



UNDERSTANDING THE VARIANCE PROCESS

Sec. 14-724 of Rogers Code of Ordinances

Application steps:

1. Discuss variance with Planning staff to verify nature of request.
2. Complete application and provide the following supplements:
 - One-hundred dollar (\$100) filing fee made payable to the City of Rogers.
 - Unabbreviated legal description. Platted lot/block description is sufficient.
 - Reduction survey, site plan, sign proofs, pictures, or any other items necessary to explain request. Setback reduction requests must include the reduction distance in terms of linear feet.
3. Once application and required supplements are submitted and determined to meet all requirements, Planning staff will assign the variance request to a public hearing date based on the Public Hearing deadline and meeting schedule.

Public hearing details:

- Public hearings for variance requests are held during regularly scheduled Board of Adjustment meetings which take place on the first and third Tuesday of each month. The Board meets at 5:30 pm in the Council Chambers at City Hall.
- A legal notice of public hearing is advertised in the newspaper, and a public hearing notice sign is placed on the subject property 15 days prior to the Board of Adjustment meeting.
- The applicant or representative must be in attendance to represent the request and answer questions from the Board. If the applicant or representative fails to appear on the scheduled meeting date, the item can be postponed only once. If the applicant fails to appear on the second meeting date, the request will be automatically denied.
- The Board may approve a variance request with conditions or limits.

If your sign variance is approved:

- Sign variances require that a sign permit be obtained within six (6) months of approval.

If your setback reduction is approved:

- Setback reduction variances require provision of an official reduction survey that complies with the city's REDUCTION SURVEY STANDARDS.
- Planning staff will review and confirm that the reduction survey complies with survey standards and the approved variance. Survey revisions may be necessary.
- Once reviewed, surveys may be submitted for signatures on paper not exceeding 18" x 24". If a survey requires City and utility signatures, utility signatures must be gathered first.
- Surveys must be recorded with the Benton County Circuit Clerk, and a pdf must be filed with the Department of Community Development before considered final.



DEPT. OF COMMUNITY DEVELOPMENT
 PLANNING DIVISION
 301 W. CHESTNUT
 PHONE: (479) 621-1186
 FAX: (479) 986-6896

<u>OFFICE USE ONLY</u>	
Permit Fee: _____ (\$100)	Zoning: _____
App Number: _____	
CityView Application: _____	
Date: _____	

VARIANCE APPLICATION

APPLICANT: CEI Engineering on behalf of Wil-shar Inc.

ADDRESS: 2609 W Hudson Rd SUITE #: _____

GENERAL LOCATION OF PROPERTY: near W Hudson Rd and N 26th Street

PHONE #: (479) 321-0531 EMAIL: ccaletka@ceieng.com

PROPERTY OWNER: Wil-shar Inc. PHONE #: _____

REQUEST to ALLOW(Cite Variation[s] from Applicable Section[s] of Code and Proposal): _____

Table 5.5.5.B Buffer Type Requirements, 5.6.4 Open Space Trees; see included letter for explanation.

Gravel paving in I-1 Zoning for Vehicular & Material Storage; see included letter for explanation.

Sec. 14-724(e)(1)(b) requires variance applicants to respond to these two questions for variance consideration:

How does strict enforcement of the code cause undue hardship due to circumstances that are unique to this property?

Strict enforcement of the Landscape Code would further reduce the 80% allowable building & impermeable coverage in I-1 zoning to provide sufficient landscape areas for the required number of trees; the SDP as shown is approximately 66% coverage to accommodate the primary channel drainage, maintenance access, and landscape buffers.
 For the gravel paving, Section 5.3.3.2 Parking Area Design exempts vehicle storage in I-1 zones.

How will approval of this variance be in keeping with the “spirit and intent” of the code being varied?

The spirit and intent of the landscape code is being met with the required landscape buffers and stormwater pond trees, which total to 356 trees being planted with adequate growing conditions and spacing for maintenance access.

In addition, the Developer has proposed a timeline from approval of the project to pave the site in a future phase which intends to add buildings and additional development to the site.

 Applicant Signature 10/24/2024
Date

Attachment Checklist:

- Owner Signature on Letter or Application If needed, additional sheet for above required responses
- Survey, elevations, sign proofs and/or other documents as needed to illustrate request

PLANNING STAFF PROVIDES:

BOARD OF ADJUSTMENT DECISION: _____

SECRETARY, BOARD OF ADJUSTMENT

DATE of PUBLIC HEARING



DEPT. OF COMMUNITY DEVELOPMENT
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REDUCTION SURVEY STANDARDS

Surveys must feature the following:

- Information required per Arkansas Standards of Practice No. 1.
- Graphic depiction (with bearings and distances) of the area to be reduced.
- Textual depiction of the linear distance to be reduced.
- If a reduction only involves specific encroachments, the reduction area must include the specific encroachments.

Required signatures:

<i>Setback and easement reduction:</i>	<i>Setback reduction only:</i>	<i>*Easement reduction only:</i>
Property owner (with notarization) Secretary, Board of Adjustment Community Development Director RWU Electric provider Gas provider CATV provider Phone/Internet provider	Property owner (with notarization) Secretary, Board of Adjustment Community Development Director	Property owner (with notarization) Community Development Director RWU Electric provider Gas provider CATV provider Phone/Internet provider

*Easement reductions do not require a variance, but shall be submitted for review by Community Development and RWU, and require approval from all appropriate utilities. Submittals for easement reductions follow the standards and details above.

