

Docket No. 18ZONE1067

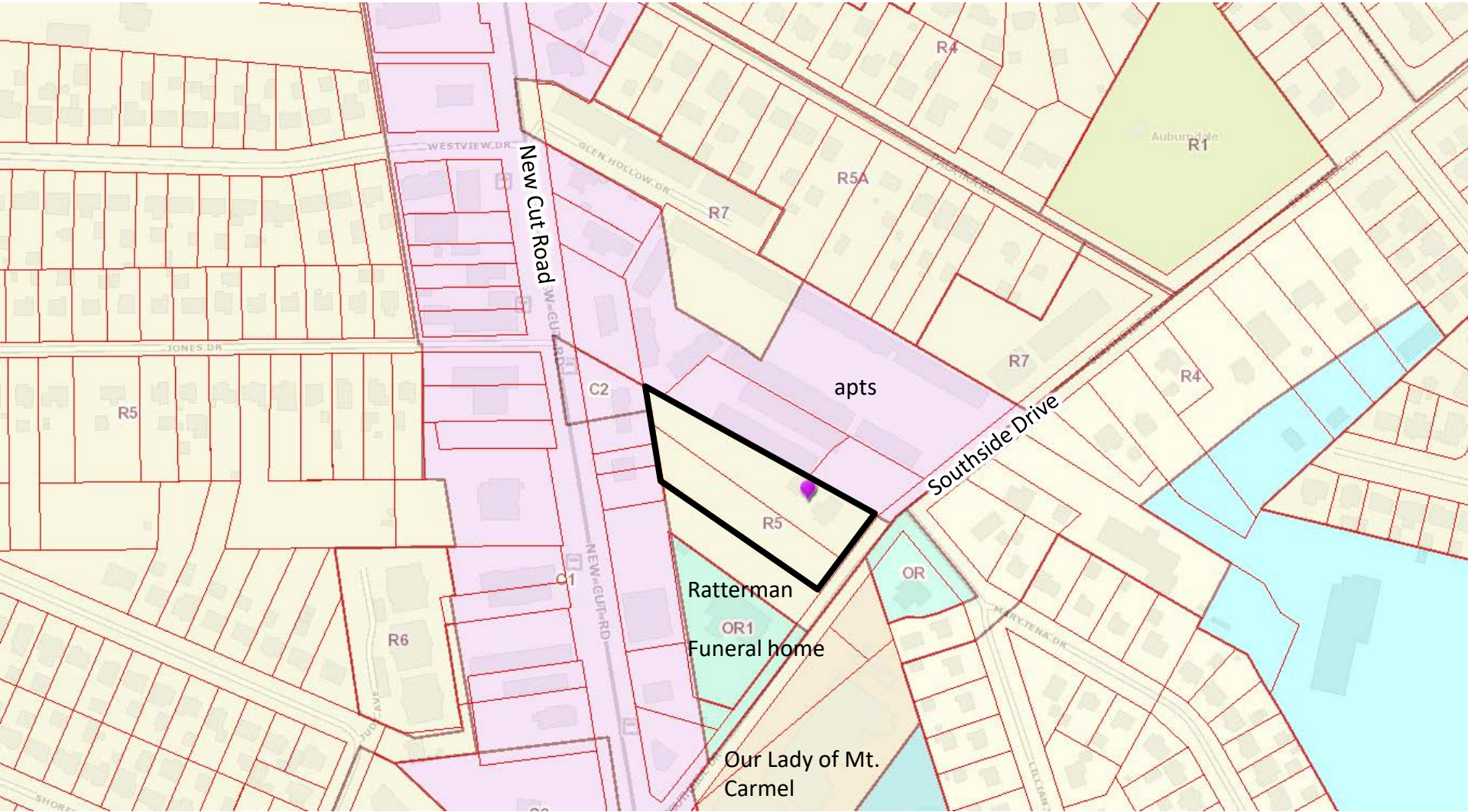
Zone Change from R-5 to C-1 and C-2 allow a contractor's shop property located at 7328 and 7330 Southside Drive

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Tab 1

LOJIC Zoning Map



[Tab 2]

Aerial photograph of the site and surrounding area



New Cut Road

Southside Drive

apts

Ratterman
Funeral home

Our Lady of Mt.
Carmel

Seventh Day
Adventist Church

Antioch Church

WESTVIEW DR

JONES DR

NEW CUT RD

PALATKA RD

1865

INNWOOD DR

SHOREWOOD DR

JURY AVE

MARYTINA DR

ELLENWAY

WOODMORE AVE

WOODMORE AVE



New Cut Road

Southside Drive

El Tarasco

Joseph E. Ratterman and Son Funeral Home

Long John

1865

907

907

[Tab 3]

Ground level photographs of the site and surrounding area



View Southside Drive looking southwest. Site is to the right.



