

Bluegrass Lawn & Garden, Inc.

6502 Blevins Gap Road

Case No. 18ZONE1015

Statement of Compliance

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The subject property is a vacant lot situated on Blevins Gap Road near the crossing of the CSX railroad tracks between Dixie Highway and East Orell Road. Currently, the property is zoned R-4. The applicant proposes to rezone to CM to build a warehouse for overflow storage for his lawn and garden business, Bluegrass Lawn & Garden, which is located on the same block along Dixie Highway. The proposed zoning is the least intense commercial zoning possible for the proposed use, and is consistent with the other commercial uses on the block, including applicant's business.

#### Guideline 1-Community Form

The proposal complies with the intent of Guideline 1. Although the property is within a Neighborhood form district, this form district is misapplied to the property as it is surrounded by other light commercial uses along Dixie Highway and Blevins Gap Road, including applicant's lawn and garden business, two auto repair shops, and a VFW Post. The proposed warehouse is compatible with the scale and function of these surrounding commercial uses. The majority of the nearby residential uses are separated from the property by the railroad tracks to the east.

#### Guideline 2-Centers

The proposal complies with the intent and applicable policies of Guideline 2. The subject property fronts a collector road that feeds the arterial commercial corridor along Dixie Highway one block to the west. The proximity of Dixie Highway provides minimally intrusive access for delivery vehicles accessing the property.

#### Guideline 3-Compatibility

The proposal complies with the intent and applicable policies of Guideline 3. The property is located on a block with light commercial uses along Dixie Highway and Blevins Gap Road, including applicant's lawn and garden business, two auto repair shops, and a VFW post. The property will have landscape buffering and a security gate along the north side of the property that fronts the residential uses across Blevins Gap Road. The railroad separates the property from the residential uses that predominate to the east. Due to the small size and configuration of the property, the only viable access point to the property is along Blevins Gap Road, which connects to the nearby arterial Dixie Highway to the west within 1,000 feet. The size and configuration of the property also requires parking and loading at the front of the property. Delivery vehicles would be unable to maneuver around the proposed warehouse within the bounds of the property to reach a rear parking and loading location.

#### Guidelines 4-Open Space and 5-Open Space and Scenic and Historic Resources

The proposal complies with the intents of Guidelines 4 and 5. Open space is not required, and the proposal includes tree planting along the western and southern property line.

18 Zone 1015

**Guidelines 7-Circulation, 8-Transportation Facility, and 9-Bicycle, Pedestrian and Transit**

The proposal complies with the intent of Guidelines 7, 8, and 9. The property is linked to Dixie Highway within 1,000 feet to the west, which will be the primary route of access for delivery vehicles accessing the property. The property's proposed use as a warehouse requires minimal parking, and three compliant parking spaces are provided. Because there are no connecting sidewalks along Blevins Gap Road, the applicant proposes to pay a fee in lieu of providing sidewalks that would not provide any benefit to the area.

**Guidelines 10-Flooding and Stormwater and 11-Water Quality**

The proposal complies with the intents of both Guidelines 10 and 11. A detention basin is proposed on the west side of the property to meet MSD requirements. The proposal will comply with all other MSD regulations.

**Guideline 13-Landscape Character**

The proposal complies with the intent of Guideline 13. The subject property will be include appropriate landscape buffering in light of the surrounding land uses.

**Guideline 14-Infrastructure**

The proposal complies with the intent of Guideline 14. The subject property has existing access to utilities and water. Louisville Water Company and fire authorities have not indicated any issues with the proposal.

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**18ZONE1015**

**WAIVER JUSTIFICATION**

The proposed waivers will not adversely affect adjacent property owners because the only neighboring property to the south and west is a VFW Post, which is set back more than 100 feet from the subject property. The applicant proposes to retain existing trees along the southern and western property lines that will adequately buffer the rear of the proposed building on the subject property.

The proposed waivers will not violate the Comprehensive Plan. The proposed use as a warehouse is consistent with the other light commercial uses along Dixie Highway and Blevins Gap Road, including applicant's lawn and garden business, two auto repair shops, and the VFW Post. As set forth above, the proposal retains an adequate landscape buffer along the southern and western property lines. The existing MSD drainage easement that impacts the property will provide buffering in these areas.

