

areas, not including garages, of 500 square feet or less, which are accessory and incidental to a use permitted within the PD;

- (6) Any expansion of gross floor area or enlargement of building envelope which does not exceed 500 square feet, does not add an additional room or rooms, and which does not require the addition of required parking spaces; and
- (7) Reductions in the intensity of structural ground coverage of the development which does not exceed ten percent of the total ground coverage.

(Ord. No. 970834, § 1, 6-22-98)

Sec. 30-225. Time limits for rezoning to planned development.

The rezoning of property, by amendatory ordinance, to a PD district based on a particular PD layout plan, shall operate the same as any other rezoning to prohibit the consideration by the city plan board of any new petition for rezoning for any part of such property, excluding an application to amend the approved PD layout plan, development plan, or both, for a period of 12 months from the date of the amendatory action. Neither the denial of a petition to rezone to PD, nor the withdrawal of a petition to rezone to PD, shall operate to deny the applicant consideration of a new rezoning petition at any time, except that no new petition to rezone to PD may be considered by the city plan board within a period of 12 months from the date of such denial or withdrawal. The denial of a petition to rezone to a category other than PD shall not act to prohibit the filing of a petition for PD zoning at any time.

(Ord. No. 970834, § 1, 6-22-98)

Secs. 30-226—30-230. Reserved.

DIVISION 5. SPECIAL USE PERMIT*

Sec. 30-231. Intent.

(a) It is the intent of this article to recognize and permit certain uses and developments which require special review, and to provide the standards by which the applications for permits for uses and development shall be evaluated.

*Editor's note—Section 1 of Ord. No. 990193, adopted Nov. 8, 1999, renumbered Ch. 30, Art. VII, Div. 4, "Special Use Permit" as Div. 5 as set forth herein. See the editor's notes to Divs. 4 and 6 of this article.

(b) It is further intended that special use permits be required for developments which, because of their inherent nature, extent and external effects, require special care in the control of their location, design and methods of operation in order to ensure conformance with the comprehensive plan.

(Ord. No. 3777, § 1, 6-10-92)

Sec. 30-232. Permit required.

Those uses listed in article IV as permitted special uses in a zoning district may be established in that district only after issuance and recordation of a special use permit by the city plan board.

(Ord. No. 3777, § 1, 6-10-92)

→ **Sec. 30-233. Criteria for issuance.**

No special use permit shall be approved by the city plan board unless the following findings are made concerning the proposed special use:

- (1) That the use or development complies with all required regulations and standards of this chapter and all other applicable regulations.
- (2) That the proposed use or development will have general compatibility and harmony with the uses and structures on adjacent and nearby properties.
- (3) That necessary public utilities are available to the proposed site and have adequate capacity to service the proposed use and development.
- (4) That the use or development is serviced by streets of adequate capacity to accommodate the traffic impacts of the proposed use.
- (5) That screening and buffers are proposed of such type, dimension and character to improve compatibility and harmony of the proposed use and structure with the uses and structures of adjacent and nearby properties.
- (6) That the use or development conforms with the general plans of the city as embodied in the city comprehensive plan.

- (7) That the proposed use or development meets the level of service standards adopted in the comprehensive plan and conforms with the concurrency management requirements of this chapter as specified in article III, division 2.

(Ord. No. 3777, § 1, 6-10-92)

Sec. 30-234. Procedures for approval.

(a) *Applications submittal requirements.* Application will be filed with the city's department of community development on the form prescribed. Applications must include a preliminary site plan. Any incomplete applications will be returned to the applicant. The applicant must meet the requirements of section 30-350(b), citizen participation, in order for the application to be deemed complete.

(b) *Preliminary conference with applicant.* The applicant for a special use permit shall meet with the technical review committee to discuss the procedures and requirements and to consider the elements of the proposed use and site and the proposed site plan. The applicant shall indicate whether any of the items required for a preliminary development plan are inapplicable or irrelevant to the proposed special use permit.

