

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of LDC 10.2.4 and Table 10.2.3 to require less than the required property perimeter LBA along adjoining residential property lines.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the property adjacent to the requested waiver is zoned residentially but utilized as a church. Additionally, the purpose of the landscape buffer area requirements, which is to minimize the potential for nuisances created when zoning districts or land uses of varying intensities abut one another, will be satisfied because there will be substantial distance between the church and this development, as the nearest part of the church's parking lot is approximately 100 feet from this development, and the nearest corner of the church's building is approximately 500 feet from this development. The applicant will provide landscaping screening and buffering elsewhere on the site despite the waiver wherever possible pursuant to a landscape plan which will be submitted for review by planning staff.

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 the Plan 2040 Comprehensive Plan filed with the original rezoning application. The encroachment into the LBA will have a negligible impact on the adjoining property owners and will be similar to buffers throughout this area.

3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this is not a request to eliminate that LBA entirely, only a major portion of it as the conditions of the site will allow and adequate landscaping screening and buffering will be provided elsewhere on the site.

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 the need for the waiver is based upon the confluence of the 30-foot parkway buffer and the innovative dual-drive-through lane that is necessary for this small coffee shop to achieve is highly efficient method of product delivery. This proposal is already utilizing as small of a building footprint as possible to achieve the business goals, and this waiver is necessary to achieve those goals and provide additional products and services to this growing commercial

corridor.