

Development Review Committee

Staff Report

August 5, 2015



Case No:	15WAIVER1010
Request:	WAIVERS from the Land Development Code to not provide the Sidewalk along Cargo Court; to allow more than a 50% overlap of existing easements into the proposed Landscape Buffer Area (LBA); to reduce the northern Landscape Buffer Area (LBA); and to not provide the maximum distance between Interior Landscape Areas (ILA)
Project Name:	Spectra Press & Promotion
Location:	1808 Cargo Court
Owner:	Bill French, Cargo Realty, LLC
Applicant:	Bill French, Spectra Press & Promotion
Representative:	Kelley Parker, Luckett & Farley
Jurisdiction:	City of Jeffersontown
Council District:	18 – Marilyn Parker
Case Manager:	Sherie' Long, Landscape Architect

REQUESTS

Waiver #1: Waiver of Section 5.8.1.B and 6.2.6.B, to not provide required 5' sidewalk along street frontage of Cargo Court.

Waiver #2: Waiver of Section 10.2.4.B to allow an existing sanitary sewer & drainage easement and a utility easement to encroach more than 50% into the required 15' Landscape Buffer Area (LBA) along a portion of the north perimeter and the entire west perimeter.

Waiver #3: Waiver of Section 10.2.4.B to reduce the required 15' Landscape Buffer Area (LBA) to 8' along the north perimeter.

Waiver #4: Waiver of Section 10.2.11 to waive the maximum distance required for Interior Landscape Area (ILA).

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a one story 5,568sf addition at the rear of the existing building located at 1808 Cargo Court in the City of Jeffersontown. Jeffersontown planning staff completed the review of the site plan and determined several waivers were needed prior to final plan approval.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The property is zoned PEC in the Suburban Workplace Form District. This property is surrounded by warehouse/manufacturing properties zoned PEC in the Suburban Workplace Form District.

	Land Use	Zoning	Form District
Subject Property			
Existing	Warehouse/Manufacturing	PEC	SW
Proposed	NA	NA	NA
Surrounding Properties			
North	Warehouse/Manufacturing	PEC	SW
South	Warehouse/Manufacturing	PEC	SW
East	Warehouse/Manufacturing	PEC	SW
West	Warehouse/Manufacturing	PEC	SW

CURRENT CASES ON SITE

Category 2B Development Plan proposing new building addition and associated parking. Approval pending.

INTERESTED PARTY COMMENTS

No comments have been received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #1: Waiver of Section 5.8.1.B and 6.2.6.B, to not provide required 5' sidewalk along street frontage of Cargo Court.

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners since there are no other sidewalks along Cargo Court.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The waiver does not violate the comprehensive plan since there are no other sidewalks along Cargo Court it is not appropriate to construct sidewalks along the street frontage.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there are no other sidewalks along Cargo Court.

- (d) Either:
(i) The applicant has 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
(ii) 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.

STAFF: the strict application of the provision of the regulation would create an unnecessary hardship on the applicant.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #2: Waiver of Section 10.2.4.B to allow an existing sanitary sewer & drainage easement and a utility easement to encroach more than 50% into the required 15' Landscape Buffer Area (LBA) along a portion of the north perimeter and the entire west perimeter.

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners since the easements are both existing. Plus the required buffer and trees plantings are being provided.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. Even though there is encroachment of the easements into the landscape buffer areas, the applicant is providing plantings which meet the minimum required tree and shrub plantings for the perimeter buffers. Plus the tree canopy requirements are being fulfilled for the site. Therefore the waiver will not violate the comprehensive plan.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the easements are both an existing condition. Plus even with the encroachment of the easements into the landscape buffer areas, the applicant is providing plantings which meet the minimum required tree and shrub plantings for the perimeter buffers. Plus the tree canopy requirements are being fulfilled for the site.

- (d) Either:
(i) The applicant has 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

(ii) 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.

STAFF: The applicant has not incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant if required to relocate the LBA or the utility within the easements.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #3: Waiver of Section 10.2.4.B to reduce the required 15' Landscape Buffer Area (LBA) to 8' along the north perimeter.

(a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners since even with the reduction of the perimeter LBA by 7 feet the required perimeter landscape planting will be provided in the remaining 8 feet.

(b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The waiver will not violate the comprehensive plan since the required plantings including tree canopy will be provided along the perimeter in the reduced LBA area.

(c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the request is to reduce the area width while still providing the required plantings in the remaining LBA area.

(d) Either:

(i) The applicant has 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

(ii) 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.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because the site layout and circulation would be required to be changed.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #4: Waiver of Section 10.2.11 to waive the maximum distance required for Interior Landscape Area (ILA).

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will adversely affect adjacent property owners since interior islands are not being provided to break-up the paved areas. However, locating the proposed perimeter trees to better shade and break-up the pavement would help to mitigate the lack of interior islands.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. The waiver does violate the comprehensive plan since the tree canopy coverage is not being distributed in the paved areas.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant since the interior areas could be provided as required.

