

CHAPTER 900. DEVELOPMENT STANDARDS

SECTION 901. TRANSPORTATION

901.2. Transportation - Corridor Management

A. Intent and Purpose

1. The intent of this section is to coordinate the full development of roads within transportation corridors and the planning of future transportation corridors and roads with land use planning within and adjacent to the corridors to promote orderly growth to meet adopted Level of Service (LOS) requirements and to maintain the integrity of the corridor for transportation purposes.
2. The adoption of this section is necessary in order to preserve, protect, and provide for the dedication and/or acquisition of right-of-way and transportation corridors that are necessary to provide future transportation facilities and facility improvements to meet the needs of growth projected in the County Comprehensive Plan and to coordinate land use and transportation planning. These corridors are part of a network of transportation facilities and systems which provide mobility between and access to businesses, homes, and other land uses throughout the jurisdiction, region, and State. The Board of County Commissioners (BCC) recognizes that the provision of an adequate transportation network is an essential public service. The plan for that transportation network is described in the County Comprehensive Plan and the Transportation Corridor Preservation Map and Table, and implemented through a capital improvements program, other policies and procedures, and through regulations on land use and development as well as regulations to preserve and protect the corridors and right-of-way for the transportation network. The purpose of this section is to foster and preserve public health, safety, comfort, and welfare and to aid in the harmonious, orderly, and beneficial development of the County in accordance with the Comprehensive Plan.
3. Ensuring that arterial, collector, and other roads and related facilities are safe and efficient, in coordination with a plan for the control of traffic, is the recognized responsibility of the County, in accordance with Sections 125.01(1)(m) and (w), Florida Statutes, and is in the best interest of the public health, safety, welfare, and convenience.
4. Implementing methods of ensuring adequate transportation facilities to accommodate the citizenry of the County now and in the future is the responsibility of the County in order to carry out the transportation element of its Comprehensive Plan, under 163.3161, and is in the best interest of public health, safety, welfare, and convenience.

5. This section imposes special development regulations and procedures on all land located within transportation corridors in order to ensure the availability of land within the transportation corridors to meet the transportation needs of the County as shown in the Comprehensive Plan and the Transportation Corridor Preservation Map and Table, and to promote the public health, safety, welfare, and convenience of the County and its citizens.
6. This section is intended to protect transportation corridors from encroachment by structures or other development except under special conditions.

B. Applicability

1. For purposes of jurisdictional applicability, this Section 901.2 shall apply to all development on land where any portion of the development site is within the jurisdiction of the County and shown on the County Transportation Corridor Preservation Map and Table. This section shall apply in a municipality within the County only upon the County and the municipality entering into an interlocal agreement providing for the application of this section, or portions thereof, within the municipality.
2. For purposes of geographic applicability, if all or any portion of a proposed development site or expanded development site for which a Section 402.2, 402.3, 402.4, 403.1, 403.2, 403.3, 403.4, or 403.5 development approval or Development Permit/Order is required (which may be collectively referred to as “Section 901.2.B” development approvals or development applications) and is located within a transportation corridor, the provisions of this Section 901.2 shall apply. In addition, the County may apply Section 901.2 to other development permits/orders if all or any portion of the proposed development site or expanded development site is located within a transportation corridor.
3. For purposes of timing applicability, Section 901.2 shall apply to Section 901.2.B development approvals, or substantial modification thereof, for which a complete application has been filed or for which a Section 901.2.B approval has expired or been denied, after the effective date of this section, unless the County and the applicant agree to an earlier application date. In addition, the County may apply Section 901.2 to other Development Permits/Orders, or substantial modification thereof, for which a complete application has been filed, or for which the Development Permit or Order has expired or been denied, after the effective date of this section, unless the County and applicant agree to an earlier application date. For section 901.2.B approvals, this section shall govern in the event of a conflict between this section and prior Development Permits/Orders.

C. Procedures

1. As part of the development review process of a Section 901.2.B development application, all applications for development approvals shall show the location of any transportation corridor which is located on any portion of the development site or expanded development site or on any portion of the land which is the subject of the application. All such applications shall be reviewed by the County Administrator or designee to determine whether any portion of the proposed project is within a transportation corridor.
2. All Section 901.2.B development approvals shall include findings or conditions addressing the consistency of the proposed project with the transportation corridor.

