

REQUEST FOR VARIANCE
LAND DEVELOPMENT CODE §5.4.1.B.3.a
WILLOW GRANDE
1418 and 1426 Willow Avenue; also TB 77A Lot 58
Willow Grande, LLC, Applicant and Owner

Request. This is a request for a variance from Land Development Code (“LDC”) §5.4.1.B.3.a to permit the front setback to be 70 feet instead of being between 33 feet and 37 feet, which are the two nearest structures at 1430 Willow Avenue and 2023 Eastern Parkway.

Reason. In its approval, the Landmarks Commission mandated the increased setback of the building in order to be compatible with the setbacks of the nearest multi-family high rise buildings: the Dartmouth and the Willow Terrace, both of which also front on Willow Avenue and are adjacent to the subject site. The Willow Grande should maintain a closer building-placement-on-lot relationship to the Dartmouth and the Willow Terrace than to the single-family structure at 1430 Willow Avenue and the multi-family structure at 2023 Eastern Parkway.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

As the Landmarks Commission approval makes evident, the proposed building has a closer relationship with the adjacent high rise multi-family structures (i.e., the Dartmouth and the Willow Terrace) than it does with the single-family homes at 1430 Willow Avenue and 2023 Eastern Parkway. Additionally, access provided directly from Baringer Avenue instead of via the rear alley provides for safe access because the width of the entrance (22 feet) is greater than the width of the alley (15 feet). Alley access would create conflicts of movement, given the difficulty of 2-way traffic flow within the narrow alley. These conflicts would impact traffic on Baringer Avenue, which could be subject to traffic back-ups and it could cause a hazard for pedestrians on the abutting Baringer Avenue sidewalk. Therefore, the 70-foot front setback advances and does not adversely affect the public health, safety or welfare.

2. Explain how the variance will not alter the essential character of the general vicinity.

The variance will not alter the essential character of the general vicinity because the front setback is consistent with that of the Dartmouth and the Willow Terrace, both of which front on Willow Avenue and are located across Baringer Avenue from the subject site.

3. Explain how the variance will not cause a hazard or nuisance to the public.

The setback variance does not cause a hazard or nuisance to the public. In fact, the proposed access directly from Baringer Avenue will be 22 feet wide as compared to the alley, which is only 15 feet wide. Alley access would be problematic due to the difficulty of adequate 2-way vehicular movement within the alley which could lead to vehicular back-ups on Baringer Avenue affecting traffic and pedestrians walking on the Baringer Avenue sidewalk. The variance will avoid those situations, and thereby will not cause a hazard or nuisance to the public.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the setback was established by the Landmarks Commission to be consistent with that of the adjacent high rise buildings, the Dartmouth and the Willow Terrace. Therefore, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulation.

Additional consideration

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity. [Please specify/identify.]

The lot on which the Willow Grande is proposed is an irregularly-shaped lot and is a corner lot at the southwest corner of Willow Avenue and Baringer Avenue. This lot is larger and is shaped differently than typical single family lots in the vicinity. The only lots comparable to the subject site are the lots on which the Dartmouth and Willow Terrace are located. In addition, the Landmarks Commission mandated that the building be set back 70 feet, which is a unique approval for this lot. Therefore, the variance arises from special circumstances not applying to land in the general vicinity.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

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. The Landmarks Commission mandated that the building be set back 70 feet to be consistent with the setback of the Dartmouth and the Willow Terrace. Alley access is impractical and possibly unsafe due to its 15-foot width. The resultant rear yard is insufficient to provide a private area for residents or for temporary visitor parking.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

No. The circumstances are not the result of actions taken by the applicant. The circumstances are the result of the size and shape of the lot and the prior action of the Landmarks Commission, which mandated that the building be set back 70 feet.

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REQUEST FOR VARIANCE
LAND DEVELOPMENT CODE §5.4.1.B.3.a
WILLOW GRANDE
1418 and 1426 Willow Avenue; also TB 77A Lot 58
Willow Grande, LLC, Applicant and Owner

Request. This is a request for a variance from Land Development Code (“LDC”) §5.4.1.B.3.a to permit the encroachment of parking within the required front yard setback.

Reason. In its approval, the Landmarks Commission mandated the increased setback of the building in order to be compatible with the setbacks of the nearest multi-family high rise buildings: the Dartmouth and the Willow Terrace, both of which also front on Willow Avenue and are adjacent to the subject site. The Willow Grande should maintain a closer building-placement-on-lot relationship to the Dartmouth and the Willow Terrace than to the single family structure at 1430 Willow Avenue and the multi-family structure at 2023 Eastern Parkway. In addition, providing parking spaces via the alley is not desirable because of limited space in the private yard area and because alley access is not desirable due to the narrow width (15 feet wide) of the alley.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

As the Landmarks Commission approval makes evident, the proposed building has a closer relationship with the adjacent high rise multi-family structures (i.e., the Dartmouth and the Willow Terrace) than it does with the single-family homes at 1430 Willow Avenue and 2023 Eastern Parkway. Additionally, access provided directly from Baringer Avenue instead of via the rear alley provides for safe access because the width of the entrance (22 feet) is greater than the width of the alley (15 feet). Alley access would create conflicts of movement, given the difficulty of 2-way traffic flow within the narrow alley. These conflicts would impact traffic on Baringer Avenue, which could be subject to traffic back-ups and it could cause a hazard for pedestrians on the abutting Baringer Avenue sidewalk. The three (3) proposed parking spaces are to be decorative, colored concrete and they are for temporary visitor use, as opposed to long-term use. In addition, these parking spaces have been designed in a well-landscaped setting. Therefore, the variance will not adversely affect the public health, safety or welfare.

2. Explain how the variance will not alter the essential character of the general vicinity.

The variance will not alter the essential character of the general vicinity because 1400 Willow also has parking in the required yard in a promenade entry similar to what is proposed. Additionally, only three (3) temporary visitor parking spaces are proposed. Therefore, the variance will not alter the essential character of the general vicinity.

3. Explain how the variance will not cause a hazard or nuisance to the public.

The variance will not cause a hazard or nuisance to the public because only three (3) temporary visitor parking spaces are proposed, as opposed to parking spaces that would be frequently used. Because access to these parking spaces occurs via a safe, 22 foot wide entrance, the variance allowing parking in the required front yard will not cause a hazard or nuisance to the public

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because only three (3) temporary visitor parking spaces are proposed, which is a minimal number of spaces in a well-landscaped setting similar to front parking at 1400 Willow nearby.

Additional consideration

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity. [Please specify/identify.]

The lot on which the Willow Grande is proposed is an irregularly-shaped lot and is a corner lot at the southeast corner of Willow Avenue and Baringer Avenue. This lot is larger and is shaped differently than typical single family lots in the vicinity. The only lots comparable to the subject site are the lots on which the Dartmouth and Willow Terrace are located. In addition, the Landmarks Commission mandated that the building be set back 70 feet, which is a unique approval for this lot. In addition, the private yard area is insufficiently sized for the necessary temporary parking spaces. Therefore, the variance arises from special circumstances not applying to land in the general vicinity.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

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 because the applicant would be unable to provide for adequate temporary visitor parking since there is insufficient space in the private yard area for these parking spaces. The Landmarks Commission mandated that the building be set back 70 feet to be consistent with the setback of the Dartmouth and the Willow Terrace. Alley access to these parking spaces would be impractical and possibly unsafe due to its 15-foot width. The resultant rear yard is insufficient to provide a private area for residents or for temporary visitor parking.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

No. The circumstances are not the result of actions taken by the applicant. The circumstances are the result of the size and shape of the lot and the prior action of the Landmarks Commission, which mandated that the building be set back 70 feet.

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REQUEST FOR VARIANCE
LAND DEVELOPMENT CODE §5.4.1.C.6.a.i
WILLOW GRANDE
1418 and 1426 Willow Avenue; also TB 77A Lot 58
Willow Grande, LLC, Applicant and Owner

Request. This is a request for a variance from Land Development Code (“LDC”) §5.4.1.C.6.a.i to permit a building height of 201.67 feet instead of the required 37 feet; a 164.67 foot variance.

Reason. In its approval, the Landmarks Commission approved the building height of 201.67 feet. The Willow Grande has a closer design and architectural relationship with the Dartmouth, the Willow Terrace and 1400 Willow, all of which are located abutting one another on the west side of Willow Avenue, than to the single-family structure at 1430 Willow Avenue and the multi-family structure at 2023 Eastern Parkway.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

The height variance will not adversely affect the public health, safety or welfare because adequate air and sunlight will remain viable for all adjacent properties, and because views of the Cherokee Park view shed from adjacent residential properties will not be compromised as a result of the building’s increased height.

