

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 Section 10.2.7 to not provide the required trees within the 35ft perimeter landscape buffer area.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the 35 foot LBA is still being provided, just without the required trees. The reason for the waiver request to not provide tree plantings is the 35 LBA is completely overlapped with a 100 ft LG&E transmission line easement along the I-64 property line. The applicant's representatives have contacted LG&E, and LG&E will not allow any plantings over 10 feet in height within the area of the transmission line easement. The applicant will still provide the required 8 foot screen along this property line. The purpose of the code required plantings with the LBA are to protect and enhance the visual quality along high traffic roadways and to reduce the impacts of the roadway on the development. In the instant case, the 100 foot LG&E transmission line easement results in the closest apartment building being 100 feet from the property line and will be shielded with the 8 foot screen. Further, there is dense vegetation in the right of way between I-64 and the property line providing additional buffering. The applicant has also completed a noise impact study and revised the development plan accordingly to avoid negative impacts of I-64 on the proposed development.
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 comprehensive plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the applicant is not allowed to provide the code required plantings due to the LG&E easement.
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 the applicant would be required to install plantings in direct violation of the LG&E transmission line easement restrictions.