View Southside Drive looking northeast. Site is to the left.



View of site from Southside Drive.

Louisville, Kentucky



Google, Inc.



Street View - Sep 2017



SITE

View of Ratterman Funeral Home parking lot, which adjoins the site to the south.



Apartments located to the north of the site.





View of businesses along New Cut Road, which adjoin the subject site to the west (rear).



View of businesses along New Cut Road, which adjoin the subject site to the west (rear).



View of businesses along New Cut Road, which adjoin the subject site to the west (rear).



View of Ratterman Funeral Home parking lot towards businesses along New Cut Road.



View of businesses along New Cut Road.

[Tab 4

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

Adjoining property owner notice list map wherein 64 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

November 19, 2018

Re: Zone Change from R-5 to C-1 and C-2 allow a contractor's shop property located at 7328 and 7330 Southside Drive

Dear Neighbor:

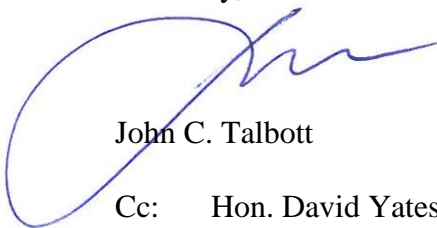
We are writing to invite you to a meeting we have scheduled to present neighbors with our zone change plan as described above.

Accordingly, we filed a Pre-App application on August 31st with the Division of Planning and Design Services ("DPDS"). The Case # is 18ZONE1067 and the DPDS Case Manager is Joel Dock. At the meeting, we will show and explain to neighbors the draft plan so that we might hear what thoughts, issues and concerns you may have.

In that regard, a meeting will be held on **Monday, December 3rd at 7:00 p.m.** at the **Louisville Professional Firefighters Union, Local #345, located at 400 Bakers Lane.** The meeting will be held in the **gymnasium.**

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

Sincerely,



John C. Talbott

Cc: Hon. David Yates, Councilman District 25
Hon. Vicki Welch, Councilwoman District 13
Hon. Vitalis Lanshima, Councilman District 21
Joel Dock, Planning Manager, Planning & Design Services
David Parks, DP Rentals, LLC, applicant
Mike Hill, Land Design & Development, Inc.

e:\client folder\parks, dave\southside dr\neighborhood meeting\neighbor ltr 10 25 18.docx

Neighborhood Meeting Summary

A neighborhood meeting was held on Monday, December 3rd at 7:00 p.m. in the gymnasium of the Louisville Professional Firefighters Union, Local #345, located at 400 Bakers Lane. 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 applicant/property owner, Dave Parks with DP Rentals, LLC.

The meeting began with a powerpoint presentation showing an aerial of the area, which was then focused in closer to the property itself. The zoning in the area was also shown to demonstrate that the current R-5 zoning was not appropriate to the area which has more intensive zoning all around it and particularly between New Cut Road and Southside Drive.

Mr. Talbott also showed the development plan which showed the home and current garage would remain. Consequently, the view from the street would remain effectively as it is now, only with substantial upgrades and improvements being added. The applicant explained that the home would be used for a professional office, and possibly the applicant's own land management office, which does have the need to put some equipment in the garage behind the house. The plan also showed the new building and upgrades to the parking and property which would enhance the property itself and the surrounding area.

Traffic was raised as an issue and the applicant explained that the use as a small (only three tenant) contractor's shop and one small office would generate much less traffic, particularly at the peak times, than many other uses appropriate for the location.

The neighbors had several additional questions about the project, such as the type of contractors who would use the property and controls on them to prevent its appearance from being degraded. The applicant advised the neighbors that he would be selective with the tenants and intended to make it an upscale contractors' building to attract good tenants. Painting and plumbing contractors were given as examples. The materials would include brick facing the businesses to the south, while the building itself would act as a buffer for the neighboring multifamily to the north of the site.

Some neighbors raised the drainage problems currently existing on the property. Mike Hill and the applicant explained the detention basin and also explained that a large part of the lot would remain in gravel to assist with drainage. Regardless, with the detention, drainage should be improved. Other questions and comments had to do with the lighting and fencing on the site. It was explained that lighting would comply with the Land Development Code. Fencing would be used where necessary to screen contractors' storing items and more importantly to curtail trespassers from congregating on the property, which the neighbors explained was a current problem.

