

**General Waiver Justification:**

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer **all** of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

**1. Will the waiver adversely affect adjacent property owners?**

No, because more than double the required landscape buffer area will be provided, including a perimeter of existing mature trees located within a 40 to 50 foot wide green area that runs parallel with the former Old Henry Trail between the edge of pavement and back of proposed curb for the development's parking lot. The pavement of the Old Henry Trail roadway will remain as a pedestrian/multi-use trail, providing an outdoor amenity feature for the development.

**2. Will the waiver violate the Comprehensive Plan?**

The waiver will not violate the Comprehensive Plan for the same reasons as stated above, and that the intent of the regulation being sought relief from is met and surpassed because of the existing tree-lined roadbed and adjacent vegetation that provides the mature landscape buffer of more than double the width of that required by the Land Development Code.

**3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?**

Yes, the waiver is the minimum necessary to afford relief to the applicant, due to the fact that the existing utility easements have accommodated the mature trees and vegetation for several decades without conflicts, and should continue to remain as a functioning landscape buffer without the need to "grow-in" to fulfill the intent of this regulation.

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**4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?**

The applicant has proposed to dedicate more than double the width of landscape buffer area required by the code, providing a net beneficial effect of an immediate and mature landscape buffer that more than fulfills the requirements to be waived. The strict application of the provisions of the regulation would require the applicant to lose a significant number of parking spaces that would not meet the code's requirement and would require providing a landscape buffer area almost three times the width that the regulation requires.

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