

Case No. 20-ZONE-0041, 20-Waiver-42,
20-VARIANCE-0060, & 20-STRCLOSURE-0010

Change in zoning from R-4 to C-1, a waiver to allow the proposed drive lane to encroach into the proposed Bartley Drive 15 ft LBA, and a proposed street closure of a portion of the existing Bartley Drive to allow a credit union on property located at 7600 & 7602 Bardstown Road and 9608, 9610, 9700 & 9703 Bartley Drive

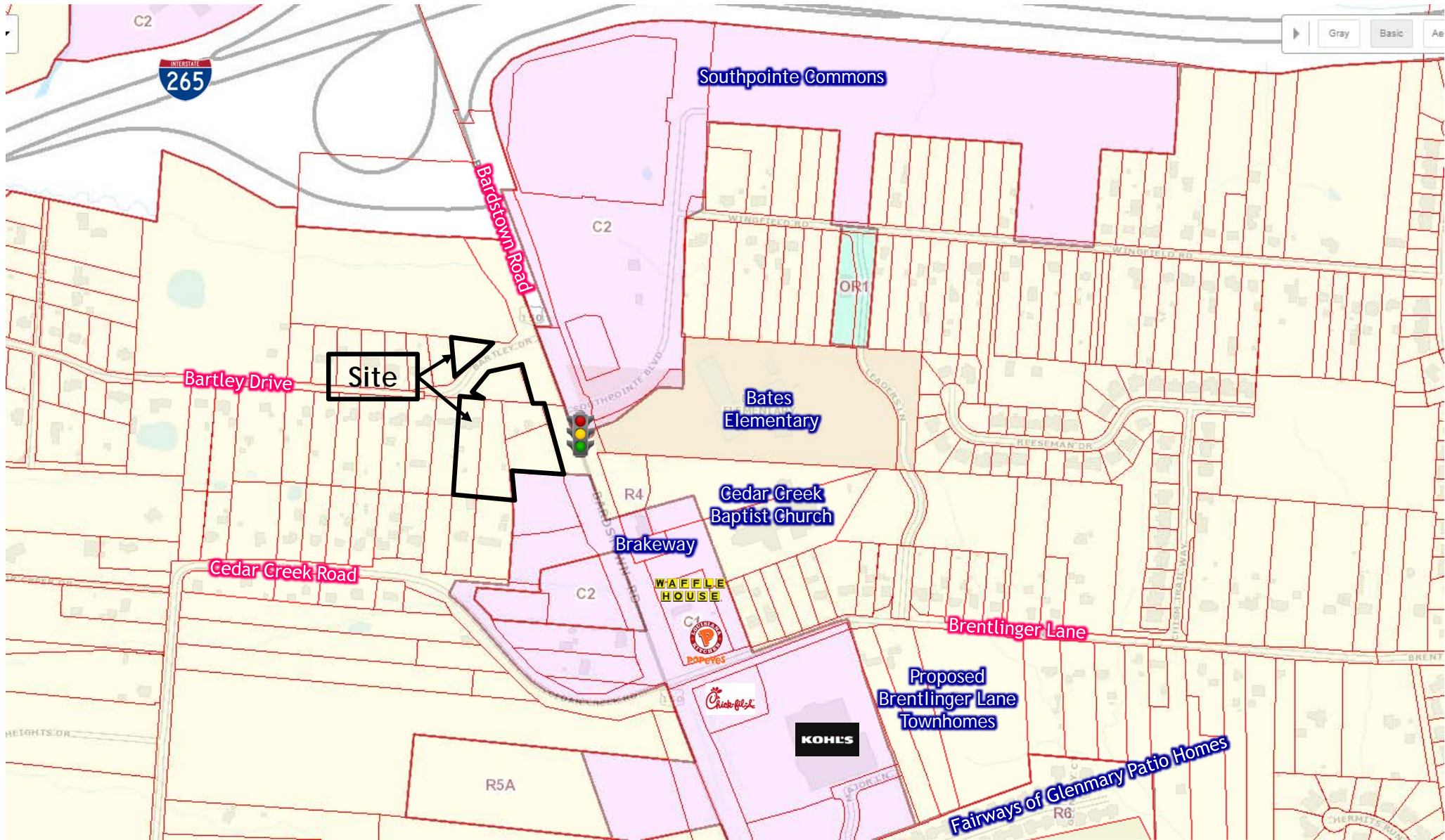


Index

1. LOJIC zoning map
2. Aerial photographs of the site and surrounding area
3. Ground level photographs of the site and surrounding area
4. Neighborhood meeting notice list map, letter to neighbors inviting them to the meeting and summary of meeting
5. Development plan
6. Building elevations
7. Traffic study
8. Statement of compliance filed with the original zone change application with all applicable goals of the 2040 plan, Variance, and waiver justification
9. Proposed findings of fact pertaining to compliance with the 2040 plan, Variance, and Waiver criteria

