

Development Review Committee

Staff Report

February 20, 2019



Case No:	19WAIVER1000
Project Name:	13501 Aiken Rd - Salon
Location:	13501 Aiken Road
Owner(s):	Scott Lingo, Donnascott LLC
Applicant:	Scott Lingo, Donnascott LLC
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUESTS:

1. **Waiver** of Land Development Code section 10.2.3 to not provide the 20' LBA required adjacent to an R-4 and M-2 zoned property along the eastern and northern borders (a church)
2. **Waiver** of Land Development Code section 10.2.3 to not provide the 15' LBA required adjacent to an M-2 zoned property along the southern border
3. **Waiver** of Land Development Code section 10.2.3 to reduce the required 35' LBA adjacent to an R-4 zoned property along the eastern border to 15' (a single family structure)

CASE SUMMARY/BACKGROUND

This site is zoned C-1 Commercial in the Neighborhood form district. It is located east of Aiken Road and I-265. It is mostly surrounded by properties zoned M-2 Industrial, except on the eastern perimeter there are two R-4 Residential Single Family zoned properties. The northernmost R-4 zoned property is used as a church and the southernmost is used as a single family residence. The applicant is requesting landscape waivers to not provide or reduce Landscape Buffer Areas (LBAs) along the property perimeters.

Previous cases:

- 18ZONE1040: Change in zoning from M-2 Industrial to C-1 Commercial for a proposed hair salon/office

STAFF FINDINGS

Waivers #1 and #3 are adequately justified and meet the standard of review. Waiver #2 is not adequately justified and does not meet the standard of review because the applicant could plant one tree and reduce the LBA to 10 feet and meet LDC requirements without the requested waiver.

TECHNICAL REVIEW

Public Works has provided preliminary approval. There are no outstanding technical issues concerning this request.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.3 TO NOT PROVIDE THE 20' LBA REQUIRED ADJACENT TO AN R-4 AND M-2 ZONED PROPERTY ALONG THE EASTERN AND NORTHERN BORDERS (A CHURCH):

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

STAFF: The waiver will not adversely affect adjacent property owners since there are already several plantings to be preserved along the eastern perimeter of the site bordering the R-4 zone, and there are not currently any structures within close proximity to this perimeter on the neighboring church property. The M-2 zoned property to the north is also part of the church and is currently being used as a parking lot and open space.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Plan 2040 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Plan 2040 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of 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. Plan 2040 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Plan 2040 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Plan 2040 calls for screening and buffering to mitigate adjacent incompatible uses. 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 airborne and waterborne pollutants.

This site is a salon adjacent to a residentially zoned property that is being used as a church and an M-2 zoned property which is being used as a church parking lot, so the uses are not substantially different and will most likely not create nuisances for either property.

- (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 landscaping is already in place and the adjacent property is being used as a church.

- (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 or would create an unnecessary hardship on the applicant since there is already landscape screening in place and the neighboring property is being used as a church, which is not an incompatible use.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.3 TO NOT PROVIDE THE 15' LBA REQUIRED ADJACENT TO AN M-2 ZONED PROPERTY ALONG THE SOUTHERN BORDER

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

STAFF: The waiver will not adversely affect adjacent property owners since there are already several plantings to be preserved in this portion of the site. However, the applicant could meet LDC requirements by reducing the LBA to 10 feet and planting one additional tree.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Plan 2040 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Plan 2040 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of 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. Plan 2040 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Plan 2040 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Plan 2040 calls for screening and buffering to mitigate adjacent incompatible uses. 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 airborne and waterborne pollutants.

This site is a salon adjacent to an M-2 zoned property on the southern perimeter that is being used as a commercial warehouse. The area of the site where the LBA would be located already has several plantings which will be preserved, however, with one additional tree the applicant could reduce the LBA to 10 feet and meet LDC requirements.

- (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 not the minimum necessary to afford relief to the applicant since one additional tree could be planted in order to meet LDC requirements.

- (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 not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since there is space to plant one additional tree and reduce the LBA to 10 feet per LDC requirements.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.3 TO REDUCE THE REQUIRED 35' LBA ADJACENT TO AN R-4 ZONED PROPERTY ALONG THE EASTERN BORDER TO 15' (A SINGLE FAMILY STRUCTURE)

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

STAFF: The waiver will not adversely affect adjacent property owners since the landscaping on this site is already in place and will be preserved per the applicant. Additionally, there is an 8 foot wooden fence along the border between the subject site and the neighboring residentially zoned property which provides screening.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Plan 2040 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Plan 2040 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of 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. Plan 2040 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Plan 2040 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Plan 2040 calls for screening and buffering to mitigate adjacent incompatible uses. 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 airborne and waterborne pollutants.

