

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 GUIDELINES AND POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

Applicant: Brian Forrest
Owner: Irma Waller
Location: 6300 Greenwood Road
Proposed Use: Retail/Restaurant Center
Engineers, Land Planners and Landscape Architects: Evans Griffin
Request: Zone Change from R-4 to C-1 and C-2

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on December 15, 2016 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

INTRODUCTORY STATEMENT

WHEREAS, this property has been one of the remaining decent size residential properties surrounded by recent developments, with commercial developments to the West along Greenwood Road and surrounded on the East and South by the McBride Moss Creek condominium development; there is no market for this property for a residential development as the Moss Creek residential development has been stalled for almost 10 years and is still not fully complete; the property has good access off Greenwood Road and off the access easement serving River City Bank and the Kroger center and near the intersection of Terry Road and Greenwood Road; and it is already an "activity center" location because of the proximity to the River City Bank and other commercial developments to the west as well as Kroger Center, not to mention the church across the street, with only the portion of the development along Greenwood Road proposed for C-2 zoning with the applicant proposing a use binding element to restrict the C-2 zoned portion of the property to a drive thru restaurant and the uses allowed in the C-1 zoning district; and

GUIDELINE 1 – COMMUNITY FORM

WHEREAS, the application complies with the Suburban Neighborhood Form District description of an area characterized by *predominantly* residential uses but that also includes, at appropriate locations, a mixture of uses, such as offices, retail shops, restaurants and services so long as these uses are at a scale appropriate for the nearby neighborhoods; this small retail center is precisely what is contemplated by the Suburban Neighborhood Form District; indeed, when the above-referenced condominium development community was originally approved there were

discussions about the lack of restaurant and other retail in close walking distance proximity, which this would provide, in order to round out the “activity center” that the condominium development community and other above-named uses are a part of; and

GUIDELINE 2 – CENTERS

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 14 and 15 of this Guideline because the subject property adjoins the mixture of commercial, high-density residential condominiums and single-family residential uses mentioned above, placing it in the activity center that already exists in and around this location; with goods and services available in close proximity to the west of this site and at the Kroger center and the residential uses mentioned above, this small retail center adds to the vitality and sense of place among the mostly disconnected nearby neighborhoods, some of whose residents will be able to walk to this small center for food or to shop at the retail establishments; others will find it a convenient stop on their ways home returning west along Greenwood Road or North on Terry Road; and

WHEREAS, as an “activity center”, it is appropriately located along a minor arterial road very close to Terry Road, also a minor arterial road, expanding the existing activity center to the west, and it is designed to be of intensity, density, size and mix of uses appropriate for a small neighborhood center; everything within this small center is compact, and it presently is contemplated to include four buildings: a Taco Bell restaurant, another fast food restaurant or coffee shop, and two retail buildings which are connected; and they share parking and work off the same utility infrastructure; and

GUIDELINE 3 – COMPATIBILITY

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24 and 28 of this Guideline because, as set forth above, this is a small neighborhood-serving retail center; it will have an attractive look and feel in accordance with the style and design concepts accompanying this application and as shown at the neighborhood meeting, and the elevations to be shown at the public hearing; odors would only exist as a consequence of the proposed restaurants, but those are located along the Greenwood Road portion of the site the furthest away from the adjoining residential properties, which are further separated by the sewer and drainage easement, further buffering the these developments; noise would only potentially emanate from the later hours of the restaurants as the retail portion is not anticipated to have any form of late hours; but residential properties potentially impacted by such nuisances are located significant distances away; lighting will follow restrictions of the Land Development Code (LDC) and thus be directed down and away from nearby residential properties, with 90 degree cut-off at property lines; transitions to adjoining properties on the south and east side will be attractively screened with the required landscaping as well as the increased distance of the drainage easement and parking will be shared; loading and delivery will be located and/or screened so as to minimize impacts on nearby properties and signage will be in conformance with the LDC, with only the portion of the development along Greenwood Road proposed for C-2 zoning with the applicant proposing a use binding element to restrict the C-2 zoned portion of the property to a drive thru restaurant and the uses allowed in the C-1 zoning district, which will eliminate any objectionable C-2 uses; and

GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

WHEREAS, the application complies with the Intents and applicable Policies 2, 5, 6 and 11 of this Guideline because, as set forth above, this property is located along Greenwood Road and close to Terry Road, both of which are minor arterials, with significant improvements to Greenwood Road already approved; due to the location of the property, surrounded by commercial development to the west and a stalled residential development to the south and east, the property no longer has any residential viability for development; as part of an existing activity center, it is designed to be a high quality, neighborhood compatible retail center with much needed restaurant uses; it is located close to fairly intense residential populations the length of Greenwood Road from Greenbelt Highway to Dixie Highway and along minor arterial-level streets connecting with Greenwood Road, such as Terry Road; and absent this rezoning application, this no longer suitable single-family property could not be reused in virtually any other manner; and

GUIDELINE 7, 8 AND 9 – CIRCULATION, TRANSPORTATION FACILITY DESIGN AND BICYCLE, PEDESTRIAN AND TRANSIT

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 4, 6, 9, 10, 11, 12, 13, 14, 15, 16 and 18 of Guideline 7; Policies 1, 4, 5, 7, 9, 10 and 11 of Guideline 8; and Policies 1, 2, 3 and 4 of Guideline 9 because, as mentioned above, Greenwood Road is slated for near-term reconstruction and improvement; this will move traffic much more efficiently along this busy arterial roadway; the traffic from this development will have access off of Greenwood Road and off the private access easement serving the Kroger center; also, the intersection of Greenwood Road and Terry Road is already a signalized one, which helps with traffic flows through that intersection and into and out of this site by creating traffic gaps for vehicles to safely enter and exit; furthermore, the design of this small center, together with its points of access, take into account the standards promulgated by KTC and Metro Transportation Planning and Public Works; the latter required a review and preliminary approval of a traffic study with traffic counts and a detailed district development plan (DDDP) submitted with this application prior to time of docketing for LD&T and Planning Commission public reviews; and that review and preliminary stamp of approval assures that Transportation Planning and Public Works standards for corner clearances, access, connectivity, internal circulation and parking minimums are all satisfied; and bike racks and sidewalks will be provided as required; and

GUIDELINES 10 - FLOODING AND STORMWATER

WHEREAS, the application complies with the Intents and applicable Policies 1, 3, 4, 6, 7, 10 and 11 of this Guideline because stormwater drainage will be addressed through the very significant drainage easement to the south and east, in compliance with MSD's standards for storm water management; MSD reviewed the storm water management plan and gave its preliminary stamp of approval to the DDDP prior to docketing for LD&T and Planning Commission public reviews; and the applicant's professional representatives have met with MSD to review area resident concerns about use of the existing drainage easement; and

GUIDELINE 11 – WATER QUALITY

WHEREAS, the application complies with the Intents and applicable Policies 3, 5 and 8 of this Guideline because MSD has promulgated both soil erosion/sedimentation control regulations and even newer ones with respect to water quality; and construction plans for this center will require compliance with these regulations prior to obtaining building permits; and

GUIDELINE 12 – AIR QUALITY

WHEREAS, the application complies with the Intents and applicable Policies 2, 4, 7 and 8 of this Guideline because this proposed extension of a small neighborhood center in close proximity to a large residential support population, notably along close to the intersection of two minor arterial roads, not only will vehicle miles traveled be reduced, but also customers already driving these road systems will be able to pop in and pop out of this center without having to travel greater distances for the exact same services; and

GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 4, 5 and 6 of this Guideline because compliance with this Guideline is achieved by virtue of compliance with LDC requirements and as stated above, landscaping, screening and buffering will exceed LDC requirements, as promised neighbors at the neighborhood meeting; 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 Guidelines and Policies of the Cornerstone 2020 Comprehensive 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/C-2 and approves the Detailed District Development Plan.

WAIVER FINDINGS OF FACT

Waiver of Section 10.2.4.B to allow the perimeter LBA along the south and east property lines to encroach 100% into the existing sewer and drainage easement.

Explanation of Waiver:

WHEREAS, the waiver will not adversely affect adjacent property owners because the LBA will still exist and provide the buffer as required, although a portion of it will include utilities that the land planners and landscape architects will work with MSD to provide landscaping in the easement area to be replaced if needed due to work in the easement; because the drainage easement is approximately 75 feet wide, this drainage easement will further help to buffer the adjoining residential properties from this development by providing a far greater distance between the development and any neighboring residences; 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 the Cornerstone 2020 Comprehensive Plan filed with the rezoning application; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the LBA will otherwise fully comply with the LDC, and the part affected by utilities will be addressed by the applicant working around them with enhanced or alternative landscaping worked out by the land planners and landscape architects working on this plan with MSD and the full screening buffer required by the LDC will be provided; 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 greater setback would cause unnecessary issues with the layout of the proposed development limiting required circulation when the full screening will be provided; and

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