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.

Waiver of Section 10.3.5.A of the LDC to allow buildings 6 & 7 to encroach into the 75 ft Parkway setback and the roadway connection to Laurel Springs Drive to be located in the 50 ft Parkway buffer.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because building #6 and #7 are the only building encroaching into the Parkway setback. These buildings only slightly encroach into the Parkway setback which results from the irregular right-of-way pattern on S. Hurstbourne Parkway, with the building being set back the same distance from S. Hurstbourne Parkway as the other buildings, and being approximately 83' from the property line if the traditional right of way line were followed (ie. not the irregular shape of the ROW). The encroachment of the roadway connection to Laurel Springs Drive will not adversely affect adjacent property owners because the roadway connection has been moved to within the buffer to accommodate the requests of the only adjoining residential neighbors on Laurel Springs Drive. These neighbors have requested that the applicant preserve the existing fence and tree line on Laurel Springs Drive, necessitating the relocation of the access roadway to the area in question. As a result, there will be no adverse impact to adjacent property owners.

2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Goals, Objectives, and Policies of the Comp Plan 2040 filed with the rezoning application.

3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because building #6 and #7 are proposed in line with the other buildings on the development plan and changing the location of buildings #6 and #7 only to comply with the strange right of way configuration would be good planning. Further, the relocation of the access roadway into this area is the minimum necessary to allow the preservation of the fencing and trees the neighbors wish the applicant to preserve.

4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the waiver is necessary in order to the keep the uniform appearance of the buildings along S. Hurstbourne Parkway. Further, the relocation of the access roadway can only accomplish the request to leave the fence and the vegetation if it is located within the buffer as shown.