Overall, the project was very well received with most if not all indicating that they found the plan much nicer than they anticipated.

Tab 5

Development Plan



SOUTH LOUISVILLE
7th DAY ADVENTIST
CHURCH

VENUS PLACE APARTMENTS

EL
TARASCO

LILLIAN WAY

JIFFY
LUBE

TOBACCA
JACK'S

SOUTHSIDE DRIVE

JOSEPH RATTERMAN
& SON
FUNERAL HOME

NEW CUT ROAD

VACANT
COMMERCIAL

OUR LADY OF
MT. CARMEL
CHURCH

LONG JOHN
SILVER'S

SUBWAY

GRAPHIC SCALE



R-7, C-1/TC
T D INVESTMENTS LLC
2244 TAYLORSVILLE
RD, LOUISVILLE, KY
40205
D.B. 8913 PG. 0285

C-1/TC
T D INVESTMENTS LLC
2244 TAYLORSVILLE RD,
LOUISVILLE, KY 40205
D.B. 9390 PG. 0927

C-1/TC
T D INVESTMENTS LLC
2244 TAYLORSVILLE RD,
LOUISVILLE, KY 40205
D.B. 9390 PG. 0927

7/TC
VOCS D & C
FA E,
LLE DR,
A 95111
S. 0263

PROP. DUMPSTER TO BE
SCREENED ON ALL SIDES WITH
A 6' SOLID PRIVACY FENCE.
SOLID PRIVACY GATES WILL
BE CLOSED AT ALL TIMES
WHEN NOT BEING EMPTIED.

C-1/TC
SLATEN WENDY KAY
1005 HICKORY SWITCH RD,
LA GRANGE, KY
40031-8920
D.B. 9936 PG. 0357

C-1/TC
SLATEN WENDY KAY
1005 HICKORY SWITCH RD,
LA GRANGE, KY
40031-8920
D.B. 9936 PG. 0357

C-1/TC
NEWOOD LLC & MILLER
PETER & CAROL
1300 W MAIN ST,
LOUISVILLE, KY 40203
D.B. 6772 PG. 0675

R-5/TC
NEWOOD LLC & MILLER
PETER & CAROL
1300 W MAIN ST,
LOUISVILLE, KY 40203
D.B. 6772 PG. 0675

OR1/TC
JER, III PROPERTIES LLC
7336 SOUTHSIDE DR
LOUISVILLE, KY, 40214-3732
D.B. 10791 PG. 0364

R-4/TC
ROMAN CATHOL
BISHOP OF
LOUISVILLE
PO BOX 1073,
LOUISVILLE, KY 40

OR/N
MOTAMED DAN
8701 WILDON
LOUISVILLE, KY
D.B. 9111 PG.

10" Sewer Rec. No. 04508-3

[Tab 6]

Building Elevations



Proposed style and design of building



Proposed style and design of building

[Tab 7]

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

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

Applicant/Owner: DP Rentals, LLC

Location: 7328 & 7330 Southside Drive

Proposed Use: Contractor's Office

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

Request: Zone Change from R-5 to C-1 and C-2

COMMUNITY FORM

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

The proposed zone change complies with all of the applicable, Objectives and Policies 3.1.5, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, 27 & 28 of Goal 1, for these reasons.

As stated in the Goal 1, Policy 3.1.5, the Town Center form:

[T]ypically has a compact mixture of moderately intense uses including shopping, restaurants, offices, and residence... The Town Center should have a high level of pedestrian, roadway, transit and bicycle access, a connected street pattern, shared parking and pedestrian amenities. More intense uses in the Town Center are located in close proximity to the major thoroughfare... [Emphasis added]

The proposed use complies with Goal 1 in several ways. First, this development will take an R-4 use that is completely out of place in a Town Center and re-purpose an unoccupied, deteriorating home on blighted property for an office use, consistent with the Town Center goal. The shape of the lot is atypical for a Town Center, largely created by the fact that this area between New Cut Road and Southside Drive creates a triangle shape, with long, irregular shaped lots, making orientation towards the street difficult. Currently the large, internal open parts of this lot and the adjacent areas have been neglected, used for dumping, and created a refuge for crime. The office use is consistent with the Town Center purpose and will bring this property much closer to the goals of the Town Center form than the property currently provides. The “contractor’s shop” will also enhance the Town Center. Even though it is not a more traditional Town Center use, it will occupy the long, unused part of the lot away from the street utilizing otherwise wasted areas. It will clean up the lot, eliminate the draw for criminal elements and thereby dramatically improve the area with appropriate lighting. Further, it will facilitate and assist the entire area and surrounding lots near New Cut Road and Southside Drive fulfilling the Town Center purpose.

