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JAN 30 2017

LANDSCAPE WAIVER JUSTIFICATION
THE PARK AT LOCUST CREEK

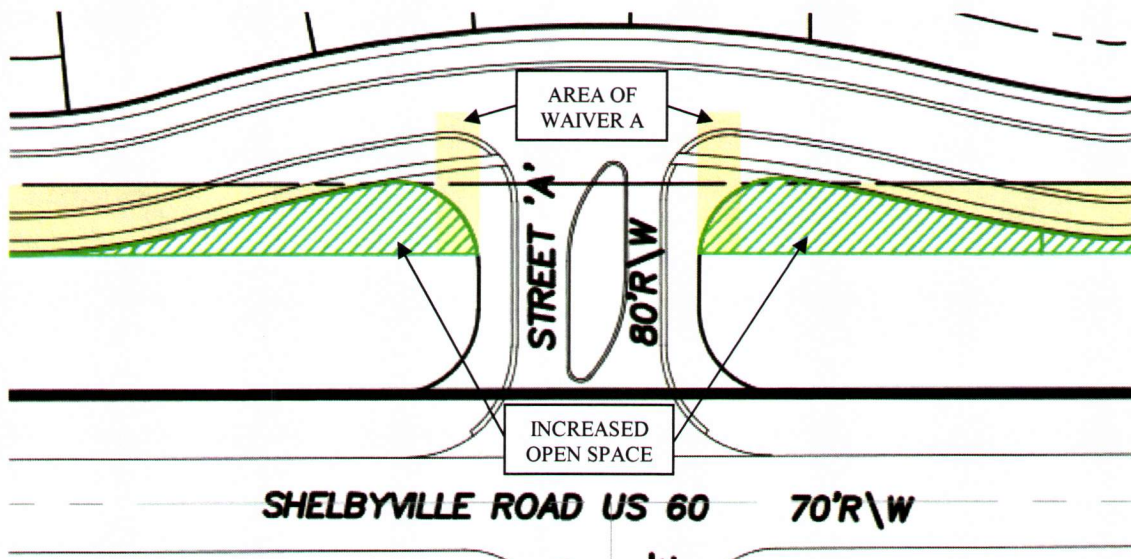
January 30, 2016

PLANNING & DESIGN SERVICES

Due to existing natural features and topography on site, the applicant would like to push the development as close to Shelbyville Road as possible. Therefore, the applicant is requesting the following waivers:

A. Waiver of LDC 10.3.5.A.3 to not provide the 15'x100' Parkway Buffer for Street "A".

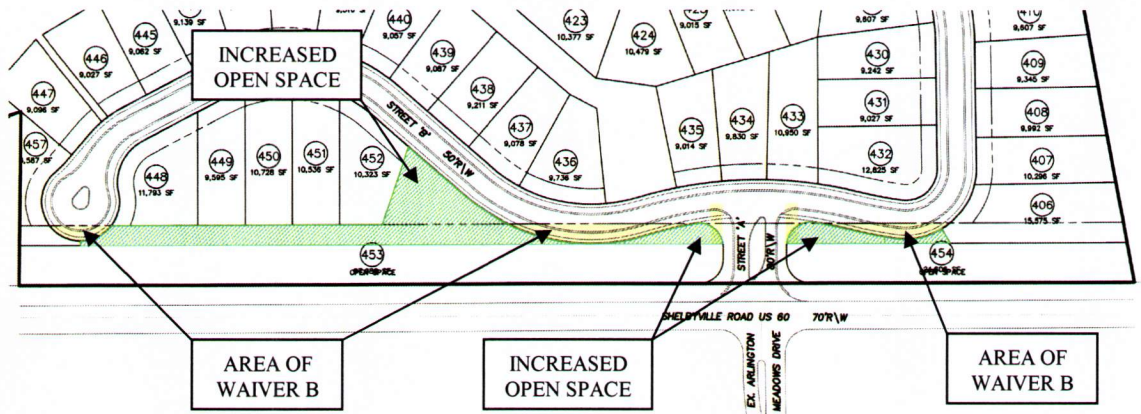
Pushing the development toward Shelbyville Road results in a very short boulevard entrance of only 80' in length which means there isn't room for the 100' parkway buffer extension. In lieu of this 15 x 100' parkway buffer, the applicant is proposing a slightly larger open space at the entrance and 75% more planting within the parkway buffer. The exhibit below illustrates the area of the 15' x 100' buffer that is being waived (in yellow) as well as the increased open space area being proposed as mitigation (in green). As you can see, the proposal actually results in an increased area of open space although it is parallel, rather than perpendicular, to Shelbyville Road.