Utility Contact Information:

Provider	Contact	Phone #	Email
Rogers Water Utilities	Stephen Ponder	(479) 621-1156	stephenponder@rwu.org
Carroll Electric	Derek Thurman	(479) 273-2421 *2690	dthurman@carrollecc.com
AEP SWEPCO	Chris Andreolli	(479) 986-1015/ (479) 721-8573	clandreolli@aep.com
Black Hills Energy	Adam D. Comer	(479) 320-5104 / (479) 877-0006	adam.comer@blackhillscorp.com
CATV (Cox)	Jason Combs	(479) 263-7057	jason.combs@cox.com
Phone (AT&T)	Anthony Williams	(479) 442-3173	aw9156@att.com



Civil Engineering, Landscape Architecture,
Survey, Planning & Program Management

2600 NE 11th Street
Bentonville, AR 72712
Office: 479.273.9472
ceieng.com

October 24, 2024
City of Rogers
Community Development
301 W Chestnut St.
Rogers, AR 72756

RE: Drop Yard NWA – Site Development Plan Variance Request
CEI Project No. 32987
SDP24-0571

Dear Rogers Community Development:

On behalf of Wil-Shar, Inc., CEI is requesting consideration of a variance to allow vehicular and material storage on gravel for the Drop Yard NWA Site Development Plan. Section 5.3.3.2 Parking Area Design exempts vehicle storage in I-1 zones from the design requirements.

The intent of the Site Development Plan is to build site improvements in this phase, including relocating the driveway access to N 26th Street, offsite improvements paving N 26th Street to W Hudson Rd, and the site work for a primary drainage channel, onsite stormwater pond, drainage improvements, screening / buffering, and tree planting which will not be damaged in future construction. Building development and paving of the current phase gravel area is intended to be in a future phase.

In addition, the Developer has presented a timeline from final acceptance of the project to pave the site in a future phase which intends to add buildings and additional development to the site (See Sheet C0.01 Land Development Plan and Sheet L3.0 Future Improvements Exhibit).

The proposed driveway paving and generous landscape buffers on all sides of the site will help to mitigate dust prior to the future paving. The Drop Yard storage area is screened from public view behind two commercial developments which face W Hudson Road (2737 W Hudson Rd and 2621 W Hudson Rd); the storage yard is located 600 feet north from the public right of way along Hudson Road and 235 feet west of N 26th Street.

We appreciate your consideration of our request and look forward to discussing any questions you may have. Contact me at your convenience in the office at 479-273-9472, or by email: ccaletka@ceieng.com

Respectfully Requested,
CEI Engineering Associates, Inc.
Chad Caletka



October 24, 2024
City of Rogers
Community Development
301 W Chestnut St.
Rogers, AR 72756

RE: Drop Yard NWA – Site Development Plan Variance Request
CEI Project No. 32987
SDP24-0571

Dear Rogers Community Development:

On behalf of Wil-Shar, Inc., CEI is requesting consideration of the landscape variances below for the scope of proposed landscaping for the Drop Yard NWA Site Development Plan. Code section(s) and explanation of the variances are as follows.

➤ Table 5.5.A Buffer Requirement by Adjacency

Proposed Development	Existing Adjacent Zoning							
	T2	T3	T4	T5	T6	HC	I-1	I-2
T2								
T3								A
T4								A
T5	A	B						A
T6	B	C	A					A
HC	C	C	B	A				A
I-1	B	B	A					A
I-2	C	C	C	C	C	C	A	

➤ Table 5.5.5.B Buffer Type Requirements

Type	Width of Buffer	Hedge	Canopy Trees
A	6' minimum	6' high at maturity, planted 30 inches on center, minimum.	1 per each 50 linear ft.
B	10' minimum		1 per each 40 linear ft.
C	25' minimum		2 per each 50 linear ft.

The landscape plans can be found on Sheets L1.10 and L1.10. We are requesting a variance to the typical hedge requirements as follows:

1. West Buffer Area (Adjacent to I-2 Zoning)
 - Trees are provided as required.
 - Variance is requested to eliminate shrubs along west side adjacent to I-2 zoning. Shrubs are not required when adjacent to I-1 zoning and we request the same consideration when adjacent to I-2 zoning. In addition, the site development plan has a Primary Channel and required maintenance access road which occupies 58.5 feet of width along the western edge of the property to intercept and redirect offsite drainage. The significant space required by the drainage channel on the west side (1.75 acres) is a hardship which significantly limits useable land area and the 3:1 sloped sides of the primary channel do not provide adequate planting conditions for establishing shrubs along the western property line.
2. North Buffer Area (Adjacent to Little Flock, considered T3.1 according to Staff)
 - Trees are provided as required.
 - Variance is requested for a single row of large shrubs at 6' on center spacing to achieve a 6' height rather than 30" spacing. This request provides more suitable growing conditions for large shrubs and achieves the same desired height.
 - In addition, the pond plantings south of this buffer provide additional trees and shrubs required by the Drainage Manual to provide a generous setback and additional planting to buffer the site from the northern property.
3. East Buffer Area (Adjacent to Little Flock, considered T3.1 according to Staff)
 - A double row of canopy and evergreen trees are provided at a 25' on center triangulated spacing, which exceeds the required spacing of 1 tree per 40 linear feet.
 - Variance is requested for a privacy fence and a single row of large shrubs at 6' on center spacing to achieve a 6' height rather than 30" spacing. This request provides more suitable growing conditions for large shrubs and achieves the same desired height and the privacy fence will provide an immediate visual buffer to the adjacent residences.

