

BAKER CITY-COUNTY PLANNING DEPARTMENT



1995 Third Street | Suite 131 | Baker City, OR | 97814
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APPLICATION FOR A VARIANCE

App. No. _____	City Planning: 101-131-3-40-4104
Received by: _____	Date Received: _____
Fee Collected: \$ _____	Date Paid: _____

TYPE: A B C

MAKE CHECKS PAYABLE TO: **BAKER COUNTY PLANNING**

APPLICANT			PROPERTY OWNER		
Last Name	First	MI	Last Name	First	MI
Mailing Address			Mailing Address		
Physical Address			Physical Address		
City	State	Zip	City	State	Zip
Telephone			Telephone		
Email			Email		

PROPERTY INFORMATION

Township _____ Range _____ Section _____ Tax Lot _____ Ref. _____

Township _____ Range _____ Section _____ Tax Lot _____ Ref. _____

Property Address: _____

Zone: _____ Overlay: _____ Floodplain: YES NO Historic District: YES NO

Size and Type of Existing Structures: _____

Are their existing reviews pending? If yes, what: _____

Specific description of variance(s) sought and applicable Code Section(s): _____

NOTICE TO APPLICANT: By signing the applicant certifies the information provided herein is accurate and that he/she is authorized to make the application and that there are no covenants, conditions or restrictions (CC&Rs) that may limit or prohibit the proposed adjustment. The City of Baker City does not monitor, nor have enforcement authority over CC&Rs.

Applicant Signature: _____ **Date:** _____

Property Owner Signature: _____ **Date:** _____

_____ **Date:** _____

**** NOTE: If the applicant is not the owner, by signing, the owner hereby grants permission for the applicant to act in his/her behalf concerning this application.*

SUBMITTAL REQUIREMENTS

All materials larger than 8 ½ X 11 shall be folded to 8 ½ X 11 size.

- Original **APPLICATION FORM** signed by all parties. Multiple forms may be used if necessary.
- **NARRATIVE** including all approval criteria and your responses. The narrative shall explain the reason for the request, alternatives considered, how the stated variance criteria are satisfied, and why the subject standard cannot be met without the variance.
- **SITE PLAN** showing existing site conditions and proposed changes. All site plans should be printed at 1" = 20' scale; 1:40 or 1:100 scale may be used for very large projects. If no new construction or exterior modifications are proposed, this requirement may be waived by the Planning Director.

APPLICABLE BAKER CITY DEVELOPMENT CODE SECTIONS

BCDC CHAPTER 5.1 – VARIANCES

BCDC Section 5.1.300 - Class A Variances

- A. Applicability. The following variances are reviewed using a Type I procedure, as governed by Chapter 4.1, using the approval criteria in Subsection B, below:
1. Front yard setbacks. Up to a 15 percent change to the front yard setback standard in the land use district.
 2. Interior setbacks. Up to a 15 percent reduction of the dimensional standards for the side and rear yard setbacks required in the base land use district.
 3. Lot coverage. Up to 15 percent increase of the maximum lot coverage required in the base zone.
 4. Landscape area. Up to 10 percent reduction in landscape area (overall area or interior parking lot landscape area).
 5. Sidewalk Requirements. The City may approve, approve with conditions, or deny a request for a variance to the sidewalks requirements in Chapter 3.2, after finding the following:
 - a. Installation of a sidewalk is ill-advised at the time of development because the right-of-way or street will likely undergo improvements or modifications in the future that would necessitate the removal and replacement of the sidewalk improvement;

- b. Construction of the sidewalk is physically impossible or without merit for pedestrian access due physical constraints related to the site; or
 - c. The sidewalk, if constructed, would provide no meaningful pedestrian access now or in the future because there are no existing sidewalk in the area and there is little or no likelihood that other sidewalk connections would be provided in the future in the vicinity.
 - d. The City may require the installation of additional or replacement landscaping or sidewalk contributions elsewhere on or off the site to compensate for the waving of the sidewalk requirement.
- B. Approval Criteria. A Class A Variance other than a sidewalk variance request (see standards ((5) a-d above) shall be granted if the applicant demonstrates compliance with all of the following criteria:
- 1. The variance requested is required due to the lot configuration, or other conditions of the site;
 - 2. The variance does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area;
 - 3. The variance will not result in violation(s) of any other adopted ordinance or code standard; each code standard to be modified shall require a separate variance request.
 - 4. An application for a Class A variances is limited to one lot per application.
 - 5. No more than three Class A variances may be approved for one lot or parcel in 12 months.