2. Explain how the variance will not alter the essential character of the general vicinity.

The variance will not alter the essential character of the general vicinity because the building height, at 201.67 feet, is generally consistent with the building heights of adjacent high rise multi-family buildings, all of which – like the Willow Grande -- have frontage on Willow Avenue and are located on the west side of Willow Avenue: the Dartmouth (130 feet tall), the Willow Terrace (95 feet tall), and 1400 Willow (217 feet tall).

3. Explain how the variance will not cause a hazard or nuisance to the public.

The height variance will not impact the viewshed to Cherokee Park from the vantage point of any adjacent residential uses. Vehicle trip generation rates from the proposed 24 residential units will not change from the existing rate, which is minimal. There will be no impacts to the public as a result of the variance, and therefore the variance will not cause a hazard or nuisance to the public.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the proposed Willow Grande building relates more appropriately the Dartmouth, the Willow Terrace and 1400 Willow than to other multi-family and single-family structures on Willow Avenue because all of these multi-family high rise buildings are situated on the south side of Willow Avenue, each property abuts the next, similar to the Willow Grande proposal. Therefore, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulation.

Additional consideration

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity. [Please specify/identify.]

The variance arises from special circumstances which generally do not apply to land in the general vicinity because the proposed height of the Willow Grande, at 201.67 feet, is generally consistent with the building heights of adjacent high rise multi-family buildings, all of which – like the Willow Grande -- have frontage on Willow Avenue and are located on the west side of Willow Avenue: the Dartmouth (130 feet tall), the Willow Terrace (95 feet tall), and 1400 Willow (217 feet tall). Other than these buildings, there are no other high rise residential buildings in the general vicinity. Because the proposed Willow Grande building bears greater architectural similarity to these other high rise multi-family buildings, the variance arises from special circumstances not generally applying to land in the general vicinity.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

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 because the applicant would be unable to construct a building, the height of which has been determined by the Louisville Landmarks Commission to be appropriate.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

No. The circumstances are not the result of actions taken by the applicant. The circumstances are the result the prior action of the Louisville Landmarks Commission, which approved the building height at 201.67 feet.

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REQUEST FOR VARIANCE
LAND DEVELOPMENT CODE §5.4.1.C.6.b
WILLOW GRANDE
1418 and 1426 Willow Avenue; also TB 77A Lot 58
Willow Grande, LLC, Applicant and Owner

Request. This is a request for a variance from Land Development Code (“LDC”) §5.4.1.C.6.b to permit a 15 foot street side yard instead of the required 25 foot street side yard; a 10 foot variance.

Reason. In order to preserve the historic single family house at 1426 Willow Avenue, which is a contributing structure to the Cherokee Triangle Historic Preservation District, the Willow Grande building is proposed to encroach into the Baringer Avenue street side yard by 10 feet. This is not a substantial encroachment considering that the closest adjacent residence on Baringer Avenue is reasonably distant so that it will be unaffected.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

The variance will not adversely affect the public health, safety or welfare because it does not obstruct access, or obstruct the public sidewalk, and there is adequate distance between the proposed Willow Grande building and the adjacent single family home fronting on Baringer Avenue nearest the Willow Grande because it is located across the rear alley.

2. Explain how the variance will not alter the essential character of the general vicinity.

The variance will not alter the essential character of the general vicinity because it does not obstruct access, or obstruct the public sidewalk, and there is adequate distance between the Willow Grande building and the adjacent single family home fronting on Baringer Avenue nearest the Willow Grande. That home and similar others will be unaffected by the reduced setback and the variance will not alter the essential character of the general vicinity.

3. Explain how the variance will not cause a hazard or nuisance to the public.

The variance will not cause a hazard or nuisance to the public because neither pedestrian movement nor vehicular movement will be adversely impacted, and the development will be more than minimally landscaped in a visually acceptable setting, thereby avoiding hazards or nuisances to the public.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the variance is only 10 feet of a 25 foot setback and the area will be substantially landscaped. Therefore, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

Additional consideration

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity. [Please specify/identify.]

The variance arises from special circumstances which generally do not apply to land in the general vicinity because the historic home at 1426 Willow Avenue is a contributing structure to the Cherokee Triangle Historic Protection District, and in order to save that house in situ it is necessary to move the Willow Grande building partially into the setback area.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

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 because the applicant would be unable to construct the Willow Grande building and save the historic home at 1426 Willow Avenue.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

No. The circumstances are not the result of actions taken by the applicant. The circumstances are the result the prior action of the Landmarks Commission, which approved the location of the building as shown on the development plan.

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REQUEST FOR VARIANCE
LAND DEVELOPMENT CODE §5.4.1.D.2
WILLOW GRANDE
1418 and 1426 Willow Avenue; also TB 77A Lot 58
Willow Grande, LLC, Applicant and Owner

Request. This is a request for a variance from Land Development Code (“LDC”) §5.4.1.D.2 to permit a 10% private yard instead of the required 30%; a 20% variance.

Reason. The Landmarks Commission approved the Willow Grande development provided the building was set back an enhanced distance from Willow Avenue which reduced the size of the private yard area. The private yard area will remain sufficiently sized for the needs of the residents in the proposed 24 residential units because it is protected by a 7-foot wall and landscaping.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

The variance will not adversely affect the public health, safety or welfare because the private yard area will only be accessible by the residents and their guests. In addition, the development has immediate proximity to Cherokee Park, a large urban park.

2. Explain how the variance will not alter the essential character of the general vicinity.

The variance will not alter the essential character of the general vicinity because the area will be substantially invisible off-site. The variance would permit the Willow Grande building to be set back to a depth consistent with the adjacent Dartmouth, Willow Grande and 1400 Willow high rise multi-family buildings. As such, the variance will not alter the essential character of the general vicinity.

3. Explain how the variance will not cause a hazard or nuisance to the public.

The variance will not cause a hazard or nuisance to the public because the proposed private yard area will provide for the needs of the residents and their guests, especially considering ease of access to Cherokee Park, which is within immediate proximity to

the subject site. Otherwise, the reduced size of the private yard area causes no concerns regarding hazards or nuisances.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The variance will not allow an unreasonable circumvention of the requirements of the zoning regulation because it only affects residents within the building, as opposed to the general public, and because Cherokee Park is immediately available as a resource.

Additional consideration

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity. [Please specify/identify.]

The variance arises from special circumstances which generally do not apply to land in the general vicinity because the Landmarks Commission mandated the increased front setback of the building to be consistent with nearby high rise multi-family buildings. This is a special circumstance applying only to the subject property.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

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 because the applicant would be unable to construct the Willow Grande building as approved by the Landmarks Commission.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

No. The circumstances are not the result of actions taken by the applicant. The circumstances are the result the prior action of the Landmarks Commission, which approved the location of the building as shown on the development plan.

**REQUEST FOR WAIVER
LAND DEVELOPMENT CODE §10.2.4
WILLOW GRANDE
1418 and 1426 Willow Avenue; also TB 77A Lot 58
Willow Grande, LLC, Applicant and Owner**

Purpose of request. This is a request to waive Land Development Code (“LDC”) §10.2.4 to permit the encroachment into the 15-foot Landscape Buffer Area of (i) an existing historic structure at 1426 Willow Avenue, and (ii) a pool/patio area in the private yard zone (area).

Reason. Provision of the 15-foot Landscape Buffer Area would require removal of the historic home at 1426 Willow Avenue, which has been deemed a contributing structure in the Cherokee Triangle Preservation District, and would otherwise necessitate moving the pool out of the buffer, thereby reducing the overall patio area.

1. Will the waiver adversely affect adjacent property owners?

No. The proposed encroachments into the 15-foot Landscape Buffer Area (“LBA”) will not affect adjacent property owners because the existing historic house at 1426 Willow Avenue encroaches and should remain as a contributing structure in the Cherokee Triangle Historic Preservation District, and because the pool/patio area will be surrounded by a seven (7’) – foot brick wall and landscaping. The planting material requirements of LDC Chapter 10 will be provided as required. The wall and plantings will provide an effective buffer for the “private yard zone (area)” of the property and will buffer off-site views into the private yard area.

2. Will the waiver conform to or violate the Comprehensive Plan?

The waiver conforms to the Comprehensive Plan for the reasons stated below¹:

Compatibility Guideline 3. The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 2, 9, 21 and 22, and Land Use Goals C3 (Land Use) and C4 (Site Design) and Objective C4.6 (Buffers and

¹ References to the Comprehensive Plan are categorized under each applicable Guideline of the Comprehensive Plan. Goals, Objectives, Guidelines and Policies of the Comprehensive Plan which are not addressed in this Justification Statement are not applicable to the waiver request.

