



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

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Second Floor/Director's Office Fax: (503) 378-5518

Third Floor/Measure 37 Fax: (503) 378-5318

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

March 10, 2008

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist *297*

SUBJECT: City of Beaverton Plan Amendment
DLCD File Number 035-07



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: March 21, 2008

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

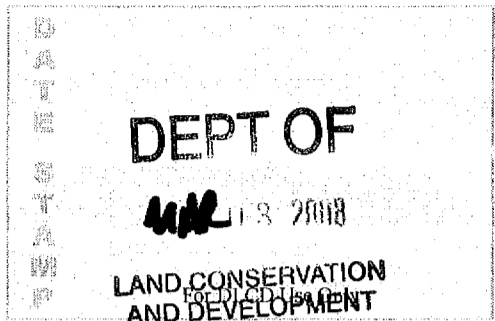
Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Meg Fernekees, DLCD Regional Representative
Steven Sparks, City of Beaverton Planner

<paa> ya/



2 Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: City of Beaverton Local file number: TA 2007-0008
Date of Adoption: February 26, 2008 Date Mailed: February 29, 2008
Date original Notice of Proposed Amendment was mailed to DLCD: September 24, 2007

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
Amendments to Chapter 40 (Applications) of the Development Code to amend the thresholds, approval criteria, and application classification types for applications within the Adjustment, Conditional Use, and Flexible and Zero Yard Setback categories of applications. The result of the amendments will be improved clarity of processes and lowering the level of review of some applications.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".
Same

Plan Map Changed from: N/A to: N/A
Zone Map Changed from: N/A to: N/A
Location: N/A Acres Involved: N/A
Specify Density: Previous: N/A New: N/A
Applicable Statewide Planning Goals: Goal 2

Was an Exception Adopted? YES NO

DLCD File No.: 035-07 (16427)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

- Forty-five (45) days prior to first evidentiary hearing? Yes No
If no, do the statewide planning goals apply? Yes No
If no, did Emergency Circumstances require immediate adoption? Yes No

Affected State or Federal Agencies, Local Governments or Special Districts:

None

Local Contact: Steven Sparks Phone: 503-526-2429 Extension: _____
Address: PO Box 4755 City: Beaverton
Zip Code + 4: 97076-4755 Email Address: ssparks@ci.beaverton.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:
**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 4473

AN ORDINANCE AMENDING ORDINANCE NO. 2050, THE DEVELOPMENT CODE,
TA 2007-0008, CHAPTER 40 PROCESS IMPROVEMENT 3 (PI3) AMENDMENT

WHEREAS, in August 2007, the City of Beaverton Community Development Department staff submitted a proposed text amendment to Chapter 40 (Applications) to lower the level of review for selected development applications; and

WHEREAS, the Planning Commission conducted public hearings on November 14, 2007, December 12, 2007, January 9, 2008, and January 16, 2008 to consider the proposed amendments to Chapter 40 (Applications); and

WHEREAS, the Planning Commission received and considered the submitted staff report, exhibits, and staff recommended approval of this Development Code text amendment as amended by the Planning Commission; and

WHEREAS, on January 16, 2008, the Planning Commission conducted a public hearing at the conclusion of which the Planning Commission reached a determination to recommend to the Beaverton City Council to adopt the proposed amendments to the Development Code as summarized in Planning Commission Land Use Order No. 2041; and

WHEREAS, no appeal of the Planning Commission recommendation was filed with the City; and

WHEREAS, the Council adopts and incorporates herein the Development Services Division Staff Report dated November 7, 2007, December 5, 2007, January 2, 2008, January 10, 2008, and Planning Commission Land Use Order No. 2041 as the applicable criteria and finding which constitute an adequate factual basis for this ordinance. Now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

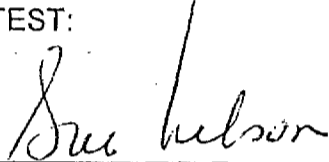
Section 1. Ordinance No. 2050, the Development Code Chapter 40, is amended to read as set out in Appendix "A" to this Ordinance attached to and incorporated herein by this reference.

First reading this 11th day of February, 2008.

Passed by the Council this 25th day of February, 2008.