- (d) Either:

(i) The applicant has 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
(ii) 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.

STAFF: The applicant has not incorporated other design measures that exceed the minimum of the district and compensate for non-compliance with the requirements to be waived (no net beneficial effect). Also the strict application of the provision of the regulations would not deprive the applicant of the reasonable use or create an unnecessary hardship. The applicant could provide additional trees along the perimeter of the site to shade help break-up the pavement.

TECHNICAL REVIEW

No technical review items to address.

STAFF CONCLUSIONS

Staff analysis in the standard of review section of the staff report indicates the proposed Waivers #1-3 are justified as requested. However Waiver #4 is not justified, additional tree plantings could be added and located along the perimeter to create shade to break-up the pavement, mitigating the lack of internal tree plantings on this site.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee must determine if the proposal meets the standards for granting the Waivers established in the Land Development Code.

Required Action

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee must **APPROVE** or **DENY** the Waivers listed in the staff report.

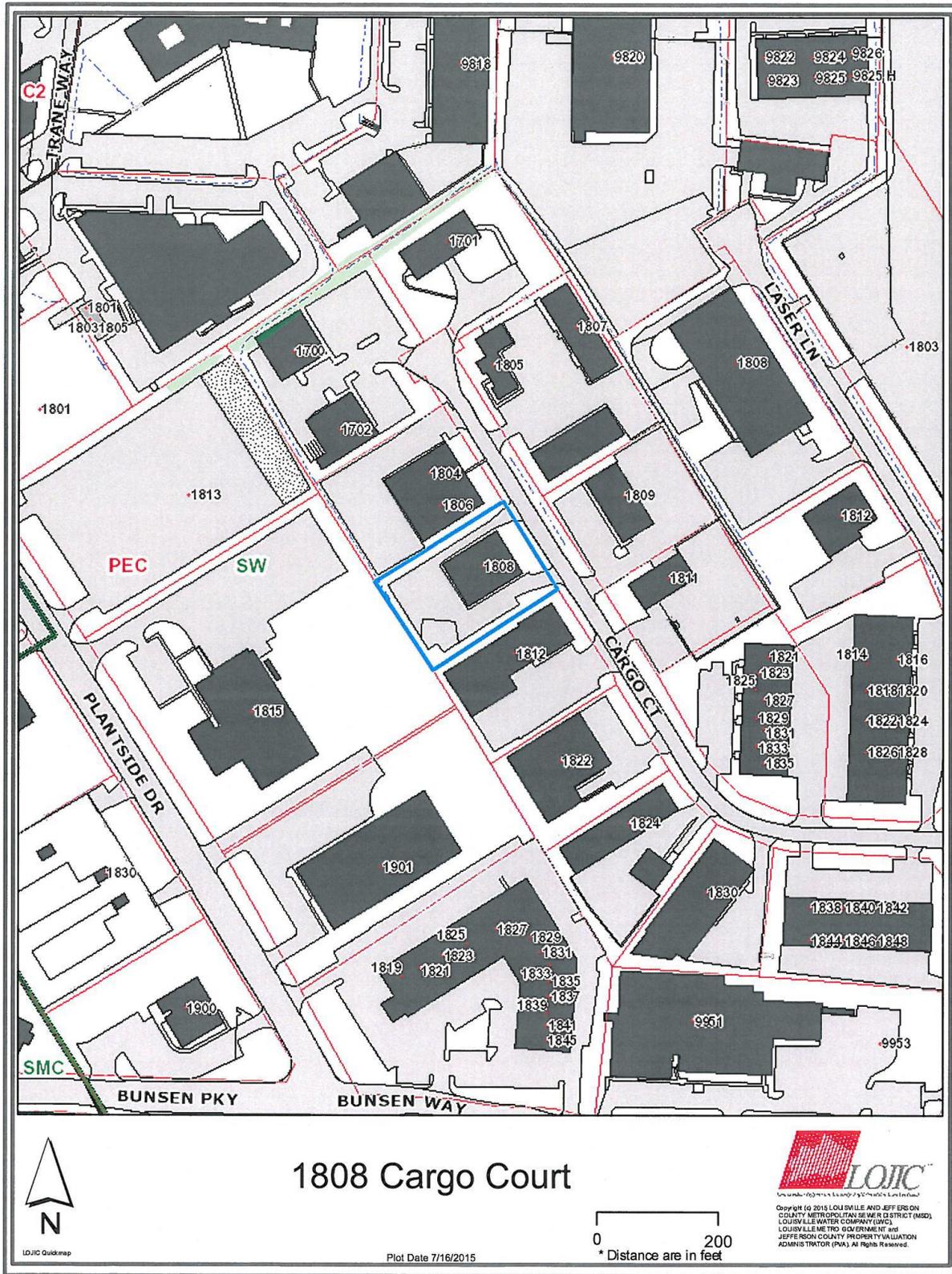
NOTIFICATION

Date	Purpose of Notice	Recipients
07/22/2015	Notification for DRC	Subscribers of Council District 18 Notification of Development Proposals
07/20/2015	Notification for DRC	1 st tier adjoining property owners

