

Development Review Committee Staff Report

June 4, 2014



Case No:	13DEVPLAN1089
Request:	Revised Detailed District Development Plan with a partial sidewalk waiver, pedestrian connection waiver and landscape waiver
Project Name:	Highland Latin School
Location:	10801 Shelbyville Road
Owner:	HLS, LLC
Applicant:	HLS, LLC
Representative:	Jacobi, Toombs & Lanz, Inc.
Jurisdiction:	Louisville Metro
Council District:	19 – Jerry Miller
Case Manager:	Christopher Brown – Planner II

REQUEST

- Waiver #1: Partial Sidewalk Waiver from Chapter 5.8.1 of the Land Development Code to not provide sidewalk along portions of the Shelbyville Road street frontage as permitted under Chapter 6.2.6.b.2.c.iv since less than 50% of the street frontage is being developed
- Waiver #2: Waiver from Chapter 5.9.2 of the Land Development Code to not provide the required direct access pedestrian connection from Shelbyville Road to the school building entrance
- Waiver #3: Landscape Waiver from Chapter 10.2.4 of the Land Development Code to allow existing parking to encroach into the required 20' rear property perimeter landscape buffer area
- Binding Element Amendments
- Revised Detailed District Development plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: R-5A, Residential
Proposed Zoning District: R-5A, Residential
Existing Form District: N, Neighborhood
Existing Use: School
Proposed Use: School
Parking Spaces Proposed: 193
Plan Certain Docket #: 9-03-06V

The applicant is proposing to construct a 14,696 SF, two story gymnasium building along the rear of the site. A parking area of 118 spaces will be constructed in association with the proposed gymnasium building expansion. Along the rear of the proposed structure, existing asphalt vehicular use area will remain that encroaches into the required 20' landscape buffer. The parking areas are located along 180' of the 686.7' property line. All planting requirements will be met by the applicant. The applicant has requested to waive a portion of the sidewalk requirement along Shelbyville Road and the pedestrian connection that would lead from the sidewalk to the new building entrance. Since less than 50% of the street frontage equivalent is being developed, the applicant is proposing to construct sidewalks from the entrance to the TARC stop location to the west as to be determined by TARC, KTC and Metro Public Works. The applicant has stated that the location of the walk would conflict with the Middle Fork of Beargrass Creek and the topographic layout makes the construction of the sidewalk difficult and costly along other portions of the site. Transportation Planning Review has stated that it appears that the sidewalks can be constructed along Shelbyville Road with minimal

impact to the Middle Fork of Beargrass Creek. There is an existing binding on the site regarding a \$10,000 contribution to assist with sidewalk improvements in front of Willowbrook. The applicant has requested to eliminate the binding element #13 as described above. The pedestrian connection would allow improved connectivity from the ROW into the interior of the site. The applicant has stated that the connection is not needed for the private school and could potentially compromise safety and security of the students on the site.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Private School	R-5A	N
Proposed	Private School	R-5A	N
Surrounding Properties			
North	Multi-Family Residential	R-4 R-5A CN	C
South	Single Family Residential Multi-Family Residential	R-4 R-6	N
East	Single Family Residential	R-4	N
West	Multi-Family Residential	R-4 R-5A CN	C

PREVIOUS CASES ON SITE

Docket #9-03-06V: The subject property was rezoned from R-4 to R-5A by the Planning Commission for multi-family residential use with a variance to allow buildings to exceed the maximum height requirement. Sidewalks and internal pedestrian connections were approved as part of the rezoning and accompanying development plan.

17607: The applicant requested a revised detailed plan to allow expansion to the Highland Latin School campus with a sidewalk waiver, pedestrian connection waiver and landscape waiver. The case was heard by the Development Review Committee and subsequently dropped in August 2012.

INTERESTED PARTY COMMENTS

Several neighbors have contacted staff to inquire about the nature of the proposed use and the buildings and landscaping proposed as part of the development plan. Councilman Miller’s office has stated their opposition to the requested sidewalk waiver along Shelbyville Road.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS
(Sidewalks)**

(a) The waiver will not adversely affect adjacent property owners; and
STAFF: The waiver will adversely affect adjacent property owners by not creating full pedestrian access along the major arterial street frontage.

