

### Side Yard Variance Justification

A variance is requested of section 5.4.1.H of the Land Development Code (LDC) to vary the 5'-0" side yard requirement. Due to the linear layout of the site and, as such, the alternative design that was previously approved in the development plan, the subdivision will result in creation of lots with no side yard setback, but it meets the requirement from LDC 7.1.85 to be uniform in terms of those features which do not conform to the form district regulations applicable to the property. The proposed subdivision will not conflict with the established pattern in the neighborhood.

**1. Explain how the variance will not adversely affect the public health, safety or welfare.**

The variance will not adversely affect the public health, safety or welfare, because, since the townhomes share a side wall, none of the properties encroach on the neighboring property. As such, the intent of the side yard setback (to allow for natural light and ventilation to neighboring properties) is still met.

**2. Explain how the variance will not alter the essential character of the general vicinity.**

Implementing the previously approved development plan, the buildings are in the same character and height as surrounding structures. The buildings are located near the corner of an intersection near other two-story buildings and the proposed height is comparable in height.

**3. Explain how the variance will not cause a hazard or a nuisance to the public.**

The variance will not cause a hazard or nuisance; in fact, the rear yard open space provided results in a further setback from the adjacent single-family use to the east than the minimum required.

**4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.**

The variance allows the intent of the side yard requirements to be met while allowing the inclusive housing types encouraged within the Traditional Neighborhood Form District.

**Additional Consideration:**

**1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity.**

The lot width of this subject site is double that of most surrounding lots. The lot layout is a result of providing adequate access to and parking for a site within the Traditional Neighborhood Form District, as well as providing adequate outdoor space for all 5 homes.

**2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.**

The proposed building design is compatible with those existing within the neighborhood and is of a high-quality design while offering residents convenient multi-modal options for travel. Strict application of the regulations in this instance would limit the establishment of inclusive housing opportunities within the neighborhood.

**3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?**

Due to the irregular size of the lot, the development of 5 separate townhomes was approved. Separating the property into 5 individual lots does not change the actual situation on the site.

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