

Board of Zoning Adjustment

Staff Report

October 5, 2015



Case No:	15MISC1012, 15VARIANCE1055
Project Name:	Paragon Centre Expansion
Location:	6040 and 6060 Dutchmans Lane
Owner(s):	Paragon Centre Holdings, LLC.
Applicant(s):	Nicklies Development
Representative(s):	Jim Calvery, John Campbell
Project Area/Size:	3.8 acres
Existing Zoning District:	OR-3, Office Residential
Existing Form District:	RC, Regional Center
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
Case Manager:	Jon E. Crumbie, Planner II

REQUESTS

- Category 2B Review
- Waivers to reduce the required 35-foot property perimeter landscape buffer and vehicle use area to 10 feet.

Location	Requirement	Request	Waiver
West Property Line (LBA)	35'	10'	25'
West Property Line (VUA)	35'	10'	25'

- Waiver to reduce the required 35-foot expressway buffer to 10 feet

Location	Requirement	Request	Waiver
South Property Line	35'	10'	25'

- Sidewalk waiver along Dutchmans Lane.
- Variance to allow proposed parking to encroach into the required west side yard along residential property.

Location	Requirement	Request	Variance
West Property Line	50'	10'	40'

CASE SUMMARY

The applicant is proposing site improvements to the existing Paragon Centre that will include an expansion of the existing parking area into an area of the property currently used as a retention basin. The parking expansion is to satisfy the immediate needs of the tenants.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Office	OR-3	RC
Proposed	Office	OR-3	RC
<i>Surrounding Properties</i>			
North	Office	OTF	RC
South	I-264 Right-Of-Way		
East	Office	C-2	RC
West	Residential Single Family	R-5	Np

SITE CONTEXT

The site is irregular in shape and consists of two large structures with related parking. The site is located on the south side of Dutchmans Lane and backs up to I-264. Residential property is located to the west of the site.

PREVIOUS CASES ON SITE

B-177-89

An application for a variance from the Zoning District Regulations to permit a proposed attached sign to be higher than allowed. A deferral was requested by the applicant on October 16, 1989.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Land Development Code
Cornerstone 2020

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (LBA and VUA along west property line)

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

STAFF: The waiver will not adversely affect adjacent property owners since the required landscape plantings will be provided to provide mitigation and a visual buffer along the property line.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will comply with 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 6 calls for screening and buffering to mitigate adjacent incompatible uses. 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.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed parking area will still allow for the property to be enhanced with code compliant landscaping.

- (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 regulations would not allow the construction of new parking spaces along the west property line.

TECHNICAL REVIEW

There are no outstanding technical review items.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (Expressway Buffer)

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

STAFF: The waiver will not adversely affect adjacent property owners since the area abuts I-264.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed parking area will still allow for the property to be enhanced with code compliant landscaping.

(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 regulations would not allow the construction of new parking spaces along the south property line.

TECHNICAL REVIEW

There are no outstanding technical review items.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (Sidewalk along Dutchmans Lane)

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

STAFF: The waiver will not adversely affect adjacent property owners since there are no existing sidewalks along the south side of Dutchmans Lane. However, there are sidewalks along a large portion of properties on the north side of Dutchmans Lane.

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

STAFF: The waiver will not violate Guideline 7, Policy 1 which states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there is a physical restraint preventing compliance.

(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 land since the sidewalk could greatly impact the roadside swales and grassy areas.

TECHNICAL REVIEW

Transportation Planning recommends that the sidewalk be constructed proximal to the landscaping along the front of the property as opposed to along the road edge to avoid grass drainage swales.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE
(15VARIANCE1055)**

(a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare since the required landscape plantings will be provided to provide mitigation and a visual buffer along the west property line.

(b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity because the proposed parking will be compatible with the existing parking alignment.

(c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public because the proposed parking will be approximately 30 feet from the nearest residence. Landscaping will be provided along the property line to serve as mitigation.

(d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations because the encroachment will be compatible with the existing parking alignment.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The site was developed before the current regulations and is adjacent to residential uses.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the parking could not be built.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The owner is trying to conform to the existing conditions on site.

TECHNICAL REVIEW

There are no outstanding technical review items.

