

## VARIANCE JUSTIFICATIONS

All three of the following findings must be made in order to approve a Variance application.

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The Sunnyvale Municipal code states that all three of the following justifications must be met before granting the Variance. Please provide us information on how your project meets all of the following criteria.

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.

*The property has an extraordinary condition with regard to its use and surroundings. While the primary use of the property is rental apartments, the ground floor use at the subject site is proposed to be a community serving Cafe and Market. Not only is this use extraordinary, but it's adjacency to the proposed 6.5 acre public park is also ideal and exceptionally situated to serve the community at large. Directly across from the proposed trellis structure will be a fully landscaped and amenitized 6.5 acre public park, which will be dedicated by the land owner. While building setbacks are typically used to protect an established street character and maintain appropriate space between buildings, the section of Indian Wells which the trellis fronts is currently private property, and is being dedicated to the city. The street character has therefore been established as something new, and at this location, a permanent park across from the trellis will ensure that an open and spacious sense of space will be provided around this trellis.*

### AND

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements, or uses within the immediate vicinity and within the same zoning district.

*Granting of this variance will not be materially detrimental to the public welfare or injurious to the property, improvements, or uses within the immediate vicinity because the proposed trellis will fully be situated within the owner's property and outside of the vision triangle at the nearest intersection. The trellis will sit five feet back from the property line, and the five feet between the back of the public sidewalk and the trellis will be landscaped to create a visually soft appearance. The trellis itself is more than 50% open on the top, and is not considered a building or structure for the purposes of lot coverage.*

**AND**

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

*The city of Sunnyvale previously provided a variance for a covered outdoor seating structure that projects into the required front yard setback for the Falafel Stop at 1325 Sunnyvale Saratoga Road. As a similar community serving commercial use, our proposed trellis encroachment variance would not grant special privileges not enjoyed by other surrounding property owners in this neighborhood as this type of variance has already been provided to the Falafel Stop property owner.*

If you need assistance in answering any of these justifications, contact the Planning Division staff at the One-Stop Permit Center.