D. Definitions

1. The words or phrases used herein shall have the meaning prescribed in the Definitions Appendix, except as otherwise specifically set forth herein.
2. Development site shall mean the total area of the lot, tract, or parcel which is the subject of an application for a Development Permit.
3. Expanded development site shall mean all development, parcels of land, lots, and tracts, including development, parcels of land, lots, and tracts contiguous to or nearby the development site that are (1) developed by the same or a related developer or landowner; or (2) developed as part of the same zoning plan, preliminary plan, preliminary site plan, plat, or other unified or common plan or development, as determined by the County Administrator or designee consistent with the purposes of this section. For the purposes of this definition, a related developer or landowner shall include a partnership in which any of the same persons or entities are partners, and a corporation in which any of the same persons are officers or directors.
4. Interim use shall mean a use of the land in the transportation corridor prior to the date of conveyance of such land to the County for right-of-way, whether such conveyance is by dedication, acquisition, or other means.

E. Density and Intensity of Development

1. The gross density and intensity of development of a development site and any portion of which is within a transportation corridor shall be the gross density permitted in accordance with the underlying zoning district or Comprehensive Plan Future Land Use Classification, whichever is more restrictive. However, such density and intensity may be transferred from the portion of the development site or expanded development site within a transportation corridor to portions

of the development site or expanded development site that are located outside of the transportation corridor, either through clustering, density transfer, or through credit for the portion of the site in the transportation corridor in maximum permitted density or intensity calculations (collectively referred to herein as "density transfer"). Subject to limitations in the Comprehensive Plan, density transfers may result in a greater net density on the portion of the development site or expanded development site that is not located within the transportation corridor than would be permitted by the underlying zoning district, but the total gross density of the project site shall in no event exceed the density that would be allowed on the development site or expanded development site had no portion of the development site been located within a transportation corridor. This section is not intended to grant approval to the location of development in environmentally sensitive or otherwise protected lands within the development site or expanded development site. It is intended to allow the density to be used within the development site or expanded development site without additional review procedures beyond the development review that would be required for a development not located in a transportation corridor. All density transfers to an expanded development site that is not part of the Section 901.2.B Development Permit/Order under review shall be evidenced by a recorded document acceptable to the County Attorney's Office that is binding upon the transferor property and transferee property.

2. Density transfers, unless permitted by another provision of this Code, shall be limited to the amount of density which would otherwise be permitted to be developed in the transportation corridor. In reviewing an application for development in which density transfers are shown, the Development Review Committee (DRC), as part of its review of the Section 901.2.B development approval, may require that the configuration of the proposed density transfer be amended if it would further the public interest, protect the environment, or provide a better design.
3. If the density transfer would require modification of any other provision of this Land Development Code, including buffers, parking, landscaping, yards, and setbacks between buildings, then, except as set forth in Section 901.2.K.1, a variance from the DRC shall be required in accordance with the provisions of Section 407.2 or 901.2.K.3, except that in the case of a variance necessitated by the requirements of Section 901.2, the conditions of Sections 407.2.D.1. a, b, and c, and 901.2.K.3.a shall be deemed to exist.

F. Interim Uses

1. The uses of land within a transportation corridor shall be only those uses listed in Sections 901.2.F.2 or 901.2.F.3, below, provided that such use would be permitted on the development site by the

underlying zoning district or the Comprehensive Plan, whichever is more restrictive. The purpose of this section is to allow certain uses for a limited period of time within portions of a development site that are located within a transportation corridor in order to permit the property owner to make economic use of the property until such time as the land within the transportation corridor is to be dedicated to or acquired by the County. Interim uses shall be permitted in any zoning district upon obtaining approval from the DRC as part of the Section 901.2.B development approval.

