



**18DEVPLAN1162
WAIVER JUSTIFICATION
(Revised December 6, 2018)**

**PROPOSED FAST FOOD RESTAURANT
11201 OSCAR ROAD
LOUISVILLE, KENTUCKY**

Waiver Description

The applicant is proposing to construct a new fast food restaurant with a gross floor area of 2,666 sq. ft, with a drive thru window, on the existing site. An existing 6,421 sq. ft. building with drive thru window and existing parking is located on the site. The existing building will be demolished. The demolition needed for the proposed building and associated site improvements will be limited to the lot interior. The existing perimeter parking and perimeter landscaping will remain in its current location.

Two waivers are requested for this project:

1. A waiver of LDC section 10.2.10 is requested to allow the existing parking areas to continue to encroach into the required 10' LBAs along the northern, southern and eastern property lines. As noted, the existing pavement in these areas will remain in place. A waiver is also requested to allow the proposed dumpster enclosure to encroach into the required LBA along the southern property line.
2. A waiver of LDC section 10.2.11 is requested to allow the existing landscaping along the northern, southern, and eastern property lines to satisfy the vehicular use area (VUA) perimeter planting requirements. Based upon the site survey, the existing mature landscaping along the northern property line (Chamberlain Lane), is located within the right of way of Chamberlain Lane. As part of this waiver, the applicant is requesting approval for the existing landscaping to be located within the right of way of Chamberlain Lane.

Waiver Justification

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

The requested waivers will not adversely affect adjacent property owners since the waivers being requested are for conditions that currently exist at the site and have existed since the site was originally approved and constructed. Furthermore, the existing site is surrounded by C-1 zoning with similar uses. With this proposal, the use of the site will remain unchanged and the perimeter conditions will remain unchanged, therefore, adjacent property owners will not be affected by the proposed waiver.

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2. Will the waivers violate the Comprehensive Plan?

The requested waivers will not violate the Comprehensive Plan, since screening is being provided. The Comprehensive Plan states that site design, within Regional Center form districts, should provide screening of parking areas and building from the roadway. The existing landscaping along the site perimeter provides screening to satisfy this requirement and provide compatibility between uses (Comprehensive Plan Goal E4 and Goal F2).

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

The extent of the requested waivers is the minimum necessary to afford relief to the applicant, since strict application of the regulation would require complete demolition and removal of existing paving from the existing site and would require a complete redesign of the site, even though the site has operated as a restaurant with drive thru window since it was originally approved and constructed. Additionally, strict application of the regulation would result in an increased area of disturbance and an increase in the amount of excess debris to be hauled away from the site, increasing the potential for a reduction in air quality and stormwater quality in the area.

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?

Strict application of the regulation would require complete demolition of existing paving from the existing site and would require a complete redesign of the site, even though the site has operated as a restaurant with drive thru window since it was originally approved and constructed. Strict application of the regulation would result in an increased area of disturbance and an increase in the amount of excess debris to be hauled away from the site, increasing the potential for a reduction in air quality and stormwater quality in the area.

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