

# Development Review Committee

## Staff Report

August 14, 2019



<b>Case No:</b>	19WAIVER1026
<b>Project Name:</b>	Technicare Carpet Cleaning
<b>Location:</b>	2621 Blankenbaker Rd
<b>Owner(s):</b>	Shawn Sizemore
<b>Applicant:</b>	Brian Thomas, Newhall Construction
<b>Jurisdiction:</b>	Louisville & Jeffersontown
<b>Council District:</b>	20 – Stuart Benson
<b>Case Manager:</b>	Lacey Gabbard, AICP, Planner I

### REQUEST(S)

#### **Waiver:**

1. **Waiver** of Land Development Code section 10.2 to encroach into the 15 foot LBA on the southern property line and still provide all the plantings
2. **Waiver** of Land Development Code sections 5.5.2 and 5.6.1 to allow the overhead doors and loading area to face the street
3. **Waiver** of Land Development Code section 5.5.4 to not provide a 50-foot LBA and 6 foot berm along the side and rear property lines
4. **Waiver** of Land Development Code section 5.5.2.B.2 to move the screening for the overhead doors and loading areas

### CASE SUMMARY/BACKGROUND

The subject site is zoned PEC Planned Employment Center in the Suburban Workplace form district. The applicant is proposing to build a one story, 2,998 square foot commercial contractors shop to support a carpet cleaning business. There is an existing 1,230 square foot residential structure located on the subject site. Construction on the contractors shop began without the appropriate permits and there is an open enforcement case with the City of Jeffersontown. The contractors shop was not complete at the time this staff report was written.

Previous cases:

- 16AREA1002: Area-wide rezoning to PEC Planned Employment Center

### STAFF FINDING

Waiver #1 and #3 are adequately justified and meet the standard of review. Waiver #2 and #4 are not justified.

### TECHNICAL REVIEW

There are no outstanding technical issues concerning this request.

## **INTERESTED PARTY COMMENTS**

Staff has not received any comments from interested parties.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER FROM SECTION 10.2 TO ENCROACH INTO THE 15 FOOT LBA ON THE SOUTHERN PROPERTY LINE AND STILL PROVIDE ALL THE PLANTINGS**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners since the residential structure located on the property to the south of the subject site is approximately 90 feet from the shared property line, and is also zoned PEC.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Land Use & Development Goal 1, Policy 10 calls for mitigation of the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Land Use & Development Goal 1, Policy 9 ensures an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.

The applicant is requesting a waiver to allow the proposed contractors shop to encroach into the LBA on the southern property line, while still providing all the required plantings on all property lines. The site will be adequately screened from abutting properties.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant proposes to provide all required plantings and only encroach into the LBA on the southern property line.

- (d) Either:  
(i) The applicant has 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  
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the applicant proposes to provide all required plantings.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER FROM SECTION 5.5.2 AND 5.6.1 TO ALLOW THE OVERHEAD DOORS AND LOADING AREA TO FACE THE STREET**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The requested waiver will adversely affect adjacent property owners because the proposed overhead doors would face Blankenbaker Road and would create a visual intrusion.

- (b) The waiver will not violate specific guidelines of Plan 2040, and;

STAFF: Land Use & Development Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Land Use & Development Goal 1, Policy 12 states to design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street.

The applicant is requesting a waiver to allow the overhead doors on the contractors shop to face Blankenbaker Road, rather than directing them to the interior of the site. The contractors shop could be relocated, or the doors moved to face the interior of the site with the doors facing north. Though there are commercial and industrial uses in the vicinity of the subject site, including the parcel to the north on the other side of Shining Water Drive, there are properties abutting the subject site to the east, south, and west which are residential uses.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant since the contractors shop could be relocated, or the overhead doors could be repositioned on the building in order to not face the street.

- (d) Either:

(i) The applicant has 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

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The applicant has not incorporated other design measures that exceed the minimums of the district to compensate for non-compliance. The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the contractors shop could be relocated, or the overhead doors could be repositioned on the building so to not face the street.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER FROM SECTION 5.5.4 TO NOT PROVIDE A 50-FOOT LBA AND 6 FOOT BERM ALONG THE SIDE AND REAR PROPERTY LINES**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners since the applicant is proposing to meet all planting requirements in the property perimeter LBA, with the exception of the area where the proposed contractors shed is encroaching into the southern property line.

- (b) The waiver will not violate specific guidelines of Plan 2040, and;

STAFF: Land Use & Development Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Land Use & Development Goal 1, Policy 12 states to design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street.

This section of the Land Development Code for which the applicant is requesting this waiver appears to be intended to apply to large industrial sites, not smaller sites such as the subject site. The applicant is proposing to meet all planting requirements in the property perimeter LBA, which will provide adequate screening.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the section of the Land Development Code for which the applicant is requesting this waiver appears to be intended to apply to large industrial sites. A 50 foot LBA on the side and rear property lines would inhibit the buildable area of this relatively small site. Berms are typically required for screening of more intense industrial uses, and would be onerous on the subject site.

