

CHAPTER 2.3

CONDITIONAL DEVELOPMENT

Section 2.3.10 - BACKGROUND

Certain Use Types listed in each zone require a public hearing to determine how they affect surrounding properties, neighborhoods, and the community as a whole. The Conditional Development review process provides an opportunity to allow a Use when potential adverse effects can be mitigated, or deny a Use if concerns cannot be resolved to the satisfaction of the hearing authority. It is the intent of this Chapter to permit Conditional Developments and Conditional Development Modifications consistent with the Comprehensive Plan, subject to procedures and criteria intended to mitigate potentially negative impacts.

Section 2.3.20 - PURPOSES

Procedures and review criteria for Conditional Developments are established for the following purposes:

- a. Permit certain types of public and private development that provide a community service in locations related to their service areas;
- b. Permit commercial development in locations related to its service area;
- c. Ensure that Conditional Development is compatible with its immediate area and the affected part of the community;
- d. Permit Uses when potentially adverse effects can be mitigated; and
- e. Permit a mixture of residential development types.

Section 2.3.30 - CONDITIONAL DEVELOPMENT PROCEDURES

When an application is filed for a Conditional Development or a Conditional Development Modification, it shall be reviewed in accordance with the following procedures.

2.3.30.01 - Application Requirements

When the Director deems any requirement below unnecessary for proper evaluation of a proposed application, it may be waived.

Prior to formal submittal of an application, the applicant is encouraged to participate in an informal pre-application conference with Community Development Department staff to discuss the proposal, the applicant's requirements, and the applicant's materials developed in response to this Code's applicable requirements.

Applications shall be made on forms provided by the Director and shall be accompanied by:

- a.** Location and description of the subject property(ies), including all of the following, as relevant: address; tax assessor map and tax lot number; parcel number; written description of the boundaries of the proposal; and one set of assessor's maps of the subject site and surrounding area, with the subject site outlined in red;
- b.** Signed consent by the subject property's owner(s) and/or the owner's legal representative(s). If a legal representative is used as a signatory, written proof of ability to be a signatory shall be furnished to the City. The owner's name(s) and address(es), and the applicant's name, address, and signature shall also be provided;
- c.** Fifteen copies of the narrative, on 8.5- by 11-in. sheets, and 15 copies of graphics at an 8.5- by 11-in. size. The Director may request additional copies of the narrative and/or graphics for routing purposes, if needed. Related names/numbers must be legible on the graphics. The Director may also require some or all graphics at an 11- by 17-in. size if, for legibility purposes, such a size would be helpful;
- d.** Six sets of full-scaled black line or blueprint drawings of the graphic(s), with sheet size not to exceed 24- by 36-in. Where necessary, an overall plan with additional detail sheets may be submitted;
- e.** An electronic version of these documents (both text and graphics, as applicable) if an applicant has produced part or all of an application in an electronic format. The applicant shall coordinate with the City regarding compatible electronic formats, to the greatest extent practicable;

f. Graphic Requirements

Graphics shall include the following information where applicable:

1. Public Notice Map - Typically a street map at one in. = 800 ft. as per the City's public notice format;
2. Zoning Map - Typically one in. = 400 ft., but up to one in. = 800 ft., depending on the size of the site, with a key that identifies each zone on the site and within 1,000 ft. of the site as per City format;
3. Comprehensive Plan Map - Typically one in. = 800 ft. with a key that identifies each land use designation on the site and within 1,000 ft. of the site as per City format;
4. Existing Land Use Map - Typically a topographic map that extends at least 1,000 ft. beyond the site. The map shall include building footprints and distinguish between single-family, multi-family, Commercial, and Industrial Uses, as well as other significant features such as roads, parks, schools, and Significant Natural Features identified by Chapter 2.11 - Floodplain Development Permit, Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Floodplain Provisions, Chapter 4.12 - Significant Vegetation Protection Provisions, Chapter 4.13 - Riparian Corridor and Wetland Provisions, and Chapter 4.14 - Landslide Hazard and Hillside Development Provisions;
5. Significant Natural Features Map(s) - Maps shall identify Significant Natural Features of the site, including but not limited to:
 - a) All information and preservation plans required by Chapter 2.11 - Floodplain Development Permit, Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Floodplain Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, Chapter 4.13 - Riparian Corridor and Wetland Provisions, and Chapter 4.14 - Landslide Hazard and Hillside Development Provisions, as applicable;
 - b) All Jurisdictional Wetlands not already shown as part of "a," above. While not all Jurisdictional Wetlands are locally regulated by Chapter 4.13 - Riparian Corridor and Wetland

Provisions, they need to be shown so that the City can route the application to the appropriate state and federal agencies for comment; and

- c) Archaeological sites recorded by the State Historic Preservation Office (SHPO).