The office and the contractor's shop will have connected and shared parking utilizing a shared access agreement consistent with the Town Center goal, along with sidewalks promoting pedestrian bicycle use.

The Property will further ensure new development and redevelopment that is compatible with the scale and site design of nearby existing development. It will allow a mixture of densities with the use of appropriate buffers and will not cause non-residential use into residential uses. The office and contractor's workshop will locate higher density and intensity near the major thoroughfares of New Cut Road and Southside Drive and place the employment uses near existing infrastructure and transportation. The potential adverse impacts, such as noise, lighting and traffic will be mitigated through the use of buffers and compliance with the Land Development Code. Finally, the use of the office and contractor's workshop promote mixed use development and utilization and density with a long, irregular lot located in the Town Center responding to the distinctive physical, historic, and cultural qualities.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 5, 6, 7, 9, 12 13, 14, 15, 16, & 17 of Goal 2, for these reasons.

The proposed use will encourage sustainable growth and density around mixed-use centers and corridors by placing density compatible with desired form and existing infrastructure. The design and density are appropriate with adjacent uses that will serve the needs of the surrounding community. The development will be compact in an activity center resulting in efficient land use and cost effective infrastructure investment. The mixture of compatible uses will reduce traffic and limit trips. The development will rehabilitate the deteriorating home on the property for office use. The plan will provide neighborhood serving contractor workshop and office use. The two uses will share entrance and parking facilities reducing the number of curb cuts and the site will be easily accessible by pedestrian and bicycle traffic and provide green spaces.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 2, 3, 6, 7, 8, 9 & 12 of Goal 3, for these reasons.

The proposed development plan will enhance the surrounding neighborhoods by protecting the open space and natural resources by creating detention basins and protecting natural resources. The open space is compatible with the Form District in that it provides open space that can be visually enjoyed by the community and ensures transitions between the various surrounding properties.

Detention basins being added will improve the issues with standing water and the problems associated with standing water, while respecting the natural features of the property. These changes will protect the health, safety and welfare of future uses of the development.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2 & 3 of Goal 4, for these reasons.

The development plan will promote and preserve the historic and archaeological resources that contribute to our authenticity renovating, preserving and adaptive reuse of the residence currently on the property.

MOBILITY

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 3, 4, 7 & 14 of Goal 1, for these reasons.

The development plan implements an accessible system of alternative transportation modes by providing sidewalks and walkway connections between the uses for bicycles and pedestrian traffic, in addition to vehicles. The site is close to public transportation. The office use is located close to the roadway to minimize distances of travel and encourages bicycle use in an activity center. The plan places higher density and intensity near existing corridors and along the minor arterial of Southside Drive and close to the major arterial of New Cut Road and the TARC service available there.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 4, 5, 6, 7, & 8 of Goal 2, for these reasons.

The development plan complies with the objectives and policies of Goal 2 by promoting a safe, accessible and efficient transportation system by accommodating pedestrian, bicycle and vehicular access through the connected lots and accessible rights of way between the two lots being created. The site distances for the curb cut 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 entrance is compatible with surrounding development and aesthetically pleasing to adjacent areas.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 3, 4, 5, 7, 10, 11, 12, 14, 17, 18, 20, 24, & 27 of Goal 3, for these reasons.

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. The plan will not burden the transportation network, but will enhance it with developing the lot in a way that is closer to the purpose for the Town Center than the site currently provides and by introducing uses that will not create a lot of peak travel traffic. The plan is consistent with long range transportation plans. The parking requirements of the site consider the density of the use and the character and pattern of the Form District in that it converts a residence to office use by the street. The two differing uses will share a curb cut reducing access points to Southside Drive fulfilling the policy of joint access for development sites. The plan also satisfies the policy of infill development opportunities supporting biking and pedestrian travel.

COMMUNITY FACILITIES

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 3 of Goal 2, for these reasons.

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 complies with all of the applicable, Objectives and Policies 3, 7, & 9 of Goal 1, for these reasons.

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 reusing and redeveloping a deteriorated and blighted property in southwest Louisville. It locates the office and contractor's shop in an area with existing infrastructure in an efficient manner increasing economic opportunities in the area. It will provide opportunities to underserved small businesses in the area increasing economic opportunity to business owners and employment. While the development will not create high traffic, the traffic will be directed on a minor arterial.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 3, 4, 5, & 7 of Goal 2, for these reasons.

