

**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

Request: Change in zoning from R-4 to R-5A and OR-1 on 1.90 acres with a variance and waivers  
Project Name: Taylor Cove  
Location: 4208 Taylorsville Road  
Owner: Teulu Homes LLC  
Applicant: Teulu Homes LLC  
Representative: Gresham Smith and Partners; Anthony Waits  
Jurisdiction: Louisville Metro  
Council District: 11-Kevin Kramer  
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.

**Agency Testimony:**

Julia Williams presented the case and showed a PowerPoint presentation. She noted that a karst survey was conducted after dirt had been dumped on the site, causing the karst survey to be inconclusive (see Staff Report for detailed presentation).

MSD Attorney, Scott Porter, responded to questions from the Commissioners and stated that the MSD easement could be used for public drainage.

Tony Kelly spoke on behalf of MSD as well and responded to questions from the Commissioners. He stated that MSD sent an Erosion Control Inspector to the site as soon as they became aware that the applicant had started dumping dirt onto the property. A stop-work order was issued and the dirt was moved to the top portion of the site. He does not feel this impaired the results of the karst survey.

**The following spoke in favor of the request:**

Anthony Waits, 11802 Brinley Ave, Suite 201, Louisville, KY 40243  
Jon Henney, 101 S 5<sup>th</sup> Street, Suite 1400, Louisville, KY 40202

**Summary of testimony of those in favor:**

Attorney, Anthony Waits, spoke on behalf of the applicant and stated that the home was in great need of repair at the time his client purchased the property. The applicant saw an opportunity to better use the property and developed a plan to renovate the home for

**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

office or residential use. There was an invasive growth of bamboo on the property that exceeded 2,000 square feet that the applicant wanted to remove, but was unaware of the MSD's requirement for site disturbance. The applicant also wanted to transport a stockpile of dirt from another site to be used for landscaping on this property. This was supposed to be four truckloads in total, but ended up being 13, and a fine was issued from MSD. They have now placed the stockpile in the back of the property. Mr. Waits stated that the original plan was proposed during a neighborhood meeting in September. At that time, they were requesting for the front portion of the property to be zoned commercial and for the back portion, where the proposed buildings would be located, to be zoned R6. Due to feedback from neighbors, they reduced the number of units from 16 to 12, changed the zoning to office from commercial, reduced the size of the office area, and relocated the buildings.

Planner and Landscape Architect, Jon Henney, spoke to the Commissioners regarding the Variance and Waiver requests. The majority of the waivers are being requested with the intention to reduce the footprint of the OR zoning area; the other waiver deals with the drainage easement. Mr. Henney also discussed the required buffer dimensions.

Mr. Henney spoke about sanitary sewers and how they would connect to the existing system on adjacent Houston Acres and spoke about storm drainage. Today, water is coming offsite from east to west and entering an existing MSD easement along the west side of the property. They propose to collect this storm water and send it through pipes to a detention basin in the southwest corner of the site.

Regarding traffic, Mr. Henney stated there are over 25,000 trips a day along Taylorsville Road. Using the ITE Trip Generator Manual, he estimates that the total number of trips during the PM peak hour would increase by approximately 13.5, which is not significant.

Proposed buildings will only be two stories high.

Commissioner Kirchdorfer raised concern about the dumpster being located too far from the apartment buildings. Mr. Henney said the dumpster location was chosen due to concern for it being too close to neighboring properties. It can be moved, if necessary.

Commissioner Carlson asked what type of landscaping would be provided. Mr. Waits stated that there is no landscape plan at this time, but it will be a requirement to obtain future permits. They are willing to provide landscaping that will be acceptable to all parties. They will also make an effort to preserve existing landscaping if this is what the neighbors would like. Commissioner Carlson recommended the planting of tall evergreen trees for screening, as well as the installation of temporary fencing for light

**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

mitigation while the trees mature. Mr. Henney stated they are happy to work with neighbors to provide the best screening.

In response to Mr. Carroll, Mr. Waits stated that a karst survey was completed after dirt was dumped on the property, the results of which stated that no karst features were observed on the site.

Mr. Jarboe questioned whether or not landscape buffering was discussed during the previous neighborhood meeting. Mr. Henney stated he was not sure if specific types of screening were discussed during the meeting, but they will do their best to preserve existing plant life along the property lines.