6. Site Plan(s) and Other Graphics -

- a) Site plan(s) and other graphics shall be drawn to scale and shall contain a sheet title, date, north arrow, and legend placed in the same location on each sheet and contain the information listed in this Section and “b,” below.

Graphics shall include features within a minimum 150-ft. radius of the site, such as existing streets and parcel boundaries; existing structures; driveways; utilities; Significant Natural Features regulated by Chapter 2.11 - Floodplain Development Permit, Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Floodplain Provisions, Chapter 4.12 - Significant Vegetation Protection Provisions, Chapter 4.13 - Riparian Corridor and Wetland Provisions, and Chapter 4.14 - Landslide Hazard and Hillside Development Provisions; Minimum Assured Development Area information from Chapter 4.11 - Minimum Assured Development Area (MADA), if applicable; and any other information that, in the Director’s opinion, would assist in providing a context for the proposed development. The Director may require that an applicant’s graphics include information on lands in excess of 150 ft. from a development site, such as in cases where an adjacent property is large and a view of the whole parcel would be helpful, or when existing infrastructure is far away from the site.

- b) The site plan and related graphics shall also include:
 - 1) Boundary of the proposed development site and any interior boundaries related to proposed development phases or land divisions;
 - 2) Number of lots and their dimensions, including frontage, depth, and area in sq. ft.;

- 3) Location and floor area of existing and proposed structures and other improvements, including maximum heights, Building Types, and gross density per acre for residential developments; location of fire hydrants, overhead lines in the abutting right of way, easements, fences, walls, parking calculations, and walkways; and any proposed Use restrictions. Where required by the applicable zone, Lot Coverage and Green Area calculations shall be provided;
- 4) Location and dimensions of all areas to be conveyed, dedicated, or reserved as common open spaces, common Green Area, public parks, recreational areas, school sites, and similar public and semi-public uses;
- 5) Existing and proposed circulation system plan and dimensions including streets, driveways, bikeways, sidewalks, multi-use paths, off-street parking areas, service areas (including refuse), loading areas, direction of traffic flow, and major points of access to public rights-of-way. Illustrative cross-sections of streets shall be provided. Notations of proposed ownership (public or private) should be included where appropriate;
- 6) Existing and proposed general pedestrian circulation system, including its interrelationship and connectivity with the existing and proposed vehicular, bicycle, and pedestrian circulation systems, and indicating proposed treatments for points of conflict;
- 7) Detailed utilities plan indicating existing and proposed utility systems and their function, including sanitary sewer, storm sewer, and drainage and water systems;
- 8) Identification of Significant Natural Features that were included on the Significant Natural Features map(s) required in "5," above, to indicate the relationship of the proposal to the site's Significant Natural Features;
- 9) Existing and proposed topographic contours at two-ft. intervals. Where the grade of any part of the development site exceeds 10 percent and where the

development site abuts existing developed lots, a conceptual grading plan shall be required. The grading plan shall contain adequate information to evaluate impacts to the site and adjacent areas, consistent with Chapter 4.14 - Landslide Hazard and Hillside Development Provisions. If a grading plan is required, it shall indicate how these objectives are met, how runoff or surface water from the development will be managed, and how the development's surface waters will be disposed;

- 10) Conceptual landscape plan drawn to scale and showing the location of existing trees and vegetation proposed to be removed from or to be retained on the site, the location and conceptual design for landscaped areas - types of plant materials as basic as trees, shrubs, and groundcover/lawn areas - and other conceptual landscape features including walls and fences;
- 11) Exterior lighting plan indicating the location, size, height, typical design, material, color, method, and direction of illumination; and
- 12) Typical elevations and floor plans of buildings and structures sufficient to indicate the architectural intent and character of the proposed development, indicate the entrance and exit points, and permit computations of parking, design, and yard requirements. The elevations shall specify building materials to be used, specifications as to type, color, and texture of proposed exterior surfaces, and information demonstrating compliance with Chapter 4.10 - Pedestrian Oriented Design Standards;

g. Narrative Requirements

A written statement shall include the following information:

