

# Development Review Committee

## Staff Report

September 14, 2016



<b>Case No:</b>	<b>16WAIVER1034</b>
<b>Request:</b>	<b>Landscape Waiver</b>
<b>Project Name:</b>	<b>SC Associates Waiver</b>
<b>Location:</b>	<b>2407 Brownsboro Road</b>
<b>Owner:</b>	<b>SC Echo Associates, LLC</b>
<b>Applicant:</b>	<b>T. Bruce Simpson Jr., Stoll Keenon Ogden</b>
<b>Representative:</b>	<b>T. Bruce Simpson Jr., Stoll Keenon Ogden</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>9 –Bill Hollander</b>
<b>Case Manager:</b>	<b>Laura Mattingly, Planner I</b>

### REQUEST

- Waiver of Sections 5.7.1.B to allow a non-residential property to not provide the required 25' Transition Zone Landscape Buffer Area along a property line abutting a residential use.

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

This subject site is a commercially and residentially developed parcel located in the Clifton Heights neighborhood. There are three existing buildings on site, two commercial buildings that gain access from Brownsboro Road and one 3-story apartment building located on the rear of the site that gains access from a private road to the north. The applicant has submitted a minor plat to shift a property line, subsequently leaving the commercial buildings on one tract and the apartments on the other. This new property line follows the rear of the northernmost commercial property and an existing stone retention wall that separates the apartments from the commercial. There is a significant grade difference between the two new properties and an approximate 5-6 foot drop-off marked by the retention wall. There is also a chain link fence in place behind the larger commercial property, blocking access to the roof from the parking lot of the apartments which is accessible due to the grade difference.

This parcel is also divided by a form district boundary, triggering the form district transition zone standards which require a 25 foot Landscape Buffer area between residential and non-residential properties. Due to existing conditions on site, the applicant has applied for relief of this requirement.

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

	Land Use	Zoning	Form District
<b><i>Subject Property</i></b>			
<b>Existing</b>	Commercial/Apartments	C-1/R-6	TMC/N
<b>Proposed</b>	Commercial/Apartments	C-1/R-6	TMC/N
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Multi-Family Residential	R-6	N
<b>South</b>	Commercial	C-1	TMC
<b>East</b>	Multi-Family Residential / Commercial	C-1/R-7	TMC/N
<b>West</b>	Commercial	C-1/R-6	TMC/N

## PREVIOUS CASES ON SITE

None

## INTERESTED PARTY COMMENTS

Staff has not received any comments from interested parties.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of Section 5.7.1.B to allow a non-residential property to not provide the required 25' Transition Zone Landscape Buffer Area when along a property line abutting a residential use.**

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

STAFF: The waiver will adversely affect adjacent property owners as the lack of a buffer and screen is a safety hazard due to the extreme grade difference and the drop-off between the parking lots.

- (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. These guidelines are violated, as there is no transition area between the two incompatible uses other than the existing stone retention wall and fence which are inadequate for the intent of the Comprehensive Plan.

- (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 as the conditions are existing, no new development is proposed and the waiver is required in order to divide the property.

- (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 create an unnecessary hardship on the applicant as the existing conditions on site, including power lines, the grade change and retention wall and the existing pavement would make it costly and difficult to provide the full required buffer.

#### TECHNICAL REVIEW

- 16MINORPLAT1034 to divide this property into two tracts is currently under review and is contingent upon the approval of the requested waiver.

#### STAFF CONCLUSIONS

While the Waiver request appears to be adequately justified, it does not meet the standard of review based on staff analysis in the staff report. Staff recommends **APPROVAL ON CONDITION** that the applicant provides a 6 foot privacy fence and gate to stairs along the top of the retaining wall in order to provide safety and a better transition for the two incompatible uses.

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 an LDC Waiver established in the Land Development Code.

#### REQUIRED ACTION

- **APPROVE** or **DENY** the requested waiver of LDC Sections 5.7.1.B to allow a non-residential property to not provide the required 25' Transition Zone Landscape Buffer Area when along a property line abutting a residential use.

