

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 primarily commercial. The adjacent property to the north 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. The applicant is also proposing a chain link fence around the property to help shield adjoining property owners from this use. Additionally, the encroachment into the buffer is not a building, but simply parking and/or drive lanes which will be easily shielded by the landscaping.
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, 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. 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.