

## Docket No. 21-ZONE-0081

Proposed zone change from R-4 to C-2 to  
allow a gas station/convenience store and  
restaurant with a drive-thru on property  
located at  
10501 and 10511 Preston Highway

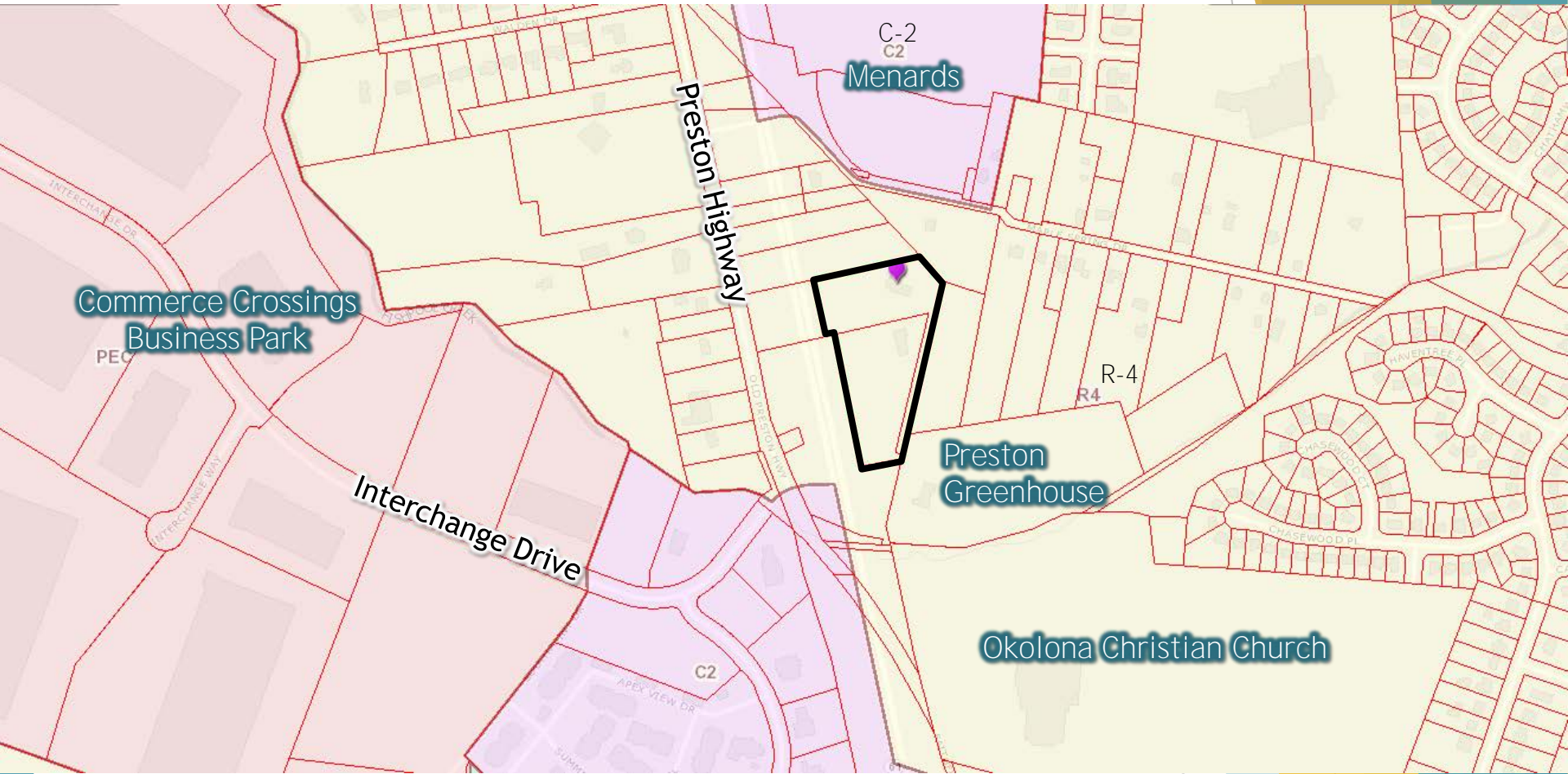


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# Tab 1 LOJIC Zoning Map



C-2  
C2  
Menards

Commerce Crossings  
Business Park

Preston Highway

R-4

Preston  
Greenhouse

Interchange Drive

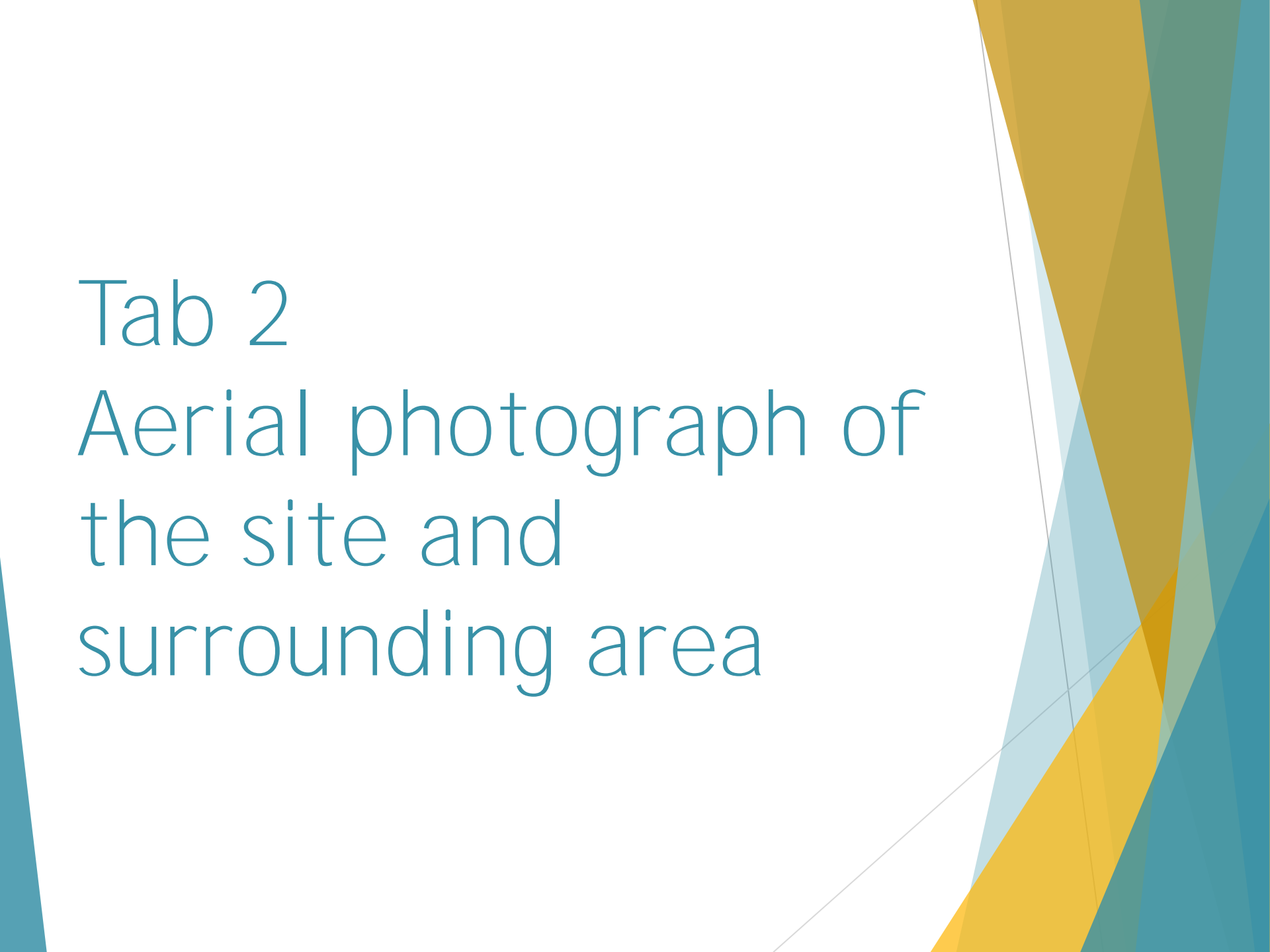
Okolona Christian Church

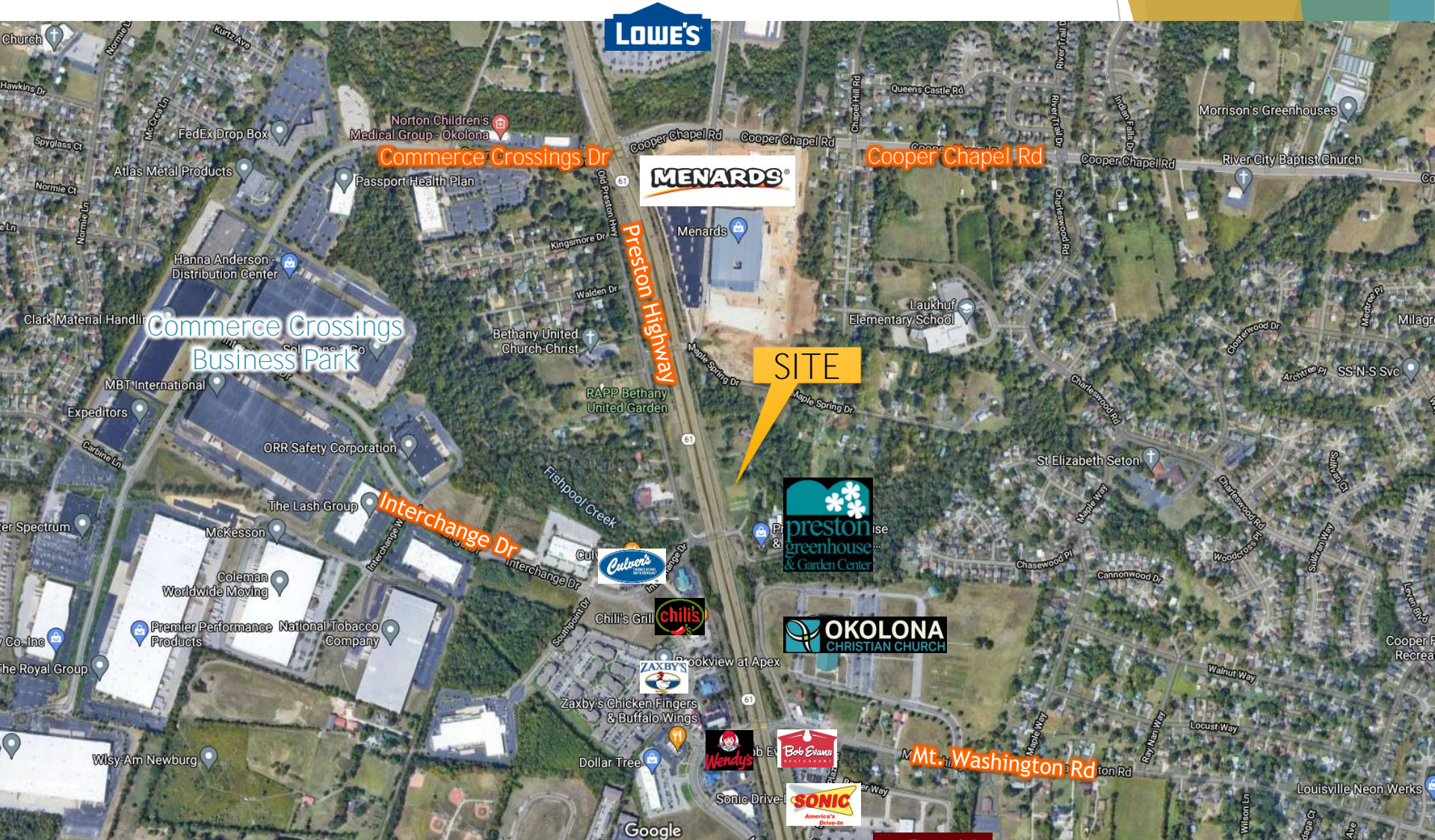
C2

APEX VIEW DR

GRACEWOOD PL

Tab 2  
