

Docket No. 19-ZONE-0049

Change in zoning from R-5 to OR-1 to allow the existing location, currently being used as professional medical office as a legal, non-conforming use, to continue to be used as a professional medical and/or office building at
3700 Brownsboro Road

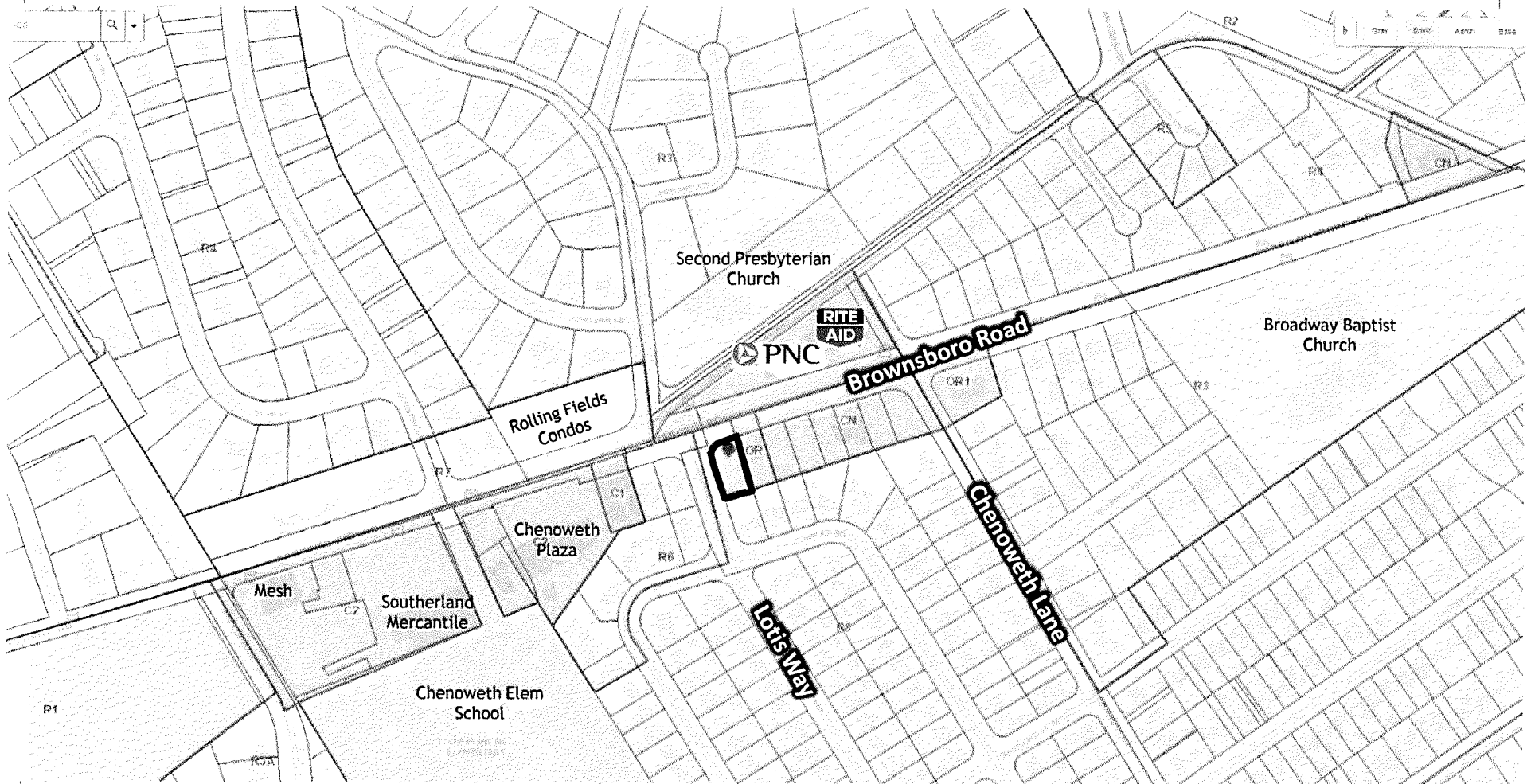
c/o Drs. Steven Burton & Betty Burton



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Zoning Map





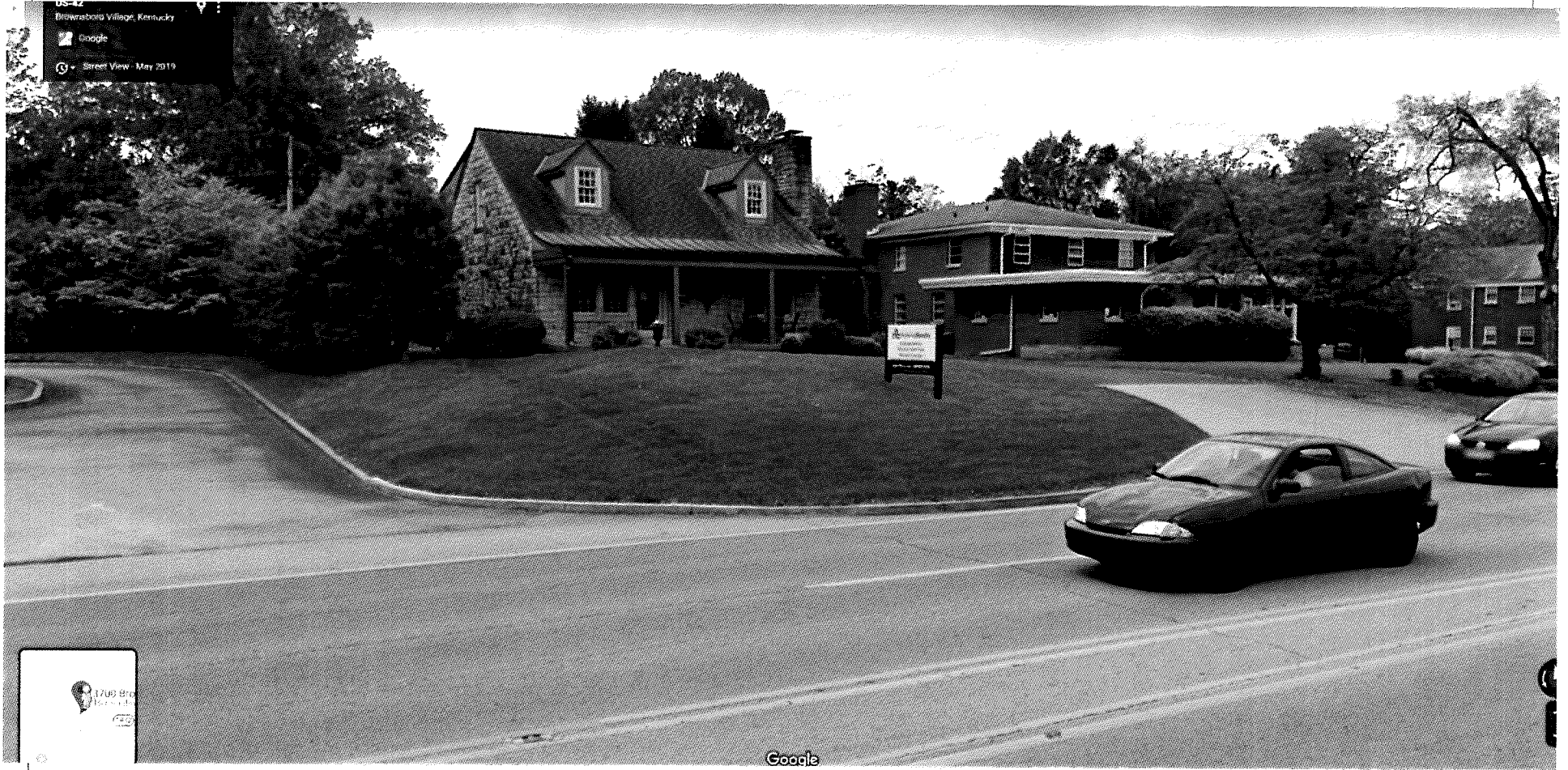
3700 brownsboro road



View of site from Brownsboro Road



View of site from Lotis Way showing the parking.