This development plan complies with Goal 2 of Economic Development as it enhances the quality of life in the area by reusing and readapting a current less desirable use, while at the same time protecting and improving the economic value of the surrounding areas. It satisfies the goal and policy of infill development to take advantage of the existing infrastructure. The design elements being used will limit the heat island effect through the use of gravel rather than black asphalt and green detention basins.

LIVABILITY

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

The proposed zone change complies with all of the applicable, Objectives and Policies 2, 4, 5, 7, 12, 23, 25, 26, 27, 28, 31, 35, 36, & 39 of Goal 1, for these reasons.

The development plan complies with the objectives and policies of Goal 1 of Livability element in that it protects the provides pedestrian and bicycle connectivity while not creating much in new traffic for the area. It also will improve the current drainage problems associated with the

site where water puddles on the area, through the use of detention basins and a gravel parking lot greatly reducing what would otherwise be an impervious surface. Trees will be preserved where they can, particularly on the property boundaries, and landscaping will be added to reduce the impacts of the site to nearby multi-family housing.

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

The proposed zone change complies with all of the applicable, Objectives and Policy 8 of Goal 2, for these reasons.

The development plan complies with the objectives and policies of Goal 2 of Livability element by dramatically cleaning a blighted site which will be a benefit to the residences and businesses in the immediate vicinity, particularly the adjacent properties.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 4 of Goal 3, for these reasons.

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, notice of all public meetings and by providing the neighborhood meeting, encouraging and providing an opportunity for area involvement in the plan design.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 8 of Goal 4, for these reasons.

The development plan complies with the objectives and policies of Goal 4 of Livability element by providing and enhancing choices for mobility choices, encouraging clean air by reducing miles driven by providing needed services to an underserved area. It also provides needed office and contractor services in and along high capacity transit corridors of Southside Drive and next to New Cut Road.

HOUSING

The proposed zone change and development plan complies with all of the applicable. Objectives and Policies of Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities in an existing activity center 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 presented at Planning Commission public hearings, this application will comply with all other applicable Guidelines and Policies of the Cornerstone 2040 Comprehensive Plan.

Respectfully submitted,

BARDENWERPER, TALBOTT & ROBERTS, PLLC

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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 5.2.4.C.3.a to allow the buildings to exceed the 15 ft maximum front setback requirement

1. The variance will not adversely affect the public health, safety or welfare because these are aesthetic issues only.
2. The variance will not alter the essential character of the general vicinity because, if anything, the general character of the area is one of buildings set back as significantly already from the public street, as all buildings in this area were originally located on their respective sites before this was designated by Cornerstone 2020 and Plan 2040 as a Town Center Form District. Moreover this overall plan brings the site much closer to the intent in the Form District by changing the use of the current building to an office from residential and improving the building with substantial investment to rehabilitate it. Regardless, the building's present location is an as built condition which will not move further from Southside Drive. The contractor's shop will sit further away from the road, but it is a use which will be designed to fit in the area's design and is necessary because of the long, narrow and irregular shape of the overall property relative to building sizes and shapes.
3. The variance will not cause a hazard or a nuisance to the public because again this is an aesthetic not hazard or nuisance issue.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because of all that is said above include the fact that the office building is a reuse of an existing structure that is not being moved at all and the second building placement is necessitated by the irregular lot size.

Additional consideration:

1. The variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as noted above, the building closest to Southside Drive will not be moved from its current location.
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 the applicant wouldn't be able to fit most of its normal-shaped buildings on this overall irregularly shaped and narrow site.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of the shape of the buildings the overall site and the present as-built condition of the property.

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: 5.5.1.A.3.d to waive the pedestrian and vehicular connections to parking lots of the abutting developments

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners or the public because there would be few if any customers of the applicant since this property will be used primarily as a “contractor’s workshop”. The adjoining properties’ uses on Southside Drive are completely different types than the applicant as one is a multi-family apartment use and the other use is a funeral home making vehicular connections inappropriate. The adjoining properties on New Cut Road already have a connection to allow commercial users access to Southside Drive so the necessity of a connection for those properties is already provided.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Goals, Objectives and Policies of the Plan 2040 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 the connection would not serve any purpose and it would promote crime by providing pedestrian access behind the buildings on New Cut Road and Southside Drive
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 lose valuable/necessary parking, it would serve no useful purpose, and would likely promote criminal activity by providing vehicular and pedestrian access at the back side of several businesses.

