

DEVELOPMENT REVIEW BOARD MEETING

MONDAY, FEBRUARY 24, 2025

6:30 PM

Staff Communications:

4. Waiver Training



DEVELOPMENT REVIEW BOARD PANEL B MEETING STAFF REPORT

Meeting Date: February 24, 2025	Subject: Waiver Training	
	Staff Member: Daniel Pauly, Planning Manager	
	Department: Community Development	
Action Required	Advisory Board/Commission Recommendation	
<input type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda	<input type="checkbox"/> Approval <input type="checkbox"/> Denial <input checked="" type="checkbox"/> None Forwarded <input type="checkbox"/> Not Applicable Comments: 	
Staff Recommendation: Ask additional questions regarding review of waivers.		
Recommended Language for Motion: N/A		
Project / Issue Relates To:		
<input type="checkbox"/> Council Goals/Priorities:	<input type="checkbox"/> Adopted Master Plan(s):	<input checked="" type="checkbox"/> Not Applicable

ISSUE BEFORE THE BOARD

Among the more challenging roles of the Development Review Board is the review of waivers, which by their nature are much more subjective than review of applications based on clear and objective standards. This training seeks to provide the Development Review Board additional information and tools to assist in reviewing waiver requests.

EXECUTIVE SUMMARY:

When Staff presents findings for the Development Review Board's consideration at a hearing it is most often divided into two sections. The first is review of clear and objective standards where the board is assuring all applicable standards have been applied and sufficient and consistent evidence is presented that the applicable standards are met or will be met by conditions of approval. The second is review of subjective standards, particularly waivers. Review of waivers can be challenging because the applicable criteria and decision making process can be less clear. This training seeks to provide more clarity on the factors and criteria to be applied during review of waivers to assist the Development Review Board in making balanced decisions based on clear evidence.

Variations and waivers are both processes in the Wilsonville Development Code to seek exceptions to established development standards. Variations are rare and offer a precise set of standards for an applicant to respond to get "relief" from a standard that is causing a "hardship." Waivers, on the other hand, are common and are intended to provide a better development outcome through exceptions to established standards. Where variations seek relief to a specific hardship, waivers seek to show how a development can be improved by being allowed an exception to the code. No hardship is necessary, it is simply a question of is it better development.

Staff notes that findings and evidence in support of waivers from applicants is often lacking. The burden to present the evidence and create supportive findings rests with the applicant, the requester of the waiver. A lack of strong evidence makes the Development Review Board's consideration of the request more difficult. Staff has examined why this lack of quality findings and evidence occurs as often as it does, and one identified reason is the factors to consider for waivers and required findings are not easy to find and follow in the text of the Development Code. In addition, not all the relevant information is in a single section of the Development Code. To provide clarity, staff prepared a worksheet to guide applicants in preparation of evidence and findings to support waiver requests, see Attachment 1. While this worksheet is targeted towards applicants, it can provide a concise guide for Staff review of waiver requests and be a good reference for Development Review Board members as they review waiver requests. As such, it is also the foundation of this training. Staff invites Development Review Board members to review the worksheet and come prepared with questions about the worksheet to discuss during the training.

Discussion Question:

- What additional questions or comments does the board have regarding the consideration of waiver requests based on what is presented in the worksheet (Attachment 1)?

EXPECTED RESULTS:

Additional discussion of waivers in preparation for future waiver requests that come before the board.

ATTACHMENTS:

1. Draft Waiver Worksheet for Applicants (February 13, 2025)

A Guide For Planned Development Waivers in Wilsonville

GENERAL INFORMATION AND REQUIREMENTS FOR ALL WAIVERS

Introductory Statement

While the waiver process is in its nature subjective, this guide seeks to bring together all required waiver criteria and factors to consider in one place and provide additional guidance to applicants regarding what factors the DRB weighs in determining whether to approve a waiver. It should be noted that generally criteria and factors to consider for waivers are by their nature subjective and read more akin to purpose statements and aspirational statements, rather than providing clear and objective numerical performance measures. It is the burden of an applicant to provide detailed and numerical-based findings in support of waivers and the individual findings and factors to consider.

Zones and Types of Applications that Have Additional Specific Waiver Criteria

Please see additional pages for specific information regarding waivers for the following types of development.

- Signs
- Residential development
- Town Center (TC) Zone

General Factors to Consider in Support of All Waivers

The burden is on an applicant to justify a waiver, and considerable effort must be made to make detailed findings in support of each waiver request. An applicant does not need to respond to each of these for each requested waiver, but the more of these factors that are addressed, and the more specific detail in which they are addressed makes a stronger case for support of a waiver. These factors come from Section 4.140 of Wilsonville’s Development Code. Note, also that negative impact to other standards and factors needs to be considered and whether the positive findings related to a certain factor outweigh the negative impact on another standard or factor for an overall better development.

Waiver better facilitates development of a larger tract of land

Waiver allows for better implementation of a specific implementation measure or other directional language in the Comprehensive Plan, including adopted Master Plans.

For this factor, other related implementation measures and policies should also be clearly addressed.

