

**Proposed Land Use Regulation Text Amendment**  
**(Changes shown in bold ~~strikeout~~ and double underline)**

**50.08.003 DESIGN VARIANCES**

//

**3. GENERAL DESIGN VARIANCE CRITERIA FOR R-DD, FMU, LGVCO, AND RESIDENTIAL INFILL DESIGN VARIANCES**

The reviewing authority shall only approve a design variance if it determines that the following criteria have been met.

- a. The applicant demonstrates that:
  - i. Compliance with the applicable standard is not practicable due to the physical characteristics of the site or existing structure; or
  - ii. An alternative design will better accomplish the purposes, goals, or objectives of the base district and any adopted plan or overlay district applicable to the property.
- b. The applicant demonstrates that the proposed variance will:
  - i. Result in a project that is exceptional in the quality of detailing, appearance and materials; or
  - ii. Create a positive unique relationship to other nearby structures, views or open space; ~~or~~
  - iii. If in the DRD (within R-2 only) ~~R-2 zone within the~~, the variance is necessary to create a complementary relationship with a viable existing structure on an abutting lot that is not designed in the Lake Oswego style.

//

**4. DOWNTOWN REDEVELOPMENT DESIGN DISTRICT VARIANCE CRITERIA, EXCEPT WITHIN R-2**

The reviewing authority shall approve a variance to the design requirements in LOC 50.05.004.5 through 50.05.004.7 if it determines that the application meets:

- a. At least one of the criteria in subsections i. through v.:
  - i. The variance is necessary to create a complementary relationship with a viable existing structure on an abutting lot that is not designed in the Lake Oswego style;
  - ii. Compliance with the applicable standard is not practicable due to the physical characteristics of the site or existing structure;

- iii. The variance is necessary to allow a unique building function of a permitted use in the zone;
- iv. The variance is necessary to allow one or more of the following features where the feature exceeds the minimum requirements of LOC Ch. 50 and other city regulations:
  - (1) renewable energy production (solar, geothermal, or wind);
  - (2) enhanced indoor air quality;
  - (3) use of daylight for interior lighting;
  - (4) protection of views of Lakewood Bay or Mount Hood;
  - (5) acoustic building performance;
  - (6) water efficiency, such as rainwater harvesting;
  - (7) increased seismic resiliency; or
- v. The alternative design better accomplishes the objectives of East End Redevelopment Plan or the objectives and principles of the Urban Design Plan.

b. And the variance:

- i. Results in a project that is exceptional in the quality of detailing, appearance and materials; and
- ii. Creates a positive unique relationship to other nearby structures, views or open space, and streetscapes.

a. ~~The general design variance criteria in LOC 50.08.003.3.a and LOC 50.08.003.3.b; or~~

b. ~~The applicant demonstrates that the variance is necessary to create a complementary relationship with a viable existing structure on an abutting lot that is not designed in the Lake Oswego style.~~

//

**Comments:** The above proposal consolidates and streamlines the criteria for nearly all DRD design variances, consistent with City Council direction and the Planning Commission recommendations. The portion of the DRD zoned R-2, which comprises approximately residential 20 lots, is excluded from the amendment; public testimony before the Planning Commission indicated that the existing DRD standards and variance criteria are functioning well in this area, which is redeveloping with attached housing.

Under 'a', the proposed amendment carries forward the existing design variance options for "complementary relationships to structures 'not designed' in the Style (i), "physical characteristics of site or structure" (ii), and "alternative design will better accomplish..." (v). Option 'v', which in the current code is found under General Design Variance Criteria, is amended to be more precise and relevant to the DRD Overlay, as only certain elements of the East End Redevelopment Plan and Urban Design Plan are relevant to DRD variance applications. This approach is consistent with the Council direction to draft a more streamlined code that reduces unnecessary costs and delays in the permit process.

The new options or tracks for DRD design variances respond to public comments the City received on the Public Review Draft of the proposal. One track allows variances for a "unique building function of a permitted use" (iii). A unique building function might include an auditorium or theater where it is not practical to install windows in compliance with the DRD's fenestration standard. A second new track provides for variances to accommodate sustainable building design features (iv). With the exception of seismic resiliency, the building features listed in 'iv' are similar to those that would be evaluated for certification under the Leadership Through Energy and

(Includes Commentary-For Reference Only)

Environmental Design (LEED) rating system for new construction and substantial remodels, though the City is not proposing to adopt LEED as a variance approval standard.

Under 'b', compliance with both 'b.i' and 'b.ii' is required. This is a change from the current general design variance criteria, which allow for a choice between the two. The proposal for the DRD (except within R-2) requires compliance with both, because both design quality and relationships to nearby structures are critical in the downtown, where buildings are taller (up to 60 feet) and the code allows commercial and mixed use buildings.

DRAFT

