

**RENEWAL OF PREVIOUSLY APPROVED WAIVERS
OF SECTION 10.2.4 TO OMIT THE LBA BETWEEN THE OR-3 AND CN ZONE
AND BETWEEN THE OR-3 AND THE C-1 ZONE, INTERNAL TO THE SITE.
(PREVIOUSLY APPROVED ON MAY 17, 2006 IN DOCKET NO. 09-008-00WV)**

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.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because, as before when this exact waiver was granted as part of a prior development plan approval, this is a unified plan of development covering 3 different zoning districts. Moreover, when the site was originally rezoned, the three zoning districts (OR-3, CN and C-1) were necessary for the planned uses, but no more. Were the site zoned, for example, to just OR-3 or just C-1, these setbacks would not be required.
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 RDDDP.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the entirety of it is needed for this proposed apartment project, yet none of the setback requirement serves a purpose in this case.
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 applicant-developer would be deprived of land necessary to accomplish its design, especially at the density proposed to fund the required public infrastructure improvements of Herr Lane road and Ballard High School stormwater basin changes.