**The following spoke neither for nor against the request:**

Lee Walker, 4229 Taylorsville Road, Louisville, KY 40220

**Summary of testimony of those neither for nor against:**

Neighbor, Lee Walker, questioned whether a traffic analysis was performed and what the outcome was, if so. He wonders if a turning lane should be constructed to alleviate potential traffic issues. He hopes to see sufficient landscaping between the apartments and the existing subdivision. He wonders if MSD conducted an analysis to determine if this development will create drainage that will exceed the capacity of the existing infrastructure. And if additional infrastructure is required, he asked about how that will impact the surrounding area.

In response to Mr. Walker's concerns, Mr. Henney stated that a trip generation was provided to Public Works as part of their preliminary review for the development plan. They did not receive a request in return from Public Works to perform traffic analysis or provide additional information. The applicant plans to provide adequate landscaping throughout the property, but there is no landscape plan at this time.

Tony Kelly, of MSD, stated that the project will be required to meet the minimum predevelop flow rate. The detention basin and all through-drainage will be put in an easement. MSD has already reviewed the sanitation infrastructure on this property and found that it meets requirements.

**The following spoke in opposition to the request:**

John Singler, 209 Old Harrods Creek, Road, Suite 100, Louisville, KY 40223  
Charles Bartman, 4302 Martha Avenue, Louisville, KY 40220

**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

Corey Able, 4216 Hewitt Avenue, Louisville, KY 40220  
KC Kehoe, 3005 Houston Blvd., Louisville, KY 40220  
Dean Donovan, 3010 Michael Drive, Louisville, KY 40220  
Scott Medley, 4218 Hewitt Avenue, Louisville, KY 40220  
Metisa Lauago, 7503 Six Mile Lane, Louisville, KY 40220  
Don Wainwright, 3006 Houston Blvd., Louisville, KY 40220  
Judy Robison, 3113 Houston Blvd., Louisville, KY 40220  
Shawn Sales, 3008 Michael Drive, Louisville, KY 40220  
Roy Denny, 4207 Dolphin Road, Louisville, KY 40220  
Patrick D. Murphy, 4303 Taylorsville Road, Louisville, KY 40220  
Dennis Jones, 2505 Post Court, Louisville, KY 40220  
Bette Blue, 3104 Hewitt Avenue, Louisville, KY 40220  
Tolis Simon, 4121 Taylorsville Road, Louisville, KY 40220

**Summary of testimony of those in opposition:**

John Singler is an attorney representing the City of Houston Acres. He stated that the city is in opposition to the proposal. He feels that the ten foot drainage easement is not large enough to allow for the construction of a proposed pipe or drainage ditch without an additional construction easement. Private property of adjacent property owners would have to be used. Neighboring property owners told him that they were not contacted by the applicant regarding an easement.

Mayor of Houston Acres, Charles Bartman, stated that there are sinkholes on property. One of these in the rear of the property is eight feet across and full of debris. Most of Houston acres and the properties to the east have large sinkholes. One is currently fenced off along Martha Avenue because it's large enough for person to fall into. He also stated that Houston Acres would be more open to this project if the buildings would be constructed as one story rather than two stories. Storm water drainage will be a problem as well. There is already a lack of water flow coming from the site into the easement. He would like to see proof that the easement can be used.

Corey Able showed the Commissioners a presentation regarding the following points:

- A density increase in this neighborhood could potentially increase crime.
- Unlike what was previously stated by the applicant's representation, landscape buffering and screening were discussed during the community meetings. They did ask for a landscape plan, and this wasn't provided.
- It is not possible to have the pedestrian access to the site that is being proposed.
- Two stop work orders have been placed on the project so far.
- Single family homes would be acceptable, but condominiums do not fit the façade of the community.

**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

KC Kehoe is a neighbor who feels that the development will destroy the character and appeal of the neighborhood. He also has concerns with karst features and storm water drainage.

Dean Donovan submitted a collage of site photographs into the record. He is happy with the property as it is currently and does not feel that this project will increase the charm or desirability of the neighborhood. He believes that when the home was restored, lead paint had been pressure washed off the side of the home, which is a health hazard. He also has concerns about storm water drainage.

