

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 of LDC Section 5.4.1.G.3 to allow parking areas and detached garages for the multi-family buildings to be located between the front façade of the building and the primary street.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because there are only 12 garages and the garages are only partially in front of the adjacent multi-family building such that it is a matter of interpretation whether the waiver is even required. This is because more than half of each garage sits further back than the front of the building. The same question of interpretation applies to the 13 parking spaces, which sit further back than the adjacent proposed building to the north, but are in front of the closer building to the south. With the additional proposed landscaping/buffering between these parking spaces and garages and Herr Lane, the end result is the parking being in front of the buildings will not be noticeable and won't affect the adjacent property owners.

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 revised detailed district development plan application and will still provide room for the additional landscaping and buffering such that it will not affect any other aspect of this development's compliance with either building Plan 2040, or the requirements of the Land Development Code.

3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the developer already moved the parking spaces and garages back as far as reasonably practical. As previously stated, the parking space and garages are not proposed clearly in front of the multi-family buildings, but rather on the side thereof, but albeit projecting further toward Herr Lane than the building itself. The development plan complies with the intent of the subject regulation, even if not in strict compliance with the way the language is interpreted.

4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because it would require moving the buildings further toward Herr Lane, which would cause other adverse effects and will be mitigated by the additional proposed landscaping.