

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.4 to allow buildings 1 and 2 on Tract 2 to encroach into the 10' additional supplemental setback.

1. The variance will not adversely affect the public health, safety or welfare because the supplemental setback is only a 10' additional setback and because this variance really only has aesthetic consequences for a potential future public road based upon the potential street classification of the road when built. The proposed Urton Lane extension road will have very substantial screening and buffering as well, including anticipated berm.
2. The variance will not alter the essential character of the general vicinity because the supplemental setback is for a roadway that doesn't exist currently and is planned for future construction. The other properties adjoining the future roadway, such as the apartment project at Sweeney Lane and Taylorsville Road and the Saratoga Springs subdivision lots that adjoin the extension road did not provide the subject supplemental setback and encroach to a far greater degree than a portion of Building #1 and Building #2.
3. The variance will not cause a hazard or a nuisance to the public because it is completely 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 is internal to the overall development, having no impact on any other properties, and it does not have any negative impact on any other surrounding properties necessary to be protected by the regulation. It would also not be an unreasonable circumvention of the zoning regulations as it was unclear if the supplement setback applies for a proposed roadway proposed for future construction with the setback not being applied to the adjoining developments to the north or variances granted.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because the supplemental setback only applies because the applicant is dedicating right of way through the middle of the overall development for the future roadway.
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 it is for an anticipated future roadway.