STAFF CONCLUSIONS

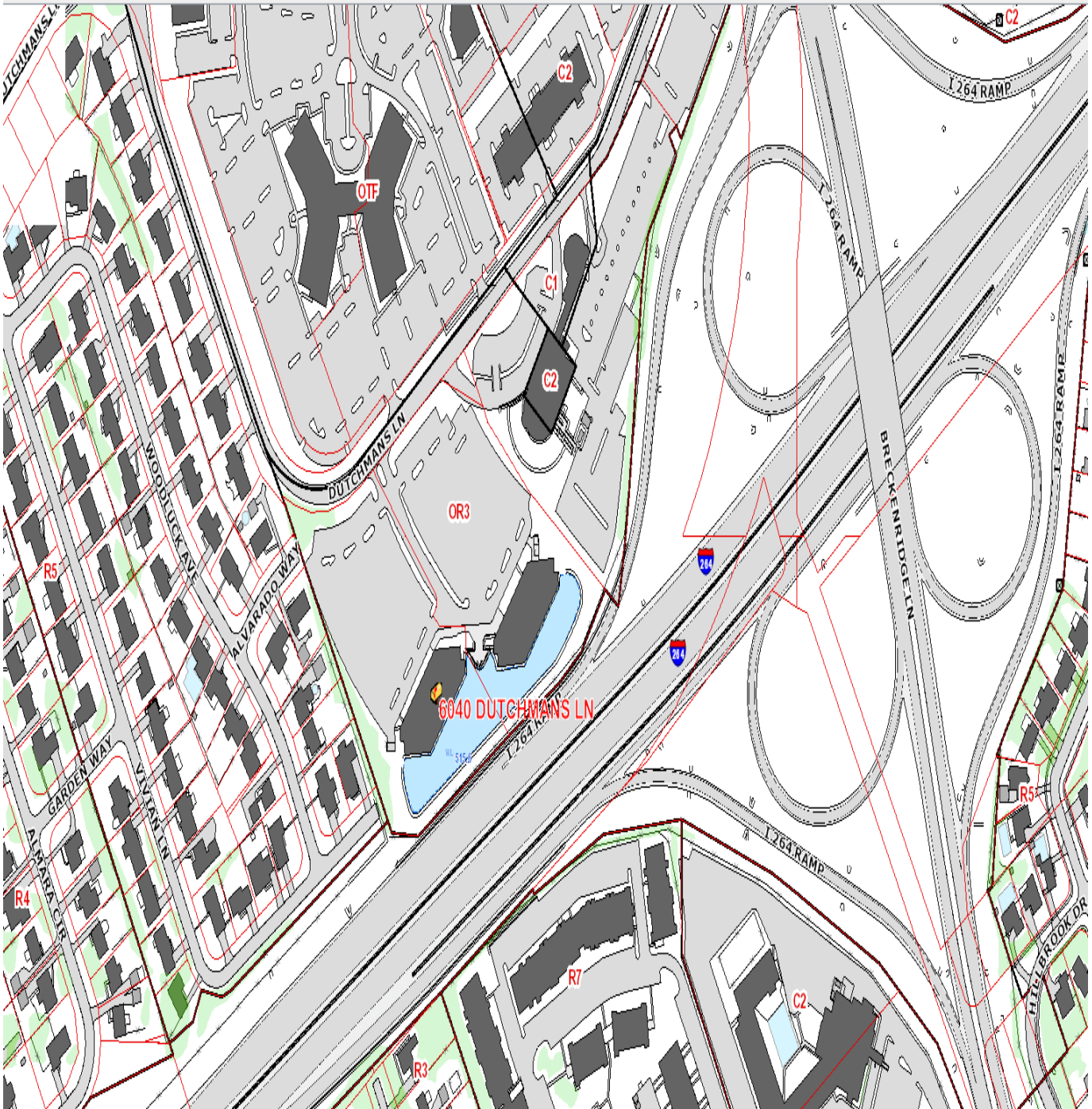
Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standard for a variance and waivers as established in the Land Development Code.

