

### **Variance Justification:**

In order to justify approval of any variance, the Board of Zoning Adjustment 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 to vary the 5 ft side yard to 0 ft between Tract 1 & 2.

1. The variance will not adversely affect the public health, safety or welfare because this variance is internal to the overall development, having no impact on any other properties. The required Variance arises solely due to the creation of a proposed lot line to allow the patio homes to be constructed in a condominium form of ownership separate from the proposed stacked apartments.

2. The variance will not alter the essential character of the general vicinity because this variance is internal to the overall development, having no impact on the neighboring properties or the character of the area. The only proposed encroachments within the 5 foot side yard setback created by the proposed lot line is paving, being the clubhouse parking lot and the proposed southern access road. The patio home buildings will have an additional 25 foot rear yard setback (as to Building #15) and a 25 foot front yard setback from the access road. As a result, no building or structure will be any closer to the any other structure than as previously shown on the development plan. The variance arises solely due to the creation of the property line, not a revision or change in the physical layout.

3. The variance will not cause a hazard or a nuisance to the public because this variance is a technical requirement that arises when the proposed lot line is added to the development plan to allow the condominium form of ownership. Further, the only encroachments into the side yard setbacks are the proposed internal street and the asphalt parking lot, not another proposed building. The reason the southern proposed street has the property line down the center of the roadway is the two tracts will share in the cost and expense of maintenance and repair.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the need for the variance only arises due to the proposed lot line being added to the development plan.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because it arises due to the creation of the two separate lots to separate the patio homes to be created within the condominium form of ownership from the apartment buildings.

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 it would require the entire project to be within the condominium form of development or, conversely, would prohibit the sale of the patio home units thus requiring them to be rentals. Disallowing this variance

would render the project impractical.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because this variance is technical in nature and not related to the site design or layout and would not be required without the proposed lot line separating the property into two tracts.