2. The uses designated in this Section 901.2.F.2 which are directly related to the primary use of the development may be allowed on an interim basis.
 - a. Permitted interim uses.
 - (1) Stormwater retention or detention facilities to serve the development.
 - (2) Parking areas to serve the development that cannot be reasonably located elsewhere on the development site.
 - (3) Entry features for the development, such as signage, architectural features, fountains, walls, and the like.
 - (4) Temporary sales or lease offices for the development.
 - (5) Landscaping in residential zones, if permitted as an alternative standard, provided that a minimum of ten (10) feet of required landscape buffers shall be located outside the transportation corridor.
 - b. The following conditions shall apply to the approval of interim uses specified in Section 901.2.F.2:
 - (1) The applicant agrees to discontinue and remove or relocate, at the applicant's sole expense, the interim uses no later than the beginning of the first fiscal year in which monies for acquisition of right-of-way within the affected transportation corridor are first programmed by either the County, in the County's Five-Year Capital Improvement Plan (CIP) or Capital Improvement Element (CIE), or the Florida Department of Transportation (FDOT) in the FDOT's Five-Year Transportation Improvement Program (the termination date). This agreement shall be evidenced by an affidavit which shall state that the interim uses shall be discontinued no later than the termination date. Such affidavit shall be recorded against the development site in the public records office of the Clerk of the Circuit

Court of the County, and a copy of the recorded affidavit shall be provided to the County prior to the issuance of the first Building Permit within the development site. The termination date may be extended by written correspondence from the County or FDOT, as applicable, for a time period not to exceed one (1) year for each extension.

- (2) Areas for relocation shall be identified on the development plans submitted with the application for development approval and shall be reserved for that purpose. If the relocation would require modification of any other provision of this Land Development Code, including buffers, parking, landscaping, yards, and setbacks, then, except as set forth in Section 901.2.K.1, a variance from the DRC shall be required in accordance with the provisions of Section 407.2, except that in the case of a variance necessitated by the requirements of Section 901.2, the conditions of Sections 407.2.D.1.a, b, and c, and 901.2.K.3 shall be deemed to exist.
 - (3) The stormwater retention/detention facility and/or landscaping may, at the discretion of the County or FDOT, be incorporated into the design of the future transportation facility. Should this option be agreed to by the County or FDOT, the developer need not relocate the stormwater-retention/detention facility and/or landscaping, as applicable.
3. The following interim uses, not necessarily directly related to the principal use of the site, may be allowed within the transportation corridor on an interim basis prior to the dedication or acquisition of land.
- a. Other permitted interim uses.
 - (1) In residential zones:
 - (a) Recreational facilities such as playgrounds, ball fields, outdoor courts, exercise trails, walking paths, bridal paths, and similar outdoor recreational uses, but shall not include any required parks, buffers, or other required open space.
 - (b) Produce stands, produce markets, farmers' markets, and the like.

- (c) Agricultural uses, such as pasture, crop lands, tree farms, orchards, and the like, but not including stables, dairy barns, poultry houses, and the like.
- (2) In commercial zones:
- (a) Uses such as boat shows, automobile shows, recreational vehicle shows, "tent" sales, and the like.
 - (b) Periodic events such as festivals, carnivals, community fairs, and the like.
 - (c) Plant nurseries and landscape materials yards, excluding permanent structures.
 - (d) Storage yards for equipment, machinery, and supplies for building and trade contractors, and similar outdoor storage.
 - (e) Golf driving ranges.
 - (f) Recreational Vehicle or boat storage yards.
- b. The following conditions shall apply to interim uses specified in this subsection.
- (1) The applicant agrees to discontinue and remove, at the applicant's sole expense, the interim uses no later than the beginning of the first fiscal year in which monies for acquisition of right-of-way within the affected transportation corridor are first programmed by either the County, in the County's Five-Year CIP or CIE, or the FDOT in the FDOT's Five-year Transportation Improvement Program (the termination date). This agreement shall be evidenced by an affidavit which shall state that the interim uses shall be discontinued no later than the termination date. Such affidavit shall be recorded against the development site in the public records of the Clerk of the Circuit Court of the County, and a copy of the recorded affidavit shall be provided to the County prior to the issuance of the first Building Permit within the development site. The termination date may be extended by written correspondence from the County or the FDOT, as applicable, for a time period not to exceed one (1) year for each extension.