Tab 1

LOJIC Zoning Map



INTERSTATE
265

Southpointe Commons

Bartstow Road

Bartley Drive

Site

Bates Elementary

Cedar Creek Baptist Church

Brakeway

Waffle House

Popeyes

Chick-fil-A

KOHL'S

Brentlinger Lane

Proposed Brentlinger Lane Townhomes

Fairways of Glenmary Patio Homes

Cedar Creek Road

HEIGHTS DR

R5A

R6

Gray Basic Ae

Tab 2

Aerial photograph of the site and surrounding area

Search Addresses

Portion of Bartley Drive to be closed

Location of new Southpointe Commons entrance

Bartley Drive

Bates Elementary

Brakeway

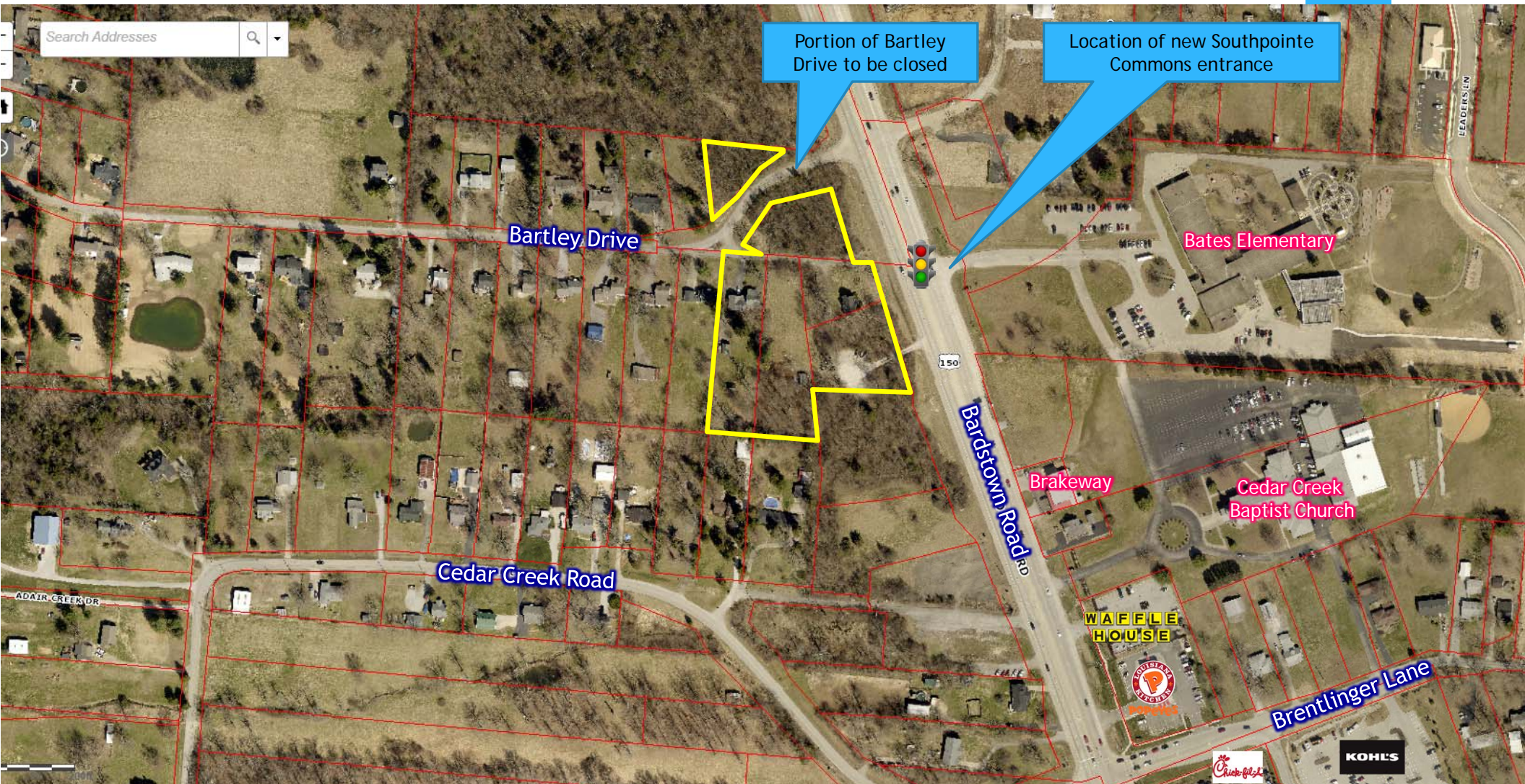
Cedar Creek Baptist Church

Cedar Creek Road

Bardstown Road RD

Waffle House

Brentlinger Lane





WALMART
SUPER
Walmart

INTERSTATE
265

GENE SNYDER FREEWAY

Southpointe Commons

Location of new Southpointe
Commons entrance

WINGFIELD ROAD

Bardstown Road

WINGFIELD AV

Bartley Drive

Bates Elementary
SCHOOL

Brakeway

SAYERS
CEDAR CREEK
BAPTIST CHURCH

Waffle
HOUSE

BRANTLINGER
LANE

Proposed
Brentlinger Lane
Townhomes

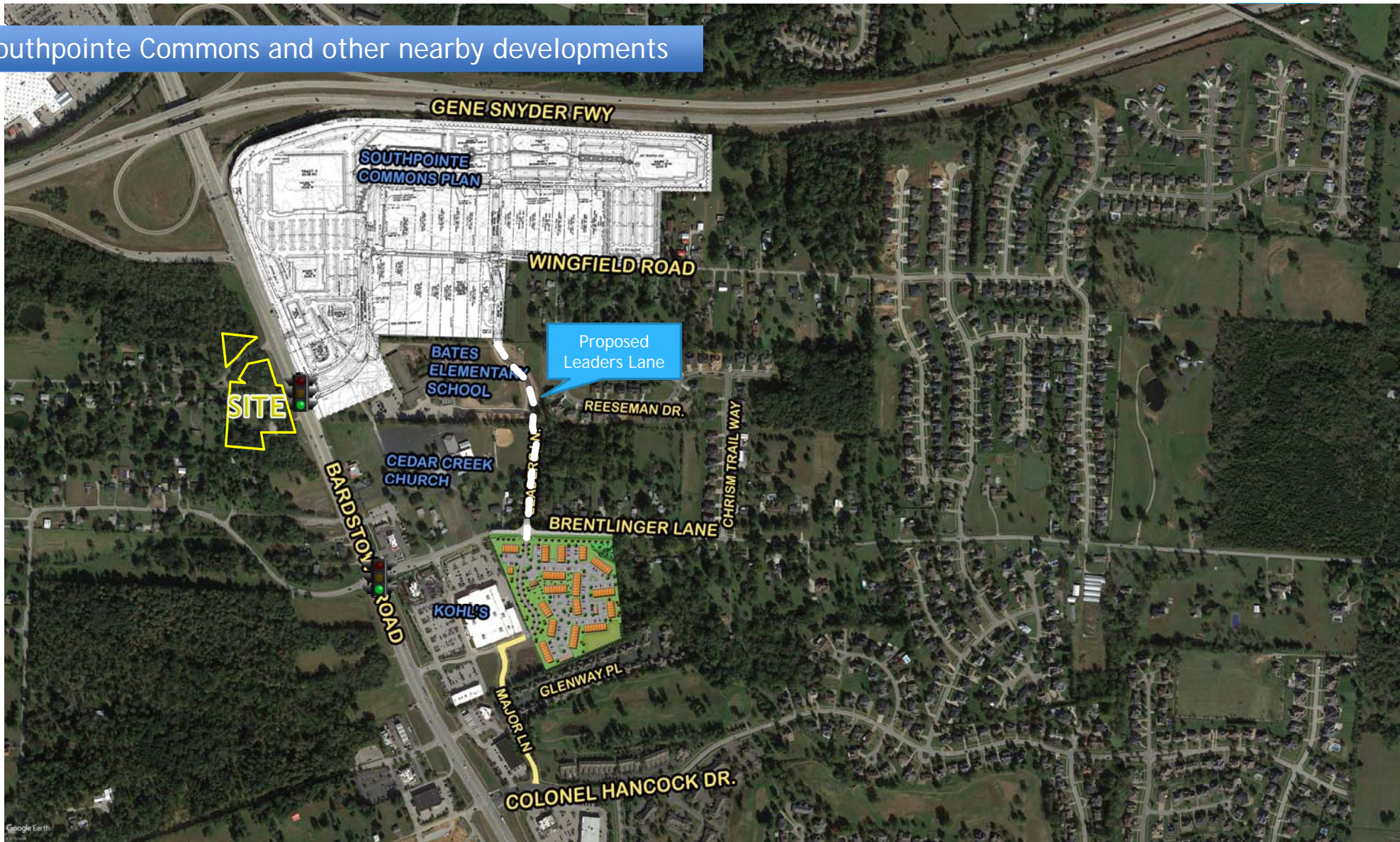
Cedar Creek Road

KOHL'S



LOCATION MAP
NOT TO SCALE

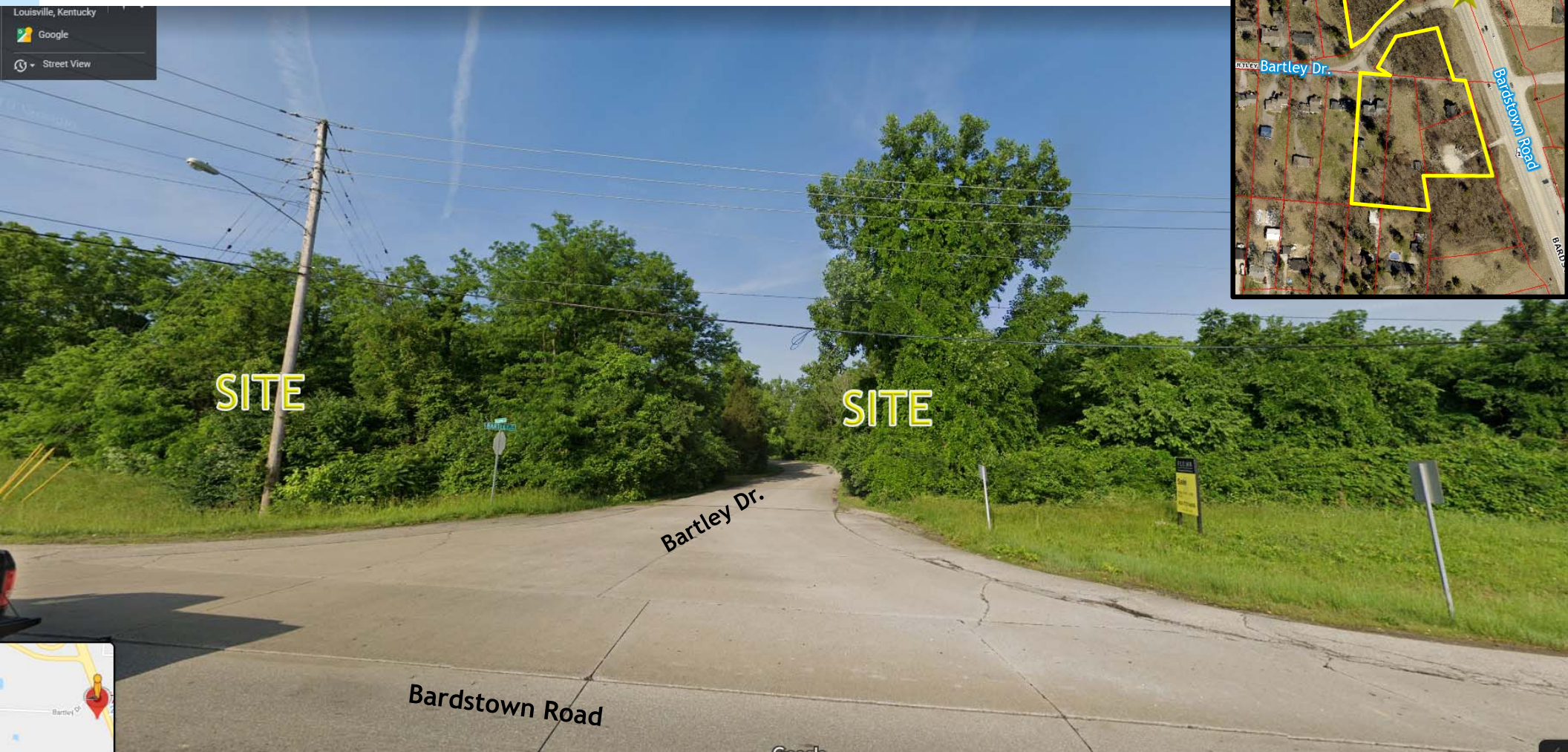
Southpointe Commons and other nearby developments



Tab 3

Ground level photographs of the site and surrounding area

Louisville, Kentucky
Google
Street View



Looking west down existing Bartley Drive entrance from Bardstown Road.