1. Statement of the planning objectives to be achieved by the proposed development. This statement shall include a description of the proposed development, the rationale behind the assumptions and choices made, and a discussion of how the application meets the

review criteria in Section 2.3.30.04 below, including the development standards required by this Code;

2. Quantitative data for the following, where appropriate:
 - a) Total number and type of dwelling units;
 - b) Square footages of all structures;
 - c) Parcel size;
 - d) Proposed Lot Coverage of buildings and structures, where known;
 - e) Gross densities per acre;
 - f) Total square footage of Green Area;
 - g) Total number of parking spaces (compact, standard, handicapped, bicycle) and a breakdown of how parking is consistent with this Code's requirements; and
 - h) Total square footage of nonresidential construction;
3. Detailed statement outlining timing, responsibilities, and financial assurances for all public and non-public improvements such as irrigation, private roads and drives, landscape, and maintenance;
4. Statement describing phases of project, if proposed. Phases shall be:
 - a) Substantially and functionally self-contained and self-sustaining with regard to access, parking, utilities, Green Areas, and similar physical features; and capable of substantial occupancy, operation, and maintenance upon completion of construction and development;
 - b) Arranged to avoid conflicts between higher and lower density development;
 - c) Properly related to other services of the community as a whole and to those facilities and services yet to be provided; and

- d) Provided with such temporary or permanent transitional features, buffers, or protective areas as may be required to prevent damage or detriment to any completed phases and to adjoining properties not in the Conditional Development.
5. Traffic impact study, if required by the City Engineer. The City Engineer shall define the scope of the traffic impact study based on established procedures. See Section 4.0.60.a;
6. Statement addressing compatibility of proposed development with adjacent land uses relating to such items as architectural character, Building Type, and height of proposed structures; and
7. Proposals for setbacks or building envelopes, lot areas where land division is anticipated, and number of parking spaces to be provided per gross floor area or per number of units.
8. Information required by Chapter 2.11 - Floodplain Development Permit, Chapter 4.5 - Floodplain Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, Chapter 4.13 - Riparian Corridor and Wetland Provisions, and Chapter 4.14 - Landslide Hazard and Hillside Development Provisions, as applicable.

2.3.30.02 - Acceptance of Application

- a. The Director shall review the application in accordance with Chapter 2.0 - Public Hearings.
- b. After accepting a complete application, the Director shall schedule a public hearing to be held by the Planning Commission. Notice of the hearing shall be provided in accordance with Chapter 2.0 - Public Hearings.
- c. After an application is accepted as complete, any revisions to it that result in the need for an additional public notice to be mailed shall be regarded as a new application. Such new application shall require additional filing fees and rescheduling of the required public hearing.

2.3.30.03 - Staff Evaluation

The Director shall prepare a report that evaluates whether the proposal complies with the review criteria below. The report shall include a recommendation for

approval or denial and, if needed, a list of conditions for the Planning Commission to consider if an approval is granted.

2.3.30.04 - Review Criteria

Requests for Conditional Developments shall be reviewed to ensure consistency with the purposes of this Chapter, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City Council. The application shall demonstrate compatibility in the following areas, as applicable:

- a. Basic site design (the organization of Uses on a site and the Uses' relationships to neighboring properties);
- b. Visual elements (scale, structural design and form, materials, etc.);
- c. Noise attenuation;
- d. Odors and emissions;
- e. Lighting;
- f. Signage;
- g. Landscaping for buffering and screening;
- h. Transportation facilities;
- i. Traffic and off-site parking impacts;
- j. Utility infrastructure;
- k. Effects on air and water quality (note: a DEQ permit is not sufficient to meet this criterion);
- l. Consistency with the applicable development standards, including the applicable Pedestrian Oriented Design Standards; and
- m. Preservation and/or protection of Significant Natural Features, consistent with Chapter Chapter 2.11 - Floodplain Development Permit, 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Floodplain Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, Chapter 4.13 - Riparian Corridor

and Wetland Provisions, and Chapter 4.14 - Landslide Hazard and Hillside Development Provisions. Streets shall also be designed along contours, and structures shall be designed to fit the topography of the site to ensure compliance with these Code standards.

