

Development Review Committee

Staff Report

March 5, 2014



Case No:	14Waiver1004 / 2-18-13
Request:	Land Development Code Waivers and Category 2B Plan
Project Name:	Zaxby's
Location:	3415 Fern Valley Rd.
Owner:	Jerry & Cheryl Barnes, Jennifer & Joseph Murphy
Applicant:	Zaxby's of Louisville
Representative:	Land Design & Development, Inc.
Jurisdiction:	Louisville Metro
Council District:	21 – Dan Johnson
Case Manager:	Latondra Yates, Planner II

REQUEST

- Waiver of Sec. 10.2.4.A. of the Land Development Code (LDC) to not provide the required 15-ft. LBA along the EZ-1 and C-1 zoning line;
- Waiver of Sec. 10.2.4.B. of the LDC to allow an easement to encroach into a VUA LBA by more than 50%;
- Waiver of Sec.10.2.10 of the LDC to reduce the width of the required 15-ft. LBA to 10 ft. along Fern Valley Rd.;
- Waiver of Sec. 10.2.12.B. of the LDC to not provide the required 120 ft. between ILAs.
- Category 2B Plan for construction of a restaurant.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The waivers are related to a Category 2B review for construction of a 3,847 sf. restaurant.

The waiver to not provide the 15-ft. LBA along the EZ-1 / C-1 zoning line is due to the zoning line falling in the middle of the proposed building.

The waiver to allow an easement to encroach into the VUA LBA by more than 50%, per the applicant, is due to a KTC drainage easement that may have been recorded in error. The applicant states in their justification statement that they are working with KTC to see if the easement can be released.

The waiver to reduce the LBA along Fern Valley Rd. from 15 ft. to 10 ft., per the applicant, will allow the roadway to not have to be shifted across the property and will allow an LBA consistent with that of adjacent properties.

The applicant states that the waiver to not provide the required 120 ft. between ILAs is to eliminate one of the ILAs for truck maneuvering.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned C-1 and EZ-1 in the Suburban Marketplace Corridor (SMC) Form District. The site is surrounded by commercial and industrial properties.

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Vacant	C-1 / EZ-1	SMC
Proposed	Commercial	C-1 / EZ-1	SMC
<i>Surrounding Properties</i>			
North	Commercial/office	C-1 / EZ-1	SW
South	Commercial/industrial	EZ-1	SW
East	Commercial	C-1	SW
West	Commercial	C-2	SW

PREVIOUS CASES ON SITE

None

INTERESTED PARTY COMMENTS

None received

APPLICABLE PLANS AND POLICIES

Land Development Code
 Cornerstone 2020 Comprehensive Plan- see checklist attached.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

- **Waiver of Sec. 10.2.4.A. of the Land Development Code (LDC) to not provide the required 15-ft. LBA along the EZ-1 and C-1 zoning line;**

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

STAFF: The waiver will not adversely affect the adjacent property owners because the site appears to be surrounded by similar uses.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver meets the applicable guidelines of Cornerstone 2020.

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

STAFF: The waiver is the minimum necessary to afford relief to the applicant because the zoning line falls over the proposed building, combined with the limited lot 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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship because the zoning line falls over the proposed building, combined with the limited lot area.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

- **Waiver of Sec. 10.2.4.B. of the LDC to allow an easement to encroach into a VUA LBA by more than 50%;**

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

STAFF: The waiver will not adversely affect adjacent property owners because the required plantings and screening will be provided within the LBA.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver meets the applicable guidelines of Cornerstone 2020.

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

STAFF: The waiver is the minimum necessary to afford relief to the applicant in order to provide the required plantings and screening within the LBA given the existing easement.

- (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 create an unnecessary hardship because it could require additional constraints to the area of the lot due to having to move the LBA out of the easement.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

- **Waiver of Sec.10.2.10 of the LDC to reduce the width of the required 15-ft. LBA to 10 ft. along Fern Valley Rd.;**

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

STAFF: The waiver will not adversely affect adjacent property owners because of the similar nature of the surrounding uses, and the similar LBAs provided.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver meets guidelines of Cornerstone 2020.

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

STAFF: The waiver is the minimum necessary to afford relief to the applicant if the required plantings are provided within the 10-ft. LBA due to limited lot area for the proposed development.

