

Development Review Committee

Staff Report

March 28, 2018



Case No:	17DEVPLAN1127
Project Name:	Hurstbourne Town Center
Location:	101 Whittington Parkway
Owner(s):	Viking Partners Hurstbourne
Applicant:	Viking Partners Hurstbourne
Representative(s):	Bardenwerper, Talbott & Roberts, PLLC
Jurisdiction:	City of Hurstbourne
Council District:	18 – Marilyn Parker
Case Manager:	Joel P. Dock, Planner II

REQUEST(S)

- **Waivers**
 1. **Tract 2 (Hotel):**
 - a. Waiver of Land Development Code (LDC), section 5.5.1.A.1.a to not orient the principal building entrance towards the primary street (Whittington Parkway) or to a focal point
 2. **Tract 3 (Office and parking areas):**
 - a. Waiver of Land Development Code (LDC), section 5.5.1.A.3.a to not provide a 3' masonry wall along parking areas abutting Hurstbourne Parkway
 - b. Waivers of Land Development Code (LDC), section 10.3.5.A.1 & 10.2.10 to allow parking areas to encroach upon the 30' parkway buffer and 15' VUA LBA (Hurstbourne Parkway)
 - c. Waiver of Land Development Code (LDC), section 5.5.1.A.3.a to allow parking areas to be closer to the right of way (Hurstbourne Parkway) than the primary structures on Tracts 5 & 6.
 3. **Tract 4 (Retail center):**
 - a. Waiver of Land Development Code (LDC), section 5.5.1.A.3.a to allow parking areas to be located between the primary structure and right-of-way (Whittington Parkway)
 4. **Tract 5 (Restaurant):**
 - a. Waiver of Land Development Code (LDC), section 5.5.1.A.1.a to not orient the principal building entrance towards the primary street (Hurstbourne Parkway) or to a focal point
 5. **Tract 6 (Restaurant):**
 - a. Waiver of Land Development Code (LDC), section 5.5.1.A.1.a to not orient the principal building entrance towards the primary streets (Shelbyville Road and Hurstbourne Parkway) or to a focal point
- **Revised Detailed District Development Plan (C-1 development site/North)**
- **Category 3 Development Plan (C-2 development site/South)**

CASE SUMMARY

A mixed-use development is proposed across 28 acres of land bound by Hurstbourne and Whittington Parkways and Shelbyville Road. Each new structure or set of structures associated with a particular use is proposed on an individual lot for a total of 6 lots. Vehicular and pedestrian cross connectivity and

shared parking integrates the uses across each parcel. A variance request will be heard by the Board of Zoning Adjustment on April 2, 2018.

Associated Cases

- 9-28-04: OTF to C-2 for PF Chang's restaurant (approved 8/19/04). Proposed development not subject to the binding elements of this case.
- 9-41-05: OTF to C-1 for northern portions of site. (approved 9/1/05; revised 9/14/06)
- 18VARIANCE1022: variances to be heard by the BOZA on 4/2/18

STAFF FINDING

The revised detailed district development plan and waivers are not adequately justified. Cornerstone 2020 states, "Town Centers are easily disrupted by new forms of development. Therefore the harmony and compatibility of infill and redevelopment in town centers should receive special attention." Sufficient material has not been received to determine if adverse impacts of the site design waivers will be appropriately mitigated or compensated for non-compliance with the requirements to be waived. Renderings and internal focal points have not been provided. The proposed plan and requested waivers decreases pedestrian orientation and interaction with multi-modal users which is essential in creating Town Center's serving as community focal points. For these reasons and as further detailed in the standard of review for the waivers, the Category 3 Development Plan also does not meet the minimum standards for compliance with the Land Development Code.

