

**Board of Zoning Adjustment
Staff Report**
July 21, 2014



| | |
|---------------------------|---------------------------------|
| Case No: | 14Variance1051 |
| Project Name: | Meredith Dunn Building Addition |
| Location: | 3023 Melbourne Ave. |
| Owner(s): | Meredith Dunn School |
| Applicant: | Same |
| Representative(s): | Alex Rosenberg, AI Engineering |
| Jurisdiction: | Louisville Metro |
| Council District: | 26 – Brent Ackerson |
| Case Manager: | Latondra Yates, Planner II |

REQUEST

- Variance of Table 5.3.1. and Sec. 9.1.4 of the Land Development Code to allow pavement to encroach into the required 25 ft. street side yard. The requested setback is 0, a variance of 25 ft.
- Waiver of Sections 10.2.10 and 10.2.11 of the LDC to not provide the required 5-ft. VUA LBA along Midland Ave.

Variance

| Location | Requirement | Request | Variance |
|---------------------------------|-------------|---------|----------|
| Street side yard (Midland Ave.) | 25 ft. | 0 ft. | 25 ft. |

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The variance and waiver are associated with a Category 2B review (docket No. 2-23-14) for consolidation of lots, a street closure for a portion of Rosemont Ave., and an addition to the Meredith Dunn School. The applicant has worked with the Transportation Planning Review Team on the parking layout along Midland Ave., and it will be restriped to be parallel, eliminating 10 of the 20 spaces, and a 6-ft. sidewalk will be built, leaving no room for the LBA.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned R-5 in the Neighborhood Form District (NFD). It is surrounded by single-family residential, except to the northwest, where there is OR-1 zoned property. Midland Ave. backs up to Breckenridge Ln. and Taylorsville Rd.

| | Land Use | Zoning | Form District |
|--------------------------------------|---------------------------|------------|---------------|
| <i>Subject Property</i> | | | |
| Existing | School | R-5 | NFD |
| Proposed | School addition | R-5 | NFD |
| <i>Surrounding Properties</i> | | | |
| North | Office/Residential | OR-1 / R-5 | NFD |
| South | Single-family residential | R-5 | NFD |
| East | Single-family residential | R-5 | NFD |
| West | Single-family residential | R-5 | NFD |

PREVIOUS CASES ON SITE

2-23-14, Category 2B Review for school addition.
14Streets1006, proposed street closure for a portion of Rosemont Ave.

INTERESTED PARTY COMMENTS

Staff has received calls of inquiry from adjoining property owners.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020 – See checklist attached
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- **Variance of Table 5.3.1. and Sec. 9.1.4 of the Land Development Code to allow pavement to encroach into the required 25 ft. street side yard. The requested setback is 0, a variance of 25 ft.**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The variance will not adversely affect the public health, safety or welfare because the parking will be revised per Transportation Planning Team to make it diagonal, rather than straight in parking, which will eliminate half of it, and to provide a 6-ft. sidewalk.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The variance will not alter the essential character of the general vicinity because there is existing parking in this area, and half of it will be eliminated with the restriping.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The variance will not cause a hazard or nuisance to the public because the parking will be revised per Transportation Planning Team to make it diagonal, rather than straight in parking, which will eliminate half of it, and to provide a 6-ft. sidewalk.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The variance will not allow an unreasonable circumvention of the zoning regulations because of the existing parking in the area.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The variance arises from the request to construct the school addition.

2. 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 on the applicant.

STAFF: The strict provision of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because it would require removal of required parking for the site.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of the request for construction of the school addition.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

- **Waiver of Sections 10.2.10 and 10.2.11 of the LDC to not provide the required 5-ft. VUA LBA along Midland Ave.**

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

STAFF: The waiver will not adversely affect adjacent property owners because the improving the existing parking layout and providing the sidewalk will be safety improvements 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 given the existing parking, and needed to provide the minimum required for the 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 applicant has worked with the Transportation Planning Review Team to revise this portion of the site in a manner that will be more safe.

TECHNICAL REVIEW

No outstanding technical review items.

STAFF CONCLUSIONS

The waiver meets 14 of the applicable guidelines of the Comprehensive Plan.

The waiver violates 6 of the compatibility guidelines of the Comprehensive Plan because the parking will not be screened from adjacent residential properties. However, the parking is an existing condition, and the safety will be improved because half of the parking will be eliminated with the restriping to make it parallel. A 6-ft. sidewalk is also proposed.