➤ 5.6.4 Open Space Trees

➤ 5.6.4.2 Standard

Canopy shade trees shall be provided at a rate of 1 tree per 1,000 square feet of added impervious area plus 1 tree per 2,500 square feet of added building floor area.

4. The site has 513,880 square feet of impervious area, which equates to 514 required open space trees. 356 trees are provided. A variance is requested to waive the additional 158 open space trees from the proposed landscape areas, which meet the buffer tree requirements and the pond tree requirements. See the landscape plan requirement table on Sheets L1.00 and L1.10 for more detailed information and Sheet L3.0 for anticipated future building improvements and tree islands to be completed in a future phase.

Additionally, Section 4.5 of Zone Standards allows for an 80% maximum building and impervious surface coverage in I-1 zoning and the Site Development Plan shows approximately 66% coverage.

Due to hardships of the approximately 2.5 acre undevelopable Primary Channel (3:1 side slopes and concrete bottom) and maintenance access drive along the western and

northern property line to intercept offsite water flowing onto the site, meeting the required landscape buffers along the north, east, and southern property boundaries, and locating trees where they will not be impacted by future building construction and disturbance, we ask that Board of Adjustments waive the additional open space trees which cannot be accommodated without further reducing the allowable industrial site coverage of 80%.

We appreciate your consideration of our request and look forward to discussing any questions you may have. Contact me at your convenience in the office at 479-321-0531, or by email: ccaletka@ceieng.com

Sincerely,
CEI Engineering Associates, Inc.

Chad Caletka
Project Manager – Local Development

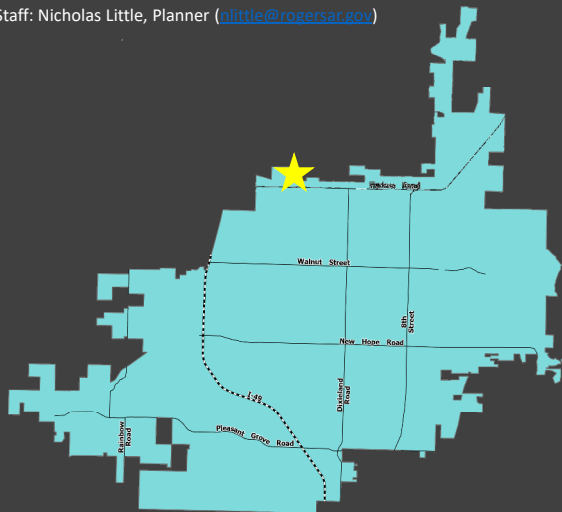


Variance

PLANNING

NWA Drop Yard

Staff: Nicholas Little, Planner (nlittle@rogersar.gov)



Vicinity Map

Location

2609 W Hudson Road
Parcel 02-02100-002

Nature of Request

- To allow gravel as a paving surface
- To allow exceptions for the landscape buffer areas along the western, northern and eastern property boundaries
- To allow a decrease in open space trees provided
- To allow payment into the tree fund, despite site specific hardship

Zoning

I-1 (Light Industrial)

Proposed Use

Freight, Logistics and Storage

Representative

Chad Caletka, CEI

Summary:

This site is located in north Rogers, on the north side of W Hudson Road, adjacent to Little Flock on 2 sides.



Section 2.12 Variances

2.12.1 Purpose & Intent

The Board of Adjustment is authorized to grant a variance or waive from any provision of this UDC where strict enforcement of the provision would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances or waivers only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the UDC.

2.12.2 Review Criteria

The Board of Adjustment shall consider the following in determining whether or not to grant a variance or waiver:

- A. Would the variance or waiver cause undue hardship to the property owner due to circumstances unique to the property; and
- B. Is the hardship a result of any action taken by the property owner or on their behalf; and
- C. Is the variance or waiver requested the minimum amount necessary to carry out the project; and
- D. Is there another reasonable method of avoiding the need for a variance or waiver; and
- E. Any other factor the Board feels is important to consider in keeping with the purpose and intent of this UDC.

Section 2.12 Variances

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Would the variance or waiver cause undue hardship to the property owner due to circumstances unique to the property; and

Is the hardship a result of any action taken by the property owner or on their behalf; and

Is the variance or waiver requested the minimum amount necessary to carry out the project; and

Is there another reasonable method of avoiding the need for a variance or waiver; and

Any other factor the Board feels is important to consider in keeping with the purpose and intent of this UDC.



NWA Drop Yard

Site Conditions



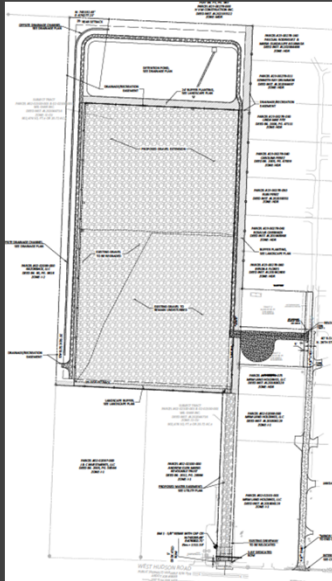
SITE CONDITIONS

- Wetlands/Primary Channel present on the site; flows north
- Industrial/Commercial uses to the west and south; residential (Little Flock) to the east; undeveloped/agricultural (Little Flock) to the north



NWA Drop Yard

Site Plan



Requests

- 1. To allow gravel as a pavement surface for a commercial development (UDC)
- 2. To allow variances from the required landscape buffering along the western, northern and eastern property boundaries (Sec. 5.5.5)
- 3. To allow a decrease in open space trees provided (Sec. 5.6.4.2)
- 4. To allow the applicant's to pay into the tree fund, despite their site not containing a true hardship. (Sec. 5.6.9.)

