

PLANNING COMMISSION MINUTES
December 12, 2016

PUBLIC HEARING

CASE NO. 16ZONE1020

Case No: 16zone1020
Request: Change in zoning from R-4/R-5 to R-5A on approximately 29.07 acres
Project Name: Taylorsville Road Apartments
Location: 11404, 11312, and 11314 Taylorsville Road
Owner: BBB Investments LLC; Mannoxx LLC
Applicant: Teri Delsignore
Representative: Mindel Scott and Associates; Bardenwerper Talbott and Roberts PLLC
Jurisdiction: Louisville Metro
Council District: 20-Stuart Benson
Case Manager: **Julia Williams, RLA (IN), AICP, Planning Supervisor**

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:03:49 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
David Mindel, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Suite 101, Louisville, Ky. 40219
George Chapman, 3703 Taylorsville Road, Suite 205, Louisville, Ky. 40220 – New Address - 13000 Equity Place, Louisville, Ky. 40219
Diane Zimmerman, 9420 Bunsen Parkway, Suite 225, Louisville, Ky. 40220
Kathy Linares, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Suite 101, Louisville, Ky. 40219

Summary of testimony of those in favor:

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1st TAPE

00:08:35 Mr. Bardenwerper gave a power point presentation as well as supplying booklets to the commissioners. Providing housing near the work place is very important.

00:21:17 Mr. Mindel stated that the total addition of the 3rd lane will be 12,955 feet. After the improvements are made to Taylorsville Rd., almost 70% will be 3 lanes.

00:22:05 Mr. Bardenwerper stated that the number of units and buildings have been reduced (now medium density).

Mr. Bardenwerper discussed the following: summary of traffic study; the proposed site ranked #1 in the marketplace; elimination of the roundabout; eliminated 77 units; moved the building away from Taylorsville Rd.; moved the clubhouse; increased the buffer setback; extra detention; and utilizing Sojourn Church's driveway; TARC.

Mr. Mindel explained the watershed analysis and the 2nd detention basin to be on site. It will meet all requirements.

00:45:32 Ms. Markert emailed Kenny Carrico and Jason Richardson with KYTC and they said there is no value in studying the signalization timing.

00:49:11 Mr. Chapman said he surveyed 400 people – Conclusion - \$45,000/yr. average income. The people working in the area can afford to live in the area.

00:53:47 Ms. Zimmerman discussed, from her traffic study, how many vehicles travel Bolling Brook and east of Bolling Brook.

The following spoke in opposition to this request:

Pamela Miller, 4110 Saratoga Woods Drive, Louisville, Ky. 40299
Barry Albert, 4109 Chenoweth Run Road, Louisville, Ky. 40299
Wayne Knewasser, 12506 Valley Pine Drive, Louisville, Ky. 40299
Fred Fischer, 4200 Chenoweth Run Road, Louisville, Ky. 40299 or
P.O. Box 99976, Louisville, Ky. 40269
David Baker, 4703 Brixham Court, Louisville, Ky. 40299-8321
Dr. Michael Orbell, 4029 Bolling Brook Drive, Louisville, Ky. 40299
Robert H. Gaddie, 11308 Taylorsville Road, Jeffersontown, Ky. 40299
Fred Oechslin, 4417 Saratoga Woods Drive, Jeffersontown, Ky. 40299

Summary of testimony of those in opposition:

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00:55:55 Ms. Miller stated there's already heavy traffic on Taylorsville Rd. and any additional traffic will be a burden. There are 4 other locations that could be used for this project. It's an inefficient use of land and there is no transit offered. The infrastructure needs to be built to sustain the growth.

00:59:12 Mr. Albert discussed traffic, drainage and the staff report.

2nd TAPE

00:04:37 Mr. Knewasser stated he has issues with the variance request for 3-stories. All the units are 2 bedrooms (no 1 or 3). The entrance to the site will have a negative impact for newcomers and the community.

00:08:23 Mr. Fischer stated that the Planning Commission totally dismissed his complaints regarding water runoff. "About 10 years ago, MSD in conjunction with the Core of Engineers came through and effectively made my 3-acre field a detention pond." The Planning Commission relies too heavily on the "experts". Traffic is also an issue and a pump station will be noisy. "Who's going to be responsible for this pump station if and when it fails?"