Scott Medley is a neighbor who feels that the applicant's representation did not provide neighbors a chance to prepare a formal response to this proposal or to make any reasonable requests. He believes sinkholes were deliberately filled so that karst tests could be passed. He also brought up issues like storm water drainage, fire safety, and lack of a landscape plan.

Metisa Lauago mostly spoke to the Commissioners regarding the environmental impact of this project. She is concerned that tree canopy will not be preserved and she disagrees with a number of items on the staff report. She has observed that the open space on the site is a natural corridor and that this project would destroy the natural habitat in this area.

Don Wainwright stated that at the neighborhood meeting, he was trying to ask a question about zoning but was cut off and was not given the opportunity to get his question answered. At the end of the opposition's testimony, Mr. Wainwright asked again how rezoning this site would benefit the neighborhood. In response, Mr. Waits clarified that they are seeking OR rezoning, not commercial. Some benefits he mentioned were diversity in housing and the use of a 100 year old residence as a home or office.

Judy Robison stated that she is concerned about how the resale value of her home will be affected once this project is complete. At this time, there is greenspace behind her backyard; after construction, there will be condominiums. She is also concerned about the increase in lighting and noise.

Shawn Sales spoke on behalf of himself and his mother, Mildred Sales. His mother has owned a home on Michael Drive since 1955. He and his mother are unhappy that a garbage disposal will be behind their house.

**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

Roy Denny stated that there is a small creek that runs through the back of his property and, he is concerned that storm water will flood this creek. Traffic is also a concern of his, and he feels that a traffic study should be conducted.

Patrick D. Murphy is an architect and licensed real estate broker. He stated this project does not fit in the context of this neighborhood and he cannot imagine what the neighborhood would look like after its completion. This is too much development for the size of the property. He also said that he asked the developer during the neighborhood meeting if they could consider R4 zoning. The developer said no and did not provide a reason.

Dennis Jones is a lifelong resident of this area who delivered newspapers in this neighborhood as a boy. He saw both drainage issues and sinkholes throughout the neighborhood while delivering papers. He was bothered by the fact that the developer filled the holes prior to the karst survey and feels that most competent developers know that this should not be done before a project begins.

Bette Blue spoke about her concern that her basement will flood during heavy rains as a result of this project.

Tolis Simon used to live in the house that was restored and stated that the yard does hold water during rainstorms and the basement does leak. He is also concerned about the character of the neighborhood being affected by the project.

Commissioner Jarboe asked Mr. Singler to clarify his earlier testimony. Mr. Singler explained that the easement is only ten feet wide. As it currently sits, they cannot get a piece of equipment through it. So they would have to get approval from the property owners for a temporary construction easement, and they have not done this.

Commissioner Brown asked Mr. Kelly if the easement would be necessary. Mr. Kelly stated that MSD's legal counsel has stated that it is public drainage and the developer has the right to use it. But in order to do improvements, they will have to have an agreement with the adjacent property owner who owns the land the easement is on and an agreement with MSD to do work within their easement. In the event that the developer and property owners are unable to come to an agreement, the engineer would have to limit his or her work to the edge of their property line and outlet the water to the developed flows that MSD approved at the property line.

**Rebuttal:**

**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

Mr. Henney addressed the drainage and traffic concerns and stated that the number of trips this project will generate is not sufficient to require a traffic study. He reiterated that they are requesting OR1 zoning, not commercial, which was changed to accommodate the requests of the neighbors.

Mr. Waits stated that material was not placed on the property to change the results of the karst survey. He also stated that lighting will be mitigated as much as possible and that they would work with staff to determine the type of landscape buffering that will be installed. He noted that over \$30,000 has been spent on engineering plans in an attempt to accommodate neighbors.

Ms. Williams stated that when a site is found to have karst features, the developers are asked to show the location of the karst features on the plan. Since no karst features were found on this site, only a note was placed on the plan. The karst survey was conducted on July 22, 2016, and the dirt was dumped on the property prior to this date.

**Deliberation:**

Commissioner Kirchdorfer stated that he does not feel that the zoning request will be intrusive or will increase density too much. He stated that this decision regarding the variance and waivers would have been easier had a landscape plan been provided by the applicant, but he is glad to see the additional binding elements. He does not see an issue with the condominiums being two stories high.