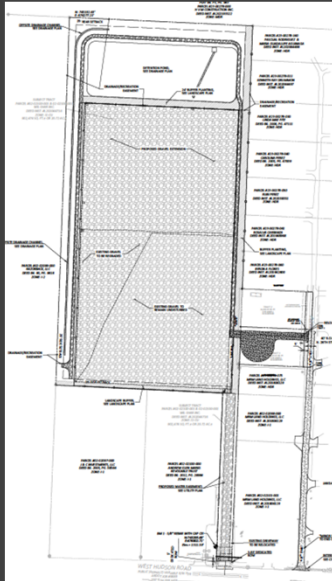
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- 1. To allow gravel as a pavement surface for a commercial development (UDC)
- 2. To allow variances from the required landscape buffering along the western, northern and eastern property boundaries (Sec. 5.5.5)
- 3. To allow a decrease in open space trees provided (Sec. 5.6.4.2)
- 4. To allow the applicant's to pay into the tree fund, despite their site not containing a true hardship. (Sec. 5.6.9.)



NWA Drop Yard

Site Plan



Variance Request

- 1. To allow gravel as a pavement surface for a commercial development (UDC)

What the UDC Says

- The UDC is intentionally silent on gravel, as it is not a permitted paving surface. Gravel creates dust and track-out onto public streets, both avoidable nuisances that can be solved with paving. Gravel is also considered an impervious surface, so there's no stormwater/drainage benefit to using gravel, as opposed to standard paving.

Applicant Proposal

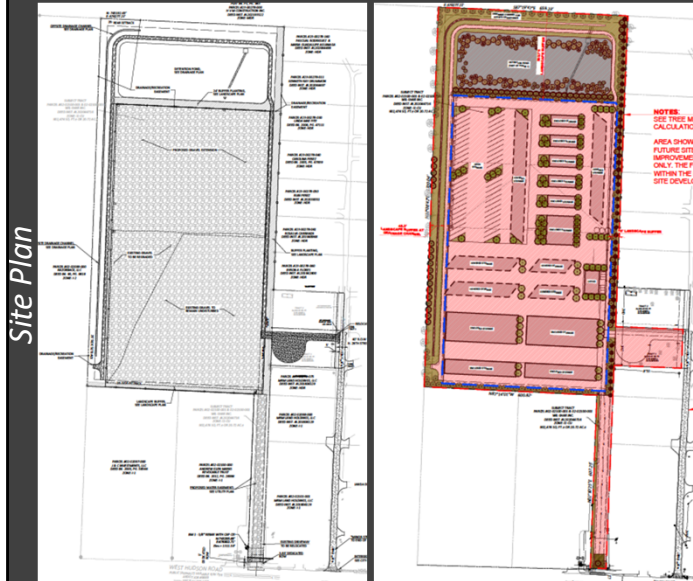
- The development proposal includes more than 13 acres of continuous gravel, to be used for vehicle and materials storage. The site currently contains about 8 acres of gravel, which is being used for storage.

Request 1: 1. To allow gravel as a pavement surface for a commercial development (UDC)

- The UDC is silent on the use of gravel, given that it's not a permitted paving surface.
- Applicant is proposing to cover the majority of the site in gravel, to use for large equipment and vehicle storage.



NWA Drop Yard



Applicant Reasoning

No real hardship was stated for this variance, other than the full graveling is intended to be Phase 1 of the development, while Phase 2 includes full pavement and covered structures.

The applicant cites that this is a variance from Sec. 5.3.3.2, which regulates parking area designs, in which I-1 zoned properties are exempt.

The applicant also cites that paving their driveway off of 26th Street and the generous landscape buffers they are providing will help mitigate dust prior to the build-out of Phase 2.

Applicant Reasoning

“The intent of the Site Development Plan is to build site improvements in this phase, including relocating the driveway access to N 26th Street, offsite improvements paving N 26th Street to W Hudson Rd, and the site work for a primary drainage channel, onsite stormwater pond, drainage improvements, screening / buffering, and tree planting which will not be damaged in future construction. Building development and paving of the current phase gravel area is intended to be in a future phase. In addition, the Developer has presented a timeline from final acceptance of the project to pave the site in a future phase which intends to add buildings and additional development to the site (See Sheet C0.01 Land Development Plan and Sheet L3.0 Future Improvements Exhibit). The proposed driveway paving and generous landscape buffers on all sides of the site will help to mitigate dust prior to the future paving. The Drop Yard storage area is screened from public view behind two commercial developments which face W Hudson Road (2737 W Hudson Rd and 2621 W Hudson Rd); the storage yard is located 600 feet north from the public right of way along Hudson Road and 235 feet west of N 26th Street. “



NWA Drop Yard

Staff Analysis of Request - Gravel

Variance Request Factors	
Does strict enforcement of the code cause undue hardship due to circumstances that are unique to this property?	No. Strict enforcement of the code would not allow gravel as a paving surface. Nothing about this property is unique to a point that they couldn't pave as part of Phase 1 of this development.
How is the spirit and intent of the code being met?	It's not. The UDC doesn't give an option of using gravel in any capacity for commercial developments. The cited code section by the applicant is in reference to off-street parking lots. Their proposal is not a parking lot, but a storage yard for trucks and materials.

