

LAND DEVELOPMENT CODE WAIVER
Poe Companies, LLC, Applicant
101, 103, 105, 107, and 109 West Main Street
LAND DEVELOPMENT CODE §10.2.8 (Street Trees)

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This is a request to waive Land Development Code (“LDC”) §10.2.8 to waive (i) 3 of 3 required trees in the West Main Street right-of-way; (ii) to waive 1 of 4 required trees in the South First Street right-of-way; and (iii) to waive 2 of 3 required trees in the West Washington Street right-of-way, so that no trees will be provided in the West Main Street right-of-way, 3 trees will be provided in the South First Street right-of-way, and 1 tree will be provided in the Washington Street right-of-way.

REASON FOR WAIVER. Trees/tree wells as required by the LDC cannot be provided due to the location of Louisville Gas & Electric Company underground utility vaults, city street light poles, other underground utility lines, the proposed hotel’s outdoor dining area and vehicle drop-off areas. Specifically, street trees cannot be located where utility service must be provided or where essential hotel services (such as vehicle drop-off areas are provided). The areas which prevent the location of street trees are shown on the development plan and are described below:

West Main Street. An underground LG&E utility vault lies beneath the outdoor dining area; an underground LG&E utility vault lies under the corner of West Main Street and South First Street; a traffic signal pole is situated at the corner of West Main Street and South First Street; and a vehicle drop-off area is located on West Main Street.

South First Street. A “Proposed Drop-Off/Valet Overflow Parking” area and a proposed underground “LG&E vault” will preclude the planting of one (1) of four (4) required trees; sewer connections also prevent additional street trees.

West Washington Street. An underground LG&E utility vault lies at the corner of West Washington Street and South First Street; sewer connections and a service bay also prevent additional street trees.

1. Will the waiver adversely affect adjacent property owners?

No. Along West Main Street a street planter wall system will separate the outdoor restaurant from street traffic. Along South First Street, three (3) street trees will be planted and maintained although the Humana Waterside Building (across the street) has no entrance along that side of the building, and along Washington Street one (1) street tree is proposed across from the Main Street

Realty building. Therefore, the proposed waiver will not adversely affect adjacent property owners.

2. Will the waiver violate the Comprehensive Plan?

No. The only Comprehensive Plan Guidelines or Policies applicable to this waiver are Compatibility Guideline 3 and Policies 1, 22 and 24. The intent of this Guideline is to ensure that the proposal is compatible with nearby land uses. Because adequate green areas will be provided along all street frontages wherever possible the proposal is compatible with adjacent buildings. Moreover, Policy 22 states that “[b]uffers should be variable and design...” which accommodates situations in the downtown where utility locations preclude normal placement locations of street trees.

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

Yes. Street tree plantings as required by the regulations have been proposed at all required locations except where there are utility service facilities or required hotel facilities (such as vehicular drop-offs).

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 (b) would 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 of the regulation would deprive the applicant of the reasonable use of the land because the utility locations have been deemed appropriate by the regulated utility service and because the hotel drop-off areas are necessitated by location near the hotel entrance. If the regulations were strictly applied, the applicant would be unable to utilize the site as proposed.

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