

General Waiver Justification:

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

Waiver of: Section 5.5.2 and 5.6.1 to reduce the required 50% clear windows and door requirement for the facades facing public streets.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because this reduction in the clear window and door requirements is a consequence of two issues. First, one of the facades is for a drive-through. And second, the other façade has a portion of the wall that adjoins the restrooms inside the building, thus adding glass would prove a detriment to the privacy concerns of patrons and the adjacent property owners. Additionally, the neighboring property owners will be unlikely to view the façade on the Gelhaus Lane side, as over 2,000 square feet of trees are proposed to be preserved between Gelhaus Lane and the drive through. Likewise, the building's frontage along Billtown has a proposed gas canopy located between the store front and the roadway, further reducing any adverse visual impacts of the waiver.

2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original, approved, rezoning application. Additionally, it will not violate the Comprehensive Plan pursuant to Plan 2040 and complies with, among other policies of Plan 2040, Goal 2 of the Community Form, Policies 1, 2, 3, 4, 5, 7, and 14, by being part of an activity center adjoining a mixture of institutional, high-density residential and single-family residential uses, with goods and services available in close proximity to the Gene Snyder Freeway-Billtown Road interchange, and being a small retail center that adds to the vitality and sense of place among the mostly disconnected nearby neighborhoods, giving nearby residents an ability to walk to this small center or permitting nearby residents to use the proposed commercial development as a convenient first-stop or last-stop on their way to or from work and home in and around the neighboring area, including JCPS elementary and middle schools.

3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the applicant has complied by placing, to the greatest extent possible, clear windows and doors on the facades facing the public roadways while maintaining the utility of the drive-through and the restrooms.

4. Strict application of the provisions of the regulation would deprive the applicant of a

reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would either have to remove restrooms or the drive through or both from the development plan, neither of which would serve the community nor adjacent property owners nor patrons.