

JUSTIFICATION

To justify approval of any waiver, the Board or Commission considers the following criteria.

Please answer **ALL** of the following items. Use additional sheets if needed. Responses of **Yes, No, or N/A** will **NOT** be accepted.

1. Will the waiver adversely affect adjacent property owners?

Waivers will not adversely affect property owners to the East or North. Natural buffer already exists between North property owner by landscape and existing utility easement. Request of waiver to allow for 5 foot buffer on East side is due to existing property line, close proximity of the homes, and existing drive.

2. Will the waiver violate the Comprehensive Plan?

No; the property still promotes connection (on bus line, and multi modal transport due to highway accessibility); health is achieved through existing trees on and around property; authenticity by keeping the home in original brick and style of neighborhood to blend in; sustainability without expansion of buildings or other resource uses; and equitable by providing access to a wide range of citizens.

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

Yes- if granted it would provide minimum necessity as perimeter would be impossible to change on the East side but all other regulations would be accommodated and planned for.

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?

B- if waiver is not granted then the property would not be usable for the intended purposes. Requiring a 35' buffer on East side would be not only impossible but also would cut into parking spaces provided, wheelchair ramp/accessibility and spaces for bikes. It would also be an economic hardship as the space is intended to be used by two mental health therapists could not generate the revenue to change existing property perimeters and buffers. The land/property would not be able to be used in accordance with the regulations, thus having to be maintained as residential property only, on the corner of a busy highway.

Waiver Justification

To justify approval of any waiver, the Planning Commission considers the four criteria. Please answer **all** the following items. Use additional sheets if needed. Responses of **yes, no, or N/A** will **not** be accepted.

1. Will the waiver adversely affect adjacent property owners?

No. The requested waiver (reducing commitment from 11 to 5 type C trees on Preston Hwy frontage) will not adversely affect adjacent property owners because the proposal still includes substantial landscaping and buffering throughout the site. The reduced number of trees will not create additional noise, traffic, lighting, or visual impacts to neighboring properties. The applicant is maintaining appropriate screening and site improvements while preserving safe circulation and functional parking for visitors and staff.

2. Will the waiver violate the Comprehensive Plan?

No. The requested waiver remains consistent with the intent of the Comprehensive Plan because landscaping improvements are still being incorporated throughout the property and along Preston Highway where feasible. The proposal enhances the appearance of the corridor compared to the site's current condition and contributes additional greenery to an area with limited existing landscaping. The applicant is continuing to provide trees, shrubs, and screening elements while balancing the physical limitations of the site. The waiver only reduces the quantity of required trees and does not undermine the overall goals of beautification, compatibility, and responsible site design within the corridor.

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

Yes. The requested waiver represents the minimum relief necessary due to the physical limitations of the site, including existing parking layout, circulation needs, setbacks, utility constraints, and limited available planting area. The applicant is still proposing to install five trees along Preston Highway and throughout the property where feasible, while maintaining safe vehicle access, visibility, and functional parking for the use. Requiring the full eleven trees would create overcrowding within the limited landscape areas and interfere with the practical operation of the site. In addition, adding additional large trees within the constrained space along Preston Highway could contribute to future sidewalk upheaval and uneven pavement conditions caused by root systems, potentially creating pedestrian safety hazards and maintenance concerns. The proposed number of trees balances the intent of the landscaping requirements with the practical and safe use of the property.

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?

Yes. The applicant has incorporated landscaping and buffering measures where possible, including proposed trees, shrubs, and/or screening along Preston Highway and surrounding portions of the property. The proposal improves the appearance of the site compared to its current condition and provides a net visual benefit to the corridor.

Health Care Provider Office Conditional Use Permit Plan

Site Address: 1203 Larue Avenue, Louisville, KY 40213

Parcel ID: 084E00540000

Property Owner: The Bettys, LLC (2724 Lamont Rd, Louisville, KY 40205)

Source of Title: Deed Book 13269, Pg. 314

Site Data

Site Area: 0.4713 acres (20,529.8 sq. ft)

Zoning / Form District: R-5 / Neighborhood

Existing Use: Single-Family Residential

Proposed Use: Health Care Provider Office (Licensed Mental Health Practitioner)

Existing Principal Building Footprint: 1,671 sq. ft.

Parking Calculations

Min. Requirement: 1 space/400 sq. ft. GFA = 4 spaces

Max. Requirement: 1 space/150 sq. ft. GFA = 11 spaces

Off-Street Parking Provided: 5 spaces

Bicycle Parking Required: 3 spaces

Bicycle Parking Provided: 3 spaces

Landscape Calculations

Tree Canopy: Not Required per LDC 10.1.2.B.3

Landscape Design:

35' Property Perimeter LBA at northern property line (R-5 to CUP/C-1) w/ 8' screen

5' Property Perimeter LBA at eastern property line (R-5 to CUP/C-1) w/ 8' screen*

5' VUA LBA at edge of drive lane pavement fronting on Preston Hwy

ILA not required for VUAs < 10 parking spaces per LDC 10.2.12

***Waivers Requested**

Waiver to eliminate LBA and screening on eastern property line due to existing easement as parking appears to encroach. Would be difficult to maintain screen due to easement.

Due to hours of operation- headlights shining into property is a non issue.

Fencing/Screening

1. All fences in the 15' front yard and street side yard setback shall be limited to 48" in height per LDC 4.4.3.A.1.a.i.
2. The parking area perimeter shall be screened by 5' evergreen shrubs or a 5' wall constructed of brick, stone, or wood per LDC 4.2.20.B.

Notes

1. Concrete wheel stops or curbing at least six (6) inches high and six (6) inches wide shall be provided to prevent vehicles from overhanging abutting sidewalks, properties or public rights-of-way, to protect landscaped areas and to protect adjacent properties. Such wheel stops or curbing shall be located at least three (3) feet from any adjacent wall, fence, property line, woody vegetation, walkway or structure (LDC 9.1.12.C).
2. Street trees are required for all land uses along all public rights of way (excluding alleys). Street trees shall be selected and placed with the approval of Planning staff with consultation of Director of Works or designee (LDC 10.2.8).
3. Refuse disposal containers shall be screened in accordance with LDC 4.4.9, 5.5.5, and 10.2.6.