

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 LDC 10.2.4.B.3 to permit utility easements to encroach more than 50% into the required width of the property perimeter Landscape Buffer Areas.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners. The property adjacent to the requested waiver consists of an OR-2 zoned parcel to the northwest, an R-5 zoned, undeveloped parcel to the west, and a small portion of the R-5 zoned property with a residential unit to the south. The applicant will still provide the desired levels of landscaping.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Plan 2040 Comprehensive Plan filed with the original rezoning application. Waiver of this provision is frequently requested and granted in conformity with the Comprehensive Plan.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant. Applicant is providing the full LBA as required around the perimeter of the proposed development. The easement overlap waiver requested is only on a small portion of the entire LBA, and the easement overlap waiver requested is not for the full width of the LBA. Applicant will comply with the landscaping requirements.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land and would create an unnecessary hardship on the applicant because the need for the waiver is based upon the existing utility easements and the constraints from developing within this 0.72-acre parcel. The applicant is already proposing a small structure on this small parcel, and the requested overlap waiver is for the minimum required to achieve the goals and purposes for this lot.