

**MINUTES OF THE MEETING  
OF THE  
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE  
August 27, 2015**

A meeting of the Land Development and Transportation Committee was held on, August 27, 2015 at 1:00 p.m. in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Committee Members present were:**

Vince Jarboe, Chairman  
Donnie Blake, Vice Chairman  
Jeff Brown  
Clifford Turner

**Committee Members absent were:**

Marilyn Lewis

**Staff Members present were:**

Joe Reverman, Planning Manager  
Chris Brown, Planner II  
Tony Kelly, MSD  
John Carroll, Legal Counsel  
Pamela M. Brashear, Management Assistant

The following matters were considered:

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**APPROVAL OF MINUTES**

**AUGUST 13, 2015 LD&T COMMITTEE MEETING MINUTES**

On a motion by Commissioner Brown, seconded by Commissioner Turner, the following resolution was adopted.

**RESOLVED**, that the Land Development & Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted on August 13, 2015.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe and Turner**

**NO: No one**

**NOT PRESENT FOR THIS CASE: Commissioner Lewis**

**ABSTAINING: No one**

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**NEW BUSINESS**

**CASE NO. 15DEVPLAN1096**

<b>Request:</b>	Revised Detailed District Development Plan with Landscape Waiver
<b>Project Name:</b>	Hunnington Place Tract 5C-2
<b>Location:</b>	9396 Bunsen Parkway
<b>Owner:</b>	Silverlake Outparcels LLC
<b>Applicant:</b>	Silverlake Outparcels LLC
<b>Representative:</b>	Land Design and Development Inc.
<b>Jurisdiction:</b>	Hurstbourne Acres
<b>Council District:</b>	18 – Marilyn Parker
<b>Case Manager:</b>	<b>Christopher Brown, Planner II</b>

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

**Agency Testimony:**

00:03:56 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

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

Ann Richard, Land Design and Development, 503 Washburn Avenue, Louisville, Ky.

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

00:11:01 Ms. Richard stated, "The Hunnington Place record plat was recorded in 1985 and that's when this 25 foot electric and telephone easement was recorded. The minor plat to create the tract was recorded on July 11, 2003. Both of the documents creating the property were recorded prior to the current Land Development Code that does not allow more than a 50% overlap of a landscape buffer area in an easement." Commissioner Brown asked for the 2 bike parking spaces, 4X6 (only showing 1 on plan). Ms. Richard said it makes sense and she will have it corrected on the construction plans.

**Deliberation**

00:12:50 Planning Commission deliberation.

**An audio/visual recording of the Land Development & Transportation Committee meeting related to this case is available on the Planning & Design Services**

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**website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

On a motion by Commissioner Brown, seconded by Commissioner Blake, the following resolution was adopted.

**Waiver**

**WHEREAS**, The waiver will not adversely affect adjacent property owners since the required planting and screening material will be provided on the site; and

**WHEREAS**, Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The required planting and screening materials will be provided to meet the intent of Cornerstone 2020; and

**WHEREAS**, the Louisville Metro Land Development & Transportation Committee finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the utility easements were existing on the site prior to the proposal and the required planting materials will be provided by the applicant; and

**WHEREAS**, the Louisville Metro Land Development & Transportation Committee further finds 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 by requiring removal of parking and putting the proposal below the minimum required parking for the use.

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**Development Plan and Binding Elements**

**WHEREAS**, There does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

**WHEREAS**, Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

**WHEREAS**, There are no open space requirements with the current proposal; and

**WHEREAS**, 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; and

**WHEREAS**, the Louisville Metro Land Development & Transportation Committee finds, The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

**WHEREAS**, the Louisville Metro Land Development & Transportation Committee further finds The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the following from Case No. 15DEVPLAN1096: the landscape waiver from Chapter 10.2.4.B of the Land Development Code to allow utility easements to overlap the required 10 foot VUA LBA along Bunsen Pkwy. by more than 50%; the Revised Detailed District Development Plan **ON CONDITION** that the bike parking meets the chapter 9 requirements; and **RECOMMEND** to the City of Hurstbourne Acres, **APPROVAL** of the binding element amendments based on the staff report, the applicant's justification for the waiver and the testimony heard today.

