

Louisville Metro Planning Commission
March 3, 2016

DOCKET NO. 15ZONE1010
ZONE CHANGE FROM OR-3 AND R-6 TO C-2
TO BRING THE BUILDING AND USES INTO
COMPLIANCE WITH THE
ST. MATTHEWS VERSION OF THE
LAND DEVELOPMENT CODE ON PROPERTY
LOCATED AT
111 AND 115 S. HUBBARDS LANE,
209, 201 AND 211 NORBOURNE LANE
C/O ELINE DEVELOPMENT CO.

Attorneys:
Bardenwerper
Talbot &
Roberts, PLLC

Land Planners,
Landscape
Architects &
Engineers:
Milestone
Design Group

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. Development Plan
5. Neighborhood Meeting notice list map, letter to neighbor inviting them the meeting and summary of meeting
6. Proposed Additional Binding Element
7. Right of Way parking improvements
8. Statement of Compliance filed with the original zone change application with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan and Waiver Justifications
9. Proposed findings of fact pertaining to compliance with the Comprehensive Plan and Waiver criteria



Tab 1
LOJIC Zoning Map



Street Gray Basic Aerial Base Historic Aerial Labels

Shelbyville Road

Verzion Wireless store

Old National Bank

Mercedes dealership

Mini Cooper dealership

Sprint anchored shopping center

Long John Silver's

S. Hubbards Lane

Atria

OR3

R7

OR3

R6

R5

R4

0 100 200ft

Louisville Metro, MSD, LWC & PVA © 2015



Tab 2

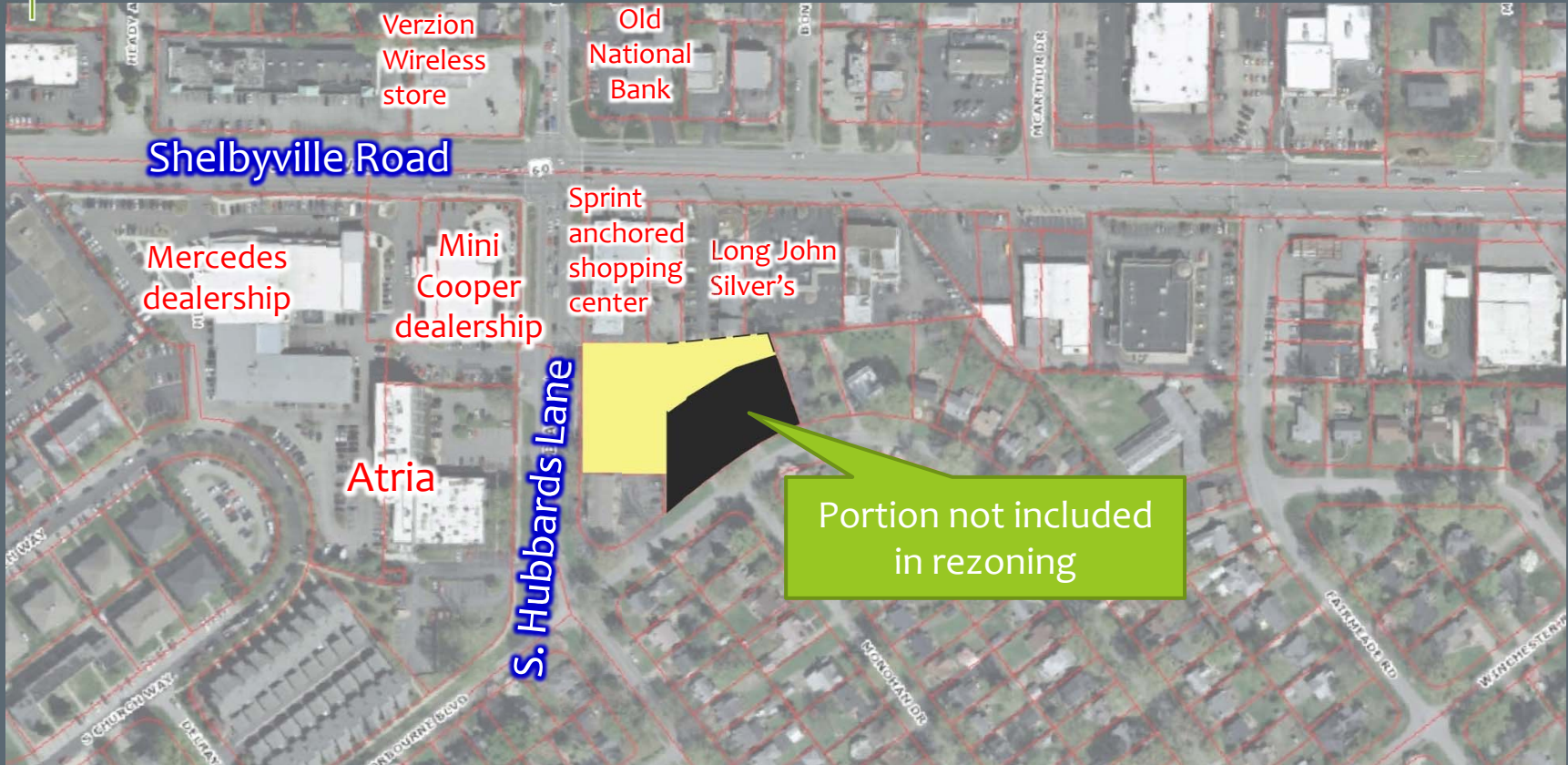
Aerial photograph of the site and
surrounding area



