

## ARTICLE VIII. WAIVERS AND MODIFICATIONS

### A. Waiver of Development Plan Approval (Reserved)

### B. Waiver or Modification of Regulations

1. The Planning Board shall have the authority to waive or modify one or more of the requirements for subdivision or land development approval contained in these regulations if the Planning Board finds that:

- a. the waiver or modification is reasonable and within the general purposes and intents of these regulations; and,
- b. literal enforcement of the regulation is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question; or waiver or modification of the regulation is in the best interest of good planning practice or design as evidenced by consistency with the Comprehensive Community Plan and the Zoning Ordinance.

### C. Reinstatement or Extension of Applications

1. When an applicant has exceeded a deadline established by these regulations for (a) submission of material for a subdivision or land development project; or, (b) recording an approved final plat or plan or required supporting material thereby rendering a previously-granted approval invalid; or, (c) has requested an extension of an approval previously granted by the Planning Board or Administrative Officer prior to the actual expiration date, the application may be reinstated or extended by the Planning Board under the conditions listed below:

- a. the subdivision is consistent with the Comprehensive Community Plan;
- b. the Subdivision Regulations are substantially the same as they were at the time of original approval;
- c. the zoning of the subdivision parcel is substantially the same as it was at the time of original approval;
- d. physical conditions on the subdivision parcel are substantially the same as they were at the time of original approval;
- e. any applicable State or federal regulations are substantially the same as they were at the time of original approval; and,

f. any required fee, including Fair Share Development Fees as provided in the Zoning Ordinance and/or Capital Improvement Program, is the same as it was at the time of the original approval. The Board shall, in approving such request, condition its approval on the payment of the current Fair Share Development Fee in effect at the time of the granting of said extension, and as amended annually in the Capital Improvement Program.

2. Application for reinstatement of a previously-approved subdivision shall be made to the Planning Board in writing by the subdivider, stating the amount of time requested and the reasons for such request. The Planning Board, in approving or denying the request for an extension or reinstatement, shall make findings of fact which shall be made part of the record.

#### **D. Decisions on Waivers and Modifications**

1. The Planning Board shall approve, approve with conditions, or deny a request for a waiver or modification by the following procedure:

a. The Planning Board's decision shall be made within 45 days of the date the request for the waiver or modification was first considered by the Planning Board, unless the applicant waives that deadline.

b. The Planning Board's decision shall be in writing, and shall contain findings of fact addressing the conditions contained in Section VIII.B.1.