

**DEVELOPMENT REVIEW COMMITTEE**  
**August 17, 2016**

**NEW BUSINESS**

**CASE NO. 16DEVPLAN1137**

\*NOTE: This case was **CONTINUED** from the August 3, 2016 DRC meeting.

Request:	Two Waivers associated with parking expansion
Project Name:	MFDH Parking Expansion
Location:	9200 Leesgate Road
Owner:	D. Paul Finn, BFW Partnership of KY
Applicant:	William Becknell, MFDH Properties, LLC
Representative:	Clifford Ashburner, Dinsmore & Shohl, LLP
Jurisdiction:	City of Hurstbourne
Council District:	18 – Marilyn Parker

**Case Manager:** Laura Mattingly, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the DRC meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**An audio/visual recording of the Development Review Committee meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

00:18:19 Laura Mattingly presented the case and showed the site plan (see staff report and recording for detailed presentation.) She said this case was due to a lack of consensus between the applicant and the adjoining property owners on the appropriate buffer that would mitigate for the waiver. There was also an issue regarding the size of some of the parking spaces.

00:19:35 Ms. Mattingly said she had spoken with John Singler, attorney for the City of Hurstbourne, who told her that this case would not need to be transmitted to the City of Hurstbourne but could be decided upon by the Development Review Committee.

**00:26:24 This case was interrupted due to technical difficulties. It was resumed after Case No. 16CELL1003 and before Case No. 16DEVPLAN1140.**

**The following spoke in favor of this request:**

Clifford Ashburner, Dinsmore & Shohl, 101 South Fifth Street Suite 2500, Louisville, KY 40202

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Ashley Bartley, Qk4, 1046 East Chestnut Street, Louisville, KY 40204

**Summary of testimony of those in favor:**

00:44:55 Clifford Ashburner presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:51:36 Ashley Bartley, an applicant's representative, discussed maneuvering space/s and screening. She described in detail what changes the applicant had made since the last DRC meeting (see recording for detailed presentation.)

**The following spoke in opposition to this request:**

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Richard McCord, 9101 Nottingham Parkway, Louisville, KY 40222

**Summary of testimony of those in opposition:**

00:54:13 Steve Porter, representing some of the adjoining property owners who are in opposition to the proposal, said that this is the first he had heard that the City of Hurstbourne would not be making the final determination on this case. He also said that this is the first time he had seen the new plan, and that there did not appear to be any significant changes. He said neighbors do not have much objection to Waiver #1, but do not want Waiver #2 to be approved. He explained residents' objections to Waiver #2, and asked that the old driveway be removed.

01:09:34 In response to a question from Commissioner Peterson, Mr. Porter discussed the possibility of removal or dead-ending of the driveway next to Mr. McCord's property.

01:12:07 Ms. Porter discussed language in the staff report on page 3. He said the applicant has not worked well with the abutting property owners, and that their proposal does NOT increase screening or buffering. Richard McCord, an adjoining property owner, spoke in opposition and showed a Power Point presentation which outlined his own proposal.

**The following spoke neither for nor against the proposal:**

No one spoke.

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**Rebuttal:**

00:26:12 Mr. Ashburner provided the applicant's rebuttal. He explained why he thinks this case would not go to the City of Hurstbourne for final review. He explained why he thought the new plan would mitigate Mr. McCord's concerns.

01:33:06 In response to a question from Commissioner Brown, Ms. Bartley discussed the need for stormwater management and the underground detention that is being proposed. In response to a question from Commissioner Tomes, Ms. Bartley discussed working with/saving existing trees and maximizing parking.

**01:40:23 Commissioners' deliberation.**

01:40:54 Commissioner Tomes asked about the jurisdictional issue. Jon Baker, legal counsel for the Metro Planning Commission, asked if waivers had not been sent to the City of Hurstbourne before. Brian Davis said they had. Mr. Baker said this issue could be discussed with the attorney for the City of Hurstbourne within the next two weeks, for clarification. Ms. Mattingly said she had an e-mail from John Singler, attorney for the City of Hurstbourne, stating that the Hurstbourne does not have jurisdiction over waiver requests. In response from a statement from Mr. Porter, Ms. Mattingly said this is a Category 2-B, not a revised development plan.

**Waiver #2 - Waiver of Section 10.2.4.A to allow an existing drive to encroach into the required 20' property perimeter Landscape Buffer Area.**

01:11:43 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Development Review Committee finds that the waiver will adversely affect adjacent property owners because of the increasing intensity of use on the site affecting the sensitive residential uses on the abutting properties; and

**WHEREAS**, the Committee further finds that the additional parking would adversely affect the adjacent property owners given the number of parking spaces in use; and

**WHEREAS**, the Committee further finds that the encroachment is not the minimum necessary to afford relief to the applicant because they are constructing a new parking lot within the existing greenspace area and there are other alternatives available to access the new parking lot area; and

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**WHEREAS**, the Committee finds that, based the evidence and testimony presented today, that the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are not being met; now, therefore be it

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **DENY** the requested Waiver of Section 10.2.4.A to allow an existing drive to encroach into the required 20' property perimeter Landscape Buffer Area.

**The vote was as follows:**

**YES: Commissioners Brown, Peterson, Smith, and Tomes.**

**NO: No one.**

**NOT PRESENT: Commissioner Kirchdorfer.**

**ABSTAINING: No one.**

**Waiver #1 - Waiver of Section 5.5.1.A.3.a to allow parking to be located between the primary street and the façade of the building**

01:50:25 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners as safe pedestrian access is provided from the public rights-of-way to the building entrance; and

**WHEREAS**, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 2, Policy 15 encourages the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, Policy 1 ensures compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 7, Policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use. Encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 9, Policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians

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and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. The waiver is compatible with the surrounding office developments that have large parking areas adjacent to roadways. The applicant is also providing a safe pedestrian connection from the public sidewalk on Leesgate Road to the entrance of the development; and

**WHEREAS**, the Committee further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant as the site constraints do not allow the parking to be proposed in any other area; and

**WHEREAS**, the Committee further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and create an unnecessary hardship on the applicant as the change in use requires expanded parking and there are no other options for the location of the parking area; and

**WHEREAS**, the Committee finds that, based the staff report, the applicant's justification and on the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Section 5.5.1.A.3.a to allow parking to be located between the primary street and the façade of the building.

**The vote was as follows:**

**YES: Commissioners Brown, Peterson, Smith, and Tomes.**

**NO: No one.**

**NOT PRESENT: Commissioner Kirchdorfer.**

**ABSTAINING: No one.**