

## **STONE CREEK APARTMENTS, 700 STONE CREEK PARKWAY**

### **General Waiver 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.

Waiver of: Section 10.2.4.B.3 to encroach into the 20 ft LBA along Stone Creek Parkway with a new 15 ft sanitary easement by more than 50%.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because it is a relatively small 2.65 acre infill site with all surrounding properties fully developed and due to the topography of the property the location of the sanitary easement must be located along Stone Creek Parkway. The LBA will still be fully planted and the full LBA provided, just with an easement that had to be located partially in this area due to the slope. The waiver will permit a full LBA and its encroachment will not create any visual impact.
2. The waiver is in compliance with the Plan 2040 Comprehensive Plan Community Form Goal 2 which encourages sustainable growth and density around mixed use centers and corridors and Objectives a, b and c and compliant with Policies 6 and 7 as it is creating a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment in a mixture of compatible land uses which results in less traffic congestion and will generate fewer vehicle miles travelled as residents will have a variety of goods and services within walking distance or very short vehicle trips. Granting this waiver will have no visual impact on the site as it relates to Stone Creek Parkway as it will not affect the aesthetics at all and the plantings provided.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this is a relatively small infill site and full LBA outside the easement is not possible and still construct a parking garage.
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 development as proposed cannot be built without the overlap and reducing the number of units would not address this condition.

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Waiver of Section 10.2.12 to not provide the required ILA's on the upper deck of the parking structure.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the sites to the west and south adjoining this one are related commercial and office sites and the waiver only relates to not providing ILA's on the top of the parking garage where trees and shrubs would not work due to lack of underlying soil for productive plant material grow. The top of the parking garage will be largely screened from view from the adjacent properties.

2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the accompanying Detailed Statement of Compliance with all applicable Guidelines and Policies of the Plan 2040.

3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because more than the required ILA square footage is being provided for all VUA areas other than the top of the parking garage. The top level of a parking garage includes VUAs that are very different from surface level VUAs. One difference is, unlike surface level VUAs, the top of a parking garage has impervious surface below and does not offer the benefit of ground water infiltration that surface level parking ILAs offer, being a main goal of the regulation. The second difference is top levels of a parking garage cannot support any landscaping or trees with more than negligible root systems. Thus, even if the ILAs were provided, it does not help with tree canopy, which is being provided elsewhere on the site where it will grow and thrive. Because of the above, any ILAs included on the top of the garage will just remove parking spaces but not provide the delineated benefits of the regulation.

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 would otherwise have a very difficult time developing this property in a productive

manner due to the unique site constraints with low levels of rock, the pie shape of the property, and the elevation changes present.

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Waiver of Section 10.2.12 to not provide the previously shown 437 square foot ILA on the southern portion of the site.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the property to the west is separated by the 50' Willow Ridge Drive access easement and is the rear of the Barnes and Noble building on the northern portion of the retail center. The property to the south adjoining the subject site has a two-story office condominium seven feet from the property line and is the same zoning classification, but a more intense use (office versus residential). The waiver request for not providing the one 437 sq. ft. ILA will not affect this office condominium as no building is proposed along this portion of the southern property line and a landscaped 10' LBA is provided between the parking and the office building. In fact, the previously shown one 437 sq. ft. ILA would have been the only ILA on the top portion of the parking garage and with one tree would have looked out of place.

To mitigate any impact of the loss of this one ILA and one tree, the applicant will provide more than the LDC required landscaping in this portion of the 10' LBA on the southern property line to mitigate any visual impact and to provide more tree canopy coverage in the area. Specifically, the applicant is proposing to add an additional 3 to 5 trees in the LBA area along the southern property line to increase the overall tree canopy along the southern property line (or wherever they will fit on the site) to offset the lost tree that was originally proposed in the ILA (this would be in the form of a proposed binding element or note on the development plan showing same). This solution of removal of the ILA will allow two additional parking spaces on this difficult site to help ensure the proper practical number of parking spaces are provided, while still providing the tree canopy benefit through the extra plantings.

The applicant is still proposing to meet the LDC required tree plantings on this difficult to develop pie shaped site which is bound on all but one side with roads. The site currently does not have any trees. Further, in addition to the tree plantings, the applicant will be addressing the heat island effect through white roofs on the buildings and concrete (a lighter color), rather than asphalt on the second floor of the parking garage. While the small portion of the site to the south (without parking garage below) may be asphalt (unlike the second floor of the parking garage), this small area will also be shaded almost all day by the two-story office building to the south and the four-story apartment building proposed to the east.

2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the accompanying Detailed Statement of Compliance with all applicable Guidelines and Policies of the Plan 2040.

3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because every effort has been made to provide the maximum amount of ILAs on this difficult site and this additional waiver will make the parking more uniform with the portion of the parking lot constituting the second floor of the parking garage.

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 would otherwise have a very difficult time developing this property in a productive manner due to the unique site constraints with low levels of rock, the pie shape of the property, and the elevation changes present.