Aerial photograph of  
the site and  
surrounding area





**LOWE'S**

**Commerce Crossings Dr**

**MENARDS**

**Cooper Chapel Rd**

**Commerce Crossings Business Park**

**Preston Highway**

**SITE**

**Interchange Dr**

**preston greenhouse & Garden Center**

**OKOLONA CHRISTIAN CHURCH**

**Mt. Washington Rd**

**KOHL'S**



SITE



Preston Greenhouse & Garden Center  
Delivery



Okolona Christian Church



Chili's Grill & Bar  
Takeout • Delivery



Culver's  
Takeout

WesBanco Bank - ATM

Antonia Way

Interchange Dr

Preston Highway

Old Preston Hwy

Maple Spring Dr

Maple Spring Dr

Maple Spring Dr

Maple Spring Dr

David Way

Laukhuf Elementary School

Charleswood Rd

Charleswood Rd

Fishpool Creek

Haventree Pl

Chasewood Ct

Chasewood Pl

Cannonwood Dr

Walnut Way

Google

Tab 3

Ground level  
photographs of the  
site and surrounding  
area





Preston Highway

View of site from Preston Highway



SITE

View of Preston Highway looking south. Site is to the left.



Interchange Dr

Preston Highway

View of Preston Highway looking north. Site is to the right.



SITE

Preston  
Greenhouse

OPEN

Google

View of existing entrance from Preston Highway. Site is to the left.

