

# Development Review Committee

## Staff Report

October 1, 2014



<b>Case No:</b>	14Waiver1030
<b>Project Name:</b>	Kentucky Telco Federal Credit Union
<b>Location:</b>	4652 Dixie Highway
<b>Owner(s):</b>	Kentucky Telco Federal Credit Union
<b>Applicant(s):</b>	Kentucky Telco Federal Credit Union
<b>Representative(s):</b>	Michael J. Keal
<b>Project Area/Size:</b>	16,000 square feet
<b>Existing Zoning District:</b>	C-2, Commercial
<b>Existing Form District:</b>	SMC, Suburban Marketplace Corridor
<b>Jurisdiction:</b>	Shively
<b>Council District:</b>	3– Mary C. Woolridge
<b>Case Manager:</b>	Jon E. Crumbie, Planner II

### REQUEST

- Waiver of Chapter 10.4.2.B. to allow a utility easement to encroach more than 50% into a required Landscape Buffer Area along the north property line.

### CASE SUMMARY/BACKGROUND

The applicant is in the process of removing an existing structure and constructing a 2,500 square foot single story bank with associated drive-thru lanes. The original plan went before the Board of Zoning Adjustment with related variances and waivers, but according to the applicant the above-mentioned request was overlooked. The easement overlap will be 83%.

### SITE CONTEXT

The site is located at the northeast corner of Dixie Highway and Klages Avenue. The site is zoned C-2 in the Suburban Marketplace Corridor (SMC) Form district. The site transitions to the Neighborhood Form District to the north and east where there are single-family residential uses. To the west across Klages Avenue is a motel zoned C-2. Across Dixie Highway are commercial and office uses in the Suburban Marketplace Corridor.

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

	Land Use	Zoning	Form District
<b><i>Subject Property</i></b>			
<b>Existing</b>	Commercial	C-2	SMC
<b>Proposed</b>	Commercial	C-2	SMC
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Single-Family Residential	R-5	NFD
<b>South</b>	Commercial	C-2	SMC
<b>East</b>	Single-Family Residential	R-5	NFD
<b>West</b>	Motel	C-2	SMC

## PREVIOUS CASES ON SITE

**13VARIANCE1021** An application for variances from the Land Development Code to allow reductions in required yards; and a landscape waiver. The Board of Zoning Adjustment approved the request on November 4, 2013 with conditions.

## INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

## APPLICABLE PLANS AND POLICIES

Land Development Code

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners since the required screening and landscaping plantings will be accommodated within the buffer area.

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

STAFF: Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants.

(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 since the utility easement does not inhibit the installation of the required screening. The applicant will be responsible for maintaining and replacing landscaping materials with are damaged as a result of utility installation, utility operation, or utility repair operation.

(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 strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because the required screening and landscaping materials can be installed and maintained in the LBA even with the easement overlap.

### TECHNICAL REVIEW

There are no outstanding technical review items.

### STAFF CONCLUSIONS

The standard of review for the requested waiver has 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 as established in the Land Development Code.

### NOTIFICATION

Date	Purpose of Notice	Recipients
10/01/14	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Subscribers of Council District 8 Notification of Development Proposals

