

**Ground Effects – 12101 Westport Road**

**Revised Detailed District Development Plan**

**Waiver Requests:**

1. Waiver of Chapter 5.5.4.B.1 of the Land Development Code to reduce the required 50' landscape buffer to 30' and to allow the existing vegetation and fencing to meet the screening and planting requirements;
2. Waiver from Chapter 5.8.1.B of the Land Development Code to not provide sidewalks along Westport Road;
3. Waiver from Chapter 5.9.2.A.1.b and 5.9.2.A.1.b.ii to omit the required sidewalk connections to adjacent properties and the street.

**Landscape Waiver Justifications:**

- (1) Will the waiver adversely affect adjacent property owners?

The waiver will not adversely affect adjacent property owners since the intent of the buffer will be met with the 30' buffer along the residential property boundary and the existing vegetation with fencing. Adjacent to the north property is Pacelli Place so with the exception of one residence the majority of the residential units are located at a distance of 55'-60' or greater from the property boundary.

- (2) Will the waiver violate the Comprehensive Plan?

The waiver will not violate the Comprehensive Plan since the intent of landscape buffer area is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. An extensive buffer will be maintained with 30' being left undeveloped between the subject property and the northern residentially zoned/used property boundary. Within this buffer all existing vegetation will be maintained with the existing fencing. Plan Element 6 under Land Use and Development of the Community Form Goal discusses appropriate transitions from non-residential to residential uses may include natural vegetative buffers and landscaping. Plan Element 10 of the same section of the Comprehensive Plan, Plan 2040, notes buffers of variable design being used to mitigate impacts caused when incompatible developments unavoidably occur adjacent to one another. Both of these plan elements and those of the Community Form are followed by preserving the buffer and vegetation discussed above.

- (3) Is the extent of the waiver of the regulation the minimum necessary to afford relief to the applicant?

The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since it provides the needed vehicle storage to the subject property while maintaining an extensive 30' buffer along the north property boundary. The existing vegetation and fencing will be maintained in lieu of any planting and screening requirement within the Land Development Code to prevent further disturbance of the existing tree canopy to be preserved.

- (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?

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Compliance with the strict application of the regulations would not allow proper vehicle storage to be provided on the site as well as require removal of portions of the existing tree canopy and vegetation to replace the fencing on site. New plantings in this area would also be difficult with the existing overhead utility lines and utility easements. The existing vegetation will be maintained in this area with the existing fencing providing more extensive tree canopy than would be provided with new plantings at a Type C level that would have to be placed within this area of overhead utilities.

**Sidewalk Waiver Justification:**

- (1) How does the proposed waiver conform to the Comprehensive Plan and the intent of the Land Development Code?

Plan 2040 states that the movement of pedestrians should be provided for where appropriate by sidewalks along the streets of all developments with accessibility to transit. The subject site along Westport Road contains an extensive drainage swale and drainage infrastructure with paved ditches and culverts serving drainage lines from the east, west and north. There is only a single express transit line along this portion of Westport with infrequent stops and service. There are no existing sidewalks along Westport Road to the east and the only sidewalks along Westport Road to the west are located at Murphy Lane. The ROW at Murphy Lane is more extensive and topographically appropriate areas exist outside of the drainage facilities. The conditions on the site demonstrate how the location of sidewalks within the ROW along the subject site are not appropriate.

- (2) Why is compliance with the regulations not appropriate, and will granting of the waiver result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code?

Plan 2040 states that the movement of pedestrians should be provided for where appropriate by sidewalks along the streets of all developments with accessibility to transit. The subject site along Westport Road contains an extensive drainage swale and drainage infrastructure with paved ditches and culverts serving drainage lines from the east, west and north. The swale and drainage ditches existing both within the ROW and along the front setback of the property frontage along the property prevent proper sidewalk construction and appropriate movement of pedestrians. There is only a single express transit line along this portion of Westport with infrequent stops and service. Transportation planning commented on a sidewalk waiver request being appropriate for this property. Due to these existing site conditions, compliance with the regulations is not appropriate.

- (3) What impacts will granting of the waiver have on adjacent property owners?

There will be no adverse impact on the adjacent property owners since the existing drainage infrastructure is for the benefit of the properties to the east and west in addition to the subject site. There are no sidewalks along Westport Road in the vicinity of the subject site.

- (4) Why would strict application of the provision of the regulations deprive you of reasonable use of the land or create an unnecessary hardship for you?

Strict application of the provisions of the regulations would deprive the applicant of reasonable use of the land and create an unnecessary hardship due to the minimal ROW and existence of

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major drainage infrastructure along Westport Road. The existing conditions would prevent the ability to provide ADA compliant sidewalks providing appropriate pedestrian movement.

**Connection Waiver Justification:**

- (1) Will the waiver adversely affect adjacent property owners?

The waiver will not adversely affect adjacent property owners since there are no existing connections to be made from pedestrian facilities along Westport Road and there is a shared vehicular entrance with the property at 11931 Westport Road.

- (2) Will the waiver violate the Comprehensive Plan?

The waiver will not violate the Comprehensive Plan since the intent of Plan 2040 is to provide connectivity where appropriate. The appropriate vehicular connections are being provided with the shared entrance between the subject site and 11931 Westport Road. There are no sidewalks along all properties within the vicinity on Westport Road to provide pedestrian connections. The site is an industrial use with gated entry after the front parking area. There will be appropriate pedestrian connections provided between the parking for staff and entrances into the existing building. Chapter 5.5.2.B.1.a of the Land Development Code states that properties within the Suburban Workplace form district are not required to provide vehicular and pedestrian connections between parking lots of abutting developments.

- (3) Is the extent of the waiver of the regulation the minimum necessary to afford relief to the applicant?

The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since there are no pedestrian connections to be made along Westport Road for the existing industrial uses. Chapter 5 of the Land Development exempts sites within the Suburban Workplace form district from cross connection. Appropriate interior connections will be provided for staff and an existing shared entrance is utilized for the site.

- (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?

The strict application of the provisions of the regulation deprives the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since there are no viable connection points that exist along any sites along Westport Road. There is a shared vehicular entrance from Westport Road.

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