NOTIFICATION

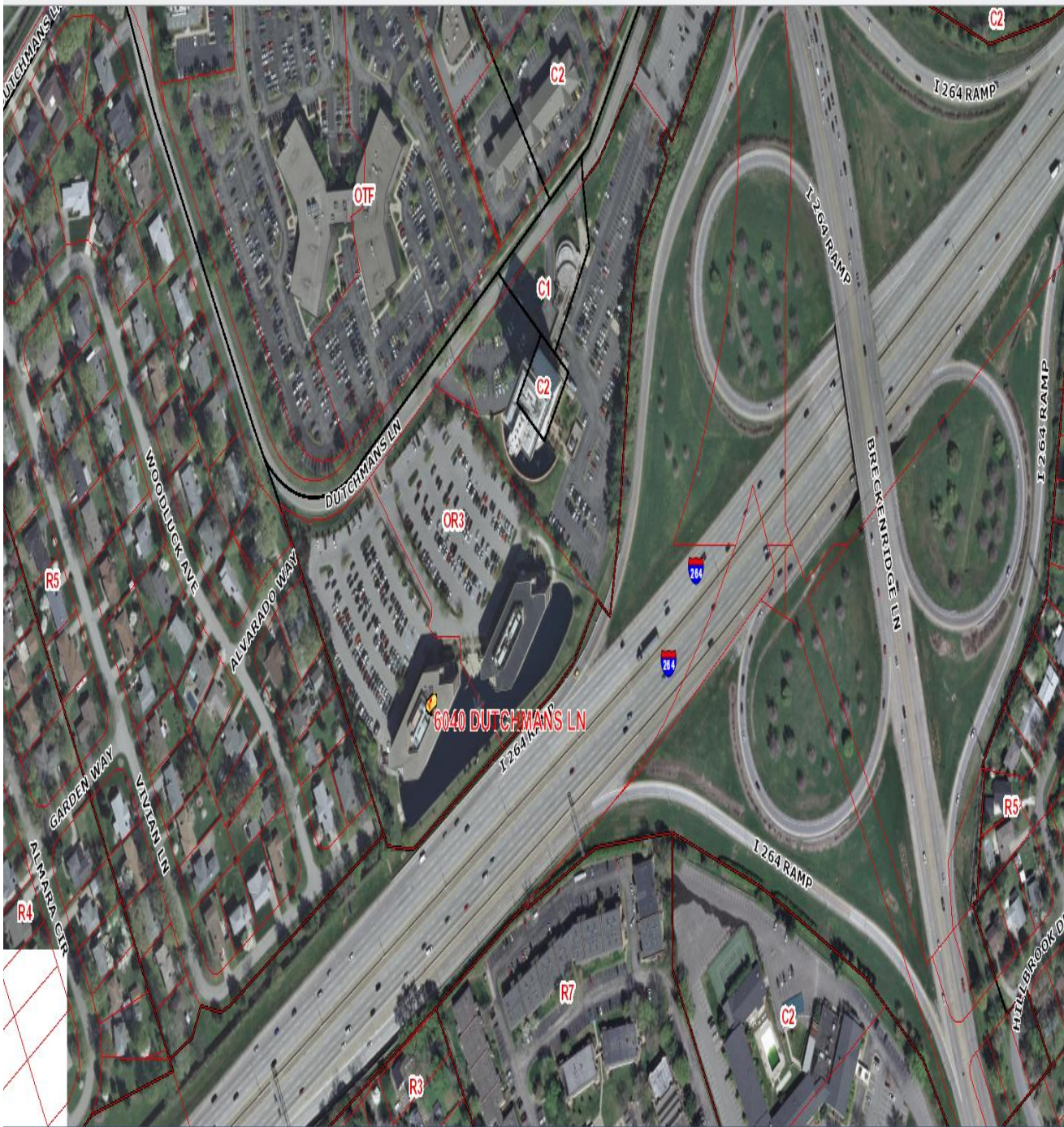
Date	Purpose of Notice	Recipients
9/18/15	APO Notice	First tier adjoining property owners Neighborhood notification recipients
9/22/15	Sign Posting	Subject Property Owner

ATTACHMENTS

1. Zoning Map



2. Aerial Photograph



3. Justification Statements

HERITAGE ENGINEERING, LLC

August 10, 2015

Planning and Design Services
Metro Government
444 South Fourth Street
Louisville, Kentucky 40202

Re: Category 2B Development Plan – Letter of Explanation

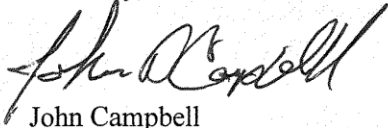
Dear Staff:

On behalf of Nicklies Development we are submitting the attached Category 2B Development Plan for a proposed parking lot addition at the Paragon Centre located at 6040 & 6060 Dutchmans Lane.