Street Gray Basic Aerial Base Historic Aerial Labels

0 100 200ft

Louisville Metro, MSD, LWC & PVA © 2015





Shelbyville Road

Mini Cooper dealership

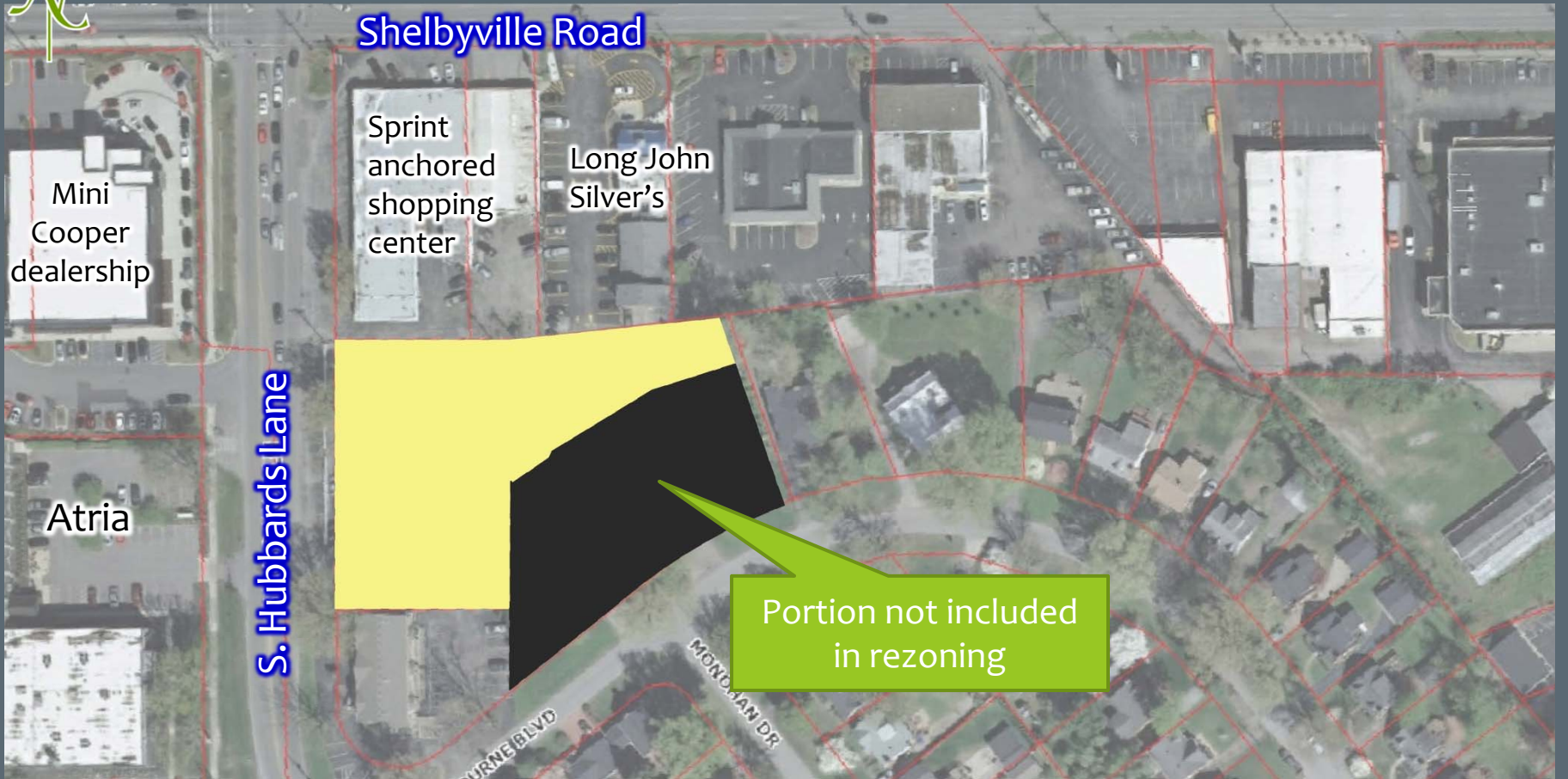
Sprint anchored shopping center

Long John Silver's

Atria

S. Hubbards Lane

Portion not included in rezoning





Tab 3

Ground level photographs of the site
and surrounding area



View of S. Hubbards Lane looking north towards Shelbyville Road. Site is on the right.



View of site with existing building to remain as is.



View of S. Hubbards Lane looking south. Site is on the left.



View of business across S. Hubbards Lane from site.



View of Mini dealership at southwest corner of S. Hubbards Lane and Shelbyville Road, to the north of site.