Compatibility). The minimum planting and screening requirements will be provided as required by LDC Chapter 10, Part 2 and LDC §10.2.4. The encroaching historic building, a contributing historic structure located at 1426 Willow Avenue, is existing. Moreover, the pool/patio is an insignificant encroachment because the screening and planting requirements can be fully met generally along the rear and side property line, thereby providing an adequate buffer around this private yard zone (area). The wall and landscaping will minimize visibility into the area, thereby protecting abutting and adjacent neighbors from any visual nuisance.

Open Space Guideline 4. The waiver conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder, including Policies 1, 3, 4 and 5. The private yard area will be adequately buffered by the seven (7') – foot wall and landscaping along the perimeter of this area, and will provide adequate outdoor recreation opportunities to meet the needs of the residents of the building.

Landscape Character Guideline 13. The waiver conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 1 and 4 because all required planting materials otherwise required will be provided in the reduced setback area. All landscape materials required by the Land Development Code are identified landscape types and native plant species typically found in Jefferson County, and are appropriate for the urbanized Cherokee Triangle neighborhood.

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

Yes. All landscaping materials required by LDC Chapter 10, Part 2 and LDC §10.2.4 will be planted and maintained. Provision of the brick wall and the landscaping materials ensures that the extent of the waiver is the minimum necessary to afford relief to the applicant.

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 (b) would the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant?

The existing structure at 1426 Willow Avenue, a 2-1/2 story house constructed circa 1923, in the historic line of homes original to the historic, residential blockface, is a

contributing structure in the Cherokee Triangle National Register District and will be preserved. Because this structure adds to the historical integrity that makes the District significant, removing the historic structure to provide the buffer would deprive the applicant of the reasonable use of the land and would constitute an unnecessary hardship on the applicant.

Moreover, moving the pool/patio out of the 15-foot LBA would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant because the pool/patio is located in the private yard zone (area) in the rear corner of the site, thereby maximizing the remaining rear patio area for use by residents.

5. Does the proposed waiver conform to the intent of the Land Development Code?

Yes. The waiver conforms to the intent of the Land Development Code to promote the appearance and stability of residential properties, and to reduce or eliminate adverse visual impacts, to improve the appearance of property abutting public rights-of-way, to protect the character and value of surrounding properties by reducing views into the private yard zone (area) of the site, by creating a suitable transition from the site to adjacent properties, and by minimizing negative impacts that might otherwise exist.

6. Compliance with the regulation is not appropriate, and the granting of the waiver will result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code.

The grant of the waiver would result in the continued existence and use of the historic residence located at 1426 Willow Avenue. Without the grant of the waiver, the regulations would require the removal of the house because it encroaches into the twenty-five (25') foot LBA. Therefore, compliance with LDC §10.2.4 to provide a 25-foot LBA is not appropriate.

7. The strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

Please see response to Item No. 4 above.

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**REQUEST FOR WAIVER
LAND DEVELOPMENT CODE §5.4.1.C.3
WILLOW GRANDE
1418 and 1426 Willow Avenue; also TB 77A Lot 58
Willow Grande, LLC, Applicant and Owner**

Purpose of request. This is a request to waive Land Development Code (“LDC”) §5.4.1.C.3 to permit a front loaded garage.

Reason. A front loaded garage on this site is appropriate. The alley behind the site does not provide adequate access to the underground parking garage beneath the building because the alley is only fifteen (15’) feet wide and because the grade of the alley is higher than the rear of the building, thereby compromising or rendering impossible the safe and efficient vehicular maneuvering between the alley and the rear of the building. The Dartmouth, immediately across Baringer Avenue from the site, has a similar access to its garage from Baringer Avenue as opposed to access from the alley. Moreover, the garage entrance, which is set back four (4) feet from the front building elevation, has been designed to appear the same as the large window on the opposite side of the building.

1. Will the waiver adversely affect adjacent property owners?

No. The front loaded garage will be inconspicuous because it has been designed to “disappear” in that it will architecturally approximate the large first floor window on the opposite side of the front building facade. Additionally, other high-rise residential buildings in the vicinity, specifically the Dartmouth and 1400 Willow, have vehicular access directly from the street.

2. Will the waiver conform to or violate the Comprehensive Plan?

The waiver conforms to the Comprehensive Plan for the reasons stated below¹:

Compatibility Guideline 3. The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 6, 9, 21, 23, 24 and 25. The garage takes its access from Baringer Avenue, just as the Dartmouth. The

¹ References to the Comprehensive Plan are categorized under each applicable Guideline of the Comprehensive Plan. Goals, Objectives, Guidelines and Policies of the Comprehensive Plan which are not addressed in this Justification Statement are not applicable to the waiver request.

design of the garage entry is properly recessed four (4) feet from the front of the building and has been designed to approximate the large window on the opposite side of the front building façade. The front loaded garage will not disturb normal vehicular-pedestrian interactions and safety along Baringer Avenue and the abutting sidewalk because traffic generation from the development (traffic generated by twenty-four (24) residential units) is anticipated to be approximately the same traffic generation (traffic generated by the Bordeaux Apartments, which has twenty-two (22) residential units). The design of the garage and its entry ensure an appropriate transition from nearby less intense uses. The design of the garage entry minimizes the impacts of parking and does not negatively impact nearby residents or pedestrians.

Circulation Guideline 7. The waiver conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policy 15. The alley, at only 15 feet in width, is very narrow for 2-way traffic. This condition would lead to slow movement conditions on the alley and traffic back-ups on Baringer Avenue. Moreover, the gradient differential between the alley and the rear of the building would compromise access into the underground garage. The proposed access shown on the development plan, at twenty-two (22') feet wide, will ensure that the access is safe, as indicated by the March 20, 2013 approval of the Department of Public Works.

Transportation Facility Design Guideline 8. The waiver conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder, including Policies 7, 9, 10 and 11. The front loaded parking garage is compatible with surrounding development because its design is aesthetically appropriate and creates no visual or other nuisance. The March 20, 2013 Department of Public Works approval of the development plan indicates that the internal circulation pattern of the garage and the garage entry is safe and efficient for pedestrians and motorists.

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

Yes. Alley access (i.e., access via the rear of the building) would not provide adequate maneuvering room to the parking garage if it were located at the rear of the building due to (i) the narrow width (15-feet) of the alley, and (ii) the grade change between the alley and the rear of the building which compromises or renders impossible safe and adequate vehicular movement as described above.

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 (b) would the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant?

The applicant has incorporated a garage design that approximates a large first floor window similar to the large window on the opposite side of the front building façade. This design exceeds the minimums of the district because LDC §5.4.1.C.3 has no design standards, and because animating features on the front building façade and at the garage entry exceed the requirements of LDC §5.4.1.C.3 because the front loaded garage has appropriate animating features (i.e., a 4-foot relief differential), and because the front loaded garage conforms to LDC §5.6.3 because of its high quality design and architectural interest.

Moreover, 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 because the Landmarks Commission mandated the increased building setback from Willow Avenue, and because alley access to the rear of the building is impractical as discussed above.

5. Does the proposed waiver conform to the intent of the Land Development Code?

Yes. The waiver conforms to the intent of the Land Development Code to provide a high quality design of this individual site and to promote the redevelopment of the neighborhood in a manner compatible with the Traditional Neighborhood Form District and surrounding properties. In addition, this is a corner site adjacent to other tall residential multi-family buildings, and as such, is not typical of the structures depicted in drawings and diagrams shown in LDC §§5.2.2 and 5.4.1.

6. Compliance with the regulation is not appropriate, and the granting of the waiver will result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code.

The grant of the waiver would result in alley access where there is a significant grade change between the alley and the rear of the building, making access difficult or impossible. Because the front loaded garage entry has been design to resemble the

large first floor window on the opposite side of the front building façade and is set in four (4) feet from the building façade, compliance with regulation is not appropriate and the waiver is more in keeping with the comprehensive Plan and the overall intent of the Land Development Code.

7. The strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

Please see response to Item No. 4 above.

0100890.0543836 4847-5329-6674v1

**REQUEST FOR WAIVER
LAND DEVELOPMENT CODE §5.8.1.A.1
WILLOW GRANDE
1418 and 1426 Willow Avenue; also TB 77A Lot 58
Willow Grande, LLC, Applicant and Owner**

Purpose of request. This is a request to waive Land Development Code (“LDC”) §5.8.1.A.1 not to use the public alley to the rear of the site for access to the site.