Variance Request Factors	
Can the difficulty be obviated by some feasible method other than a variance?	Yes. The site design could show pavement as the surface, instead of gravel.

Analysis:

- There doesn't seem to be any site-specific hardship that would prevent the applicants from paving.
- The spirit and intent of the referenced code is not being met, because the referenced code doesn't pertain to this development at all – Section 5.3.3. regulates parking lot design and promotes pedestrian safety and comfort. The proposed development is industrial by nature and doesn't provide parking, or provide a use, that is inviting to the general public or pedestrians. The existing and proposed development features essentially zero pedestrian elements. More generally, the code doesn't list gravel as a permitted paving surface for development.
- The applicants could propose concrete pavement and eliminate the need for this variance.



NWA Drop Yard



Site Plan

Variance Request

- 2. To allow variances from the required landscape buffering along the western, northern and eastern property boundaries (Sec. 5.5.5)

What the UDC Says

- Chart 5.5.5.A requires landscape buffering anytime an I-1 development abuts I-2 zoned lots. City staff is considering the Little Flock adjacencies to be most closely aligned with T3 zoning, given their current use/future growth potential. I-1 developments also have to screen from adjacent T3 lots.

Applicant Proposal

- The applicant is proposing different landscape buffering scenarios for the western, northern and eastern property boundaries.

Request 2: To allow variances from the required landscape buffering along the western, northern and eastern property boundaries (Sec. 5.5.5)

- Section 5.5.5. requires prescriptive landscaping screening for development proposals, depending on the zoning of the subject property and the zoning of the adjacent property.
- This request involves different request for the different directional property boundaries; west, north and east.



NWA Drop Yard

Landscape Buffering Standards – Chart 5.5.5.A.

- This chart regulates buffer type and width based off the zoning of the subject property and it's adjacency

Proposed Development	Existing Adjacent Zoning							
	T2	T3	T4	T5	T6	HC	I-1	I-2
T2								
T3								A
T4								A
T5	A	B						A
T6	B	C	A					A
HC	C	C	B	A				A
I-1	B	B	A					A
I-2	C	C	C	C	C	C	A	

North, East

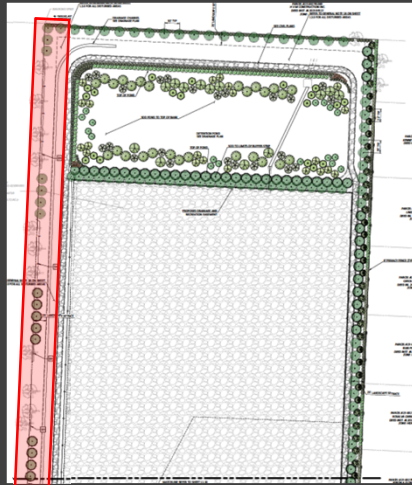
West

Table 5.5.5.B Buffer Type Requirements

Type	Width of Buffer	Hedge	Canopy Trees
A	6' minimum		1 per each 50 linear ft.
B	10' minimum	6' high at maturity, planted 30 inches on center, minimum.	1 per each 40 linear ft.
C	25' minimum		2 per each 50 linear ft.



NWA Drop Yard



Site Plan

Variance Request

- 2a. To eliminate requirement for shrubs along west side adjacent to I-2 zoning.

Applicant Reasoning

“Shrubs are not required when adjacent to I-1 zoning and we request the same consideration when adjacent to I-2 zoning. In addition, the site development plan has a Primary Channel and required maintenance access road which occupies 58.5 feet of width along the western edge of the property to intercept and redirect offsite drainage. The significant space required by the drainage channel on the west side (1.75 acres) is a hardship which significantly limits useable land area and the 3:1 sloped sides of the primary channel do not provide adequate planting conditions for establishing shrubs along the western property line.”

Request 2a: To eliminate requirement for shrubs along west side adjacent to I-2 zoning.

“Shrubs are not required when adjacent to I-1 zoning and we request the same consideration when adjacent to I-2 zoning. In addition, the site development plan has a Primary Channel and required maintenance access road which occupies 58.5 feet of width along the western edge of the property to intercept and redirect offsite drainage. The significant space required by the drainage channel on the west side (1.75 acres) is a hardship which significantly limits useable land area and the 3:1 sloped sides of the primary channel do not provide adequate planting conditions for establishing shrubs along the western property line.”



Staff Analysis of Request – Landscape Buffering; West

Variance Request Factors	
Does strict enforcement of the code cause undue hardship due to circumstances that are unique to this property?	Somewhat. Buffering on this side of the development isn't completely necessary, given the neighbor is an I-2-zoned fuel depot. The chart in the code that this requirement comes from needs amending.
How is the spirit and intent of the code being met?	Yes. They are proposing some new tree plantings on the west side to fill in the gaps in existing tree plantings.

Variance Request Factors	
Can the difficulty be obviated by some feasible method other than a variance?	Shrubs could be added here, but it's not necessary from a zoning compatibility standpoint.