B. Waiver of LDC 10.3.5 to allow a right-of-way to encroach 25' into a Parkway Setback.

Again, pushing the development toward Shelbyville Road results in an encroachment of the right-of-way into the required parkway setback. Private drives and parking lots are allowed to encroach into the parkway setback, but not rights-of-way. This is the same waiver that was requested for the Villas at Locust Creek under case number 19134. No buildings will encroach into the setback. As mitigation for this waiver, the applicant proposes 75% more planting within the Parkway Buffer. The entire 50' Parkway Buffer will be provided. In addition, the encroachments are offset by additional open space along the frontage of the development. The exhibit below illustrates the area of encroachment (in yellow) as well as the increased open space area being proposed as mitigation (in green). As you can see, the proposal actually results in an increased area of open space along the Shelbyville Road Frontage.

PATRICK R. DOMINIK, Landscape Architect • DAVID J. SEDLAR, Civil Engineer • DENNIS L. KRAUS, Land Surveyor
 ERIC W. PENLAND, Civil Engineer • JOSEPH S. MARSHALL, Civil Engineer • DAVID W. SIPES, Civil Engineer



With regard to the justification statement from the application, please note the following:

1. **Will the waiver adversely affect adjacent property owners?**
 - A. No. The entire 50' Parkway Buffer is being provided and additional open space and planting at the entrance will mitigate any impact this waiver might have had on the view of this property from Shelbyville Road.
 - B. No. The parkway buffer in this area is being maintained and if these were private roads, they would be allowed to encroach into the Parkway Setback, so the intent of the regulation is being met. To mitigate for this request, the applicant proposes 75% more trees than required within the buffer.

2. **Will the waiver violate the Comprehensive Plan?**
 - A. No. The 50' buffer along Shelbyville Road is still being provided and the entrance will be landscaped, thereby meeting the intent of the Comprehensive Plan.
 - B. No. The buffer is still being provided with 75% more plant material than required and the homes will still be set back at least 75' from the right-of-way (in most cases much more) which meets or exceeds the requirements and the intent of the regulation.

3. **Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?**
 - A. Yes. The entire 50' Parkway Buffer along Shelbyville road will still be provided, so the extent of the waiver is the minimum necessary.
 - B. Yes. A majority of the right-of-way is outside of the parkway setback and the encroachment is minimal, therefore this is the minimum necessary to afford relief to the applicant.

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?**
 - A. The applicant is proposing an increased open space area at the entrance that will be heavily planted with 75% more plant material than required by the LDC.
 - B. The applicant is proposing 75% more trees in the buffer than required along the Shelbyville Road frontage. In addition, many of the homes will be set back well over 75' from the right-of-way for Shelbyville Road.

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17 SUBDIV 1001

SIDEWALK WAIVER JUSTIFICATION
THE PARK AT LOCUST CREEK

January 30, 2016

The applicant is requesting a sidewalk waiver of **LDC 7.11.9.E.3.d & 5.8.1.B** to provide no sidewalks along Shelbyville Road. As a part of the original plans for Locust Creek under Docket Number 10-35-98, the Planning Commission determined that sidewalks along Shelbyville Road were not appropriate. This decision is also referenced in the Planning Commission Meeting Minutes for the R-5 portion of the property under case number 9-87-02V & 10-37-02 in which sidewalks were also waived along Shelbyville Road. No other sections of Locust Creek have provided sidewalks along Shelbyville Road, including the most recent approval for the Villas property under case number 19134. That means that over 2,300 linear feet of road frontage to the east will never have sidewalks and development potential to the west is extremely limited due to existing floodplain and topographical constraints. In addition, there is existing vegetation in the right-of-way which the developer intends to keep as a buffer from Shelbyville Road. Providing sidewalks would require the removal of much of this vegetation. Sidewalks are proposed as required on all new streets within the development and connectivity to other sections of Locust Creek, including the clubhouse, will be provided by paths through the open space. With regard to the justification statement from the application, please note the following:

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

Sidewalks are being proposed on all new streets and connectivity will still be provided to the adjoining Locust Creek development through a series of paths through the open space. This will meet the intent of the Comprehensive Plan and Land Development Code.

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?

Compliance with these regulations is not appropriate because under Docket Number 10-35-98, the Planning Commission determined that sidewalks along Shelbyville Road were not appropriate. Sidewalks have been waived along Shelbyville Road for all other sections of Locust Creek and development potential to the west is extremely limited so there will never be sidewalks to connect to.

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

There will be no impact on adjoining property owners because connectivity will still be provided to the adjoining development through a series of paths through the open space.

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 of the regulations would create an unnecessary hardship for the applicant because it would require him to build sidewalks along Shelbyville Road where there are no other sidewalks to connect to and it will require the removal of existing vegetation which will alter the character of the Locust Creek frontage.

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