

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 5.9.2.A.1.a.ii of the Land Development Code to not provide a stub connection to the adjoining property to the west and to the undeveloped property to the north

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the only property that the connection to the west would potentially serve is the vacant 49.5 acre tract of the subject site owned by the Regional Airport Authority, who presumably wouldn't want a connection anyway. Further, requiring a connection to the west would only provide access to this adjoining property and not all the way to Cedar Creek Road. The properties to the north along Independence School Road had been a part of a prior development application that also included the subject property, but that owner decided to instead subdivide the property into residential lots large enough to not require sewer and sell. As a result, these lots, while vacant, are already somewhat developed. Nevertheless, the likelihood of these being again consolidated to where a road would make feasible sense is remote.

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 Comp Plan 2040 filed with the rezoning application and because there are no new potential impacts to be mitigated by this request to not provide a connection.

3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because a stub connection to the property to the west would not be feasible due to the enormous ravine and the Cedar Creek crossing. A connection to this property is virtually impossible due to the large ravine that holds Cedar Creek, which is 40 feet lower than the top of both adjoining properties, requiring a very large bridge spanning over 400 feet. This would seem to be a perfect candidate for a situation with a determination of infeasibility due to physical or environmental constraints. As to the property to the north, the waiver is requested as it is arguable whether a connection is even required with the property having just been subdivided and sold for individual home construction.

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 in order to provide a stub to the adjoining property to the west, a significant bridge would have to be constructed to cross the ravine and Cedar Creek, making the entire project infeasible. Further, the applicant would only have the ability to construct half of the western bridge with no cost sharing agreement with the Regional Airport Authority. As to the property to the north, if any of the 5 acre lots were developed, a roadway through the property would take up the entire width of these narrow lots.