

# Development Review Committee Staff Report

April 2, 2014



<b>Case No:</b>	<b>14Waiver1008</b>
<b>Request:</b>	<b>LDC Waiver</b>
<b>Project Name:</b>	<b>Hurstbourne Heights</b>
<b>Location:</b>	<b>6303 Downs Farm Way</b>
<b>Owner:</b>	<b>Citizens Union Bank of Shelbyville</b>
<b>Applicant:</b>	<b>Same</b>
<b>Representative:</b>	<b>Same</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>24 – Madonna Flood</b>
<b>Case Manager:</b>	<b>Latondra Yates, Planner II</b>

## REQUEST

- Waiver of Sections 5.8.1.B. and 6.3.6 of the LDC to not provide the required 4-ft. sidewalk along Vassel Rd.

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

The property is part of Hurstbourne Heights Subdivision, recorded in Plat Book 51, Page 60. The applicant cites the shallowness of rock and the location of an existing rock outcropping. A sidewalk is proposed across the street.

The applicant states that this request is unusual in that the first two sections of this subdivision have been recorded, including the area where this sidewalk waiver is being requested. The address and deed book and page number for this request is actually the adjacent lot. Citizens Union Bank owns all of the undeveloped lots in this subdivision. The bank is also the name on the bond for future sidewalk construction.

For notification purposes, in addition to Citizens Union Bank, the other owners in the subdivision were notified, as discussed with the County Attorney's office.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned R-4 in the Neighborhood Form District (NFD). It is surrounded by property zoned R-4 in the NFD.

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Single-family residential	R-4	NFD
<b>Proposed</b>	Single-family residential	R-4	NFD
<b>Surrounding Properties</b>			
<b>North</b>	Single-family residential	R-4	NFD
<b>South</b>	Single-family residential	R-4	NFD
<b>East</b>	Single-family residential	R-4	NFD
<b>West</b>	Single-family residential	R-4	NFD

### PREVIOUS CASES ON SITE

Docket No. 10-2-04, Hurstbourne Heights Subdivision, recorded in Plat Book 51, Page 60.  
L-213-05, Landscape Plan

### INTERESTED PARTY COMMENTS

None

### APPLICABLE PLANS AND POLICIES

Land Development Code  
Cornerstone 2020 Comprehensive Plan Checklist- see checklist attached

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

- **Waiver of Sections 5.8.1.B. and 6.3.6 of the LDC to not provide the required 4-ft. sidewalk along Vassel Rd.**

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

STAFF: The waiver will not adversely affect adjacent property owners because a sidewalk is proposed across the street.

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

STAFF: The waiver meets the applicable guidelines of Cornerstone 2020 .

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

STAFF: The waiver is the minimum necessary to afford relief to the applicant because of the environmental constraints to constructing the sidewalk at this location.

- (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 create an unnecessary hardship because of the environmental constraints to constructing the sidewalk at this location.

## TECHNICAL REVIEW

1. Transportation Planning has no issue with the sidewalk waiver request due to the existing rock outcropping.

## STAFF CONCLUSIONS

The waiver of Sections 5.8.1.B. and 6.3.6 of the LDC to not provide the required 4-ft. sidewalk along Vassel Rd. meets 4 of the applicable guidelines of the Comprehensive Plan.

Three of the guidelines can be addressed during construction review.

Staff's analysis of the standards of review support the granting of the sidewalk waiver.

Based upon the information in the staff report, the testimony and evidence provided, the Development Review Committee must determine if the proposal meets the standards for approval of a sidewalk waiver as established in the Land Development Code.

