

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.

Waiver of: Section 10.2.4 to reduce the required 25 ft property perimeter LBA to 5 ft due to an adjacent 20' LBA being provided on the adjacent properties.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because there is an existing 20' LBA on the adjacent property, which is owned by JCPS and used for Ramsey Middle School and Farmer Elementary. Additionally, an 8' privacy fence is proposed along the property line where this waiver is requested, providing the requisite privacy and buffering for the neighboring JCPS site.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original, approved, rezoning application in 15ZONE1057. Additionally, it will not violate the Comprehensive Plan pursuant to Plan 2040 and complies with, among other policies of Plan 2040, Goal 2 of the Community Form, Policies 1, 2, 3, 4, 5, 7, and 14, by being part of an activity center adjoining a mixture of institutional, high-density residential and single-family residential uses, with goods and services available in close proximity to the Gene Snyder Freeway-Billtown Road interchange, and being a small retail center that adds to the vitality and sense of place among the mostly disconnected nearby neighborhoods, giving nearby residents an ability to walk to this small center or permitting nearby residents to use the proposed commercial development as a convenient first-stop or last-stop on their way to or from work and home in and around the neighboring area, including JCPS elementary and middle schools.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this requested waiver buffer area combined with the existing landscape buffer area meets the required 25' buffer, and, additionally, the provided 8' privacy fence otherwise

meets the buffering and privacy needs otherwise intended to be provided by the landscape buffer area. Further, the current proposed development plan has a large 13,000 square foot tree preservation area behind the building, compared to the prior approved development plan which did not have a tree preservation area. The only true encroachment into the landscape buffer area would be the proposed detention basin, not a structure or building.

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, as said above, the applicant is utilizing the existing 20' landscape buffer and is committed to providing a level of screen and buffer with the proposed 8' privacy fence and tree preservation areas.