**Existing Binding Elements**

1. The development will be in accordance with the approved district development plan. No further development will occur.

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2. The development shall not exceed 216,000 sq. ft. of gross floor area.
3. The area designated as "office" on the District Development Plan shall be used only for business office, governmental offices, and professional offices. The maximum height for any building construct on this property shall be three stories. The minimum setback requirement between the property's southern boundary and buildings constructed on this property shall be 225 feet. The minimum setback requirement between the rear property lines of the lots located on Hurstbourne Circle (adjacent to the tract) and any building constructed on this property shall be 325 feet. The setback area shall be landscaped with trees and shrubs and maintained regularly thereafter by the respective owners of the property. No parking areas and garbage cans, dumpster or other refuse collection devices shall be located between the buildings on the property and the south and east property lines.
4. The area designated as "Water Retention and Park" on the District Development Plan (although some of this area may be a part of the office tract) shall be used only for landscaping, open space, or park area, including a retention basin which may be designated to serve all the property described in the application. The area shall be properly landscaped with trees and shrubs pursuant to a landscaping plan approved by the staff of the Louisville and Jefferson County Planning Commission. Any retention basin shall be maintained by applicant until the completion of the office buildings to be located on the "Office Tract" or until July 1, 1989, whichever first occurs. Thereafter the obligation to maintain a retention basin thereon shall be that of the City of Hurstbourne Acres.
5. The capacity of any retention basin cannot be altered without written approval from the Jefferson County Public Works and Transportation Cabinet.
6. If the owner of a tract fails to keep the grass mowed to a maximum height of six inches, then the City of Hurstbourne Acres, its successors or assigns, may (but shall be under no obligation to) enter upon the open areas and mow and/or trim. This paragraph is not applicable to the James Graham Brown Foundation.
7. Before building permits are issued the development plan must be reapproved by the Jefferson County Department of Transportation.
8. A crossover easement agreement between all three property owners will be approved by the Planning Commission Counsel and recorded to allow joint parking areas and access. The deed book and page number of the recorded instrument shall be submitted to the Planning Commission.

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9. The entrance sign may be located as shown on the approved district development plan, if variances are granted from the Board of Zoning Adjustment. The sign shall not exceed 28 square feet in area and 7 feet in height as shown on the attached sign plan.
10. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use.
11. The appropriate variances must be received from the Jefferson County Board of Zoning Adjustment.
12. The above binding elements may be amended as provided for in the Zoning District Regulations, provided that some of the above binding elements are a part of separate agreements with the City of Hurstbourne Acres, and these binding elements may be amended only by action of both the Commission's Land Development & Transportation Committee and the City Commission of Hurstbourne Acres.

**Proposed Binding Elements**

1. ~~The development will be in accordance with the approved district development plan. No further development will occur.~~ **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 for review and approval; any changes/additions/alterations not so referred shall not be valid.**
2. The development shall not exceed ~~216,000~~ **266,112** sq. ft. of gross floor area.
3. ~~The area designated as "office" on the District Development Plan shall be used only for business office, governmental offices, and professional offices.~~ The maximum height for any building construct on this property shall be three stories. The minimum setback requirement between the property's southern boundary and buildings constructed on this property shall be 225 feet. The minimum setback requirement between the rear property lines of the lots located on Hurstbourne Circle (adjacent to the tract) and any building constructed on this property shall be 325 feet. The setback area shall be landscaped with trees and shrubs and maintained regularly thereafter by the respective owners of the

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property. No parking areas and garbage cans, dumpster or other refuse collection devices shall be located between the buildings on the property and the south and east property lines.

5. The capacity of any retention basin cannot be altered without written approval from the ~~Jefferson County Public Works and Transportation Cabinet~~ **Metropolitan Sewer District.**
  
7. Before building permits are issued the development plan must be reapproved by the ~~Jefferson County Department of Transportation~~ **receive full construction approval from Louisville Metro Department of Develop Louisville Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.**

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioner Lewis**

**ABSTAINING: No one**



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**NEW BUSINESS**

**CASE NO. 15ZONE1030**

**Request:** Change in zoning from R-4 to R-6 on 13.20 acres with land development code waivers and detailed district development plan

**Project Name:** Aiken Road Multi-Family

**Location:** 12202, 12204, 12206 and 12212 Aiken Road

**Owner:** D & J Rental Inc.  
Gary and Sherrian DeWitt  
Charles and Beverly Servino  
Gary Bozarth

**Applicant:** The Garrett Companies

**Representative:** Bill Bardenwerper

**Jurisdiction:** Middletown

**Council District:** 19 – Julie Denton

**Case Manager:** **Christopher Brown, Planner II**

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

**Agency Testimony:**

00:16:34 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

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

Bill Bardenwerper, Brdenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223  
David Mindel, 5151 Jefferson Boulevard, Louisville, Ky. 40219

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

00:20:04 Mr. Bardenwerper gave a power point presentation and background information. The proposal has been scaled back from 4-story to 2-story buildings.