Reason. The alley behind the site is narrow: only fifteen (15) feet wide, which would make two-way traffic difficult, possibly creating “backup” traffic situations on Baringer Avenue. Moreover, the grade of the alley is higher than the rear of the building, thereby compromising or rendering impossible the safe and efficient vehicular maneuvering between the alley and the rear of the building. The Dartmouth, immediately across Baringer Avenue from the site, has a similar access to its garage from Baringer Avenue as opposed to access from the alley. Moreover, a wider, twenty-two (22) foot entrance into the development is proposed to accommodate two-way traffic with approximately 200-feet of vehicular “stacking” space near the front drop-off area, thereby avoiding traffic conflicts. Lastly, the residence at 1430 Willow Avenue, which is in the same blockface as the subject site, abuts the same alley but does not have access from the alley.

1. Will the waiver adversely affect adjacent property owners?

No. The waiver will not adversely affect adjacent property owners because the alley is narrow, as described above, rendering two-way traffic on the alley difficult, possibly leading to backup situations on Baringer Avenue. The Department of Public Works approved the development plan on March 20, 2013. This approval indicates, among other things, that the proposed access as shown on the development plan is safe and efficient for use by pedestrians and motorists. Moreover, the traffic trip generation rate for twenty-four (24) residential units is so minimal that pedestrian movement on the abutting Baringer Avenue sidewalk will remain safe.

2. Will the waiver conform to or violate the Comprehensive Plan?

The waiver conforms to the Comprehensive Plan for the reasons stated below¹:

Compatibility Guideline 3. The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 3, 6, 9, 21, 23 and 25. Access from Baringer Avenue at the front of the site has been designed so that the driveway, its three (3) temporary visitor parking spaces, curved pedestrian walkway and substantial landscaping will be aesthetically pleasing and compatible with the neighborhood. The proposed access will be similar to 1400 Willow, which is also located on the west side of Willow Avenue. Additionally, the proposed garage entry is designed to be substantially similar to the large first floor window on the opposite side of the front façade of the building, so that it will “disappear” from view.

Circulation Guideline 7. The waiver conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policy 15. The March 20, 2013 Department of Public Works approval of the development plan indicates that the proposed internal circulation pattern of the garage and the garage entry – which do not utilize the alley for access – are nevertheless safe and efficient for pedestrians on foot, and vehicular traffic both on-site and along Baringer and Willow Avenues. Moreover, not utilizing the narrow, 15-foot wide alley, will prevent congestion which may occur due to the difficulty of 2-way traffic movement in the alley, which could lead to traffic back-ups on Baringer Avenue.

Transportation Facility Design Guideline 8. The waiver conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder, including Policies 7, 9, 10 and 11. Avoiding use of the narrow alley for access will prevent traffic congestion nuisances, and the proposed access has been designed to be visually pleasing as shown on the development plan and as detailed above, and to avoid the traffic conflict that is likely to occur if the narrow alley were used for access to the garage. Because of the narrowness of the alley, the proposed access directly from Baringer Avenue provides more safety to pedestrians and motorists than alley access would.

Bicycle, Pedestrian and Transit Guideline 9. The waiver conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policy 1. Pedestrian movement on the abutting Baringer Avenue sidewalk will be safer with the access directly from Baringer Avenue as shown on the development

¹ References to the Comprehensive Plan are categorized under each applicable Guideline of the Comprehensive Plan. Goals, Objectives, Guidelines and Policies of the Comprehensive Plan which are not addressed in this Justification Statement are not applicable to the waiver request.

plan than if access were taken from the alley because the narrowness of the alley would likely cause congestion at that location, causing a conflict between pedestrian movement and vehicle movement.

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

Yes. Alley access (i.e., access via the rear of the building) would likely lead to vehicular congestion on Baringer Avenue due to traffic back-ups awaiting 2-way movement on the narrow alley. The grade change between the alley and the rear of the building would compromise or render impossible safe and adequate vehicular movement, as described above. Access to the site from Baringer Avenue is preferable to access from the alley or from Willow Avenue (a more intensely used street) because it provides more safety to motorists and pedestrians. Therefore, the proposed waiver is the minimum necessary to afford relief to the applicant.

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 (b) would the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant?

The applicant has incorporated a garage design that approximates a large first floor window similar to the large window on the opposite side of the front building façade. This design exceeds the minimums of the district because LDC §5.4.1.C.3 has no design standards, and because animating features on the front building façade and at the garage entry exceed the requirements of LDC §5.4.1.C.3 because the front loaded garage has appropriate animating features (i.e., a 4-foot relief differential from the front building facade), and because the front loaded garage conforms to LDC §5.6.3 because of its high quality design and architectural interest.

Moreover, 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 because the Landmarks Commission mandated the increased building setback from Willow Avenue, and because alley access to the rear of the building is impractical and potentially unsafe as discussed above.

5. Does the proposed waiver conform to the intent of the Land Development Code?

Yes. The waiver conforms to the intent of the Land Development Code to facilitate safe and adequate traffic and pedestrian movement and to avoid conflicts between vehicular and pedestrian movement which would likely be caused if access were situated via the narrow alley due to the difficulty of 2-way vehicular movement within the alley leading to traffic back-ups on Baringer Avenue. Additionally, the proposed location of the access will preserve the character of the neighborhood since that access location is consistent with access to the garage at the Dartmouth, immediately across Baringer Avenue from the site. Lastly, the proposed waiver conforms to the intent of the Land Development Code to limit or eliminate congestion on the public streets because alley access would compromise traffic safety due to its narrowness, likely causing vehicles on Baringer Avenue to back up on the street.

6. Compliance with the regulation is not appropriate, and the granting of the waiver will result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code.

Strict compliance with the regulation would result in alley access where the alley is narrow, providing only limited 2-way access leading to potential congestion problems on Baringer Avenue, and would result in an access where there is a substantial grade change between the alley and the rear of the building, making access difficult or impossible. Because the front loaded garage entry has been design to resemble the large first floor window on the opposite side of the front building façade and is set in four (4) feet from the building façade, compliance with regulation is not appropriate and the waiver is more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code, as discussed in Item Nos. 2 and 5 above.

7. The strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

Please see response to Item No. 4 above.

**REQUEST FOR WAIVER
LAND DEVELOPMENT CODE §5.9.2.C.4
WILLOW GRANDE
1418 and 1426 Willow Avenue; also TB 77A Lot 58
Willow Grande, LLC, Applicant and Owner**

Purpose of request. This is a request to waive Land Development Code (“LDC”) §5.9.2.C.4 to permit traffic circulation in front of the building.

Reason. Traffic circulation in front of the building is appropriate because the only alternative would mandate access from the alley at the rear of the property to the rear of the building. However, the alley behind the site is narrow, only fifteen (15’) feet wide, which would make two-way traffic within the alley difficult, possibly creating “backup” traffic situations on Baringer Avenue. Moreover, the grade of the alley is higher than the rear of the building, thereby compromising or rendering impossible the safe and efficient vehicular maneuvering between the alley and the rear of the building into the underground parking garage. The Dartmouth, immediately across Baringer Avenue from the site, has a similar access to its garage from Baringer Avenue as opposed to access from the alley. Secondly, the residence at 1430 Willow Avenue, which is in the same blockface as the subject site, has a driveway (and therefore has access in front of the building) even though it abuts the same alley and does not have access from the alley. Moreover, a safe, twenty-two (22’) foot entrance providing traffic circulation in front of the building, is proposed to accommodate two-way traffic with approximately 200-feet of vehicular “stacking” space near the front drop-off area, thereby avoiding traffic conflicts. The proposed access, drop-off and three (3) visitor parking spaces are proposed in a well-landscaped and aesthetically pleasing setting with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk.

1. Will the waiver adversely affect adjacent property owners?

No. The waiver will not adversely affect adjacent property owners. The proposed access, drop-off and three (3) temporary visitor parking spaces having a decorative, colored concrete surface are designed with appropriate and aesthetically pleasing landscaping together with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk. Additionally, traffic circulation at 1400 Willow is also in front of the building. Additionally, alley access is not preferred because the alley is narrow, as described above, rendering two-way traffic on the alley difficult, possibly leading to backup situations on Baringer Avenue. The Department of Public Works

approved the development plan showing traffic circulation in front of the building on March 20, 2013. This approval indicates, among other things, that the proposed access as shown on the development plan is safe and efficient for use by pedestrians and motorists. Moreover, the traffic trip generation rate for the proposed twenty-four (24) residential units is so minimal that pedestrian movement on the abutting Baringer Avenue sidewalk will remain safe.

2. Will the waiver conform to or violate the Comprehensive Plan?

The waiver conforms to the Comprehensive Plan for the reasons stated below¹:

Centers Guideline 2. Centers Guideline 2 and Policies adopted thereunder are not applicable to this waiver because Centers Guideline 2 addresses mixed land uses and activity centers. The proposed development is not a “center” as defined by the Comprehensive Plan and the development does not propose a mix of land uses. On this corner lot, having traffic circulation in front of the building will provide greater safety to motorists and pedestrians walking along the abutting Baringer Avenue sidewalk than alley access would provide, for the reasons stated above. Moreover, the Department of Public Works approved the development plan on March 20, 2013. This approval indicates, among other things, that the proposed access with traffic circulation in front of the building is safe and appropriate for pedestrians and motorists.