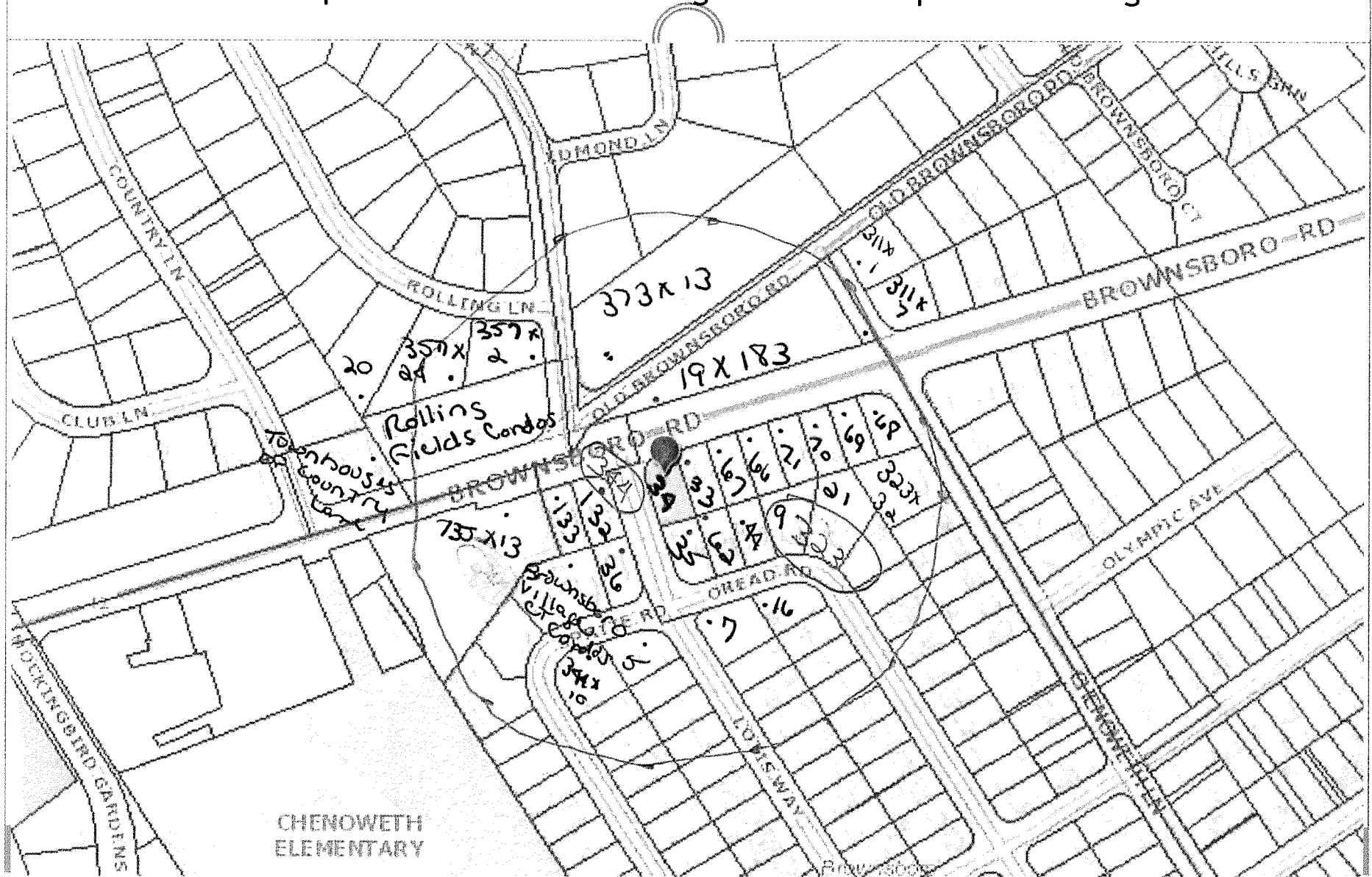


View of adjacent office (Preferred Benefits Health Plans).



View of existing retail across Brownsboro Road from site.

Adjoining property owner notice list map wherein 37 neighbors plus those on the DPDS "interested party list" were invited to the neighborhood meeting and subsequent LD&T and Planning Commission public hearing.



BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

1000 N. HURSTBOURNE PARKWAY • BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG. • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
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John C. Talbott
Direct dial: 426-0388, ext. 133
Email: JOHN@BARDLAW.NET

August 14, 2019

Dear Neighbor,

RE: Proposed change in zoning from R-5 to OR-1 to allow the existing location, currently being used as a professional medical office as a legal, non-conforming use, to continue to be used as a professional medical and/or office building on approximately 0.23 acres located at the eastern corner of Brownsboro Road and Lotis Way at 3700 Brownsboro Road

We are writing to invite you to a meeting we have scheduled to present neighbors with our zone change plan to allow the existing building, currently being used as a professional medical office as a legal, non-conforming use, to continue to be used as a professional medical and/or office building located at the above location.

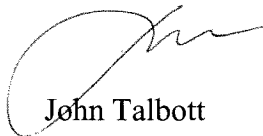
Accordingly, we have filed a plan for pre-application review with the Division of Planning and Design Services (DPDS) that has been assigned case number **19-ZONEPA-0039** and case manager Joel Dock. We would like to show and explain to neighbors this plan so that we might hear what thoughts, issues and perhaps even concerns you may have.

In that regard, a meeting will be held on **Wednesday, August 28th at 7:00 p.m.** at the **Second Presbyterian Church, in Room 251**, located at **3701 Brownsboro Road**. *(Pull around the back and enter through door 6. Take a right once inside, pass the library to the first meeting room - #251.)*

If you cannot attend the meeting but have questions or concerns, please call me at 426-6688 or the land planning and engineering firm representative Mike Hill at 426-9374.

We look forward to seeing you.

Sincerely,



John Talbott

cc: Honorable Mark Joyce, Mayor, Brownsboro Village
Carrie Ritsert, city attorney, Brownsboro Village
Hon. Bill Hollander, Councilman, District 9
Joel Dock, case manager with Division of Planning & Design Services
Mike Hill, land planner with Land Design & Development, Inc.
Steven & Betty Burton, Applicants

Neighborhood Meeting Summary

A neighborhood meeting was held on Wednesday, August 28th at 7:00 p.m. at the Second Presbyterian Church, in Room 251, located at 3701 Brownsboro Road. Those in attendance included the applicant's representatives, John C. Talbott attorney with Bardenwerper, Talbott & Roberts, and Mike Hill, land planner and engineer with Land Design & Development, Inc. as well as the applicants Drs. Steven and Betty Burton.

The only person to come to the meeting was the Mayor of Brownsboro Village, Mark Joyce, who was already familiar with the plan. Regardless, at his request, we went through the entire power point presentation.

We showed the zoning around the area, particularly the zoning nearby along Brownsboro Road, which is a major arterial and a state road. It was explained that this property had been operated as a dental office since it was constructed in the 1950s through a progression of four different dentists. It is currently operated as a dental office on the ground floor by Dr. Betty Burton who has owned the property since around 1996. The Burton's rent the upstairs as an apartment.