(b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: The waiver will violate specific guidelines of Cornerstone 2020 regarding mobility and circulation by limiting multiple modes of transportation and access to the subject site with only vehicular access contemplated in an area with needs for better pedestrian connectivity. The lack of pedestrian connectivity does not follow the guidelines for pedestrian, bicycle and transit use. The connection to the TARC stop will still not create full multi-modal access along the street frontage.

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

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant since the sidewalks can be constructed along the adjacent street frontage to meet the code requirement while still preserving the nature of the Middle Fork of Beargrass Creek.

(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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the sidewalks have been identified as able to be constructed and would allow for better access to the site and surrounding area.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (Internal Pedestrian Connection)

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

STAFF: The waiver will not adversely affect adjacent property owners since internal connectivity for the site will not have affect upon the larger area and surrounding residential uses.

(b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: The waiver will violate specific guidelines of Cornerstone 2020 by limiting the access to the site to vehicular means in contrast to the mobility and community form guidelines that describe the need for pedestrian, cyclist, and mass transit user connections.

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

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant since a connection could be created on the site from the street frontage of Shelbyville Road to various building entrances throughout the site.

(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 not deprive the applicant of the reasonable use of the land and would not create an unnecessary hardship on the applicant since the pedestrian connection could be constructed without interference to the use or obstruction to the existing elements of the property.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS
(LBA Encroachment)**

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

STAFF: The waiver will not adversely affect adjacent property owners since the planting material will be provided along the rear property perimeter.

(b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 since compatibility measures will be followed by creating a vegetative separation between the school use and adjacent multi-family residential portion of the property to the north.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow the existing parking area to remain and still provide the required planting material.

(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 would create an unnecessary hardship on the applicant by requiring removal of needed vehicular use area along the rear portion of the property.

STANDARD OF REVIEW FOR DEVELOPMENT PLAN

a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: The Beargrass Creek Type B stream buffer area will be maintained and conserved on the subject site.

b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community are not followed in the current development plan with a very limited amount of sidewalks along Shelbyville Road and no internal pedestrian connections from the major arterial street frontage as proposed under the previous development plan and rezoning. The elimination of binding element #13 would further reduce pedestrian access in the area.

c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: The provision of sufficient open space to meet the needs of the proposed development will be followed on the property.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: Adequate drainage facilities will be provided on the subject site and have been preliminarily approved by MSD.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design is compatible with the area as a neighborhood serving school within the center of surrounding mixed residential properties. Sidewalks need to be provided to connect the proposed development with existing development along the Shelbyville Road street frontage.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to the Land Development Code and Comprehensive Plan with the exception of the requested sidewalk and pedestrian connection waivers which need to further evaluated by the Committee to better meet the needs and intent of the form district.

TECHNICAL REVIEW

- No technical review issues need to be addressed.

STAFF CONCLUSIONS

The applicant is proposing to maintain the private school use on the subject property and expand with the additional building and associated parking areas. The development plan meets all Land Development Code regulations with the exception of the requested waivers. The landscape waiver meets the intent of the rear property perimeter buffer by providing all required plantings and maintaining the parking along a small portion of the property line. The partial sidewalk and pedestrian connection waivers do not meet the intent of the community form and mobility guidelines of the Comprehensive Plan. By eliminating the majority of the sidewalk and pedestrian connection requirements for the site, the use is limited to vehicular access and minimal access to the TARC stop. Shelbyville Road is a major arterial that provides connectivity throughout the larger vicinity. Sidewalks have been identified as able to be constructed with minimal impact to Beargrass Creek. The applicant has also requested to eliminate the contribution binding element giving money for sidewalk completion along Willowbrook. Elimination of this binding element would further reduce the pedestrian connections that could be made along Shelbyville Road. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Land Development & Transportation Committee must determine if the proposal meets the standards for granting LDC waivers and a landscape waiver with binding element amendments to a proposed revised detailed district development plan as established in the Land Development Code.