The extent of the proposed waivers of the regulations is the minimum necessary to afford relief to the applicant. The waivers are necessary to allow the applicant to construct an 18,000 square foot warehouse with adequate parking and maneuvering space for delivery vehicles accessing the property, and to comply with MSD requirements for a 7,040 cubic foot detention basin on the property. Due to the small size and configuration of the property, parking and loading areas must be located at the front of the property. Delivery vehicles would be unable to maneuver around the proposed warehouse within the bounds of the property to reach a rear parking and loading location. Thus, the proposed warehouse must be constructed near the southern property line while still leaving adequate space for parking and loading at the front of the property. These restrictions require the proposed waivers for the landscape buffer areas.

The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant. Given the small size and configuration of the subject property, strict application of the landscape buffering regulations would severely limit the size and accessibility of the warehouse applicant proposes to build on the property. The proposed waivers will permit the applicant to construct an 18,000 square foot warehouse while retaining existing trees along the southern and western property lines that will adequately buffer the subject property.

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18 Zone 1015

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The proposed waiver from the requirement to provide display windows or windows affording views into the business will not adversely affect adjacent property owners. Windows are not suitable for the face of the proposed building facing Blevins Gap Road as the building will be used as a storage warehouse. Windows are not conducive to the security of the building and, by providing a view into a storage warehouse, would only serve to diminish the aesthetic impact of the proposed building to adjacent property owners.

The proposed waiver will not violate the Comprehensive Plan. The proposed waiver will permit the applicant to construct a warehouse that is consistent with the other light commercial uses along Dixie Highway and Blevins Gap Road, including applicant's lawn and garden business, two auto repair shops, and the VFW Post. As set forth above, the proposed waiver will improve the building's security and reduce the aesthetic impact of the building.

The extent of the proposed waiver of the regulation is the minimum necessary to afford relief to the applicant. The proposed waiver will permit the applicant to construct a secure storage warehouse with as little aesthetic impact as possible to the adjacent property owners.

The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant. The addition of display windows would require the property owner to internally screen the products he intends to store in the proposed warehouse from public view. The proposed waiver will permit the applicant to improve the security of the building and reduce its aesthetic impact by shielding his products from public view.

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18 ZONE 1015

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**VARIANCE JUSTIFICATION**

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The proposed variance, which will allow the proposed warehouse to encroach into the 30' setback along the southern property line, will not adversely affect the public health, safety or welfare. The adjacent property to the south is not a residential use; it is part of the parcel currently used as a VFW Post. The portion of the adjacent property immediately to the south of the subject property contains a MSD easement and communications tower. The applicant proposes to install a landscape buffer between the proposed warehouse and the western and southern property lines. Accordingly, the variance from the southern property line setback will not cause any adverse impact to the public or the adjacent property owner to the south.

The variance will not alter the essential character of the general vicinity as the proposed warehouse is consistent with the other light commercial uses along Dixie Highway and Blevins Gap Road, including applicant's lawn and garden business, two auto repair shops, and the VFW Post. As set forth above, the proposal retains an adequate landscape buffer along the western and southern property lines.

The variance will not cause a hazard or nuisance to the public. The variance will allow the applicant to locate the proposed warehouse further back from Blevins Gap Road, which will permit easier ingress and egress for vehicles accessing the property and improve public safety on Blevins Gap Road. The variance will not cause a hazard or nuisance to the property to the south as it is not a residential use and the applicant will install adequate landscape screening along the southern property line.

The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. Due to the depth limitations of the subject property, and the nature of the business and the storage requirements of the applicant, the loading area must be located in front of the proposed warehouse. The variance balances the need to accommodate a front loading area large enough to permit tractor trailers to ingress and egress from the property and the size limitations of the subject property.

The variance arises from special circumstances that do not generally apply to land in the vicinity of the project. The variance is the result of the need to locate the loading area at the front of the subject property and build a warehouse large enough to serve the applicant's needs. The shallow nature of the subject property requires a variance from the 30' setback along the southern property line.

The strict application of the regulations would create an unnecessary hardship because the size of the subject property limits the possible configurations of the property to accommodate a front loading area and a warehouse large enough to serve the applicant's needs. Strict application of the regulations would force the applicant to significantly reduce the size of front loading area or the size of the proposed warehouse. The variance will permit the applicant to

**18 ZONE 1015**

build loading area large enough to permit easy ingress and egress from tractor trailers while accommodating a warehouse large enough for the applicant's business needs.

The circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance but are, instead, the result of misapplication of the setback requirements to this property as the property to the south is not a residential use. The adjacent property to the south is part of the parcel currently used as a VFW Post, and the portion of the adjacent property immediately to the south of the subject property contains a MSD easement and communications tower. The variance will permit the applicant to build a warehouse large enough to accommodate his business needs with a front loading area large enough to accommodate tractor trailer access to the property.

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