The rezoning request is being made to allow the Burton's to sell the property and remove any question about whether it can be operated as an office for other professions, such as legal, accounting or insurance of instance. It is believed that this would qualify as a legal, non-confirming use regardless, but the Burtons are concerned that any question about the legal use would negatively reflect in the sale price. It was also explained that the OR-1 zoning classification is being sought to allow some flexibility in the event a future owner preferred to use the property for multi-family as the site could likely accommodate up to four apartments with its current footprint and square footage.

It was also explained that no changes would be made to the exterior of the building or the parking, all of which would remain as they are currently configured and how they have been in existence for decades.



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STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GOALS, OBJECTIVES AND POLICIES OF THE PLAN 2040 COMPREHENSIVE PLAN

Applicant & Owners: Drs. Steve & Betty Burton

Location: 3700 Brownsboro Road

Proposed Use: Office

Engineers, Land Planners and
Landscape Architects: Land Design & Development, Inc.

Request: Zone change from R-5 to OR-1

COMMUNITY FORM

Goal 1 – Guide the form and design of development to respond to distinctive physical, historic and cultural qualities.

The proposed zone change and detailed district development plan (DDDP) complies with applicable Objectives a, b, c, & f and applicable Policies 1, 2.1, 3.1.8, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, 27 & 28 as follows:

The proposed change in zoning to OR-1 complies with Goal 1 in several ways. First, this development will take an existing legal, non-conforming office building and modify same only to the extent of allowing OR-1 uses which is consistent with the Neighborhood Form District and will continue to allow property to provide low intensity office services to serve the surrounding suburban residential areas. The subject property is located in a Neighborhood Form District which contemplates the location of “civic uses and neighborhood centers with a mixture of uses, such as offices, retail shops, restaurants and services.” The existing dentist office and future office users provide services needed nearby the thriving commercial area and adjoining a densely populated residential area which it will serve along the major arterial and state road (Brownsboro Road). This type of service for professional offices is ideally suited for the Neighborhood Form District as the type of low intensity commercial use commonly situated near residential areas. The rezoning will also reduce traffic by providing needed services close to residential areas and most likely being used as an office for one of the many professionals in the immediate area of Brownsboro Village, St. Matthews, Rolling Fields, or Indian Hills.

The property is located near other commercially zoned property, retail and strip centers, a bank, real estate office and pharmacy along Brownsboro Road and near the Chenoweth Lane intersection. The rezoning will bring the site into compliance for future office users and remove any concern or cloud over the property for a future potential purchaser. The new use will continue to serve the area and position the overall property to adapt readily now and in the future to new market demands. The property will continue to have parking along Lotis Lane with a sidewalk from its entrance to Lotis Lane consistent with the Neighborhood goal.

The development and proposed zone change will remain compatible with the scale and site design of nearby existing developments because no physical changes are being proposed to the already developed building or site. Again, the property is used as a dental office on the first floor and the expectation is that it will be sold to another professional office user.

The property will continue to allow a mixture of densities through the rezoning with original buffers already in place and landscaping fully developed. As a result, the appropriate buffers are already in place such that this rezoning will not cause the expansion into residential areas or change or impact to the residential areas. The proposed rezoning will continue to locate the higher density and intensity uses near the major arterial and primary collector of Brownsboro Road. Ultimately, this project will allow for the continued operation of the existing dentist office business or other professional office use.

Goal 2 – Encourage sustainable growth and density around mixed-use centers and corridors.

The proposed zone change and DDDP complies with applicable Objectives b & d and Policies 1, 2, 5, 6, 7, 9, 10, 12, 13, 14, 15, 16, & 17 as follows:

The proposed change in zoning from R-5 to OR-1 to officially sanction the office type use will encourage sustainable growth and avoid the above referenced potential decline and will continue to provide density around a mixed-use center and along commercial corridors by placing density compatible with the Neighborhood Form and existing infrastructure. The design and density are appropriate with adjacent uses that will serve the needs of the surrounding community as they will not change from what exists at the site other than the type of profession likely using the site. This site is located in an established section of eastern Metro Louisville, where through a combination of design measures and the nature of the use itself, will not create any nuisances for surrounding residential properties. Office and residential uses are frequently located adjacent to each other and encouraged to do so because of the relatively low intensity and to reduce traffic by placing services and employment close to the residential areas.

Goal 3 – Enhance neighborhood by protecting and integrating open space, watershed and other natural resources.

The proposed zone change and DDDP complies with applicable Objectives a, c & d and Policies 9, 10 & 12 as follows:

The proposed development plan will enhance the surrounding neighborhoods by not diminishing any open space or natural resources. The zoning change will not impact any flood prone areas, nor will it impact any wet or permeable soils or steep slopes. The proposal avoids any change in topography and does not increase any environmental changes or damage. The landscape buffers and setbacks will continue to provide the community transitions between the site and the surrounding residential properties. Moreover, the existing detention basins will continue to limit any issues with flooding or standing water with no new impervious surface proposed, while respecting the natural features of the property and protecting the health, safety and welfare of the adjacent properties and future uses of the development.

Goal 4 – Promote and preserve the historic and archaeological resources that contribute to our authenticity.