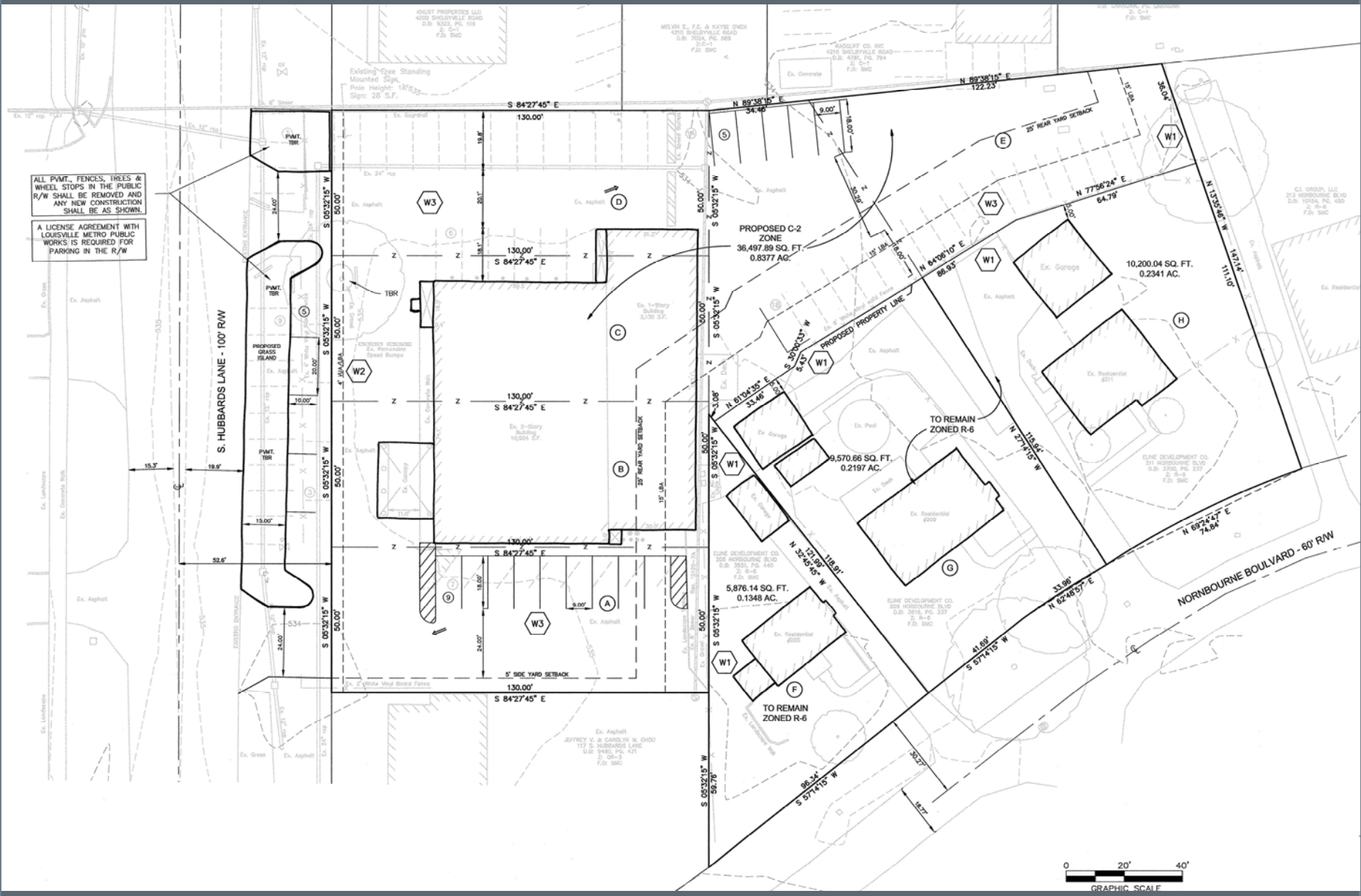


View of shopping center north of site at southeast corner of Shelbyville Road and S. Hubbards Lane.



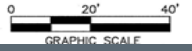
Tab 4

Development Plan



ALL PMVT, FENCES, TREES & WHEEL STOPS IN THE PUBLIC R/W SHALL BE REMOVED AND ANY NEW CONSTRUCTION SHALL BE AS SHOWN.

