

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver to encroach into the property perimeter LBA set forth in LDC 10.2.3.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the property adjacent to the south is, like almost all the lots on this block of East Washington Street are built at the turn of the century with very small side yard separations so it would be impossible to comply given the placement of these existing structures on their lots. Only 3.9 feet are available for landscaping. The lack of landscaping is mitigated by the proposed 6' wood privacy fence. The side yard on the south is adjacent to the sidewalk along Cabel Street. The applicant will provide landscaping screening and buffering elsewhere on the site despite the waiver wherever possible pursuant to a landscape plan which will be submitted for review by planning staff.

2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Plan 2040 Comprehensive Plan filed with the original rezoning application. The encroachment into the LBA will have a negligible impact on the adjoining property owners and will be similar to buffers throughout this area. Specifically, this waiver request is supported by Housing Goal 1/Objectives a., b. and d and Policies 1 and 3; Goal 2/Objectives a through f; Goal 3/Objectives a through d and Policies 1, 2, 3, 6, 7 and 11.

3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this is not a request to eliminate that LBA entirely, only a major portion of it as the historic conditions of the site will allow and adequate landscaping screening and buffering will be provided elsewhere on the site.

4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land and would create an unnecessary hardship on the applicant because the need for the waiver are based upon historic existing conditions that are impossible to accommodate the required buffer. Without this relief the proposal to rehabilitate this historic property cannot be accomplished and would require the property to remain in its currently dilapidated state.

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