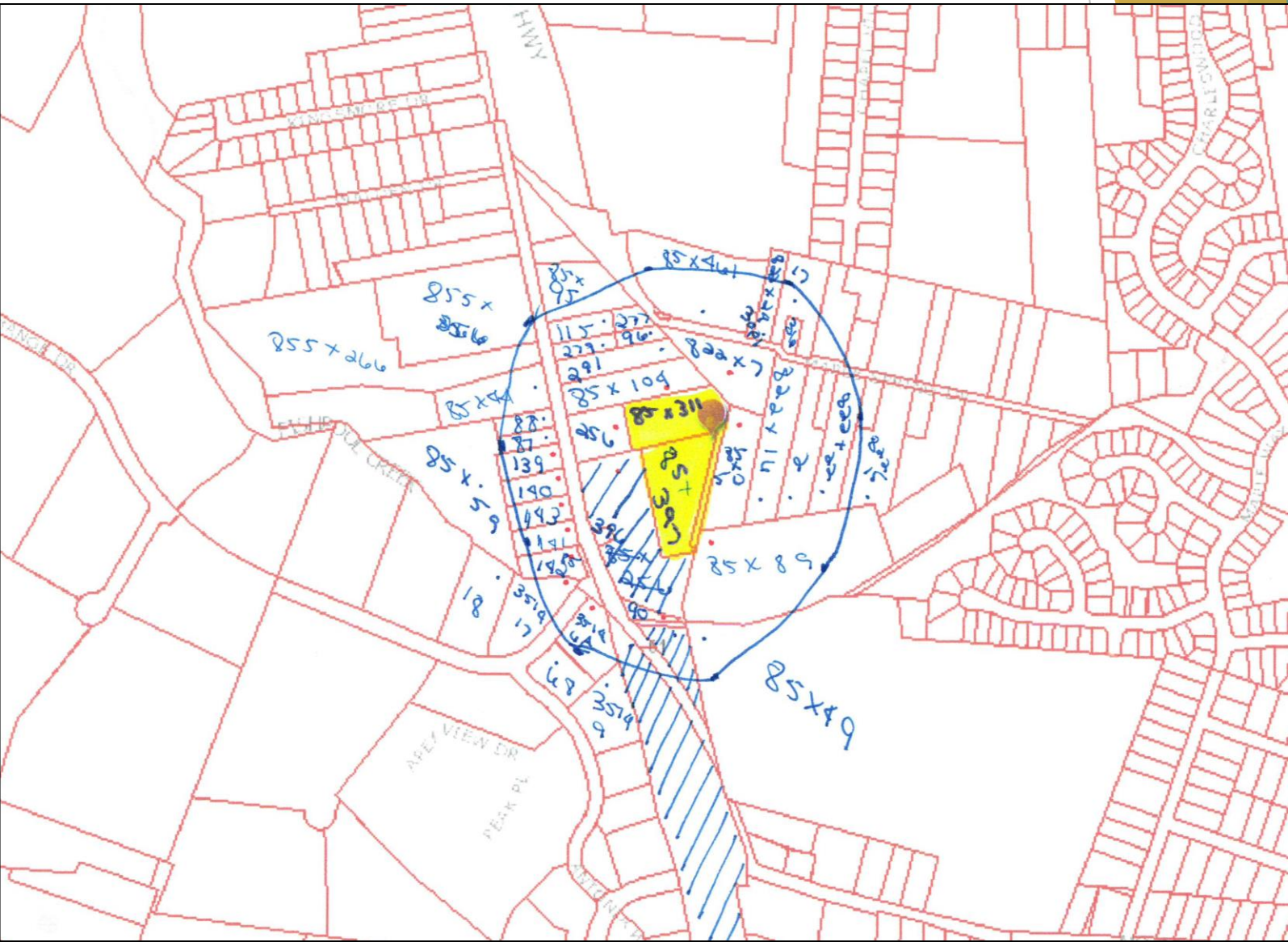


View of existing access to site from Preston Highway.

Tab 4

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

Adjoining property owner notice list map wherein 48 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

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

John C. Talbott  
Email: [JOHN@BARDLAW.NET](mailto:JOHN@BARDLAW.NET)  
Mobile: (502) 741-8783

June 9, 2021

RE: Neighborhood meeting for a proposed zone change from R-4 to C-2 to allow a gas station/convenience store and restaurant with a drive-thru on property located at 10501 and 10511 Preston Highway

Dear Neighbor:

We are writing to notify you about an upcoming “neighborhood meeting” regarding the above referenced project. Because of the COVID-19 emergency orders requiring and/or recommending social distancing, the neighborhood meeting will be held virtually. The details are set forth in this letter and the supporting attachments. If you cannot obtain access to the virtual meeting, we may be able to assist you in that regard or otherwise assure a telephone or in-person conversation.