00:15:36 Mr. Baker stated that the traffic backs up into the subdivision. Also, there's no connectivity or multi-modality.

00:20:15 Mr. Orbell is the president of the Bolling Brook Homeowners Association. The proposal is not a good fit for this site and the commissioners need to respect the current homeowners.

00:24:18 Mr. Gaddie requests a privacy fence to help mitigate the stench from the dog park and children making noise and littering. The road needs to be widened to 4 lanes.

00:30:53 Mr. Oechslin said the traffic is so bad, they (Homeowner Association) had to hire a police officer to give out tickets. The emergency vehicles can't get through the traffic.

Rebuttal

3rd TAPE

00:00:52 Mr. Bardenwerper stated that growth and development is what we strive for or the developers will go elsewhere. MSD has water quality standards, but Mr.

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Fischer's problem was pre-MSD. The applicant has provided adequate mitigation for this project. Also, there will be a fence provided as requested by Mr. Gaddie.

00:18:22 Mr. Mindel stated that the pump station will be private in which the apartment owner will be responsible for maintaining it. There will be a generator as well.

00:21:29 Ms. Linares discussed the location of the trash compactor.

Deliberation

00:49:14 Commissioner Tomes stated that growth was always anticipated for the area, but having no sewers slowed it down. The land use is appropriate and the height variance is justified.

00:53:55 Commissioner Kirchorfer stated that the applicant has provided a better plan today, especially with reducing the number of buildings. The drainage should be fine once the 2 detention basins are in place. It's a good mixed use for the area.

00:55:01 Commissioner Brown stated that the applicant has done a great job scaling back the density. The buildings are centralized and will have a minimal impact on the abutting properties. Also, there will always be some level of delay at intersections and the mitigation the applicant is providing will help.

00:56:04 Commissioner Smith said it's a nice balance to have work and housing near each other. Also, the revised plan and variance are acceptable.

00:56:58 Commissioner Lewis stated that living near the industrial park will help eliminate some of the travel distance and traffic itself. The 3rd lane on Taylorsville Rd. will also help the traffic flow. The reduced density plan shown today is better than the original proposal.

00:58:15 Commissioner Howard said she's pleased to see the following today: overall revisions, especially the reduced number of units; more green space; left turn lane creating a 3-lane section from Blankenbaker to Bolling Brook Dr.

00:59:07 Commissioner Carlson stated that this proposal is the lowest density of multi-family and not as intense as it could be. Traffic is bad but the fewer miles people travel reduces the risk of exposure for being struck.

4th TAPE

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00:02:02 Commissioner Peterson said he feels the developer took to heart the concerns expressed at these meetings. Also, the variance is warranted in order to have attractive 3-story buildings instead of additional 2-story buildings. The turning lane will help with the traffic.

00:03:13 Chairman Jarboe stated that the zoning change complies with the applicable guidelines and policies of Cornerstone 2020. This development will add more traffic but the applicant/developer is mitigating it by adding the turning lane. Jeffersontown will have to lobby the legislators for more funds to improve Taylorsville to 3 or 4 lanes.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Zoning Change from R-4/R-5 to R-5A

00:05:02

On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted.

WHEREAS, The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas; and

WHEREAS, The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing; and

WHEREAS, The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should

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provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit; and

WHEREAS, Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets; and

WHEREAS, The density of the proposal and its location surrounded by low density results in inefficient use of land. The proposal is for medium density residential. The adjacent non-residential church to the east of the site provides the only higher intense use in the area that is above single family residential. The proposal is for one use and is not located along a transit corridor. Sidewalks are being provided but are not connected to an activity center. The proposal is not located in a center nor is it involved in mixed use. The proposal is for one housing type, apartments; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is for medium density residential which would create a mix of residential housing choices to the neighborhood but would also add medium density to the current low density area. The proposal is for medium density which is located along an arterial. All setbacks and landscape buffers are being complied with along the perimeters of the site. Existing trees are being preserved along some of the buffers to increase the compatibility with the nearby low density developments. The "streets" created throughout the proposal are designed to have reduced conflicts with pedestrians due to the sidewalks being continuous in front of the proposed structures. The sidewalks are well connected; and

WHEREAS, the Louisville Metro Planning Commission further finds all other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

The following are finding of facts submitted by the applicant and adopted by the Planning Commission:

SUMMARY STATEMENT

WHEREAS, the applicant, Del Investments, Inc. ("Del Investments"), proposes an apartment community consisting of 1, 2 and 3-story buildings with a total of 347 units on 29 +/- acres along the south side of Taylorsville Road, east of Chenoweth Run Road.