9608 Bartley Dr
Louisville, Kentucky
Google
Street View



SITE

SITE

Bartley Dr

Google

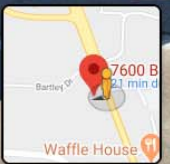
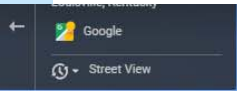
A set of navigation controls typically found in Google Street View, including a compass, zoom in (+) and zoom out (-) buttons, and left and right arrow buttons.



Looking further west down Bartley Drive, portion to be closed.



Looking west further down Bartley Drive.



Bardstown Road

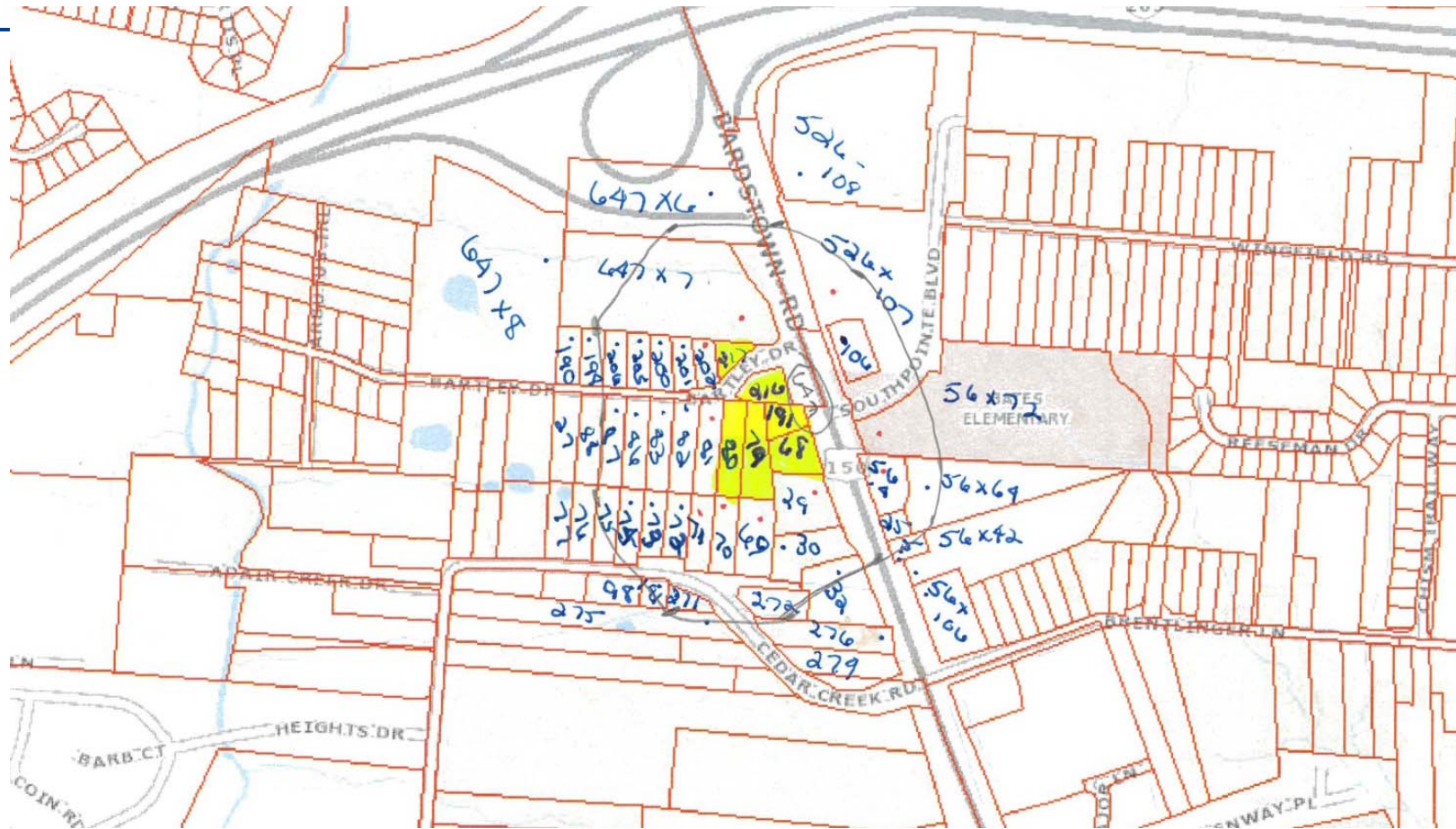
Google

Looking west from Bardstown Road towards site with existing house at 7600 Bardstown Rd.

Tab 4

Neighborhood Meeting notice list map, letter to neighbors inviting them to the meeting and summary of meeting

Adjoining property owner notice list map wherein 56 neighbors plus those on the DPDS "interested party list" were invited to the neighborhood meeting and subsequent LD&T meeting 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
(502) 426-6688 • (502) 425-0561 (FAX) • WWW.BARDLAW.NET

Nicholas R. Pregliasco
Direct dial: 426-0388, ext. 139
Email: NRP@BARDLAW.NET

February 17, 2020

Dear Neighbor,

RE: Proposed change in zoning from R-4 to C-1 to allow a credit union on approximately 4.14 acres on property located at the southwest quadrant of the Bardstown Road and Bartley Drive intersection at 7600 & 7602 Bardstown Road and 9608, 9610, 9700, and 9703 Bartley Drive

We are writing to invite you to a meeting we have scheduled to present neighbors with our zone change plan to allow a credit union to be located as above.

Accordingly, we have filed a plan for pre-application review on Monday, February 17th with the Division of Planning and Design Services (DPDS) that has been assigned case number **20-ZONEPA-0016** and will be assigned a case manager, whose name we will provide at the neighbor meeting. 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 **Monday, March 2nd at 7:00 p.m.** at the **Fern Creek Community Center and Chamber of Commerce** in *the Annex Room* located at **6104 Bardstown Road**.

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 Kevin Young at 426-9374.

We look forward to seeing you.

Sincerely,



Nicholas Pregliasco

cc: Hon. Robin Engel, Councilman, District 22
Brian Davis, Planning Supervisor with Division of Planning & Design Services
Kevin Young, land planner with Land Design & Development, Inc.

Neighborhood Meeting Summary

A neighborhood meeting was held on Monday, March 2nd at 7:00 p.m. at the Fern Creek Community Center and Chamber of Commerce in the Annex Room located at 6104 Bardstown Road. Those in attendance included the applicant's representatives, Nick Pregliasco, attorney with Bardenwerper, Talbott & Roberts, and Ann Richard and Kevin Young, land planners and engineers with Land Design & Development, as well as the applicant representatives Stacey Shroud, Molly Carey, and architect Russ Frederick.

Nick Pregliasco started the meeting showing a powerpoint presentation of the area, showing all the other developments in the very close proximity that have been approved, as well as the previous proposal for this property, with a number of others, for a larger retail development by Devonshire Development. Nick showed the development plan, how it laid out on the subject properties owned by the seller of the properties and explained that the reason the development plan shows more than currently proposed for the credit union is the fact the seller would not sell just the properties needed for the use. This requirement that Evansville Teacher's Federal Credit Union (d/b/a Liberty Financial) purchase all of the properties is the reason that there is an additional very small lot shown without a proposed use. Nick explained that due to the small size of this "outlot", the applicant had not picked a proposed use for a site layout as almost nothing fit well in order to design a building, etc. Nick explained the access of off Bardstown Road and the relationship to Bartley Drive and also discussed the buffering that this financial service use would provide. Kevin Young then explained the layout of the development plan and how the drainage would flow and work through the site and the out lot. Kevin also explained sanitary sewer access and how the property currently does not have sanitary sewer access. Kevin Young, who also worked on the prior larger development proposal for the subject property, explained the access and transportation planning issues with the subject property in detail, including the proposed access off of Bardstown Road. Nick then showed the proposed elevations of the new Liberty Financial and then answered questions.