A LICENSE AGREEMENT WITH LOUISVILLE METRO PUBLIC WORKS IS REQUIRED FOR PARKING IN THE R/W

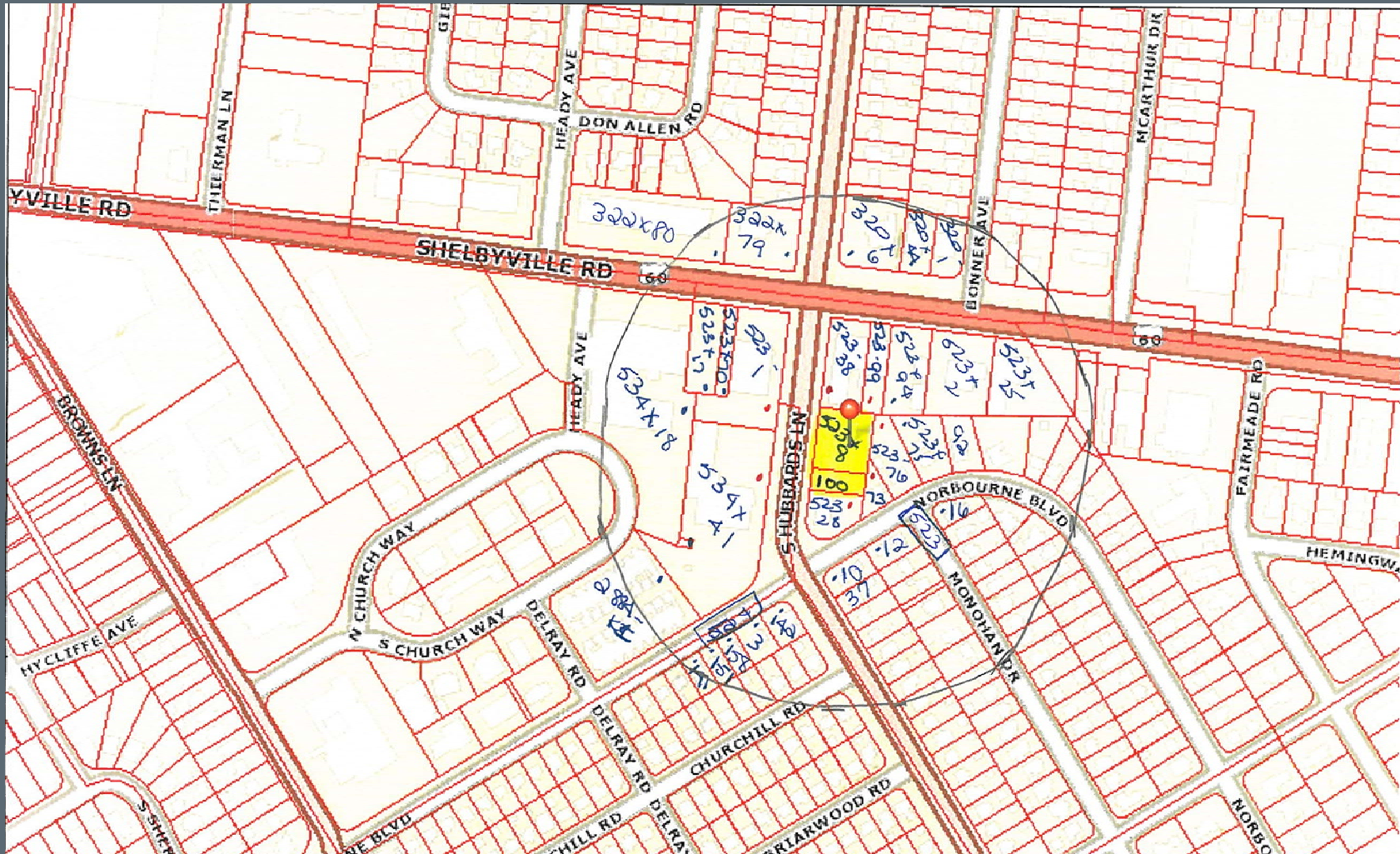


Current proposed development plan

Tab 5

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

Neighborhood Meeting notice list map wherein 36 neighbors were invited to the neighborhood meeting



ELINE DEVELOPMENT CO.

111 S. Hubbards Lane

Louisville, KY 40207

Phone: (502) 894-8234

April 7, 2015

Dear Neighbor,

RE: Proposed change in zoning from OR-3 to C-2 to bring the existing building into compliance to allow existing math and music classes to continue being held on property located at 111 and 115 S. Hubbards Lane


We are writing to invite you to a meeting we have scheduled to present neighbors with our rezoning plan bringing the existing Eline building into compliance at the location above.

Accordingly, we have filed a plan for pre-application review with the Department of Planning and Design Services (DPDS) that we would like to show and explain to neighbors so that we might hear what thoughts, issues and perhaps even concerns you may have. In that regard, a meeting will be held on **Thursday, April 23rd at 7:00 p.m.** at the **Beargrass Christian Church** located at **4100 Shelbville Road in the Fellowship Hall.**

If you cannot attend the meeting but have questions or concerns, please call me, my attorney Bill Bardenwerper at 426-6688, or my land planning and engineering firm representative Mark Madison at (502) 327-7073.

We look forward to seeing you.

Sincerely,



Sidney Elife, Jr., President

cc: Hon. Richard Tonini, Mayor, City of St. Matthews
Hon. Jack Ruf, St. Matthews Code Enforcer Officer
Hon. Brent Ackerson, Councilman, District 26
Bill Bardenwerper, attorney with Bardenwerper, Talbott & Roberts, PLLC
Mark Madison, land planners with Milestone Design Group
Christopher Brown, case manager with Metro Division of Planning & Design Services

NEIGHBORHOOD MEETING SUMMARY

A neighborhood meeting was held on April 24, 2015 at 7:00 pm at Beargrass Christian Church. Those in attendance for the Applicant included attorney Nick Pregliasco, land planner Mark Madison, and the applicant Syd Eline.