- (2) Buffer yards may be required in order to ensure compatibility of interim uses with other uses adjacent or nearby.
 - (3) Interim uses shall meet site design requirements for setbacks for the district.
 - (4) Interim uses shall comply with all other applicable provisions of this Code as may be required at the time of approval.
4. If the termination date set forth above has already occurred at the time of the Section 901.2.B development approval or Development Permit/Order and the County or the FDOT has not extended the termination date, the property owner shall not be entitled to the interim uses set forth in this section, unless the DRC, BCC, or FDOT for State roadways determine that the interim use(s) can coexist with the County's or FDOT's planned improvements in the transportation corridor. If the termination date has already occurred, and not been extended by the County or the FDOT, the provisions of Sections 901.2.E, 901.2.H, or 901.2.J and 901.2.I shall continue to apply.
 5. Interim uses set forth in this section shall not be assessed transportation impact/mobility fees pursuant to this Code, Chapter 1300.
 6. Interim uses set forth in this section shall, where applicable, be required to obtain Right-of-Way Use Permits in accordance with Section 406.5 and enter into a license and maintenance agreement with the County for such uses.

G. Site Design Requirements

To protect the full width of the future right-of-way, setbacks on the property which abuts or is located adjacent to a transportation corridor shall be calculated from the edge of the transportation corridor. The size of the setback shall be the setback required by the underlying zoning district.

H. Right-of-Way Dedication

1. As a condition of approval of a Section 901.2.B development approval or development permit/order, in order to ensure adequate roads for the proposed development so as to meet adopted LOS requirements, and to protect the County's transportation system, all applicants for a Section 901.2.B development approval or development permit/order, where any portion of the development site or expanded development site is located within a transportation corridor, shall enter into an agreement with the County, either in the form of a development agreement or as a condition of the development approval or development permit/order, which shall provide for the dedication to

the County of lands within the development site or expanded development site which are within the transportation corridor, subject to the provision of Section 901.2.I. Dedication shall be by recordation on the face of the plat, deed, grant of easement, or other method acceptable to the County. All dedications shall occur at record plat, construction plan approval where a record plat is not required, or within ninety (90) days of the County's request, whichever occurs first. All conveyances shall be in accordance with the County Real Estate Division requirements and free and clear of all liens and encumbrances. Land to be dedicated shall be limited to the amount of land needed for the planned transportation improvements (as determined by the Metropolitan Planning Organization and Comprehensive Plan transportation element plans in effect at the time of dedication, or by the County-approved traffic study and collector/arterial spacing and design standards for the development approval or development permit/order if no such plans exist) including, where applicable, land for drainage/retention, wetland and floodplain mitigation, shoulders, frontage roads, sidewalks, bike paths, medians, and other roadway-related improvements. If the drainage, wetland, or floodplain mitigation facilities for the roadway or appurtenances will be commingled or combined with drainage, wetland, or floodplain facilities of the developer's project, the developer or another maintenance entity acceptable to the County shall be responsible for operation and maintenance of such facilities; provided, however, the developer or maintenance entity shall convey an easement giving the County and FDOT the right, but not the obligation, to enter onto the developer's property and maintain the facilities. If the drainage, wetland, or floodplain mitigation facilities for the roadway will not be commingled or combined with drainage, wetland, or floodplain facilities of the developer's project, the developer shall convey such facilities and access easements to the County or FDOT, as applicable, and the County or FDOT, as applicable, shall own operate and maintain such facilities subsequent to the expiration of any applicable maintenance guarantee period. Where the property owner believes that the amount of land required to be dedicated exceeds the amount of land that is roughly proportional to the transportation impacts to be generated by the proposed development site or expanded development site, including all development resulting from any density transfers, the landowner shall be entitled to apply for a dedication waiver in accordance with the provisions of Section 901.2.I.

2. Where development of the transportation corridor which is the subject of the development application is not shown in the County's Five-Year CIP or CIE or FDOT's Five-Year Transportation Improvement Program, and development of the road in all or any portion of such transportation corridor is not necessary to mitigate the transportation impacts of the proposed development, the property owner shall be entitled to use the portion of the development site in the transportation corridor in accordance with the provisions of Section 901.2.F.