More questions related to the current Bartley Drive access off of Bardstown Road and whether the developer would give the Bartley Drive residents access through their development to the proposed light at the entrance to this development. Nick explained that they weren't sure if the Bartley Drive residents would want another connection to Bartley Drive, which those in attendance definitely requested. Residents in the area asked about sanitary sewer connections now that this property would have sanitary sewer service with some wanting to have access to sewers and other not wanting it due to the cost. Nick and Kevin explained that this would be completely up to MSD and that some would not be able to gravity flow to the property. A couple of the adjoining property owners asked about the trees and vegetation. Stacey Shroud explained that for site lines, some of the trees would be removed, but new trees would be planted, along with some buffering to likely remain.

Those in attendance said they had no issue with the proposed use for a credit union site or the outlot due to the size, but definitely wanted access to the light through a dedicated road. The suggestion that

a request to close a portion of Bartley Drive be made and most in attendance agreed they would have no objection and would support if the change was made. Nick and Kevin explained they would take this under consideration and see what could be done.

Tab 5

Development Plan

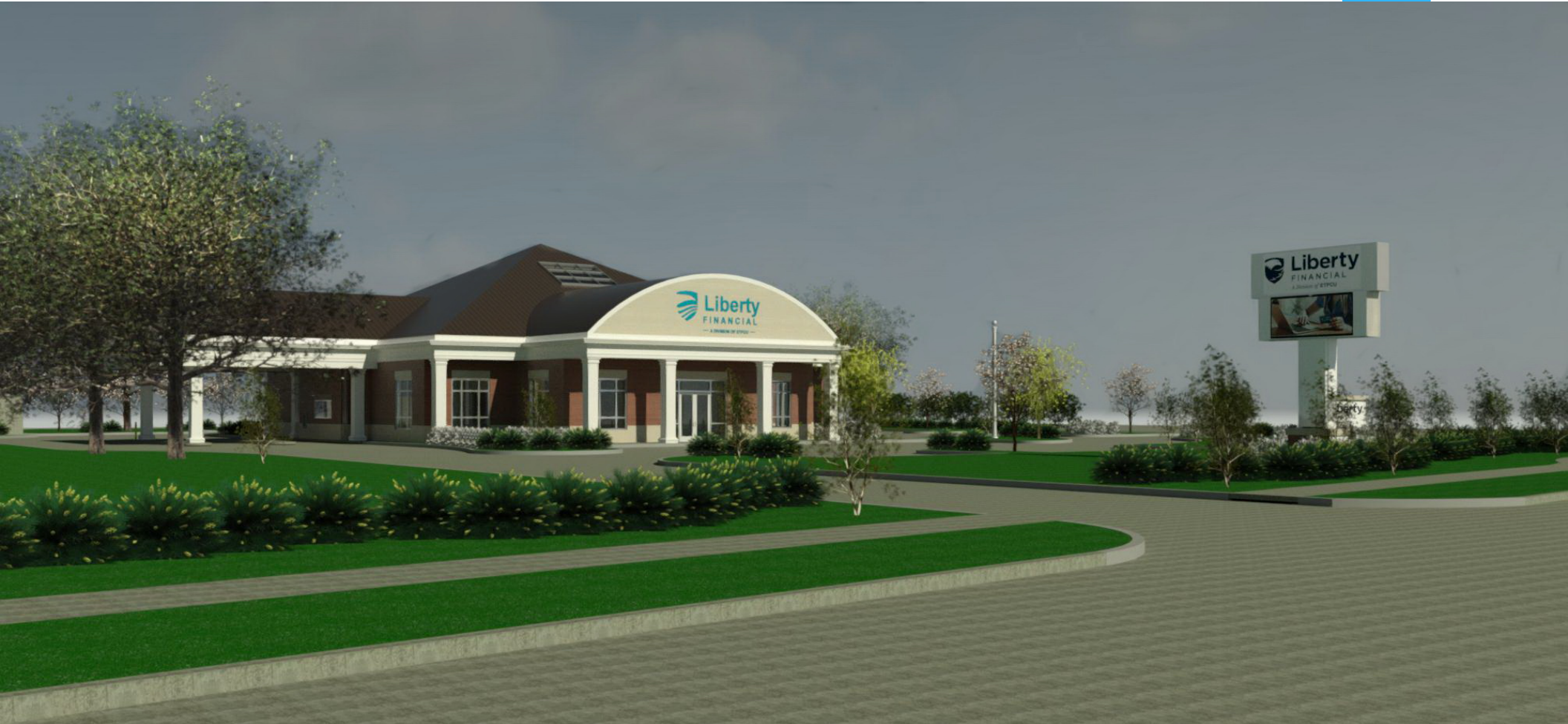
Current proposed development plan



VARIANCE REQUESTED: (1)
 1. A Variance is requested from Section 5 Development Code to vary the Bardston Drive 50 ft minimum building setback.

Tab 6

Building Elevations





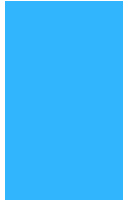
EAST ELEVATION

3/16" = 1'-0"



NORTH ELEVATION

3/16" = 1'-0"



SOUTH ELEVATION
3/16" = 1'-0"



WEST ELEVATION
3/16" = 1'-0"

Tab 7

Traffic Study

final report

July 6, 2020

Traffic Impact Study

Liberty Financial
7602 Bardstown Road
Louisville, KY

Prepared for

Louisville Metro Planning Commission
Kentucky Transportation Cabinet



DIANE B. ZIMMERMAN
Traffic Engineering, LLC

12603 High Meadows Pike
Rogersville, KY 40369
502-208-1850
danzb@dbz.net



INTRODUCTION

The development plan for Liberty National on Bardstown Road in Louisville, KY shows a bank with 5,735 square feet. **Figure 1** displays a map of the site. Access to the bank will be from a proposed right-in/right-out on Bardstown Road, and full access driveway on Bartley Drive. The purpose of this study is to examine the traffic impacts of the development upon the adjacent highway system. For this study, the impact area was defined to be the intersection of Bardstown Road with Southpointe Boulevard/Bartley Drive.



Figure 1. Site Map

EXISTING CONDITIONS

Bardstown Road, US 31E, is maintained by the Kentucky Transportation Cabinet (KYTC) with an estimated 2020ADT of 47,000 vehicles per day between I 265 and Cedar Creek Road, as estimated from the March 3, 2020 turning movement count at Cedar Creek Road. The road is a four-lane highway with twelve-foot lanes, a center turn lane and eight-foot paved shoulders. An additional northbound lane begins near the entrance of Bates Elementary School. The speed limit is 50 mph. There are no sidewalks. The intersection with Southpointe Boulevard Lane is controlled with a traffic signal. There are dual left turn lanes on the southbound and westbound approaches. The northbound has right turn lanes.

Peak hour traffic counts for the Bartley Drive were obtained on September 22, 2015. The volumes for Bardstown Road were obtained March 3, 2020. The a.m. peak hour occurred between 7:15 and 8:15 a.m. The p.m. peak occurred between 4:45 and 5:45 p.m. **Figure 2** illustrates the existing a.m. and p.m. peak hour traffic volumes. The full counts are included in the appendix.

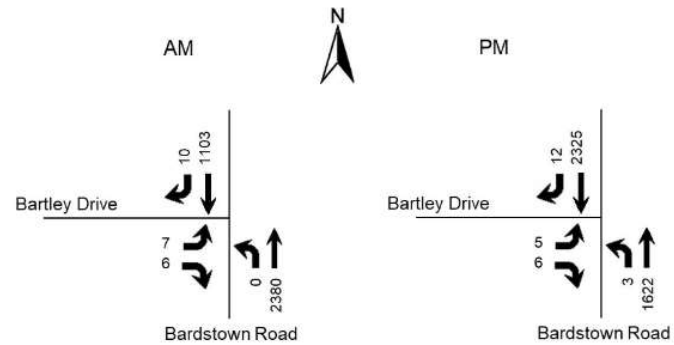


Figure 2. Existing (2020) Peak Hour Volumes

FUTURE CONDITIONS

The project completion date is 2021. An annual growth rate of 0.5 percent was applied to 2020 traffic volumes on Bardstown Road. This is based upon a review of historical traffic counts at the intersection. Figure 3 displays the 2021 No Build peak hour volumes. For purposes of this analysis, Southpointe Commons is assumed to be fully developed. The traffic volumes shown on Southpointe Boulevard were generated from the development plan dated January 22, 2020 and the general plan dated May 20, 2010. The trip generation and distribution is shown in the appendix.

