



**WAIVER JUSTIFICATION FOR 4020 POPLAR LEVEL ROAD  
CONDITIONAL USE PERMIT FOR OFF-STREET PARKING**

**CASE NO. 18CUP1082**

**(Revised 11-19-18)**

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**General**

The proposed project will provide employee parking for VisionFirst Eyecare located at 4000 Poplar Level Road. The proposed project currently submitted under Case No. 18CUP1082 and located at 4020 Poplar Level Road, will require approval of the following waivers to construct the project as plan as shown on the proposed plan.

Land Development Code (LDC) waivers requested:

1. Waiver of LDC Section 10.2.4 to reduce the required property perimeter buffer requirements along the southern property line (requesting width reduction along southern property line and to omit screen fence along existing office use), as well as a portion of the northern property line (requesting width reduction along northern property line).
2. Waiver of LDC Section 10.2.12 to reduce the required area and minimum dimensions for interior landscape areas, as well as allow an increase in the maximum distance between interior landscape areas to 21 parking spaces.
3. Wavier of LDC Section 5.5.2.B.1.a to not provide vehicular and pedestrian connections to abutting developments.

**Waiver of LDC Section 10.2.4 and 10.2.12**

LDC Section 10.2.4 provides the requirements for the required property perimeter landscape buffer areas. The proposed site, which is zoned OR-1, abuts OR-1 zoned property along the southern property line and abuts R-6 zoned property along a portion of the northern property line. As required by LDC Chapter 10, conditional use sites are treated as C-1 zoned property.

As a result, the construction of the proposed parking area would require the following property perimeter buffers:

1. North along R-6 zoning – 25' wide buffer with 1.5 planting multiplier (waiver requested for reduction in buffer width) with 8' screen fence
2. North along C-1 zoning – 5' wide buffer per LDC Section 10.2.10.A (provided) with min. 6' fence (8' fence provided)
3. South along OR-1 zoning – 15' wide buffer with 1.5 planting multiplier with 8' screen fence (waiver requested for a reduction with buffer width and to omit the fence along adjacent property with office use)
4. West along R-5 zoning – 25' with 1.5 planting multiplier with 8' screen fence (provided).

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Northern Property Line

A property perimeter buffer with a width of 10' is provided along the northern property line with an 8' screen fence along the R-6 zoned property. Therefore, the applicant requests to provide a 10' property perimeter buffer, in lieu of the required 25' buffer width. The existing mature trees along the northern property line are shown to be preserved.

Additionally, the required property perimeter buffer is provided along the C-1 zoned property at the northern side of the site.

Southern Property Line

A 15' property perimeter buffer is required along the southern property line. As shown on the plan, a variable width buffer is requested, with a minimum buffer width of 3'. Additionally, the applicant requests to omit the required 8' screen fence along the property to the south that contains an office use.

Interior Landscape Areas

As part of this waiver request, relief from LDC Section 10.2.12 is requested to allow a reduction in the minimum area and minimum width requirements for interior landscape areas. As noted on the plan, for interior landscape areas, the minimum area provided is 200 sq. ft., in lieu of the required 290 sq. ft. Additionally, the minimum width provided is 5', in lieu of the required 8' dimension. Lastly, the applicant requests an increase in the maximum spacing between interior landscape areas to 21 parking spaces.

LDC Section 10.2.14 allows an "innovative, aesthetically pleasing landscaping design" to be submitted that conforms to the intent of the regulations. The proposed plan, while not specifically meeting the dimensional requirements of Section 10.2.12 for interior landscape areas, does provide dispersed interior landscape areas, which generally follows the intent of the regulations.

**Justification of Waiver of LDC Section 10.2.4 and 10.2.12**

**1. Will the waiver adversely affect adjacent property owners?**

Approval of the requested waiver will not adversely affect adjacent property owners. As can be seen on the proposed plan, the proposed parking configuration has been designed to preserve as many existing mature trees as possible. The proposed property perimeter buffers have been positioned to locate existing mature trees in the buffer areas. As noted on the plan, approximately 6 existing trees are to be removed for the proposed construction, leaving all other existing trees in place. The existing tree canopy coverage area is 14,197 sq. ft. (62%), with a proposed tree canopy coverage area of 12,919 sq. ft. (57%), resulting in only a 5% loss of tree canopy coverage area for this project.

Along the southern property line, the site abuts existing OR-1 zoned property. The majority of the abutting OR-1 property currently operates as office and meeting space for the Mechanical Contractors Association of Kentucky. The site contains an existing office building and paved parking area. The applicant's proposed parking area is compatible with the abutting use.

In the southwest corner of the proposed site, the southern property line abuts OR-1 property that is used as residential, with a common boundary of approximately 65'. Of that length, approximately 30' of 5' wide property perimeter buffer is proposed, in lieu of the required 15' buffer. In addition, numerous mature trees are shown to be preserved along this common property boundary, with an 8' screen fence to be constructed along the residential use.

