

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 10.2.4.B to allow 100% overlap of the proposed LBA and the 15 ft sewer and drainage easement next to building 13 along the north property line.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the proposed development should not suffer aesthetically or otherwise, given that desired levels of landscaping can still be accommodated on site and the LBA depth will not be reduced. Further, the waiver will not adversely affect adjacent property owners because it is a typical occurrence for sewer and drainage easements to be located along property lines and since the easement is needed to provide a space within it that will help keep any increased runoff from this development from causing a negative impact to the adjacent properties.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Goals, Objectives and Policies of the 2040 Comp Plan filed with the original zone change application and since adequate drainage facilities will be provided to serve the development. This waiver request will not affect any other aspect of this development's compliance with either the Plan 2040 or the requirements of the Land Development Code.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because much of the easement will remain unaffected by the proposed overlap and because the waiver is the minimum necessary to allow for the best design of the development, with the façade presence facing Cedar Creek Road matching the buildings internal to the site. It has been generally accepted that drainage easements be located along property lines.
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 the development as proposed cannot be built without the overlap and reducing the number of units would not address this condition and preserve the preferred design elements. Additionally,

reducing the number of units would reduce the amenities provided in the development, thus limiting the goal of housing diversity for the area.