

WAIVER JUSTIFICATION STATEMENT

Louisville Pickleball, LLC

- Pickle+ Social Louisville -

8100 Lyndon Park Lane

LDC Section 10.2.4.B – To Allow Utility Easements to Overlap LBAs

The applicant, Louisville Pickleball, LLC, has filed a zoning application seeking C-2 zoning for property located at 8100 Lyndon Park Lane (the "Property") to allow the applicant to develop the 3.88-acre Property into a mixed-use, "eatertainment" where pickleball facilities would operate alongside a restaurant, mini-distillery bourbon experience and a moderate amount of retail space to create a destination in the City of Lyndon where folks can meet with others and experience hospitality, food and drink, friendly pickleball competition, and spend time at an active, indoor/outdoor family atmosphere (the "Proposal"). With its zoning application, the applicant also submits for approval a detailed district development plan showing the site design of the Proposal on the Property (the "DDDP"). Because of the narrow rectangular shape of the lot, with the short end of the rectangle fronting Lyndon Lane and Robsion Park in the rear, together with the existence of an existing utility easement burdening the property today as well as additional drainage easements along the perimeter of the eastern and northern property lines being required by MSD, the applicant must seek a waiver from the Land Development Code (LDC) to allow the Proposal's site design relief from the applicable Landscape Buffer Area (LBAs) requirements surrounding the Property on the northern, eastern and southern property lines, respectively.

More specifically, a 15' wide sewer and drainage easement runs along the southern property line wherein a concrete ditch occupies the area, which happens to be where a 25' LBA is required; in discussions with MSD, MSD has requested the location of a similar easement, but along the northern property line and has also recently determined it will need an easement for through drainage along the eastern (rear) property. As measured from the Property's southern boundary line, the sewer and drainage easement would occupy the first 15' of the required LBA. Similarly, the applicant believes the dimension of the easement along the northern property line will also be 15'. The applicant is also requesting waiver relief from LDC Section 10.2.4.B to allow encroachment of a vehicular drive aisle and five (5) parking spaces ten feet (10') into the twenty-five (25') LBA along the southern property line and to not install tree plantings. For the justifications stated herein, the requested waiver complies with the criteria for granting waivers and, therefore, should be approved.

The requested waiver relief to allow existing and proposed utility easements to overlap a 25' LBA by more than 50% will not adversely affect adjacent

property owners because the location of these easements are either an existing condition that occurred long before the applicant's submittal of development review applications (southern property line) or a condition required by MSD (northern property line). Furthermore, the waiver on the southern property line will not negatively affect adjacent property owners as a fence will be erected to screen the Proposal. Along this southern property line, there are two commercial properties – 813 Lyndon Lane which is zoned C-1 and used as a commercial strip and 8101 Warwick Avenue, also zoned C-1 and recently used as a design firm. Behind 8101 Warwick Avenue and adjacent to the Property are two residential properties – 8103 Warwick Avenue, which is zoned R-5, Single-Family and owned by the same owners of 8101 Warwick Avenue, Rauscher Real Estate. This 8103 property is 100% paved and not utilized residentially. Ray Holderer owns the last lot neighboring the Property – 8109 Warwick Avenue – which is also zoned R-5, Single-Family and contains a residential house and accessory buildings, although no one currently resides on the property. The requested waiver relief will not adversely affect the only residential property – the Holderer property – because a privacy fence will be erected to screen the Proposal from the Holderer property and trees will be planted to help further buffer the Proposal from the Holderer property. The LBAs along the remaining perimeter of the Property are either adjacent to a commercial property or Robsion Park property, the latter of which is being used as a park and has solid tree plantings in existence to buffer the Proposal. Additionally, the northern property line has a robust tree line to screen and buffer what will likely be a parking area for Robsion Park visitors.

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, including the waiver request, will provide for appropriate screening and tree plantings between properties affected by the waiver request, with added attention via a fence and plantings paid to the southern property line shared with Ray Holderer, who owns the only property adjacent to the Property remotely being used as a residential property. The Pickle + Social Louisville facility 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 Lyndon Lane and certainly less in scale than nearby commercial strip centers and the indoor storage facility south of the Property and across Lyndon Lane. As mentioned, the northern property line is already well screened with existing trees and the property to the north is very likely to be developed into a parking area. The eastern property line is also screened with existing trees and the property to the east is Robsion Park, which will have a pedestrian connection into the Property for pedestrians to walk between properties. For the foregoing reasons, and for the justifications stated within the applicant's compliance statement submitted with its formal zoning application, the proposed site 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 with an easement in place on the southern property line and in order to develop the Property, MSD is requiring sewer and drainage easements on the north and east property lines – a condition of development any applicant will face when looking to repurpose the Property. What's more, any relocation or redesign of parking areas on the Property will not relieve the applicant of its need for waiver relief to allow the LBA and existing sewer and drainage easements to overlap. Here, the applicant will be able to provide screening and plantings to serve the intent of the applicable LBA regulations to protect residentially-used properties (Holderer property). Although located outside of the LBAs, plantings are already in place next to the LBA area being requested to not have plantings or the particular area is next to commercial property, therefore the intent of the regulation's planting requirements is being met. Consequently, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the easements burdening the Property are already in existence and cannot be relocated.