Any Conditional Development request on residentially designated property shall also result in a clear and objective set of development standards, between the Conditional Development proposal, required adherence to this Code, and Conditions of Approval.

2.3.30.05 - Action by the Planning Commission

The Planning Commission shall conduct a public hearing in accordance with Chapter 2.0 - Public Hearings. Following the close of the public hearing, the Commission shall approve, conditionally approve, or deny the Conditional Development. The Commission's decision shall include findings that specify how the application has or has not complied with the above review criteria.

2.3.30.06 - Notice of Disposition

The Director shall provide the applicant with a Notice of Disposition in accordance with Chapter 2.0 - Public Hearings that includes a written statement of the Planning Commission's decision, a reference to findings leading to it, any Conditions of Approval, and the appeal period deadline. A Notice of Disposition shall also be mailed to persons who presented oral or written testimony at the public hearing. For development on property with a Willamette River Greenway Overlay Zone, a Notice of Disposition shall also be mailed to the Oregon Department of Parks and Recreation.

2.3.30.07 - Appeals

The decision of the Planning Commission may be appealed in accordance with Chapter 2.19 - Appeals.

2.3.30.08 - Effective Date

Unless an appeal has been filed, the decision of the hearing authority shall become effective 12 days after the Notice of Disposition is signed.

2.3.30.09 - Effective Period of Conditional Development Approval

Conditional Development approval shall be effective for a two-year period from the date of approval. If the applicant has not begun the Conditional Development or its phases within the two-year period, all approvals shall expire. Where the Planning Commission finds that conditions have not changed, at its discretion and without a public hearing, the Commission may extend the period one time for a period not to exceed two additional years.

2.3.30.10 - Review Criteria for Determining Compliance with an Approved Conditional Development

A Building Permit or other site development permit request shall be reviewed to determine whether the request is in substantial compliance with the approved Conditional Development. It shall be deemed to be in substantial compliance if it is consistent with the review criteria in Section 2.3.30.04, does not involve modifications to this Code's development standards, and does not involve changes to any specific requirements established at the time of Conditional Development approval. Specific requirements include Conditions of Approval, this Code's requirements, and all aspects of the applicant's proposal that were approved as part of the Conditional Development.

Section 2.3.40 - CONDITIONAL DEVELOPMENT MODIFICATION

2.3.40.01 - Purposes of a Conditional Development Modification

- a. Provide a limited amount of flexibility with regard to site planning and architectural design for approved Conditional Developments; and
- b. Provide benefits within the development site that compensate for requested variations from approved Conditional Developments such that the intent of the original approval is still met.

2.3.40.02 - Thresholds of a Conditional Development Modification

- a. The factors identified here describe the thresholds that separate a Conditional Development Modification from the need to apply for a new Conditional Development Permit:
 1. Change in Use Type;
 2. Increase in dwelling unit density;

3. Decrease in dwelling unit density by more than three units for development sites one acre or smaller in size; or decrease in dwelling unit density by more than five units or by more than 10 percent, whichever is less, for development sites larger than one acre;
4. Change in the ratio of the different types of dwelling units;
5. Change in the type or location of commercial or industrial structures that would result in a less pedestrian-friendly environment (e.g., a pedestrian walk is eliminated, a parking lot is placed to separate, or further separate, a building from pedestrian facilities, etc.);
6. Change in the type and location of accessways and parking areas where off-site traffic would be affected or which result in a less pedestrian-friendly environment;
7. Increase in the number of parking spaces where such increase adversely affects Significant Natural Features or pedestrian amenities, or is inconsistent with a Condition of Approval or an applicable development standard of this Code, such as required Green Area;
8. Increase in the floor area proposed for nonresidential Use by more than 10 percent;
9. Decrease in the common and/or usable Green Area by more than 10 percent;
10. Increase in the total ground area proposed to be covered by structures by more than 10 percent;
11. Decrease in specific setback requirements by more than 25 percent;
12. Decrease in project amenities for pedestrians or bicycles, recreational facilities, screening, and/or landscaping provisions by more than 10 percent; and
13. Modification of architectural building elevations where any of the following occurs:
 - a) Percentage of window coverage per elevation is decreased by more than 20 percent (may affect the number and/or shape of windows); or windows are installed on a previously specified

blank wall on the perimeter of the site;

