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Waiver Justification of Section 5.9.2.D.1

Section 5.9.2.D.1 of Land Development Code (“LDC”) (hereinafter “regulation”): *Additional Standards for Downtown Form District, Truck Access – Truck access and/or service delivery shall be limited to:*

- *On-street delivery/pick-up*
- *Alley access*
- *Delivery contained within the structure(s)*

The applicant’s Detailed District Development Plan (“DDDP”) features a loading zone within the site at 418 East Main Street (the “Property”), meaning on-site delivery/pick-up, as well as access from a major arterial, East Main Street.

Explanation of Waiver:

1. Will the waiver adversely affect adjacent property owners?

The waiver of the regulation to permit the DDDP’s proposed layout and operations for the loading zone, including its access from a major arterial, will not affect any adjacent property owners. Instead, this waiver will benefit adjacent property owners, as it will prevent any potential traffic problems which could otherwise occur. The waiver will also improve overall safety in the area by allowing for delivery operations to occur in a more secure setting within the site itself. By allowing for these operations to occur within the site itself from an access point off East Main Street, the adjacent property owners will not face any added congestion or traffic problems which the applicant’s semi-trucks could otherwise create along this road. For this same reasoning, any smaller, surrounding alley or street will be spared from this as well, which again eases the flow of travel to and from these adjacent properties and prevents traffic problems.

Furthermore, given the rectangular shape and spatial orientation of the Property in Downtown Louisville, the only feasible placement for the loading zone within the DDDP is its proposed current location with an access point along East Main Street. The other alley and street surrounding the site are too small and difficult to navigate repeatedly with the wider turn radii of the applicant’s semi-trucks. Therefore, the adjacent property owners will also benefit from the reduced use of these roads.

2. Will the waiver violate the Comprehensive Plan?

The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Statement of Compliance with all Applicable Goals, Objectives, and Policies of the Plan 2040 Comprehensive Plan (“Compliance Statement”), filed in this rezoning case and as shown on the DDDP. This Compliance Statement is herein reincorporated as if restated in full.

3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant as the proposal still achieves the overall intent of the regulation, while implementing only minor adjustments that account for the special characteristics of the site. As stated, any alley surrounding the site for access is insufficient for use for most delivery operations, as it lacks the appropriate width necessary for repeated semi-truck navigation. On-street delivery/pick-up along East Main Street poses too many safety risks by congesting the well-traveled major arterial. Safety of the applicant's employees and the site itself are improved by holding delivery operations within the site itself.

4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or create an unnecessary hardship by reducing both the practical use of the Property, and safety of the applicant and those surrounding the Property. For the aforementioned reasons, the proposed loading zone within the site and its proposed access along East Main Street best balance these interests.