Six additional guidelines, including submittal of signage and lighting details, if proposed, can be addressed during construction review.

Staff's analysis of the standards of review supports the granting of the variance.

Staff's analysis of the standards of review supports the granting of the waiver

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting variances and waivers as established in the Land Development Code.

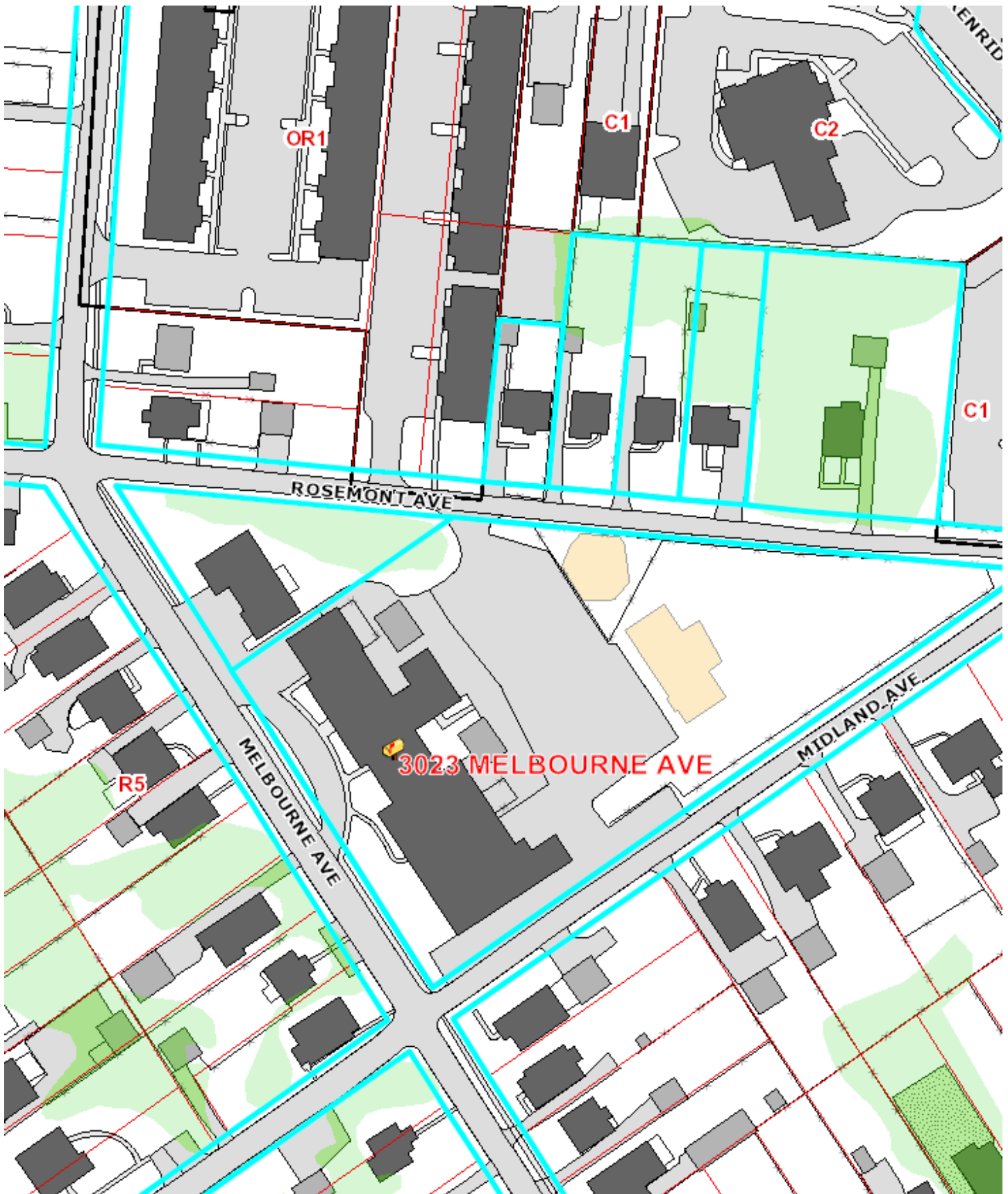
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|-----------|-------------------|--|
| 6/17/2014 | BOZA Hearing | 1 st and 2 nd tier adjoining property owners |
| 6/20/2014 | Sign Posting | On property |