TECHNICAL REVIEW

Any recommendation for approval of the revised detailed district development plan or approval of the category 3 development plan should be conditioned upon approval of the variances at BOZA on 4/2/18.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

1a. Waiver of Land Development Code (LDC), section 5.5.1.A.1.a to not orient the principal building entrance towards the primary street (Whittington Parkway) or to a focal point

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

STAFF: The waiver will adversely affect adjacent property owners as the orientation of the building away from the primary street will detract from the human-scale presence, overall multi-modal use of the property, and integration within the existing context of surrounding properties which are located in the Town Center form district. An internal focal point has also not been provided to create a sense of place.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: The Town Center Form District is defined by buildings that are generally close to and oriented toward the street. These characteristics strengthen the role of the Town Center as a community focal point. The Town Center should have a high level of pedestrian, roadway, transit and bicycle access, a connected street pattern, shared parking and pedestrian amenities. Town Centers are easily disrupted by new forms of development. Therefore the harmony and compatibility of infill and redevelopment in town centers should receive special attention. The establishment of new town centers requires a high level of planning and design. The Cornerstone 2020 Comprehensive Plan envisions the preservation and enhancement of those

town centers that already exist and encourages creation of new town centers that are in keeping with the goals, objectives and policies. The orientation away from the primary street and the lack of inclusion of a central focal point violates the basic principles of the Town Center form district as the perceived decreased public street presence prevents the appropriate movement of pedestrians and bicyclist, and detracts from the character of redevelopment within Town Center form districts. Without renderings of the façade facing the public street staff is unable to determine if the orientation proposed will provide an architecturally present and inviting design generating multi-modal interaction and compatibility in a manner consistent with the goals, objectives, and policies of the Comprehensive Plan.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as the development is capable of being redesigned to meet the needs of operators and meet the intent of development within a Town Center Form District.

- (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: Sufficient material to determine if adverse impacts of the waiver will be appropriately mitigated has not been provided to Planning Staff.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

2a. Waiver of Land Development Code (LDC), section 5.5.1.A.3.a to not provide a 3' masonry wall along parking areas abutting Hurstbourne Parkway

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

STAFF: The waiver will not adversely affect adjacent property owners as it would appear from the street views of this portion of the property that the topography is such that vehicles may be located below the grade of the street and public walk.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as existing conditions appears to meet the intent of this guideline to shield surface parking lots from public ways and separate vehicles from pedestrians in an aesthetically pleasing manner.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the topography may be enough to mitigate the omission of the wall.

- (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: Sufficient information has not been provided by the applicant to determine if the topography will appropriately mitigate the request, but the request appears mitigated based upon staff's review of this street frontage.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

2b. Waivers of Land Development Code (LDC), section 10.3.5.A.1 & 10.2.10 to allow parking areas to encroach upon the 30' parkway buffer and 15' VUA LBA (Hurstbourne Parkway)

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

STAFF: The waiver will not adversely affect adjacent property owners as existing conditions have created the current need for relief.

(b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as existing conditions have created the current need for relief.

(c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as existing conditions have created the current need for relief.

(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 as existing conditions have created the current need for relief.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

2c. Waiver of Land Development Code (LDC), section 5.5.1.A.3.a to allow parking areas to be closer to the right of way (Hurstbourne Parkway) than the primary structures on Tracts 5 & 6.

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

STAFF: The waiver will not adversely affect adjacent property owners as the parkway buffer and existing conditions create the current need for relief and the parkway buffer is appropriate along the corridor.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as the parkway buffer and existing conditions created the current need for relief and the parkway buffer is appropriate along the corridor.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the parkway buffer and existing conditions created the current need for relief and the parkway buffer is appropriate along the corridor.

