

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.**

1. Will the waiver adversely affect adjacent property owners?

The waiver will not adversely affect adjacent property owners. The current use is the same as the proposed use which has been in place for many, many years. In fact, additional landscaping and updated lighting will improve the site for the adjacent property owners. The residential uses are buffered by a busy train track to the North and the property to the East and West is industrial with a park to the South. This waiver request is consistent with past uses and current industrial uses in the area.

2. Will the waiver violate the Comprehensive Plan?

No. The proposed waiver is consistent with the goals and objectives of the Comprehensive Plan. For example, Goal 1 of Community Form, Section 3.1.2 discusses how the Revitalization and Reinforcement of the Traditional Neighborhood Form “will require particular emphasis on (a) preservation and renovation of existing buildings in existing neighborhoods.” This plan will both preserve an existing use and enhance the entire neighborhood by adding improved landscaping and screening which will serve to enhance the public space across the street from the site (which is also emphasized in Section 3.1.2 (d) of Goal 1 of the Community Form Section).

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

Yes, if this waiver is not granted the applicant will be denied use of this type of facility, which has been in place in the neighborhood since the 1960's. The proposed landscaping and buffering will actually serve to improve the neighborhood and the site by supplementing the tree canopy and beautifying the site.

4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

The applicant, by nature of this process will comply with all landscaping requirements and update the lighting requirements to less intrusive lighting standards. The strict application of the regulation would not permit the applicant reasonable use of the land as the expansion of the current facility would not be permitted, which expands a use that has been in place for decades. Accordingly, such a result would certainly be an unnecessary hardship on the applicant.

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1. Will the waiver adversely affect adjacent property owners?

No, the waiver will not adversely affect adjacent property owners. All residential owners are across a busy and buffered railroad track to the North. There are industrial uses to the East and West and a park to the South. The requirement being waived is designed to encourage accessibility to TARC stops but the main employee entrance reduces traffic on the public rights of way and encourage cross-access between commercial parcels. In this situation, the proposed expansion will remove a curb-cut along West Magnolia Avenue, improving traffic safety along that street.

2. Will the waiver violate the Comprehensive Plan?

No, the waiver will not violate the Comprehensive Plan. One of the policy goals of the Comprehensive Plan, Economic Development, Goal 2, Policy 7, encourages “rehabilitation and reinvestment... in underserved neighborhoods and older industrial areas.” In addition, Goal 3 of the Mobility section of the Comprehensive Plan advocates for housing near employment centers. Also, the use of screening, landscaping and trees to fill gaps along the street and sidewalk are consistent with the Land Use and Development Requirements (section 12) of the Community Form, Goal 1 of the Comprehensive Plan. In addition, alternative access from West Magnolia Avenue is provided.

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

Yes, the waiver is the minimum necessary as alternative pedestrian access is provided to West Magnolia Street. The security concerns and the nature of the use make pedestrian access impractical on this portion of the site. In addition, the necessary security fencing further limits the ability to install pedestrian access that results in a fence penetration. This facility has been fenced and secured for many years. The nature of the site requires a security fence and does not allow for interparcel access for security reasons. The proposed landscaping and buffering will actually serve to improve the neighborhood and the site, by supplementing the tree canopy and beautifying the site.

4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

The applicant, by nature of this process will comply with all landscaping requirements and update the lighting requirements to less intrusive lighting standards. The strict application of the regulation would create an unnecessary hardship on the applicant as a proposed pedestrian access to Louis Coleman is unlikely to be used due to the layout of the site and for security purposes. Also, there is alternative pedestrian access provided on West Magnolia which goes through the security gate and will act as the main vehicular and pedestrian entrance. Furthermore, the additional cost of securing a security fence entry and monitoring such entrance also creates an unnecessary hardship on the applicant.

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

Yes, if this waiver is not granted the applicant will be denied use of this type of facility, which has been in place in the neighborhood since the 1960's, as the facility must be fenced and secured. The nature of the site requires a security fence and does not allow for interparcel access for security reasons. The proposed landscaping and buffering will actually serve to improve the neighborhood and the site, by supplementing the tree canopy and beautifying the site.

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The applicant, by nature of this process will comply with all landscaping requirements and update the lighting requirements to less intrusive lighting standards. The strict application of the regulation would not permit the applicant reasonable use of the land as the current facility would be rendered inoperable without security fencing, such a result would certainly be an unnecessary hardship on the applicant.

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Justification Statement

Case No. 19DEVPLAN1009

Project Name: Old Dominion Freight Line, Inc.

Location: 1400 Louis Coleman Jr. Drive/3515 West Magnolia Avenue

Owner/Applicant: Old Dominion Freight Line, Inc.

Proposed Use: Continuation/Expansion of Existing Use

The applicant requests approval from the Planning Commission that the existing setback along the north is in conformance with the Comprehensive Plan (Plan 2040) due to the residential uses on the other side of the rail-line but within 200' of the boundary of the use.

The request is compatible with Cornerstone 2040 in the following ways:

- 1) The proposed use is a continuation of a longstanding use and building design (from the 1960's).
- 2) The residential uses have co-existed with the current use since the 1960's.
- 3) The residential uses in question are on the other side of a busy railroad line.
- 4) There is landscaping that acts as a buffer already in place along a portion of the site and additional landscaping will be added as part of the expansion.
- 5) Goal 1 of Community Form Goal, Objective f. encourages infill development, revitalization and adaptive reuses.
- 6) Goal 3 of Mobility Goal, Objective a. development in existing and emerging mixed-use centers is encouraged.
- 7) Goal 1 of the Economic Development Goal, Objective d. calls for the facilitation of redevelopment of underused commercial, industrial and residential lands.
- 8) Goal 1, Objective d. of the Livability Goal calls for restoration of the tree canopy; which this project will assist with if allowed to go forward as a number of trees will be planted assisting with the restoration of the urban tree canopy and heat island issues.
- 9) There will be no change in the type or intensity of the use (as an existing building with a similar use is being removed as a part of this project).
- 10) There are other industrial uses to the East and West of this site (and arguably, the Railroad to the North).
- 11) Additional landscaping and improved lighting will lessen the impact on the residential uses; this improvement will not occur if this project is not approved.

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- 12) The proposed use promotes economic growth and stability as it allows for the expansion of the current facility which will augment the economic capabilities of an existing business in an older but active neighborhood.

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