- b) Building materials for the main walls of the facades are changed;
 - c) Any architectural feature is reduced by more than 20 percent. Architectural features include such items as the number of windows with trim, the number of dormers, the number of columns, the number of shutters, the square footage of porches, the number of window boxes, the linear footage of porch or deck railings, and/or the linear footage and/or height of parapets, reveals, and/or cornices, etc.;
 - d) Roof pitch is reduced by more than 20 percent;
 - e) Building off-sets or recesses are reduced by more than 20 percent; or
 - f) Garages or carports are eliminated.
- b.** A Modification that equals or exceeds the thresholds identified in Section 2.3.40.02.a shall be processed as a new Conditional Development Application.
- c.** A Modification that falls below the thresholds identified in Section 2.3.40.02.a shall be processed as a Conditional Development Modification.
- d.** In addition, only three such Modifications may be processed within one calendar year for any approved Conditional Development. If more than three such Modifications are proposed within a calendar year, the Modifications, or any single such Modification proposed following the third, shall be processed as a new Conditional Development and shall follow the procedures contained in Section 2.3.30.
- e.** A Modification to specific requirements established at the time of Conditional Development approval, including Conditions of Approval, Code requirements, and all aspects of the Conditional Development proposal, may be considered as a Conditional Development Modification only if it falls within the definition of a Conditional Development Modification described in Section 2.3.40.02.c.

2.3.40.03 - Procedures for a Conditional Development Modification

- a.** An applicant may petition for review of previously approved plans for purposes of modifying a Conditional Development, stating reasons for the change(s).
- b.** Where the Director determines that the proposed changes qualify as a Conditional Development Modification in accordance with the thresholds outlined in Section 2.3.40.02, the Director shall process the application as a Conditional Development Modification. The Conditional Development Modification may be approved conditionally, approved, or denied by the Director. If the proposed changes exceed the thresholds outlined in Section 2.3.40.02, the changes shall be processed as a new Conditional Development and the applicant shall follow the procedures outlined in Section 2.3.30.
- c.** In reviewing the proposed Modification, the Director shall follow the procedures herein required for Conditional Development submittal and review.
- d.** To determine whether to authorize a Conditional Development Modification, the Director shall consider the review criteria in Section 2.3.30.04 and the following additional review criterion:

New elements are provided that functionally compensate for any negative effects caused by the requested variations from the original project design. New elements used to compensate for a negative effect shall be of at least equal value to the elements proposed to be changed. Applicants shall provide the Director with information substantiating the value of the new elements in comparison to the value of the elements to be changed. The value information shall be developed by a qualified professional in the field relevant to the elements being exchanged.
- e.** Upon finding that the application qualifies as a Conditional Development Modification, the Director may consider the redesign in whole or in part of any Conditional Development, to the extent that the redesign still falls within the thresholds outlined in Section 2.3.40.02.
- f.** Notice, action on the application, the Notice of Disposition, appeals, the effective date, and the effective period of approval for a Conditional Development Modification shall be in accordance with sections 2.12.30.04

and 2.12.30.07 through 2.12.30.11 of Chapter 2.12 - Lot Development Option, except that for development on property with a Willamette River Greenway Overlay, both a Notice and Notice of Disposition shall also be mailed to the Oregon Department of Parks and Recreation.

2.3.40.04 - Determining Compliance with a Conditional Development Modification

A Building Permit or other site development permit request shall be reviewed to determine whether the request is in compliance with any approved Conditional Development Modification. It shall be deemed to be in substantial compliance if it does not involve deviations from this Code's development standards and does not involve changes to any specific requirements established at the time of Conditional Development Modification approval. Specific requirements include Conditions of Approval, this Code's requirements, and all aspects of the applicant's proposal that were approved as part of the Conditional Development Modification.