The proposed zone change and DDDP complies with applicable Objective b and Policies 1 & 2 as follows:

The site is designed to be compatible with the surrounding land uses through the continued use of the existing structure as a professional office, which consists of durable, residential style building materials, including brick. The property will have parking where it already exists on Lotis Way, with a sidewalk to the entrance facing Brownsboro Road. Noise and odors from offices is nonexistent. Further, hours of operation will only be during times when area residents are awake. No changes in lighting will be made, but if any is added it will be in accordance with Land Development Code. Offices, being neighborhood serving uses, are often appropriate transitions to higher intensity uses (such as exist south of this site) and they provide a good transition, particularly as a transition from the major arterial (Brownsboro Road) to the residences in the City of Brownsboro Village.

MOBILITY

Goal 1 – Implement an accessible system of alternative transportation modes.

The proposed zone change and DDDP complies with applicable Objectives a, b, c & e and Policies 1, 3, 4, 7 & 14 as follows:

The development plan evidences the current existing physical condition of the property which contains an accessible system of alternative transportation modes of travel through connections between the uses for bicycles and pedestrian traffic. The site is served by public transportation through multiple TARC bus lines adjacent to the property. The development and nearby retail/commercial uses are located on a major arterial of Brownsboro Road encouraging efficient access and minimizing distances of travel. It also continues to place higher density and intensity near existing commercial corridors and along the major arterial and primary collector with TARC service available.

Goal 2 – Plan, build and maintain a safe, accessible and efficient transportation system.

The proposed zone change and DDDP complies with applicable Objectives a, b, c & d and Policies 1, 2, 4, 5, 6, 7, & 8 as follows:

The development plan complies with the objectives and policies of Goal 2 by promoting safe, accessible and efficient transportation uses by accommodating pedestrian, bicycle and vehicular access which are already part of the development. The site distances for the curb cuts will not change and are adequate for the area. The internal circulation of pedestrian and vehicular traffic is appropriate with the connected walkways and shared access, parking, etc. The entrances are compatible with surrounding development and aesthetically pleasing to adjacent areas. Further, the office use will likely be utilized by a professional wanting to locate her or his office close to their residence in the many surrounding residential areas, thereby reducing traffic during peak hours across the Metro area.

Goal 3 – Encourage land use and transportation patterns that connect Louisville Metro and support future growth.

The proposed zone change and DDDP complies with applicable Objectives a, b, c, & d and Policies 1, 2, 3, 4, 5, 7, 10, 12, 14, 17, 18, 20 & 24 as follows:

The development plan complies with the objectives and policies of Goal 3 by providing walking and bicycling opportunities with the sidewalks and interconnected walkways and by providing a mix of complimentary neighborhood serving businesses, services and reducing miles travelled by car by providing the activity center the tools to survive into the future. The plan will not burden the transportation network but will allow the site to continue to be consistent with the purpose of the Neighborhood. The plan is consistent with long range transportation plans of the community by placing services and areas of employment close to populated areas. The parking requirements of the site consider the density of the use and the character and pattern of the Form District in that it will continue to serve the community in the same way that it currently serves. The plan also satisfies the policy of supporting biking and pedestrian travel by providing for those modes of access.

COMMUNITY FACILITIES

Goal 2 – Plan for community facilities to improve quality of life and meet anticipated growth.

The proposed zone change and DDDP complies with applicable Objective b and Policies 1, 2, & 3 as follows:

This development plan is not a community facilities plan, but it does locate development in areas currently served by existing infrastructure, it has adequate water supply and access to sewers so as to not burden existing or future community facilities.

ECONOMIC DEVELOPMENT

Goal 1 – Provide an economic climate that improves growth, innovation, investment and opportunity for all.

The proposed zone change and DDDP complies with applicable Objectives a, c, d, f & h and Policies 3, 7, & 9 as follows:

This development plan complies with Goal 1 of Economic Development as it provides economic climate that improves growth, innovation, and investment opportunity for all by making certain the site can continue to be used and reused for professional office uses, and potentially multifamily residential, which is also commonly found along this area of Brownsboro Road, all of which will serve the surrounding community. It locates these new potential uses in an area with existing infrastructure in an efficient manner increasing economic opportunities in the area. It will also provide opportunities to small businesses thereby increasing economic opportunity to business owners and employment.

Goal 2 – Cultivate a vibrant, unique city that attracts, retains, and develops a highly-skilled workforce.

The proposed zone change and DDDP complies with applicable Objectives a, b, c, d & f and Policies 1, 3, 4, 5, & 7 as follows:

This development plan complies with Goal 2 of Economic Development as it enhances the quality of life in the area by reusing and readapting the current use which is very difficult to replace in the current market environment, while at the same time protecting and improving the economic value of the surrounding areas by assisting the economic viability of the activity

center. It also satisfies the goal and policy of infill development to take advantage of the existing infrastructure. The existing professional office complies with these Goals and Objectives because the proposed office will also provide opportunities for employment close to the residential properties and nearby population. Also, it is located on a major arterial, providing good access, where nuisances and activities will not adversely affect adjacent areas. Potential users will be users that are compatible with the area, such as families with children.

LIVABILITY

Goal 1 – Protect and enhance the natural environment and integrate it with the built environment as development occurs.