Analysis:

- Strict enforcement of the code would require them to plant shrubs for an I-1 development against an I-2 existing development, that is used as a fuel depot. Screening shouldn't be required for this adjacency. Staff recommends amending this portion of the code to correctly reflect actual instances where landscape buffering is necessary.
- The spirit and intent of the code is being met, given that they are planting new trees along the west side to fill in gaps that existing trees do not fill.
- Shrubs could be planted here, but it wouldn't help buffering really at all, and it's not necessary.



NWA Drop Yard



Site Plan

Variance Request

- 2b. To plant a single row of large shrubs, at 6' on center spacing to achieve a 6' height, as opposed to 30' on center

Applicant Reasoning

"Variance is requested for a single row of large shrubs at 6' on center spacing to achieve a 6' height rather than 30" spacing. This request provides more suitable growing conditions for large shrubs and achieves the same desired height. In addition, the pond plantings south of this buffer provide additional trees and shrubs required by the Drainage Manual to provide a generous setback and additional planting to buffer the site from the northern property."

Request 2b: To plant a single row of large shrubs, at 6' on center spacing to achieve a 6' height, as opposed to 30' on center

"Variance is requested for a single row of large shrubs at 6' on center spacing to achieve a 6' height rather than 30" spacing. This request provides more suitable growing conditions for large shrubs and achieves the same desired height. In addition, the pond plantings south of this buffer provide additional trees and shrubs required by the Drainage Manual to provide a generous setback and additional planting to buffer the site from the northern property."



NWA Drop Yard

Staff Analysis of Request – Landscape Buffering; North

Variance Request Factors	
Does strict enforcement of the code cause undue hardship due to circumstances that are unique to this property?	No. There are no extenuating circumstances that would prevent the applicants from meeting the code as it's written.
How is the spirit and intent of the code being met?	Yes. The proposed planting arrangement arguably creates a better visual buffer from the north, especially considering the plantings in the pond to the south.

Variance Request Factors	
Can the difficulty be obviated by some feasible method other than a variance?	Yes. The shrubs could be planted at the correct spacing, but would be less effective as a visual buffer from the north.

Analysis:

- There is no site specific hardship that would prevent the developer from meeting the letter of the code here.
- The spirit and intent of the code is being met by creating a substantial visual landscaping buffer between relatively incompatible zones.
- The shrubs could be planted at the required spacing, but given the plantings in the pond to the south, it wouldn't aid in visual buffering.



NWA Drop Yard



Variance Request

- 2c. To plant a single row of large shrubs, at 6' on center spacing to achieve a 6' height, as opposed to 30' on center, and provide a privacy fence to further shield the view of the Drop Yard development from residential properties to the east.

Applicant Reasoning

"A double row of canopy and evergreen trees are provided at a 25' on center triangulated spacing, which exceeds the required spacing of 1 tree per 40 linear feet. Variance is requested for a privacy fence and a single row of large shrubs at 6' on center spacing to achieve a 6' height rather than 30" spacing. This request provides more suitable growing conditions for large shrubs and achieves the same desired height and the privacy fence will provide an immediate visual buffer to the adjacent residences."

Request 2c:

a

6' height, as opposed to 30' on center; Also, they are proposing to provide a privacy fence, east of the landscape buffer, to further visually buffer the site.

Applicant Reasoning

"A double row of canopy and evergreen trees are provided at a 25' on center triangulated spacing, which exceeds the required spacing of 1 tree per 40 linear feet. Variance is requested for a privacy fence and a single row of large shrubs at 6' on center spacing to achieve a 6' height rather than 30" spacing. This request provides more suitable growing conditions for large shrubs and achieves the same desired height and the privacy fence will provide an immediate visual buffer to the adjacent residences."



NWA Drop Yard

Staff Analysis of Request – Landscape Buffering; East

Variance Request Factors	
Does strict enforcement of the code cause undue hardship due to circumstances that are unique to this property?	No. There are no extenuating circumstances that would prevent the applicants from meeting the code as it's written.
How is the spirit and intent of the code being met?	Yes. The proposed planting arrangement arguably creates a better visual buffer from the north, especially considering the plantings in the pond to the south. The fence would also aid in visual buffering significantly.

Variance Request Factors	
Can the difficulty be obviated by some feasible method other than a variance?	Yes. The shrubs could be planted at the correct spacing, but would be less effective as a visual buffer from the north.

Analysis:

- There is no site specific hardship that would prevent the developer from meeting the letter of the code here.
- The spirit and intent of the code is being met by creating a substantial visual landscaping buffer between relatively incompatible zones. The fence helps the visual buffer, as well.
- The shrubs could be planted at the required spacing, but the spacing of the shrubs is null given their proposed fence.