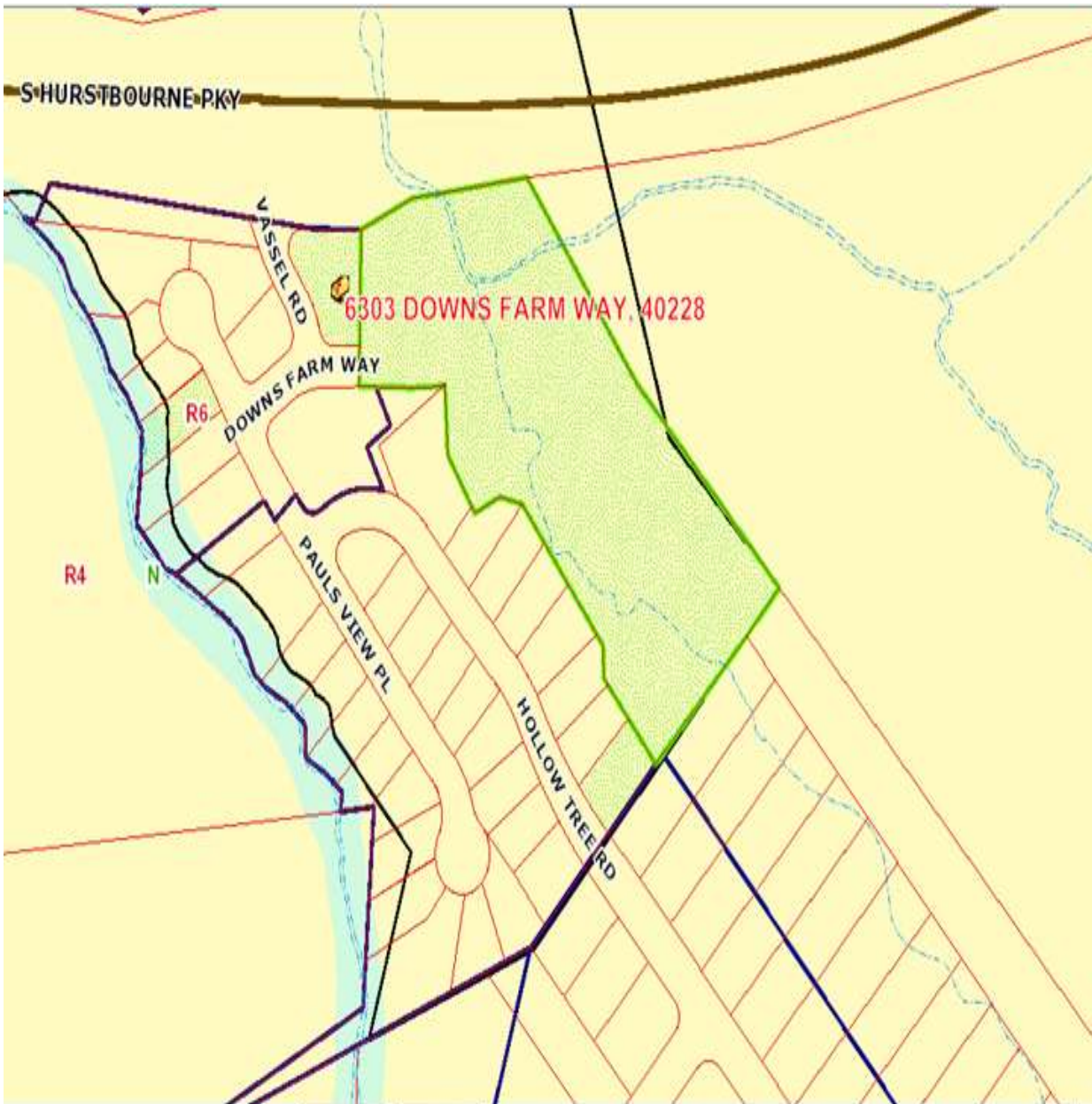
## NOTIFICATION

Date	Purpose of Notice	Recipients
3/18/2014	DRC Meeting	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Neighborhood Notification

## ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Cornerstone 2020 Comprehensive Plan Checklist
5. Applicant's justification statements

