

**WAIVER OF SECTION 10.2.4.B.3 TO ALLOW A UTILITY EASEMENT TO
ENCROACH INTO MORE THAN 50% OF THE LBA ALONG THE REAR
PROPERTY LINE**

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 properties because the land uses along the opposite side of this properties westerly line are not residential in nature and between the opposing developments all negative impacts, if any, can be or already are fully mitigated. And this site, and the proposed development on it, should not suffer aesthetically or otherwise, given that desired levels of landscaping can still be accommodated on site.
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 RDDDP.
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.
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 cost to the applicant-developer of off-site exactions is significant and has to be paid for with modestly higher density/greater intensity development which this waiver would allow.

**RENEWAL OF PREVIOUSLY APPROVED WAIVER
OF SECTION 10.2.4.B.3 TO ALLOW A UTILITY EASEMENT TO ENCROACH
INTO MORE THAN 50% OF THE LBA ALONG THE FRONT PROPERTY
LINE. (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 this exact waiver was granted as part of a prior development plan approval. There are no meaningful impacts on adjoining land uses, notably Ballard High School across Herr Lane from this one. And this site, and the proposed development on it, should not suffer aesthetically or otherwise, given that desired levels of landscaping can still be accommodated on site.
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 RDDDP.
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.
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 cost to the applicant-developer of off-site exactions is significant and has to be paid for with modestly higher density/greater intensity development which this waiver would allow.