NWA Drop Yard

LANDSCAPE REQUIREMENTS			
AREA	REQUIREMENT	REQUIRED	PROVIDED
SOUTH BUFFER AREA	(SECTION 5.5.5) ADJACENT ZONING I-1 = NO BUFFER REQUIRED	NONE	30 TREES PROVIDED (20' O.C. SPACING)
WEST BUFFER AREA	(SECTION 5.5.5) ADJACENT ZONING I-2 = BUFFER TYPE A REQUIRED (6' MIN WIDTH, 6' HEIGHT SHRUBS AND 1 TREE PER 50 LINEAR FEET)	1,320 LF / 50 = 27 TREES REQUIRED	27 TREES PROVIDED*
NORTH BUFFER AREA	(SECTION 5.5.5) ADJACENT ZONING LITTLE FLOCK RESIDENTIAL = BUFFER TYPE B REQUIRED (10' MIN WIDTH, 6' HEIGHT SHRUBS AND 1 TREE PER 40 LINEAR FEET)	659 LF / 40 = 17 TREES REQUIRED	17 TREES PROVIDED**
EAST BUFFER AREA	(SECTION 5.5.5) ADJACENT ZONING LITTLE FLOCK RESIDENTIAL = BUFFER TYPE B REQUIRED (10' MIN WIDTH, 6' HEIGHT SHRUBS AND 1 TREE PER 40 LINEAR FEET)	1,321 LF / 40 = 33 TREES REQUIRED	33 TREES PROVIDED**
OPEN SPACE TREES	(SECTION 5.6.4) 1 TREE IS REQUIRED PER 1,000 SF OF ADDED IMPERVIOUS AREA PLUS 1 TREE PER 2,500 SF OF ADDED BUILDING FLOOR AREA	513,881 SF OF IMPERVIOUS AREA / 1000 = 514 TREES REQUIRED	356 TREES PROVIDED (INCLUDES 107 BUFFER & 120 POND TREES)***
DETENTION BASIN (SEE ARTICLE 7, CHAPTER 5 OF DRAINAGE MANUAL)	1 CANOPY TREE PER 3,000 SF	119,668 / 3000 = 39.8 x 1 = 40 CANOPY TREES REQUIRED	40 TREES PROVIDED
	2 UNDERSTORY TREES PER 3,000 SF	119,668 / 3000 = 39.8 x 2 = 80 UNDERSTORY TREES REQUIRED	80 TREES PROVIDED
	2 LARGE SHRUBS PER 3,000 SF	119,668 / 3000 = 39.8 x 2 = 80 LARGE SHRUBS REQUIRED	80 LARGE SHRUBS PROVIDED
	6 SHRUBS/LARGE "GRASS LIKE" PLANTS PER 3000 SF	119,668 / 3000 = 39.8 x 6 = 240 SHRUBS/LARGE "GRASS LIKE" PLANTS REQUIRED	240 SHRUBS/GRASS LIKE PLANT PROVIDED

Planting Counts

Variance Request

- 3. To provide less open space trees than are required, based on added impervious area. (Sec. 5.6.4.2.)

What the UDC Says

- The UDC requires canopy shade trees be provided at a rate of 1 tree per 1,000 sq. ft. of added impervious area, plus 1 tree per 2,500 sq. ft. of added building floor area.

Applicant Proposal

- The applicant is proposing to plant **356** open space trees, instead of the required **514**. (513,881 sq.ft. of added impervious/1000 = 514 open space trees)

Request 3: To vary from the required amount of Open Space Trees planted per Sec. 5.6.4.2

- The UDC requires canopy shade trees be provided at a rate of 1 tree per 1,000 sq. ft. of added impervious area, plus 1 tree per 2,500 sq. ft. of added building floor area.
- The applicant is proposing to plant 356 open space trees, instead of the required 514. (513,881 sq.ft. of added impervious/1000 = 514 open space trees)



NWA Drop Yard

Applicant Reasoning

"The site has 513,880 square feet of impervious area, which equates to 514 required open space trees. 356 trees are provided. A variance is requested to waive the additional 158 open space trees from the proposed landscape areas, which meet the buffer tree requirements and the pond tree requirements. See the landscape plan requirement table on Sheets L1.00 and L1.10 for more detailed information and Sheet L3.0 for anticipated future building improvements and tree islands to be completed in a future phase. Additionally, Section 4.5 of Zone Standards allows for an 80% maximum building and impervious surface coverage in I-1 zoning and the Site Development Plan shows approximately 66% coverage. Due to hardships of the approximately 2.5 acre undevelopable Primary Channel (3:1 side slopes and concrete bottom) and maintenance access drive along the western and northern property line to intercept offsite water flowing onto the site, meeting the required landscape buffers along the north, east, and southern property boundaries, and locating trees where they will not be impacted by future building construction and disturbance, we ask that Board of Adjustments waive the additional open space trees which cannot be accommodated without further reducing the allowable industrial site coverage of 80%."

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NWA Drop Yard

Staff Analysis of Request – Open Space Tree Requirement

Variance Request Factors		Variance Request Factors	
Does strict enforcement of the code cause undue hardship due to circumstances that are unique to this property?	No. The argument made is that they can't meet the planting requirement because of the proposal of a paved channel on-site and the fact that they can't build to 80% impervious coverage, which is the MAXIMUM in I-1. While the channel could be seen as a hardship, it is not in this case. The lot is nearly 20 total acres. There's plenty of space to plant the required amount of trees on the subject property.	How is the spirit and intent of the code being met?	Per this request, the spirit and intent of the landscaping code is not being met. Staff recommends a code amendment that would allow the applicant's to pay the difference into the tree fund.
		Can the difficulty be obviated by some feasible method other than a variance?	Yes. The total proposed impervious area could be lessened to include more greenspace to meet the planting requirements.

Analysis:

- There is no real hardship present that would prevent the developer from meeting the code. Not being able to meet the maximum impervious area coverage is not seen as a hardship by staff, considering that the lot is nearly 20 total acres and is proposed to be 65% covered.
- The spirit and intent of the landscaping code is to enhance the city's appearance, protect and improve the environmental health of the community, and to mitigate the adverse impacts of higher intensity development adjacent to lower intensity development. None of the following are being achieved with the applicant's request. Staff feels that allowing the applicants to pay into the tree fund, which is normally reserved for those who can't provide plantings because of their more urban zoning, or because of insufficient site area because of real hardships, would be an appropriate measure in this instance. Staff recommends amending Section 5.6.9 Administrative Adjustments for the Landscaping and Screening section of the code to allow payment into the tree fund as a fee-in-lieu of not meeting the landscaping code.
- This variance could be obviated by the applicants lessening the amount of impervious area proposed, providing more green space, and planting the correct amount of trees that corresponds with their added impervious area.