1. Zoning Map

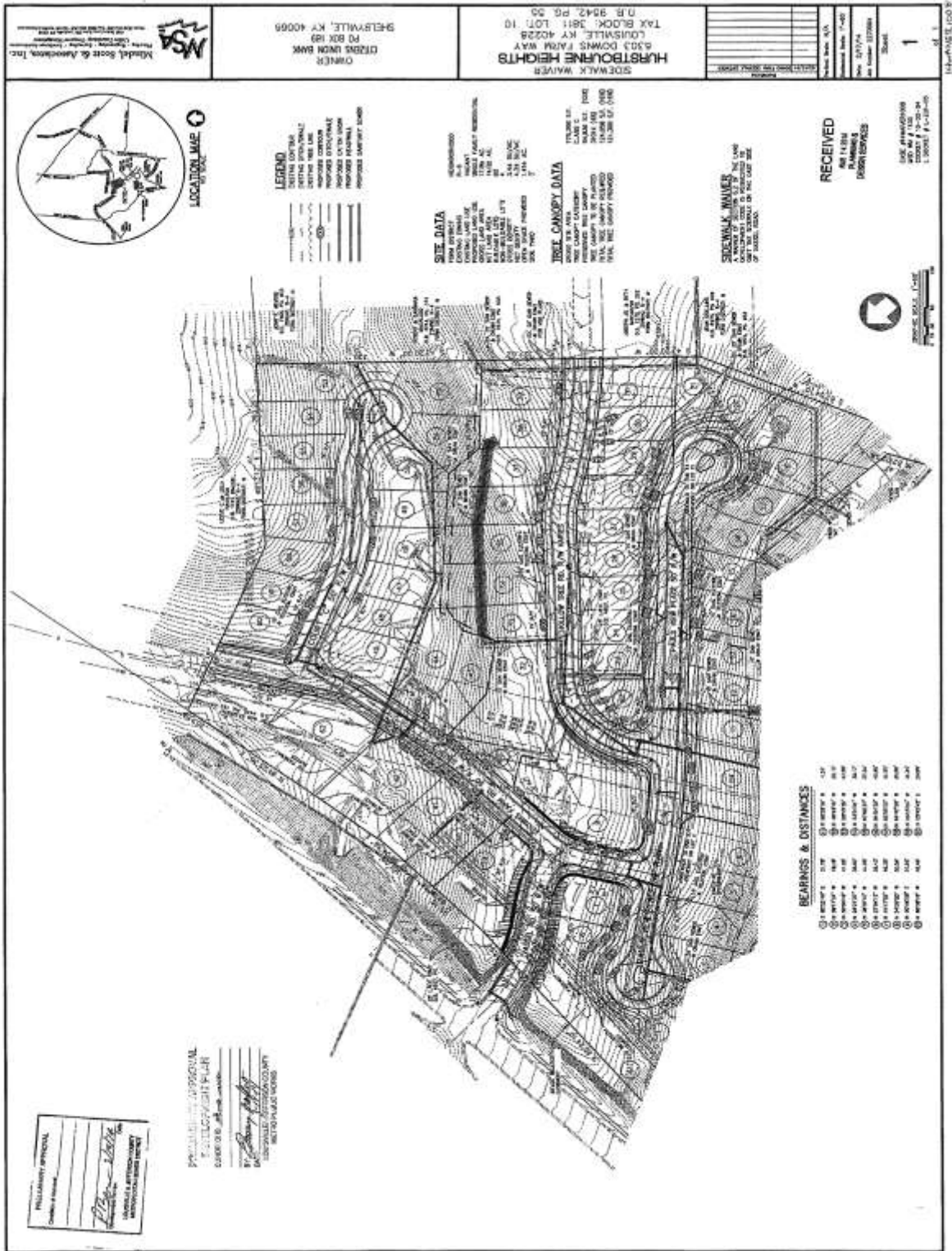




2. Aerial Photograph



3. Site Plan



4. **Cornerstone 2020 Comprehensive Plan Checklist**

8	Form Districts Goals C2-C4, Objectives C2.2, C2.4, C3.1, C4.1-4.7	Community Form/Land Use Guideline 2: Centers	A.5: Encourage a mix of compatible uses to reduce traffic by supporting combined trips, allow alternative modes of transportation and encourage vitality and sense of place.	√	Sidewalk waiver requested due to environmental constraints. Sidewalks are proposed across the street.
18	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1, 3.4-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.1: The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development.	√	There are no existing sidewalks on this side of the street.
41	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	√	Sidewalk waiver requested due to environmental constraints. Sidewalks are proposed across the street.
42	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	√	Sidewalk waiver requested due to environmental constraints. Sidewalks are proposed across the street.
43	Livability, Goals B1, B2, B3, B4, Objectives B1.1-1.8, B2.1-2.7, B3.1-3.4, B4.1-4.3	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	+/-	Subject to MSD construction approval.
46	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	+/-	To be determined during construction review.
47	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	+/-	To be determined during construction review.



5. **Applicant's Justification Statements**

**Sidewalk Waiver Justification**

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers the following criteria. Please answer **all** of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

**1. How does the proposed waiver conform to the Comprehensive Plan and the intent of the Land Development Code?**

The proposed waiver conforms to the Comprehensive Plan and the intent of the Land Development Code with the provision of a sidewalk on the other side, the west side of Vassel Road that will provide access between Hurstbourne Parkway and the subdivision.

**2. Why is compliance with the regulations not appropriate, and will granting of the waiver result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code?**

The provision of a sidewalk on the east side of Vassel Road is not appropriate due to the existing location of rock on this site; the shallow depth to rock between the edge of pavement of Vassel Road and the existing rock outcropping. A sidewalk is proposed to be constructed on the other side of Vassel Road to provide pedestrian access from Hurstbourne Parkway to this subdivision in compliance with the intent of the Comprehensive Plan and the Land Development Code.

