

- 9.8090** **Conditional Use Permit Approval Criteria - General.** A conditional use permit shall be granted only if the proposal conforms to all of the following criteria:
- (1) The proposal is consistent with applicable provisions of the Metro Plan and applicable refinement plans.
 - (2) The location, size, design, and operating characteristics of the proposal are reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property, as they relate to the following factors:
 - (a) The proposed building(s) mass and scale are physically suitable for the type and density of use being proposed.
 - (b) The proposed structures, parking lots, outdoor use areas or other site improvements which could cause substantial off-site impacts such as noise, glare and odors are oriented away from nearby residential uses and/or are adequately mitigated through other design techniques, such as screening and increased setbacks.
 - (c) If the proposal involves a residential use, the project is designed, sited and/or adequately buffered to minimize off-site impacts which could adversely affect the future residents of the subject property.
 - (3) The location, design, and related features of the proposal provides a convenient and functional living, working, shopping or civic environment, and is as attractive as the nature of the use and its location and setting warrant.
 - (4) The proposal demonstrates adequate and safe circulation exists for the following:
 - (a) Vehicular access to and from the proposed site, and on-site circulation and emergency response.
 - (b) Pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.
 - (5) The proposal is designed and sited to minimize impacts to the natural environment by addressing the following:
 - (a) Protection of Natural Features.
 1. For areas not included on the city's acknowledged Goal 5 inventory, the preservation of significant natural features to the greatest degree attainable or feasible, including:
 - a. Significant on-site vegetation, including rare plants (those that are proposed for listing or are listed under state or federal law), and native plant communities.
 - b. All documented habitat for all rare animal species (those that are proposed for listing or are listed under state or federal law).
 - c. Prominent topographic features, such as ridgelines and rock outcrops.

- d. Wetlands, intermittent and perennial stream corridors and riparian areas.
 - e. Natural resource areas designated in the comprehensive plan diagram as “Natural Resource” and areas identified in any city-adopted natural resource inventory.
2. For areas included on the city’s acknowledged Goal 5 inventory, the preservation of natural features shall be consistent with the acknowledged level of preservation provided for the area.
- (b) Tree Preservation. The proposed project shall be designed and sited to preserve significant trees to the greatest degree attainable or feasible, with trees having the following characteristics given the highest priority for preservation:
1. Healthy trees that have a reasonable chance of survival considering the base zone or special area zone designation and other applicable approval criteria
 2. Trees located within vegetated corridors and stands rather than individual isolated trees subject to windthrow.
 3. Trees that fulfill a screening function, provide relief from glare, or shade expansive areas of pavement.
 4. Trees that provide a buffer between potentially incompatible land uses.
 5. Trees located along the perimeter of the lot(s) and within building setback areas.
 6. Trees and stands of trees located along ridgelines and within view corridors.
 7. Trees with significant habitat value
 8. Trees adjacent to public parks, open space and streets.
 9. Trees along water features.
 10. Heritage trees.
- (c) Restoration or Replacement.
1. For areas not included on the city’s acknowledged Goal 5 inventory, the proposal mitigates, to the greatest degree attainable or feasible, the loss of significant natural features described in criteria (a) and (b) above, through the restoration or replacement of natural features such as:
 - a. Planting of replacement trees within common areas; or
 - b. Re-vegetation of slopes, ridgelines, and stream corridors; or
 - c. Restoration of fish and wildlife habitat, native plant habitat, wetland areas, and riparian vegetation.

To the extent applicable, restoration or replacement shall be in compliance with the planting and replacement standards of EC 6.320.
 2. For areas included on the city’s acknowledged Goal 5 inventory, any loss of natural features shall be consistent with the acknowledged level of preservation provided for the resource.
- (d) Street Trees. If the proposal includes removal of any street tree(s), removal of those street tree(s) has been approved, or approved with conditions according to the process at EC 6.305 of this code.
- (6) The proposal provides adequate public facilities and services including, but not limited to utilities, streets, and other infrastructure.
 - (7) The proposal does not create any significant risk to public health and safety, including but not limited to soil erosion and flood hazard, or an impediment to emergency response.
 - (8) The proposal complies with all applicable standards, including but not limited to:
 - (a) EC 9.2000 through 9.4170 regarding lot dimensions, solar standards, and density requirements

- for the subject zone and overlay zone;
- (b) EC 9.6500 through EC 9.6505 Public Improvement Standards;
 - (c) EC 9.6735 Public Access Required.
 - (d) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance; and
 - (e) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and other Public Ways;
 - (f) Where the proposal is to establish non-residential uses subject to residential density requirements on development sites in the residential zone category, it shall achieve the minimum and maximum density requirements in accordance with Table 9.2750 Residential Zone Development Standards, unless specifically exempted elsewhere in this code or granted a modification through an approved conditional use permit. For purposes of calculating “net density,” the acreage of land considered shall include the entire development site and exclude public property, such as public streets, parks, and other public facilities. In considering whether to grant a modification to the density requirements, the hearings official shall evaluate the following factors:
 - 1. The availability of the development site for residential use on August 1, 2001. The term “availability” in this section shall include consideration of whether the site was already developed with non-residential uses or had other site constraints impacting its suitability for residential use.
 - 2. The necessity of the development site to be developed with residential uses to be able to achieve the minimum residential density for the area designated on the Metro Plan Land Use Diagram for either medium- or high-density residential use.
 - 3. Adopted plan policies indicate the suitability and appropriateness of the site for non-residential use.

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard. Additional criteria may also be required based on the applicability of other sections of this land use code.

- (9) The proposal complies with the Traffic Impact Analysis Review provisions of EC 9.8650 through 9.8680 where applicable.

(Section 9.8090, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006; Ordinance No. 20369, enacted June 14, 2006, effective July 14, 2006; Ordinance No. 20457, enacted March 8, 2010; effective April 10, 2010; amended by Ordinance No. 20521, enacted January 13, 2014, effective March 1, 2014; amended by Ordinance 20584, effective August 24, 2017)