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 5.5.1.A.3 to allow parking to be located in front of the building

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because they are commercial users and multi-family that have far less in common with either Cornerstone 2020 Land Development Code or Plan 2040 than this proposed project because those were developed before this area was designated as a Town Center Form District. Furthermore, the site will have a detention basin and have existing landscaping that mitigate the potential adverse consequences of parking located in the front of the building than the LDC otherwise technically permits.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Goals, Objectives and Policies of the Plan 2040 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 involves an existing, as-built condition in on a relatively minor lot where parking is situated in order to accommodate the plan for this mixed use in the area's activity center.
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 lose valuable/necessary parking in an area where, as noted, there are no negative resulting 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 5.5.1.A.1.a to allow the principal building entrance on Tract 2 to not face Southside Drive

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because they are all commercial and temporary, multi-family users that have far less in common with the Cornerstone 2020 Land Development Code and Plan 2040 than this proposed project because those were developed before this area was designated as a Town Center Form District.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Objectives and Policies of the Cornerstone 2040 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 of one of the buildings needs to face inward because of the long, irregular shape to the lot, while the existing home, being reused as an office will continue to face Southside Drive.
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 otherwise not be able to develop the back part of the site which is currently vacant, overgrown, and attracting dumping and criminal elements.

Tab 8

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

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2040 COMPREHENSIVE PLAN

Applicant/Owner: DP Rentals, LLC

Location: 7328 & 7330 Southside Drive

Proposed Use: Contractor's Office

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

Request: Zone Change from R-5 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 June 6, 2019 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

COMMUNITY FORM

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 3.1.5, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, 27 & 28 of Community Form Goal 1, because as stated in the Goal 1, Policy 3.1.5, the Town Center form typically has a compact mixture of moderately intense uses including offices, a high level of pedestrian, roadway, transit and bicycle access, a connected street pattern, shared parking and pedestrian amenities and more intense uses should be located in close proximity to the major thoroughfare, all of which is satisfied in this development plan.

WHEREAS, the proposed use complies with Goal 1 because this development will take a blighted, neglected R-5 use that is completely out of place in a Town Center, much of which is currently used for dumping and which has created a refuge for crime, and re-purposed the property for an office use and contractor's workshop, consistent with the Town Center goal;

WHEREAS, the shape of the lot is atypical for a Town Center, largely created by the fact that this area between New Cut Road and Southside Drive creates a triangle shape, with long, irregular shaped lots, making orientation towards the street difficult;

WHEREAS, the office use is consistent with the Town Center purpose and will bring this property much closer to the goals of the Town Center form than the property currently provides; the contractor's shop will also enhance the Town Center even though it is not a more traditional Town Center use because it will occupy the long, unused part of the lot away from the street utilizing otherwise wasted areas; it will clean up the lot, eliminate the draw for criminal elements and thereby dramatically improve the area with appropriate lighting; further, it will facilitate and

assist the entire area and surrounding lots near New Cut Road and Southside Drive by repurposing it more consistent with the Town Center purpose; the office and the contractor's shop will have connected and shared parking utilizing a shared access agreement consistent with the Town Center goal, along with sidewalks promoting pedestrian bicycle use; and

WHEREAS, the Property will further ensure new development and redevelopment that is compatible with the scale and site design of nearby existing development; it will allow a mixture of densities with the use of appropriate buffers and will not cause an expansion of non-residential use into residential areas; the office and contractor's workshop will locate higher density and intensity near the major thoroughfares of New Cut Road and Southside Drive and place the employment uses near existing infrastructure and transportation; the potential adverse impacts, such as noise, lighting and traffic will be mitigated through the use of buffers and compliance with the Land Development Code; finally, the use of the office and contractor's workshop promote mixed use development and utilization and density with a long, irregular lot located in the Town Center responding to the distinctive physical, historic, and cultural qualities; and

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 5, 6, 7, 9, 12 13, 14, 15, 16, & 17 of Community Form Goal 2, because the proposed use will encourage sustainable growth and density around mixed-use centers and corridors by placing density compatible with desired form and existing infrastructure; the design and density are appropriate with adjacent uses that will serve the needs of the surrounding community; the development will be compact in an activity center resulting in efficient land use and cost effective infrastructure investment; the mixture of compatible uses will reduce traffic and limit trips; the development will rehabilitate the deteriorating home on the property for office use; the plan will provide neighborhood serving uses for the property and the two uses will share an entrance and parking facilities reducing the number of curb cuts; and the site will be easily accessible by pedestrian and bicycle traffic and provide green spaces; and

