

General Waiver Justification

Waiver of LDC Chapter 10.2.4.B.3 to allow more than 50% overlap of the required LBA and utility easement, for consideration by the Planning Commission.

1. The waiver will not adversely affect adjacent property owners because the LBA will still exist, although a portion of it will include utilities in a utility easement that is already existing just below the detention basin and Tree Canopy Credit Area for 1,006.72' from Cedar Creek Road. The land planners and landscape architects will attempt working with the utility companies, to still adequately landscape the area, and no reduction in plantings or screening is requested. This waiver request is routinely sought and granted and the LDC may soon be revised to eliminate the need for such waivers.
2. The waiver filed with the rezoning application will not violate the Comprehensive Plan, and it is in compliance with the CHASE principles. Landscape Character Guideline 13 and its policies will still be fully addressed.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the balance of the LBA unaffected by utilities will fully comply with the LDC, and the part affected by the existing utilities will be mitigated with enhanced or alternative landscaping worked out by the land planners and landscape architects working on this plan with the utility companies.
4. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the utility easement is a pre-existing condition within the required LBA and a greater setback would be required than necessary to fully avoid utilities that can be accommodated as described above.