The proposed zone change and DDDP complies with applicable Objectives d & e and Policies 7, 12, 17 23, 25, 26, 27, 28, 31, 32, 35, & 39 as follows:

The development plan complies with the objectives and policies of Goal 1 of Livability element in that it does not change any use or structures on the property, thereby not causing any new impacts, other than those which have existed for decades since the building was constructed in the 1950s.

Goal 2 – Ensure equitable health and safety outcomes for all.

The proposed zone change and DDDP complies with applicable Objectives a, b, c & d and Policy 8 as follows:

The development plan complies with the objectives and policies of Goal 2 of Livability element by providing opportunities for employment at the professional office and potential future office users close to the residential properties and nearby population. Also, it is located on a major arterial, providing good access, where nuisances and activities will not adversely affect adjacent areas.

Goal 3 – Ensure equitable access to land use planning and Policy-making resources.

The proposed zone change and DDDP complies with applicable Objective c and Policies 1, 2, & 4 as follows:

The development plan complies with the objectives and policies of Goal 3 of Livability element providing equitable access to the land use planning and policy resources by providing the surrounding residents and property owners notice of the rezoning change and explanation of the grounds for doing so, notice of all public meetings, by providing the neighborhood meeting, and by providing an opportunity for area involvement in the plan design and sought-after zoning changes.

Goal 4 – Integrate sustainability and resilience in community planning processes.

The proposed zone change and DDDP complies with applicable Objectives a, b, c, e & f and Policies 1, 2, & 8 as follows:

The development plan complies with the objectives and policies of Goal 4 of Livability element by providing and enhancing choices for mobility and encouraging clean air by reducing miles driven by providing needed services to an area needing such services. It also provides needed

services in and along high capacity transit corridor of Brownsboro Road supporting public transportation with the medium and high intensity uses.

HOUSING

The proposed zone change and DDDP complies with applicable Objectives and applicable Policies of Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities in an existing building near residential areas, thereby strengthening and supporting the housing in the area. This use will facilitate connected and mixed-use areas and ensure long term affordability and living options for all in the community.

* * *

For all of these and other reasons set forth on the Detailed District Development Plan/preliminary subdivision plan accompanying this application and in accordance with evidence to be presented at Planning Commission public hearings, this application will comply with all other applicable Objectives and Policies of the Plan 2040 Comprehensive Plan.

Respectfully submitted,

BARDENWERPER, TALBOTT & ROBERTS, PLLC
Bardenwerper Talbott & Roberts, PLLC
1000 N. Hurstbourne Parkway, Second Floor
Louisville, KY 40223
(502) 426-6688

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 10.2 to allow an existing garage to encroach into the rear 15 ft LBA

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because this home has been used as a dental office since it was constructed in the 1950s, which is a preexisting condition prior to the adoption of this regulation. The requested waiver is in addition to a zone change request to bring the property into compliance with the Land Development Code. The exterior of the building and the parking will remain unchanged.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this is an as-built issue. The garage abuts the adjoining property owner's garage so there will be no adverse impacts.
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 this is an as-built issue and if it weren't for the associated zone change, this waiver would not be an issue. Denial of the waiver would require the demolition and reconstruction of a functioning building which has existed without nuisance or complaint since its construction.

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PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GOALS OF THE 2040 PLAN

Applicant & Owners: Drs. Steve & Betty Burton

Location: 3700 Brownsboro Road

Proposed Use: Office

Engineers, Land Planners and
Landscape Architects: Land Design & Development, Inc.

Request: Zone change from R-5 to OR-1

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on November 21, 2019 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

COMMUNITY FORM

Goal 1 – Guide the form and design of development to respond to distinctive physical, historic and cultural qualities.

WHEREAS, the proposed zone change and detailed district development plan (DDDP) complies with applicable Objectives a, b, c, & f and applicable Policies 1, 2.1, 3.1.8, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, 27 & 28 because the proposed change in zoning to OR-1 complies with Goal 1 in several ways; first, this development will take an existing legal, non-conforming office building and modify same only to the extent of allowing OR-1 uses which is consistent with the Neighborhood Form District and will continue to allow property to provide low intensity office services to serve the surrounding suburban residential areas; the subject property is located in a Neighborhood Form District which contemplates the location of “civic uses and neighborhood centers with a mixture of uses, such as offices, retail shops, restaurants and services”; the existing dentist office and future office users provide services needed nearby the thriving commercial area and adjoining a densely populated residential area which it will serve along the major arterial and state road (Brownsboro Road); this type of service for professional offices is ideally suited for the Neighborhood Form District as the type of low intensity office use commonly situated near residential areas; and the rezoning will also reduce traffic/vehicle miles travelled by providing needed services close to residential areas and most likely being used as an office for one of the many professionals in the immediate area of Brownsboro Village, St. Matthews, Rolling Fields, and Indian Hills; and

WHEREAS, the property is located near other more intensely zoned commercial property, retail and strip centers, a bank, real estate office and pharmacy along Brownsboro Road and near the Chenoweth Lane intersection; the rezoning will bring the site into compliance for future office

users and remove any the property for a future potential purchaser;. The new use will continue to serve the area and position the overall property to adapt readily now and in the future to new market demands; and the property will continue to have parking along Lotis Lane with a sidewalk from its entrance to Lotis Lane consistent with the Neighborhood goal; and

