

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.**

1. Will the waiver adversely affect adjacent property owners?

Section 10.2.4.B. The required plantings will still be installed in the LBA's that overlap the existing easements by more than the allowed 50%. Section 5.5.1.A.1.a. Access from Hurstbourne Pkwy into the building is thru the patio door from the parking area. Section 5.5.A.3.a. Parking is allowed in front of buildings in the vicinity and the 3 ft. screen wall is an Urban design standard, not present in this area, which is more Suburban design. Section 10.3.5.A. The property to the south has similar approved waivers and this property was previously approved for a restaurant with encroachment into the 30 ft. Parkway Buffer. A berm and plantings will still be located in the remaining buffer area.

2. Will the waiver violate the Comprehensive Plan?

The Comprehensive Plan encourages designs that are compatible with the surrounding areas and this proposal meets that objective by maintaining the Restaurant along Hurstbourne Parkway and providing a berm and landscaping as a buffer. The development pattern in this area of the City of Hurstbourne is already established as Suburban style development, which the proposed restaurant layout provides as well.

3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

The proposed development meets the other guidelines in Section 10.2.4 for LBA Requirements, provides safe pedestrian access to the site, is compatible with the surrounding pattern of Suburban Development in this area and provides the required landscape plantings. Access to the building is thru the patio and parking area along Williamsburg Plaza.

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4. Has either (a) the applicant 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 would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

Strict application would not allow for adequate parking on site and also prevent circulation as shown on the Plan, which is compatible with the surrounding existing developments. The required plantings in the LBA/Easement overlap areas will still be installed even with the overlap and in the reduced Parkway Buffer areas to allow the needed parking and drive aisles.

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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?

Hurstbourne Parkway is a Ky Transportation Cabinet roadway located in the City of Hurstbourne. Neither KyTC or The City of Hurstbourne want the sidewalk built along Hurstbourne Parkway. There are no other sidewalks in the near vicinity of this site on this side of Hurstbourne Parkway. A sidewalk was not required for the recently approved and constructed Panera Bread.

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?

Sidewalks along Hurstbourne Parkway and connecting to Williamsburg Plaza have grading issues and existing Signature Entrance Wall issues. Also, Hurstbourne Parkway is a Ky Transportation Cabinet roadway located in the City of Hurstbourne. Neither KyTC or The City of Hurstbourne want the sidewalk built along Hurstbourne Parkway. There are no other sidewalks in the near vicinity of this site on this side of Hurstbourne Parkway. A sidewalk was not required for the recently approved and constructed Panera Bread.

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

A sidewalk was not required for the recently approved and constructed Panera Bread and there are no other sidewalks in the near vicinity of this site on this side of Hurstbourne Parkway.

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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?

Construction of the sidewalk along Hurstbourne Parkway has grading issues that would likely require switchbacks for handicap access and the connection with the existing Williamsburg Plaza sidewalk is blocked by an existing Brick Signature Entrance Wall.

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