- (d) Either:  
(i) The applicant has 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  
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the subject site is relatively small and the addition of a 50 foot buffer and berm would restrict the buildability of the parcel.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER FROM SECTION 5.5.2.B.2 TO MOVE THE SCREENING FOR THE OVERHEAD DOORS AND LOADING AREAS**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The requested waiver will adversely affect adjacent property owners because the overhead doors will not be screened per LDC requirements, which would require the proposed fence and screening to be located closer to Blankenbaker Road. A more appropriate location would be in the proposed 5 foot LBA between the existing gravel parking area and the road.

- (b) The waiver will not violate specific guidelines of Plan 2040, and;

STAFF: Land Use & Development Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Land Use & Development Goal 1, Policy 12 states to design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street.

Though the applicant is proposing to provide screening for the overhead doors, the proposed location is in the existing gravel parking area interior to the site. A more appropriate location would be closer to Blankenbaker Road, in the proposed 5 foot LBA located on the west side of the parking area.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant since the proposed screening (a six foot wooden privacy fence) could be moved to the 5 foot LBA to the west of the parking area.

- (d) Either:

(i) The applicant has 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

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the screening could be moved to the 5 foot LBA to the west of the parking area.

**REQUIRED ACTIONS:**

- **RECOMMEND APPROVAL** or **DENIAL** of the **Waivers** to Jeffersontown

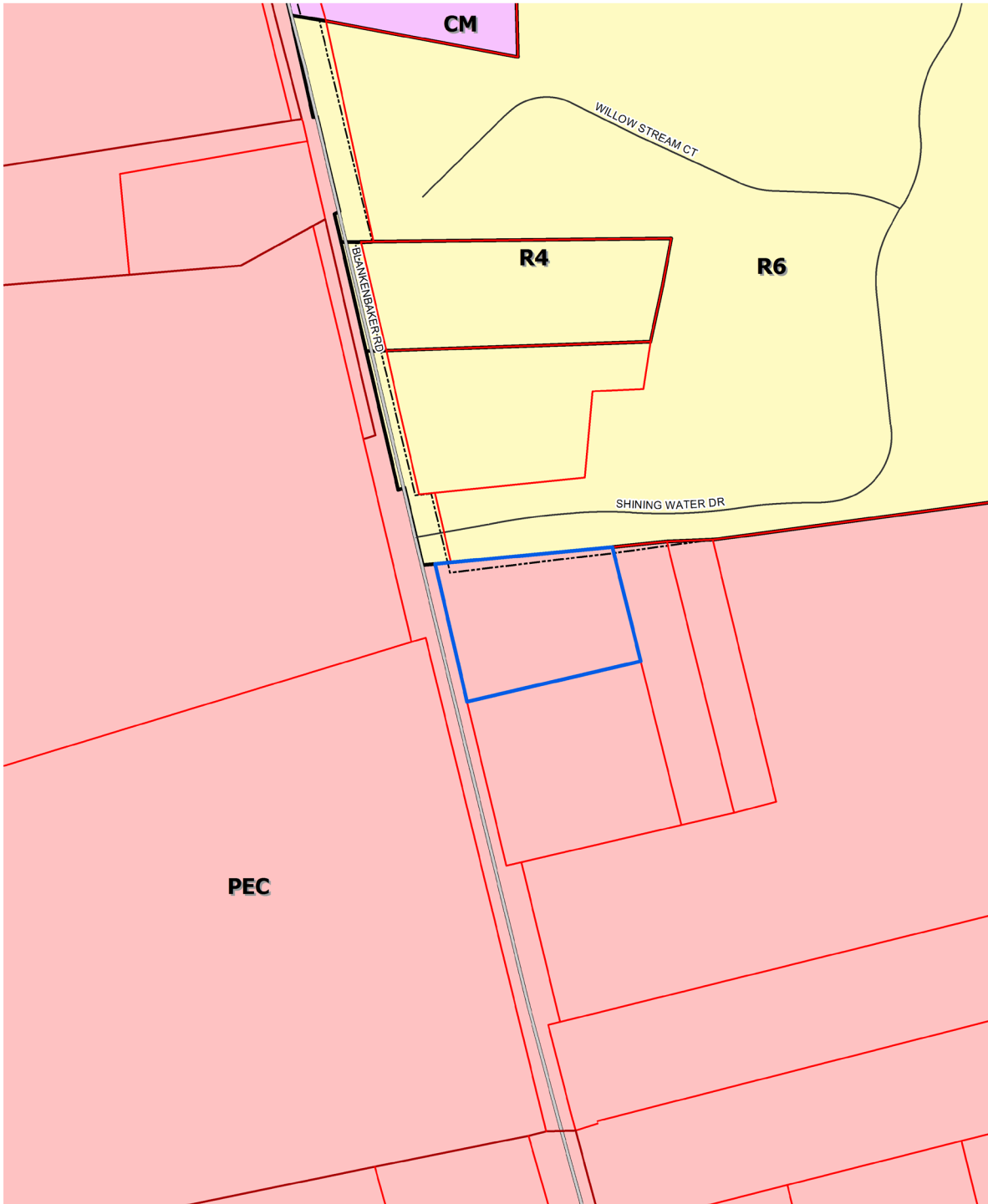
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>8-14-19</b>	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 20

