

## LDC WAIVER JUSTIFICATION STATEMENT

**SUSAN A. COX**

### **LDC Section 10.2.4.B – To Allow Utility Easements to Overlap LBAs 7717 and 7721 St. Andrews Church Road**

The applicant, Susan A. Cox, has submitted a zoning application, under Case No. 22-ZONE-0111, seeking CN zoning for property located at 7717 and 7721 Saint Andrews Church Road (together, the “Property”) to allow on the Property construction of a new 10,100 square foot convenience retail building on vacant property located at the southeast corner of St. Andrews Church Road, a minor arterial roadway, and Cardinal Oaks Drive, a local roadway (the “Proposal”). The Property is 1.988 acres in area and located in the Neighborhood Form District. To the immediate east of the Property is CN-zoned property and a larger property, zoned R-4, Single-Family, where Doss High School and Trunnell Elementary School are located. Adjacent to the south is property zoned R-6, multi-family residential, where Cardinal Oaks Condominiums are located. To the west, across Cardinal Oaks Drive, is additional R-6-zoned property; an apartment development is proposed for this property. To the north of the Property, directly across St. Andrews Church Road, are R-4, Single-Family properties.

Because of the existence of various utility easements burdening the property today, the applicant must seek a waiver from the Land Development Code (LDC) to allow some of these easements currently in place to occupy Landscape Buffer Areas (LBA) required along the northern and southern/southeastern property lines, as part of the Proposal’s site design. More specifically, a 10’ wide South Central Bell Telephone easement (DB 4592, PG 598) traverses east-west the northern frontage of the Property, along its St. Andrews Church Road right-of-way and within the area where a 10’ LBA is required. Similarly, along its south and southeast boundary line, 15’ sewer and drainage easements benefiting the Municipal Sewer District ((1) DB 7432, PG 861; (2) 7423, 855; (3) 7475, 373) occupy area the LDC requires for a 25’ LBA. For the justifications stated herein, the requested waiver complies with the criteria for granting waivers and, therefore, should be approved.

The requested waiver to allow existing telephone and sewer and drainage easements to overlap a 10’ LBA and a 25’ LBA by more than 50% will not adversely affect adjacent property owners because the location of these easements are existing conditions that occurred prior to the applicant’s development review applications and, if said applications are approved, its subsequent acquisition of the Property. Furthermore, the waiver will not negatively affect adjacent property owners as a fence will be erected to screen the Proposal and planting material and street trees will be provided on the Property to further buffer the Property from its neighboring properties. The building design locates one main entrance to the building along the St. Andrews Church Road façade; the windows associated with the customer entrance will

The requested waiver will not adversely affect adjacent property owners because the building will contain windows and doors at street level and the windows that do not offer clear views into the building will not be detectable from the windows that do allow views into the building unless one is up against the windows themselves. Therefore, the proposed building, when viewed from the outside, will have animating architectural features typical of a retail building fronting a commercial corridor and, importantly, compatible with the surrounding uses of the area.

The requested waiver will not violate Plan 2040 A Comprehensive Plan for Louisville Metro because Plan 2040's Goal 1, Policy 3.1.3 advises that the Neighborhood Form may contain at appropriate locations, neighborhood centers with a mixture of uses such as offices, retail, shops, restaurants and service. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit. Goal 1, Policy 4 encourages new development and redevelopment be compatible with the scale and site design of nearby existing development and with the desired pattern of development within the [Neighborhood] Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. The Proposal will provide for appropriate screening and plantings between properties, with added attention via a fence and plantings paid to the southern property line shared with Cardinal Oaks. The DG Store is within the acceptable scale metrics, as set forth by the Neighborhood Form District, and is comparable to other commercial buildings located in the vicinity on St. Andrews Church Road. And although a fence and planting will be installed along the rear property line, the proposed DG Store will be accessible to residential uses to the south via pedestrian connection, bicycle and automobile. For the foregoing reasons, the proposed building window design waiver complies with Plan 2040.

The requested waiver is the minimum necessary to afford relief to the applicant because the applicant is facing an existing condition and in order to develop the Property, any applicant will face the same condition. Here, the applicant will be able to provide screening and plantings to serve the intent of the applicable LBA regulations, albeit with an overlap of said existing utility easements. The applicant understands that any plantings lost due to a utility gaining access to its utility infrastructure within the overlapping easement will need to replant said material on the Property. Consequently, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because it would not allow the applicant to provide landscaping across the rear of the property to improve aesthetics of the developed property and mitigate any adverse impacts on the residential properties to the south and north, across St. Andrews Church Road, and would limit the applicant's ability to bring the Proposal into closer compliance with current LDC requirements.