The Applicant, Stern Development, is seeking approval of a rezoning from R-4 to C-2 on the property referenced above to allow an approximate 4,500 square foot gas station/convenience store and a 5,240 square foot restaurant with a drive-thru. It is anticipated that the users of southern most lot will be a Thorntons’ gas station and the northern most lot will be a Chick-fil-a restaurant. We recently filed a plan for the zone change and were assigned case number **21-ZONEPA-0067** and case manager **Dante St. Germain**.

The virtual meeting will be held on **Wednesday, June 23<sup>rd</sup>, 2021** beginning at **6:00 p.m.**

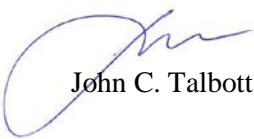
Enclosed for your review are the following:

1. The development plan sheet
2. LOJIC site location zoning map sheet showing the location of the site
3. Detailed summary sheet of the project
4. Contact information sheet
5. Instruction sheet on how to join the virtual meeting.
6. Information sheet on how to obtain case information online from PDS’ online customer service portal.
7. PDS’ “After the Neighborhood Meeting” sheet

If you are unable to attend the virtual meeting, or have any questions or comments, please feel free to email or call me, or contact the PDS manager listed on the attached contact information sheet.

We look forward to our opportunity to visit virtually or by phone to explain the details of our plans.