Site improvements include an expansion of the existing parking area into an area of the property currently used as a retention basin with additional improvements to improve efficiency and enhance flow. The parking expansion is to satisfy the immediate needs of the existing tenants at the Paragon Centre, an office building that currently serves as a headquarters for corporate tenants. Construction of the additional parking is subject to a variance from Chapter 5, Part 3; Section 5.3.3.C.2.b of the Land Development Code. As well as approval of waiver requests from Chapter 10, Part 2, Sections 10.2.4.A, 10.2.10 and 10.2.7 of the Land Development Code.

Thank you for your consideration; please advise us immediately if any additional information is needed.

Sincerely,



John Campbell

Encl. Application
Category 2B Development Plan

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642 S. 4TH STREET, SUITE 100
LOUISVILLE, KENTUCKY 40202
PHONE: 502-562-1412 FAX: 502-562-1413

603 N. SHORE DR., UNIT 204
JEFFERSONVILLE, INDIANA 47130
PHONE: 812-280-8201 FAX: 812-280-8281

15MISC1012

HERITAGE ENGINEERING, LLC

August 10, 2015

Planning and Design Services
Metro Government
444 South Fourth Street
Louisville, Kentucky 40202

Re: Waiver Request – Letter of Explanation

Dear Staff:

On behalf of Nicklies Development we are submitting the attached Variance request for a proposed parking lot addition at the Paragon Center located at 6040 & 6060 Dutchmans Lane.

Site improvements include an expansion of the existing parking area into an area of the property currently used as a retention basin with additional improvements to improve efficiency and enhance flow. The parking expansion is to satisfy the immediate needs of the existing tenants at the Paragon Center, an office building that currently serves as a headquarters for corporate tenants. Construction of the additional parking is subject to a waiver request from Chapter 10, Part 2, Sections 10.2.4.A, 10.2.10 and 10.2.7 of the Land Development Code. The requested waivers will allow the proposed parking to be located within the 35-ft Property Perimeter Landscape Buffer, 15-ft Vehicle Use Area Landscape Buffer, and 35-ft Expressway Landscape Buffer. Landscape plantings will be provided to comply with code.

Justifications for the requested waivers are:

- The requested waivers will not adversely affect adjacent property owners because granting of the waiver will allow the additional parking to be constructed while providing the necessary landscape plantings to ensure a visual buffer to adjoining properties as required by code.
- The waiver requested will not violate the Comprehensive Plan as it will not alter the essential character of the general vicinity as the proposed parking addition will have a setback that allows for landscape plantings to ensure a visual buffer to adjoining property while implementing the high standards of design typical of a corporate office development.
- Granting of the waivers is the minimum necessary to afford relief to the applicant as the proposed parking addition encroachment will still allow for the property to be enhanced with landscape planting as required for the subject property.

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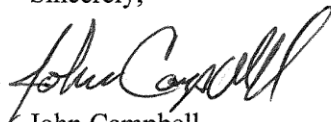
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- The development as proposed with the requested waivers will allow for the parking addition that would otherwise not occur due to the general location of the property and limited ability to access the parking addition. In addition strict application of the provisions would limit the reuse of the property and not allow for a parking addition to be constructed.

Thank you for your consideration; please advise us immediately if any additional information is needed.

Sincerely,



John Campbell

Encl. Application
Category 2B Development Plan

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HERITAGE ENGINEERING, LLC

August 10, 2015

Planning and Design Services
Metro Government
444 South Fourth Street
Louisville, Kentucky 40202

Re: Sidewalk Waiver Request – Letter of Explanation

Dear Staff:

On behalf of Nicklies Development we are submitting the attached sidewalk waiver request for a proposed parking lot addition at the Paragon Centre located at 6040 & 6060 Dutchmans Lane.

Site improvements include an expansion of the existing parking area into an area of the property currently used as a retention basin with additional improvements to improve efficiency and enhance flow. The parking expansion is to satisfy the immediate needs of the existing tenants at the Paragon Centre, an office building that currently serves as a headquarters for corporate tenants. Construction of the additional parking is subject to a sidewalk waiver request from Chapter 5, Part 8 of the Land Development Code. The requested sidewalk waiver will allow proposed parking to be constructed onsite with minimal impacts to the existing nearby residential properties located along Dutchmans Lane.