- (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 create an unnecessary hardship if the required plantings are provided within the 10-ft. LBA due to limited lot area for the proposed development.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

- **Waiver of Sec. 10.2.12.B. of the LDC to not provide the required 120 ft. between ILAs.**

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

STAFF: The waiver will not adversely affect adjacent property owners because the ILA would be internal to the site.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver meets the applicable guidelines of Cornerstone 2020.

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

STAFF: The waiver is the minimum necessary to afford relief to the applicant in order to provide the needed maneuverability on 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 create an unnecessary hardship because of the need to eliminate one of the ILAs for maneuverability.

TECHNICAL REVIEW

1. No outstanding technical review items

STAFF CONCLUSIONS

The waivers and Category 2B Plan meet 27 of the applicable guidelines of the Comprehensive Plan.

Four of the guidelines can be addressed during construction review.

Staff's analysis of the standards of review support the granting of the waivers.

Based upon the information in the staff report, the testimony and evidence provided, the Development Review Committee must determine if the proposal meets the standards for approval of Land Development Code Waivers and Category 2B Plans established in the Land Development Code.

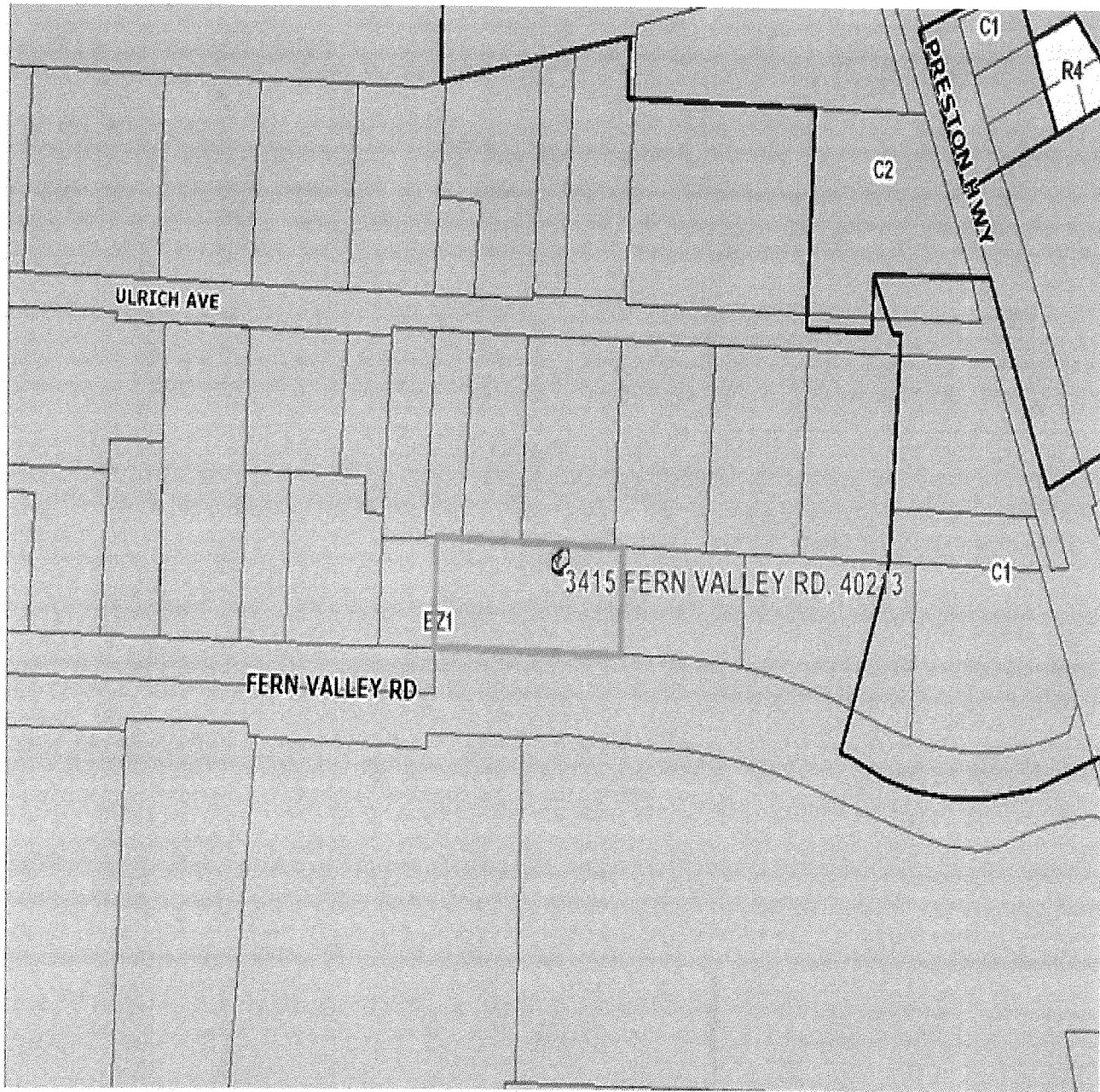
NOTIFICATION

Date	Purpose of Notice	Recipients
12/19/2014	DRC Meeting	1 st and 2 nd tier adjoining property owners Neighborhood Notification

ATTACHMENTS

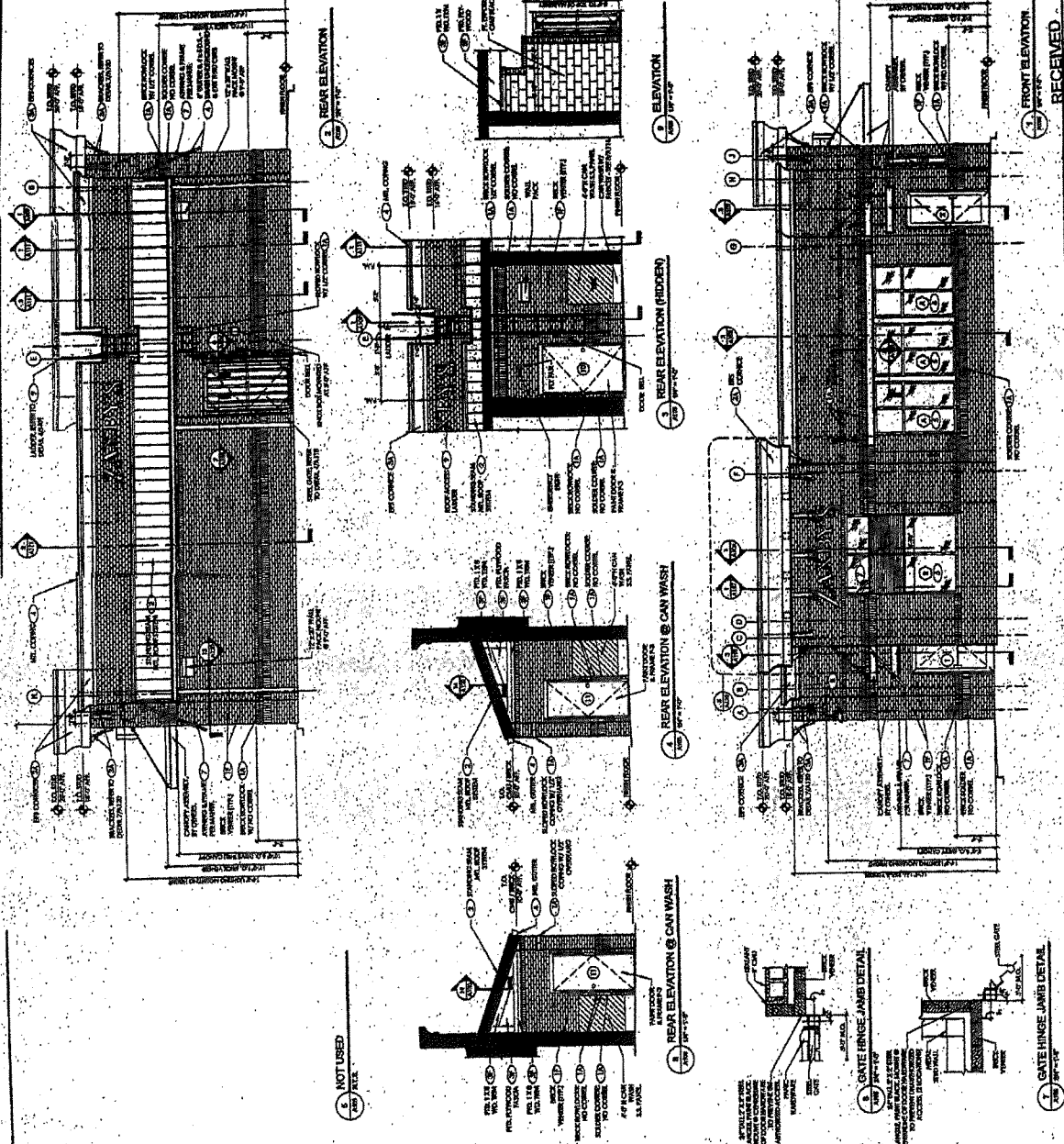
1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Cornerstone 2020 Comprehensive Plan Checklist
6. Applicant's Justification Statement

