

Waiver Request

Requirement: A 75' buffer be provided between the proposed R-3 development and the adjacent C-2 zoning.

Proposal: The proposed project includes a multifamily development adjacent to an existing commercial development to the east and an undeveloped commercially zoned property to the south. Along the east property line, a portion of one of the buildings and the parking lot encroaches into the 75' buffer as measured from the property line. Along the south property line, a portion of the parking lot and the trash enclosure encroach into the 75' buffer as measured from the property line. The waiver request is to allow for a reduction in the buffer to 35 feet along the east property line and to 28 feet along the south property line.

The approving authority may approve the waiver if the applicant demonstrates one (1) or more of the following, and if the area proposed for modification is illustrated on the plat or site development plan:

(a) An alternative higher quality development design with no negative impacts to either the residential or nonresidential properties.

RESPONSE: Along the south property line, there is a portion of existing trees that will be preserved as well as a double row of new evergreen trees to be planted to provide a solid screen between the development and the commercially zoned property. Along the east property line, the property to the east has already been developed and there will be an excess of 75 feet between the proposed building and the nearest parking lot to the east. Additionally, the area along the majority of the eastern property line is proposed with open space for the development and will have a much larger buffer than 75 feet.

(b) Development restrictions imposed on the property to ensure low impact land uses, low scale buildings and a site design arrangement in which adjoining residential properties will not be negatively impacted by any change in the applicable regulations.

RESPONSE: The adjacent properties to the south and east of the development are commercially zoned, therefore, there are no impacts to any adjacent residential properties.

(c) Existing topography, hedgerows or natural features provide significant screening and an appropriate buffer for adjoining properties.

RESPONSE: There is a portion of the south property line with trees that will be saved for screening..

(d) Significant buffers are provided on adjoining residential properties and those properties will not be negatively impacted by a change in the applicable regulations.

RESPONSE: Not applicable. There are no adjoining residential properties.

(e) The regulation impose an unnecessary hardship upon the property owner arising from conditions unique to the property and alternative site design, building design and building arrangements are not possible. In such instances, findings shall be prepared that:

(i) No private rights will be injured or endangered by the waiver.

(ii) The public will suffer no loss or inconvenience thereby and that in justice to the applicant or applicants the application should be granted.

RESPONSE: The proposed property was initially part of the overall plan for a commercial development that has its boundaries set on all sides by the existing public streets and previously developed commercial properties. Thus there is no way to design around the existing boundaries to provide an alternative buffer to the south or east. There is also a pipeline running through the property that restricts where buildings and pavements can be located and condenses the development to the area west of the pipeline with the area to the east of the pipelines being unusable except for some of the minor amenities.