- (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 as the parkway buffer and existing conditions created the current need for relief and the parkway buffer is appropriate along the corridor.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

3a. Waiver of Land Development Code (LDC), section 5.5.1.A.3.a to allow parking areas to be located between the primary structure and right-of-way (Whittington Parkway)

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

STAFF: The waiver will adversely affect adjacent property owners as the street wall being established by adjacent proposed structures will be negatively impacted. Further, the human-scale presence, overall multi-modal use of the property, and integration within the existing context of surrounding properties which are located in the Town Center form district will be negatively impacted. Walkability is reduced through the provision of surface parking lots which form barriers between uses and public ways.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: The waiver will violate specific guidelines of Cornerstone 2020 as Guideline 2, Policy 15 & 16 encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations; and that activity centers are easily accessible by bicycle, car, transit, and for pedestrians and people with disabilities. Parking facilities in front of the primary structure creates a barrier to positive pedestrian and transit interaction. Aesthetically the property is inconsistent with adjacent proposed uses and the property is capable of being redesigned to hold the street and encourage interaction while still meeting the needs of the operator and the intent of the Town Center Form District.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

STAFF: The extent of the waiver of the regulation is not the minimum necessary to provide relief to the applicant as an abundance of parking is available to meets the needs of the facility and this parking can be located to minimize adverse impacts on the movement of pedestrians and the overall aesthetics of development within a Town Center form district.

- (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 applicant has not 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) as the property is capable of being redesigned to meet or reduce the relief being requested.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

4a. Waiver of Land Development Code (LDC), section 5.5.1.A.1.a to not orient the principal building entrance towards the primary street (Hurstbourne Parkway) or to a focal point

The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will adversely affect adjacent property owners as the orientation of the building away from the primary street will detract from the human-scale presence, overall multi-modal use of the property, and integration within the existing context of the Town Center form district. An internal focal point has also not been provided to create a sense of place. Further, the property design appears to place the “back-of-house” operations towards the public roadway which negatively impacts the character of surrounding areas.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: The Town Center Form District is defined by buildings that are generally close to and oriented toward the street. These characteristics strengthen the role of the Town Center as a community focal point. The Town Center should have a high level of pedestrian, roadway, transit and bicycle access, a connected street pattern, shared parking and pedestrian amenities. Town Centers are easily disrupted by new forms of development. Therefore the harmony and compatibility of infill and redevelopment in town centers should receive special attention. The establishment of new town centers requires a high level of planning and design. The Cornerstone 2020 Comprehensive Plan envisions the preservation and enhancement of those town centers that already exist and encourages creation of new town centers that are in keeping with the goals, objectives and policies. The orientation away from the primary street and the lack of inclusion of a central focal point violates the basic principles of the Town Center form district as the perceived decreased public street presence prevents the appropriate movement of pedestrians and bicyclists, and detracts from the character of redevelopment within Town Center form districts. Without renderings of the façade facing the public street staff is unable to determine if the orientation proposed will provide an architecturally present and inviting design generating multi-modal interaction and compatibility in a manner consistent with the goals, objectives, and policies of the Comprehensive Plan.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as sufficient information to demonstrate the need for the waiver has not been provided.

- (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: Sufficient material to determine if adverse impacts of the waiver will be appropriately mitigated has not been provided to Planning Staff.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

5a. Waiver of Land Development Code (LDC), section 5.5.1.A.1.a to not orient the principal building entrance towards the primary streets (Shelbyville Road and Hurstbourne Parkway) or to a focal point

The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will adversely affect adjacent property owners as they orientation of the building away from the primary street will detract from the human-scale presence, overall multi-modal use of the property, and integration within the existing context of surrounding properties which are located in the Town Center form district. An internal focal point has also not been provided to create a sense of place.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: The Town Center Form District is defined by buildings that are generally close to and oriented toward the street. These characteristics strengthen the role of the Town Center as a community focal point. The Town Center should have a high level of pedestrian, roadway, transit and bicycle access, a connected street pattern, shared parking and pedestrian amenities. Town Centers are easily disrupted by new forms of development. Therefore the harmony and compatibility of infill and redevelopment in town centers should receive special attention. The establishment of new town centers requires a high level of planning and design. The Cornerstone 2020 Comprehensive Plan envisions the preservation and enhancement of those town centers that already exist and encourages creation of new town centers that are in keeping with the goals, objectives and policies. The orientation away from the primary street and the lack of inclusion of a central focal point violates the basic principles of the Town Center form district as the perceived decreased public street presence prevents the appropriate movement of pedestrians and bicyclist, and detracts from the character of redevelopment within Town Center form districts. Without renderings of the façade facing the public street staff is unable to determine if the orientation proposed will provide an architecturally present and inviting design generating multi-modal interaction and compatibility in a manner consistent with the goals, objectives, and policies of the Comprehensive Plan.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as sufficient information to demonstrate the need for the waiver has not been provided.