1. Zoning Map



2. Aerial Photograph





EXTERIOR FINISH SCHEDULE
 ALL MATERIALS AND FINISHES TO BE USED SHALL BE APPROVED AND SAMPLES SUBMITTED TO THE ARCHITECT FOR APPROVAL PRIOR TO CONSTRUCTION.
 1. COLOR: MATCH EXISTING CONCRETE
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5. **Cornerstone 2020 Comprehensive Plan Checklist**

1	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal integrates into the existing pattern of development, which includes a mixture of medium- to high-density uses.	√	Commercial proposed in an existing commercial area.
2	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal provides accommodations for transit users, pedestrians and bicyclists and provides connectivity to adjacent developments.	√	Site will be served by sidewalks and mass transit.
5	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal is located within the boundaries of the existing form district, and if the proposal is to expand an existing corridor, the justification for doing so addresses the use or reuse of land within the existing corridor, the potential for disruption of established residential neighborhoods, and compliance with the site and community design standards of the Land Development Code.	√	Proposed redevelopment of commercial will be within the SMC Form District.
7	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	√	Proposed development located in an activity center.
8	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	√	Commercial proposed in an existing commercial area.
9	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	√	Commercial proposed in an existing commercial area that will be served by sidewalks and mass transit.
12	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	√	The proposal appears to share access with adjacent development.
13	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	√	Utility hookups and service entrances will be shared.
14	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	√	Site is served by the required parking.

15	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	√	The proposed building materials appear to be compatible with the surrounding area.
16	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	√	Proposed development is in an existing commercial area.
17	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	√	Plan has APCD approval with note.
18	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	√	Plan has Transportation Planning Review approval.
19	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	+/-	Lighting details should be provided, when known.
20	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	√	Proposed development is located along a transit corridor and in an activity center.
21	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	√	The required plantings will be provided within the LBAs.
22	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	√	The required plantings will be provided within the LBAs.
23	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	√	The proposed setbacks and building height appear to be compatible with other development in the area.

24	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	√	The required plantings will be provided within the LBAs.
25	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	√	The required plantings will be provided within the LBAs.
27	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	+/-	Sign details should be provided, when known.
38	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	√	Plan has Transportation Planning Review approval.
39	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	√	Site served by mass transit and sidewalks.
41	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	√	The plan has Transportation Planning Review preliminary approval.
42	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	√	The required parking is proposed.
43	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	√	Joint and cross access is appears to be facilitated.
47	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	√	Site served by sidewalks and mass transit.

48	Livability, Goals B1, B2, B3, B4, Objectives B1.1-1.8, B2.1-2.7, B3.1-3.4, B4.1-4.3	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	+/-	Subject to MSD construction approval.
49	Livability Goals C1, C2, C3, C4, all related Objectives	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	√	Plan has APCD approval with note.
51	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	√	Site served by existing utilities.
52	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	+/-	Subject to construction review.
53	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	+/-	Subject to MSD construction approval.

+ exceeds guidelines

√ meets guidelines

+/- more information needed

6. Applicant's Justification Statement



General Waiver Application
Louisville Metro Planning & Design Services

Case No.: 14WAIVER1004 Intake Staff: JD
Date: 2/3/14 (2-18-13) Fee: 172.00

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

Application is hereby made for one or more of the following waivers of the Land Development Code:

- Landscape Waiver of Chapter 10, Part 2
- Other: Waiver of Section _____

A General Waiver Application is not required for Sidewalk or Tree Canopy Waivers. If applicable, please submit a "Sidewalk Waiver Application" or "Tree Canopy Waiver Application" instead.