ATTACHMENTS

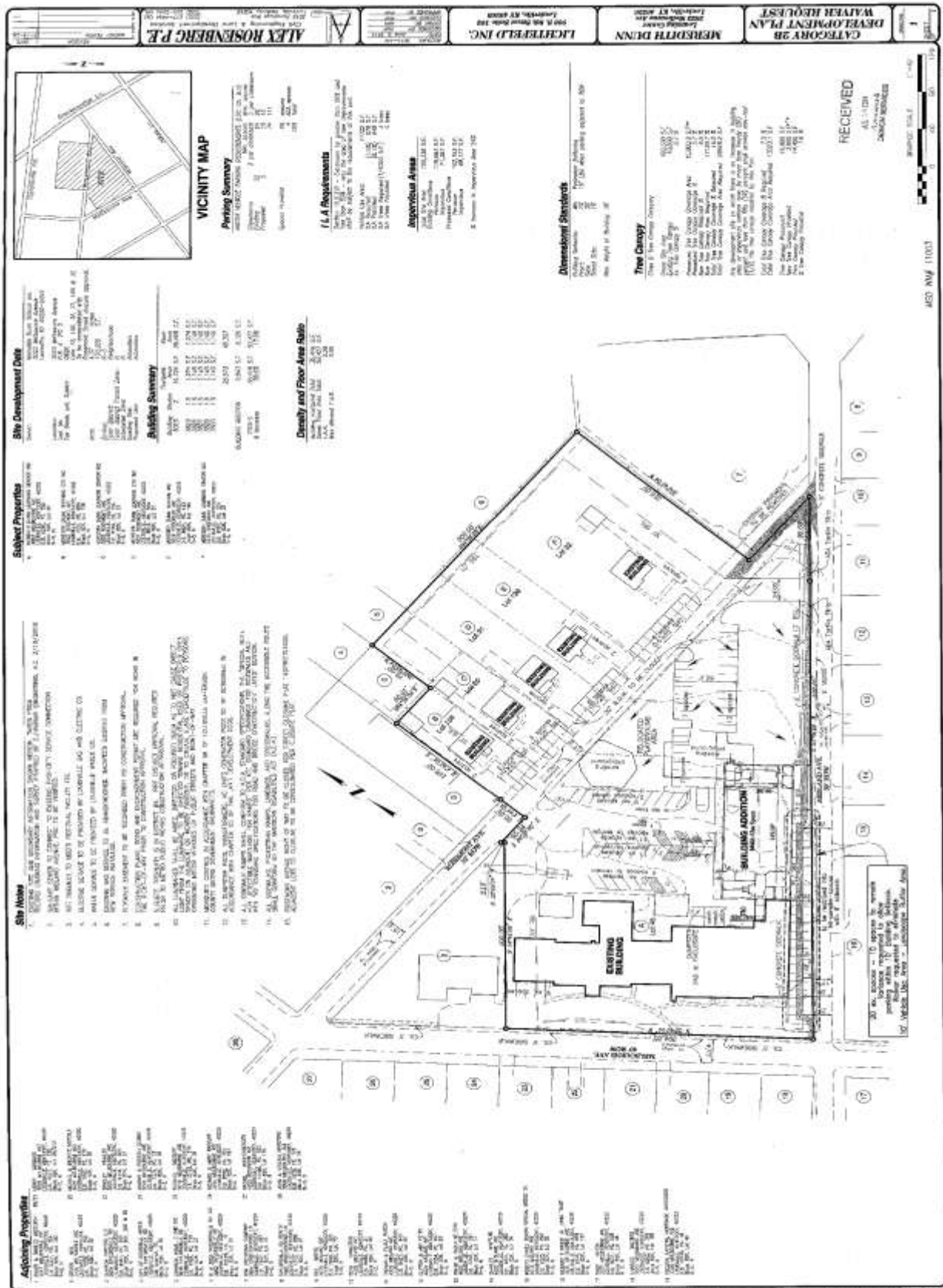
1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Cornerstone 2020 Staff Checklist
6. Applicant's Justification Statements