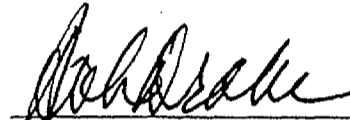
Approved by the Mayor this 26th day of February, 2008.

ATTEST:



SUE NELSON, City Recorder

APPROVED:



ROB DRAKE, Mayor

1 Section 1: The Development Code, Ordinance No. 2050, Chapter 40 -
2 Applications, Section 40.10.15, ADJUSTMENTS, is amended to read as
3 follows with deleted matter in ~~strikethrough~~ and new matter in highlight:
4

5 40.10.15. Application.

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7 *****

8
9 1. Minor Adjustment.

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11 *****

12
13 C. Approval Criteria. In order to approve a Minor Adjustment
14 application, the decision making authority shall make findings
15 of fact based on evidence provided by the applicant
16 demonstrating that all the following criteria are satisfied:

- 17
18 1. The proposal satisfies the threshold requirements for a
19 Minor Adjustment application.
20
21 2. ~~The application complies with all applicable submittal~~
22 ~~requirements as specified in Section 50.25.1 and includes~~
23 ~~all applicable City application fees, related to the~~
24 ~~application under consideration by the decision making~~
25 ~~authority have been submitted.~~
26
27 3. ~~Special conditions or circumstances exist on the site that~~
28 ~~make it physically difficult or impossible to meet the~~
29 ~~applicable development standard for an otherwise~~
30 ~~acceptable proposal, which are unique to the land,~~
31 ~~structure, or building involved.~~
32
33 4. The special conditions and circumstances do not result
34 from the actions of the applicant and such conditions and
35 circumstances do not merely constitute financial hardship
36 or inconvenience.
37
38 4. ~~Granting the adjustment will result in a project that~~
39 ~~equally or better meets the regulation to be modified.~~
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41 5. Granting the adjustment as part of the overall project
42 ~~proposal~~ will not obstruct pedestrian or vehicular
43 movement.
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- 6. ~~The adjustment will allow~~ City designated scenic resources, ~~natural areas, significant trees and/or historic resources, if present, to will be preserved.~~
- 7. If more than one adjustment is being requested concurrently, the cumulative effect of the adjustments will result in a proposal project which is still consistent with the overall purpose of the applicable zone zoning district.
- 8. Any adjustment granted shall be the minimum necessary ~~to permit that will make possible~~ a reasonable use of land, buildings, and structures.
- 9. The proposal incorporates building, structure, or site design features or some combination thereof that compensate for the requested adjustment adjusting the Site Development Requirement.
- 10. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are modified by means of one or more are subject to an Adjustment, Variance, Planned Unit Development applications that already have been shall be approved or are considered concurrently with the subject proposal.
- 11. The proposal is consistent with all applicable provisions of Chapter 60 (Special Requirements) and that all improvements, dedications, or both required by the applicable provisions of Chapter 60 (Special Requirements) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.
- 12. Adequate means are provided or can be provided to ensure continued periodic maintenance and necessary normal replacement of the following private common facilities and areas: drainage ditches, roads and other improved rights-of-way, structures, recreation facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage and recycling storage areas and other facilities, not subject to periodic maintenance by the City or other public agency.

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~~13. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]~~

~~13.14. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.~~

2. Major Adjustment.

A. Threshold. An application for Major Adjustment shall be required when one or more of the following thresholds apply:

1. Involves an adjustment of more than 10% and up to and including 50% adjustment from the numerical Site Development Requirement specified in Chapter 20 (Land Uses).
2. Involves an adjustment of more than 10% and up to and including 50% adjustment from the numerical Development Standards for Grading specified in Section 60.15.15.05, Land Division, Grading standards of this Code. [ORD 4397; July 2006]
3. ~~Any change from the numerical requirements contained in Section 60.30 (Off-Street Parking).~~

C. Approval Criteria. In order to approve a Major Adjustment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Major Adjustment application.
2. ~~The application complies with all applicable submittal requirements as specified in Section 50.25.1 and includes all applicable City application fees related to the application under consideration by the decision making authority have been submitted.~~