Commissioner Howard feels that the proposed site use and density are appropriate. She agrees that two story buildings will not be a problem, but would like to see the windows arranged to have less of an impact on adjoining properties. She would like to see existing trees along the south and west property lines preserved and more trees added for screening. She has concerns about drainage, but realizes that this is a preliminary plan and that the developer cannot get a construction permit without MSD's approval.

Commissioner Carlson feels that OR rezoning is appropriate and the density proposed for the R5A area is reasonable, particularly because the enhanced landscaping will mitigate the visual impacts of the project. He feels that the resale value of the adjacent properties will not be adversely impacted by this project. Traffic will not be significantly impacted.

Vice Chair Lewis stated that she has trouble with the lack of cooperation between the parties involved with this project. She feels that a lot of time was spent working out details that should have been addressed between the developer and neighbors prior to

**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

this meeting. She thinks the developer has made concessions by reducing what was initially asked for. The type of housing is appropriate and offers variety to the neighborhood. She feels that the density and zoning are appropriate, as well as the variance and waivers. She trusts that Staff will work with the developer on the landscape plan.

Commissioner Smith was concerned with drainage, but MSD's testimony put the issue into perspective for her. She feels the development conforms to Cornerstone 2020 requirements. Preserving trees and having an appropriate landscape buffer are important. Residents of Houston Acres have the right to be concerned about maintaining their property values. Adding attractive landscaping will help maintain property values.

Commissioner Brown is supportive of this type of diversity in housing, especially with the kind of amenities that are in this area. There is a major arterial access to two large activity centers to the east and west. He feels that the applicant has a right to the proposed building height with R4 and R5A zoning. It is not uncommon to see this type of development in areas like this.

Chair Jarboe applauded the opposition for putting together a good case. He understands the frustration on behalf of the applicant because this is the preliminary phase of the project and many details are not yet available. This project will be appropriate for the area.

On a motion by Commissioner Carlson, seconded by Vice Chair Lewis, the following resolution was adopted:

**Change in zoning from R-4 to R-5A and OR-1**

**WHEREAS**, the Louisville Metro Planning Commission finds that 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 Commission further finds that 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



**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

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 Commission further finds that 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 provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit, and

**WHEREAS**, the Commission further finds that 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 Commission further finds that 41% of the site is in existing tree canopy where 0% is being preserved as TCPA. Prior to the formal application of the change in zoning vegetation was removed from the site and dirt dumped and spread on the site. It is unclear how this has affected the natural features on the property, and

**WHEREAS**, the Commission further finds that the proposal has one entrance to the site and does not share access or parking with the adjacent low density single family uses. Parking is located at the rear of the site. The proposal is served by all types of vehicles along Taylorsville Road due to the existing bike lane. A sidewalk is also proposed along the frontage to accommodate pedestrians and transit users. The proposal is a non-residential expansion into a low density single family residential area. Buffers and setbacks are being provided. Traffic will enter/exit to/from a major arterial. The proposal is for a medium density zoning districts but is located on a multi-modal major arterial and in the vicinity of other similar or more intense zoning. Building setbacks and buffers are being met on the site with the exception of an internal landscape buffer waiver and the encroachment of a drive lane 3' into a setback along the east property line. All landscape requirements along the site perimeter will be met on the site to mitigate the transition from medium density residential to the adjacent low density residential. The proposed building heights are more compatible with the existing 2 story building heights

**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

that can be found in the residential along Taylorsville Road than the 1 story ranch style homes found in the adjacent Houston Acres, and

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

**WHEREAS**, the Commission further finds that a checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission, in Case Number 16ZONE1026, does hereby **RECOMMEND** for **APPROVAL** the change in zoning from R-4 to R-5A and OR-1 based on the Staff Report and the testimony heard today.