Compatibility Guideline 3. The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 3, 6, 9, 21, 23 and 25. The high quality design of the traffic circulation area, together with its decorative pavement, extensive landscaping and curved sidewalk ensure that the proposed traffic circulation area is appropriate for and compatible with the neighborhood. Adverse visual impacts will be prevented by the proposed design. Additionally, the garage entry, which is part of the traffic circulation area, will be set back four (4’) feet from the front building façade thereby providing a visual relief feature and an attractive, welcoming street-level appearance.

Open Space Guideline 4. The waiver conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder including Policies 1, 4 and 6. The safety of pedestrians on the Baringer Avenue sidewalk will be protected by virtue of traffic circulation in front of the building. Traffic trip generation from the proposed twenty-four (24) residential units is minimal and will have no impact on safe pedestrian movement

¹ References to the Comprehensive Plan are categorized under each applicable Guideline of the Comprehensive Plan. Goals, Objectives, Guidelines and Policies of the Comprehensive Plan which are not addressed in this Justification Statement are not applicable to the waiver request.

on the sidewalk. Moreover, the extensive landscaping proposed for this area is aesthetically pleasing. The proposed location of traffic circulation in front of the building is similar to 1400 Willow which also has traffic circulation in front of the building

Circulation Guideline 7. The waiver conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policy 15. The March 20, 2013 Department of Public Works approval of the development plan indicates that the proposed internal circulation pattern of the garage and the garage entry – which do not utilize the alley for access – are nevertheless safe and efficient for pedestrians on foot, and vehicular traffic both on-site and along Baringer and Willow Avenues. Moreover, not utilizing the narrow, 15-foot wide alley, will prevent congestion which may occur due to the difficulty of 2-way traffic movement in the alley, which could lead to traffic back-ups on Baringer Avenue.

Transportation Facility Design Guideline 8. The waiver conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder, including Policies 7, 9, 10 and 11. Avoiding use of the narrow alley for access will prevent traffic congestion nuisances, and the proposed access has been designed to be visually pleasing as shown on the development plan and as detailed above, and to avoid the traffic conflict that is likely to occur if the narrow alley were used for access to the garage. Because of the narrowness of the alley, the proposed access directly from Baringer Avenue provides more safety to pedestrians and motorists than alley access would.

Bicycle, Pedestrian and Transit Guideline 9. The waiver conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policy 1. Pedestrian movement on the abutting Baringer Avenue sidewalk will be safer with the access directly from Baringer Avenue with traffic circulation in front of the building as shown on the development plan than if traffic circulation and access were taken from the alley; the narrowness of the alley would likely cause congestion at that location, causing a conflict between pedestrian movement and vehicle movement.

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

Yes. Alley access (i.e., access via the rear of the building) is the only potentially viable alternative to traffic circulation in front of the building; however, alley access would likely lead to vehicular congestion on Baringer Avenue due to traffic back-ups awaiting 2-way traffic movement by vehicles within the narrow alley. The grade change between the

alley and the rear of the building would compromise or render impossible safe and adequate vehicular movement, as described above. Access to the site from Baringer Avenue with traffic circulation in front of the building is preferable to access from the alley or from Willow Avenue (a more intensely used street) because it provides more safety to motorists and pedestrians. Therefore, the proposed waiver is the minimum necessary to afford relief to the applicant.

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 (b) would the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant?

The applicant has incorporated a garage design that approximates a large first floor window similar to the large window on the opposite side of the front building façade. This design exceeds the minimums of the district because LDC §5.4.1.C.3 has no design standards, and because animating features on the front building façade and at the garage entry exceed the requirements of LDC §5.4.1.C.3 because the front loaded garage has appropriate animating features (i.e., a 4-foot relief differential from the front building facade), and because the front loaded garage conforms to LDC §5.6.3 because of its high quality design and architectural interest. Moreover, the proposed access, drop-off and three (3) visitor parking spaces are proposed in a well-landscaped and aesthetically pleasing setting with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk. These design measures exceed the requirements of the district for appropriate landscaping, which together with the high quality design of the garage entry, will compensate for the waived requirements.

Moreover, 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 because the Landmarks Commission mandated the increased building setback from Willow Avenue, and because alley access to the rear of the building is impractical and potentially unsafe as discussed above.

5. Does the proposed waiver conform to the intent of the Land Development Code?

Yes. The waiver conforms to the intent of the Land Development Code to facilitate safe and adequate traffic and pedestrian movement and to avoid conflicts between vehicular

and pedestrian movement which would likely be caused if access were situated via the narrow alley due to the difficulty of 2-way vehicular movement within the alley leading to traffic back-ups on Baringer Avenue. Additionally, the proposed location of the access will preserve the character of the neighborhood since that access location is consistent with access to the garage at the Dartmouth, immediately across Baringer Avenue from the site. Lastly, the proposed waiver conforms to the intent of the Land Development Code to limit or eliminate congestion on the public streets because alley access would compromise traffic safety due to its narrowness, likely causing vehicles on Baringer Avenue to back up on the street.

6. Compliance with the regulation is not appropriate, and the granting of the waiver will result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code.

Strict compliance with the regulation would result in alley access where the alley is narrow, providing only limited 2-way access leading to potential congestion problems on Baringer Avenue, and would result in an access where there is a substantial grade change between the alley and the rear of the building, making access difficult or impossible. Because the front loaded garage entry has been design to resemble the large first floor window on the opposite side of the front building façade and is set in four (4) feet from the building façade, compliance with regulation is not appropriate and the waiver is more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code, as discussed in Item Nos. 2 and 5 above.

7. The strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

Please see response to Item No. 4 above.

**REQUEST FOR WAIVER
LAND DEVELOPMENT CODE §5.4.1.B.1.e.
WILLOW GRANDE
1418 and 1426 Willow Avenue; also TB 77A Lot 58
Willow Grande, LLC, Applicant and Owner**

Purpose of request. This is a request to waive Land Development Code (“LDC”) §5.4.1.B.1.e to permit parking in the public realm.

Reason. Parking in the public realm is appropriate because the Landmarks Commission approval of the building mandates that the building be moved back from the front of the site. the only alternative would mandate access from the alley at the rear of the property to the rear of the building. However, the alley behind the site is narrow, only fifteen (15’) feet wide, which would make two-way traffic within the alley difficult, possibly creating “backup” traffic situations on Baringer Avenue. Moreover, the grade of the alley is higher than the rear of the building, thereby compromising or rendering impossible the safe and efficient vehicular maneuvering between the alley and the rear of the building into the underground parking garage. The Dartmouth, immediately across Baringer Avenue from the site, has a similar access to its garage from Baringer Avenue as opposed to access from the alley. Secondly, (i) the residence at 1430 Willow Avenue, which is in the same blockface as the subject site, has a driveway (and therefore has access in front of the building) even though it abuts the same alley and does not have access from the alley, and (ii) 1400 Willow has parking in its public realm. Moreover, a safe, twenty-two (22’) foot entrance leading to parking spaces in the public realm, is proposed to accommodate two-way traffic with approximately 200-feet of vehicular “stacking” space near the front drop-off area, thereby avoiding traffic conflicts. The proposed three (3) temporary visitor parking spaces will be situated in a well-landscaped and aesthetically pleasing setting with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk.

1. Will the waiver adversely affect adjacent property owners?

No. The waiver will not adversely affect adjacent property owners. The proposed three (3) temporary visitor parking spaces having a decorative, colored concrete surface are designed with appropriate and aesthetically pleasing landscaping together with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk. Additionally, 1400 Willow the subject site, also has parking in the public realm. Additionally, if access were to occur from alley there would be little or no space

available on-site for needed temporary visitor parking. Access from the alley is not preferred because the alley is narrow, as described above, rendering two-way traffic on the alley difficult, possibly leading to backup situations on Baringer Avenue. The Department of Public Works approved the development plan showing parking in the public realm on March 20, 2013. This approval indicates, among other things, that the proposed access as shown on the development plan (including parking in the public realm) is safe and efficient for use by pedestrians and motorists. Moreover, the traffic trip generation rate for the proposed twenty-four (24) residential units is minimal and pedestrian movement on the abutting Baringer Avenue sidewalk will remain safe.