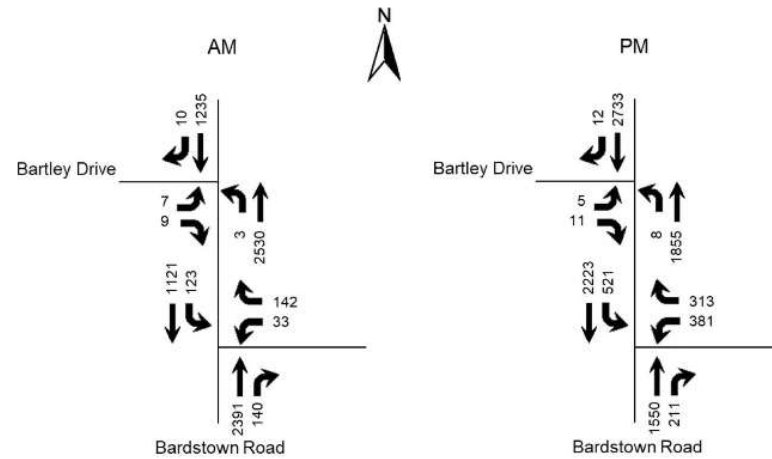


Figure 3. No Build 2021 Peak Hour Volumes

TRIP GENERATION

The Institute of Transportation Engineers [Trip Generation Manual](#), 10th Edition contains trip generation rates for a wide range of land uses. The land use of "Drive-In Bank (912)" was reviewed and determined to be the best match. The trip generation results are listed in **Table 1**. The new trips were assigned to the highway network with the percentages shown in **Figure 4**. **Figure 5** shows the trips generated by this development and distributed throughout the road network during the peak hours. **Figure 6** displays the individual turning movements for the peak hours when the development is completed.

Table 1. Peak Hour Trips Generated by Site

Land Use	A.M. Peak Hour			P.M. Peak Hour		
	Trips	In	Out	Trips	In	Out
Bank (5,735 sq. ft.)	54	30	24	117	58	59

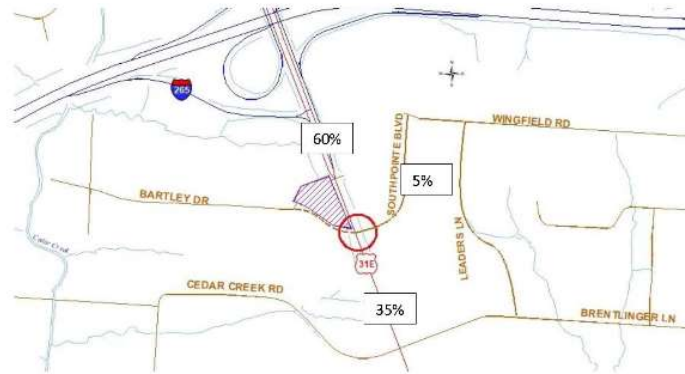


Figure 4. Trip Distribution Percentages

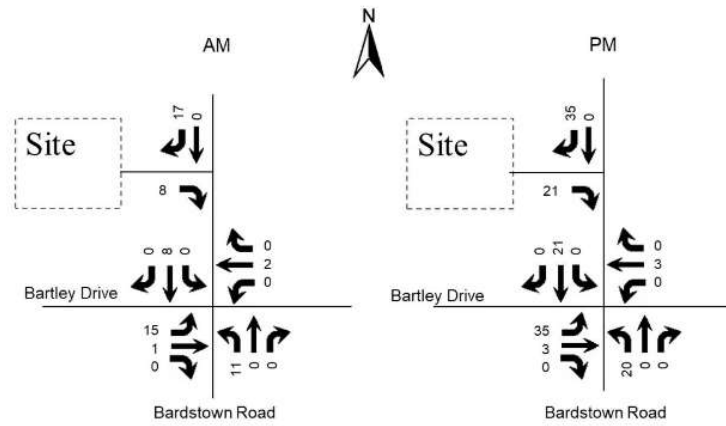


Figure 5. Peak Hour Trips Generated by Site

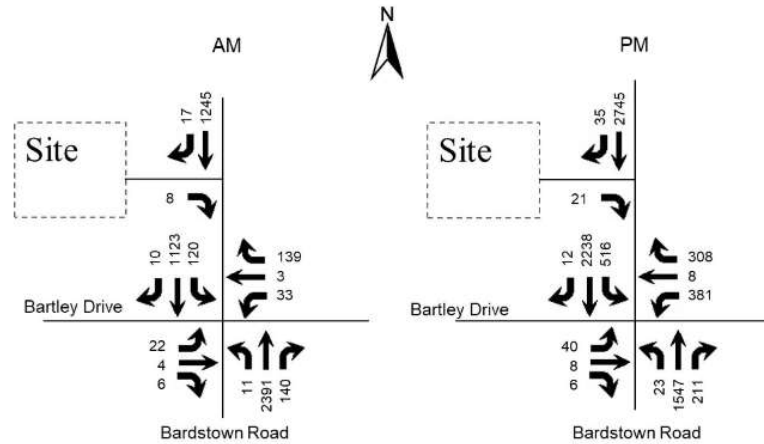


Figure 6. Build 2021 Peak Hour Volumes

ANALYSIS

The qualitative measure of operation for a roadway facility or intersection is evaluated by assigning a "Level of Service". Level of Service is a ranking scale from A through F, "A" is the best operating condition and "F" is the worst. Level of Service results depend upon the facility that is analyzed. In this case, the Level of Service is based upon the total delay experienced at an intersection.

To evaluate the impact of the proposed development, the vehicle delays at the intersections were determined using procedures detailed in the Highway Capacity Manual, 6th edition. Future delays and Level of Service were determined for the intersections using the HCS Streets (version 7.8.5) software. The delays and Level of Service are summarized in **Table 2**.

Table 2. Peak Hour Level of Service

Approach	A.M.		P.M.	
	2021 No Build	2021 Build	2021 No Build	2021 Build
Bardstown Road at Bartley/Southpointe	A 8.5	B 18.8	C 20.9	D 43.7
Bartley Drive Eastbound	NA	F 94.2	NA	F 125.6
Southpointe Boulevard Westbound	E 79.4	E 77.1	F 95.4	F 90.9
Bardstown Road Northbound	A 6.0	B 10.4	A 7.6	B 16.7
Bardstown Road Southbound	A 2.8	C 24.5	A 9.6	D 45.6

Key: Level of Service, Delay in seconds per vehicle

The entrance was evaluated for turn lanes using the Kentucky Transportation Cabinet [Highway Design Guidance Manual](#) dated March, 2017. The traffic impact policy requires using volumes for ten years beyond build-out, or 2031. The 2031 volumes were determined by applying a 0.5 percent annual growth rate from 2020. **Figure 7** illustrates the 2031 No Build volumes. **Figure 8** illustrates the 2031 Build Volumes. Using the volumes in **Figure 8**, a right turn lane is required at the entrance on Bardstown Road. A right turn lane at Bartley Drive is not required because adding the turn lane does not improve the level of service. **Table 3** summarizes the delay and Level of Service for 2031.

