

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.**

1. Will the waiver adversely affect adjacent property owners?

The waiver will not affect adjacent property owners because the required landscape plantings will be accommodated within the buffer area while allowing 11 parking spaces to encroach 1 to 7 feet into a 15 foot VUA LBA adjacent to a commercial private access drive. There are other areas within the subject waiver request that will be landscaped that exceed the required 15 foot width.

2. Will the waiver violate the Comprehensive Plan?

The waiver will not violate the Comprehensive Plan because the landscape material required by the Land Development Code will be installed with no reduction in sizes or quality. An attractive landscape plan, installation and maintenance will be an important part of this proposed development.

3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because the 15 foot required LBA pertains to a VUA greater than 30,000sf when the specific area of the subject parking spaces (including maneuvering area) is only 4,158sf, which would require a 5 foot LBA. The adjacent access drive, while being within an easement which triggers this requirement, is for the sole purpose of circulation within a commercial bank parking lot.

4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

The applicant will be providing the required landscape plants within the subject LBA location and low impact development (LID) measures in other locations on the property. The applicant will install plantings to near the edge of the adjacent access drive, which in some areas will exceed the 15' LBA width. The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because a loss of parking spaces in an area where no other use is appropriate (due to an existing sewer line) would be a waste of commercial land where parking is at a premium.

14DEVPLAN1051

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1. Will the waiver adversely affect adjacent property owners?

The waiver will not affect adjacent property owners because the required landscape plantings will be accommodated within the buffer area while overlapping areas with existing utilities and proposed sewer and drainage easements.

2. Will the waiver violate the Comprehensive Plan?

The waiver will not violate the Comprehensive Plan because the landscape material required by the Land Development Code will be installed with no reduction in sizes or quality. An attractive landscape plan and installation will be an important part of this proposed development.

3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because the utility easements do not inhibit the installation of required trees and shrubs. Any buried utilities will be located to ensure no damages will occur. The applicant will be responsible for replacement if utility companies damage any landscape material during maintenance or repair operations.

4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

The applicant will be providing low impact development (LID) measures on the property to meet MSD's green infrastructure requirements with appropriate landscape plantings as part of the design. The LID areas will be required to be within drainage easements. The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because existing and proposed easements, which include existing utilities, would not allow the reasonable use of the land and would decrease the net beneficial effect of the proposed landscape improvements.

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