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WAIVER JUSTIFICATION

XEBEC TUCKER STATION

July 7, 2022

The applicant is requesting the following waivers:

A. Waiver of LDC 10.2.4 to allow a utility easement to encroach more than 50% into the landscape buffer area.

There are several existing easements crossing this property, including a 150' LG&E Easement. There will also be several easements added to meet the requirements of MSD and other utility providers. In a few select areas, these easements occupy more than 50% of a landscape buffer, thereby triggering the need for a waiver. All landscape materials will be planted as required, provided they are permitted by the easement holder.

B. Waiver of LDC 10.2.4 to waive the property perimeter landscape buffer on the east side of Tract 3 and west side of Tract 4 to accommodate a shared drive.

The PEC zone requires 15' landscape buffers for all side and rear property lines. This causes a problem between Tracts 4 & 5 where we have a shared access drive. Rather than providing the 15' landscape area at the property line the applicant proposes a 15' green space between the access drive and the proposed building on both tracts where the required plant material can be located, thereby meeting the intent of this regulation.

Although the applicant is requesting relief from the specifics of the regulations, the intent of both regulations will still be met. Therefore, these waivers are adequately justified. With regard to the specific justification criteria, please note the following:

1. Will the waiver adversely affect adjacent property owners?

- A. The waiver will not adversely affect adjacent property owners because all plantings will still be provided as required.
- B. The waiver will not adversely affect adjacent property owners because it is internal to the development and adequate green space will be provided in order to install the required planting between the building and the shared drive on both properties.

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2. ***Will the waiver violate the Comprehensive Plan?***
- A. The waiver will not violate the Comprehensive Plan because all plantings will still be provided, thereby meeting the intent of the regulation.
 - B. The waiver will not violate the Comprehensive Plan because adequate green space will be provided between the shared drive and the building on each lot to install all required plantings.
3. ***Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?***
- A. The extent of the waiver is the minimum necessary because all vegetation will be installed as required. There will be no visible difference above grade between what is proposed and what is required.
 - B. Yes. The waiver is being requested to allow a shared drive along the property line. Adequate green space is still being provided to meet the intent of the regulation.
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?***
- A. This waiver would only apply in a few minor areas where easements cross or extend into proposed landscape buffers. Most areas of the plan have been designed to accommodate both easements and landscape buffers such as between tracts 1 & 2. Because many of the subject easements are existing, this would create an unnecessary hardship on the applicant.
 - B. The strict application of this regulation would require the applicant to construct two parallel drives next to each other in order to provide the landscape buffers at the property line. This would be an unnecessary hardship.

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