

# Development Review Committee

## Staff Report

November 19, 2014



<b>Case No:</b>	<b>14WAIVER1037</b>
<b>Request:</b>	<b>Waiver to allow the razor wire to be permitted below 8 feet and to allow barbed wire/razor wire adjacent to a residential use.</b>
<b>Project Name:</b>	<b>Alliance Machine Tool Company</b>
<b>Location:</b>	<b>532 Baxter Avenue</b>
<b>Owner:</b>	<b>Janet L. Margerum Trust Fund</b>
<b>Applicant:</b>	<b>Janet Margerum</b>
<b>Representative:</b>	<b>Janet Margerum</b>
<b>Jurisdiction:</b>	<b>Louisville</b>
<b>Council District:</b>	<b>4 - David W. Tandy</b>
<b>Case Manager:</b>	<b>Sherie' Long, Landscape Architect</b>

### REQUEST

- Waiver #1: Waiver of Section 4.4.3.A.4a to allow razor wire to be located less than 8 feet above grade level.  
 Waiver #2: Waiver of Section 4.4.3.A.4d to allow barbed wire/ razor wire to be located adjacent to a residential use.

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The subject site is a vacant lot located between the Alliance Machine Tool Company building (north) and a house being used as a business, hair salon in the front one story section, and a single family residence in the two story rear portion. This site is in the Traditional Neighborhood form district and zoned C-1. The barbed wire and razor wire were installed by the applicant to deter vandalism and theft. The applicant has been cited by code enforcement for having barbed wire and razor wire adjacent to a residential use and located below the allowable 8 foot height.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing/ Proposed</b>	Vacant/ Open Lot	C-1	TN
<b>Surrounding Properties</b>			
<b>North</b>	Manufacturing, Commercial, Office and Residential	C-1, M-2, C-M, & R-6	TN
<b>South</b>	Single family Residential, Office & Commercial	R-6 & C-1	TN
<b>East</b>	Office, Single and Multi-family Residential & Commercial	R-6 & C-1	TN
<b>West</b>	Single family Residential	R-6	TN

## CURRENT CASES ON SITE

**14PM16089:** A notice of violation concerning the installation of barbed wire/ razor wire adjacent to a residential use was sent to the property owner on August 14, 2014.

## INTERESTED PARTY COMMENTS

The adjacent property owner, Miss Joan Wood, has inquired about the two requested waivers. The adjacent property is being used as a residence in the rear and a business in the front. This adjacent property owner is concerned because the barbed wire is not only in an unsafe location, too close to the ground and right next to her front and rear yards, but it is also projecting a negative image about the safety of the neighborhood. She feels the use of barbed wire and razor wire is inappropriate at this location. Plus additional razor wire was installed along the roof line of the building next door in addition to additional razor wire added to the top of the perimeter fence in the rear of the subject property. Her customers started asking questions about the safety of the neighborhood. She is afraid she will lose business if the perception of the neighborhood is that it is unsafe. She would like to be a good neighbor but this barbed wire is creating a negative atmosphere. If at all possible, she would like the barbed wire eliminated from the front of the property adjacent to her front yard. The barbed wire could be replaced with an aluminum fence to match the existing fence which is along the Baxter Avenue street frontage.

Another property owner and neighborhood leader, Lisa Santos, also inquired about the waivers. She is very upset with the current situation. She is concerned that since this property owner has installed razor wire additional razor wire will be installed at other locations in the neighborhood. She feels razor wire is for prisons not neighborhoods. The message being sent is not the right message. The owner of this property should remove all the excess razor wire and barbed wire. Instead of creating a fortress, the owner of the property should concentrate on protecting the AC units.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

**Waiver #1: Waiver of Section 4.4.3.A.4a to allow razor wire to located less than 8 feet above grade level.**

(a) The waiver will adversely affect adjacent property owners; and

STAFF: The waiver will adversely affect adjacent property owners because the barbed wire is located to low on the fence to be safe adjacent to the front and rear yards of a residential use. The adjacent property owner has communicated her concerns about the possibility she will lose customers because the barbed wire and razor wire are creating an impression that the neighborhood is not safe. Also, another property owner has concerns since razor wire and barbed are being used at this location it will prompt other property owners to install additional razor wire and barbed wire in the neighborhood.

(b) The waiver will violate specific guidelines of Cornerstone 2020; and

STAFF: The proposal does not meet the goal of Cornerstone 2020 which promotes the use of similar materials to help new development bend into the surrounding neighborhood character and reduce the impact on the neighborhood. Also no addition plantings are being proposed to mitigate the impact of incompatible development occurring adjacent to one another.

- (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 is not the minimum necessary to afford relief to the applicant because the fence could have been installed at the height required by the regulation. Plus, the applicant could have installed a fence which would have been appropriate for a traditional neighborhood. The existing aluminum picket fence currently located along the Baxter Avenue street frontage is an example of an appropriate fencing material for a traditional neighborhood.