- (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: Sufficient material to determine if adverse impacts of the waiver will be appropriately mitigated has not been provided to Planning Staff.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR REVISED DETAILED DISTRICT DEVELOPMENT PLAN AND/OR AMENDMENT TO BINDING ELEMENTS

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: The proposed development does not appear to impact natural resources as the existing conditions of the subject site consist primarily of impervious surfaces.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community has not been provided as surface parking lots and orientation away for public ways negatively impacts the safe movement of multi-modal transportation users. The Town Center form district encourages a high level of pedestrian, roadway, transit and bicycle access, a connected street pattern, shared parking and pedestrian amenities. The proposed development only furthers auto-centricity which detracts from the overall well-being of the greater community.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development have not been provided as focal points for the public to integrate the uses across the development have not been provided and this detracts from the role of the Town Center serving as a community focal point.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design and land uses are not compatible with future development as the subject site should be redeveloped in a manner consistent with the Town Center form district which strives to follow many principles of traditional design to encourage multi-modal use, architectural orientation towards public-ways, and community focus. The redevelopment only furthers suburban retail development trends focusing on vehicular use only. Further, renderings have not been provided which allow the character to be fully compared or established.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: Based upon the negative analysis provided for the requested relief from site design standards, the development plan does not meet the requirements of the Land Development Code or Comprehensive Plan and mitigation has not been provided to allow for positive justification. Further, renderings have not been provided to allow a full assessment of the development and the simple application of minimum standards may not be sufficient to justify the relief requested for approval of the development plan.

REQUIRED ACTIONS

- **APPROVE or DENY the following Waivers**
 1. **Tract 2 (Hotel):**
 - a. Waiver of Land Development Code (LDC), section 5.5.1.A.1.a to not orient the principal building entrance towards the primary street (Whittington Parkway) or to a focal point
 2. **Tract 3 (Office and parking areas):**
 - a. Waiver of Land Development Code (LDC), section 5.5.1.A.3.a to not provide a 3' masonry wall along parking areas abutting Hurstbourne Parkway
 - b. Waivers of Land Development Code (LDC), section 10.3.5.A.1 & 10.2.10 to allow parking areas to encroach upon the 30' parkway buffer and 15' VUA LBA (Hurstbourne Parkway)
 - c. Waiver of Land Development Code (LDC), section 5.5.1.A.3.a to allow parking areas to be closer to the right of way (Hurstbourne Parkway) than the primary structures on Tracts 5 & 6.
 3. **Tract 4 (Retail center):**
 - a. Waiver of Land Development Code (LDC), section 5.5.1.A.3.a to allow parking areas to be located between the primary structure and right-of-way (Whittington Parkway)
 4. **Tract 5 (Restaurant):**
 - a. Waiver of Land Development Code (LDC), section 5.5.1.A.1.a to not orient the principal building entrance towards the primary street (Hurstbourne Parkway) or to a focal point
 5. **Tract 6 (Restaurant):**
 - a. Waiver of Land Development Code (LDC), section 5.5.1.A.1.a to not orient the principal building entrance towards the primary streets (Shelbyville Road and Hurstbourne Parkway) or to a focal point