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GUIDELINE - 1 COMMUNITY FORM

WHEREAS, the subject property lies within the Neighborhood Form District and is located just southeast of Chenoweth Run Road and also just southeast, a very short distance from the intersection, of the relatively newly opened Blankenbaker Parkway at Taylorsville Road; the site's location provides opportunities for this anticipated community of residents to gain quick and easy access to a place they are already largely traveling to and from, which is one the country's largest workplaces, known by such names as Bluegrass Industrial Park, Commonwealth Industrial Park, Blankenbaker Crossings Business Park and Blankenbaker Station Business Park; also, with opportunities for shopping and dining along Blankenbaker Parkway, Bluegrass Parkway and Taylorsville Road, this is a good location for a new, attractive apartment housing choice for residents who desire to live within short commutes; and

WHEREAS, Del Investments proposes an apartment community, of 1, 2 and 3-story buildings, some with internal and some with detached garages; gross density was reduced between the initial and continuation public hearings from the high to medium density range, which is appropriate (actually called for) along an arterial (Taylorsville Road), near another major arterial (Blankenbaker Parkway Roads) and within a short drive to an interstate highway (I-265); buildings will be constructed of attractive durable building materials (brick and "hardy plank" lap siding) and will feature high-end architectural details, as shown in the PowerPoint presentation at the public hearings; and

WHEREAS, perimeter setbacks and landscape buffer areas are provided along all property lines, in fact by the time of the continuation public hearing actually increased, both as required by the Land Development Code (LDC) and as a good idea to mitigate impacts of building heights, which will screen and buffer resident activities with distance separation and existing tree masses or new landscaping from and as to adjoining property owners; and

GUIDELINE - 2 CENTERS

WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with applicable Policies 1, 4, 5, 7, 11, 13, 14 and 15 of Guideline 2 of the for all the reasons listed above, specifically as it is located next to an active church with a growing congregation and with the church supporting this application, as it sees apartment residents becoming church members with easy walking access to the church which it connects to via internal roads and sidewalks; because it will make efficient use of available property that lies within the Neighborhood Form District and is located near the intersection of two arterial roads which already carry volumes of commuters to and

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from home and work at the above-mentioned overall giant workplace; being located where it is, residents seeking new housing options will have easy access to this workplace, plus the commercial centers along Blankenbaker Parkway, Bluegrass Parkway and Taylorsville Road; and internal open space focal points, such as clubhouse and pool, are included on the detailed district development plan (DDDP) shown at the public hearings; and

GUIDELINE – 3 COMPATIBILITY

WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with applicable Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, and 28 of Guideline 3 for all the reasons described above and because this proposed apartment community is in a medium density range and design comparable to, indeed at a lower density than many, others located along arterial roads; buildings will be mostly 3 stories in height and constructed with attractive building materials comparable to residential communities in the area, as shown on the Studio A Architecture elevations shown at the public hearings; perimeter landscaping, screening and (by the time of the continuation public hearing enhanced setback) buffering will be provided and/or retained along all property lines; buildings are situated and located so as not to disrupt lower intensity adjoiners, such as the single family resident to the west whose property, by the time of the continuation public hearing, has been further protected by additional setbacks and a screening fence; and

WHEREAS, sidewalks are provided where required, and accommodations are made for pedestrian and bicycle transportation as well as the handicapped and elderly; odors won't exist as in commercial and industrial developments, and air quality concerns related to traffic congestion or delay will be mitigated by the fact that this is a residential apartment community purposely located where it is next to a church, thus comprising a small activity center, and also located in close proximity to the above-referenced business parks, thus reducing commuting distances; refuse locations are located away from adjoining residential properties and will be picked up on a regular basis during regular daylight hours; lighting will be residential in character and directed down and away from adjoining properties in conformance with LDC regulations; all signage will be in conformance with LDC regulations; no waivers or variances, except for a height variance, are sought; and