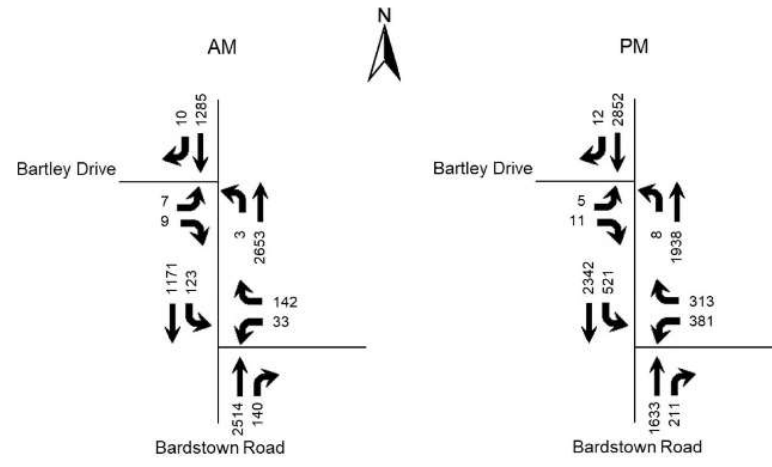


Figure 7. 2031 No Build Peak Hour Volumes

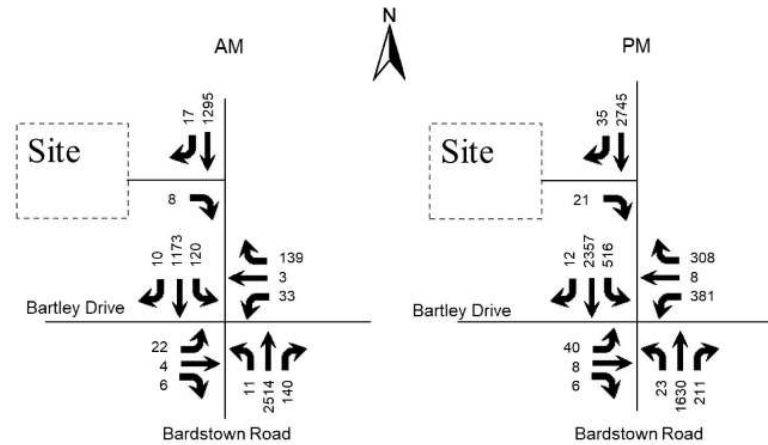


Figure 8. 2031 Build Peak Hour Volumes

Table 3. Peak Hour Level of Service

Approach	A.M.		P.M.	
	2031 No Build	2031 Build	2031 No Build	2031 Build
Bardstown Road at Bartley/Southpointe	A 8.5	B 18.8	C 20.9	D 46.4
Bartley Drive Eastbound	NA	F 94.2	NA	F 125.6
Southpointe Boulevard Westbound	E 79.4	E 77.4	F 95.6	F 91.2
Bardstown Road Northbound	A 6.0	B 10.4	A 7.5	C 20.8
Bardstown Road Southbound	A 2.8	C 24.3	A 9.7	D 48.1

Key: Level of Service, Delay in seconds per vehicle

CONCLUSIONS

Based upon the volume of traffic generated by the development and the amount of traffic forecasted for the year 2021 and 2031, there will be an impact to the existing highway network. The delays experienced in the area will increase within acceptable limits. A right turn lane will be required at the entrance on Bardstown Road.



Tab 8

Statement of Compliance filed with the original zone change application with all applicable Goals of the 2040 Plan, Variance, and Waiver Justification

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

1000 N. HURSTBOURNE PARKWAY • BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG. • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
(502) 426-6688 • (502) 425-0561 (FAX) • WWW.BARDLAW.NET

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

Applicant: Evansville Teachers Federal Credit Union

Owner Susanne W. Jenkins Revocable Trust; Heather & Derrick Ayers; Gary & Susanne Jenkins; Christian & Courtney Jenkins; Brittany & Andrew Bolyard; Aaron & Suzanne Jenkins

Location: 9700, 9703, 9608, 9610 Bartley Drive and 7600, 7602 Bardstown Road

Proposed Use: Commercial/Retail center

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

Request: Zone change from R-4 to C-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) comply with applicable Objectives a, b, c, e & f and applicable Policies 1, 2.1, 2.7, 3.1.3., 4, 6, 7, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, & 28 as follows:

The proposed change in zoning to C-1 complies with Goal 1 in several ways. A branch bank center is proposed in a rapidly growing area of Bardstown Road, just south of the Snyder Freeway where a large retail activity center already exists. With the new residential growth outside of the Gene Snyder, commercial mixed-use retail locations on a scale like this have an increased demand, to serve these new residential units.

The proposed mixed use retail center with branch bank will support the existing retail stores in the centers to the South of the development. Its location close to neighboring residential developments will be convenient for the residents and will reduce vehicle miles traveled for those seeking routine neighborhood serving products and services without driving to large commercial centers. For example, residents on Bartley Drive would be able to access the credit union location, the additional retail, and the retail to the South without going out to Bardstown Road. The rezoning will serve the suburban area in a robust and healthy commercial manner fulfilling the Neighborhood Form District goals.

The proposed zone change and development plan are compatible with the scale and site design of the neighboring residential areas, as this site is on a major arterial roadway at the location of a proposed traffic signal for the development across Bardstown Road (which had the traffic lights being worked on the day of the neighborhood meeting). Appropriate buffers will be created in such a way that this development will mitigate the retail expansion into residential areas very well. The potential adverse impacts, such as noise, lighting and traffic will be mitigated through the use of buffers, setbacks and compliance with the Land Development Code.

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

The proposed zone change and DDDP comply with applicable Objectives b & d and Policies 1, 2, 5, 6, 7, 8, 9, 11, & 17 as follows:

The proposed change in zoning from R-4 to C-1 to allow the small retail lot and branch bank use will encourage sustainable growth with these low impact uses on a major arterial and avoid potential decline and will continue to provide appropriate intensity around this mixed-use center by locating uses of limited intensity compatible with the area and existing infrastructure. This is also provided by the proposed roadway dedication through the site with the requested separate road closures providing low intensity uses in an area of a traffic signal. The design and intensity are appropriate with adjacent uses that will serve the needs of the surrounding community due to the limited impact on the residential and providing the access to the light. The development will be compact in this larger activity center resulting in efficient land use and will take advantage of and compliment cost-effective infrastructure investment. This mixture of compatible neighborhood serving uses will reduce vehicle miles travelled and limit trips for customers and users of the site, along with providing “capture trips” by providing additional services, such as a credit union, to those already traveling the major arterial of Bardstown Road avoiding more lengthy trips. The credit union and small retail out lot use are not ones that would traditionally be destinations but rather would be sustained from pass-by traffic, and would be more likely be during non-peak hour periods. This site is within a corridor where major support population exists and is growing rapidly. As a relatively small retail outlot and branch bank, it will be compact and will contain a mixture of acceptable/desirable retail uses, complementary to what exists in the growing area. The Applicant will agree to a binding element that would prohibit certain more objectionable C-1 uses which will be proposed by the applicant. Sidewalks will be provided as required by the Land Development Code.

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

The proposed zone change and DDDP comply with applicable Objectives a and c, and Policies 9, 10 and 12 follows:

The proposed development plan will protect the surrounding neighborhoods as they will not diminish any open space or natural resources and will provide LBAs and buffers on the northwest area of the site, as well as all along the additional retail outlot. The zoning change will not cause any negative impacts to any flood prone areas, wet or permeable soils or steep slopes. By providing a detention basin the stormwater management will be handled more effectively than it is currently. The proposal avoids any significant change in topography and does not cause any environmental changes or damage. The landscape buffers and setbacks will continue to provide the community transitions between the site and the surrounding properties. Moreover,

the stormwater drainage improvements will continue to limit any issues with flooding or standing water, 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. Further, this site proposes to provide sanitary sewer service to properties that are currently on septic systems and allow access to even more properties.

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

The proposed zone change and DDDP comply with applicable Policies 1 & 2 as follows:

The only truly historic building on the site was a log cabin that has long since been removed. The frame house is not believed to be of any historical significance and will be removed in compliance LMCO 150.110. The rezoning and development plan will essentially provide an infill development within the larger activity center where a large support population exists. Thus, it represents a good opportunity for continued economic development for the area in the appropriate scale and mass.

MOBILITY

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

The proposed zone change and DDDP complies with applicable Objectives e and Policy 4 as follows:

Although the neighborhood serving retail outlot and branch bank are more intense than the existing and adjacent zoning, it is a small scale development to serve the surrounding existing and approved and future residential developments as well as to serve future activity and employment centers in this rapidly developing area. The site will be in close walking distance to the Soutpointe Commons across the street and along a public transportation corridor providing easy access to most of Metro Louisville. Further, the property is located at the intersection of Bardstown Road and Bartley Drive, being a traffic signal on Bardstown Road. Sidewalks will be provided in compliance with the Land Development Code.

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

The proposed zone change and DDDP comply with applicable Objectives a, b, c & d and Policy 4 as follows:

The development plan complies with the objectives and applicable policy of Goal 2 by promoting safe, accessible and efficient transportation uses by accommodating pedestrian, bicycle and vehicular access to a major arterial (Bardstown Road) and a local road (Bartley Drive) which is not through areas of significantly lower density or intensity and will not thereby create a nuisance. Public transit is available. Bike racks will provided and sidewalks will be installed in compliance with the Land Development Code.

