protect the public health, safety and general welfare and may impose a time limit within which the variance or Reconstruction Permit must be utilized.

6. The written decision of the Zoning Administrator, which shall include a finding of facts relied upon in reaching his conclusions, shall be filed with the Director of Building Inspection, and, at the discretion of the Zoning Administrator, with the County Recorder of San Diego County. A copy shall be mailed to the applicant. The written decision shall not be filed with the County Recorder if it constitutes a denial of the variance or reconstruction Permit.

7. When the decision of the Zoning Administrator is not appealed as provided for in Section 101.0504, his decision shall be final on the eleventh day following the decision in those cases where a public hearing was held, and shall be final on the sixth day following a decision in those cases where a public hearing was not held.

D. EXTENSION OF TIME

1. The Zoning Administrator may grant an extension of time to a valid variance or Reconstruction Permit

which has been granted if he finds that there has been no material change or circumstances since the granting of the variance or Reconstruction Permit.

2. A request for an extension of time shall be in writing and shall be filed by the owner of the property covered by the variance. The request shall be filed with the Zoning Administrator who may require a public hearing on such request if he determines that a hearing is in the public interest. In the event that a hearing is ordered, the procedure for noticing shall be as set forth in paragraph B of this section.

3. The written decision of the Zoning Administrator granting or denying the extension of time shall contain a finding of facts relied upon in reaching his conclusions and shall be filed with the Director of Building Inspection, and a copy shall be mailed to the applicant.

E. AMENDMENT OF VARIANCE OR RECONSTRUCTION PERMIT

1. The Zoning Administrator may grant an amendment to a valid variance or Reconstruction Permit which has been granted if, after considering the facts presented on the application and at the hearing, he is able to reach the conclusion set forth in paragraph C of this section.

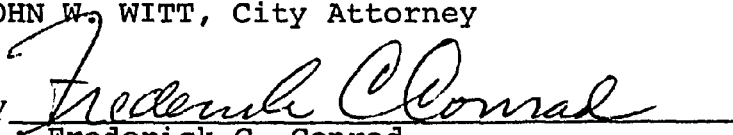
2. The application for an amendment to a variance or Reconstruction Permit shall be in writing, and shall be filled by the owner of the property. The application

shall be filed with the Zoning Administrator who may require a public hearing on such application if he determines that a hearing is in the public interest.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By



Frederick C. Conrad
Chief Deputy City Attorney

FCC:clh
12/15/80
Or.Dept.:Planning

Passed and adopted by the Council of The City of San Diego on APR 6 1981,
 by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY: PETE WILSON,
 Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR,
 City Clerk of The City of San Diego, California.

(Seal)

By Barbara Berridge, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on MAR 24 1981, and on APR 6 1981.

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR,
 City Clerk of The City of San Diego, California.

(Seal)

By Barbara Berridge, Deputy.

Office of the City Clerk, San Diego, California	
Ordinance Number <u>0-15482</u>	Adopted <u>APR 6 1981</u>

RECEIVED
CITY CLERK'S OFFICE

CERTIFICATE OF PUBLICATION

1981 APR 24 AM 10:57

SAN DIEGO, CALIF. *njo*

SAN DIEGO, CITY OF
202 C St., 12th floor
San Diego, CA 92101
Attn: B. Berridge

IN THE MATTER OF
ORDINANCE AMENDMENT RELATING TO
CONDITIONAL USE PERMIT AND RECONSTRUCTION
PERMIT PROCEDURES

NO.