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 2, 3, 6, 7, 8, 9 & 12 of Community Form Goal 3, because the proposed development plan will enhance the surrounding neighborhoods by protecting the open space and natural resources by creating detention basins and protecting natural resources; and the open space is compatible with the Form District in that it provides open space that can be visually enjoyed by the community and ensures transitions between the various surrounding properties; and

WHEREAS, detention basins being added will improve the issues with standing water and the problems associated with standing water, while respecting the natural features of the property; and these changes will protect the health, safety and welfare of future uses of the development; and

MOBILITY

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 3, 4, 7 & 14 of Mobility Goal 1, because the development plan implements an accessible system of alternative transportation modes by providing sidewalks and walkway connections between the uses for bicycles and pedestrian traffic, in addition to vehicles; the site is close to public transportation; the office use is located close to the roadway to minimize distances of travel and encourages bicycle use in an activity center; the plan places higher

density and intensity near existing corridors and along the minor arterial of Southside Drive and close to the major arterial of New Cut Road and the TARC service available there; and

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 4, 5, 6, 7, & 8 of Mobility Goal 2, because the development plan promotes a safe, accessible and efficient transportation system by accommodating pedestrian, bicycle and vehicular access through the connected lots and accessible rights of way between the two lots being created; the site distances for the curb cut are adequate for the area; the internal circulation of pedestrian and vehicular traffic is appropriate with the connected walkways and shared access, parking, etc.; and the entrance is compatible with surrounding development and aesthetically pleasing to adjacent areas; and

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 3, 4, 5, 7, 10, 11, 12, 14, 17, 18, 20, 24, & 27 of Mobility Goal 3, by providing walking and bicycling opportunities with the sidewalks and interconnected walkways and by providing a mix of complimentary neighborhood serving businesses and services and thereby reducing miles travelled by car; the plan will not burden the transportation network, but will enhance it with developing the lot in a way that is closer to the purpose for the Town Center than the site currently provides and by introducing uses that will not create a lot of peak travel traffic, consistent with long range transportation plans; the parking requirements of the site consider the density of the use and the character and pattern of the Form District in that it converts a residence to office use by the street; the two differing uses will share a curb cut reducing access points to Southside Drive fulfilling the policy of joint access for development sites; the plan also satisfies the policy of infill development opportunities supporting biking and pedestrian travel; and

COMMUNITY FACILITIES

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 3 of Community Facilities Goal 2, 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

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 3, 7, & 9 of Economic Development Goal 1, as this development plan benefits and supports the economic climate that improves growth, innovation, and investment opportunity for all by reusing and redeveloping a deteriorated and blighted property in southwest Louisville; it locates the office and contractor's shop in an area with existing infrastructure in an efficient manner increasing economic opportunities in the area; it will provide opportunities to underserved small businesses in the area increasing economic opportunity to business owners and employment; and while the development will not create high traffic, the traffic will be directed on a minor arterial; and

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 3, 4, 5, & 7 of Economic Development Goal 2, because this development plan enhances the quality of life in the area by reusing and readapting a current less desirable use,

while at the same time protecting and improving the economic value of the surrounding areas; it satisfies the goal and policy of infill development to take advantage of the existing infrastructure; and the design elements being used will limit the heat island effect through the use of green detention basins; and

LIVABILITY

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 2, 4, 5, 7, 12, 23, 25, 26, 27, 28, 31, 35, 36, & 39 of Livability Goal 1, because the development plan provides pedestrian and bicycle connectivity while not creating much in new traffic for the area; it also will improve the current drainage problems associated with the site where water puddles on the area, through the use of a detention basin greatly reducing the effects of an impervious surface; trees will be preserved where they can, particularly on the property boundaries, and landscaping will be added to reduce the impacts of the site to nearby multi-family housing; and

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policy 8 of Livability Goal 2, because the development plan dramatically improves a blighted site which will be a benefit to the residences and businesses in the immediate vicinity, particularly the adjacent properties; and

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 4 of Livability Goal 3, because equitable access to the land use planning and policy resources has been provided to surrounding residents and property owners with notice of all public meetings, by providing the neighborhood meeting, and by encouraging and providing an opportunity for area involvement in the plan design; and

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 8 of Livability Goal 4, because the development plan enhances choices for mobility choices, encourages clean air by reducing miles driven by providing needed services to an underserved area; and also provides needed office and contractor services in and along high capacity transit corridors of Southside Drive and next to New Cut Road; and

HOUSING

WHEREAS, the proposed zone change and development plan complies with all of the applicable; Objectives and Policies of Housing Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities in an existing activity center 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

* * *

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 2040 Comprehensive 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 C-1 and C-2 and approves the Detailed District Development Plan.

