

**614 Development Group**

**9710 & 9712 Locust Lane and 9801 Watterson Trail**

**Case No. 18ZONE1004**

**Statement of Compliance**

The subject property consists of approximately 3.07 acres located at 9710 and 9712 Locust Lane and 9801 Watterson Trail. The applicant proposes to rezone the subject property from R-4 Single-family Residential to R-6 Multi-family Residential. The proposal is for the development of the Mills Creek Townhomes, which will consist of 32 townhome units in eight buildings. The proposal is consistent with other multi-family developments in the area, including the Gardens of Monticello patio home development directly to the west of the subject property.

**Guideline 1-Community Form**

The proposed development complies with the intent of Guideline 1. The subject property is located in the Neighborhood Form District and the neighboring property to the west is a multi-family patio-home development known as the Gardens of Monticello. The proposed townhomes are compatible with the scale and function of the Gardens of Monticello development and the surrounding single-family neighborhoods. The proposed townhomes will support a mix of residential choices, and will add to the diversity of opportunity for potential home owners or tenants in the area. The proposal will not be substantially more intense in terms of traffic, lighting, and impact on the surrounding neighborhoods than the neighboring Gardens of Monticello development.

**Guideline 2-Centers**

The proposed development complies with the intent and applicable policies of Guideline 2. The subject property sits squarely within the large single- and multi-family residential district on either side of Watterson Trail less than a mile to the south of downtown Jeffersontown. The proposed development will connect directly to Watterson Trail. The subject property is served by the activity center in downtown Jeffersontown at the intersection of Watterson Trail and Taylorsville Road. The applicant proposes a pedestrian sidewalk connection between the development and Watterson Trail that will connect to a future paved trail. The applicant also proposes a pedestrian connection between the subject property and Spruce Grove Drive to the north.

**Guideline 3-Compatibility**

The proposed development complies with the intent and applicable policies of Guideline 3. The proposed townhomes will be compatible with the surrounding single- and multi-family residential uses, including the neighboring patio-home development the Gardens of Monticello. The proposed re-zoning will allow for greater diversity of opportunity for potential home owners or tenants in Jeffersontown while preserving the overall residential character of the surrounding area.

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**Guidelines 4-Open Space and 5-Open Space and Scenic and Historic Resources**

The proposed development complies with the intents of Guidelines 4 and 5 as over 23,000 square feet of open space is being provided. There are no known sensitive natural features or cultural or historic resources on the subject property.

**Guidelines 7-Circulation, 8-Transportation Facility, and 9-Bicycle, Pedestrian and Transit**

The proposed development complies with the intent of Guidelines 7, 8, and 9. The proposal provides for 89 total parking spaces, including 64 garage spaces (2 per unit) and 25 surface spaces. The proposed connection between the subject property and Watterson Trail will connect the development to the surrounding neighborhoods and provide access to the activity center less than a mile away in downtown Jeffersontown. The applicant proposes a pedestrian sidewalk connection between the development and Watterson Trail that will connect to a future paved trail. The applicant also proposes a pedestrian connection between the subject property and Spruce Grove Drive to the north.

**Guidelines 10-Flooding and Stormwater and 11-Water Quality**

The proposed development complies with the intents of both Guidelines 10 and 11. The proposal will comply with all MSD regulations concerning water quantity and quality from the site. The property located at 9801 Watterson Trail will contain a stormwater basin and 12,000 square feet of open area to mitigate any increase in impervious area.

**Guideline 13-Landscape Character**

The proposed development complies with the intent of Guideline 13. The subject property will be landscaped consistent with the surrounding residential area and will provide tree canopy as required by the Land Development Code.

**Guideline 14-Infrastructure**

The proposed development complies with the intent of Guideline 14. The subject property has existing access to utilities and water. The health department has indicated it has no issues with the proposal.