ATTACHMENTS

- 1. Zoning Map**
- 2. Aerial Photographs**
- 3. Applicant's Justification**
- 4. Site Plan**

Attachment 1: Zoning Map



Attachment 2: Aerial Photographs



Attachment 3: Applicant's Justification

Sidewalk Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers the following 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. How does the proposed waiver conform to the Comprehensive Plan and the intent of the Land Development Code?

The proposed waiver to not construct the sidewalk on an existing developed site along Cargo Court is requested on the premise that the street is a developed cul-de-sac. None of the adjacent developed properties have sidewalk installed. The area is largely comprised of commercial and manufacturing businesses. The proposed waiver does not deter from the intent of the Land Development Code, since the street is a cul-de-sac with little pedestrian cross traffic.

2. Why is compliance with the regulations not appropriate, and will granting of the waiver result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code?

The proposed waiver to not construct the sidewalk on an existing developed site along Cargo Court is requested on the premise that the street is a developed cul-de-sac. None of the adjacent developed properties have sidewalk installed. The area is largely comprised of commercial and manufacturing businesses. Compliance with the regulations would require the property owner to construct a sidewalk that would dead-end at each side of the property line. The existing adjacent properties have been established for multiple years without sidewalk, and are unlikely to construct sidewalk in the future. Pedestrian traffic on this street is rare given the nature on the businesses on the cul-de-sac.

3. What impacts will granting of the waiver have on adjacent property owners?

Granting of a waiver would impart no change to existing conditions, therefore, no impacts on adjacent property owners are anticipated.

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4. Why would strict application of the provision of the regulations deprive you of reasonable use of the land or create an unnecessary hardship for you?

Strict application of the sidewalk requirement would create an unnecessary monetary hardship on the property owner, who would have to pay to have a sidewalk installed that does not connect to anything and will likely never have other walks constructed to connect to it. The property in question, as well as the adjacent lots and other properties on the cul-de-sac have long been developed for multiple years without sidewalk.

ESUA/MSR/140

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?

Please see attached sheet.

2. Will the waiver violate the Comprehensive Plan?

Please see the attached sheet.

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

Yes, the extent of the waiver is the minimum necessary to allow the applicant to develop their property in the manner needed due to the dimensional constraints of the site and the necessary vehicular access to a loading area.

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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 strict application of the provisions would create an unnecessary hardship on the applicant, in that the applicant would not be able to construct the building addition to function for their needs given the dimensions and layout of the existing site. A strict application of the provisions would require the applicant to have to consider purchasing other property elsewhere and move the whole business. The waiver requests are reasonable and in keeping with similar conditions located at other properties on the street.

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Spectra Press & Promotions

Waiver application Attachment, 06/17/2015

Explanation of Waivers:

1. Waiver to Reduce 15' landscape buffer on side yard to 8'-0".
2. Waiver to allow a landscape buffer to overlap an easement by more than 50%.
3. Waiver to waive the maximum distance required by interior landscape islands.

General Waiver Justification:

1. Will the waiver adversely affect adjacent property owners?

No, the requested waivers will not adversely affect adjacent property owners.

1. The waiver to reduce the 15' side yard landscape buffer to 8' is preceded by the adjacent property located to the northwest of the property which has a parking lot and building located less than a 15' distance to the property line, as measured from the LOJIC website.

2. The waiver to allow a landscape buffer to overlap an easement by more than 50% will apply for a short distance of 25' in length along the north property line, where a utility pole has guy wires that create this small 10'x25' easement. It will also apply to the west property line where an existing paved drainage ditch overlaps the landscape buffer. Adjacent property owners will not be affected because the required buffer trees will still be provided.

3. The waiver of LDC10.2.11B. to not require the interior landscape islands maximum distance rule will not affect adjacent property owners because it is in keeping with precedence set by adjacent properties on the cul-de-sac who also do not meet the maximum distance rule for interior landscape islands.

2. Will the waiver violate the Comprehensive Plan?

No, the waivers will not violate the Comprehensive Plan.

1. A landscape buffer of 8'-0" will still be provided, and is similar to the condition on the adjacent property.

2. The waiver to allow a landscape buffer to overlap an easement by more than 50% will apply to a short 25' area where a guy wire is located near a utility pole at the location on the north side of the site. At the west side of the site, this will not adversely affect the comprehensive plan, as the landscape buffer trees are still being provided.

3. Allowing the project to waive the maximum distance rule on VUA landscape islands would be in keeping with precedence set by similar lots on other properties on the cul-de-sac.

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