WHEREAS, the development and proposed zone change will remain compatible with the scale and site design of nearby existing developments because no physical changes are being proposed to the already developed building or site; and the property is currently used as a dental office on the first floor with the expectation that it will be sold to another professional office user; and

WHEREAS, the property will continue to allow a mixture of intensity through the rezoning with original buffers already in place and landscaping fully developed; as a result, the appropriate buffers are already in place such that this rezoning will not cause the expansion into residential areas or change or cause any impact to the residential areas; the proposed rezoning will continue to locate the higher density and intensity uses near the major arterial and primary collector of Brownsboro Road. Ultimately, this project will allow for the continued operation of the existing dentist office business or other professional office use; and

Goal 2 – Encourage sustainable growth and density around mixed-use centers and corridors.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives b & d and Policies 1, 2, 5, 6, 7, 9, 10, 12 13, 14, 15, 16, & 17 because the proposed change in zoning from R-5 to OR-1 to officially sanction the office type use will encourage sustainable growth and will continue the long-standing intensity near a mixed-use center and along commercial corridors by placing existing intensity compatible with the Neighborhood Form and existing infrastructure; the design and intensity of this existing use are appropriate with adjacent uses that will serve the needs of the surrounding community as they will not change other than a similar office/professional use; this site is located in an established section of eastern Metro Louisville, where through a combination of design measures and the nature of the use itself, will not create any nuisances for surrounding residential properties; office and residential uses are frequently located adjacent to each other as transitional uses and encouraged to do so because of the relatively low intensity and to reduce traffic by placing services and employment close to the residential areas; and

Goal 3 – Enhance neighborhood by protecting and integrating open space, watershed and other natural resources.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, c & d and Policies 9, 10 & 12 because the proposed development plan will enhance the surrounding neighborhoods by not diminishing any open space or natural resources; the zoning change will not cause any impact to any flood prone areas wet or permeable soils or steep slopes; the proposal avoids any change in topography and does not cause any environmental changes or damage; the landscape buffers and setbacks will continue to provide the visual and spatial transitions between the site and the surrounding residential properties; moreover, the existing detention basins will continue to limit any issues with flooding or standing water with no new impervious surface proposed, while respecting the natural features of the property and protecting the health, safety and welfare of the adjacent properties and future uses of the development; and

Goal 4 – Promote and preserve the historic and archaeological resources that contribute to our authenticity.

WHEREAS, the proposed zone change and DDDP complies with applicable Objective b and Policies 1 & 2 because the site is designed to be compatible with the surrounding land uses through the continued use of the existing structure as a professional office, which consists of durable, residential style building materials, including its desirable brick exterior; the property will retain its existing parking spaces on Lotis Way, with a sidewalk to the entrance facing Brownsboro Road; noise and odors from offices is nonexistent; further, hours of operation will only be during traditional business hours; no changes in lighting will be made, but if any is added it will be in accordance with Land Development Code(directed down and away from residential uses); offices, being neighborhood serving uses, are often appropriate transitions to higher intensity uses (such as exist south of this site) and they provide a good transition, particularly as a buffer from the major arterial (Brownsboro Road) to the residences in the City of Brownsboro Village; and

MOBILITY

Goal 1 – Implement an accessible system of alternative transportation modes.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c & e and Policies 1, 3, 4, 7 & 14 because the development plan evidences the current existing physical condition of the property which benefits from an accessible system of alternative transportation modes through connections between uses for bicycles and pedestrian traffic; the site is served by public transportation through multiple TARC bus lines adjacent to the property; the development and nearby retail/commercial uses are located on a major arterial of Brownsboro Road encouraging efficient access and minimizing distances of travel; it also continues to place higher intensity near existing commercial corridors and along the major arterial and primary collector with TARC service available; and

Goal 2 – Plan, build and maintain a safe, accessible and efficient transportation system.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c & d and Policies 1, 2, 4, 5, 6, 7, & 8 because the development plan complies with the objectives and policies of Goal 2 by promoting safe, accessible and efficient transportation uses by accommodating pedestrian, bicycle and vehicular access which are already part of the development; the site distances for the curb cuts will not change and are adequate for the area; the internal circulation of pedestrian and vehicular traffic is appropriate with the connected walkways and shared access, parking, etc.; the entrances are aesthetically compatible with the surrounding areas; and the office use will likely be utilized by a professional wanting to locate her or his office close to their residence in the many surrounding residential areas, thereby reducing vehicle miles travelled and traffic during peak hours across the Metro area; and

Goal 3 – Encourage land use and transportation patterns that connect Louisville Metro and support future growth.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c, & d and Policies 1, 2, 3, 4, 5, 7, 10, 12, 14, 17, 18, 20 & 24 because the development plan complies with the objectives and policies of Goal 3 by providing walking and bicycling opportunities with the sidewalks and interconnected walkways and by providing a mix of complementary neighborhood serving businesses, services and reducing miles travelled by car by providing the activity center the tools to survive into the future; the plan will not burden the transportation network but will allow the site to continue to be consistent with the functionality of the Neighborhood; the plan is consistent with long range transportation plans of the

community by placing services and areas of employment close to populated areas; the parking requirements of the site account for the intensity of the use and the character and pattern of the Form District in that it will continue to serve the community as it has for many years; and the plan also satisfies the policy of supporting biking and pedestrian travel by providing for those modes of access; and

COMMUNITY FACILITIES

Goal 2 – Plan for community facilities to improve quality of life and meet anticipated growth.

