

Sec. 118-11. Waiver

- a. General. Where the Planning Commission finds that undue hardships will result from strict compliance with a certain provision(s) of this Ordinance, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve a waiver from any portion of these regulations so that substantial justice may be done and the public interest is secured, provided that the waiver shall not have the effect of nullifying the intent and purpose of these regulations, and further provided that the Planning Commission shall not approve a waiver unless it shall make findings based upon the evidence presented to it in each specific case that:
 - 1. Granting the waiver will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly subdivision of other property in the vicinity;
 - 2. Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; or an alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein;
 - 3. The waiver will not in any manner vary the provisions of the Zoning Ordinance or other ordinance(s) of the City.
- b. Zoning Variance. If a zoning variance is requested on a particular parcel of property, then it may be decided concurrently with the submittal and consideration of any request for a waiver from any provision of this Chapter.
- c. Zoning District Change. The Commission may consider a Master Plan or any type of plat simultaneously with a zoning district change application and may condition approval of a Master Plan or any type of plat upon final City Council approval of the zoning district change that would cause the Master Plan or plat to be consistent with the zoning.
- d. Conditions. In approving a waiver from any provision of this Chapter, the Planning Commission may require such conditions as will secure substantially the purposes described in this Chapter.
- e. Procedures:
 - 1. A petition for a waiver shall be submitted in writing to the Planning Department by the property owner or agent before the plat is submitted for the consideration of the Planning Commission. The petition for a waiver can be submitted with the application at any time before the "plat corrections due date" provided for on the approved Commission meeting calendar. The petition shall explain the purpose of the waiver, state fully the grounds for the waiver, and all of the facts relied upon by the petitioner.
 - 2. Waivers may be approved, disapproved or approved with conditions by the Planning Commission. All waivers for sidewalks approved and approved with conditions, including the approval of the escrowing funds for the construction of sidewalks on perimeter streets to be built at a later date as prescribed in section 118-49(c), will be forwarded to City Council for final approval.
 - 3. The findings of the Planning Commission, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Planning Commission meeting at which a waiver is considered, approved or disapproved.