**3. What impacts will granting of the waiver have on adjacent property owners?**

Residents and adjacent property owners of this development will not be adversely impacted since a sidewalk is proposed to be constructed on the other side of Vassel Road to provide pedestrian access from Hurstbourne Parkway to this subdivision.

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**4. Why would strict application of the provision of the regulations deprive you of reasonable use of the land or create an unnecessary hardship for you?**

The strict application would create an unnecessary hardship on the applicant since this request is due to an existing condition of the land in this area and is not the result of actions by the applicant. The existing rock outcropping and the shallow depth to rock in this area make the provision of a sidewalk in this area difficult, costly and an unnecessary hardship when a sidewalk will be provided on the other side of the road to provide adequate pedestrian access.

14WAIVER1008



# Mindel, Scott & Associates, Inc.

Planning • Engineering • Surveying • Landscape Architecture

Utility Consulting • Property Management

February 17, 2014

Case Manager  
Metro Development Center  
444 S. 5th Street, Suite 200  
Louisville, KY 40202

**Re: Hurstbourne Heights #10-02-04  
Sidewalk Waiver**

Dear Case Manager:

This request is for a sidewalk waiver to eliminate the sidewalk on the high side of Vassel Road. This waiver is necessary due to the shallowness of rock and the location of an existing rock outcropping. This request is unusual in that the 1<sup>st</sup> 2 sections of the subdivision have been recorded by record plat including the area where the sidewalk waiver is requested. For this application the address of the adjacent lot is provided and the accompanying deed book and page. The owner is listed as Citizens Union Bank, which owns all of the undeveloped lots in the subdivision and in whose name the bond which covers the future sidewalk construction is in. Instead of your typical adjacent property owner list we are providing a list of the other owners of lots in this subdivision. This way of completing the application was discussed with County Attorney Jonathan Baker as being acceptable, but if any changes are needed please let me know.

Please contact me if you have any questions or concerns regarding this request. As always we appreciate your assistance in processing this case.

Respectfully,

Kathy M. Linares, RLA

cc: James D. Long

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