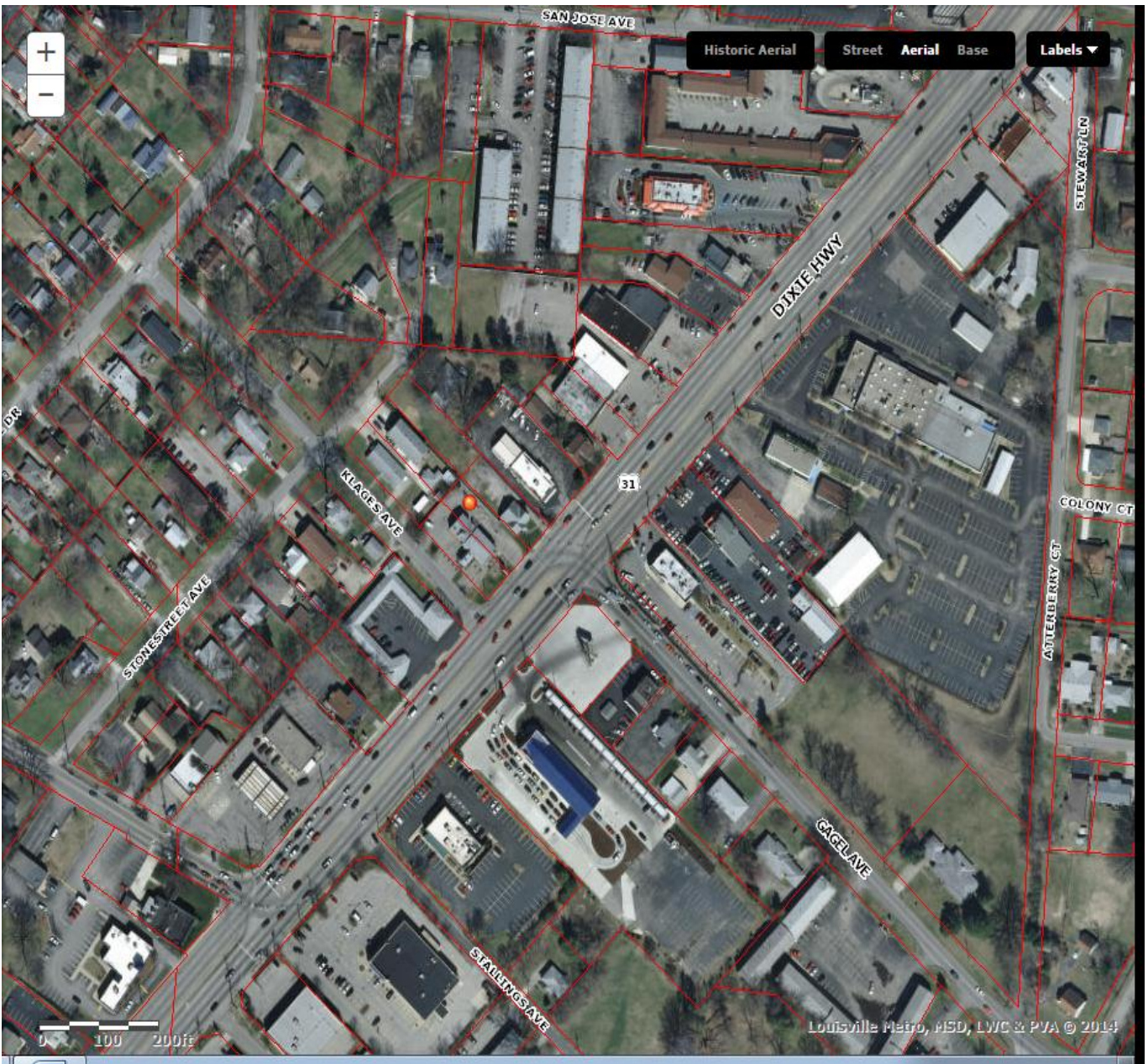
### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Applicants Justification

1. **Zoning Map**



2. Aerial Photograph



**3. Applicants 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?**

The waiver will not affect adjacent property owners because the required screening and landscape plantings will be accommodated within the buffer area while overlapping areas with existing utility easement.

**2. Will the waiver violate the Comprehensive Plan?**

The waiver will not violate the Comprehensive Plan because the landscape material and screening required by the Land Development Code will be installed with no reduction in size or quality and the owner retains the requirement to perpetually maintain 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 is the minimum necessary to afford relief to the applicant because the utility easement does not inhibit the installation of the required screening and trees and shrubs. The applicant will be responsible to maintain and replace landscape materials which are damaged as a result of utility installation, utility operation, or utility repair operation.

**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?**

Since required screening and landscape materials can be successfully installed and maintained in the Landscape Buffer Area partially encumbered by the utility easement strict application of the regulation, would create an unnecessary hardship by restricting the applicants development of the property

14WAIVER1030