WHEREAS, the proposed zone change and DDDP complies with applicable Objective b and Policies 1, 2, & 3 because this development plan is not a community facilities plan, but it does locate development in areas currently served by existing infrastructure, it has adequate water supply and access to sewers so as to not burden existing or future community facilities; and

ECONOMIC DEVELOPMENT

Goal 1 – Provide an economic climate that improves growth, innovation, investment and opportunity for all.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, c, d, f & h and Policies 3, 7, & 9 because this development plan complies with Goal 1 of Economic Development as it provides economic climate that improves growth, innovation, and investment opportunity for all by making certain the site can continue to be used and reused for professional office uses, and potentially multifamily residential, which is also commonly found along this area of Brownsboro Road, all of which will serve the surrounding community; it locates these new potential uses in an area with existing infrastructure in an efficient manner increasing economic opportunities in the area; and it will also provide opportunities to small businesses thereby increasing economic opportunity to business owners and employment; and

Goal 2 – Cultivate a vibrant, unique city that attracts, retains, and develops a highly-skilled workforce.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c, d & f and Policies 1, 3, 4, 5, & 7 because this development plan complies with Goal 2 of Economic Development as it enhances the quality of life in the area by reusing and readapting the existing structure which is very difficult to replace in the current market environment, while at the same time protecting and improving the economic value of the surrounding areas by assisting the economic viability of the activity center; it also satisfies the goal and policy of infill development to take advantage of the existing infrastructure; the existing professional office complies with these Goals and Objectives because the proposed office will also provide opportunities for employment close to the residential properties and nearby population; also, it is located on a major arterial, providing good access, where nuisances and activities will not adversely affect adjacent areas; potential users will be compatible with the area, such as families with children and seniors; and

LIVABILITY

Goal 1 – Protect and enhance the natural environment and integrate it with the built environment as development occurs.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives d & e and Policies 7, 12, 17 23, 25, 26, 27, 28, 31, 32, 35, & 39 the development plan complies with the objectives and policies of Goal 1 of Livability element in that it does not change any use or structures on the property, thereby causing no new impacts, other than those which have existed for decades since the building was constructed in the 1950s; and

Goal 2 – Ensure equitable health and safety outcomes for all.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c & d and Policy 8 because the development plan complies with the objectives and policies of Goal 2 of Livability element by providing opportunities for employment at the professional office and potential future office users close to the residential properties and nearby population; and it is located on a major arterial, providing good access, where nuisances and activities will not adversely affect adjacent areas; and

Goal 3 – Ensure equitable access to land use planning and Policy-making resources.

WHEREAS, the proposed zone change and DDDP complies with applicable Objective c and Policies 1, 2, & 4 the development plan complies with the objectives and policies of Goal 3 of Livability element providing equitable access to the land use planning and policy resources by providing the surrounding residents and property owners notice of the rezoning change and explanation of the grounds for doing so, notice of all public meetings, by providing the neighborhood meeting, and by providing an opportunity for area involvement in the plan design and sought-after zoning changes; and

Goal 4 – Integrate sustainability and resilience in community planning processes.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c, e & f and Policies 1, 2, & 8 the development plan complies with the objectives and policies of Goal 4 of Livability element by providing and enhancing choices for mobility and encouraging clean air by reducing miles driven by providing needed services to an area needing such services; and it also provides needed services in and along high capacity transit corridor of Brownsboro Road supporting public transportation with the medium and high intensity uses; and

HOUSING

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives and applicable Policies of Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities in an existing building near residential areas, thereby strengthening and supporting the housing in the area; and this use will facilitate connected and mixed-use areas and ensure long term affordability and living options for all in the community; and

* * *

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books, on the approved detailed district development plan, this application also complies with all other applicable Goals of the 2040 Plan;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby recommends to the Louisville Metro Council that it rezone the subject property from R-5 to R-6 and approves the Detailed District Development Plan.

Waiver Findings of Fact

Waiver of Section 10.2 to allow an existing garage to encroach into the rear 15 ft LBA

WHEREAS, the waiver will not adversely affect adjacent property owners because this home has been used as a dental office since it was constructed in the 1950s, which is a preexisting condition prior to the adoption of this regulation. The requested waiver is in addition to a zone change request to bring the property into compliance with the Land Development Code. The exterior of the building and the parking will remain unchanged.

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this is an as-built issue. The garage abuts the adjoining property owner's garage so there will be no adverse impacts.

WHEREAS, 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 this is an as-built issue and if it weren't for the associated zone change, this waiver would not be an issue. Denial of the waiver would require the demolition and reconstruction of a functioning building which has existed without nuisance or complaint since its construction.

NOW, THEREFORE, the Louisville Metro Planning Commission hereby approves this Waiver.