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

The proposed zone change and DDDP comply with applicable Objectives a, b, c, & d and Policies 1, 2, 3, 4, 5, 6, 9 and 10 as follows:

The development plan complies with the objectives and policies of Goal 3 by providing walking and bicycling opportunities with the sidewalks and by providing a mix of complementary neighborhood serving businesses, services and reducing vehicle miles travelled by providing the activity center with additional development in this infill situation. The plan will not burden the transportation network but will allow the site to continue to be consistent with the intent of the Neighborhood Form District, rather than through a more intense use such as the one previously proposed for this site, along with others along Bartley Drive and to the north. The parking proposed for the site appropriately addresses the intensity of the proposed use and the character and pattern of the Neighborhood Form District. The plan also satisfies the policy of supporting biking and pedestrian travel by providing for those modes of access, with bike parking provided. All required utilities are available to the site, including the extension of sanitary sewer service to the site as mentioned. The access to the site has been revised from the original submittal to properly align with adjacent development across Bardstown Road and to satisfy a request from neighbors along Bartley Drive. Sanitary sewers will be available to the site.

COMMUNITY FACILITIES

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

The proposed zone change and DDDP comply with applicable 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 of potable water and will sufficient water for fire-fighting purposes and will have 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 2, 3, and 4 as follows:

This development plan complies with Goal 1 of Economic Development as it will provide appropriate neighborhood serving uses that improves growth, innovation, and investment opportunity for all by providing for the constructive use of an otherwise undevelopable parcel in an infill context. 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 by providing another location with a supportive residential component with convenient access to major arterials and roadway infrastructure without generating high volumes of traffic.

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 developing a small infill location, 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.

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 comply with applicable Policy 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 provides pedestrian and bicycle connectivity while not creating large amounts of new traffic for the area. It also will continue to deal with any impacts to drainage associated with the site through the use of detention basins accounting for the increased impervious surface. Landscaping will be added where necessary and required under the Land Development Code to reduce the impacts of the site to nearby residential uses.

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

The proposed zone change and DDDP comply 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 additional goods and services in close proximity to existing residential development.

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 development changes, notice of all public meetings, by providing the neighborhood meeting, and 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 vehicle miles travelled by providing needed neighborhood services. It also provides needed retail services in and along high capacity transit corridor of Bardstown Road, supporting public transportation with the medium intensity uses.

HOUSING

The proposed zone change and DDDP comply with applicable Objectives and applicable Policies of Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities 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. The proposed zoning will support diversity in housing styles, mixed-income and inter-generational residency without displacing any current residents.

* * *

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

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of: Section 5.3.1.C.5, Table 5.3.2 to vary the Bardstown Road 95 ft maximum building setback and the Bartley Drive 80 ft maximum building setback.

1. The variance will not adversely affect the public health, safety or welfare because better screen and landscaping is one that benefits the neighbors along Bartley Drive as much as or more so than the applicant. Further the variance for the street side (facing Bardstown Road) and rear of the site will not have any negative affect because the variance need is created by the property having a very large right-of-way along Bardstown Rd., which is much larger than most of the commercial sites in this area and simply because of the extension of parking, which will be properly buffered with landscaping. Allowing the variance will permit the applicant to greatly enhance the entrance with closely matching buffering and landscaping, and also to protect the single family homes from the activity on Bartley Drive. The redesign of the site was made to accommodate the area residents' desire to relocate Bartley Drive in order to have access to a signalized intersection on Bardstown Road and the resulting variances serves the interests of the residents.
2. The variance will not alter the essential character of the general vicinity because there remains a significant setback along Bartley Drive and because of landscaping and attractive streetscape along Bartley Drive. The off-set of screening and landscaping results in a positive net benefit for adjoining residents.
3. The variance will not cause a hazard or a nuisance to the public because both the "excess" of the Bardstown Road right-of-way and most of this property's street side yard will be intensively and attractively landscaped in order to provide an attractive Bartley Drive streetscape and to eliminate views from Bartley Drive of the single family homes into the site.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the screen and landscape buffer described above and will be shown on the exhibits presented with this application to the Planning Commission at LD&T and public hearing.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because it is only this side of Bartley Drive at Bardstown Road that is presently affected by the proposed development with variances for this landscaped and screened area.

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this trade off of added setback for better screening and landscaping.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but are the result of screening and buffering in order to fully mitigate any potential adverse impacts.

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 10.2.10 to waive the encroachment of the proposed drive lane into the proposed Barley Drive 15 ft LBA.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the drive lane and parking lot of the proposed bank adjoin Tract 2 of this same development which will also be a commercial use. The VUA along the realigned Bartley Drive will only be improved with the development of this site. The drive lane encroachment is 305 square feet. The LBA at its smallest point is still 10' in depth and an additional 400 square feet is added to mitigate the reduction of the required depth.
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 Plan 2040 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 the vehicle drive aisle only slightly encroaches into the 15 ft LBA. Any effort to comply with the LBA standards in LDC Section 10.2.10 would necessarily require substantial loss of much needed parking and it would limit access and traffic flow through the development.
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 it would unnecessarily limit parking and impede traffic flow and compliance would require adjusting the building and parking fields on the site which would generate even greater non-compliance and more variance and waiver requests.

Tab 9

Proposed findings of fact pertaining to compliance with the 2040 Plan, Variance, and Waiver criteria

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

1000 N. HURSTBOURNE PARKWAY • BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG. • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
(502) 426-6688 • (502) 425-0561 (FAX) • WWW.BARDLAW.NET

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

Applicant: Evansville Teachers Federal Credit Union

Owner Susanne W. Jenkins Revocable Trust; Heather & Derrick Ayers; Gary & Susanne Jenkins; Christian & Courtney Jenkins; Brittany & Andrew Bolyard; Aaron & Suzanne Jenkins

Location: 9700, 9703, 9608, 9610 Bartley Drive and 7600, 7602 Bardstown Road

Proposed Use: Commercial/Retail center

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

Request: Zone change from R-4 to C-1

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on August 6, 2020 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) comply with applicable Objectives a, b, c, e & f and applicable Policies 1, 2.1, 2.7, 3.1.3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, & 28 because the proposed change in zoning to C-1 complies with Goal 1 in several ways; a branch bank center is proposed in a rapidly growing area of Bardstown Road, just south of the Snyder Freeway where a large retail activity center already exists; and with the new residential growth outside of the Gene Snyder, commercial retail locations on a scale like this have an increased demand, to serve the new residential units created by the growth; and

WHEREAS, the proposed mixed use retail center with branch bank will support the existing retail stores in the centers to the South of the development and across Bardstown Road; its location close to neighboring residential developments will be convenient for the residents and will reduce vehicle miles traveled for those seeking routine neighborhood serving products and services without being required to large commercial centers; for example, residents on Bartley Drive would be able to access the credit union location, and the additional retail, without going

out to Bardstown Road; and the rezoning will serve the suburban area in a robust and healthy commercial manner fulfilling the Neighborhood Form District goals; and

WHEREAS, the proposed zone change and development plan are compatible with the scale and site design of the neighboring residential areas, as this site is on a major arterial roadway at the location of an existing traffic signal installed for the development across Bardstown Road; appropriate buffers will be created in such a way that this development will mitigate any retail expansion into residential areas very well; and the potential adverse impacts, such as noise, lighting and traffic will be mitigated through the use of buffers, setbacks and compliance with the Land Development Code; and

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

WHEREAS, the proposed zone change and DDDP comply with applicable Objectives b & d and Policies 1, 2, 5, 6, 7, 8, 9, 11, & 17 because the proposed change in zoning from R-4 to C-1 to allow the small retail lot and branch bank use will encourage sustainable growth with these low impact uses on a major arterial and will provide appropriate intensity around adjacent residential by locating uses of limited intensity compatible with the area and existing infrastructure; this is also through the proposed roadway dedication through the site with the requested separate road closure providing low intensity uses in an area of a traffic signal and resolving an existing traffic problem; the design and intensity are appropriate with adjacent uses that will serve the needs of the surrounding community due to the limited impact on the residential; the development will be compact in this overall larger activity center resulting in efficient land use and will take advantage of and compliment cost-effective infrastructure investment; this mixture of compatible neighborhood serving uses will reduce vehicle miles travelled and limit trips for customers and users of the site, along with providing “capture trips” by providing additional services, such as a credit union, to those already traveling the major arterial of Bardstown Road avoiding more lengthy trips; the credit union and small retail out lot use are not ones that would traditionally be destinations but rather would be sustained from pass-by traffic, and would be more likely be during non-peak hour periods; this site is within a corridor where major support population exists and is growing rapidly; as a relatively small retail outlot and branch bank, it will be compact and will contain a mixture of acceptable/desirable retail uses, complimentary to what exists in the growing area; the Applicant will agree to a binding element that would prohibit certain more objectionable C-1 uses which will be proposed by the applicant; and sidewalks will be provided as required by the Land Development Code; and