- **RECOMMEND** that the City of Hurstbourne **APPROVE** or **DENY** the **Revised Detailed District Development Plan**
- **APPROVE** or **DENY** the **Category 3 Development Plan *On Condition*** that a landscaping and tree preservation plan is approved prior to the issuance of any permit on any tract subject to this approval, a subdivision plat creating the tracts as shown on the approved category 3 development plan is recorded, renderings of all structures are provided to Planning and Design Services staff for review and incorporation into the case file prior to requesting any permit, a cross access and shared parking agreement is recorded for all tracts as shown on the approved category 3 development plan, and that necessary variances are granted by the Board of Zoning Adjustment.

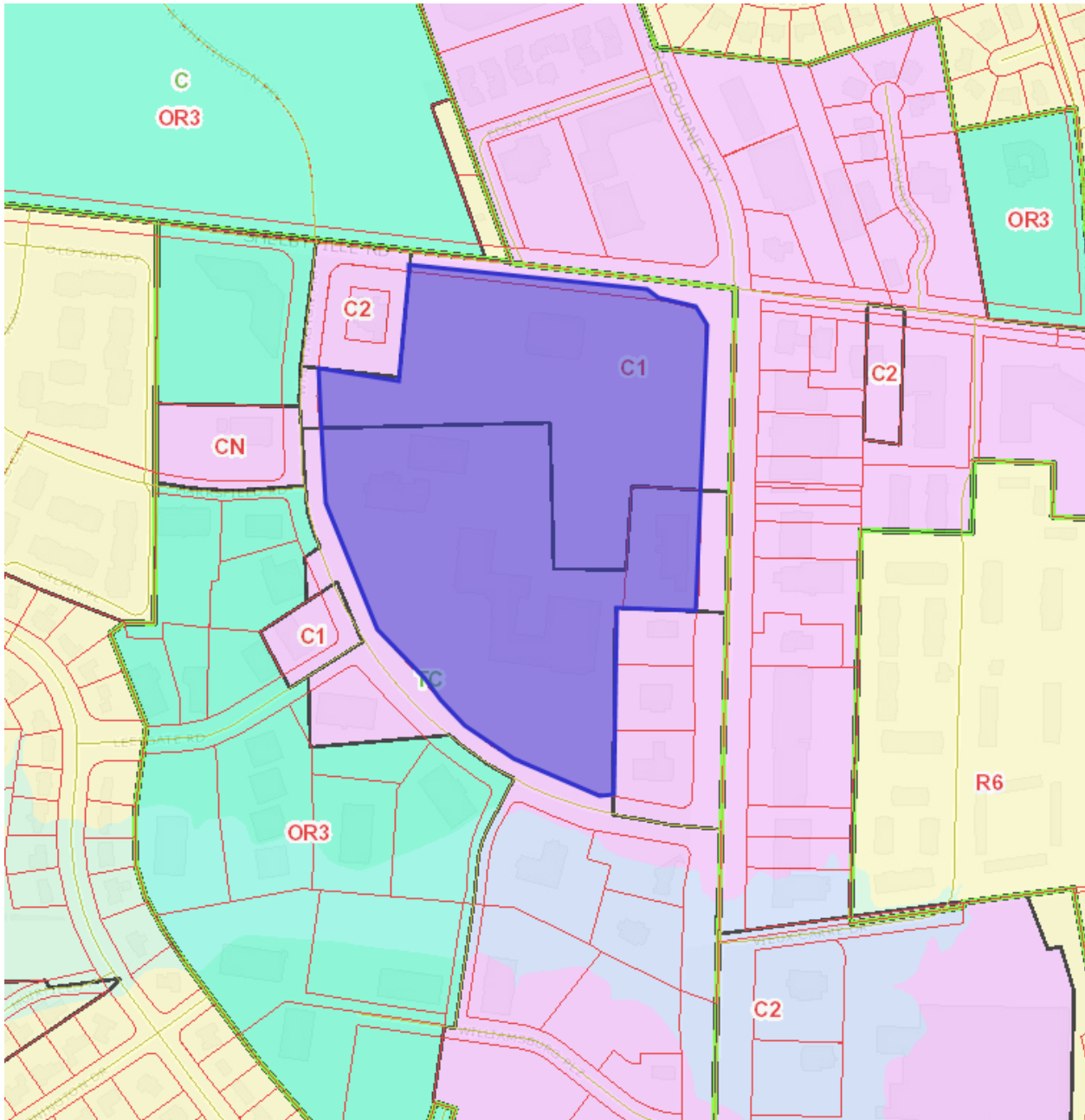
NOTIFICATION

Date	Purpose of Notice	Recipients
3/15/18	Hearing before DRC	1 st tier adjoining property owners. Registered Neighborhood Groups in Council District 18

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements

1. **Zoning Map**



3. Existing Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and the City of Hurstbourne for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The square footage of the existing uses is as shown on the approved detailed district development plan
3. There shall be no direct vehicular access to Hurstbourne Parkway and Whittington Parkway. Access to the site shall be provided through the adjoining property over existing access points.
4. Within 180 days of final legislative body action on this matter:
 - a. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10
 - d. A subdivision plat creating the right of way dedication as shown on the approved district development plan shall be recorded.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site, other than freestanding business signs as permitted by the Land Development Code and as otherwise permitted by the City of Hurstbourne Signage regulations.
6. Signs shall be in accordance with Chapter 8 of the Land Development Code, or City of Hurstbourne sign regulation whichever may be more restrictive.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of the existing building and new bank drive lanes shall be as depicted in the photographs presented at the September 1, 2005 Planning Commission meeting.
10. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
11. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items:

- a. Mounting Height Limit
 - b. Luminaire Shielding
 - c. Canopy Lighting Level
 - d. Light Trespass
12. The site shall be limited to a bank and office uses and any later change of use shall come before the Planning Commission and the City of Hurstbourne.
