

4.15 Exceptions to the Community Design Principles and Development Standards

- A. Exception Purpose.** An applicant may apply for an exception to the minimum Community Design Principles and Development Standards in the City's Land Use Code, when adopted, except for those standards that are not open to modification (see Section 4.15.D below). The applicant shall submit an application for exception specifying the basis for the exception requested. The burden of demonstrating that an exception is justified falls solely on the applicant. An exception, as opposed to a variance, is not a request for relief from the strict application of the Zoning Code, but rather a request to modify a design principle or standard based on the specific conditions, circumstances or design context of a development proposal.
- B. Exception Application Process.** The applicant shall submit a letter to the City Planner requesting an exception and providing justification thereof. The City shall review the exemption application concurrently with a preliminary or final plat or planned unit development (PUD) application. The Planning Commission shall review and make a recommendation of approval, approval with conditions or denial of an exception request at a regular meeting of the Commission and forward such recommendation to the City Council as part of its review of the preliminary or final plat and/or preliminary or final PUD. Final action on the exception request shall be made by the City Council.
- C. Exception Review Criteria.** The Planning Commission and City Council shall use the following criteria to evaluate the applicant's exemption application.
1. Special circumstances or conditions exist that limit the ability of the property to meet the Community Design Principles and Development Standards. Special circumstances or conditions include narrowness, unusual shape, exceptional topographic conditions or other extraordinary situations. Financial difficulties, loss of prospective profits and previously approved exceptions in other subdivisions shall not be considered as special circumstances or conditions; or
 2. An alternative design exists that will meet the intent of the standards and requirements set forth in the Community Design Principles and Development Standards and these Subdivision and Development Regulations, by providing for the orderly subdivision of land and providing public facilities. The exception shall:

- a. Provide for the orderly subdivision of land. The City may require the development to be processed as a planned unit development or as a Mixed Use or Commercial Zone District site plan, if the complexity and interrelated design of the development more appropriately meet the intent of the PUD or Transitional Mixed Use (TMU) zoning district processes. The PUD/TMU process shall provide flexibility to review the exception as part of a creative and imaginative development design tailored to each unique site and the surrounding area;
- b. Provide public facilities that will benefit the public without detriment to surrounding property owners or the City's ability to provide services and maintain public facilities;
- c. Provide amenity to the development through design that could not be provided through the adopted standards;
- d. Not be detrimental to the public interest or other property nor be in conflict with the comprehensive plan or other applicable provisions of the Code unless corresponding exceptions or variances are approved;
- e. Not endanger public safety.

D. Standards Not Open to Modification. The following Community Design Principles and Development Standards are considered absolute minimum standards and are not open to modification through an exception process:

- 1. Road design standard (cross section) for local street with attached sidewalk;
- 2. Dedication of the full width of right-of-way for all platted streets as set forth in the City's Major Thoroughfare Plan;
- 3. Drainage improvements with regard to developed runoff and water quality;
- 4. Any provision of the City's Standard Construction Specifications;
- 5. Requirement of one (1) street tree of two (2) inch caliper for each forty (40) feet of frontage on both sides of the street (except for rural roads and alleys); and
- 6. Provision of handicap parking spaces.

- E. Restrictions on Requesting Exceptions.** If an applicant requests an exception under this Section, the preliminary plat or preliminary PUD development plan shall, whenever possible, indicate the exceptions outlined in the application. Exception requests can be processed concurrently with planned unit development applications.