

LDC WAIVER JUSTIFICATION STATEMENT

21-ZONE-0091

AL CAT, LLC

5661 W. Indian Trail, Parcel 104502050000

LDC SECTION 7.3.30.E

WAIVER TO ALLOW MORE THAN 15% OF THE REAR YARDS OF LOTS WITHIN CEDAR RIDGE TO BE OCCUPIED BY DRAINAGE EASEMENT

AL CAT, LLC (the "owner") and CL CAT, LLC (the "applicant") have filed development review applications with Louisville Metro Planning and Design Services wherein it requests a change in zoning district designation from R-4, Single-Family Residential District to R-5, Single-Family Residential District for properties located at 5661 W. Indian Trail, Parcel ID NO. 1045020000 (the "Property") to extend single-family residential development on infill property via Major Subdivision Plan depicting twenty-five residential lots, another lot proposed for utilization as a detention basin, and to extend existing Auburn Woods Road, a public local roadway and pedestrian connections within fifty feet (50') of right-of-way, on 4.8 acres of land (the "Proposal"). Alongside its associated zoning and subdivision applications, the applicant is requesting a waiver from Chapter 7 of the Land Development Code to allow more than 15% of the rear yards of proposed lots numbered 5 thru 15 (11 lots total), as depicted on the Major Subdivision Plan submitted alongside its zoning application, be occupied by a drainage easement.

For the reasons stated herein as well as those within the justification the applicant filed in conjunction with its zoning application, the requested waiver complies with Plan 2040, A Comprehensive Plan for Louisville Metro ("Plan 2040") and the criteria for granting waivers and, therefore, should be approved.

A. The waiver will not adversely affect adjacent property owners.

The requested waiver relief from Chapter 7, Section 7.3.30.E of the LDC is to allow design of the Proposal, which allows for smaller sized single-family lots, as supported by Plan 2040 and the R-5 single-family zoning designation the applicant currently seeks. As part of the Proposals' overall site design, the proposed waiver relief will allow for the applicant to properly handle drainage throughout the development, which will benefit not only future residents of these newly-proposed lots, but also adjacent property owners. By providing drainage swales within the rear yards of properties 5 thru 15, whereon the easement area applies and, therefore, triggers the waiver from the Land Development Code, storm water runoff will be contained on the subject property and will not flow onto adjacent properties. Additionally, those adjacent properties which

may have storm water runoff collecting in or exiting from the rear areas of their respective yards to the owner's property could be better managed via the drainage easement that will occupy the applicant's affected rear yards. The relief to allow a certain amount of rear yards to be occupied by drainage easements is primarily internal to the development, however, for all required building setbacks within the Proposal will comply with LDC requirements. Accordingly, the waiver will not adversely affect adjacent property owners.

B. The waiver will not violate the Comprehensive Plan.

The Proposal involves property located within the Neighborhood Form District. Plan 2040's Community Form Plan Element Goal 1, Policy 3.1.3 advises the Neighborhood Form is characterized predominantly by residential uses that vary from low to high density and that blend compatibly into the existing overall landscape and neighborhood areas. Further, Plan 2040 states the Neighborhood Form should provide diverse housing types and housing choices for differing ages, incomes, and abilities. New neighborhoods are encouraged to incorporate these different housing types and styles within a neighborhood as long as the different types are designed to be compatible with nearby land uses. Consistent with the goals and policies of Plan 2040's Neighborhood Form are the Goals set forth in Plan 2040's Housing Plan Element, which aim to: 1) Expand and ensure a diverse range of housing choices; 2) Facilitate the development of connected mixed-use neighborhoods; and 3) Ensure long-term affordability and livable options in all neighborhoods. The R-5, single-family zoning district being sought for the Property is a zoning district with associated allowable densities consistent with these aforementioned Plan 2040 Goals and, what's more, is a method by which applicants can implement these very Plan 2040 Goals because it provides for flexibility as well as consistency in design of residential developments.

Provided the support for differentiation of site design of residential developments set forth within the Comprehensive Plan and encouragement for residential developments to provide a variety in housing styles and types constructed atop differing lot sizes, the requested waiver is not incongruent nor violative with Plan 2040. Rather the opposite is the case, for when sites are designed to create those residential subdivisions more compact in nature, land area is more contained, constricted and limited, thereby leaving less area for accommodating utility and drainage systems throughout the subject site. Here, the rear yard areas where the drainage easements will overlap will remain usable by the resident, however, and will not appear as anything other than a rear yard. No encroachment into the required rear yards are proposed. Furthermore, the requested waiver, if approved, will not violate Plan 2040 because, as mentioned, the easement area will be a net benefit for all properties surrounding said easement area without altering the established development pattern

of the area. As it applies to the Proposal, this waiver will allow the applicant to properly mitigate excess runoff onsite and will have no effect on the requirements of the Plan 2040. Accordingly, the granting of the requested waiver will not violate the Comprehensive Plan.

C. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant.

The Applicant has designed the site so that the extent of the waiver is the minimum necessary to afford relief to the applicant within the confines of the property and so that no building setback requirements will be affected by encroachment or negatively minimized. And, as mentioned, the rear yards of the proposed lots will allow for use of said backyards, just no location therein of structures. Therefore, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant.

D2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

The strict application of zoning regulation requirements would deprive the applicant of a reasonable use of the land and create an unnecessary hardship on the applicant because to comply with this particular Chapter 7 regulation, the applicant would need to reduce the size of the building footprints of the majority of the houses proposed for the Property, thereby creating an unbalanced development between the lots proposed here and the surrounding Auburn Oaks Subdivision. Moreover, the applicant might be required to drop a number of buildable lots, which seems to run counter to the intent of the Plan 2040, which promotes flexibility in site design, lotting patterns and densities of residential developments such as the applicant's Proposal. Strict adherence to LDC 7.3.30.E would deprive the applicant of the ability to build out the infill property in a manner similar to that of the adjacent built out Auburn Oaks subdivision, potentially creating an unbalanced looking residential development in general. MSD requires the drainage swales designed to accommodate stormwater runoff be placed within 15' drainage easements and if those easements cannot overlap with LDC mandates on required minimum rear yard areas, then, for many single-family subdivision lots, the required yard is actually longer than that prescribed by the LDC. Thus, to avoid triggering a waiver in such cases, the easement areas would need to be placed within common space lots behind the individual residential lots or placed in the center of the lot. Either way, the proposed lots must decrease in buildable area and functionality, considerably restraining site design and usability of property. Avoiding this unnecessary hardship warrants relief from LDC 7.3.30.E.