I. Dedication Waiver

1. Where the property owner believes that the amount of land required to be dedicated to the County under the provisions of Section 901.2 exceeds the amount of land that is roughly proportional to the transportation impacts of the proposed development site and expanded development site, or believes that any other County transportation-related exaction, dedication, condition, or requirement (transportation requirement) is not roughly proportional to the transportation impacts of the proposed development site and expanded development site, the property owner may apply to the development review committee for a dedication waiver in accordance with the provisions of this Section 901.2.I.
2. Application for Dedication Waiver
 - a. Dedication waivers shall be determined by the DRC. The procedure for dedication waivers shall be the same as the notice, public hearing, and procedural requirements set forth in Section 407.2 in connection with a variance, except as provided in this section. DRC decisions on dedication waivers may be appealed to the BCC in accordance with this Code, Section 407.1 In the event of such an appeal, the BCC shall have, in addition to the powers set forth in Section 407.1, the same options as the DRC set forth in Sections 901.2.I.4-6, below. The application for a dedication waiver shall include the following information:
 - (1) Appraised value of the development site and expanded development site before the Section 901.2.B development approval or other Development Permit/Order, with and without the land to be dedicated pursuant to Section 901.2.H, taking into account any interim uses and density transfers.
 - (2) Appraised value of the development site and expanded development site after the Section 901.2.B development approval or other Development Permit/Order, with and without the land to be dedicated pursuant to Section 901.2.H, taking into account any interim uses and density transfers.
 - (3) Traffic impact study (TIS) showing the transportation impacts of the proposed development.
 - (4) List of transportation mitigation provided or required to be provided by the development, including:

- (a) The appraised value of any land dedicated or to be dedicated in accordance with (1) and (2) above;
 - (b) Certified cost estimates for all transportation improvements provided or required to be provided by the development;
 - (c) Estimated transportation impact/mobility fees paid or due for the development pursuant to Chapter 1300; and
 - (d) Any transportation mitigation or proportionate share payments required pursuant to this Code, Section 1301.
3. All appraisals shall be at the applicant's sole expense, prepared by an appraiser licensed in the State and in accordance with all applicable standards, and include the value of the land required to be dedicated as determined by the County Property Appraiser in the most recent appraisal prior to any Section 901.2.B development approval or Development Permit/Order for the property. The TIS shall be undertaken by a professional engineer with experience in transportation impact analysis and in accordance with the County's guidelines and review fees for TIS and substandard roads set forth in Resolution No. 04-203 as amended and as codified in Sections 901.4 and 901.5 (the TIS resolution); provided, however, the following modifications to the TIS resolution shall be required for a TIS prepared to support a dedication waiver application:
- a. A TIS and substandard road analysis will be required for the dedication waiver application notwithstanding the applicability and exemption provisions of the TIS resolution or this Code, Section 1301.
 - b. All analysis and impacted roadways shall be based on the existing network only, without taking into account capacity created by the committed network or committed improvements.
 - c. Impacted roadway facilities shall be based on where the project traffic consumes more than zero (0) percent of the two (2) way peak hour service flow rate of the roadway segments within the roadway facility using the latest version of the FDOT generalized service flow rate tables.
 - d. All intersections are impacted along the impacted roadway facilities (as defined above) that provide access to the site from a local/major road where project traffic is more than zero (0) trips.