Tree Fund Variance Proposal

Staff recommends a variance to **Section 5.6.9.**, allowing the applicants to pay the difference in proposed plantings to required plantings as a monetary amount into the tree fund.

- **5.6.9 Administrative Adjustments**

The Director is authorized to grant an administrative adjustment from the requirements of Section 5.6 Landscape and Screening allowing for payment-in-lieu of planting when:

(B) Open space trees in all zones where there is insufficient appropriate site area for planting of required trees due to the presence of a natural feature such as a wetland, or where planting of such trees would adversely disturb the natural feature, or where underground utilities prevent the planting and the cost for their relocation is disproportionate to the project.

The code currently requires some sort of natural or built hardship in order to pay into the tree fund. In an attempt to bring this ongoing project to a close, staff recommends this variance as a solution.

Tree Fund Proposal

Staff recommends a variance to Section 5.6.9. allowing the applicants to pay the difference in proposed plantings to required plantings as a monetary amount into the tree fund, regardless of the reason for which the planting requirement can't be met. Money in the tree fund would pay for tree plantings, installation and maintenance in underplanted or underserved parts of town.

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NWA Drop Yard

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Tree Fund Proposal

- In this instance, 514 Open Space trees are required and 356 trees are being provided by the applicant. That leaves a difference of 158 trees. Based on current landscaping prices, new trees are about \$200 per caliper inch. The UDC sets the standard for deciduous ornamental trees at a 2 caliper inch minimum. Based upon this formula, the applicants would be required to pay \$63,200 into the tree fund if they aren't willing to meet the landscaping code requirements.

Tree Fund Proposal

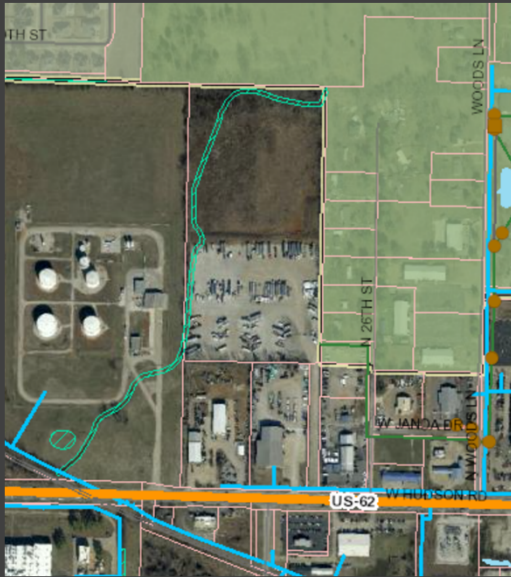
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158 trees x \$400(2" caliper tree x \$200 per caliper inch) = \$63,200



NWA Drop Yard

Aerial Map



Variance Decision Recommendation

- **DENY** the request to allow gravel as a permitted paving surface for commercial developments.
- **APPROVE** the request to modify the landscaping buffering requirements in Table 5.5.5.A along the western, northern and eastern property boundaries, with the following conditions:
 - An opaque privacy fence, no shorter than 6’ tall, be provided east of the proposed landscape buffer along the eastern property boundary, that runs from the northeastern corner of the lot to the proposed entrance off of N. 26th Street.
- **DENY** the request to allow less Open Space trees to be provided than what is required per Section 5.6.4.2.
- **APPROVE** a variance to Section 5.6.9., allowing the applicants to pay the difference for Open Space trees not provided into the tree fund.

Public Input:

No public input received.

Variance Decision Recommendation

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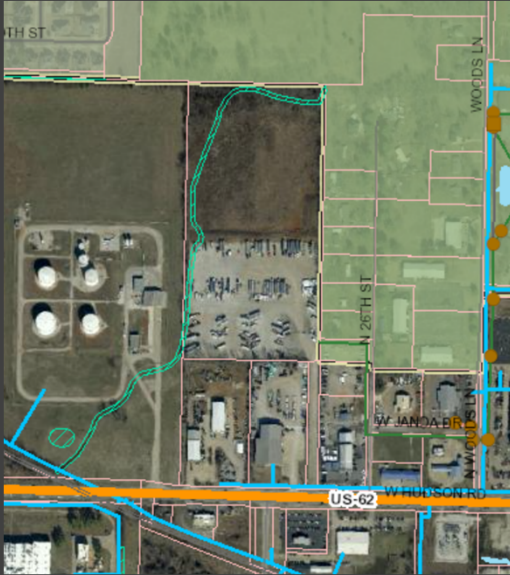
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DENY the request to allow less Open Space trees to be provided than what is required per Section 5.6.4.2.

APPROVE a variance to Section 5.6.9., allowing the applicants to pay the difference for Open Space trees not provided into the tree fund.



Aerial Map



Code Amendment Recommendation

- Staff recommends the following amendment to the UDC:
 - Modifying Table 5.5.5.A. to better reflect appropriate buffering solutions, particularly for new developments adjacent to existing I-2 zoned lots.

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