Sincerely,

  
John C. Talbott

cc: Hon. James Peden, Councilman, District 23  
Hon. Madonna Flood, Councilwoman, District 24  
Dante St. Germain, Planning & Design Case Manager  
Kent Gootee & Kathy Linares, land planners with Mindel Scott & Associates, Inc.  
Ben Stern & Brad Smith, Stern Development, Applicants



# DEVELOPMENT PLAN



CHARLES R. MURPHY &  
 ARCHITECTS  
 418 S. 22<sup>ND</sup> ST.  
 BIRMINGHAM, AL 35203  
 (205) 944-1177  
 10/1/14

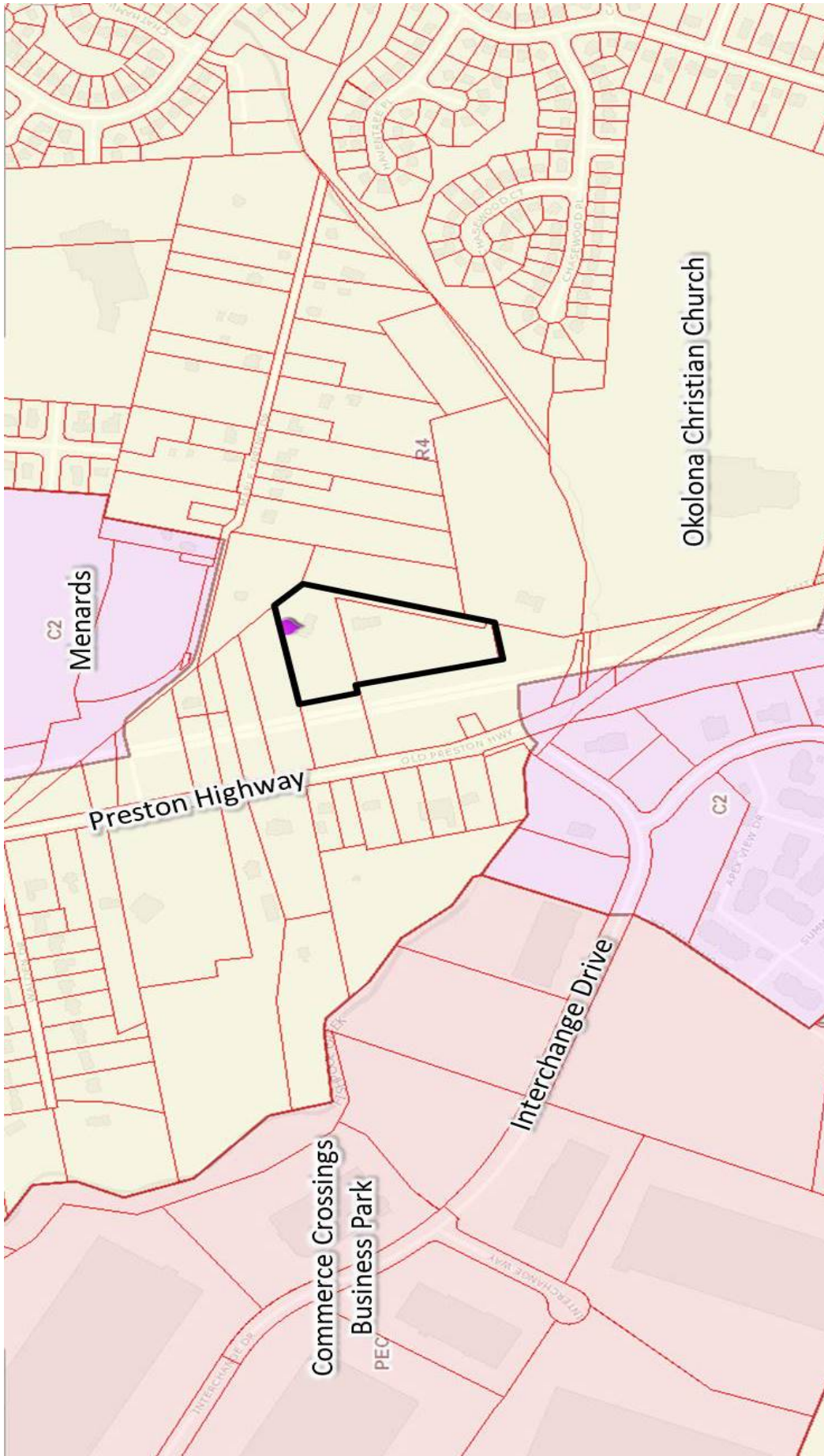
CHARLES R. MURPHY &  
 ARCHITECTS  
 418 S. 22<sup>ND</sup> ST.  
 BIRMINGHAM, AL 35203  
 (205) 944-1177  
 10/1/14