- e. All major signalized or major unsignalized intersections along the impact roadways (as defined above) are impacted.
 - f. Mainline, ramps, and facilities of toll roads are all impacted where the project traffic is more than zero (0) trips.
 - g. No percentage of project traffic or trips shall be allowed to travel on substandard roads without mitigating impacts.
 - h. A proportionate share calculation shall be required, including a proportionate share-share calculation for all improvements needed to achieve minimum roadway and maintenance standards for impacted substandard roads.
 - i. All impacts, mitigation, and proportionate-share calculations shall be based on traffic generation of the cumulative development, including traffic from previous development or approved phases. In addition, for redevelopment, all impacts, mitigation, and proportionate share calculations shall be based on traffic generation of the new use, without considering traffic generation of the prior use.
 - j. Turn lane length analysis shall be required for all impacted intersections where project traffic is more than zero (0) trips.
4. DRC action on dedication waiver request. If the DRC determines that any portion of the land required to be dedicated for construction of the County transportation improvements exceeds the amount of land that is roughly proportional to the transportation impacts of the proposed development site or expanded development site, or determines that the transportation requirement is not roughly proportional to the transportation impacts of the proposed development site or expanded development site (the excess dedication amount), the DRC shall either (1) authorize compensation for the excess dedication amount in accordance with Section 901.2.1.5, or (2) decline to authorize compensation for the excess dedication amount, in which case the provisions of Section 901.2.1.6 shall apply. In either event, if the dedication waiver applicant has proven an excess dedication amount, the DRC, subject to BCC approval where required, may authorize reimbursement of some or all of the dedication waiver applicant's required costs of preparing the dedication waiver application. In considering whether any portion of the land required to be dedicated exceeds the amount of land that is roughly proportional to the proposed impacts of the project, the DRC may consider any density transfers. Any Section 901.2.B development approval or other Development Permit/Order for the development site shall not be considered in determining the value of the land for purposes of determining the excess dedication amount or compensation amount.

5. Compensation. If the DRC authorizes compensation for the excess dedication amount, the County, subject to BCC approval where required, shall compensate the landowner or development site for any excess dedication amount by:
 - a. Paying for the excess dedication amount, which in the case of an excess land dedication shall be an amount equal to 115 percent of the value of the excess land required to be dedicated as determined by the County Property Appraiser in the most recent appraisal prior to any Section 901.2.B development approval or Development Permit/Order for the property which is being dedicated to the County, and less the value of any density which has been transferred to any other portion of the development site or expanded development site, unless the County and property owner agree to another valuation;
 - b. Providing transportation impact/mobility fee credits for the excess dedication amount, subject to the eligibility, timing, and other requirements of Chapter 1300 or the County Transportation Impact Fee Ordinance (Ordinance No. 04-05), as amended;
 - c. Designing and/or constructing any of the property owner's or development site's required transportation improvements that have a value equivalent to or greater than the excess dedication amount;
 - d. Providing credit for any transportation mitigation or proportionate share payments required pursuant to this Code, Section 1301; or
 - e. Some combination of a, b, c, or d that compensates the property owner or development site for the excess dedication amount.
6. No compensation. If the DRC elects to not authorize compensation to the property owner for the excess dedication amount, the property owner shall not be required to dedicate such excess land to the County, or comply with any excess transportation requirement, and may utilize any excess land subject to applicable provisions of this Code and Comprehensive Plan.
7. Dedication Waiver Deadlines
 - a. If a property owner chooses to file a dedication waiver application, final action on the dedication waiver application, including any applicable appeals, shall be complete prior to the first deadline for the applicant to resubmit and respond to technical review comments for a Section 901.2.B development

approval or thirty (30) days prior to the first DRC, planning commission, or BCC public hearing for other Development Permits/Orders. A dedication waiver request filed or completed after the foregoing deadlines shall automatically recommence all County review, comment, and public hearing deadlines for the Section 901.2.B development approval, Development Permit/Order, and/or TIS set forth in this Code and TIS resolution, unless the application for such approval(s) has been withdrawn or denied.

- b. If a dedication waiver application is filed after the County has taken final action on the Section 901.2.B development approval or Development Permit/Order containing the requirement or condition which is the subject of the dedication waiver request, all Section 901.2.B development approval(s) or Development Permit(s)/Order(s) containing the requirement or condition which is the subject of the dedication waiver request shall be referred to the final County decision-making body, and all advisory bodies, for a new Land Development Code and Comprehensive Plan consistency determination. In such event, the referred Section 901.2.B development approval(s) and/or Development Permit(s)/Order(s) will be subject to all review, comment, and public hearing deadlines of this Code and TIS resolution applicable to a new Section 901.2.B development approval or Development Permit/Order, including the deadlines set forth in Subsection F.1, above. In addition, the referred Section 901.2.B development approval(s) and/or Development Permit(s)/Order(s) may not be used as a basis for further development or development approvals unless and until the final County decision-making body has found the referred approvals consistent with this Code and Comprehensive Plan. In any event, no dedication waiver application may be filed more than four (4) years after the final approval date of the first Development Permit/Order containing the dedication required by Section 901.2.H or transportation requirement unless the Florida Legislature or a court of competent jurisdiction determine that a civil claim, action, or request challenging or seeking compensation for the same dedication required by this section or transportation requirement can be filed after that date. The procedures set forth in Section 901.2.I must be exhausted prior to filing any civil claim, action, or request challenging or seeking compensation for a dedication required by this section or other transportation requirement.