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

WHEREAS, the proposed zone change and DDDP comply with applicable Objectives a and c, and Policies 9, 10 and 12 because the proposed development plan will protect the surrounding neighborhoods, will not diminish any open space or natural resources, and will provide LBAs and buffers on the northwest area of the site, as well as all along the additional retail outlot; the zoning change will not cause any negative impacts to any flood prone areas, wet or permeable soils or steep slopes; by providing a detention basin the stormwater management will be handled more effectively than it is currently; the proposal avoids any significant change in topography and does not cause any environmental changes or damage; the landscape buffers and setbacks

will continue to provide the community transitions between the site and the surrounding properties; moreover, the stormwater drainage improvements will continue to limit any issues with flooding or standing water, 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 further, this site proposes to provide sanitary sewer service to properties that are currently on septic systems and allow access to even more properties through granting of additional sanitary sewer easements; and

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

WHEREAS, the proposed zone change and DDDP comply with applicable Policies 1 & 2 because the only truly historic building on the site was a log cabin that has long since been removed; the frame house is not believed to be of any historical significance and will be removed in compliance LMCO 150.110; the rezoning and development plan will essentially provide an infill development within the larger activity center where a large support population exists; and thus, it represents a good opportunity for continued economic development for the area in the appropriate scale and mass; and

MOBILITY

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

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives e and Policy 4 because although the neighborhood serving retail outlot and branch bank are more intense than the existing and adjacent zoning, it is a small scale development to serve the surrounding existing and approved and future residential developments as well as to serve future activity and employment centers in this rapidly developing area; the site will be in close walking distance to the Soutpointe Commons across the street and along a public transportation corridor providing easy access to most of Metro Louisville; further, the property is located at the intersection of Bardstown Road and Bartley Drive, being a newly installed traffic signal on Bardstown Road; and sidewalks will be provided in compliance with the Land Development Code; and

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

WHEREAS, the proposed zone change and DDDP comply with applicable Objectives a, b, c & d and Policy 4 because the development plan complies with the objectives and applicable policy of Goal 2 by promoting safe, accessible and efficient transportation uses by accommodating pedestrian, bicycle and vehicular access to a major arterial (Bardstown Road) and a local road (Bartley Drive) which is not through areas of significantly lower density or intensity and will not thereby create a nuisance; public transit is available; and bike racks will provided and sidewalks will be installed in compliance with the Land Development Code; and the proposed Bartley Drive relocation will solve the existing problem on Bartley Drive by giving residents access to a light to turn north; and

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

WHEREAS, the proposed zone change and DDDP comply with applicable Objectives a, b, c, & d and Policies 1, 2, 3, 4, 5, 6, 9 and 10 because the development plan complies with the objectives and policies of Goal 3 by providing walking and bicycling opportunities with the sidewalks and by providing a mix of complementary neighborhood serving businesses and services, and reducing vehicle miles travelled by providing the activity center with additional development in this infill situation; the plan will not burden the transportation network but will allow the site to continue to be consistent with the intent of the Neighborhood Form District, rather than through a more intense use such as the larger retail development previously proposed for this site, along with others along Bartley Drive and to the north; the parking proposed for the site appropriately addresses the intensity of the proposed use and the character and pattern of the Neighborhood Form District; the plan also satisfies the policy of supporting bike and pedestrian travel by providing for those modes of access, with bike parking provided; all required utilities are available to the site, including the extension of sanitary sewer service to the site as mentioned; the access to the site has been revised from the original submittal to properly align with adjacent development across Bardstown Road and to satisfy a request from neighbors along Bartley Drive; and sanitary sewers will be available to the site; 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 comply with applicable 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 of potable water and will sufficient water for fire-fighting purposes and will have 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 2, 3, and 4 because this development plan complies with Goal 1 of Economic Development as it will provide appropriate neighborhood serving uses that improves growth, innovation, and investment opportunity for all by providing for the constructive use of an otherwise undevelopable parcel in an infill context; 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 by providing another location with a supportive residential component with convenient access to major arterials and roadway infrastructure without generating high volumes of traffic; 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 developing a small infill location, while at the same time protecting and improving the economic value of the surrounding areas by assisting the economic viability of the activity center; and it also satisfies the goal and policy of infill development to take advantage of the existing infrastructure; 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 comply with applicable Policy 7, 12, 17 23, 25, 26, 27, 28, 31, 32, 35, & 39 because the development plan complies with the objectives and policies of Goal 1 of Livability element in that it provides pedestrian and bicycle connectivity while not creating large amounts of new traffic for the area; it also will continue to deal with any drainage impacts associated with the site through the use of detention basins accounting for the increased impervious surface; and landscaping will be added where necessary and required under the Land Development Code to reduce the impacts of the site to nearby residential uses; and

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

WHEREAS, the proposed zone change and DDDP comply 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 additional goods and services in close proximity to existing residential development; 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 because 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 development changes, notice of all public meetings, by providing the neighborhood meeting, and 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 because 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 vehicle miles travelled by providing needed neighborhood services; it also provides needed retail services in and along high capacity transit corridor of Bardstown Road, supporting public transportation with the medium intensity uses; and

HOUSING

WHEREAS, the proposed zone change and DDDP comply with applicable Objectives and applicable Policies of Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities 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; and the proposed zoning will support diversity in housing styles, mixed-income and inter-generational residency without displacing any current residents; 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-4 to C-1 and approves the Detailed District Development Plan.

Waiver Findings of Fact

Waiver of Section 10.2.10 to waive the encroachment of the proposed drive lane into the proposed Barley Drive 15 ft LBA.

WHEREAS, the waiver will not adversely affect adjacent property owners because the drive lane and parking lot are positioned to benefit (not adversely affect) as a result of the applicant redesigning the proposed development plan to alleviate the traffic issues of the residents to the rear, along Bartley Drive; the only way to accomplish this was to dedicate a public road through the center of the subject property to provide access to the light at Bardstown Road allowing the residents to make left hand turn movement to north bound Bardstown Road; by subdividing the subject property, the only way to get access is through the new publicly dedicated roadway as proposed; further, the drive lane encroachment is 305 square feet, and the LBA at its smallest point is still 10' in depth and an additional 400 square feet is added to mitigate the reduction of the required depth; and

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 Plan 2040 filed with the original rezoning application; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the vehicle drive aisle is only a slight portion of the property perimeter 15 ft LBA; any effort to comply with the LBA standards in LDC Section 10.2.10 would require going back to the prior proposed plan whereby the ROW through the center of the subject property is not dedicated; and

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 it would make the current proposed layout impossible and the traffic solution to the neighbors would not be permitted; and

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

Variance Findings of Fact

Variance of Section 5.3.1.C.5, Table 5.3.2 to vary the Bardstown Road 95 ft maximum building setback and the Bartley Drive 80 ft maximum building setback.

WHEREAS, the variance will not adversely affect the public health, safety or welfare because better screening and landscaping benefits the neighbors along Bartley Drive as much as or more so than the applicant; further the variance for the street side (facing Bardstown Road) and rear of the site will not have any negative affect because the variance need is created by the property having a very large right-of-way along Bardstown Rd., which is much larger than most of the commercial sites in this area and simply because of the extension of parking, which will be properly buffered with landscaping; allowing the variance will permit the applicant to greatly enhance the entrance with closely matching buffering and landscaping; and the redesign of the site was made to accommodate the area residents' desire to relocate Bartley Drive in order to have access to a signalized intersection on Bardstown Road and the resulting variances serves the interests of the residents; and

WHEREAS, the variance will not alter the essential character of the general vicinity because there remains a significant setback along Bartley Drive and because of landscaping and attractive streetscape along Bartley Drive; and the off-set of screening and landscaping results in a positive net benefit for adjoining residents; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because both the "excess" of the Bardstown Road right-of-way and most of this property's street side yard will be intensively and attractively landscaped in order to provide an attractive Bartley Drive streetscape and to eliminate views from Bartley Drive of the single family homes into the site; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the screen and landscape buffer described above will be shown on the exhibits presented with this application to the Planning Commission at LD&T and public hearing; and

WHEREAS, the Variance arises from special circumstances, which do not generally apply to land in the general vicinity because it is only this side of Bartley Drive at Bardstown Road that is presently affected by the proposed development with variances for this landscaped and screened area; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this trade off of added setback for better screening and landscaping; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but are the result of screening and buffering in order to fully mitigate any potential adverse impacts; and

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