- (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 not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived. The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or would not create an unnecessary hardship on the applicant. The applicant has not provided information which would support an unnecessary hardship.

#### STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

##### **Waiver #2: Waiver of Section 4.4.3.A.4d to allow barbed wire/ razor wire to be located adjacent to a residential use.**

- (a) The waivers will adversely affect adjacent property owners; and

STAFF: The waivers will adversely affect adjacent property owners because barbed wire and razor wire are not appropriate adjacent to any residential use. The use of the barbed wire and razor wire material has created an impression that the neighborhood is not safe which may cause the loss of customers from the adjacent business. Plus, the use of these materials is not intended to be used in the residential areas. They are more suited for farm use and industrial uses in addition to prisons and detention centers.

- (b) The waiver will violate specific guidelines of Cornerstone 2020; and

STAFF: The proposal does not meet the goal of Cornerstone 2020 which promotes the use of similar materials to help development bend into the surrounding neighborhood character and reduce the impact on the neighborhood. Also no addition plantings are being proposed to mitigate the impact of incompatible development occurring adjacent to one another.

- (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 is the minimum necessary to afford relief to the applicant because the applicant could have installed a fence which would have been appropriate for a traditional neighborhood. The existing aluminum picket fence currently located along the Baxter Avenue street frontage is an example of an appropriate fencing material for a traditional neighborhood.

- (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 not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived. The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or would not create an unnecessary hardship on the applicant. The applicant has not provided information which would support an unnecessary hardship.

**TECHNICAL REVIEW**

The site plan provides no detail of the site elements. Neither the existing fence, nor the existing parking area are shown or identified.

**STAFF CONCLUSIONS**

Considering the applicant has not mitigated the impact of the barbed wire or razor wire nor has the applicant taken into consideration the unsafe condition created by installing barbed wire adjacent to a residential use neither of the requested waivers is supported by the standards of review.

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 established in the Land Development Code.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
11/04/2014	Notification for DRC	1 <sup>st</sup> tier adjoining property owners Subscribers of Council District 24 Notification of Development Proposals

**ATTACHMENTS**

1. Zoning Maps
2. Aerial Photograph
3. Corner Stone 2020 Staff Checklist
4. Applicant's Justification
5. Site Plan
6. Site Photographs

ATTACHMENTS

Attachment 1: Zoning Map





Attachment 2: Aerial Photograph



**Attachment 3: Cornerstone 2020 Staff Checklist**

- + Exceeds Guideline
- √ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Finding	Comments
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**Waiver #1 and #2**

14	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 addition of the barbed wire and razor wire on the fence material is not compatible with the neighborhood.  The height of the barbed wire and razor wire is also unsafe to pedestrians.
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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.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.	-	No planting or buffering is being provided to reduce the impact of the barbed wire and razor wire.
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## Attachment 4: Applicant's Justification

### 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?

NO. It provides security to the NW side of 532 and 534 Baxter Ave. Adjoining owner (534) provided with access to NW side of that parcel via a gate provided by Applicant. Owner of adjacent property has their padlock on this gate, providing them free access to vacant lot area via rear of lot.

2. Will the waiver violate the Comprehensive Plan?

Not as determined by the wording of Comp. Plan/  
Sustainability Plan.

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

Yes because the addition of 33' of fence completes the enclosure of 532/vacant Lot. This section was previously left open at request of Ms. Wood/534 Baxter owner. That gap allowed thieves/vandals access to 532 via the front yard of 534 Baxter.

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?

No additional L changes/additions are planned for 532 Baxter. Per LG+E, Lou. Water: no easements listed on vacant lot.

Attachment 5: Site Plan



**Attachment 6: Site Photographs**



**Front of the property looking from Baxter Avenue**



**Fence adjacent to the residentially used property's front yard**



**Barbed Wire at the top of the fence adjacent to the front yard of the adjacent property**



**View of fence and barbed wire from front yard of adjacent property. Lamp pole is 6 feet tall.**



**View from front to rear of the subject property. Residential use is to the left and Alliance Machine Tool Company building is located to the right.**



**Razor Wire along edge of roof of Alliance Machine Tool Company building next to the vacant lot**



**Rear of the subject property**



**Barbed wire fence adjacent to the rear yard of the property used as residential**



**Razor Wire along edge of roof of Alliance Machine Tool Company building next to the vacant lot**



**View of the fence along the rear of the property.**



**Rear of the Alliance Machine Tool Company building**



**Razor Wire along top of fence**





**Razor Wire along the edge of the roof of the Alliance Machine Tool Company building**



**Razor Wire along the edge of the roof of the Alliance Machine Tool Company building**