

Justification for Waivers at  
19Minorplat45  
1608 Penile Road

**Waiver 1** This is a request for a waiver of the requirement in LDC 7.8.60.B.4 which states "direct access to either a major arterial, minor arterial or a collector level roadway from individual single lots is prohibited" One access point for a new 4.918 acre tract is requested.

**Waiver 1**

This is a request for a waiver of the requirement in LDC 7.8.60.B.4 which states "direct access to either a major arterial, minor arterial or a collector level roadway from individual single lots is prohibited"

The waiver request is part of a pending Minor Plat for just under 15 acres. The purpose of the plat is to create three tracts from two tracts. It is an estate situation and all of the land has been in the family for three generations. The new tract (Tract 2) at 4.918 acres has preliminary health department approval for a single-family home without sewers. One of the other tracts (Tract 1) has the existing home and the other tract (Tract 3) is being added to a family members tract-(the Littles) who also have an existing residence at that location.

The specific tract in question is the newly created Tract 2 which is 4.918 acres. It is on a straight stretch of Penile Road. There is good visibility and it is flat. This area is a mixture of large non platted residential lots some vacant and some with houses. There is a mobile home park to the north but its entrance is much further down the road and after two 90 degree turns. The new entrance will be constructed as approved by Public Works and most likely across from 1525 Penile Road where there is an existing gravel road.

Penile Road is labeled a primary collector road which is the second least intense road category subject to the terms of LDC 7.8.60. B.4. The Road is basically straight in the area where the new driveway would be located and has good site distance in both directions. There are no safety concerns for a new access point.

This waiver of the direct access requirement is requested because the existing home site's driveway on Tract 1 is over 120 feet from the proposed new property line for Tract 2. Thus, a new shared access point on Penile Road for a shared driveway does not work. The existing home on new Tract 3 is on the opposite end of the 5 acres and thus a shared access point is not possible.

The applicant requests a waiver of the requirement of LDC 7.8.60.B.4 and that Tract 2 be allowed to place an entrance on Penile Road as such time as a new house proposed on Tract 2.

As grounds for this, there are the reasons set forth above and below.

1. The waiver should be granted because the waiver will not adversely affect adjacent property owners because similarly situated landowners along Penile Road have the same type of access and the site distance is good.
2. The waiver will not violate the Comprehensive Plan because the primary intent of the regulation is to limit direct access onto collector or higher-level roads when planning multiple new residential uses. Only one home is proposed on this site and allowed because the area is not served by sewers.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the existing driveways on Tract 1 and Tract 3 are not located in a position to allow for a shared driveway use.
4. The strict application of the provisions of the regulation creates an unnecessary hardship on the applicant because the granting of one additional access point will not overly burden this road and is desirable for a single-family home on 4.918 acres.

For these reasons, a waiver of the requirements of LDC 7.8.60.B.4 is requested in order to allow for direct access for Tract 2 as indicated on the Minor Plat on to Penile Road.