Waiver allows for a more “harmonious” variety/mix of uses including:

- Encourages mix of complementary uses within a specific development
- Promotes the economy of shared public services and facilities
- Includes complimentary activities within the land use designation
- Better supports the creation of an environment for living, shopping, or working that is:
 - Attractive
 - Healthful
 - Efficient
 - Stable

Waiver facilitates taking advantage of advances in any of the following:

- Technology
- Architectural design

Attachment 1 DRB Training February 24, 2025

<ul style="list-style-type: none">• Functional land use design
The overall development is equal to or better than what would result without the waiver.
Waiver allows more efficient use of sites characterized by special features of: <ul style="list-style-type: none">• Geography• Topography• Size• Shape• Flood and other hazards
Waiver supports mixed uses that can be beneficial to users and be consistent with the Comprehensive Plan.
Waiver supports innovation in adapting to changes in the economic and technological climate.
Additional required finding for waivers of minimum landscape, buffering, and screening standards. City code states these items shall not be waived by the Board, unless there is substantial evidence to support the this finding:
The intent of the standard being waived is met in an alternative way.
Additional required findings for waivers of natural resource mitigation, parking maximums, and certain required trails and pathways City code states these items shall not be waived by the Board, unless there is substantial evidence to support the this finding:
The intent of the standard being waived is met in an alternative way <u>and</u> the waiver will not violate any applicable federal, state, or regional law.

SIGN WAIVERS ADDITIONAL INFORMATION

Pursuant to WC 4.156.02 (.08) the following findings are required for all sign waiver requests. As with the general waiver considerations, for the required sign findings the burden is on an applicant to justify a waiver, and considerable effort must be made to make detailed findings in support of each waiver request for each standard. Negative impact to other standards and factors needs to be considered and whether the positive findings related to a certain factor outweigh the negative impact on another standard or factor for an overall better sign development.

The waiver will result in improved sign design, in regards to both aesthetics and functionality.

The waiver will result in a sign or signs more compatible with and complementary to the overall design and architecture of a site, along with adjoining properties, surrounding areas, and the zoning district than signs allowed without the waiver.

The waiver will result in a sign or signs that improve, or at least do not negatively impact, public safety, especially traffic safety.

Sign content is not being considered when determining whether or not to grant a waiver.

Additional findings/requirements for digital changing copy signs. See WC 4.156.06 (.01) D.

The sign shall be equipped with automatic dimming technology which automatically adjusts the sign's brightness in direct correlation with ambient light conditions and the sign owner shall ensure appropriate functioning of the dimming technology for the life of the sign.

The luminance of the sign shall not exceed 5,000 candelas per square meter between sunrise and sunset, and 500 candelas per square meter between sunset and sunrise.

**RESIDENTIAL WAIVERS
ADDITIONAL INFORMATION AND REQUIREMENTS**

Statement regarding alternative approval path for residential development

Consistent with Oregon Statute, Wilsonville's residential development standards provide a two-track system. The first and default track is to follow established clear and objective standards as prescribed in the City's Development Code. The second track is to take an alternative path, which includes a level of subjectivity. For most of Wilsonville's residential development this alternative path is through a Planned Development Waiver process. The exceptions are the Residential (R), Old Town Residential (OTR), or Future Development (FDA-H) zones where the alternative path would require a variance and the Village (V) Zone which has its own unique refinement and modification process.

Additional Required Findings in Support of Residential Waivers:

These can generally be viewed as side boards, or limitations, to waivers, ensuring they maintain compliance with the Comprehensive Plan and other key policies.

General, Required for All Residential Waivers:

Residential densities remain consistent with those established in Comprehensive Plan

Open space remains provided consistent with the Comprehensive Plan

Development will only occur where necessary and adequate services and facilities can be provided

Required for Waivers of Density, Open Space, and Housing Variety Standards:

The intent of the standard being waived is met in an alternative way

Required for Waivers within the Frog Pond East and South Neighborhoods:

The development is complementary of and compatible with development that would typically be built within the mapped Urban Form Type.
See Chapter 6 of the Master Plan, including description and precedent examples.

Supports a wide variety of housing generally.

Does not reduce any minimum requirement in Table 6B of Subsection 4.127 (.06) by the greater of 20% of total units or 5 units.

Town Center Zone Waiver Menus

Waivers to the *size of the ground floor of a building floorplate and/or the number of stories of a building* within the MU and C-MU sub-districts require one item from each of the two menus be met in a manner to clearly go substantially above and beyond Code requirements and typical building and site design to create a sense of place and mitigate negative impacts of the project related to the reason for the waiver. Items chosen from the menus shall account for need based on adjacent sites or the surrounding area:

Menu One:

1. Public amenities, such as a plaza or other community gathering space, incorporated into the building design. Public plaza or other gathering spaces located in a prominent, visible location adjacent to a public street and include movable furniture that is functional and visually interesting.
2. Public community meeting space provided within the building.
3. Provision of ground floor facades that include additional supporting storefronts. The primary entrance of all businesses shall be located on the primary street frontage.
4. Provision of incubator space on site, either within or adjacent to the development that provides below market lease rates for small businesses.
5. Provision of affordable housing on the development site, consistent with the provisions of Table 2, footnote 4.

Menu Two:

1. Innovative building techniques, such as rainwater harvesting, graywater systems, green roofs, or other environmental systems, shall be incorporated into the building design to significantly reduce impact to the environment.
2. Building architecture that creates a distinctive community landmark exemplifying the preferred materials and form for Town Center described in Subsection 4.132(.06)M. and discussed in the Town Center Plan.
3. Pedestrian-oriented and creative lighting incorporated into landscape features and plazas and/or interior window retail displays that are lit at night.
4. Achievement of LEED certification, Earth Advantage, or another recognized environmental certification.
5. Installation of public art, consistent with the provisions of Subsection 4.132(.06)K. for art within plaza areas.