

CITY OF OAKLAND

VARIANCE FINDINGS

A Variance is permission to depart from the development regulations in the zoning district. Variances provide the discretion and flexibility to resolve difficulties or hardships that may be inappropriate where special or extraordinary circumstances occur on the property. These circumstances do not mean economic hardship; rather, they refer to topographic or physical attributes of the site that do not allow for the development standards of the Zoning District to be applied.

Proposals requiring a Variance may only be granted upon determination that the proposal conforms to the following Variance criteria set forth in Section 17.148.050:

Please indicate the way in which the proposal meets the following required criteria. Attach additional sheets if necessary.

1. Strict compliance with the specified regulations would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the Zoning Regulations, due to unique physical or topographic circumstances or conditions of design; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance:

The proposal includes loading adequate to fulfill the needs of the uses on site. Providing additional loading is both impractical and undesirable due to the configuration of the proposed development of Sites D and F2. Site D has one available frontage for loading, which is Broadway. Because Broadway is also the frontage for the building's lobby, retail space, and for parking access, the one loading space for the building occurs immediately adjacent to the building (per the attached exhibit). Site F2 will have one loading berth consistent with the needs of the building (also per the attached exhibit). Delivery services will have access to other loading facilities available throughout Jack London Square, a mixed-use, planned unit development.

2. Strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation:

Both Sites D and F2 require a reasonable balance between the need for loading berths and other necessary program elements at the ground floor. Strict compliance with the loading berth requirement is either not possible (Site D) or impractical (Site F2) and would not allow a reasonable balance between necessary ground floor program elements. Therefore, strict compliance would deprive the project of a balanced architectural design at the ground floor. A loading variance is necessary to achieve project objectives.

3. The variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy:

The loading variance for Sites D and F2 will not affect nearby properties. Adequate loading facilities are provided as part of this proposal, and in addition, loading facilities are available throughout Jack London Square.

4. The variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the Zoning Regulations:

In addressing the particular circumstances of the designs of Sites D and F2, no special privilege will be granted through this variance. In addition, there are no properties in the City subject to the same Jack London Square planned unit development zoning as the sites under control of the Applicant.

5. That the elements of the proposal requiring the variance (e.g. elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the Regular Design Review criteria set forth in the design review procedure at Section 17.136.050:

The requested loading variance is not a building element, per se. However, the elevations and plans of the proposal do conform to Design Review criteria.

6. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council:

This project application includes a general plan amendment. The proposal will conform with the General Plan and other guidelines upon approval of the general plan amendment.

7. **For proposals involving one or two residential dwelling units on a lot:** That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or building length along side lot lines, the proposal also conforms with **at least one** of the following criteria:

- a. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height:

N/A

-OR-

- b. Over 60 percent of the lots in the immediate vicinity are already developed and the proposal does not exceed the corresponding as-built condition on these lots and, for height variances, the proposal provides detailing,

articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five closest lots on each side of the project site, plus the ten closest lots on the opposite side of the street (see Illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any variance. N/A