(c) *Report to city plan board.* The department of community development shall submit to the city plan board a written analysis of the application and a recommendation based on the findings required in section 30-233 and development plan review process in article VII.

(d) *Exception to preliminary development plan.* If any of the items required for the preliminary development plan is inapplicable or irrelevant to a proposed development, such item may be omitted upon approval of the department of community development, provided the applicant identifies in writing any missing item and includes a brief explanation of why it is inapplicable or irrelevant. The city plan board may, at the public hearing, approve the omission of items from the preliminary development plan if the board finds they are not relevant to a determination that the proposed use or development meets the requirements of section 30-233.

(e) *Public hearing.* A public hearing before the city plan board is required in accordance with the policies of the city.

(f) *Notice.* Notice shall be mailed at least ten days before the date of the hearing to all property owners within 400 feet of the property for which a special use permit has been requested. For this purpose, the owner of property shall be deemed to be the person so shown on the city's tax rolls.

(g) *Burden of presenting evidence; burden of persuasion.*

- (1) The burden of presenting a complete application to the board shall be upon the applicant.
- (2) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this chapter remains at all times on the applicant.

(h) *City plan board action.*

- (1) In considering whether to approve an application for special use permit, the city plan board will consider the evidence presented in the public hearing and the department of community development's report and shall act on the application based on the findings required in section 30-233 and the development plan review process found in article VII. Such findings shall be based on competent material and evidence.
- (2) Action on the application shall be one of the following:
 - a. Approval;
 - b. Approval subject to conditions; or
 - c. Denial, with a statement of the reasons for denial.

(i) *Effect of denial or withdrawal on subsequent application.* No application for a special use permit shall be entertained within two years after the denial or withdrawal of a request for the same use for the same property. The city plan board may waive this time limitation by the affirmative vote of a super [sic] majority of the members provided 30 days have elapsed since the action of

Side (street)	The average of the distance (up to a maximum of 20 ft.) between street right-of-way and principal structures on the two adjacent lots. For this calculation, any vacant adjacent lot shall be assigned a distance of 20 ft.
Rear	20 ft., or 25 ft. when abutting property designated single-family or residential low-density on the future land use map.
Maximum lot coverage	80%
Building height	Minimum: 2 stories. Maximum: 6 stories; up to 8 stories by special use permit.

Accessory Structures

<i>Minimum setbacks (excluding walls and fences):</i>	
Front	Same requirement as for principal structure
Side (interior)	5 ft., or 25 ft. when abutting property designated single-family or residential low-density on the future land use map.
Side (street)	5 ft.
Rear	5 ft., or 25 ft. when abutting property designated single-family or residential low-density on the future land use map.
Maximum building height	35 ft.

(5) *Building height.* A minimum of two stories. A maximum of eight stories; however, the height of buildings located within 50 feet of property designated single-family or residential low-density on the future land use map shall not exceed six stories. A special use permit is required for any height over six stories. In addition to the criteria listed at section 30-233, a special use permit for buildings over six stories shall meet the following criteria:

- a. No more than 150 feet of horizontal first story facade will be allowed without an entrance, which is defined to be an operable door;
- b. Sidewalks along the street edge shall be at least ten feet wide;
- c. There is at least 80 percent building lot frontage;
- d. The first story is at least ten feet in floor to ceiling height; and

e. The first story contains only retail, service, and/or restaurant uses when the first story fronts an "A" street or other primary street or streets as determined by the city manager or designee or appropriate reviewing board.

(e) *Additional requirements.*

- (1) *General conditions.* All structures and uses within this district shall also comply with the applicable requirements and conditions of section 30-67 and article IX.
- (2) *When the development is located in a special area plan overlay district.* If the provisions of the special area plan conflict with the underlying zoning, the provisions of the special area plan shall govern and prevail. The effect of the classification is that the special area plan is the applicable set of regulations. The underlying zoning and provisions of the land