J. Dedication - Rough Proportionality

Projects proposed adjacent to, abutting, or within a designated transportation corridor, may, as a condition of development approval, be required to dedicate and convey lands within the project site that are necessary for that

transportation corridor to the County, provided that any required dedications and conveyances shall not exceed the amount of land that is roughly proportionate to the impacts of the development on the transportation network, as determined by a rough proportionality analysis performed by the County.

K. Waivers/Variances

1. Any property owner whose land is located within a transportation corridor may obtain a waiver of the minimum lot size buffers, yards, or setback required by the underlying zoning district, provided that such waiver does not exceed ten (10) percent of the minimum lot size or setback requirement. Such waiver may be approved by the County Administrator or designee utilizing the administrative variance procedures set forth in this Code, Sections 407.3.
2. Where the provisions of this section cause a hardship, a property owner shall be entitled to apply for a variance in accordance with the provisions of this Code, Section 901.2.K.3.
3. In addition to the relief allowed pursuant to Sections 901.2.I, the DRC shall have the authority to hear and decide variances from the strict requirements of Section 901.2. The DRC shall grant a variance from the terms or requirements of this Code, Section 901.2, when the DRC finds, based on the application submitted, and the substantial competent evidence presented at the public hearing, that the variance requested is the minimum necessary to alleviate or address one or more of the following:
 - a. The strict application of the land development regulation creates an unreasonable or unfair noneconomic hardship, or an inordinate burden, that was not created by the variance applicant;
 - b. The specific application of the land development regulation conflicts with an important Goal, Objective, or Policy of the Comprehensive Plan, or with the intent and purpose of another recently adopted land development regulation, that serves a greater public purpose;
 - c. The granting of the variance will provide a net economic benefit to the taxpayers of Pasco County, and is not in conflict with important Goals, Objectives, and Policies of the Comprehensive Plan;
 - d. The granting of the variance is necessary to achieve an innovative site or building design that furthers the goals, objectives and policies of the Comprehensive Plan;

- e. The intent and purpose of the land development regulation, and related land development regulations and Comprehensive Plan provisions, is met or exceeded through an improved or alternate technology or design;
 - f. The granting of the variance is necessary to protect the public health, safety or welfare; or
 - g. The variance is necessary to comply with State or Federal law.
4. If the DRC determines that there is a lack of substantial competent evidence demonstrating compliance with at least one (1) of the foregoing criteria, the DRC shall deny the variance request.
 5. The application for variance shall include all written justification, conceptual plans, site plans, citations to applicable authority, and other evidence that is necessary for the DRC to determine compliance with the foregoing criteria. The DRC shall disregard conclusory statements relating to the foregoing criteria that are unsupported by justification or evidence for the conclusion, and such statements shall not be considered substantial competent evidence to support the granting or denial of a variance. References to the Comprehensive Plan, land development regulations or other legal authority shall include citations to the specific provision(s) or authority supporting the conclusion. Evidence supporting a variance from technical provisions of the land development regulations shall be based on generally accepted professional standards and practices.
 6. The DRC shall consider the request for variance at a meeting after giving appropriate notice to the applicant and abutting property owners.
 7. The procedure requirements of Section 407.2 shall be applicable to applications for variances under this section.
 8. Except where the Land Development Code provides otherwise, where a variance is necessary for approval of a preliminary site plan or preliminary plan, the variance request shall be approved prior to or simultaneously with approval of the preliminary site plan or preliminary plan approval, or an amendment thereto.
 9. In granting any variance, the DRC may prescribe appropriate conditions and safeguards in conformity with this Code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code.