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3. Special conditions or circumstances exist on the site that make it difficult or impossible to meet the applicable development standard for an otherwise acceptable proposal which are unique to the land, structure, or building involved.
4. The special conditions or circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute financial hardship or inconvenience.
- ~~4. Granting the Major Adjustment will result in a project that equally or better meets the regulation to be modified.~~
5. Granting the adjustment as part of the overall proposal will not obstruct pedestrian or vehicular movement.
6. ~~The adjustment will allow City designated scenic resources, natural areas, significant trees and/or historic resources, if present, to will be preserved.~~
7. If more than one adjustment is being requested concurrently, the cumulative effect of the adjustments will result in a proposal project which is still consistent with the overall purpose of the applicable zone zoning district.
8. Any adjustment granted shall be the minimum necessary to permit adjustment that will make possible a reasonable use of land, buildings, and structures.
- ~~9. The proposal incorporates building, structure, or site design features which compensate for adjusting the Site Development Requirement.~~
9. Either it can be demonstrated that the proposed modification equally or better meets the intent of the standard to be modified or the proposal incorporates building, structure, or site design features or some combination thereof that compensate for the requested adjustment.

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- 10. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are modified by means of one or more are subject to an Adjustment, Variance, Planned Unit Development applications that already have been shall be approved or are considered concurrently with the subject proposal.
- 11. The proposal is consistent with all applicable provisions of Chapter 60 (Special Requirements) and that all improvements, dedications, or both required by the applicable provisions of Chapter 60 (Special Requirements) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.
- 12. Adequate means are provided or can be provided to ensure continued periodic maintenance and necessary normal replacement of the following private common facilities and areas: drainage ditches, roads and other improved rights-of-way, structures, recreation facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage and recycling storage areas and other facilities, not subject to periodic maintenance by the City or other public agency.
- 13. ~~The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.~~
- 13.14. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

Section 2: The Development Code, Ordinance No. 2050, Chapter 40 - Applications, Section 40.15, CONDITIONAL USE, is amended to read as follows with deleted matter in strikethrough and new matter in highlight:

40.15.05. Purpose

The purpose of a Conditional Use application is to allow uses on a case-by-case basis which warrant special review uses that may be compatible in the underlying zoning district but because of their size, or operation, or other characteristics require review on a case-by-case basis. These uses are subject

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1 to the conditional use regulations in this Section because they may, but do
2 not necessarily, cause result in significant adverse effects upon the
3 environment, overburden public services, change alter the character of an
4 area, create or foster nuisances. A review of these uses is necessary due to
5 the potential individual or cumulative impacts these uses may have on the
6 surrounding area or neighborhood. The conditional use review provides an
7 opportunity to allow the use when there are minimal impacts, to allow the
8 use but impose conditions specifying mitigation measures to address
9 identified impacts, or to deny the use if the impacts are substantial and the
10 impacts cannot be mitigated, or create nuisances. Conditional uses may be
11 approved, approved with site-specific conditions designed to minimize or
12 mitigate identified adverse impacts, or denied. A Preliminary, Final, or both
13 Planned Unit Development is a special kind of Conditional Use that permits
14 the modification of the development standards in the underlying zoning
15 district to achieve innovative design, preserve natural resources, reduce
16 energy consumption and/or otherwise address unique site opportunities and
17 constraints. Such approval may allow adjustment, variance, or both to Site
18 Development Requirements in Chapter 20 (Land Uses) allows the
19 modification of such design standards without the necessity for separate
20 Adjustment or Variance applications, findings, and approvals. This Section
21 is carried out by the approval criteria listed herein.

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23 *****

24
25 **40.15.15. Application.**

26
27 There are five (5) four (4) conditional use applications which are as follows:
28 Minor Modification of a Conditional Use, Major Modification of a Conditional
29 Use, Administrative Conditional Use, New Conditional Use, and Planned
30 Unit Development.

31
32 **1. Minor Modification of a Conditional Use.**

33
34 **A. Threshold.** An application for Minor Modification of a
35 Conditional Use shall be required when one or more of the
36 following thresholds apply:

- 37
38 1. An increase in the gross floor area of an existing
39 conditional use up to and including 10% 25% and less
40 than 1,000 not to exceed 3,000 gross square feet of floor
41 area for all properties that are not located in a residential
42 zoning district and are located at a distance of more than
43 50 feet from a residential zoning district.
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2. An increase in the gross floor area of an existing conditional use up to and including 10% and not to exceed 1,000 gross square feet of floor area for properties that are located in a residential zoning district or within a distance of up to and including 50 feet of a residential zoning district.

