

**CHAPTER 11.50**  
**VARIANCE AND CONDITIONAL USE**

**SECTIONS:**

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**11.50.010 PURPOSE.** This chapter is established to provide an administrative framework for minor setback variations, variance requests, and conditional use permit applications.  
[Ord. 611 (2018) § 210]

**11.50.020 MINOR SETBACK VARIATIONS.**

(a) The Planning Administrator may approve, without public notice, a minor variation consisting of a reduction in setback not exceeding 5 feet of the standards of the zoning district in which the use is located. In the case of a side yard setback variation, the variation shall not exceed 10 percent of the standards of the zoning district in which the use is located. Minor variations may not allow an increase in the number of dwelling units on a parcel.

(1) Any person requesting a minor variation shall submit a completed application on a form supplied by the Planning Department. The Planning Administrator shall approve a minor setback variation only if he or she can make the findings required by BCC 11.50.030(d)(1)(i-viii).

**11.50.040 CONDITIONAL USE.**

(a) Conditional Use Permit-General Standards. The conditional use permit application process allows the Hearings Examiner to review the location and design of certain proposed uses, the configuration of improvements, and the potential impacts on the surrounding area. The application process also allows the Hearings Examiner to ensure that development in each zoning district protects the integrity of that district. The notice, hearing, decision and enforcement procedures are as set forth herein and in BCC 11.50.050.

Certain uses are classified as conditional uses because of their unusual nature, infrequent occurrence, special requirements, or potentially significant impacts to the environment, public infrastructure or adjacent properties, and/or possible safety hazards and other similar reasons.

Once granted, a conditional use permit may be transferred by a holder thereof after written notice to the Hearings Examiner; provided the use and location must remain the same and the transferee must continue to comply with the conditions of the permit and, if applicable, the requirements set forth in Chapter 11.51 BCC.

(b) Conditional Use Application Required-Non-Refundable Application Fee. The Planning Department shall provide application forms for conditional use permits and prescribe the type of information to be provided in the application. No application shall be processed unless it complies with the requirements of this section. A completed application for a conditional use permit shall be filed with the Planning Department accompanied by a non-refundable fee as set by resolution of the Board of County Commissioners.

(c) Conditional Use Application-Site Plan Required. The Planning Department shall require the applicant to submit an application and a site plan as part of the application whenever such a permit

is required for that use under the applicable zoning district. The application and site plan shall contain the following information:

- (1) Identify the proposed use and associated facilities, together with the names, addresses and telephone numbers of the owner or owners of record of the land and of the applicant, and, if applicable, the names, addresses and telephone numbers of the architect, planner, designer, and/or engineer;
- (2) The proposed use or uses of the land and buildings; and,
- (3) A site plan drawing or drawings at a scale of not less than one inch equals fifty feet (1"=50'), unless an alternate scale is approved by the Planning Administrator. The site plan drawing(s) shall include the following:
  - (i) Location of all existing and proposed structures, including, but not limited to, buildings, fences, culverts, bridges, roads and streets;
  - (ii) Boundaries, dimensions and square footage of the parcel or parcels involved;
  - (iii) All setback lines;
  - (iv) All areas, if any, to be preserved as buffers or to be dedicated to a public, private or community use, or for open space under the provisions of this title;
  - (v) All existing and proposed easements;
  - (vi) Location of all utility structures and lines;
  - (vii) All means of vehicular and pedestrian ingress and egress to and from the site and the size and location of driveways;

(viii) Location and design of off-street parking areas showing their size and locations of internal circulation and parking spaces;

(ix) Location of all loading/unloading areas, including, but not limited to, loading platforms and loading docks where trucks will load or unload;

(x) Topographic maps, when the Planning Administrator deems the maps necessary for adequate review, which delineate existing and proposed contours, at intervals of two (2) feet and show the location of existing lakes, streams, and storm water drainage systems from existing and proposed structures, together with an estimate of existing maximum storm runoff, and any other information deemed pertinent for adequate review.

(xi) Identification of all special districts, such as fire, school, sewer, drainage improvements, and irrigation districts, in which the proposed use would be located; and,

(xii) The proposed number of square feet of paved or covered surfaces, whether covered by buildings, driveways, parking lots or any other structure covering land.

(c) Conditional Use-Permit Granted or Denied. A conditional use permit shall be granted only if the Hearings Examiner can make findings of fact based on the evidence presented sufficient to allow the Hearings Examiner to conclude that, as conditioned, the proposed use:

(1) Is compatible with other uses in the surrounding area or is no more incompatible than are any other outright permitted uses in the applicable zoning district;

(2) Will not materially endanger the health, safety, and welfare of the surrounding community to an extent greater

than that associated with any other permitted uses in the applicable zoning district;

(3) Would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the applicable zoning district;

(4) Will be supported by adequate service facilities and would not adversely affect public services to the surrounding area; and

(5) Would not hinder or discourage the development of permitted uses on neighboring properties in the applicable zoning district as a result of the location, size or height of the buildings, structures, walls, or required fences or screening vegetation to a greater extent than other permitted uses in the applicable zoning district.

It is the applicant's burden to present sufficient evidence to allow the above conclusions to be made. If such evidence is not presented or all necessary reasonable conditions are not identified by the applicant so as to allow the Hearings Examiner to make the conclusions required above, the conditional use application shall be denied.

[Ord. 611 (2018) § 213]

#### **11.50.050 PROCEDURES—VARIANCE AND CONDITIONAL USE PERMITS.**

(a) Variance or Conditional Use –Application–Urban Growth Area–Notice to City. When a proposal requiring review under BCC 11.50.030 or BCC 11.50.040 is submitted with respect to a parcel within or partially within an Urban Growth Area, as designated on the Benton County Comprehensive Plan map, the Planning Department shall refer the variance or conditional use permit application to the respective city for comment. The Hearings Examiner shall consider comments from such city unless the respective city fails to supply comments to the Hearings Examiner prior to, or at the