This site is a salon adjacent to an R-4 zoned property that is being used as a single family home. The area of the site where the LBA would be located already has several plantings which will be preserved, and there is an 8 foot wooden fence in place which provides screening.

- (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 applicant is preserving the existing trees and 8 foot wooden fence which both provide screening.

- (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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the 35 foot LBA would encroach into the subject site's existing parking lot.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Waivers**

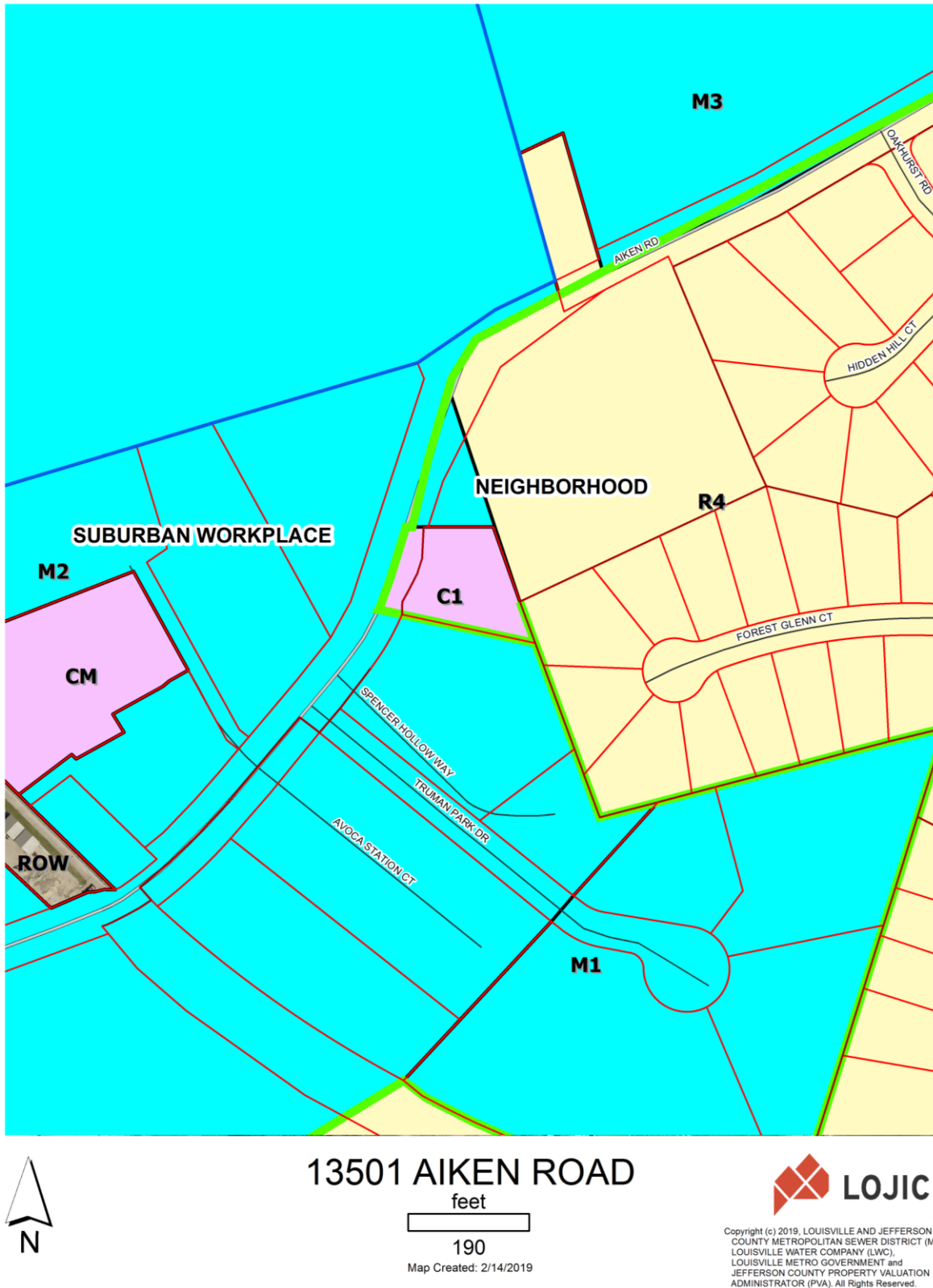
NOTIFICATION

Date	Purpose of Notice	Recipients
2-20-19	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 19

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**



2. Aerial Photograph