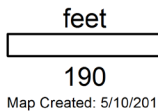
**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**

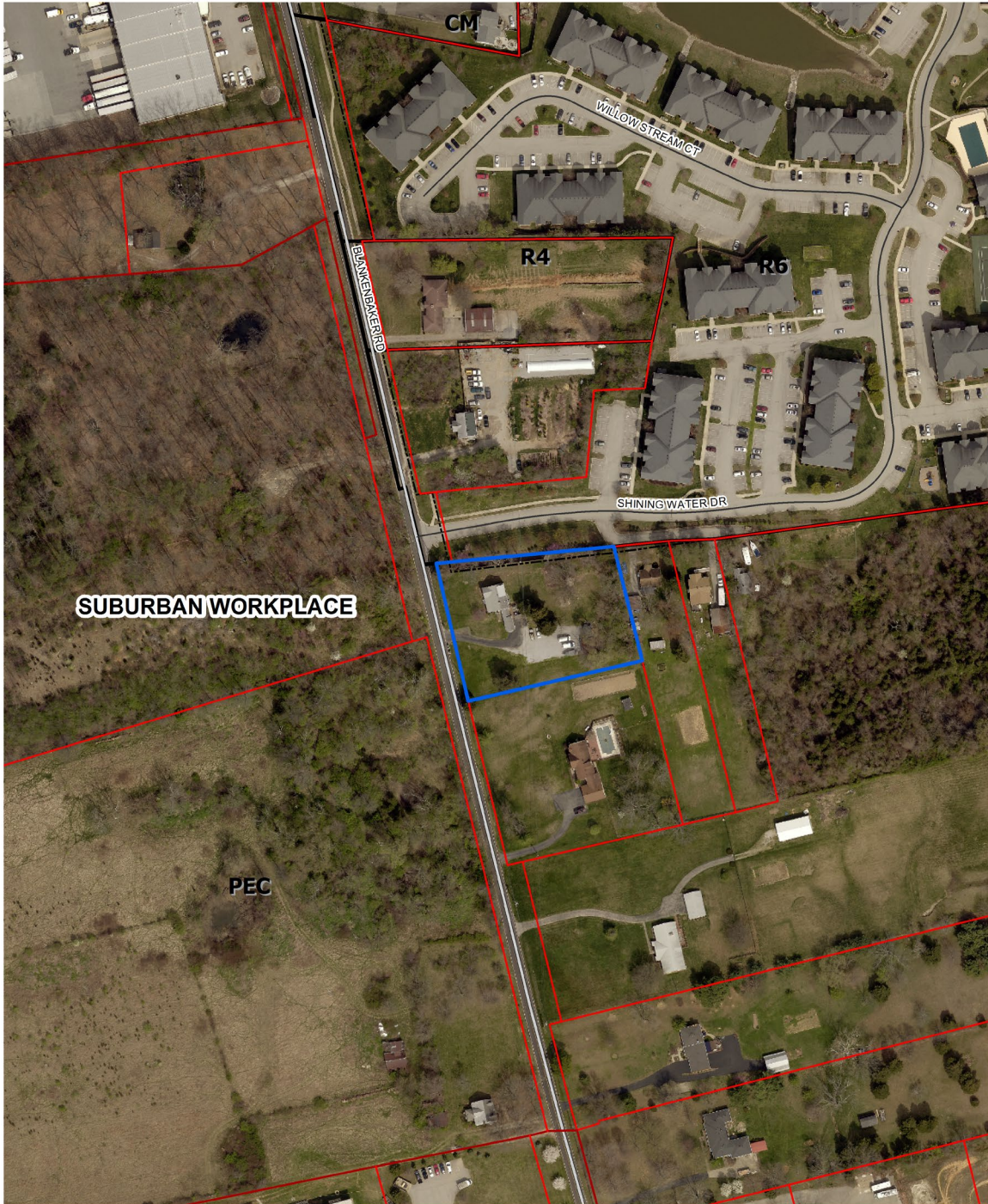


**2621 BLANKENBAKER RD**



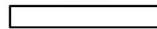
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2. Aerial Photograph



2621 BLANKENBAKER RD

feet



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Map Created: 5/10/2019



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