Explanation

of Waiver: Waiver of LDC 10.2.4.A, to not provide the required 15' landscape buffer along the EZ-1 and C-1 zoning line

Primary Project Address: 3415 Fern Valley Road

Additional Address(es): _____

Primary Parcel ID: 063205280000

Additional Parcel ID(s): _____

Proposed Use: Restuarant Existing Use: Vacant

Existing Zoning District: C-1/EZ-1 Existing Form District: SMC/SW

Deed Book(s) / Page Numbers²: DB 10136 PG 794

The subject property contains 1.26 Ac+/- acres. Number of Adjoining Property Owners: 11

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

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If yes, please list the docket/case numbers:

FEB 03 2014

Docket/Case #: 2B-18-13 Under Review Docket/Case #: _____

PLANNING & DESIGN SERVICES

Docket/Case #: _____ Docket/Case #: _____

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.

1. Will the waiver adversely affect adjacent property owners?

A waiver is requested from SEction 10.2.4.A of the Louisville Metro Land Development Code to not provide the required 15' landscape buffer along the EZ-1 and C-1 zoning line. The existing zoning line bisects the property and proposed building. It would not be feasible to provide the buffer at this location. Other required buffers and landscape areas will be provided as required.

The waiver will not adversely affect adjacent property owners for the reasons stated above, only the subject property would be affected as the zoning line bisects the property.

2. Will the waiver violate the Comprehensive Plan?

The waiver will not violate the Comprehensive Plan because the Comprehensive Plan allows for the ability to waiver requirements.

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

The extent of the waiver is the minimum necessary to afford relief to the applicant because all other landscape requirements are being met.

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 provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because it would restrict efficient use of the property. Providing a buffer at this location is not practical as the use for the site is allowable in both zoning districts.



General Waiver Application

Louisville Metro Planning & Design Services

Case No.: _____ Intake Staff: _____

Date: _____ Fee: _____

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

Application is hereby made for one or more of the following waivers of the Land Development Code:

- Landscape Waiver of Chapter 10, Part 2
- Other: Waiver of Section _____

A General Waiver Application is not required for Sidewalk or Tree Canopy Waivers. If applicable, please submit a "Sidewalk Waiver Application" or "Tree Canopy Waiver Application" instead.

Explanation

of Waiver: Waiver of LDC 10.2.4.B, to allow an easement to encroach into the VUA landscape buffer by more than 50%

Primary Project Address: 3415 Fern Valley Road

Additional Address(es): _____

Primary Parcel ID: 063205280000

Additional Parcel ID(s): _____

Proposed Use: Restuarant Existing Use: Vacant

Existing Zoning District: C-1/EZ-1 Existing Form District: SMC/SW

Deed Book(s) / Page Numbers²: DB 10136 PG 794

The subject property contains 1.26 Ac+/- acres. Number of Adjoining Property Owners: 11

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

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If yes, please list the docket/case numbers:

FEB 03 2014

PLANNING &
DESIGN SERVICES

Docket/Case #: 2B-18-13 Under Review Docket/Case #: _____

Docket/Case #: _____ Docket/Case #: _____

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.

1. Will the waiver adversely affect adjacent property owners?

A waiver is requested from Section 10.2.4.B of the Louisville Metro Land Development Code to allow an existing KTC drainage easement to encroach into the VUA landscape buffer by more than 50%. Preliminary discussions with KTC indicate that this easement was recorded in error. The applicant's engineer is currently coordinating with the KTC right-of-way department to determine if the easement can be released.

The waiver will not adversely affect adjacent property owners as all required landscaping shall be provided.

2. Will the waiver violate the Comprehensive Plan?

The waiver will not violate the Comprehensive Plan because the Comprehensive Plan allows for the ability to waiver requirements.

Providing plantings as required in the LBA?

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

The extent of the waiver is the minimum necessary to afford relief to the applicant because all other landscape requirements are being met.

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 provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because it would restrict efficient use of the property.

2014.03.05 10:00 AM



General Waiver Application
 Louisville Metro Planning & Design Services

Case No.: _____ Intake Staff: _____

Date: _____ Fee: _____

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

Application is hereby made for one or more of the following waivers of the Land Development Code:

Landscape Waiver of Chapter 10, Part 2

Other: Waiver of Section _____

A General Waiver Application is not required for Sidewalk or Tree Canopy Waivers. If applicable, please submit a "Sidewalk Waiver Application" or "Tree Canopy Waiver Application" instead.

