

**General Waiver Justification: Golden Wash LLC; 5437 New Cut Road; 22-ZONE-0068**

The Applicant hereby requests a partial waiver of: Section 10.2.4.B.1 to allow the proposed building, dumpster enclosure and parking to encroach 10 feet into the 20-foot LBA along the adjacent OR-1 zoned property south of the site.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because there is only one adjacent property owner, Ratterman Funeral Home. Parking spaces have been in place in this location for many years. The difference is that part of the area will now also contain approximately 1000 square feet the proposed 6000 square foot building which will be located 60 feet back from the front of the funeral home and the parking spaces in that area will not extend beyond its front facade so there will be no adverse effect. There will also be a pedestrian sidewalk in this location between the two properties which will facilitate the anticipated two users of the proposed retail building. Landscaping is also proposed at the front of the building along Southside Drive which will mitigate the effect of the encroachment.
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 Plan 2040 filed with the original rezoning application. Accommodating a sidewalk is important for pedestrian connectivity and is an important part of the “complete streets” program and supported by Mobility Goal 1, Policy 35.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the subject site is very narrow, and the original tract had an unusual “V” shape. At this location the lot is only 75 feet wide in total. In order to have a functional retail building on this narrow lot the encroachment has become the minimum necessary.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land and would create an unnecessary hardship on the applicant because it would make the current proposed layout impossible and result in a building too narrow for retail purposes and the entire project infeasible.