

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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## **STATEMENT OF COMPLIANCE WITH 2040 COMPREHENSIVE PLAN**

<u>Applicant/Owner:</u>	M & T, LLC
<u>Current Zoning:</u>	OTF to C-1
<u>Engineers, Land Planners and Landscape Architects:</u>	Land Design & Development, Inc.
<u>Attorneys:</u>	Bardenwerper, Talbott & Roberts, PLLC
<u>Request:</u>	Stand-alone restaurant with drive-through

### **INTRODUCTION**

Two meetings with the Indian Springs Community Association (ISCA) Board of Directors and one with residents of Indian Springs were held to give those interested and concerned individuals an opportunity to hear from this applicant about the proposed plan for a freestanding restaurant next to the “Aloft” hotel on the property previously rezoned OTF with ISCA and neighbor support.

Recent years also experienced the rezoning and development of the Westport Road frontage where the golf course cart barn of the old Indian Spring Golf Course was located for an Aldi grocery and other fast-food restaurant on the west side of Indian Lake Drive. This rezoning application is for that portion of the Westport Road frontage of the old Indian Springs Golf Course located on the east side of Indian Lake Drive, where, as stated, the “Aloft” hotel was approved and constructed where the 10<sup>th</sup> hole was once located.

All of this is a result of a settlement of a lawsuit opposing the Aldi development whereby an agreement devised and prepared by this law firm between the ISCA and previous golf course owner gave the golf course to the ISCA residents, who have since turned it into open space, in return for dropping their appeal of the Aldi rezoning and development and also allowing rezoning of the east side of Indian Lake Drive to the OTF zoning district for the Aloft hotel with ancillary connected restaurant.

Pat Madden, principal of M&T, is the lead developer of this hotel project and also the developer of the largest mixed use project in Kentucky, called Hamburg Place in Lexington. He also developed the Kohl’s Center on South Bardstown Road and is working on other projects in Metro Louisville.

The main new issues are traffic and the exact type of freestanding restaurant.

### **PLAN ELEMENT 4.1: COMMUNITY FORM**

This Application complies with Plan Element 4.1, its 5 Goals and their Objectives plus the following Policies.

As to Goal 1, Policies 2, 2.1, 2.3, 3.1.2, 4, 6, 7, 9 10, 11, 12 13, 14, 16, 17, 18, 19, 20 and 23, it complies as follows, in addition to the other ways set forth above and below: The site is located in the Neighborhood Form District which encourages compatible, neighborhood and area-serving commercial uses.

As to compatibility, the proposed rezoning is intended to allow a stand-alone restaurant where one attached to the existing hotel was previously already permitted. Compatibility also includes building design, not necessarily from the standpoint of whether a particular architect or particular choice of aesthetic design matches everyone's tastes (which is an impossibility), but rather from the standpoint of building materials and design themes that tend to elevate aesthetics while also being representative of the particular geographic area might have to offer. In this case, the selection of building materials and design theme, as presented with this application reflect and build upon the quality materials and design themes evident along this stretch of Westport Road at a busy Snyder Freeway interchange location.

As to the potential impacts of odors, noises and lighting, other freestanding restaurants (including a barbeque restaurant on ISCA owned land) are located adjacent to this proposed new one.

As to the potential impacts of traffic and air quality, the traffic impact study (TIS) being prepared by Diane Zimmerman, PE, transportation engineer, appears likely to conclude that safe and easy access to and within this proposed project and through the larger geographic area via Westport Road and Indian Lake Drive can be assured without disruption to existing traffic patterns and flows.

As to setbacks and building height, a lower than maximum height appropriate for a major suburban commercial location, such as this one, and all required setbacks are assured.

As to parking, the proposed project includes an appropriately sized parking lot.

In terms of loading, delivery and drive-through pick-up, the DDDP filed with this application demonstrates how access and stacking of vehicles through the proposed drive-through assures circulation and eliminates the possible current negative impacts of traffic backing up on Indian Lake Drive and Westport Road. Loading and delivery will also not negatively impact residents, diners, hotel guests, workers, and others because it is all internal to the site.

As to lighting and signage, that will be LDC compliant.

As to Goal 2, Policies 1, 2, 3, 4, 5, 6, 7, 9, 11, 12, 13, 14, 15, 16 and 17, it complies as follows, in addition to the other ways set forth herein: For starters, this project is located in a Neighborhood Form District at the intersection of Westport Road and Indian Lake Drive which, as the TIS appears to conclude, have adequate traffic-carrying capacity. A large and robust activity center at this location (as presently exists but which is proposed with this application for modest change) helps invigorate suburban Louisville and this commercial corridor.