ORDINANCE NO. 0-15482
(New Series)

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 101.0500, 101.0501 AND 101.0502 REGARDING VARIANCE, CONDITIONAL USE PERMIT AND RECONSTRUCTION PERMIT PROCEDURES.
BE IT ORDAINED, by the Council of The City of San Diego, as follows:
Section 1. That Chapter X, Article 1, Division 5 of the San Diego Municipal Code be and it is hereby amended by amending Sections 101.0500, 101.0501 and 101.0502 to read as follows:

DIVISION 5
VARIANCE, CONDITIONAL USE PERMIT AND RECONSTRUCTION PERMIT PROCEDURES
SEC. 101.0500 ZONING ADMINISTRATOR - POWERS AND DUTIES

The Zoning Administrator shall have the following powers and duties:

- 1. (No amendment to this subsection.)
- 2. (No amendment to this subsection.)
- 3. To grant a Reconstruction Permit, pursuant to Municipal Code Section 101.0502, to allow for the reconstruction of nonconforming buildings to the building's original configuration in the event that such buildings have been or are in the future damaged or destroyed by fire, explosion, act of God or act of the public enemy.

SEC. 101.0501 BOARD OF ZONING APPEALS
A. CREATION OF MEMBERSHIP
(No amendment to this subsection.)
B. MEETINGS
(No amendment to this subsection.)
C. POWER AND DUTIES

The Board shall hear and determine appeals from the rulings, decisions and determinations of the Zoning Administrator, granting or denying applications for Conditional Use Permits, Reconstruction Permits or for variances from the zoning provisions of the Municipal Code or zoning ordinances.

SEC. 101.0502 ZONE VARIANCE OR RECONSTRUCTION PERMIT GRANTED BY ZONING ADMINISTRATOR
A. APPLICATION - FORM AND CONTENTS

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I, Camille Simpson, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NO. 0-15482
(New Series)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:
April 20, 1981

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 20th day of Apr., 19 81.

Camille Simpson

(Signature)

B. HEARING BEFORE THE ZONING ADMINISTRATOR PROCEDURE

1. An advertised public hearing shall not be required when the application is for limited relief in the case of:

- a. (No amendment to this subsection.)
- b. (No amendment to this subsection.)
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- d. (No amendment to this subsection.)
- e. A Reconstruction Permit.

2. In all those cases listed in paragraph B.1. of this section, the Zoning Administrator shall set a reasonable time for the consideration of the variance or Reconstruction Permit and give notice thereof to the applicant and may give notice to any other interested persons. Upon the date set for the hearing, the Zoning Administrator shall hear the application unless for cause he shall on that date continue the matter. If a date certain for the continued hearing is announced in the open meeting, no further notice thereof need be given.

- 3. (No amendment to this subsection.)
- 4. (No amendment to this subsection.)
- 5. (No amendment to this subsection.)
- 6. (No amendment to this subsection.)

C. DECISION OF THE ZONING ADMINISTRATOR

- 1. (No amendment to this subsection.)
- 2. (No amendment to this subsection.)

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4. If the Zoning Administrator, after considering the facts presented in the case, is unable to reach the conclusions set forth in paragraph C.2 or C.3 of this section, he shall deny the variance or Reconstruction Permit.

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3. The written decision of the Zoning Administrator granting or denying the extension of time shall contain a finding of facts relied upon in reaching his conclusions and shall be filed with the Director of Building Inspection, and a copy shall be mailed to the applicant.

E. AMENDMENT OF VARIANCE OR RECONSTRUCTION PERMIT

1. The Zoning Administrator may grant an amendment to a valid variance or Reconstruction Permit which has been granted if, after considering the facts presented on the application and at the hearing, he is able to reach the conclusion set forth in paragraph C of this section.

2. The Application for an amendment to a variance or Reconstruction Permit shall be in writing, and shall be filed by the owner of the property. The application shall be filed with the Zoning Administrator who may require a public hearing on such application if he determines that a hearing is in the public interest.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

Introduced on March 24, 1981

Passed and adopted by the Council of the City of San Diego on April 6, 1981.

AUTHENTICATED BY:

PETE WILSON,

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR,

City Clerk of The City of San Diego, California

(SEAL)

By BARBARA BERRIDGE, Deputy.

Published April 20, 1981

60-4607