

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.

Waiver of Section 10.2.10 to not provide the 15 ft vehicular use area landscape buffer area between tracts 1 and 2.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the purpose of the VUA landscape buffer area is to reduce the visual impact of VUAs on residential properties. However, in the instant case, the property is being developed functionally as one overall development with the patio home condominium owners having the right to the use and enjoyment of all the open space on the Tract 2 apartment property, etc. Therefore, the waiver requirement is only created by the proposed lot line to separate the tracts which does not affect the adjacent property owners.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the comprehensive plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because any effort to comply would require a complete overhaul with major revisions to the development plan. For example, in order to comply, the southern entrance road would need to be removed or significantly revised.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because there are no negative resulting impacts and strict application would deprive the applicant of the ability to have two different forms of ownership.