2. Will the waiver conform to or violate the Comprehensive Plan?

The waiver conforms to the Comprehensive Plan for the reasons stated below¹:

Centers Guideline 2. Centers Guideline 2 and Policies adopted thereunder are not applicable to this waiver because Centers Guideline 2 addresses mixed land uses and activity centers. The proposed development is not a “center” as defined by the Comprehensive Plan and the development does not propose a mix of land uses. On this corner lot, having parking in the public realm will provide greater safety to motorists and pedestrians walking along the abutting Baringer Avenue sidewalk than alley access would provide, for the reasons stated above. Moreover, the Department of Public Works approved the development plan on March 20, 2013. This approval indicates, among other things, that the proposed access, including parking in the public realm, is safe and appropriate for pedestrians and motorists.

Compatibility Guideline 3. The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 3, 6, 9, 21, 23 and 25. The high quality design of the three (3) temporary visitor parking spaces, which will have decorative pavement, extensive landscaping and a curved sidewalk will ensure that the proposed parking in the public realm is appropriate for and compatible with the neighborhood. Adverse visual impacts will be prevented by the proposed design. Additionally, the garage entry, which is part of the traffic circulation area, will be set back four (4') feet from the front building façade thereby providing a visual relief feature and an attractive, welcoming street-level appearance.

¹ References to the Comprehensive Plan are categorized under each applicable Guideline of the Comprehensive Plan. Goals, Objectives, Guidelines and Policies of the Comprehensive Plan which are not addressed in this Justification Statement are not applicable to the waiver request.

Open Space Guideline 4. The waiver conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder including Policies 1, 4 and 6. The safety of pedestrians on the Baringer Avenue sidewalk will be protected by virtue of traffic circulation in front of the building, including three (3) parking spaces in the public realm. Traffic trip generation from the proposed twenty-four (24) residential units is minimal and will have no impact on safe pedestrian movement on the sidewalk. Moreover, the extensive landscaping proposed for this area is aesthetically pleasing and mitigates the impact that parking in the public realm might otherwise have. Parking in the public realm of this site is substantially similar to 1400 Willow from the subject site, which also has traffic circulation in front of the building

Circulation Guideline 7. The waiver conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policy 15. The March 20, 2013 Department of Public Works approval of the development plan indicates that the proposed internal circulation pattern, which includes the proposed parking spaces, is safe and efficient for pedestrians on foot and vehicular traffic both on-site and along Baringer and Willow Avenues. Moreover, not utilizing the narrow, 15-foot wide alley, will prevent congestion which would likely occur due to the difficulty of 2-way traffic movement in the alley. Congestion in the alley would likely lead to traffic back-ups on Baringer Avenue, which could endanger pedestrians on the abutting Baringer Avenue sidewalk.

Transportation Facility Design Guideline 8. The waiver conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder, including Policies 7, 9, 10 and 11. Avoiding use of the narrow alley for access will prevent traffic congestion nuisances, and the proposed three (3) temporary visitor parking spaces in the public realm have been designed to be visually pleasing as shown on the development plan and as detailed above. Because the Landmarks Commission mandated that the building be moved toward the rear of the site, it would be difficult to provide necessary visitor parking. Because of the narrowness of the alley, the proposed access directly from Baringer Avenue provides more safety to pedestrians and motorists than alley access would.

Bicycle, Pedestrian and Transit Guideline 9. The waiver conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policy 1. Pedestrian movement on the abutting Baringer Avenue sidewalk will be safer with the access directly from Baringer Avenue with traffic circulation and parking spaces in the public realm area as shown on the development plan than if traffic circulation and access were taken from the alley; the narrowness of the alley would

likely cause congestion at that location, causing a conflict between pedestrian movement and vehicle movement.

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

Yes. Alley access (i.e., access via the rear of the building), which is the only other potentially viable alternative, would not be of sufficient size to provide for necessary visitor parking spaces. The proposed location of three (3) temporary visitor parking spaces in the public realm will be situated in a well-landscaped and aesthetically pleasing setting with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk, and parking in the public realm will be similar to that of 1400 Willow the subject site. Therefore, the proposed waiver is the minimum necessary to afford relief to the applicant.

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 (b) would the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant?

The applicant has incorporated a front garage entry design that approximates a large first floor window similar to the large window on the opposite side of the front building façade. This design exceeds the minimums of the district because LDC §5.4.1.C.3 has no design standards, and because animating features on the front building façade and at the garage entry exceed the requirements of LDC §5.4.1.C.3 because the front loaded garage has appropriate animating features (i.e., a 4-foot relief differential from the front building facade), and because the front loaded garage conforms to LDC §5.6.3 because of its high quality design and architectural interest. Moreover, the proposed access, drop-off and three (3) visitor parking spaces are proposed in a well-landscaped and aesthetically pleasing setting with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk. The parking spaces will be surfaced with decorative, colored concrete and will be landscaped. These design measures exceed the requirements of the district for appropriate landscaping, which together with the high quality design of the parking spaces and garage entry, will compensate for the waived requirements.

Moreover, 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 because the Landmarks Commission mandated the increased building setback from Willow Avenue, and because alley access to the rear of the building is impractical and potentially unsafe as discussed above. In addition, the area at the rear of the building is not of sufficient size to locate the necessary visitor parking spaces.

5. Does the proposed waiver conform to the intent of the Land Development Code?

Yes. The waiver conforms to the intent of the Land Development Code to facilitate safe and adequate traffic and pedestrian movement and to avoid conflicts between vehicular and pedestrian movement which would likely be caused if parking were situated at the rear of the site. Additionally, the proposed location of the parking spaces in the public realm will preserve the character of the neighborhood since that access location is consistent with parking in the public realm of 1400 Willow. Lastly, the proposed waiver conforms to the intent of the Land Development Code to limit or eliminate congestion on the public streets because alley access would compromise traffic safety due to its narrowness, likely causing vehicles on Baringer Avenue to back up on the street.

6. Compliance with the regulation is not appropriate, and the granting of the waiver will result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code.

Strict compliance with the regulation would result in having fewer or no temporary visitor parking spaces. These parking spaces are necessary for guests of residents; however, the rear lot area is of insufficient size to allow for three (3) parking spaces and adequate maneuvering room. Moreover, the alley is narrow, providing only limited 2-way access leading to potential congestion problems on Baringer Avenue, and would result in an access where there is a substantial grade change between the alley and the rear of the building, making access difficult or impossible. Because the proposed parking spaces in the public realm will be well-landscaped, and paved with decorative, colored concrete, any undesirable features of the proposed three (3) parking spaces has been mitigated, making compliance with regulation inappropriate; the waiver is more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code, as discussed in Item Nos. 2 and 4 above.

7. The strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

Please see response to Item No. 4 above.

**REQUEST FOR WAIVER
LAND DEVELOPMENT CODE §5.4.1.E.3
WILLOW GRANDE
1418 and 1426 Willow Avenue; also TB 77A Lot 58
Willow Grande, LLC, Applicant and Owner**

Purpose of request. This is a request to waive Land Development Code (“LDC”) §5.4.1.E.3 not to provide access to parking from the rear alley and not to provide parking in the accessory structure/use area.

Reason. The alley behind the site is narrow: only fifteen (15) feet wide, which would make two-way traffic difficult, possibly creating “backup” traffic situations on Baringer Avenue. Moreover, the grade of the alley is substantially higher than the rear of the building, thereby compromising or rendering impossible the safe and efficient vehicular maneuvering between the alley and the rear of the building. The Dartmouth, immediately across Baringer Avenue from the site, has a similar access to its garage from Baringer Avenue as opposed to access from the alley. Moreover, a wider, twenty-two (22) foot entrance into the development, is proposed to accommodate two-way traffic with approximately 200-feet of vehicular “stacking” space near the front drop-off area, thereby avoiding traffic conflicts. Secondly, the residence at 1430 Willow Avenue, which is in the same blockface as the subject site, abuts the same alley but does not have access from the alley. Moreover, the Landmarks Commission mandated that the building be set back on the lot as shown on the development plan, and the resultant accessory structure/use area is not of sufficient size to allow for parking.

1. Will the waiver adversely affect adjacent property owners?

No. The waiver will not adversely affect adjacent property owners because the alley is narrow, as described above, rendering two-way traffic on the alley difficult, possibly leading to backup situations on Baringer Avenue. The Department of Public Works approved the development plan on March 20, 2013. This approval indicates, among other things, that the proposed access as shown on the development plan is safe and efficient for use by pedestrians and motorists. The traffic trip generation rate for twenty-four (24) residential units is so minimal that pedestrian movement on the abutting Baringer Avenue sidewalk will remain safe. The front area of the site has been designed so that the driveway, its three (3) temporary visitor parking spaces, curved pedestrian walkway and substantial landscaping have been proposed in an aesthetically pleasing manner, compatible with the neighborhood. This design is similar to 1400

Willow. Additionally, the proposed garage entry is designed to be substantially similar to the large first floor window on the opposite site of the front façade of the building, so that it will “disappear” from view.