13. The above binding elements may be amended and provided for in the zoning district regulations, upon approval of the City Commission

4. **Proposed Binding Elements (C-1 development site only/North)**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and the City of Hurstbourne for review and approval; any changes/additions/alterations not so referred shall not be valid.
- ~~2. The square footage of the existing uses is as shown on the approved detailed district development plan~~
3. There shall be no direct vehicular access to Hurstbourne Parkway or **Shelbyville Road**. ~~Whittington Parkway. Access to the site shall be provided through the adjoining property over existing access points.~~
4. ~~Within 180 days of final legislative body action on this matter~~ **Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested for each tract:**
 - a. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10
 - b. A subdivision plat creating the tracts as shown on the approved district development plan shall be recorded.
 - c. **Renderings of each building shall be provided to Planning and Design Services staff for review and incorporation into the case file**
 - d. **A cross access and shared parking agreement shall be recorded for all tracts as shown on the approved detailed district development plan.**
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted. ~~on the site, other than freestanding business signs as permitted by the Land Development Code and as otherwise permitted by the City of Hurstbourne Signage regulations.~~
- ~~6. Signs shall be in accordance with Chapter 8 of the Land Development Code, or City of Hurstbourne sign regulation whichever may be more restrictive.~~
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
- ~~9. The materials and design of the existing building and new bank drive lanes shall be as depicted in the photographs presented at the September 1, 2005 Planning Commission meeting.~~

10. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
11. The applicant shall provide documentation to **Planning and Design Services staff for incorporation into the case file** showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items:
 - a. Mounting Height Limit
 - b. Luminaire Shielding
 - c. Canopy Lighting Level
 - d. Light Trespass
- ~~12. The site shall be limited to a bank and office uses and any later change of use shall come before the Planning Commission and the City of Hurstbourne.~~
13. The above binding elements may be amended and provided for in the zoning district regulations, upon approval of the City Commission