**The vote was as follows:**

**Yes: Howard, Kirchdorfer, Smith, Lewis, Brown, Carlson, and Jarboe**

**Absent: Turner, Peterson, and Tomes**

**Abstain: None**

**No: None**

On a motion by Commissioner Carlson, seconded by Vice Chair Lewis, the following resolution was adopted:

**Detailed District Development Plan**

**WHEREAS**, the Louisville Metro Planning Commission finds that There do not appear to be any environmental constraints on the subject site. The existing 1907 constructed home is being preserved and reused as an office. Tree canopy requirements of the Land Development Code will be provided on the subject site, and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community

**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

has been provided and Metro Public Works has approved the preliminary development plan, and

**WHEREAS**, the Commission further finds that open space requirements of the Land Development Code are being met on the site, and

**WHEREAS**, the Commission further finds that 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 Commission further finds that 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 meet all required setbacks, and

**WHEREAS**, the Commission further finds that the development plan generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, and

**Variance from 5.3.1.C.5 to reduce the required 15' setback along the east property line to 12' (3' Variance)**

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare since the encroachment is being mitigated by the compliance with the landscape requirements within the buffer, and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the encroachment is to accommodate a driveway and the landscape buffering will still be met along the property line with the encroachment, and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the encroachment is to accommodate a driveway and the landscape buffering will still be met along the property line with the encroachment, and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed driveway

**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

encroachment will still allow for the required screening and planting materials in the LBA to be installed, and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the same zone as this variance arises from the applicant wanting to preserve existing trees in an island that separates an existing driveway from a proposed drive lane, and

**WHEREAS**, the Commission further finds that the strict application of the regulation would deprive the applicant of reasonable use of the land since the buffer requirements along the driveway will be met and the encroachment is due to an effort to preserve trees, and

**WHEREAS**, the Commission further finds that the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought, and

**Waiver from 10.2.4.A to permit parking and a sidewalk to encroach into the 15' LBA between OR-1 and R-5A zoning and to eliminate the required 6' screen**

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the waiver is interior to the site and on the same lot, and

**WHEREAS**, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of 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 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 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is

**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

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 airborne and waterborne pollutants. The preservation of the existing home for an office and the proposed multi-family are compatible uses on the same lot. Buffers are being provided where the zoning is adjacent to lower density uses, and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the waiver is interior to the site and the residential character will be maintained on the site, and

**WHEREAS**, the Commission further finds that 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 since the waiver is interior to the site and the residential character will be maintained on the site, and

**Waiver from 10.2.4. A to permit the encroachment of a drive lane into the 15' LBA along the east property line**

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the planting and screening requirements will still be met on site, and

**WHEREAS**, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of 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 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 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. 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

**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The site will be compatible since the planting and screening requirements will still be met on site, and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the planting and screening requirements will still be met on site, and

**WHEREAS**, the Commission further finds that 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 since the planting and screening requirements will still be met on site, and

**Waiver from 10.2.4.B to allow a utility easement to encroach into an LBA along the west property line by more than 50%**

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the planting and screening requirements will still be met on site, and

**WHEREAS**, the Commission further finds that Guideline 3, Policy 9 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call 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 noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. 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 airborne and waterborne pollutants. The intent of the landscape buffer will still be met since the planting and screening requirements will still be met on site, and

**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the easement overlap is due to a detention basin that will help drainage on the site and since the planting and screening requirements will still be met on site, and

**WHEREAS**, the Commission further finds that 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 since the planting and screening requirements will still be met on site; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission, in Case Number 16ZONE1026, does hereby **APPROVE** the Variance, Waivers, and Detailed District Development Plan on the condition that the plan is amended to show the dumpster's new location interior to the site, based on the Staff Report and **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. The development shall not exceed 2,420 square feet of gross floor area for the office use.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:

**PLANNING COMMISSION MINUTES**  
**November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

- 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. 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.
  7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
  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 14, 2016 Planning Commission meeting.
  10. The applicant shall work with Planning and Design staff in filling the gaps in the existing perimeter landscaping with 12' (at time of planting) evergreens that will both block headlights and also screen the proposed 2 story structures from the adjacent properties. Landscaping will also be added along Taylorsville road. The



**PLANNING COMMISSION MINUTES  
November 14, 2016**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1026**

landscape plan shall be reviewed and approved by a committee of the Planning Commission before staff approval.

11. The dumpster will be relocated interior to the site and screened per Chapter 10.

**The vote was as follows:**

**Yes: Howard, Kirchdorfer, Smith, Lewis, Brown, Carlson, and Jarboe**

**Absent: Turner, Peterson, and Tomes**

**Abstain: None**

**No: None**