Parking Location Waiver Findings of Fact

Waiver of Section 5.5.1.A.3 to allow parking to be located in front of the building

WHEREAS, the waiver will not adversely affect adjacent property owners because the parking waiver is necessary because of the long, narrow, irregular shape of the lot mandating the location of the parking in front of the contractor's shop, and because the adjacent property owners being commercial and multi-family users have less in common with either Cornerstone 2020 Land Development Code or Plan 2040 than this proposed project as they were developed before this area was designated as a Town Center Form District; furthermore, the site will have a detention basin and existing landscaping that mitigate the potential adverse consequences of parking located in the front of the building; 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 Goals, Objectives and Policies of the Plan 2040 Comprehensive Plan 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 this involves an existing condition on the irregular shaped lot where parking is situated in order to accommodate the plan for this mixed use in the area's activity center; 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 lose valuable/necessary parking in an area where, as noted, there are no negative resulting impacts;

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

Pedestrian and Vehicular Connection Waiver Findings of Fact

Waiver of 5.5.1.A.3.d to waive the pedestrian and vehicular connections to parking lots of the abutting developments

WHEREAS, the waiver will not adversely affect adjacent property owners or the public because there would be few if any customers of the applicant since this property will be used primarily as a “contractor’s workshop”; the adjoining properties’ uses on Southside Drive are completely different types of use than the applicant as one is a multi-family apartment use and the other use is a funeral home making vehicular connections inappropriate; and the adjoining properties on New Cut Road already have a connection allowing commercial users access to Southside Drive so the necessity of a connection for those properties is already provided; 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 Goals, Objectives and Policies of the Plan 2040 Comprehensive Plan 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 connection would not serve any necessary purpose and it would promote crime by providing pedestrian access behind the buildings on New Cut Road and Southside Drive; 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 lose valuable/necessary parking, it would serve no useful purpose, and would likely promote criminal activity by providing vehicular and pedestrian access at the back side of several businesses;

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

Building Entrance Waiver Findings of Fact

Waiver of Section 5.5.1.A.1.a to allow the principal building entrance on Tract 2 to not face Southside Drive

WHEREAS, the waiver will not adversely affect adjacent property owners because the direction of the building of the contractor's shop is dictated by the irregular shape of the lot and the desire to utilize what is otherwise wasted space; and because the adjacent owners are all commercial and temporary, multi-family users that have far less in common with the Cornerstone 2020 Land Development Code and Plan 2040 than this proposed project because those were developed before this area was designated as a Town Center Form District; 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 Objectives and Policies of the Cornerstone 2040 Plan 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 of one of the buildings needs to face inward because of the long, irregular shape to the lot, while the existing home, being reused as an office will continue to face Southside Drive; 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 otherwise not be able to develop the back part of the site which is currently vacant, overgrown, and attracting dumping and criminal elements;

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

Setback Variance Findings of Fact

Variance of Section 5.2.4.C.3.a to allow the buildings to exceed the 15 ft maximum front setback requirement

WHEREAS, the variance will not adversely affect the public health, safety or welfare because these are aesthetic issues only; and

WHEREAS, the variance will not alter the essential character of the general vicinity because, if anything, the general character of the area is one of buildings set back significantly already from the public street, as all buildings in this area were originally located on their respective sites before this was designated as a Town Center Form District; moreover this overall plan brings the site much closer to the intent in the Form District by changing the use of the current building to an office from residential and improving the building with substantial investment to rehabilitate it; regardless, the building's present location is an as-built condition which will not move further from Southside Drive; the contractor's shop will sit further away from the road, but it is a use which will be designed to fit in the area's design and is necessary because of the long, narrow and irregular shape of the overall property relative to building sizes and shapes; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because again this is an aesthetic not hazard or nuisance issue; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because of all that is said above include the fact that the office building is a reuse of an existing structure that is not being moved at all and the second building placement is necessitated by the irregular lot size; and

WHEREAS, the variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as noted above, the building closest to Southside Drive will not be moved from its current location; 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 the applicant wouldn't be able to fit most of its normal-shaped buildings on this overall irregularly shaped and narrow site; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of the shape of the buildings the overall site and the present as-built condition of the property;

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