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## VARIANCE JUSTIFICATION

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The proposed variances, which will allow the applicant's proposed three-story townhome buildings to exceed the maximum height by 8'7" and encroach into the rear yard setback will not adversely affect the public health, safety or welfare. The reason for the building height variance is to allow the applicant to build an 8'7" roof deck separator atop each of the eight 35' three-story townhome buildings in the proposed development, for a total building height of 43'7" for each building. The reason for the rear yard setback variance is to permit four of the proposed townhome buildings to encroach into the rear setback near Locust Lane, an existing private gravel drive. The roof deck separators will have no impact on public health, safety or welfare, but will enhance the safety of the proposed roof-top decks by providing a tall barrier between neighboring decks. The rear yard setback encroachment will also have no impact on the public health, safety or welfare as a fence will separate the proposed development from Locust Lane and a minimum five feet of buffer will remain between the development and Locust Lane.

The variances will not alter the essential character of the general vicinity as the proposed three-story townhomes are compatible with the scale and function of the neighborhood, including the adjacent Gardens of Monticello multi-family development and the surrounding single-family neighborhoods. The height of the proposed buildings is consistent with the proposed R-6 Multi-family Residential zoning, and other large multi-family developments in the area, such as the three-story Boulder Creek of Vantage apartment buildings less than a mile to the north in downtown Jeffersontown. The proposed encroachment into the rear yard setback is also similar to the setback of the adjacent Gardens of Monticello from Locust Lane.

The variances will not cause a hazard or nuisance to the public. As stated above, the requested variances will permit the applicant to construct three-story townhome buildings with an 8'7" roof deck separator and encroach into the rear yard setback. The roof deck separators will have no impact on the public, but will enhance the safety of the proposed roof-top decks by providing a tall barrier between neighboring decks. The rear yard setback encroachment will also have no impact on the public health, safety or welfare as a fence will separate the proposed development from Locust Lane and a minimum five feet of buffer will remain between the development and Locust Lane.

The variances will not allow an unreasonable circumvention of the requirements of the zoning regulations. The proposed three-story townhome buildings will bring a mix of residential choices, and will add to the diversity of opportunity for potential home owners or tenants in the area. The proposal will not be substantially more intense in terms of traffic, lighting, and impact on the surrounding neighborhoods than the neighboring Gardens of Monticello development. The impacts from the proposed buildings' height will be minimal given that the encroachment is to permit roof deck separator walls, not additional townhomes.

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The variances arise from special circumstances that do not generally apply to land in the vicinity of the project. The proposal is to redevelop the subject property into eight three-story townhome buildings with 8'7" roof deck separators. The proposed development is compatible with scale and function of the neighborhood, but the proposed roof-top decks are a unique feature for residential developments in the area. Furthermore, the presence of the private gravel drive Locust Lane requires variance from the rear yard setback. Accordingly, the variances requested arises from special circumstances that do not generally apply to land in the vicinity.

The strict application of the regulations would create an unnecessary hardship because it would require the applicant to alter its plans for the proposed roof-top decks and the four townhome buildings near Locust Lane. Strict application of the regulations would force the applicant to potentially re-design the proposed townhomes in a manner that will not provide any additional public benefit.

The circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance as no development has occurred.

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**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?**

The proposed waiver to allow the existing Locust Lane to remain will not adversely affect adjacent property owners. Locust Lane serves as access to one or more properties. It is currently a narrow gravel lane that is proposed to remain. Locust Lane, as constructed, is not within a granted access easement, which easement is to the south of the constructed path. However, there are mature trees in the area of the granted easement. Allowing Locust Lane to remain and allowing it to encroach into the required Landscape Buffer Area will maintain both access and tree canopy, benefiting the adjacent property owners.

**2. Will the waiver violate the Comprehensive Plan?**

The proposed waiver will not violate the Plan 2040 Comprehensive Plan. The preservation of tree canopy is a key part of the Livability plan element, and allowing Locust Lane to remain will allow for the preservation of trees that would be removed if Locust Lane was relocated.

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

The extent of the waiver is the minimum necessary to allow the applicant's proposed development to proceed. Shifting Locust Lane to the south would cause a hardship on the adjacent property owners to the south while providing little if any benefit to the community.

**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?**

The strict application of the provisions of the regulation would cause an unreasonable hardship for the applicant and the property owners to the south of Locust Lane. The property owners to the south of Locust Lane would be forced to remove trees to allow for the relocation of the lane, and the applicant would be forced to relocate it, a significant burden to both parties.