

Planning Commission Staff Report

July 2, 2014



Case No:	14Waiver1023
Project Name:	None (mixed commercial building)
Location:	3801 West Market Street
Owner(s):	F & Y, Inc.
Applicant(s):	F & Y, Inc.
Representative(s):	James L. Griffin
Project Area/Size:	0.65 acres
Existing Zoning District:	C-1, C-2, Commercial
Existing Form District:	Traditional Neighborhood
Jurisdiction:	Louisville Metro
Council District:	5- Cheri Bryant Hamilton
Case Manager:	Jon E. Crumbie, Planner II

REQUEST

- Waiver of Chapter 5.5.1.A.3.a. to omit the required 3-foot street wall along West Market Street and 28th Street.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The property has a C-1 and C-2 zoning classification. A car wash was previously at this portion of South 38th Street. The applicant has received approval to allow a proposed mixed commercial structure on site. The applicant would like to omit the required street wall along West Market Street and 38th Street. The required landscaping will be met.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Gas Station	C-1, C-2	TN
Proposed	Mixed Commercial	C-1, C-2	TN
Surrounding Properties			
North	Office Residential	R-5	TN
South	Church	R-7, C-2	TN
East	Parking	R-5, C-1, C-2	TN
West	Commercial	C-2	TN

PREVIOUS CASES ON SITE

2-17-14 2B review – approved if waivers are permitted.

- B-135-06** An application for a variance from the Land Development Code to allow the placement of the proposed structure. The Board of Zoning Adjustment approved the request on February 5, 2007 with conditions.
- 2-52-06** 2B review - approved

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (Street wall along West Market Street and 38th Street)

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

STAFF: The waiver will not adversely affect adjacent property owners since sidewalk will be provided along 38th Street and will be maintained along West Market Street. There will be no sight triangle concerns.

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

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 since the required pedestrian access and ILA requirements on site will be met. Tree canopy requirements will be met.

- (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 to provide the required plantings along West Market Street and 38th 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 incorporated other design measures that exceed the minimums and compensate for non-compliance with the requirements to be waived by increasing the amount of ILA provided and adding a grass verge along 38th Street.

TECHNICAL REVIEW

Case No. b-135-06 has the following conditions of approval:

1. The following uses shall be prohibited in the building for which the variance has been sought (the three store front building facing 38th Street).
Boarding and lodging houses

Community residences
 Multi-Family dwellings
 Establishments holding in distilled spirits and wine retail package
 License that allow consumption on the premises
 Extended care home
 Garage or yard sale
 Health spas
 Pawn shops
 Residential care facilities
 ABC licensed establishments
 Billiard parlors, game rooms and similar entertainment uses
 Flea market
 Plasma blood collection centers for profit
 Tattoo, body are and piercing parlors
 Used car sales areas
 Private clubs

2. The dumpster proposed to be located at the rear of the subject property adjacent to the alley shall not be emptied between the hours of 10:00 p.m. and 6:00 a.m.
3. Security cameras shall be installed and working in each of the three proposed stores, and at least one camera shall be focused on the parking areas surrounding the proposed building. The record from the cameras shall be maintained in digital format and be retained for 4 days after the day of recording.
4. The structure shall be substantially similar to the renderings provided to the Board of Zoning Adjustment at its February 5, 2007 public hearing.
5. If parking on 38th Street attributable to the subject property causes problems for area residents, then the property owner shall confer with residents in an attempt to resolve those problems.

STAFF CONCLUSIONS

The standards of review for the requested waivers have been met. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Development Review Committee must determine if the proposal meets the standards for granting a LDC Waiver and Landscape as established in the Land Development Code.

NOTIFICATION

Date	Purpose of Notice	Recipients
07/02/14	Hearing before DRC	1 st tier adjoining property owners Subscribers of Council District 8 Notification of Development Proposals

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Applicants Justification
4. Rendering of Structure

1. Zoning Map



2. Aerial Photograph



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?

The waiver will not adversely affect the adjacent property owners since a majority of the frontage is street side where existing conditions will remain.

2. Will the waiver violate the Comprehensive Plan?

The waiver will not violate the comprehensive plan. Access to the site will be improved. The required traffic areas will be buffered with the required plantings.

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

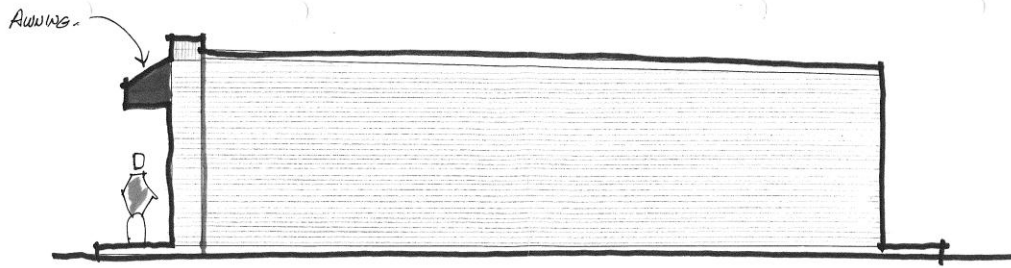
The extent of the waiver of the regulations is the minimum necessary to afford relief since the required plantings will be provided.

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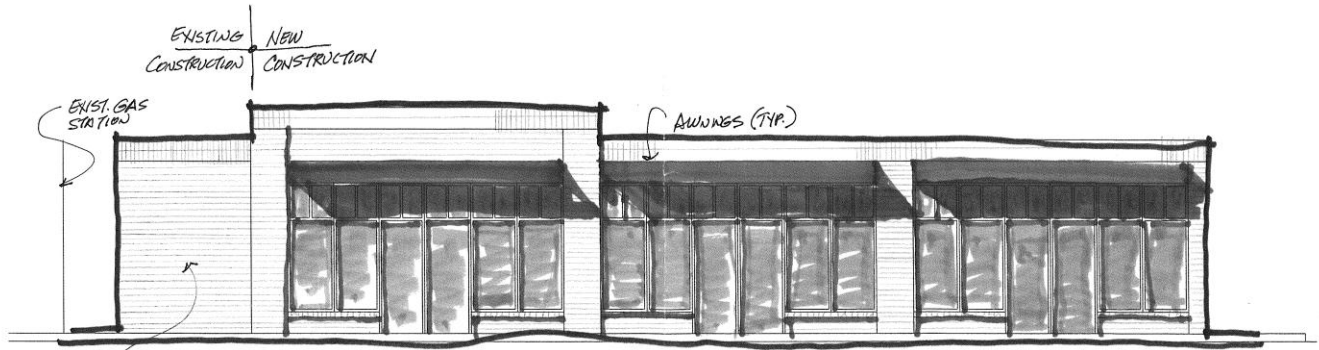
4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

The site layout and building size is necessary for a successful expansion. Eliminating the wall will contribute to the safety of the site.

14WAIVER1023



Alley Elevation



38th St. Elevation



F&Y

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