

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of LDC Chapter 10.2.4 to reduce the perimeter buffer requirement

1. The waiver will not adversely affect adjacent property owners because the applicant is rezoning the property in an area that is already commercial to the north. The adjacent north property is an existing office building complex, zoned OR-1. The applicant is proposing to provide a perimeter landscape buffer, however reduced, but still providing the full amount of landscaping in the buffer, thus making a more-dense buffer. More importantly, this waiver will not allow buildings to encroach on the buffer at all. It is simply to allow parking and a drive lane around the site, which are easily shielded by the landscaping. Further, the since this site is on the property between Bardstown Road and Old Bardstown Road, while the southern property is currently residential, in all likelihood, it will also become commercial property in the future. Consequently, the impact will be minimal.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Comp Plan 2040 filed with the rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant as no other variation of the regulation could be implemented with any considerable effectiveness on the Property. Any type of buffer, with any variable width, only serves as a constriction on the surface area of the property from three sides, shrinking the active surface area resulting from a request to lower the intensity of the allowed uses when it is not necessary. The property is bound by commercial property to the north, roads on the east and west which do not have any buffering requirement under this regulation, and land which is likely to become commercial to the south in the future. Also, other mitigation measures are implicit in the overall designed plan.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would be unable to develop this site in a way that works for the proposed use needed in this area of the City to support the increase in multi-family and commercial development already taking place, and in the future. A 15-foot buffer would eliminate valuable surface area of the subject lot to provide a buffer traditionally required of the neighboring more intense use.

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Waiver of Section 5.5.2.B.1.a to omit the vehicular and pedestrian circulation between abutting non-residential uses.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the proposed storage use and site layout, and the different adjacent uses, make this requirement inappropriate. The office condominium development to the north more importantly does not have any potential vehicular or pedestrian connections for this development to connect to. Attempting to provide a such connections to the property to the north is not only not possible, but attempting to do so would not even be practical. At best, this applicant could provide access to the boundary line, with pedestrians then required to travers grass, coming from the back of their buildings. Sicne there is nothing to connect with, providing a vehicular and/or pedestrian connection would serve no purpose. This regulation does not apply to the undeveloped southern property which is residential, but even if connections were provided, they would not be welcomed.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of Plan 2040 filed with the rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because any connection would be problematic to the very different office use to the north, and also because it would create security issues for the storage facility. Therefore, a complete waiver request is the minimum that is practical.
4. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant given that the connection would not serve the purpose intended by the regulation and are undesired by the adjoining property owners.