3.2. A projected or actual increase in vehicular traffic to and from a site approved for an existing conditional use of up to and including 100 less than 200 vehicle trips per day as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.

4. A projected or actual increase in vehicular traffic to and from a site approved for an existing conditional use of up to and including 100 vehicle trips per day as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are located in a residential zoning district or within a distance of up to and including 50 feet of a residential zoning district. This threshold shall not release an applicant from the requirements in Section 60.55.20, Traffic Impact Analysis.

B. Procedure Type. The Type 12 procedure, as described in Section 50.3540 of this Code, shall apply to an application for Minor Modification of a Conditional Use. The decision making authority is the Director.

C. Approval Criteria. In order to approve a Minor Modification of a Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Minor Modification of Conditional Use application.

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2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
- ~~4. The proposal complies with conditions of an applicable conditional use approval.~~
4. The existing use has been approved as a conditional use as governed by the regulations in place when the use was established and complies with the applicable conditions of the conditional use approval.
5. ~~The proposal will not remove or modify previously established conditions of approval for the prior conditional use consistent with Section 50.95.6 of this Code.~~
- 6.5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

2. Major Modification of a Conditional Use.

A. Threshold. An application for Major Modification of a Conditional Use shall be required when one or more of the following thresholds apply:

1. Any increase in the gross floor area of an existing conditional use more than 10% or more than 1,000 gross square feet of floor area for all ~~on~~ properties that are located in a residential zoning district or within a distance of up to and including 50 feet of a residential zoning district.
2. An increase in the gross floor area of an existing conditional use by more than 10% ~~25%~~ or in excess of 1,000 ~~3,000~~ gross square feet of floor area for all

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properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.

3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

~~3 4.~~ Any projected or actual increase in vehicular traffic vehicle trips per day to and from a site approved for an existing conditional use of more than 100 vehicle trips per day as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are located in a residential zoning district or are located at a distance of up to and including 50 feet from a residential zoning district.

4 5. A projected or actual increase in vehicular traffic to and from a site approved for an existing conditional use of more than ~~100~~ 200 vehicle trips per day as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.

~~5. Any increase in the number of dwellings or residential lots.~~

B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Major Modification of a Conditional Use. The decision making authority is the Planning Commission.

C. Approval Criteria. In order to approve a Major Modification of a Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

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1. The proposal satisfies the threshold requirements for a Major Modification of a Conditional Use application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The proposal complies with the applicable policies of the Comprehensive Plan.
4. The existing use has been approved as a conditional use as governed by the regulations in place when the use was established and complies with the applicable conditions of the conditional use approval unless the applicant has received or is concurrently requesting requests that one or more conditions be removed or modified as part of the current application.
- ~~4. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.~~
5. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate use and development of properties in the surrounding area of the subject site.
- ~~6. The proposal will not modify previously established conditions of approval for the prior conditional use consistent with Section 50.95.6 of this Code.~~
6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

~~3. Administrative Conditional Use.~~

- ~~A. Threshold. An application for Administrative Conditional Use shall be required when one or more of the following thresholds apply:~~

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~~1. Placement of one or more portable classroom on a public or private school site.~~

~~B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Administrative Conditional Use. The decision making authority is the Director.~~

~~C. Approval Criteria. In order to approve an Administrative Conditional Use application, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:~~

~~1. The proposal satisfies the threshold requirements for an Administrative Conditional Use application.~~

~~2. All City application fees related to the application under consideration by the decision-making authority have been submitted.~~

~~3. The proposal complies with conditions of an applicable conditional use approval.~~

~~4. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability of properties adjoining the subject site.~~

~~5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.~~

~~D. Submission Requirements. An application for a Administrative Conditional Use shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Administrative Conditional Use application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre Application Conference.~~

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~~E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Administrative Conditional Use application to ensure compliance with the approval criteria.~~

~~F. Appeal of a Decision. Refer to Section 50.65.~~

~~G. Expiration of a Decision. Refer to Section 50.90.~~

~~H. Extension of a Decision. Refer to Section 50.93.~~

3.4. New Conditional Use.

A. Threshold. An application for a New Conditional Use shall be required when the following threshold applies:

1. ~~The proposed use is conditionally permitted in the underlying zoning district for which and a prior conditional use approval for the proposed use is not already in effect. A new conditional use is proposed.~~

B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for a New Conditional Use. The decision making authority is the Planning Commission.