Because, as said, this is already a large activity center, developing one new retail use at this location is appropriate for the reasons set forth above and given the intersection location is right off the Snyder Freeway. Furthermore, retail with a variety of mixed uses are always appropriate at intersections of arterial highways such as this one right off an interstate highway.

Also, the proposed freestanding restaurant will be easily accessible for pedestrian and bicycle usage from nearby residents of Indian Springs, same as the Aldi grocery and existing restaurants today are.

Moreover, the slight re-design of the existing activity center such as this one is appropriate in terms of how it fits with adjoining uses and nearby neighborhoods. The only adjoiners are other retail uses and apartments.

Frontage roads and utilities already exists. Road access will be reviewed during the agency comments, following this official filing. MSD plus Metro Public Works and Transportation Planning (MPW&TP) will need to “stamp” this plan for preliminary approval prior to LD&T review, thereby demonstrating compliance with those agencies’ independent standards relative to their roadway, sanitary sewer and storm water infrastructure.

#### **PLAN ELEMENT 4.2: MOBILITY**

This application complies with Plan Element 4.2, its 3 Goals and their Objectives plus the following Policies. As to Goal 1, Policies 1, 2, 3, 4, 5 and 6; Goal 2, Policies 1, 2, 3, 4, 5, 6, 7 and 8; and Goal 3, Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 18, 20 and 21, it complies as follows, in addition to the other ways set forth above and below:

The impacts of this proposed project were evaluated during the rezoning reviews of the Aloft, Aldi and associated business plans. Once again, MPW&TP plus KTC review comments will be taken into account, and in the end MPW&TP will have to “stamp” the DDDP for preliminary approval prior to docketing for LD&T review and public hearing.

Also, the proposed DDDP assures that sidewalks accommodate pedestrian and bicycle traffic, especially from the Indian Springs community and adjoining Aloft hotel.

Transportation access to the site could include left-in turn lane improvements from Indian Lake Drive.

Adequate parking and delivery access will be accommodated as explained above and in the DDDP.

This site is also accessible from parts near and far via Westport Road.

#### **PLAN ELEMENT 4.3: COMMUNITY FACILITIES**

This application complies with Plan Element 4.3, its Goals and their Objectives plus the following Policies. As to Goal 1, Policy 3 and Goal 2, Policies 1, 2 and 3, it complies as follows, in addition to the other ways set forth above and below:

Sanitary sewer facilities are adequate, water supply is adequate, and electric and gas utilities also exist within Westport Road or local streets. They will be improved as necessary to serve this proposed PDD project. Also, what better location to locate a restaurant than next to the residential neighborhood it will serve and in a mixed use development along an arterial highway near an interstate interchange where fire and police have easy access.

#### **PLAN ELEMENT 4.4: ECONOMIC DEVELOPMENT**

This application complies with Plan Element 4.4, its Goals and their Objectives, plus the following Policies. As to Goal 1, Policy 3 and Goal 2, Policies 1, 2 and 3, it complies as follows, in addition to the other ways set forth above and below:

This location is a retail and restaurant activity center and workplace today, and it will serve area residents and those visiting existing adjacent and nearby businesses and long the busy Westport Road Commercial Corridor.

#### **PLAN ELEMENT 4.5: LIVEABILITY**

This application complies with Plan Element 4.5, its Goals and their Objectives plus the following Policies. As to Goal 1, Policies 5, 7, 8, 10, 11, 12, 13, 15, 23, 26, 27, 28, 29, 30, 31, 32, 33 and 35, and Goal 4, Policies 1 and 2, it complies as follows, in addition to the other ways set forth above and below:

The storm water management plan for this site is already in place.

The main thing to think about in terms of improved air quality is that whenever you have high intensity/high density mixed uses, like those at this existing activity center, there is great opportunity to reduce vehicle miles traveled. As anticipated at this project site, lots of area residents already dine and shop in this same area. This new freestanding restaurant will keep those people dining proximate to where they live and work.

Because this mixed-use location generates traffic from the adjoining Indian Springs neighborhood, many of those residents can also access it using their bicycles and sidewalk network.

#### **PLAN ELEMENT 4.6: HOUSING**

This application complies with Plan Element 4.6, its Goals and their Objectives, plus the following Policies. As to Goal 1, Policies 1, 2 and 3; Goal 2, Policies 1, 2 and 3; and Goal 3, Policies 3 and 4, it complies as follows, in addition to the other ways set forth above:

Because this already is a popular residential, dining and shopping area at a major already existing activity center, another restaurant will do nothing to detract from the high quality of residential living nearby.

\* \* \*

For all of the above-stated reasons, those shown on the DDDP and those explained elsewhere in this application, plus those that will be further explained at the LD&T meeting and Planning Commission public hearing, this application complies with all other applicable Goals, Objectives and Policies of the "Plan 2040" Comprehensive Plan.

Respectfully submitted,

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