In order to increase the aesthetics of the project, the applicant proposes to provide excess interior landscape area to increase compatibility with adjoining properties. This excess landscape area will help mitigate the use of interior landscape areas that have less area and width, as is required by the regulations.

## **2. Will the waiver violate the Comprehensive Plan?**

The applicant's proposal will not violate the Comprehensive Plan since the applicant intends to provide employee parking at this location, as business growth has increased the number of employees at VisionFirst Eyecare. Once constructed, the proposed parking area will provide the additional parking needed to provide adequate parking for customers at the VisionFirst Eyecare office (Comprehensive Plan Goal C4.7). The proposed location of this parking area is appropriate, as the existing lot has frontage along a commercial corridor section of Poplar Level Road, which is classified as a major arterial roadway. The applicant intends to provide the required buffer widths, where feasible, and buffers with a modified width where conditions warrant. Providing these buffers is a goal of the Comprehensive Plan, in order to ensure compatibility between developments (Comprehensive Plan Goal C4.6).

Additionally, LDC Section 10.2.14 allows an "innovative, aesthetically pleasing landscaping design" to be submitted that conforms to the intent of the regulations. The proposed plan, while not specifically meeting the dimensional requirements of Sections 10.2.4 for buffers and 10.2.12 for interior landscape areas, does provide perimeter buffers and dispersed interior landscape areas, which generally follows the intent of the regulations.

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

Yes, the requested waiver is the minimum necessary to allow the proposed plan to be implemented.

## **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 unnecessary hardship on the applicant?**

The applicant is proposing to provide interior landscape area beyond what is required, in addition to preservation of existing mature trees. In addition, strict application of the regulations would create unnecessary hardship on the applicant, due to the need for employee parking. Additionally, LDC Section 10.2.14 allows an "innovative, aesthetically pleasing landscaping design" to be submitted that conforms to the intent of the regulations. The proposed plan, while not specifically meeting the dimensional requirements of Sections 10.2.4 for buffers and 10.2.12 for interior landscape areas, does provide perimeter buffers and dispersed interior landscape areas, which generally follows the intent of the regulations.

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Additionally, the applicant has exhausted joint parking options within the area. Due to recent and ongoing development projects in the area, parking spaces that were once used are no longer available. Without adequate existing parking facilities in the vicinity, the proposed project will allow VisionFirst Eyecare to continue to offer high quality services, including adequate parking, to its clients.

#### **Waiver of LDC Section 5.5.2.B.1.a**

LDC Section 5.5.2.B.1.a requires vehicular and pedestrian connections between parking lots of abutting developments to reduce traffic on adjacent thoroughfares and to allow customers to visit multiple establishments without moving their vehicles. A waiver of LDC Section 5.5.2.B.1.a is requested for this project, as additional tree removal and loss of parking would be required to provide the vehicular connections. The intent of this project is to provide a certain quantity of dedicated employee parking for existing employees. No buildings will be constructed on this site.

#### **Justification of Waiver of LDC Section 5.5.2.B.1.a**

##### **1. Will the waiver adversely affect adjacent property owners?**

Waiver approval will not adversely affect adjacent property owners since each of the adjoining properties along Poplar Level Road have existing direct access to Poplar Level Road. Additionally, there is an existing sidewalk along Poplar Level Road, which would, as stated in the LDC "allow customers to visit multiple establishments without moving their vehicles." Furthermore, in order to provide a vehicular connection to the north, existing mature trees would need to be removed, which would adversely affect adjacent property owners and reduce the aesthetics of the site.

##### **2. Will the waiver violate the Comprehensive Plan?**

Waiver approval will not violate the Comprehensive Plan, as there is an existing sidewalk along Poplar Level Road, which would, as stated in the LDC "allow customers to visit multiple establishments without moving their vehicles." Furthermore, waiver approval will allow the applicant to provide additional parking spaces for their employees, which will, as stated in the Comprehensive Plan, "afford adequate and appropriate vehicular parking" for the proposed development. This will aid in allowing personnel and visitors to park in their designated areas, in lieu of parking on the spaces located on adjoining properties.

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

Yes, the requested waiver is the minimum necessary to allow the proposed plan to be implemented as submitted.

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 unnecessary hardship on the applicant?**

The strict application of the provisions of LDC Section 5.5.2.B.1.a, would create an unnecessary hardship on the applicant, since the applicant has multiple facilities in the Louisville area and has an understanding of the number of parking spaces that are necessary for successful operation of the proposed facility. The potential loss of parking that would be necessary to satisfy the vehicular connection requirements would be a substantial reduction in the number parking spaces that are necessary for the facility to operate properly. The loss of parking that would result from strict application of the regulation would affect patients, visitors, and personnel, by creating the need to park on adjoining properties. This, in turn, could have a negative impact on adjoining properties.

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