C. Approval Criteria. In order to approve a New Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

5. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate use and development of properties in the surrounding area of the subject site.

4.5. Planned Unit Development

EXHIBIT A

1 Section 3: The Development Code, Ordinance No. 2050, Chapter 40 –
2 Applications, Section 40.30.15, FLEXIBLE AND ZERO YARD SETBACKS, is
3 amended to read as follows with deleted matter in strikethrough and new
4 matter in highlight:
5

6 40.30.15. Application Types.

7
8 *****

9
10 1. Flexible Setback for Individual Lot With Endorsement.

11
12 A. Threshold. An application for Flexible Setback for an Individual
13 Lot With Endorsement shall be required when the following
14 threshold applies:

15
16 1. Development on individual residentially zoned lots of
17 record proposes to use flexible setbacks and can
18 demonstrate the affected abutting property owners of
19 record endorsement of the request.

20
21 *****

22
23 2. Flexible Setback for Individual Lot Without Endorsement.

24
25 A. Threshold. An application for Flexible Setback for an Individual
26 Lot Without Endorsement shall be required when the following
27 threshold applies:

28
29 1. Development on individual residentially zoned lots of
30 record proposes to use flexible setbacks and cannot
31 demonstrate the affected abutting property owners of
32 record endorsement of the request.

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34 *****

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36 C. Approval Criteria. In order to approve a Flexible Setback on
37 Individual Lot Without Endorsement application, the decision
38 making authority shall make findings of fact based on evidence
39 provided by the applicant demonstrating that all the following
40 criteria are satisfied:

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42 1. The proposal satisfies the threshold requirements for a
43 Flexible Setback on Individual Lot Without Endorsement
44 application.

EXHIBIT A

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2. ~~All City application fees related to the application under consideration by the decision making authority have been submitted. The application complies with all applicable submittal materials requirements as specified in Section 50.25.1 and includes all applicable fees.~~
3. The proposal does not violate any recorded Solar Access Permit requirements.
4. The proposal meets the minimum standards specified in Section 20.05.50.3.D of this Code.
5. If an addition to an existing structure, the proposal is compatible in design, scale and building materials with the existing structure. If a new structure, the proposal is compatible with neighboring development with respect to ~~compatible with the surrounding area regarding topography, vegetation, building character, and site design. In determining compatibility, consideration shall be given to harmony in scale, bulk, lot coverage, density, rooflines, and building materials.~~
6. All critical facilities and services related to the development have or can be improved to have adequate capacity to serve the proposal at the time of its completion.
7. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are modified by means of one or more ~~are subject to an Adjustment, Variance, Planned Unit Development applications that already have been~~ shall be approved or are considered concurrently with the subject proposal.
8. The proposal is consistent with all applicable provisions of Chapter 60 (Special Requirements) and that all improvements, dedications, or both required by the applicable provisions of Chapter 60 (Special Requirements) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.
9. ~~The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.~~

EXHIBIT A

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10.9. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

3. Flexible Setback for a Proposed Residential Land Division.

A. Threshold. An application for Flexible Setback for a Proposed Residential Land Division shall be required when the following threshold applies:

1. The property is located within a residential zoning district and ~~this application~~ is accompanied by a land division application for the subject property.

B. Procedure Type. The Type 23 procedure, as described in Section 50.4540 of this Code, shall apply to an application for Flexible Setback for a Proposed Residential Land Division and shall be considered concurrently with the proposed land division. The decision making authority is the ~~Director~~ Planning Commission.

C. Approval Criteria. In order to approve a Flexible Setback for a Proposed Residential Land Division application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Flexible Setback for a Proposed Residential Land Division application.

2. All City application fees related to the application under consideration by the decision making authority have been submitted.

3. The proposal is compatible with the surrounding area regarding topography, vegetation, building character, and site design. In determining compatibility, consideration shall be given to harmony in: scale, bulk, ~~lot~~ coverage, density, rooflines, and building materials.

