

**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 5.6.1.C.1 not to have 50% of the wall surface at street-level on the Flowervale Road and Orell Road frontages consisting of clear windows and doors.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the frontage of the McDonalds building facing Dixie Highway and the internal south façade will be fully compliant having more than 50% of the wall surface containing windows. It is only the two sides of the proposed building where the drive through will be located that are not Land Development Code compliant. Not having 50% of the wall surface (in the drive through) on the north side facing Flowervale Road will not adversely affect the pre-plan certain C-2 Dairy Queen restaurant across Flowervale Road as the adjacent neighbor. Not having 50% of the wall surface (in the drive through) on the east side facing E. Orrell Road will not adversely affect the adjoining neighbors due to the building being set back from E. Orrell Road more than 80 feet with substantial screening and buffering being provided, including, a 8-ft tall privacy fence.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Goals, Objectives, and Policies of the Comp Plan 2040 filed with the rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the two sides where the relief is being requested is where the McDonalds drive through lane is located. Like all other fast-food restaurants with drive throughs, these two walls of the building are kitchen, supply rooms, etc. such that windows would be impractical. Unlike most development sites where only one side has roadway frontage, this site has roadway frontage on three sides, creating the necessity of the waiver.

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 a restaurant with a drive through could not be located on this site, with roadway frontage on three sides, without a waiver. Further, the applicant is providing additional screening and landscaping as mitigation for the request.