Mr. Pregliasco handed out print outs of a PowerPoint presentation to all in attendance which included aerial and ground level photographs of the site and a draft of the proposed plan, which entails keeping the existing building and surrounding lot essentially the same as it is today. Mr. Pregliasco explained that the reason for the requested zoning change is to allow the existing organ studio, where they teach organ lessons largely to senior citizens to continue to operate, as this use requires C-2 zoning. Also, explain the fact that the tenant keeps a small assortment of organs on site for purchase. The second floor of the property is a Russian Math Lesson instructor. The tenant just signed a lease for a significant term. The issue arose when the tenant applied for a sign permit and the City of Saint Matthews determined they did not have the correct zoning. Mr. Pregliasco explained that because of the reason for the requested rezoning, the applicant will agree to a use binding element to eliminate all C-2 uses other than Music and Vocational Instruction and other very similar uses. Mr. Pregliasco explained the process for the zoning change so that everyone in attendance would know what to expect.

Land Planner Mark Madison explained that because the intent is to keep everything the same as it is currently, we will likely have many variances and waivers when the application is filed due to existing conditions.

The audience was then given the opportunity to ask questions.

As pertaining to use, Paul Grisanti, who represents the property owner to the North, asked questions as respects the plans and the use binding element and about other commercial C-1 uses. Mr. Pregliasco indicated he would discuss the exact use binding element with the applicant and would get back to Mr. Grisanti. A residential neighbor asking about screening and buffering, but the requested buffering would have to be located on another property, not the subject property. There was a discussion of the traffic from the Long John Silvers cutting through the property. The applicant plans to add speed bumps already due to the fact that most of the tenant's customers are senior citizens. There was a discussion of the inventory of organs for sale at the premises, which has to be small due to the size of the space. Most of the discussion centered on the use binding element.

ELINE DEVELOPMENT CO.

111 S. Hubbards Lane

Louisville, KY 40207

Phone: (502) 894-8234

September 4, 2015

Dear Neighbor,

RE: Proposed change in zoning from OR-3 to C-2 to bring the existing building into compliance to allow existing math and music classes to continue being held on property located at 111 and 115 S. Hubbards Lane


We are writing to invite you to a follow-up meeting to our April 23rd meeting wherein we presented neighbors with our rezoning plan to bring the existing Eline building into compliance at the location above. The reason for this second neighborhood meeting is because more than 90 days passed since the initial meeting and we had not filed the application, necessitating a second meeting.

We would like to show the current Development Plan and explain to neighbors 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, September 21st at 7:00 p.m.** at the **Beargrass Christian Church** located at **4100 Shelbyville Road in room 114.** *(Please enter through the "Children's Wing" entrance that faces Browns Lane.)*

If you cannot attend the meeting but have questions or concerns, please call me, my attorney Nick Pregliasco at 426-6688, or my land planning and engineering firm representative Mark Madison at (502) 327-7073.

We look forward to seeing you.

Sincerely,



Sidney Eline, Jr., President

cc: Hon. Richard Tonini, Mayor, City of St. Matthews
Hon. Jack Ruf, St. Matthews Code Enforcer Officer
Hon. Brent Ackerson, Councilman, District 26
Nicholas R. Pregliasco, attorney with Bardenwerper, Talbott & Roberts, PLLC
Mark Madison, land planners with Milestone Design Group
Christopher Brown, case manager with Metro Division of Planning & Design Services

NEIGHBORHOOD MEETING SUMMARY

A neighborhood meeting was held on September 21, 2015 at 7:00 pm at Beargrass Christian Church. Those in attendance for the Applicant included attorney Nick Pregliasco and land planner Mark Madison.

This was the second neighborhood meeting, with the first occurring on April 24th, 2015. Mr. Pregliasco handed out print outs of a PowerPoint presentation to Paul Grisanti, who was the only other person in attendance. The print outs included aerial and ground level photographs of the site and the revised Development Plan with the additional area to be rezoned due to the parking in this area for the subject building. Mr. Pregliasco again explained that the reason for the requested zoning change is to allow the existing organ studio, where they teach organ lessons largely to senior citizens to continue to operate, as this use requires C-2 zoning. Land Planner Mark Madison explained that because the intent is to keep everything the same as it is currently, we have 3 waivers due to existing conditions and discuss same.

Paul Grisanti asked questions related to parking, access and binding out certain uses. These items were discussed in detail.



Tab 6

Proposed Additional Binding Element

Proposed Additional Binding Element

- Uses of the subject site shall be limited to only OR-3 uses, “Training School”, “Music and Vocational Instruction” and “Music Equipment Sales” as allowed in C-2. All other C-1 and C-2 uses shall be prohibited at this site.



Tab 7

Right of Way Parking Improvements

Tab 8

Statement of Compliance filed with the original zone change application with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan and Waiver Justifications

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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

STATEMENT OF COMPLIANCE WITH APPLICABLE GUIDELINES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

<u>Applicant/Owner:</u>	Eline Development Co.
<u>Location:</u>	111 and 115 S. Hubbards Lane
<u>Proposed Use:</u>	Office, Retail & Classroom Instruction
<u>Engineers, Land Planners and Landscape Architects:</u>	Milestone Design Group
<u>Request:</u>	Change in Zoning from OR-3 and C-2

SUMMARY STATEMENT

The applicant was advised by the City of St. Matthews that the math and music classes being taught in this building were not allowed under the current zoning regulations in St. Matthews version of the Land Development Code. Therefore, the applicant is requesting a zone change to bring this site into compliance.