Justifications for the requested waivers are:

- The sidewalk waiver requested will conform to the Comprehensive Plan and intent of the Land Development Code as it will not alter the essential character of the general vicinity which is designed in a way that promotes a transition from residential to office with a neighborhood landscaped streetscape containing roadside swales and grassy areas within the public right-of-way.
- Compliance with the regulations is not appropriate since it would greatly impact the roadside swales and grassy areas along the roadway providing for a less appealing transition to the nearby residential neighbors. In addition, the existing swales take drainage from the Dutchmans Lane right-of-way to the paragon basin. A new sidewalk along the right-of-way may encumber existing swales and negatively affect drainage from the road.
- The requested sidewalk waiver will not adversely affect adjacent property owners because granting of the waiver will allow the additional parking to be constructed onsite while maintaining a transitional streetscape from offices to the east and single family properties to the west. The softening of the streetscape that currently occurs along our frontage is of a greater benefit to the neighbors than a more urban streetscape with additional pavement for sidewalks.

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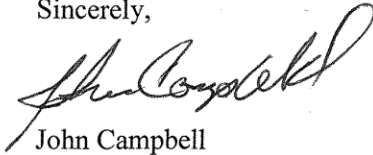
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- Granting of the sidewalk waiver is the minimum necessary to afford relief to the applicant as the proposed sidewalk would greatly impact the roadside swales and grassy areas within the right-of-way providing for a less appealing transition to the nearby neighbors.

Thank you for your consideration; please advise us immediately if any additional information is needed.

Sincerely,



John Campbell

Encl. Application
Category 2B Development Plan

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HERITAGE ENGINEERING, LLC

August 10, 2015

Planning and Design Services
Metro Government
444 South Fourth Street
Louisville, Kentucky 40202

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Re: Variance Request – Letter of Explanation

Dear Staff:

On behalf of Nicklies Development we are submitting the attached Variance request for a proposed parking lot addition at the Paragon Centre located at 6040 & 6060 Dutchmans Lane.

Site improvements include an expansion of the existing parking area into an area of the property currently used as a retention basin with additional improvements to improve efficiency and enhance flow. The parking expansion is to satisfy the immediate needs of the existing tenants at the Paragon Centre, an office building that currently serves as a headquarters for corporate tenants. Construction of the additional parking is subject to a variance from Chapter 5, Part 3; Section 5.3.3.C.2.b of the Land Development Code. The requested variance will allow the proposed parking to be located within the 50-ft non-residential to residential setback. Landscape plantings will be provided to comply with code.

Justification for the requested variance:

- The requested variance will not adversely affect the public health, safety or welfare because granting of the variance will allow the additional parking to be constructed while providing the necessary landscape planting to ensure a property buffer to adjoining properties as required by code.
- The variance requested will not alter the essential character of the general vicinity as the proposed building setback will fully comply with the setback requirement with only the parking being permitted within the setback area.
- Granting of the variance will not cause a hazard or a nuisance to the public as the proposed parking addition will serve the needs of the office users within the Paragon Centre with any perceived impacts to the public being offset with landscape plantings as required by code.
- The development as proposed with the requested variance will not allow for an unreasonable circumvention of the zoning regulations as it will allow for the parking addition but will maintain the building setbacks as required while providing the landscape plantings.

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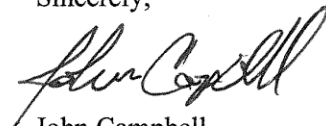
HERITAGE ENGINEERING, LLC

In addition to the justification as defined, please also take into consideration:

- The subject property is impacted by special circumstances such as the limited accessibility to the area of the property with the proposed parking addition.
- Strict application of the provisions would limit the ability to add additional parking and limit the ability to maintain a premium office development with corporate tenants.
- The proposed redevelopment of the property and need for the variance is not a result of actions taken by the applicant as the existing property was developed prior to the adoption of the Land Development Code that imposes limits on a larger portion of the property. These new requirements could have potentially been mitigated with an alternate design had the new code requirements existing at time of development.

Thank you for your consideration; please advise us immediately if any additional information is needed.

Sincerely,



John Campbell

Encl. Application
Category 2B Development Plan

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