



COMMUNITY DEVELOPMENT DEPARTMENT

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Adjustment

Checklist & Review Criteria

INFORMATION AND INSTRUCTIONS:

- Filing Fee (*subject to change every July 1*): \$67; staff will contact you for payment after submittal.
- All plans and drawings must be to scale, and review criteria responses should be provided as specified in this checklist.
- Email all materials to eplans@cityofalbany.net. Please call 541-917-7550 if you need assistance.
- Depending on the complexity of the project, paper copies of the application may be required.
- Before submitting your application, please check the following list to verify you are not missing essential information. An incomplete application will delay the review process.

ADJUSTMENT SUBMITTAL CHECKLIST

- PLANNING APPLICATION FORM WITH AUTHORIZING SIGNATURES**
- REVIEW CRITERIA.** On a separate sheet of paper, prepare detailed written responses, using factual statements (called findings of fact), to explain how the Adjustment complies with each of the following review criteria. Each criterion must have at least one finding of fact and conclusion statement. **The applicant should address either A or B, whichever is applicable.**

A. Regular Adjustment Application Criteria (Article 2.080)

1. The adjustment is not requested to avoid a land use review process or increase density; AND
2. The need for the adjustment is created by the unusual configuration of the property, to protect natural features, due to the location of an existing structure on the site, or the site is an infill or redevelopment site less than one acre with development on both sides; AND
3. The adjustment is the minimum necessary to address the unusual circumstance, generally no more than 10 percent from a numeric standard, and the request is still consistent with the purpose of the zoning district and any applicable overlay districts.

Setbacks adjustments for bathroom retrofits are addressed in Section 3.263.

B. Criteria for Adjustments to Significant Natural Resource Overly District Standards (Article 6.450)

1. In evaluating any Adjustment, the decision maker may require the applicant to incorporate design options to reduce the impact on the protected resource. These may include, without limitation, multi-story construction, alternate siting of structures, limiting the length of impervious driveway and other surfaces, and maximizing the use of native landscape materials.
2. In order for the Director to approve an adjustment application, the applicant shall demonstrate that all the following criteria are fully satisfied:
 - (a) It is an existing legal lot and there is insufficient space outside the resource area to construct a use permitted in the underlying zoning district.
 - (b) The development site area, including all structures and impervious surfaces, encroaches on the resource area a total of 3,000 square feet or less.
 - (c) The adjustment is the minimum necessary to allow a permitted use or achieve the minimum buildable area outlined above, while at the same time minimizing disturbance to the significant natural resources. The Director may require adjustments to site development standards to enable avoidance of the resource.
 - (d) The encroachment does not result in a new structure or impervious surface being located closer than 25 feet from the Ordinary High Water mark. Bridges are an exception to this requirement.

SITE PLAN. To determine whether the Adjustment application complies with Development Code standards, staff will need an accurate site plan, drawn to scale. In a scale large enough to clearly show the Adjustment, include the following information:

- Address of the site
- Assessor's map and tax lot number
- Scale of drawing, north arrow, and name of drafter
- Property dimensions including the total square footage of the site
- Location of all existing and proposed structures, including distances to property lines
- Location of all existing or proposed improvements on the site, including driveways, sidewalks, and patios
- Location of any special purpose districts on the property (airport approach, floodplain, hillside development, riparian corridor, significant wetland, habitat assessment, Willamette River Greenway, historic district)
- Location of any natural or unique features of the property, including native vegetation type, location and size
- Abutting streets, whether public or private
- Locations, dimensions, and nature of all easements on the property

Note: Some properties may have covenants or restrictions, which are private contracts between neighboring landowners. These frequently relate to density, minimum setbacks, or size and heights of structures. While these covenants and restrictions do not constitute a criterion for a City land use decision, they may raise a significant issue with regard to the City's land use criteria. It is the responsibility of the applicant to investigate private covenants or restrictions.

OTHER PLANS, PERMITS OR INFO THAT MAY BE REQUIRED

- Floodplain Development Permit.** If any of the property is within the Floodplain Development (/FP) overlay, refer to Development Code Articles 6.070-6.125 to determine if the Floodplain Development standards apply and if a Floodplain Development Permit is required.
- Natural Resource Impact Review.** If any of the property is within one of Albany's Significant Natural Resource (/SW, /RC, /HA) overlay districts, refer to Development Code Articles 6.290-6.300 to determine if a Natural Resource Impact Review may be required.
- Mitigation Plan.** IF the project is proposed within any of Albany's Significant Natural Resources overlay districts (/SW, /RC, /HA), a mitigation plan may be required. See ADC Articles 6.400 and 6.410 or the Mitigation Supplement.
- Geotechnical Hillside Development Report.** If any of the property is within this Hillside Development (/HD) overlay, refer to Development Code Articles 6.170-6.230 to determine if the /HD standards apply. If applicable, attach written findings of fact that demonstrate how this project meets these standards and provide a geotechnical report on the site.

ADJUSTMENT PURPOSE AND PROCEDURE

Purpose (ADC 2.060). The adjustment review allows the Director to approve limited modifications to the application of numeric standards for unusual situations specific to the site or for existing commercial or mixed-use infill sites. Adjustments will not be considered to avoid a review process or standard in this Code. Adjustments are typically for request less than 10 percent of a numeric standard. Alternative setbacks in developed areas are addressed in Sections 3.240, 4.130, and 5.130.

Procedures (ADC 2.070). Adjustment applications are processed through a Type I-L procedure with a notice area of 100 feet. Adjustments to the standards in Significant Natural Resource Overlay Districts are processed using the review criteria in Section 6.450. Requests not meeting the purpose of Adjustments may be processed as Variances through a Type II procedure (Sections 2.660-2.690). The Director will determine whether an application is processed as an adjustment or a variance.

EXAMPLE OF FINDINGS OF FACT

CRITERIA FOR FINDINGS OF FACT:

An Adjustment will be approved if the Director finds the application conforms with the criteria found in Article 2.080 of the Albany Development Code and with applicable development standards. Before the Director can approve an application, the applicant must submit information that adequately supports the application. If the applicant submits insufficient or unclear information, the application will be denied or delayed.

FORMAT FOR FINDINGS OF FACT:

Statements addressing individual criteria must be in a "finding of fact" format. A finding of fact consists of two parts:

1. Factual information such as the distance between buildings, the width and type of streets, the particular operating characteristics of a proposed use, etc. Facts should reference their source: on-site inspection, a plot plan, City plans, etc.
2. An explanation of how those facts result in a conclusion supporting the criterion.

EXAMPLES:

CRITERION 1: The adjustment is not requested to avoid a land use review process or increase density.

FACT: *State fact(s) relating to the question* – “The subject property is zoned RS-6.5, residential single-family. We want to build a single-family house on the site.”

CONCLUSION: *State conclusion* – “The single-family house is allowed in this zone.”

CRITERION 2: The need for the adjustment is created by the unusual configuration of the property, to protect natural features, or due to the location of an existing or proposed structure on the site.

FACT: *State fact(s) relating to the question* – “The property contains a grove of Oregon White Oak trees. We would like to save the White Oak trees. The adjustment request is to allow a 4.5 foot side setback, where a 5-foot setback is normally required.”

CONCLUSION: *State conclusion* – “The request is created by natural features that we would like to protect.”