

### **Variance Justification:**

In order to justify approval of any variance, the Planning Commission considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of Section 5.3.1.C to vary the 20 ft front and streetside setbacks.

1. The variance will not adversely affect the public health, safety or welfare because the 20' setback variance is only necessitated by the Land Development Code due to the change from private streets to public streets which is required due to the change from duplex condominium units to detached condominium units (ie., removal of a party wall). The 4 prior approved development plans for the overall Netherwood development had private streets throughout, other than Netherwood Ridge Drive through the center. The proposed revised development plan for the unbuilt portion reduces the overall number of remaining units from 39 to 35, makes the condominium units detached instead of having party walls, and provides additional publicly dedicated stub road access connections. All of these changes positively affect the public, rather than negatively, and they result in less impacts to the residents and adjoining owners. The variance would not be required if the streets remained private as they were on the prior approved plans.

2. The variance will not alter the essential character of the general vicinity because the setbacks for all homes will be very similar to the setbacks for the prior sections of Netherwood developed over the last 15 years developed and constructed with private streets. It is only the change to public streets to provide stub connections to the adjoining properties that necessitates the variance.

3. The variance will not cause a hazard or a nuisance to the public because it is aesthetic with no impact to hazards or nuisances at all.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this variance would not be required if the condominium units were moved closer together and built with party walls. In fact, the reasons for the requirement is moving from duplex units to detached units.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because the setback only applies because the applicant is dedicating right of way throughout the remaining portion of the development for stub-street connections not present on the 4 prior approved plans.

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this variance is internal to the overall development, having no impact on any other properties.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because the change from private streets to public streets is due to the request of Planning and Design Services and the terms of the LDC.