

**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 4.8.6.G to allow the streamside and middle buffer areas for Big Run Creek to be located on buildable lots 53, 54, 62 and 63 in a conservation easement

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the applicable lots are not standard subdivision lots, but rather much larger 5 acre lots. As a result, there would be no impact on any adjacent property owners.
2. The waiver will not violate the Comprehensive Plan as the Comprehensive Plan provided the basis for drafting the applicable LDC section with the goal to have the buffer areas "remain in a vegetated, natural state and not be modified in any manner". The reason for LDC 4.8.6.G is to provide protection against individual lot owners not knowing of the required permanent protection of the buffer areas resulting in violations. This is why buffer areas can be located in open space owned by the HOA. The HOA is less likely to take action to violate the restrictions. However, in this case, the buffer areas will be included in a much larger permanently protected conservation easement such that any tree removal, etc. in the overall area is prohibited. The conversation easement would also have enforcement rights by Louisville Metro.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the only other solution would be to make these lots non-buildable due to the requirement for a 5 acre lot minimum per the Health Department.
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, as said, this regulation would make over 15 acres of land unusable otherwise due to the need for sewers.

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