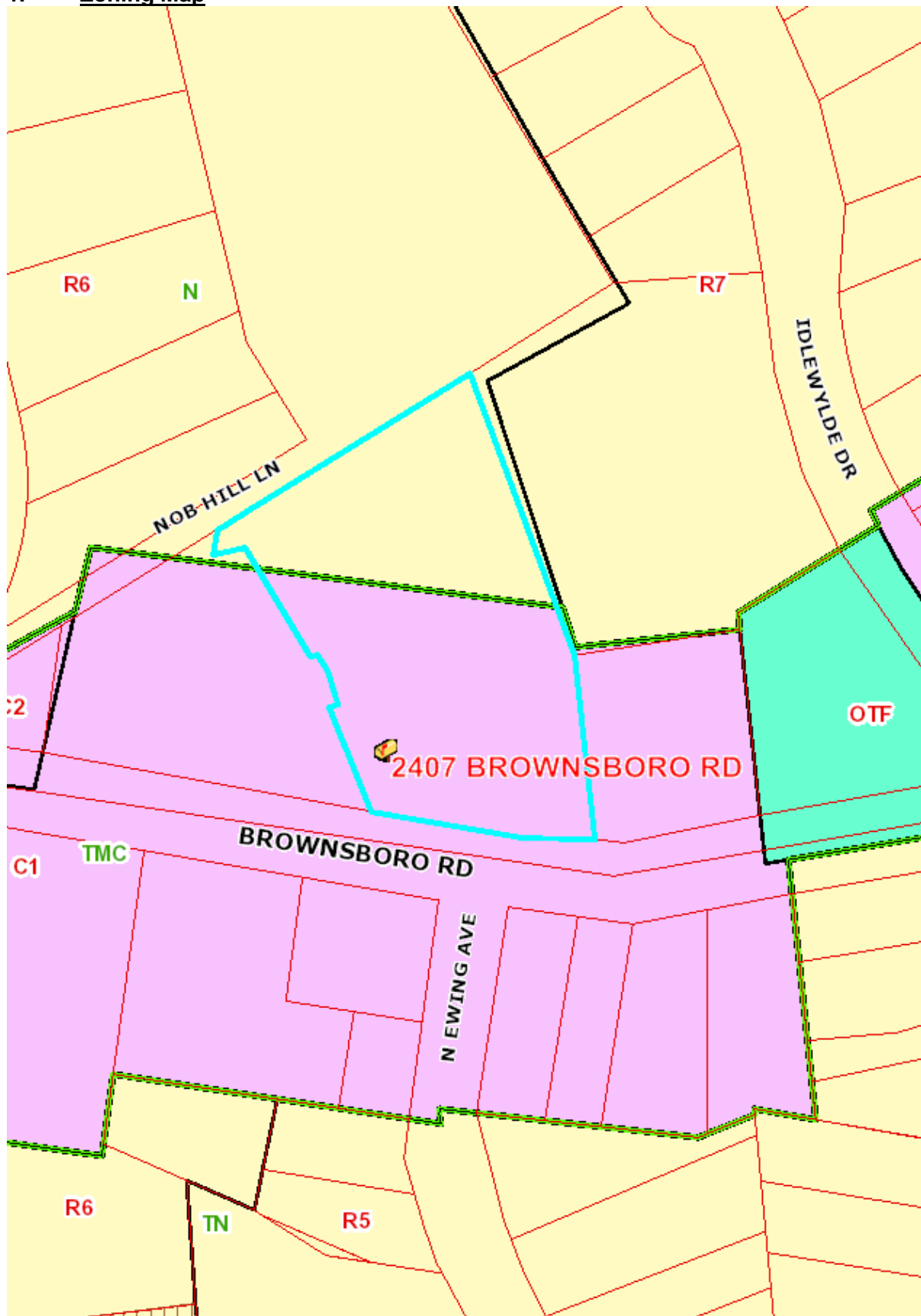
#### NOTIFICATION

Date	Purpose of Notice	Recipients
8/30/2016	Public Hearing – DRC	Neighborhood notification recipients
8/31/2016	Public Hearing – DRC	1 <sup>st</sup> tier adjoining property owners

#### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