GUIDELINE 1 – COMMUNITY FORM

Although St. Matthew's has not adopted all of the Cornerstone 2020 Land Development Code (LDC), it did adopt Form Areas. This site is located in the Town Center Form Area/Form District, which is a traditional form with an identifiable core usually located along a historic crossroads and or major thoroughfare, such as US 60. The Town Center form typically has a compact mixture of a variety of moderately intense uses, with buildings generally oriented toward and located near the primary street. This application complies with this Guideline because the existing use that is proposed for expansion already conforms to most, if not all, Town Center characteristics, some as enumerated.

GUIDELINE 2: CENTERS

The Intents and Policies 1, 3, 4, 5, 7, 10, 11, 13 and 14 of this Guideline all pertain to how a specific land use in a given Form Area/District should be designed in terms of the specific context and site. This application complies with this Guideline, its Intents and Policies because it is located in the Town Center of St. Matthews and is, as the development plan filed with this application and land use map demonstrate, fits within its compact setting surrounded by a mixture of compatible uses. Access to and parking serving surrounding sites is practically, where not technically legally, shared. This development constitutes an as-built condition in the existing activity center.

GUIDELINE 3: COMPATIBILITY

The Intents and Policies of 1, 2, 5, 6, 7, 8, 9, 12, 21, 22, 23, 24, 25 and 28 all pertain to the mitigation of various impacts, such as design, considering building materials, odors, traffic, noise, lighting, screening and buffering and signage. Again, as this rezoning is intended to

formally allow an existing use in an existing building, it is not intending to introduce new impacts to an area that do not already exist. And because the use exists and appears to bother no one and further because access, parking, lighting and signage will not really change, new impacts are not created. Existing impacts will be fully mitigated, just as they have been in the past, or through added use-related binding elements, such as no C-2 uses of the property except the music and academic instruction plus C-1 uses. Therefore this application complies with this Guideline and its applicable Intents and Policies as enumerated above and for reasons set forth above, on the development plan and in testimony presented at LD&T and the Public Hearing.

GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

The Intents and Policies 1, 3, 5, 6 and 11 of this Guideline all pertain to ensuring viable successful businesses, especially those that seek to expand at their current locations. This application complies with this Guideline, its Intents and Policies because it represents precisely what is largely encouraged through this Guideline, which is an adaptive reuse of an existing facility in order to sustain and grow an existing business. The use that brought the issue of zoning into question is already an accepted business member of a larger St. Matthews community.

GUIDELINES 7, 8 and 9 – CIRCULATION; TRANSPORTATION FACILITY DESIGN, and BICYCLE, PEDESTRIAN AND TRANSIT

The Intents and Policies of these Guidelines all pertain to transportation, whether that be vehicular, transit, pedestrian or bicycle. Because this is an existing use of an existing site with existing points of access, circulation and parking, nothing really changes from what has previously been deemed to be acceptable. Consequently, with the anticipated preliminary stamp of approval from Metro Works and the St. Matthew's City Engineer, all of the Intents and applicable Policies of these Guidelines are fully satisfied. If not, the existing use would already be out of compliance with the Comprehensive Plan, as would most, if not all, similarly situated uses in this same area.

GUIDELINES 10– FLOODING AND STORMWATER

The Intents and Policies 3, 6, 10 and 11 of this Guideline all pertain to MSD's concerns about stormwater management. This application complies with the Intent and these Policies of this Guideline because it will have received, by the time of official Planning Commission and City of St. Matthew's review, the preliminary stamp of approval from MSD, thus assuring no adverse consequences of stormwater run-off on nearby properties from the unchanged site conditions of an existing as-built development plan.

GUIDELINE 13 – LANDSCAPE CHARACTER

The Intents and Policies 1, 2, 4 and 6 of this Guideline address the same things that are more specifically found in the applicable St. Matthew's landscape regulation. This application complies with the Intent and these Policies of this Guideline to the maximum extent that it can as an as-built building on an as-built site.

* * * * *

For all the reasons mentioned above, including evidence which will be presented later to the Land Development & Transportation Committee and to the Planning Commission, the proposed

rezoning application complies with all other Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan, and the applicant respectfully requests that it be approved.

The application complies with all other relevant and applicable guidelines of the new Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,

William B. Bardenwerper
Bardenwerper Talbott & Roberts, PLLC
Building Industry Association of Greater Louisville, Inc.
1000 N. Hurstbourne Parkway, Second Floor
Louisville, KY 40223
(502) 426-6688

e:\client folder\eline, sidney\hubbards lane\application\compliance statement.doc

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: Chapter 12, Section E to waive the ILA requirements

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because this property is an existing condition with a building and parking lot that has been in its current condition for a very long time, prior to the current version of the Land Development Code. Adjacent property owners will not be adversely affected as the existing building and existing parking lot predate virtually all adjacent property owners' purchase of their property.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.