GUIDELINES – 4 and 5 OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES

WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with applicable Policies 1, 3, 5, 6 & 7 of Guideline 4 and with the Intents of Guideline 5 for all the reasons described above and because it will feature open

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space not only interspersed among the buildings, parking areas and streets but also (by the time of the continuation public hearing) enhanced along the property perimeter; open space will be available for both passive and active recreational enjoyment by residents and will include a pool, clubhouse and small seating and other gathering areas throughout for an overall positive appearance and living experience for the community; landscaping will also be provided and/or trees retained along property perimeters, along street frontages and around buildings; setbacks and buffers along property lines will ensure good transitions between the proposed apartment community and other adjoining and nearby existing land uses, enhanced as those perimeter setbacks and buffers were by the time of the continuation public hearing; maintenance of landscaping, natural and open space areas will be performed by the corporate landlord of this rental community; this maintenance arrangement will result in a higher and more consistent level of maintenance of the open spaces than if the property were developed as a single-family subdivision; and no known natural or historic resources will be disturbed; and

GUIDELINE – 6 MARKETPLACE

WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with applicable Policies 1, 2, 4 and 6 of Guideline 6 because, as noted above, residents will largely be those who, because of this proposed apartment community, will be able to reside near work and thus strengthen the live-work relationship which is important to the continuing ability of the larger metro area to function; it will also support and be supported by the businesses, services, schools and churches in and around the nearby growing activity center around Sojourn Community Church next door and St. Michael's Church and school located at Taylorsville Road and the Snyder Freeway interchange; this proposal also reduces public costs for land development by improving the capacity of the major arterial that already exists along this property's frontage and by utilizing the major arterial (Blankenbaker Parkway) located close by, with easy connections to existing infrastructure for water, sewer, electric and phone services; and the apartment community, as proposed, will have also easy access to I-64 and I-265 via the referenced arterial roads in the area, and from there also to other Louisville employment and commercial centers, although the referenced nearby ones are the most important; and

GUIDELINES – 7 (CIRCULATION), 8 (TRANSPORTATION FACILITY DESIGN), and 9 (BICYCLE, PEDESTRIAN AND TRANSIT)

WHEREAS, the proposed apartment community conforms with the overall Intents and applicable Policies of Guidelines 7, 8 and 9 because the proposed DDDP has been designed in conformance with all Metro Public Works and Transportation Planning design policies; good internal circulation, appropriate access, sight distances, corner

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clearances and parking are provided; Blankenbaker Parkway and Taylorsville Road have adequate traffic-carrying capacity, which is demonstrated by the CDM Smith Traffic Impact Study (TIS) and which was evidenced when Metro Transportation Planning's preliminary approval was obtained and demonstrated in an updated TIS at the continuation public hearing, showing that there are no unacceptable levels of service during the morning or evening peak hours; also average daily trips (ADTs) as demonstrated at the continuation public hearing do not exceed those of many similar arterial roads around Metro Louisville; a center turn lane for safety purposes on Taylorsville Road will be provided; sidewalks will also be provided where required; and

GUIDELINES – 10, 11 and 12 - FLOODING AND STORMWATER, WATER QUALITY and AIR QUALITY

WHEREAS, the proposed apartment community conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 because, all drainage will run to internal catch basins and then to sufficiently sized detention basins, and from there to existing drainage channels and onward to Chenoweth Run Creek; in these ways the DDDP complies with all MSD storm water management requirements; this DDDP received the preliminary stamp of approval by MSD prior to docketing for LD&T review; added testimony about the large watershed and drainage improvements was also presented at both the original and continuation public hearings, demonstrating compliance with regulatory requirements and Comprehensive Plan Policies regarding stormwater and water quality; Louisville Water Company will provide water to the site; a soil erosion and sediment control plan will also be implemented to further manage sediment and drainage during construction; MSD water quality regulatory requirements will also be addressed at construction stage; air quality, perhaps most importantly of all, is addressed by virtue of the referenced shorter commuting distances explained hereinabove; and

GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, the proposed apartment community conforms with the overall Intents and applicable Policies of Guideline 13 for all the reasons described above and because landscaping will be provided and/or trees retained around buildings, along the Taylorsville Road entrance and frontage, along internal streets, and along property perimeters as noted above; open space is preserved for a positive natural appearance and for passive recreational enjoyment by residents; tree canopy requirements will be met; and

GUIDELINE 14 – INFRASTRUCTURE

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WHEREAS, the proposed apartment community conforms with the overall Intents and applicable Policies of Guideline 14 because, as noted above, water, sewer, electric, phone and cable service connections are available by nearby connection to ensure a reduced cost for infrastructure; and because sanitary sewer and road widening infrastructure will be provided at the applicant's/developer's cost and expense as explained at both public hearings;

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearings and also in the public hearing exhibit books and on the DDDP, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council, **APPROVAL** of Case No. 16ZONE1020, a zoning change from R-4/R-5 to R-5A based on the staff report and testimony heard today and **ADOPT** the finding of facts submitted by the applicant.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Jarboe, Kirchdorfer, Lewis, Peterson, Smith and Tomes

ABSTAINING: Commissioner Gazaway

Variance from 5.3.1.C.2 to exceed the maximum building height of 35' by 5' making the total permitted building height 40'

WHEREAS, The requested variance will not adversely affect public health safety or welfare since the buildings are located to away from the closest residential development; and

WHEREAS, The requested variance will not alter the essential character of the general vicinity since the 3 story structures are located mainly interior to the site and adjacent to the non-residential use to the east. There is also increased distance between the nearest adjacent residential and one of the 3 story structures; and

WHEREAS, The requested variance will not cause a hazard or nuisance to the public since the 3 story structures are located mainly interior to the site and adjacent to the non-residential use to the east. There is also increased distance between the nearest adjacent residential and one of the 3 story structures; and

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WHEREAS, The requested variance will not allow an unreasonable circumvention of the zoning regulations since the 3 story structures are located mainly interior to the site and adjacent to the non-residential use to the east. There is also increased distance between the nearest adjacent residential and one of the 3 story structures; and

WHEREAS, The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the 3 story structures are located mainly interior to the site and adjacent to the non-residential use to the east. There is also increased distance between the nearest adjacent residential and one of the 3 story structures; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the 3 story structures are located mainly interior to the site and adjacent to the non-residential use to the east. There is also increased distance between the nearest adjacent residential and one of the 3 story structures; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

District Development Plan and Binding Elements

00:06:37

On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted.

WHEREAS, There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site and existing tree canopy is being preserved; and

WHEREAS, Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, The open space proposed is in compliance with the Land Development Code requirements; and

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WHEREAS, The Metropolitan Sewer District has approved the preliminary development plan and will ensure 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; and

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

00:06:37 Commissioner Brown amended the language to binding element number 9 to read as follows: The owner/developer shall construct a center turn lane on Taylorsville Rd. from Rambling Creek Rd. to Bolling Brook Dr. to connect the 3 lane sections to the east and west prior to the issuance of the first certificate of occupancy.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 16ZONE1020, the variance of section 5.3.1.c.2, of the Land Development Code to exceed the maximum building height of 35 feet by 5 feet making a total permitted building height of 40 feet and the Detailed District Development Plan along with the binding elements on pages 15 and 16 of the staff report with binding element number 9 to include, "prior to the issuance of the first certificate of occupancy", based on the staff report, testimony heard today and **ADOPT** the applicant's finding of facts for the variance and Detailed District Development Plan, **SUBJECT** to the following Binding Elements:

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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

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3. 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.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. 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.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owner to the east and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. 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.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system (audible beyond the property line or permitted on the site).

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7. 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.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 19, 2016 Planning Commission meeting.
9. The owner/developer shall construct a center turn lane on Taylorsville Rd. from Rambling Creek Rd. to Bolling Brook Dr. to connect the 3 lane sections to the east and west prior to the issuance of the first certificate of occupancy.
10. The owner/developer shall construct a 6' double sided privacy fence along the west property line shared with the Gaddie property. Twice the amount of required vegetation shall also be planted in the 20' buffer.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Jarboe, Kirchdorfer, Lewis, Peterson, Smith and Tomes

ABSTAINING: Commissioner Gazaway