NOTIFICATION

Date	Purpose of Notice	Recipients
5/20/14	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 19 Notification of Development Proposals

ATTACHMENTS

- Zoning Map
- Aerial Photograph

- 3. Existing Binding Elements
- 4. Proposed Binding Elements (Staff)
- 5. Proposed Binding Element (Applicant)

1. **Zoning Map**



2. **Aerial Photograph**



- 3. **Existing Binding Elements**
- 3. **Existing Binding Elements**

1. 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 density of the development shall not exceed 9.1 dwelling units per acre (191 units on 20.10 acres).
3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use, or site disturbance permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 2, 2006 Planning Commission meeting.
10. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

12. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
13. The applicant will agree to participate in a sidewalk building project by contributing \$10,000 at the request of Metro government to assist sidewalk and building improvements in front of Willowbrook.
14. All exterior lighting, including attached residential lighting, shall be fully shielded, shall utilize flat or hidden lenses or bulbs and shall be pointed directly to the ground. No light sources shall be visible from the street or adjacent properties.
15. A plan for streambed protection and plantings shall be presented to and reviewed for approval by the Planning Commission's staff landscape architect. In planning the development and treatment of the streambed, the applicant shall follow the direction of MSD in order to apply best practices and methods so all issues of water volume, velocity and quality are addressed. Protection of upstream and downstream properties and neighbors shall be important to that plan. This plan shall be implemented and completed prior to Certificate of Occupancy.
16. ALL HVAC equipment and trash receptacles shall be screened from the view of any neighboring properties to the west, north and east of the development.
17. In the event that a traffic signal is approved at the Shelbyville Road entrance to the development, the Forum at Brookside shall be allowed, at its expense and subject to reasonable terms and conditions, to construct a roadway from the common property line to the interior roads of the development, generally as shown on the "Proposed Access Layout" prepared by Land Design and Development, Inc. on condition that the owner of the subject property and the Forum at Brookside shall have entered into an easement agreement providing for crossover vehicular access between the properties subject to reasonable terms and conditions, all subject to prior approval of a revised development plan by the Planning Commission.

4. Proposed Binding Elements (Staff)

2. ~~The density of the development shall not exceed 9.1 dwelling units per acre (191 units on 20.10 acres).~~
The development shall not exceed 51,393 square feet of gross floor area.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~November 2, 2006 Planning Commission~~ **June 4th, 2014 Development Review Committee** meeting.
10. ~~The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.~~
14. All exterior lighting, including attached residential lighting, shall be fully shielded, shall utilize flat or hidden lenses or bulbs and shall be pointed directly to the ground. No light sources shall be visible from the street or adjacent properties.
17. ~~In the event that a traffic signal is approved at the Shelbyville Road entrance to the development, the Forum at Brookside shall be allowed, at its expense and subject to reasonable terms and conditions, to construct a roadway from the common property line to the interior roads of the development, generally as shown on the "Proposed Access Layout" prepared by Land Design and Development, Inc. on condition that the owner of the subject property and the Forum at Brookside shall have entered into an easement agreement providing for crossover vehicular access between the properties subject to reasonable terms and conditions, all subject to prior approval of a revised development plan by the Planning Commission.~~

5. **Proposed Binding Elements (Applicant)**

2. ~~The density of the development shall not exceed 9.1 dwelling units per acre (191 units on 20.10 acres).~~
The development shall not exceed 51,393 square feet of gross floor area.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~November 2, 2006 Planning Commission~~ **June 4th, 2014 Development Review Committee** meeting.
10. ~~The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.~~
13. ~~The applicant will agree to participate in a sidewalk building project by contributing \$10,000 at the request of Metro government to assist sidewalk and building improvements in front of Willowbrook.~~
14. All exterior lighting, ~~including attached residential lighting,~~ shall be fully shielded, shall utilize flat or hidden lenses or bulbs and shall be pointed directly to the ground. No light sources shall be visible from the street or adjacent properties.
17. ~~In the event that a traffic signal is approved at the Shelbyville Road entrance to the development, the Forum at Brookside shall be allowed, at its expense and subject to reasonable terms and conditions, to construct a roadway from the common property line to the interior roads of the development, generally as shown on the "Proposed Access Layout" prepared by Land Design and Development, Inc. on condition that the owner of the subject property and the Forum at Brookside shall have entered into an easement agreement providing for crossover vehicular access between the properties subject to reasonable terms and conditions, all subject to prior approval of a revised development plan by the Planning Commission.~~