1. Zoning Map



2. Aerial Photo





4. Elevation



VISION FOR THE FUTURE

"THE COMMONS" AT MEREDITH-DUNN SCHOOL



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4. Cornerstone 2020 Comprehensive Plan Checklist

| | | | | | |
|----|---|--|---|-----|---|
| 11 | Form Districts Goals C1-C4, Objectives C1.1- 1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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. | √ | Sidewalks are proposed. |
| 12 | Form Districts Goals C1-C4, Objectives C1.1- 1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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. |
| 13 | Form Districts Goals C1-C4, Objectives C1.1- 1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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. | √ | Expansion within the existing school campus proposed. |
| 15 | Form Districts Goals C1-C4, Objectives C1.1- 1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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 been revised per Transportation Planning Team Review. |
| 13 | Form Districts Goals C1-C4, Objectives C1.1- 1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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. | √ | Expansion within the existing school campus proposed. |
| 15 | Form Districts Goals C1-C4, Objectives C1.1- 1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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 been revised per Transportation Planning Team Review. |
| 16 | Form Districts Goals C1-C4, Objectives C1.1- 1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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 for any proposed. |
| 17 | Form Districts Goals C1-C4, Objectives C1.1- 1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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. | √ | Site is located near a transit corridor and commercial corridor. |
| 18 | Form Districts Goals C1-C4, Objectives C1.1- 1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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. | - | LBA waiver requested. However, condition is existing and being improved for safety. |
| 19 | Form Districts Goals C1-C4, Objectives C1.1- 1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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. | - | LBA waiver requested. However, condition is existing and being improved for safety. |

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| 20 | Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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. | - | LBA waiver requested. However, condition is existing and being improved for safety. |
| 21 | Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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. | - | LBA waiver requested. However, parking being improved per Transportation Planning Review. Sidewalk is also proposed. |
| 22 | Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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. | - | LBA waiver requested. However, condition is existing and being improved for safety. |
| 24 | Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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 for any proposed. |
| 36 | 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 is located near a transit corridor and will be served by sidewalks. |
| 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.10: The proposal includes adequate parking spaces to support the use. | √ | The required parking will be provided. |
| 22 | Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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. | - | LBA waiver requested. However, condition is existing and being improved for safety. |
| 24 | Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7 | 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 for any proposed. |
| 36 | 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 is located near a transit corridor and will be served by sidewalks. |
| 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.10: The proposal includes adequate parking spaces to support the use. | √ | The required parking will be provided. |
| 44 | 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 is near a transit corridor and will be served by sidewalks. |

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| 45 | 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 construction review. |
| 48 | 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. |
| 49 | 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. |
| 50 | Livability Goal B1, Objective B1.3 | 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 construction review. |

5. **Applicant's Justification Statements**

Variance Justification:

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

1. **Explain how the variance will not adversely affect the public health, safety or welfare.**

The variance allows for existing parking spaces to remain as is. They currently are located within the building setback and pose no affect to public health, safety or welfare.

2. **Explain how the variance will not alter the essential character of the general vicinity.**

The variance allows for existing parking spaces to remain as is. This existing condition has defined the character.

3. **Explain how the variance will not cause a hazard or a nuisance to the public.**

The variance allows for existing parking spaces to remain as is and have not caused a hazard nor will in the future.

4. **Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.**

The variance allows for existing parking spaces to remain as is.

Additional consideration:

1. **Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).**

The variance allows for existing parking spaces to remain as is. They currently are located within the building setback and pose no affect to public health, safety or welfare.

2. **Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.**

Removing the existing parking spaces would provide no further benefit to the property and would force the school into paying for parking that already exists.

3. **Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?**

No. This applcaition is in conjunction with a Category 2B Develeopment Plan submittal.

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 request is to allow an existing condition to remain as it has been. Granting of this waiver will not adversely affect adjacent property owners.

2. Will the waiver violate the Comprehensive Plan?

The comprehensive plan provides allowances for and even encourages efforts to maintain existing neighborhood character. Granting of this waiver allows that to happen.

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

In order to provide the essential parking for the school, it is necessary to preserve as many of the existing spaces as possible. Granting of this waiver allows that to happen.

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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?

In an effort to provide safe and efficient access and parking for the school, the applicant has incorporated an application to close a portion of Rosemont Avenue. By closing this portion of roadway additional parking spaces are being created, while providing green space and landscaping adjacent to Midland Avenue.

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