The waiver will not violate the Comprehensive Plan because Guideline 13 of the Comprehensive Plan requires adequate landscaping, whereas Guideline 6 encourages economic revitalization of underutilized sites. Due to the site constraints, installing ILAs would be infeasible. Further, even if feasible, the ILAs would cause additional parking issues for the site.

3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because due to the existing parking lot, the addition of any ILA area would cause a major parking issue for not only this property, but the properties surrounding it. What this means is that the applicant is doing everything it can to landscape the site without making site unviable because of inadequate parking.
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 without this ILA waiver to allow the existing condition to remain, the applicant would not have adequate parking to serve its need. Further the parking in the surrounding properties is limited as well and any overall parking reduction will cause even further problems.

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: Chapter 12, Section D.1.(a) to waive the VUA/LBA requirements adjacent to the R-6 zone and along the Hubbards Lane ROW

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the waiver of the VUA/LBA requirements adjacent to the R-6 zone will not affect the adjacent property owners because it is to allow the current long standing existing condition to remain. Further, these R-6 lots will be separated by a fence further blocking the view from these lots. The waiver of the VUA/LBA requirements adjacent Hubbards Lane would cause a major reduction in parking in the overall area, and would serve no purpose as there is current parking in the ROW immediately in front of this subject property, with a auto dealership across the street.

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

The waiver will not violate the Comprehensive Plan because Guideline 13 of the Comprehensive Plan requires adequate landscaping, whereas Guideline 6 encourages economic revitalization of underutilized sites. Due to the existing site constraints which will remain, VUA/LBA areas would be infeasible due to the drastic reduction in parking that would result.

3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because due to the existing parking lot adjacent to the R-6 lots and in the front of the building, the addition of VUA/LBA areas would cause a major parking issue for not only this property, but the properties surrounding it. Further, having parking, then landscaping, and then more ROW street parking would serve no useful purpose and look strange. What this means is that the applicant is doing everything it can to landscape the site without making site unviable because of inadequate parking.

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 without this VUA/LBA waivers to allow the existing condition to remain, the applicant would not have adequate parking to serve its need. Further, the parking in the surrounding properties is limited as well and any overall parking reduction will cause even further problems.

Tab 9

Proposed findings of fact pertaining to compliance with the Comprehensive Plan and Waiver criteria

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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

PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

Applicant/Owner: Eline Development Co.

Location: 111 and 115 S. Hubbards Lane

Proposed Use: Office, Retail & Classroom Instruction

Engineers, Land Planners and Landscape Architects: Milestone Design Group

Request: Change in Zoning from OR-3 and R-6 to C-2

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on March 3, 2016 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

SUMMARY STATEMENT

WHEREAS, the applicant was advised by the City of St. Matthews that the math and music classes being taught in this building were not allowed under the current zoning regulations in St. Matthews version of the Land Development Code and therefore, the applicant has requested a zone change to bring this site into compliance with an agreement to add a use binding element to prohibit any C-1 or C-2 uses other than to allow the current tenant operations with the R-6 portion currently operating as parking for the existing office building; and

GUIDELINE 1 – COMMUNITY FORM

WHEREAS, St. Matthew's has not adopted all of the Cornerstone 2020 Land Development Code (LDC), but it did adopt Form Areas; this site is located in the Town Center Form Area/Form District, which is a traditional form with an identifiable core usually located along a historic crossroads and or major thoroughfare, such as US 60; the Town Center form typically has a compact mixture of a variety of moderately intense uses, with buildings generally oriented toward and located near the primary street; and this application complies with this Guideline because no change to the existing building and current site condition is proposed other than minor restriping of the parking lot and off-site parking modifications in the right of way requested by Transportation Planning to eliminate the current parking spaces from backing out onto Hubbards Lane and the rezoning is to allow the current existing use of the property and therefore already conforms to most, if not all, Town Center characteristics, some as enumerated; and

GUIDELINE 2 - CENTERS

WHEREAS, the Intents and Policies 1, 3, 4, 5, 7, 10, 11, 13 and 14 of this Guideline all pertain to how a specific land use in a given Form Area/District should be designed in terms of the specific context and site; this application complies with this Guideline, its Intents and Policies because it is located in the Town Center of St. Matthews and is, as the development plan filed with this application and land use map demonstrate, fits within its compact setting surrounded by a mixture of compatible uses; and access to and parking in the right of way serving surrounding sites is practically, where not technically legally, shared; and this development constitutes an as-built condition in the existing activity center; and

GUIDELINE 3 - COMPATIBILITY

WHEREAS, the Intents and Policies of 1, 2, 5, 6, 7, 8, 9, 12, 21, 22, 23, 24, 25 and 28 all pertain to the mitigation of various impacts, such as design, considering building materials, odors, traffic, noise, lighting, screening and buffering and signage; again, as this rezoning is intended to formally allow an existing use in an existing building, it is not intending to introduce new impacts to an area that do not already exist; and because the use exists and appears to bother no one and further because access, lighting and signage will not really change, new impacts are not created and additional parking spaces are being created to offset the changes to the parking in the right of way; existing impacts will be fully mitigated, just as they have been in the past, or through added use-related binding elements, such as no C-2 or C-2 uses of the property except the music and academic instruction and related sales; therefore this application complies with this Guideline and its applicable Intents and Policies as enumerated above and for reasons set forth hereinabove, on the development plan and in testimony presented at LD&T and the Public Hearing; and

GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

WHEREAS, the Intents and Policies 1, 3, 5, 6 and 11 of this Guideline all pertain to ensuring viable successful businesses, especially those that seek to expand at their current locations; this application complies with this Guideline, its Intents and Policies because it represents precisely what is largely encouraged through this Guideline, which is an adaptive reuse of an existing facility in order to sustain and grow an existing business; and the use that brought the issue of zoning into question is already an accepted business member of a larger St. Matthews community; and

**GUIDELINES 7, 8 and 9 – CIRCULATION; TRANSPORTATION FACILITY DESIGN,
and BICYCLE, PEDESTRIAN AND TRANSIT**

WHEREAS, the Intents and Policies of these Guidelines all pertain to transportation, whether that be vehicular, transit, pedestrian or bicycle; this is an existing use of an existing site with existing points of access, circulation and parking, nothing really changes from what has previously been deemed to be acceptable; with the preliminary stamp of approval from Metro Works and the St. Matthew’s City Engineer, all of the Intents and applicable Policies of these Guidelines are fully satisfied; and the existing use would already be out of compliance with the Comprehensive Plan, as would most, if not all, similarly situated uses in this same area; and

GUIDELINES 10 – FLOODING AND STORMWATER

WHEREAS, the Intents and Policies 3, 6, 10 and 11 of this Guideline all pertain to MSD’s concerns about stormwater management; this application complies with the Intent and these Policies of this Guideline because it has received the preliminary stamp of approval from MSD,

thus assuring no adverse consequences of stormwater run-off on nearby properties from the unchanged site conditions of an existing as-built development plan with no additional impervious surface planned; and

GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, the Intents and Policies 1, 2, 4 and 6 of this Guideline address the same things that are more specifically found in the applicable St. Matthew’s landscape regulation; and this application complies with the Intent and these Policies of this Guideline to the maximum extent that it can as an as-built building on an as-built site;

* * * * *

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 City of St. Matthews that it rezone the subject property from OR-3 and R-6 to C-2.

WAIVER FINDINGS OF FACT

Waiver of Chapter 12, Section E to waive the ILA requirements

WHEREAS, the waiver will not adversely affect adjacent property owners because this property is an existing condition with a building and parking lot that has been in its current condition for a very long time, prior to the current version of the Land Development Code; and adjacent property owners will not be adversely affected as the existing building and existing parking lot predate virtually all adjacent property owners' purchase of their property with the right of way parking modifications required by Transportation Planning offset by additional on-site parking spaces added; 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 original rezoning application; and

WHEREAS, the waiver will not violate the Comprehensive Plan because Guideline 13 of the Comprehensive Plan requires adequate landscaping, whereas Guideline 6 encourages economic revitalization of underutilized sites; due to the site constraints, installing ILAs would be infeasible and even if feasible, the ILAs would cause additional parking issues for the site which it a premium currently; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because due to the existing parking lot, the addition of any ILA area would cause a major parking issue for not only this property, but the properties surrounding it; and what this means is that the applicant is doing everything it can to landscape the site without making site unviable because of inadequate parking, and further the applicant will be adding greenspace in the front of the property in the right of way per the parking modifications in the right of way improving the appearance of the property; 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 without this ILA waiver to allow the existing condition to remain, the applicant would not have adequate parking to serve its need; and further, the parking in the surrounding properties is limited as well and any overall parking reduction will cause even further problems; and

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

WAIVER FINDINGS OF FACT

Waiver of Chapter 12, Section D.1.(a) to waive the VUA/LBA requirements adjacent to the R-6 zone and along the Hubbards Lane ROW

WHEREAS, the waiver will not adversely affect adjacent property owners because the waiver of the VUA/LBA requirements adjacent to the R-6 zone will not affect the adjacent property owners because it is to allow the current long standing existing condition to remain; further, these R-6 lots will be separated by a fence with the surrounding residential properties further blocking the view from these lots; the waiver of the VUA/LBA requirements adjacent to Hubbards Lane would cause a major reduction in parking in the overall area, and would serve no purpose as there is current parking in the ROW immediately in front of this subject property, with an auto dealership across the street and the applicant will be adding green space in the right of way improving this condition; 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 original rezoning application; and

WHEREAS, the waiver will not violate the Comprehensive Plan because Guideline 13 of the Comprehensive Plan requires adequate landscaping, whereas Guideline 6 encourages economic revitalization of underutilized sites; and due to the existing site constraints which will remain, VUA/LBA areas would be infeasible due to the drastic reduction in parking that would result; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because due to the existing parking lot adjacent to the R-6 lots and in the front of the building, the addition of VUA/LBA areas would cause a major parking issue for not only this property, but the properties surrounding it; further, having parking, then landscaping, and then more ROW street parking would serve no useful purpose and look strange; and this means that the applicant is doing everything it can to landscape the site without making site unviable because of inadequate parking; 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 without this VUA/LBA waivers to allow the existing condition to remain, the applicant would not have adequate parking to serve its need; and further, the parking in the surrounding properties is limited as well and any overall parking reduction will cause even further problems; and

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