EXHIBIT A

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4. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are modified by means of one or more are subject to an Adjustment, Variance, Planned Unit Development applications that already have been shall be approved or are considered concurrently with the subject proposal.

4. Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division.

A. Threshold. An application for Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division shall be required when the following threshold applies:

1. The property is located within a residential zoning district and ~~this application~~ is accompanied by a land division application for the subject property.

B. Procedure Type. The Type 23 procedure, as described in Section 50.4540 of this Code, shall apply to an application for Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division in any residential zoning district and shall be considered concurrently with the proposed land division. The decision making authority is the ~~Director Planning Commission~~.

C. Approval Criteria. In order to approve a Zero Side Yard or Zero Rear Yard Setback for a Proposed Residential Land Division application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Zero Side Yard or Zero Rear Yard Setback for a Proposed Residential Land Division application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The side or rear yard setback on all adjacent lots which abut the proposed zero side or rear setback are either zero feet (0') or ten feet (10') or more.

EXHIBIT A

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4. The zero side or zero rear yard is not abutting a public right-of-way or any access easement.
5. No portion of a structure or architectural feature shall project over a property line related to the zero side or rear yard setback unless a permanent easement allowing such projection has been granted.
6. A four foot (4') non-exclusive maintenance easement appears on the plat within the adjacent side or rear yard setback of the adjacent lot where it abuts the zero setback.
7. Satisfactory deed restrictions are submitted with the preliminary land division which address maintenance requirements for the zero setback wall.
8. Five-foot Utility easements are provided ~~when required by a utility provider~~ along all ~~any~~ side, and rear, or both property lines except where the zero setback is designated.
9. The proposal is compatible with the surrounding area regarding topography, vegetation, building character, and site design. In determining compatibility, consideration shall be given to harmony in: scale, bulk, ~~lot~~ coverage, density, rooflines, and ~~building~~ materials.
10. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions ~~are modified by means of one or more~~ are subject to an Adjustment, Variance, Planned Unit Development applications that already have been ~~are~~ shall be approved or considered concurrently with the subject proposal.

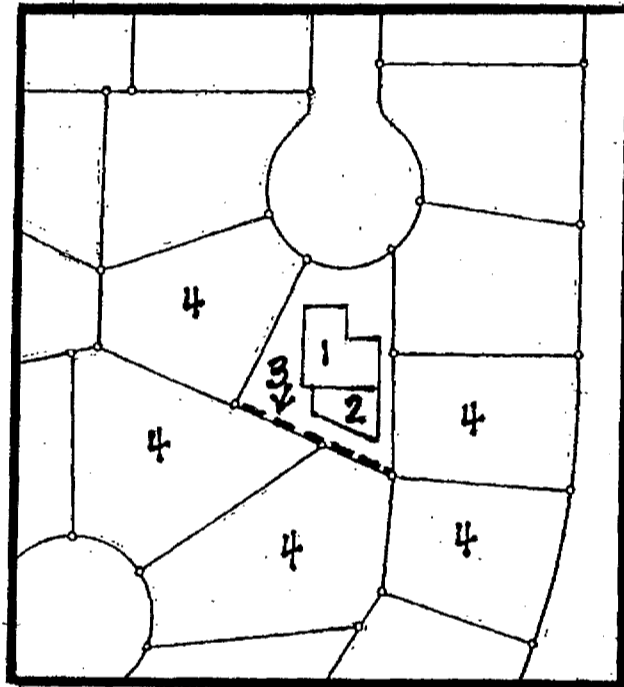
EXHIBIT A

1 **Section 4: The Development Code, Ordinance No. 2050, Chapter 90 -**
2 **Definitions, is amended to read as follows with deleted matter in**
3 **strike-through and new matter in highlight:**

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5 *****

6 **Abut.** Contiguous to; adjoining with a common boundary line. For the purposes of
7 defining an affected abutting property for a Flexible Setback request, the following
8 graphic will guide the definition.

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Example of Flexible Setback illustrating 'Affected Lot Line(s)' and 'Affected Abutting Properties' *

1. Existing structure in conformance with building setbacks, or
2. Proposed new structure or addition requiring Flexible Setback approval
3. Affected Lot Line(s) subject to proposed reduced building setback
4. Affected Abutting Properties required for endorsement by property owners **

* Example of reduction of rear yard setback

** affected properties includes common lot corners