2. Will the waiver conform to or violate the Comprehensive Plan?

The waiver conforms to the Comprehensive Plan for the reasons stated below¹:

Compatibility Guideline 3. The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 3, 6, 9, 21, 23 and 25. Access from Baringer Avenue at the front of the site has been designed so that the driveway, its three (3) temporary visitor parking spaces, curved pedestrian walkway and substantial landscaping have been designed to be aesthetically pleasing and compatible with the neighborhood. This will be similar to 1400 Willow. Additionally, the proposed garage entry is designed to be substantially similar to the large first floor window on the opposite site of the front façade of the building, so that it will “disappear” from view.

Circulation Guideline 7. The waiver conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policy 15. The March 20, 2013 Department of Public Works approval of the development plan indicates that the proposed internal circulation pattern of the garage and the garage entry – which do not utilize the alley for access – are nevertheless safe and efficient for pedestrians on foot, and vehicular traffic both on-site and along Baringer and Willow Avenues. Moreover, not utilizing the narrow, 15-foot wide alley, will prevent congestion which may occur due to the difficulty of 2-way traffic movement in the alley, which could lead to traffic back-ups on Baringer Avenue.

Transportation Facility Design Guideline 8. The waiver conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder, including Policies 7, 9, 10 and 11. Avoiding use of the narrow alley for access will prevent traffic congestion nuisances, and the proposed access has been designed to be visually pleasing as shown on the development plan and as detailed above, and to avoid the traffic conflict that is likely to occur if the narrow alley were used for access to the garage. Because of the narrowness of the alley, the proposed access directly from

¹ References to the Comprehensive Plan are categorized under each applicable Guideline of the Comprehensive Plan. Goals, Objectives, Guidelines and Policies of the Comprehensive Plan which are not addressed in this Justification Statement are not applicable to the waiver request.

Baringer Avenue provides more safety to pedestrians and motorists than alley access would.

Bicycle, Pedestrian and Transit Guideline 9. The waiver conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policy 1. Pedestrian movement on the abutting Baringer Avenue sidewalk will be safer with the access directly from Baringer Avenue as shown on the development plan than if access were taken from the alley because the narrowness of the alley would likely cause congestion at that location, causing a conflict between pedestrian movement and vehicle movement.

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

Yes. Alley access (i.e., access via the rear of the building) would likely lead to vehicular congestion on Baringer Avenue due to traffic back-ups awaiting 2-way movement on the narrow alley. The grade change between the alley and the rear of the building would compromise or render impossible safe and adequate vehicular movement, as described above. Access to the site from Baringer Avenue is preferable to access from the alley or from Willow Avenue (a more intensely used street) because it provides more safety to motorists and pedestrians. Therefore, the proposed waiver is the minimum necessary to afford relief to the applicant.

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 (b) would the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant?

The applicant has incorporated a garage design that approximates a large first floor window similar to the large window on the opposite side of the front building façade. This design exceeds the minimums of the district because LDC §5.4.1.C.3 has no design standards, and because animating features on the front building façade and at the garage entry exceed the requirements of LDC §5.4.1.C.3 because the front loaded garage has appropriate animating features (i.e., a 4-foot relief differential from the front building facade), and because the front loaded garage conforms to LDC §5.6.3 because of its high quality design and architectural interest.

Moreover, 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 because the Landmarks Commission mandated the increased building setback from Willow Avenue, and because alley access to the rear of the building is impractical and potentially unsafe as discussed above.

5. Does the proposed waiver conform to the intent of the Land Development Code?

Yes. The waiver conforms to the intent of the Land Development Code to facilitate safe and adequate traffic and pedestrian movement and to avoid conflicts between vehicular and pedestrian movement which would likely be caused if access were situated via the narrow alley due to the difficulty of 2-way vehicular movement within the alley leading to traffic back-ups on Baringer Avenue. Additionally, the proposed location of the access will preserve the character of the neighborhood since that access location is consistent with access to the garage at the Dartmouth, immediately across Baringer Avenue from the site. Lastly, the proposed waiver conforms to the intent of the Land Development Code to limit or eliminate congestion on the public streets because alley access would compromise traffic safety due to its narrowness, likely causing vehicles on Baringer Avenue to back up on the street.

6. Compliance with the regulation is not appropriate, and the granting of the waiver will result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code.

Strict compliance with the regulation would result in alley access where the alley is narrow, providing only limited 2-way access leading to potential congestion problems on Baringer Avenue, and would result in an access where there is a substantial grade change between the alley and the rear of the building, making access difficult or impossible. Because the front loaded garage entry has been design to resemble the large first floor window on the opposite side of the front building façade and is set in four (4) feet from the building façade, compliance with regulation is not appropriate and the waiver is more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code, as discussed in Item Nos. 2 and 5 above.

7. The strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

Please see response to Item No. 4 above.

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**REQUEST FOR WAIVER
LAND DEVELOPMENT CODE §5.4.1.G.3
WILLOW GRANDE
1418 and 1426 Willow Avenue; also TB 77A Lot 58
Willow Grande, LLC, Applicant and Owner**

Purpose of request. This is a request to waive Land Development Code (“LDC”) §5.4.1.G.3 to permit parking between the front façade of the structure and the primary street, with an attached garage having a door above the established grade of the abutting public right-of-way.

Reason. Parking between the front façade of the structure and the primary street, together with an attached garage above the established grade of the abutting public right-of-way is appropriate because the Landmarks Commission approval mandates that the building be moved back from the front of the site. The only alternative would mandate parking in the accessory structure/use area which is insufficiently sized for both visitor parking and use by residents. Moreover, the alley behind the site is narrow, only fifteen (15’) feet wide, which would make two-way traffic within the alley difficult, potentially creating “backup” traffic situations on Baringer Avenue, leading to conflicts and hazards for pedestrians and vehicles. Moreover, the grade of the alley is substantially higher than the rear of the building, thereby compromising or rendering impossible the safe and efficient vehicular maneuvering between the alley and the rear of the building into the underground parking garage. The Dartmouth, immediately across Baringer Avenue from the site, has a similar access to its garage from Baringer Avenue as opposed to access from the alley. Secondly, (i) the residence at 1430 Willow Avenue, which is in the same blockface as the subject site, has a driveway (and therefore has access in front of the building) even though it abuts the same alley and does not have access from the alley, and (ii) 1400 Willow has parking in its public realm. Moreover, a safe, twenty-two (22’) foot entrance leading to parking spaces in the public realm, is proposed to accommodate two-way traffic with approximately 200-feet of vehicular “stacking” space near the front drop-off area, thereby avoiding traffic conflicts. The proposed three (3) temporary visitor parking spaces have been designed with appropriate landscaping, and this parking area has been designed to be aesthetically pleasing with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk.

- 1. Will the waiver adversely affect adjacent property owners?**

No. The waiver will not adversely affect adjacent property owners. The proposed three (3) temporary visitor parking spaces having a decorative, colored concrete surface are designed with appropriate and aesthetically pleasing landscaping together with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk. Additionally, 1400 Willow also has parking in the public realm. Additionally, if access were to occur from alley there would be little or no space available on-site for needed temporary visitor parking. Access from the alley is not preferred because the alley is narrow, as described above, rendering two-way traffic on the alley difficult, possibly leading to backup situations on Baringer Avenue. The Department of Public Works approved the development plan showing parking in the public realm on March 20, 2013. This approval indicates, among other things, that the proposed access as shown on the development plan (including parking in the public realm) is safe and efficient for use by pedestrians and motorists. Moreover, the traffic trip generation rate for the proposed twenty-four (24) residential units is minimal and pedestrian movement on the abutting Baringer Avenue sidewalk will remain safe.

2. Will the waiver conform to or violate the Comprehensive Plan?

The waiver conforms to the Comprehensive Plan for the reasons stated below¹:

Centers Guideline 2. Centers Guideline 2 and Policies adopted thereunder are not applicable to this waiver because Centers Guideline 2 addresses mixed land uses and activity centers. The proposed development is not a “center” as defined by the Comprehensive Plan and the development does not propose a mix of land uses. On this corner lot, having parking between the front façade of the building and the primary street will provide greater safety to motorists and pedestrians walking along the abutting Baringer Avenue sidewalk than alley access would provide, for the reasons stated above. Moreover, the Department of Public Works approved the development plan on March 20, 2013. This approval indicates, among other things, that the proposed access, including parking between the front façade of the building and the primary street, is safe and appropriate for pedestrians and motorists.