00:28:05 Mr. Mindel said putting a sidewalk in the right-of-way would completely eliminate some vegetation. Some of the units have attached garages and some don't - they can rent garages. The site has 2 entrances, which is required. There will be a detention basin and there have been discussions with Mr. Schmitt (spoke with this morning) – to put a pipe and sewer line in for his drainage issues. "MSD will require us to put a storm line in."

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00:35:09 Commissioner Brown remarked, "Instead of having both access points on Aiken Rd., just have the primary access on Aiken and the Fire Dept. requirement as a gated secondary access off Eastgate Village Dr. because they've got frontage on the other road." Mr. Mindel said that would cause the loss of some trees.

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

Ronnie Caswell, 607 Sunnyside Place, Louisville, Ky. 40223  
Lucy Moran, 12812 Ledges Drive, Louisville, Ky. 40243  
Shawn Hamill, 611 Sunnyside Place, Louisville, Ky. 40223  
Robert Friel, 713 Eastgate Village Place, Louisville, Ky.  
Kelly Faulkner, 13304 Crystal Cove, Louisville, Ky.

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

00:39:01 Mr. Caswell said he just spoke with Mr. Scott Schmitt, who is adamantly against the proposal.

Mr. Caswell is worried about security for the children when opening the second entrance for emergency vehicles. There's also a lot of wildlife that will be affected. There will be an increased amount of traffic that will pour out onto Aiken Rd. Also, there's a potential for a decrease in the property value.

00:44:10 Ms. Moran stated that her main concern is the heavy traffic that will be added to Shelbyville, Aiken and English Station Roads. "Traffic is at a complete standstill during the rush hours, especially as you travel east from Evergreen Rd. to the Snyder Freeway entrance. A Traffic Impact Study was conducted in July and my fear is that this study did not accurately consider daily traffic when schools are in session. The additional bus and car traffic entering and leaving Shelbyville Rd. to Eastern, Hite, Middletown and Crosby schools are considerable for 9 months of the year, twice a day." Ms. Moran requests a second traffic study be conducted during a school day.

00:46:57 Mr. Hamill stated, "The traffic light issue at Aiken and Shelbyville Rd. in the morning hours is quite a problem, as well as the lights at Aiken and English Station Rds."

00:49:00 Mr. Hamill remarked, "We have open easements that run through many of our yards but we're having numerous flooding issues. Right now I have a MSD request that's going on 750+/- days that hasn't been addressed about the easement issue and I've contacted Councilwoman Denton's office."

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00:51:45 Mr. Friel is a representative of the Eastgate Subdivision Association. They request a traffic study on both ends of Aiken Rd. to be performed while school is in session. Also, "We are concerned that they possibly want to send some of their drainage through this easement and bring it to our storm sewers on our streets. We don't have room for that."

Mr. Friel is also concerned about the applicant removing mature trees and replacing them with smaller ones.

00:57:53 Ms. Faulkner asked how much of an easement will there be where the residents back up to the development? Mr. Bardenwerper said it's a landscape buffer of 20 feet. Also, will the fence remain intact? Mr. Bardenwerper said they will provide an attractive security fence and the additional screening will be landscaping.

**Rebuttal:**

01:00:39 Mr. Bardenwerper said they will capture all of their drainage through catch basins and piping to flow into the detention basin. Diane Zimmerman will be at the public hearing to answer questions regarding the traffic study/issues.

Chairman Jarboe asked Mr. Bardenwerper if they would consider doing another traffic study while school is in session, as requested by neighbors. Commissioner Brown said those numbers are already factored in.

01:05:48 Mr. Mindel said he spoke with Mr. Schmitt this morning and will speak to him again. Mr. Bardenwerper stated that the applicant is willing to pipe Mr. Schmitt's yard at his (the applicant) expense.

01:07:53 Mr. Kelly, MSD, said a pipe for Mr. Scmitt would solve a lot of his water issues.

**Deliberation**

01:10:04 Planning Commission deliberation.

**An audio/visual recording of the Land Development & Transportation 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.**

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**The Committee by general consensus placed this case on the September 17, 2015 public hearing at the Old Jail Building.**

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**ADJOURNMENT**

The meeting adjourned at approximately 2:12 p.m.



**Chair**



**Planning Director**