BCDC Section 5.1.400 - Class B Variances

- A. Applicability. Class B variance requests apply to the types of requests meeting the approval criteria in Sections 5.1.400B through 5.1.400G, and that conform to subsections 1-3, below, Class B variances shall be reviewed using a Type II procedure, in accordance with Chapter 4.1:
- 1. The Class B variance standards apply to individual platted and recorded lots only.
 - 2. The Class B variance procedure shall not be used to modify a standard for lots yet to be created through a partition or subdivision process; such requests shall utilize the Class C variance procedure.
 - 3. A variance shall not be approved that would vary the “permitted uses” or “prohibited uses” of a land use district (Article 2).
- B. Variance to minimum housing density standard (Chapter 2.2). The City may approve a variance to a minimum housing density standard in Chapter 2.2 after finding that the minimum housing density cannot be achieved due to physical constraints that limit the division of land or site development. “Physical constraint” means steep topography, unusual parcel configuration, or a similar constraint. The variance approved shall be the minimum variance necessary to address the specific physical constraint on the development.
- C. Variance to Vehicular Access and Circulation Standards (Chapter 3.1). Where vehicular access and circulation cannot be reasonably designed to conform to Code standards within a particular parcel, shared access with an adjoining property shall be considered. If shared access in conjunction with another parcel is not feasible, the City may grant a variance to the access requirements after finding all of the following:
- 1. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement;
 - 2. There are no other alternative access points on the street in question or from another street;
 - 3. The access separation requirements cannot be met;
 - 4. The request is the minimum variance required to provide adequate access;
 - 5. The approved access or access approved with conditions will result in a safe access;
 - 6. The visual clearance requirements of Chapter 3.1 will be met; and
 - 7. Variances for street access deviations shall be subject to review and approval by the roadway authority.
 - 8. Variances for access deviations on a Baker County road right-of-way shall be subject to review and approval by Baker County.

- D. Variance to Street Tree Requirements (Chapter 3.2). The City may approve, approve with conditions, or deny a request for a variance to the street tree requirements in Chapter 3.2, after finding the following:
1. Installation of the tree would interfere with existing utility lines, and no substitute tree with a lower canopy is appropriate for the site;
 2. The tree would cause visual clearance problems; or
 3. There is not adequate space in which to plant a street tree; and
 4. The City may require the installation of additional or replacement landscaping elsewhere on the site (e.g., parking lot area trees) to compensate for the street tree variance.
 5. Street tree approval or modification of standards within an ODOT or Baker County right-of-way may require approval, respectively, by ODOT or Baker County.
- E. Variance to Parking and Loading Standards (Chapter 3.3).
1. The City may approve variances to the minimum or maximum standards for off-street parking (quantities and dimensions of parking spaces) in Chapter 3.3.1 upon finding all of the following:
 - a. The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity, or modified parking dimensions, as demonstrated by a parking analysis or other facts provided by the applicant;
 - b. The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses; and
 - c. All other code standards are met, in conformance with Article 2 (Land Use Districts) and Article 3 (Design Standards).
 2. The City may reduce the number of required bicycle parking spaces per Chapter 3.3.200, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.
 3. The City may allow a reduction in the amount of vehicle stacking area required in for drive-through facilities if such a reduction is deemed appropriate after analysis of the size and location of the development, limited services available and other pertinent factors.
 4. The City may modify the loading area standards if such a reduction is deemed appropriate after analysis of the use, anticipated shipping or delivery traffic generated by the use and alternatives for loading/unloading, such as use of on- or off-street parking areas during non-business hours provided that traffic is not impeded.
- F. Variance to Maximum or Minimum Yard Setbacks to Avoid or Reduce Impacts to Floodplains, Significant Trees, Wetlands, or Other Natural Features (Chapters 2.2-2.6 – Land Use Districts). The City may grant a variance to the applicable setback requirements of this Code for the purpose of avoiding or reducing impact to floodplains, significant trees, wetlands, or other natural features. Modification of the standard shall not be more than is necessary for the preservation of the nature feature to be protected.
- G. Variances to Transportation Improvement Requirements (Chapter 3.4.100). The City may approve, approve with conditions, or deny a variance to a transportation improvement standard in Table 3.4.100F when the variance does not exceed 20 percent of the standard. When a variance request to the standards in Table 3.4.100F exceeds 20 percent, then the request shall be reviewed as a Class C variance.

BCDC Section 5.1.500 – Class C Variances.

- A. Applicability. Class C variance requests are those that do not conform to the provisions of Sections 5.1.200-5.1.300 (Class A and Class B), and that meet the criteria in 1-4, below, Class C variances shall be reviewed using a Type III procedure, in accordance with Chapter 4.1:
1. The Class B variance standards apply to individual platted and recorded lots only.
 2. The Class C variance procedure may be used to modify a standard for 3 or fewer lots, including lots yet to be created through a partition process.
 3. An applicant who proposes to vary a standard for lots yet to be created through a subdivision process may not utilize the Class C variance procedure. Approval of a Master Planned Development shall be required to vary a standard for lots yet to be created through a subdivision process, where a specific code section does not otherwise permit exceptions.
 4. A variance shall not be approved that would vary the “permitted uses” or “prohibited uses” of a land use district (Article 2).
- B. Approval Process. Class C variances shall be processed using a Type III procedure, as governed by Chapter 4.1.500, using the approval criteria in subsection D, below. In addition to the application requirements contained in Chapter 4.1.500, the applicant shall provide a written narrative or letter describing his/her reasoning for the variance, why it is required, alternatives considered, and compliance with the criteria in subsection D.
- C. Approval Criteria. The City shall approve, approve with conditions, or deny an application for a variance based on all of the following criteria:
1. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;
 2. A hardship to development exists which is peculiar to the lot size or shape, topography, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);
 3. The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
 4. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;
 5. The hardship is not self-imposed; and
 6. The variance requested is the minimum variance that would alleviate the hardship.