Compatibility Guideline 3. The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 3, 6, 9, 21, 23 and 25. The high quality design of the three (3) temporary visitor parking spaces, which will have decorative pavement, extensive landscaping and a curved sidewalk will ensure that the

¹ References to the Comprehensive Plan are categorized under each applicable Guideline of the Comprehensive Plan. Goals, Objectives, Guidelines and Policies of the Comprehensive Plan which are not addressed in this Justification Statement are not applicable to the waiver request.

proposed parking between the front façade of the building and the public street is appropriate for, and compatible with, the neighborhood. Adverse visual impacts will be prevented by the proposed design and landscaping. Additionally, the garage entry, which is part of the traffic circulation area, will be set back four (4') feet from the front building façade thereby providing a visual relief feature and an attractive, welcoming street-level appearance.

Open Space Guideline 4. The waiver conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder including Policies 1, 4 and 6. The safety of pedestrians on the Baringer Avenue sidewalk will be protected by virtue of traffic circulation in front of the building, including three (3) parking spaces between the front façade of the building and the primary street. Traffic trip generation from the proposed twenty-four (24) residential units is minimal and will have no impact on safe pedestrian movement on the sidewalk. Moreover, the extensive landscaping proposed for this area is aesthetically pleasing and mitigates the impact that parking where proposed might otherwise have. On this corner site, parking between the front building façade and the primary street is substantially similar to 1400 Willow from the subject site, which also has parking between the front façade of the building and the primary street.

Circulation Guideline 7. The waiver conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policy 15. The March 20, 2013 Department of Public Works approval of the development plan indicates that the proposed internal circulation pattern, which includes the proposed parking spaces, is safe and efficient for pedestrians on foot and vehicular traffic both on-site and along Baringer and Willow Avenues. Moreover, avoiding access via the narrow, 15-foot wide alley, will prevent congestion which would likely occur due to the difficulty of 2-way traffic movement in the alley. Congestion in the alley would likely lead to traffic back-ups on Baringer Avenue, which could endanger pedestrians on the abutting Baringer Avenue sidewalk and vehicles on Baringer Avenue.

Transportation Facility Design Guideline 8. The waiver conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder, including Policies 7, 9, 10 and 11. Avoiding use of the narrow alley for access will prevent traffic congestion nuisances, and the proposed three (3) temporary visitor parking spaces in the public realm have been designed to be visually pleasing as shown on the development plan and as detailed above. Because the Landmarks Commission mandated that the building be moved toward the rear of the site, it would be difficult to provide necessary visitor parking in the accessory structure/use area. Because of the narrowness of the alley, the proposed access directly from Baringer Avenue provides more safety to pedestrians and motorists than alley access would.

Bicycle, Pedestrian and Transit Guideline 9. The waiver conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policy 1. Pedestrian movement on the abutting Baringer Avenue sidewalk will be safer with the access directly from Baringer Avenue with traffic circulation and parking spaces in the public realm area as shown on the development plan than if traffic circulation and access were taken from the alley; the narrowness of the alley would likely cause congestion at that location, causing a conflict between pedestrian movement and vehicle movement.

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

Yes. Due to the Landmarks Commission approval mandating the location of the building where shown on the development plan leaves insufficient room for the three (3) necessary temporary visitor parking spaces because the accessory structure/use area - which is the only other potentially viable alternative -- would not be of sufficient size to provide for necessary visitor parking spaces. The proposed location of three (3) temporary visitor parking spaces between the front building façade and the primary street will be situated in a well-landscaped and aesthetically pleasing setting with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk, and parking between the front façade of the building and the primary street will be similar to that of 1400 Willow the subject site. Therefore, the proposed waiver is the minimum necessary to afford relief to the applicant.

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 (b) would the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant?

The applicant has incorporated a front garage entry design that approximates a large first floor window similar to the large window on the opposite side of the front building façade. This design exceeds the minimums of the district because LDC §5.4.1.C.3 has no design standards, and because animating features on the front building façade and at the garage entry exceed the requirements of LDC §5.4.1.C.3 because the front loaded garage has appropriate animating features (i.e., a 4-foot relief differential from the front building facade), and because the front loaded garage conforms to LDC §5.6.3

because of its high quality design and architectural interest. Moreover, the proposed access, drop-off and three (3) visitor parking spaces are proposed in a well-landscaped and aesthetically pleasing setting with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk. The parking spaces will be surfaced with decorative, colored concrete and will be well-landscaped. These design measures exceed the minimum requirements of the district for appropriate landscaping, which together with the high quality design of the parking spaces and garage entry, will compensate for the waived requirements.

Moreover, 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 because the Landmarks Commission mandated the increased building setback from Willow Avenue, and because alley access to the rear of the building is impractical and potentially unsafe as discussed above. In addition, the area at the rear of the building is not of sufficient size to locate the necessary visitor parking spaces.

5. Does the proposed waiver conform to the intent of the Land Development Code?

Yes. The waiver conforms to the intent of the Land Development Code to facilitate safe and adequate traffic and pedestrian movement and to avoid conflicts between vehicular and pedestrian movement which would likely be caused if parking were situated at the rear of the site. Additionally, the proposed location of the parking spaces between the front building façade and the primary street will preserve the character of the neighborhood since that access location is consistent with 1400 Willow which has parking situated between the front of the structure and the primary street. Lastly, the proposed waiver conforms to the intent of the Land Development Code to limit or eliminate congestion on the public streets because alley access would compromise traffic safety due to its narrowness, likely causing vehicles on Baringer Avenue to back up on the street.

6. Compliance with the regulation is not appropriate, and the granting of the waiver will result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code.

Strict compliance with the regulation would result in having fewer or no temporary visitor parking spaces. These parking spaces are necessary for guests of residents; however, the rear lot area is of insufficient size to allow for three (3) parking spaces and adequate

maneuvering room. Moreover, the alley is narrow, providing only limited 2-way access leading to potential congestion problems on Baringer Avenue, and would result in an access where there is a substantial grade change between the alley and the rear of the building, making access difficult or impossible. Because the proposed parking spaces in the public realm will be well-landscaped, and paved with decorative, colored concrete, any undesirable features of the proposed three (3) parking spaces has been mitigated, making compliance with regulation inappropriate; the waiver is more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code, as discussed in Item Nos. 2 and 4 above.

7. The strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

Please see response to Item No. 4 above.

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**REQUEST FOR DEVELOPMENT PLAN APPROVAL
WILLOW GRANDE**

**1418 and 1426 Willow Avenue; also TB 77A Lot 58
Willow Grande, LLC, Applicant and Owner**

1. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites.

The site has some stands of existing trees. The applicant has agreed to work with the Cherokee Triangle Association and the Olmsted Conservancy to plant new trees on site. The site is not an historic site, except that the historic building at 1426 Willow Avenue will be saved. The site has no steep slopes, streams or water courses, flood plains, wet soils or unstable soils. In addition, no adverse air quality impacts will be caused by the proposal. Views from adjacent residences of Cherokee Park area will not be impacted by the proposed building location, nor would they be impacted by its height.

2. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community.

The Department of Public Works approved the development plan on March 20, 2013. That approval indicates, among other things, that the proposed access and parking areas will be safe and efficient for pedestrians and motorists. Vehicular access from Baringer Avenue provides more safety to motorists and pedestrians than if the access were via the alley to the rear of the subject site. The alley is narrow at 15 feet wide, causing difficulty for 2-way movement of vehicles. That difficulty of movement would lead to occasions of traffic back-ups on Baringer Avenue, compromising motorist and pedestrian safety since pedestrians may be walking in the abutting sidewalk along Baringer Avenue. The proposed access is 22-feet wide, which is an appropriate width.

3. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development.

The development has sufficient open space to meet the needs of the residents in the 24 multi-family units in the Willow Grande building because of the protected patio and pool area in the private yard area and because Cherokee Park is located in the immediate vicinity.

4. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

The Metropolitan Sewer District approved the development plan on March 20, 2013. This approval indicates, among other things, that on-site drainage facilities are sufficient to prevent drainage problems arising from the development impacting the subject site or the community.

5. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land uses or uses within the existing and projected future development of the area.

The Louisville Landmarks Commission mandated the setback of the building from Willow Avenue to be consistent with the existing front yard setbacks of the adjacent Dartmouth and Willow Grande buildings. The proposed Willow Grande building bears a greater architectural relationship with these other high rise multi-family buildings than other multi-family and single-family buildings. In addition, just like the Willow Grande site, both the Dartmouth and the Willow Terrace front on Willow Avenue and are located on the west side of Willow Avenue.

6. Conformance of the development plan with the Comprehensive Plan and the Land Development Code.

The proposal conforms to the Comprehensive Plan for the reasons previously set forth in the Zone Change Justification Statement most recently submitted to the Planning Commission at its February 25, 2015 public hearing.

The proposal conforms to the Land Development Code because all required variances and waivers are appropriate as set forth in the Justification Statements submitted for each variance and waiver. The development plan conforms to all other applicable Land Development Code provisions.