

WAIVER FROM LAND DEVELOPMENT CODE SECTION 10.2.4
ALLOWING 35-FOOT PROPERTY PERIMETER LANDSCAPE
BUFFER AREA TO BE OCCUPIED BY EXISTING LG&E AND MSD
UTILITY EASEMENTS AND TO ALLOW REQUIRED PLANTINGS TO
BE INSTALLED IN DIFFERENT AREA ON SITE

AL CAT, LLC
SELF-STORAGE FACILITY

CASE No. 22ZONE0096:
5700 JANIES WAY & TAX BLOCK 0634, LOT 0242, LOUISVILLE, KY 40228

The applicant, AL CAT, LLC, is requesting a change in zoning to C-M, Commercial Manufacturing on property with an address of 5700 Janies Way & Tax Block 0634, Lot 0242, Louisville, KY 40228 and located within the Suburban Workplace Form ("the Property") to develop an approximately 2.54-acre site into a brand new self-storage facility that will provide climate-controlled indoor storage units for customers to securely keep personal items to access whenever the customer needs, as more specifically shown on the Detailed District Development Plan (the "Plan") for the site drafted by Land Design & Development and submitted to Louisville Metro Planning and Design Services (the "Proposal"). In conjunction with the zone change and approval of the Plan, the applicant is requesting waivers from the Land Development Code ("LDC") to 1) permit the required 35-foot landscape buffer area ("LBA") along portions of western and southern property lines to be situated wholly within utility easements; and 2) to allow the plantings required to be installed within these portions of the LBA to be planted in another location outside of this defined 35-foot LBA on the Property because the plantings, once installed, will meet the spirit of the LDC provision by screening the proposed self-storage building to the multi-family residential buildings located on the property adjacent to the west of the Property (the "Waiver"). In short, the applicant is essentially requesting to relocate the 35-property-perimeter LBA on the Property, but on the inside of the existing detention basin, between the perimeter property line and the proposed storage buildings on the Property. The required plantings would be installed within a 25-foot wide area rather than a 35-foot wide area. For the reasons stated herein, the requested Waiver complies with the Plan 2040, A Comprehensive Plan for Louisville Metro ("Plan 2040") and the criteria for granting waivers and, therefore, should be approved.

The requested Waiver will not adversely affect adjacent property owners because the building improvements proposed for the Property will still be screened by plantings installed within a 25-foot LBA that will be established on the western side of said building improvements, thereby screening the building improvements from the residentially-zoned property located to the west of the Property and meeting the intent behind the LDC's LBA requirement. The reason the applicant is requesting a different location for placement of the

required LBA on the Property is because the area along the perimeter where the LBA is required to go is occupied by an existing detention basin, but also by an overhead LG&E electrical easement and an MSD easement, all of which could threaten the continued existence and maintenance of the plantings within the required LBA. Moreover, today, trees and plantings do exist along affected shared property line, which currently provide screening of the grass detention basin and portions of the Property beyond the basin.

The Waiver complies with the Comprehensive Plan for all of the reasons set forth in the applicant's compliance statement submitted with its proposed zoning application, including that the Proposal for the Property will be landscaped with plantings and canopy trees and that an LBA between the proposed building improvements and the neighboring residential property will be established and maintained, just closer to the proposed buildings than to the Property's perimeter. Plan 2040 encourages screening and buffering in transition areas, between form districts and use districts that might allow disparate intensities of development and uses. Here, the screening and buffering will be provided between the proposed CM, Commercial Manufacturing use district for the Property and the established apartment community on the neighboring property to the west, which is within a Neighborhood Form District.

The Waiver is the minimum necessary to afford relief to the applicant because the intent of applicable LDC Section is to provide a compatible relationship, namely via screening and buffering, between industrial uses in the Suburban Workplace Form District and the adjacent residential uses operating within the Suburban Neighborhood Form. Also, the extent of Waiver is the minimum necessary to afford relief to the applicant because the existing LG&E and MSD easements were in their respective places prior to the contemplation of the Proposal. Therefore, there was no way in which the applicant could have avoided the Waiver, given the affected property lines were established and, correspondingly, the associated LBA requirements along said property lines would be triggered anyway, per LDC requirements. Additionally, the detention basin was previously constructed in an area of the Property, which makes it difficult to impossible for the applicant to plant trees and vegetation to screen the Property from the neighboring residential property to the west and south because the banks of the detention basin are located so near the Property line to allow for proper planting of the screening materials. Planting these required plantings on the other side of the detention basin, but between the proposed building improvements and the residentially zoned property provides a reasonable and acceptable mitigation plan to address said Waiver, and, therefore, the Waiver is the minimum necessary to afford relief to the applicant for the applicant to develop the Proposal on the Property.

The strict application of zoning regulation requirements would deprive the applicant of a reasonable use of the land and create an unnecessary hardship on the applicant because to comply with this particular LDC Chapter 10 regulation, the applicant would need to retrofit the size of the existing detention basin, which serves a number of nearby properties, to lessen its volume so that the required LBA plantings could be established along portions of the western and southern property lines, along said property lines of which already contain trees and plantings to provide screening between the properties. Regardless of whether the applicant has additional space to install tree and vegetative plantings along

these specific portions of the western and southern perimeter property lines (assuming the detention basin was reduced in size) the Waiver will be triggered due to the fact the LG&E and MSD easements were already established in those same locations. As a result, the strict application of the LDC provisions would have the applicant spend significant resources to downsize or relocate an existing detention basin only so that it could install the required plantings on ground being occupied by utility easements or to put enough contiguous ground together to establish an LBA where utility easements do not traverse the area of the LBA, which, itself, might be impossible on the Property. Consequently, if the applicant was to plant within the area where the required LBA is to be located on the Property, per the LDC, then said plantings would be subject to removal by said utility so said utility can access the infrastructure improvements for work and/or maintenance on the same. This would create an unnecessary hardship on the applicant, especially considering there are other areas on the Property to establish an LBA without sacrificing effectiveness of the LBA or providing obstacles for the utilities to reach their infrastructure. Indeed, the applicant can establish a 25' LBA closer to the proposed building improvements, thereby establishing a screen as the LDC intended, between the buildings of the CM-zoned property and the property line of the residentially-zoned property.