Explanation

of Waiver: Waiver of LDC 10.2.10, to waive the 15' LBA along Fern Valley Rd to a 10' LBA.

Primary Project Address: 3415 Fern Valley Road

Additional Address(es): _____

Primary Parcel ID: 063205280000

Additional Parcel ID(s): _____

Proposed Use: Restuarant Existing Use: Vacant

Existing Zoning District: C-1/EZ-1 Existing Form District: SMC/SW

Deed Book(s) / Page Numbers²: DB 10136 PG 794

The subject property contains 1.26 Ac+/- acres. Number of Adjoining Property Owners: 11

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

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If yes, please list the docket/case numbers:

Docket/Case #: 2B-18-13 Under Review Docket/Case #: _____

Docket/Case #: _____ Docket/Case #: _____

14WAIVER1004

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.

1. Will the waiver adversely affect adjacent property owners?

A waiver is requested from Section 10.2.10 of the Louisville Metro Land Development Code to waive the 15' LBA along Fern Valley Rd to a 10' LBA. The two adjacent tracts will only be required to provide a 10' frontage LBA at most. This parcel is burdened with providing additional pavement to connect these tracts. Reducing the 15' LBA to 10' will allow the roadway to not have to be shifted across the property and will allow for more efficient use of the site and will provide a consistent buffer width for the adjoining tracts. All required landscaping will be provided as required. The waiver will not adversely affect adjacent property owners for the reasons stated above, and will allow for more consistent traffic flow and internal layout between the tracts.

2. Will the waiver violate the Comprehensive Plan?

The waiver will not violate the Comprehensive Plan because the Comprehensive Plan allows for the ability to waiver requirements.

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

The extent of the waiver is the minimum necessary to afford relief to the applicant because all other landscape requirements are being met. *Will required Planting be provided?*

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 provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because it would restrict efficient use of the property. Providing a 15' buffer at this location is not practical as it would prevent the efficient development of the site and would cause the buffer to be inconsistent with the width of the adjoining tracts which it connects.



General Waiver Application
Louisville Metro Planning & Design Services

Case No.: _____ Intake Staff: _____

Date: _____ Fee: _____

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

Application is hereby made for one or more of the following waivers of the Land Development Code:

Landscape Waiver of Chapter 10, Part 2

Other: Waiver of Section _____

A General Waiver Application is not required for Sidewalk or Tree Canopy Waivers. If applicable, please submit a "Sidewalk Waiver Application" or "Tree Canopy Waiver Application" instead.

Explanation

of Waiver: Waiver of LDC 10.2.12.B, to not provide the 120' between ILA.

Primary Project Address: 3415 Fern Valley Road

Additional Address(es): _____

Primary Parcel ID: 063205280000

Additional Parcel ID(s): _____

Proposed Use: Restuarant Existing Use: Vacant

Existing Zoning District: C-1/EZ-1 Existing Form District: SMC/SW

Deed Book(s) / Page Numbers²: DB 10136 PG 794

The subject property contains 1.26 Ac+/- acres. Number of Adjoining Property Owners: 11

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

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If yes, please list the docket/case numbers:

FEB 27 2014
PLANNING &
DESIGN SERVICES

Docket/Case #: 2B-18-13 Under Review Docket/Case #: _____

Docket/Case #: _____ Docket/Case #: _____

14WAIVER1004

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.

1. Will the waiver adversely affect adjacent property owners?

A waiver is requested from Section 10.2.12.B of the Louisville Metro Land Development Code to not provide the 120' between ILA. Removal of one ILA to the rear of the site and replacement with a striped area is necessary to allow for truck maneuvering within the site. All required landscape will be provided as required. *Provide the Truck Turning Radius for this site*

The waiver will not adversely affect adjacent property owners as this ILA does not abut adjacent owners requiring a buffer area. *Showing/demonstrating the need to eliminate the ILA.*

2. Will the waiver violate the Comprehensive Plan?

The waiver will not violate the Comprehensive Plan because the Comprehensive Plan allows for the ability to waiver requirements. *Why not provide in an alternate location*

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

The extent of the waiver is the minimum necessary to afford relief to the applicant because all other landscape requirements are being met.

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 provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because it would restrict efficient use of the property and limit the ability of delivery vehicles to maneuver safely. As proposed, the layout allows for compact and efficient use of the land and minimizes impact.