

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?

The waiver will not adversely affect adjacent property owners because the multi-family residential development is replacing what had originally been planned as more retail in conjunction with the larger existing retail center. The proposed retaining wall, which varies in height from 0' to 10', will be separated from the sidewalk by at least 5' of green space and appropriate landscaping.

2. Will the waiver violate the Comprehensive Plan?

The waiver will not violate the Comprehensive Plan for all of the reasons set forth in the original rezoning of the subject parcel to C2, with the change to a less intense residential use.

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

The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this applicant is not proposing to eliminate the landscape buffer, but simply placing a varying height retaining wall with portions of the buffer. The required landscape/tree canopy for the buffer will still be met, and at least 5' of greenspace shall be provided between the back of sidewalk and face of the wall, with appropriate landscaping to mitigate visual impacts.

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?

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 the construction of the wall is necessary to overcome the constraints imposed by the large gas easement running through the site the severely limits the amount of grading that can be done, while the design proposal will still provide a continual perimeter buffer with all required plantings to mitigate impacts of the development along Aiken Road and the proposed local road along the south side of the development.