

Date Received: _____

Checklist #5: Modification and Waiver Application, Review and Approval Process

Applicability: Article VIII of Chapter 28 governs the granting, by the Town Board, of modifications of and/or waivers from the requirements of the provisions of the land division ordinance if an exceptional circumstance exists. Application for any such modification or waiver shall be made in writing by the Subdivider at the time when the Concept Plan or Preliminary Plat is filed for consideration, whichever occurs first, stating fully all facts relied upon by the Subdivider. This Checklist is a guide only and does not waive any requirements of the ordinance itself. A copy of the Town’s subdivision ordinance can be obtained from the Clerk in hard copy at the Town Hall or electronically at the following website at www.municode.com The Town Clerk can be reached by phone at 262-878-2123. This Checklist shall be submitted and reviewed by the Town Engineer at the time of submittal. All information shall be submitted in hard copy and in an electronic format acceptable by the Town.

Information Required from Subdivider

Type of Proposed Land Division: _____

Property Location/Address: _____

Subdivider: _____ Phone: _____

Address: _____ City: _____ State: _____ Zip: _____

Property Owner (if different from Subdivider): _____

Address: _____ City: _____ State: _____ Zip: _____

Surveyor: _____ Phone: _____

Subdivider’s Engineer: _____ Phone: _____

PROPERTY SPECIFICS: Current Zoning of Property: _____

Proposed Zoning Change: _____

Circle One: Unsewered Reserved Sewer/Water Area

Town _____ Range _____ Section _____ Parcel ID# _____

(The following to be completed by Town Engineer)

Initial Application: Yes No

Has the Subdivider submitted a Concept Plan or Preliminary Plat and corresponding checklists? If no, then notify the Subdivider that this must occur before an Application for Modification and/or Waiver can be submitted.

Date Concept Plan or Preliminary Plat and Checklist Submitted to Town Engineer for Review and Response: _____

Date Checklist #5 Submitted to Town Engineer for Review and Response: _____

Date Received: _____

The following information is to be completed by the Subdivider and verified by Town Engineer. Town Engineer will provide response to Subdivider.

Instructions: Complete Checklist using the following code: Y – Yes; N – No; N/A – Not Applicable. Make notes for Town Engineer’s review where necessary. Attach any additional information/data that you would like the Town Engineer’s input.

Application: Has the Subdivider provided:

- Detailed facts relied upon for requesting modification and/or waiver.
- Maps
- Plans
- Other Data that will assist in the analysis (Describe): _____

Analysis of Factors:

- a. Why would the Modification or Waiver be consistent with the general intent of the Ordinance? _____
- b. Why will the Modification or Waiver not adversely affect property owners in the surrounding area? _____
- c. Would the Modification or Waiver benefit the Subdivider’s project in any way that is not consistent with the Town’s interests? _____
- d. Is the Subdivider in full compliance with applicable ordinances and agreements with the Town? Yes or No
If the answer to this question is no, provide an explanation of and description of the non-compliance and how such non-compliance is intended to be corrected. _____
- e. Instead of granting your request for modification and/or waiver, should the Town’s ordinance be changed to accommodate the kind of situation you are presenting on this application? Yes or No.
If the answer to this question is yes, please provide your explanation here: _____
- f. Are the conditions upon which the request for modification or waiver is based unique to the situation or property and not generally applicable to other situations or property? If so, state why. _____
- g. Why would the modification or waiver not be detrimental to the public safety, health and welfare or injurious to other property or improvements in the neighborhood in which the property is located? _____

Engineer Notes: _____

Date Received: _____

(The Following to be completed by Town Engineer.)

Review of Application: The following is a guide of what you can expect from the review process for the Application. Questions should be directed to the Town Engineer.

1. Before the Town Board may act on a request for modification or waiver, the application and all supporting material will first be presented to the Plan Commission for its review and recommendation. The Town Clerk will, within forty-five (45) days of receipt of the Application for a modification or waiver, place the matter on a Town Plan Commission Agenda for review and recommendation.

Date of Plan Commission Meeting: _____

2. The Town Plan Commission will make a recommendation to the Town Board which shall include review and consideration, but not necessarily an affirmative finding, of the following factors and the information submitted on this checklist:
 - a. Whether the request for a waiver or modification, if granted, would be consistent with the general intent of the Ordinance.
 - b. Whether the request for a waiver or modification, if granted, would adversely affect property owners in the surrounding area.
 - c. Whether the request for waiver or modification, if granted, would benefit the Subdivider's project in a way that is not consistent with the Town's interests.
 - d. Whether Subdivider is in full compliance with applicable ordinances and agreements with the Town.
 - e. Whether, instead of granting the request for a waiver or modification, the Ordinance itself should be changed to accommodate the kind of situation presented by the Subdivider.
 - f. Whether the conditions upon which the request for modification or waiver is based are unique to the situation or property and not generally applicable to other situations or property.
 - g. Whether the modifications or waiver would be detrimental to the public safety, health and welfare or injurious to other property or improvements in the neighborhood in which the property is located.

Plan Commission Recommendation: _____ *Date:* _____
Plan Commission Analysis of Factors and/or Minutes Attached? Yes No

3. **Conditions for Granting.** The Town Board will not grant modifications or waivers to this Ordinance unless it makes findings based upon the evidence presented to it in each specific case based on the above factors, in addition to any other factors it deems relevant.
4. **Action by Town Board.**
 - a. The Town Board, if it approves of the modification or waiver of the application of the Ordinance or any portion of it, shall do so by motion or resolution and shall instruct the Town Clerk to notify the Subdivider.
 - b. A majority vote of the Town Board shall be required to grant any modification or waiver to this Ordinance. The reasons why such modification or waiver was granted shall be entered in the minutes.
5. **Past Non-compliance Not Waived.** Any waiver or modification that is granted shall not waive any fines, forfeitures or other penalties that may have accrued due to violations of this Ordinance that took place prior to the date of the request being granted, unless specifically stated otherwise in the decision of the Town Board.

Date of Town Board Action: _____
Town Board Action (Circle One): Disapproval Approval Conditional Approval
Conditions Attached? Yes No
Date Town Board Action Communicated to Subdivider: _____
Completed By and Date: _____