

JAN 17 2017

**General Waiver Justification:**

## PLANNING &amp; DESIGN SERVICES

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 (1) Section 10.2.4 to not provide a property perimeter LBA for the west side of the duplex site (1103 Lydia St.), and (2) Section 10.2.10 to not provided a 5 foot VUA LBA for the two rear parking spaces since they are part of the restaurant area.

## Explanation of Waiver:

1. The waiver for the 5' perimeter LBA along the west side of the duplex site and for the 5 foot VUA LBA for the two rear parking spaces on the duplex lot should be granted as they will not adversely affect the adjacent property.

The two adjacent lots (1101 and 1103 Lydia St.) have buildings which have existed probably in excess of 60 years and they present pre-existing, as built conditions which cannot be reasonably moved to accommodate a 15' LBA between them or the 5' VUA LBA with the parking. Considering the decades long as-built nature of the lack of a buffer between the two lots, it is evident that the waiver will not adversely affect either lot, nor any other neighbor's lot. Not only are the buildings and improvements already established and desirable to preserve, each lot itself is only approximately 25' in width with tight overall space between the buildings (only a few feet at ground level), making a 15' LBA between them unreasonable and unworkable. These two properties have co-existed with the restaurant/bar use on the west side since prior to 1955 without any notable issues, so it is clear that waiving this LBA requirement will not adversely affect either lot. Similarly, waiving the 5 foot VUA LBA for the two rear parking spaces will not adversely affect the adjacent property owners. In the Schnitzelburg, Traditional Form Neighborhood, it is common, accepted, and practical for the parking spaces immediately adjacent to the alley to not have any buffer. Despite this waiver and variance request, 6' tall wooden fencing also buffers these parking spaces from the residential adjacent lot, which is more buffering than is typical for the area, justifying the waiver.

2. The requested waivers will not violate the Comprehensive Plan for all the reasons set forth in the detailed Statement of Compliance, and also for the following reasons: Guideline 1(B)2, Traditional Neighborhood, cites the fact that lots in these areas are "predominantly narrow and often deep", exactly as these Schnitzelburg lots are, which makes the LBA standards unworkable for the existing improvements. Further, Guideline 1(B)2 and its applicable Policies encourages "preservation and renovation of the existing buildings" which renders the LBA's impossible because of the tight infill dimensions and small size of the lots. Guideline 3, Compatibility, and its applicable Policies sets forth the intent of allowing a mixture of land uses and densities near each other as long as they are designed and compatible with one another. Considering the fact the restaurant/bar, formerly known as Flabby's, has existed since the 1950's in continuous operation as a conditional use, there is no doubt that it is compatible with the adjacent owners

and the overall area in general. The intent of Guideline 3 and its Policies is also to preserve the character of the neighborhood, which will be accomplished by preserving this location as a restaurant/bar and by making it economically viable for the future. Guideline 11, Policy 10 calls for a variety of housing types which the duplex on lot 1103 Lydia St. will satisfy by providing a duplex, near the jobs provided by the restaurant/bar along with the single family housing in the area. Finally, Guideline 6, Policy 3, encourages investment and redevelopment in older neighborhoods, which this waiver will continue to make possible by allowing the rezoning, and thus providing for the economic viability of the property and their uses into the future.

3. The extent of waivers of the regulations is the minimum necessary to afford relief to the applicant because the narrow, deep lots (common to the Schnitzelburg, Traditional Form Neighborhood) and the desire to preserve the current buildings do not allow for the LBA buffer requirements to be implemented. Any effort to comply with the LBA standards in LDC Section 10.2.4 and Section 10.2.10 would necessarily require substantial demolition and removal of the current, largely original footprints of the structures and would required moving the parking spaces deep into the property in a manner inconsistent with the area and impractical for the use of the property. The unusual size and shape of the lots in the Schnitzelburg Neighborhood leave no reasonable place for the LBA's that will not encroach on the current buildings or the current fencing used to buffer between lot 1103 Lydia St. and the adjacent property.

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 this is a pre-existing, as built site that cannot accommodate the landscape buffer's otherwise required.

**RECEIVED**

JAN 17 2017

**PLANNING & DESIGN SERVICES**