

## ARTICLE 11. APPEALS, WAIVERS AND MODIFICATIONS

- 100 **Appeals General.** The subdivider of a proposed subdivision may appeal decisions made in the enforcement of these regulations by the Subdivision Administrator to the Planning Commission and by the Planning Commission to the Governing Body. In the event the Governing Body sustains the Planning Commission, the action of the Planning Commission shall be final except as otherwise provided by law. If the Governing Body overrules the Planning Commission, the Governing Body shall make its decision, in writing or in the minutes of the meeting, stating the reason therefore and return such decision and plat to the Planning Commission for consideration of reapproval.
- 101 **Appeals on Improvement Standards.** Any appeal as to approval of standards or plans and engineering drawings in connection with required improvements shall be directed to the applicable Governing Body and that action shall be final.
- 102 **Waiver of Required Improvements or Guarantees for Installation of Same.** Any waiver of the required improvements or guarantees for their installation may be made only by the applicable Governing Body on a showing that such improvements are not technically feasible or necessary.
- 103 **Modifications.** In cases in which there is unwarranted hardship in carrying out the literal provisions of these regulations as to design standards, the Planning Commission may grant a modification from such provision according to the following guidelines: (See Article 6, Design Standards.)
- A. A request for a modification shall be made to the Subdivision Administrator who shall transmit it to the Planning Commission. The Planning Commission shall give the subdivider and any other interested person an opportunity to be heard with respect to the requested modification.
  - B. The Planning Commission shall not grant a modification unless it shall find that (1) the strict application of these regulations will create an unwarranted hardship; (2) modification is in harmony with the general spirit and intended purpose of these regulations; (3) the rights of adjacent property owners will not adversely be affected; and (4) the public safety, health and general welfare will be protected.
  - C. When used in this Section, the term "unwarranted hardship" shall mean the effective deprivation of use as distinguished from a mere inconvenience.
  - D. Modifications permitted under the provisions of this Article shall not include modifications from the requirements of improvement standards, required improvements or guaranteeing their installation unless approved by the applicable Governing Body as provided for in Sections 11-101 and 102. Furthermore, variances may not be granted from the provisions of applicable zoning regulations by these modification procedures.