BRETT J. HANCOCK  
 18 S. 22<sup>ND</sup> ST.  
 BIRMINGHAM, AL 35203  
 (205) 944-1177  
 10/1/14

COMMUNITY OF BENTLEY  
 18 S. 22<sup>ND</sup> ST.  
 BIRMINGHAM, AL 35203  
 (205) 944-1177  
 10/1/14

COMMUNITY OF BENTLEY  
 18 S. 22<sup>ND</sup> ST.  
 BIRMINGHAM, AL 35203  
 (205) 944-1177  
 10/1/14

# LOJIC SITE LOCATION SHEET



## **DETAILED SUMMARY SHEET**

Our client, Stern Development, is seeking approval of a rezoning from R-4 to C-2 on the property referenced above to allow a 4,500 sf gas station/convenience store and a 5,240 sf restaurant with a drive-thru. The two properties included are shown on the attached "LOJIC" site location attachment. It is anticipated that the users of southern most lot will be a Thorntons' gas station and the northern most lot will be a Chick-fil-a restaurant. We have filed a plan for pre-application review with Planning and Design Services (PDS) that has been assigned case number **21-ZONEPA-0067**, and the assigned case manager is Dante St. Germain.

The present zoning is R-4 and C-2. The overall form district is the Neighborhood Form District with no proposed change thereto.

There are no trees or vegetation on the site to preserve however, landscaping, screening and buffering will contain at least the minimum amount required by Chapter 10 of the Louisville Metro Land Development Code (LDC). Greater detail on this should be available at the time of the neighborhood meeting. It is anticipated that along the east side of the site where the site abuts residential properties, a twenty-five foot land scape buffer ("LBA") will be in place, with three trees every 100 feet and an eight foot continuous screen provided by a wooden fence. Also, along Preston, landscaping shrubs will be provided as shown on the current draft plan.

Existing sanitary sewer connection to be utilized as no new connections are required. Stormwater detention will be provided as shown on the plan and in accordance with MSD requirements, resulting in no increase of stormwater run-off.

There are two proposed access points to this project as shown on the colored development plan, both along Mt. Holly Road. At this time, no road improvements are planned.

The general location of the ingress and egress will remain the same as is currently in use and the intent is to properly divide the property along more sensible lot lines and to then extend the rezoned area consistent with these new lot lines.

**NOTICE OF POTENTIAL SUBDIVISION/DEVELOPMENT PLAN CHANGES.** Please be advised that this "Detailed Summary" is being provided early in the application process. As such, whereas every effort has been made to assure accuracy, changes may be made to the subdivision/development plan before the now scheduled neighborhood meeting and also after it based on public comments and those of various agencies and PDS staff review. Any changes will be available for public review on the PDS Online Customer Service Portal. Instructions on how to access this information is provided in the PDS's online customer service portal information sheet. Additionally, those changes with the final plan would be presented at the time of the public hearing(s). You may also contact the PDS case manager if you have any questions, or contact any others listed on the Contact Information Sheet where contact information is provided.

## **CONTACT INFORMATION SHEET**

### **1. PRIMARY CONTACT**

*Bardenwerper, Talbott & Roberts, PLLC  
1000 N. Hurstbourne Pkwy., 2<sup>nd</sup> Floor  
Louisville, KY 40223  
Attn: John C. Talbott – (502) 741-8783  
[John@bardlaw.net](mailto:John@bardlaw.net)*

### **2. ENGINEERING FIRM**

*Mindel Scott & Associates Inc.  
5151 Jefferson Blvd.  
Louisville, KY 40219  
Attn: Kent Gootee – (502) 485-1508  
[kgootee@mindelscott.com](mailto:kgootee@mindelscott.com)*

### **3. APPLICANT**

*Brad Smith – (404) 697-3177  
[ben@sternproperties.biz](mailto:ben@sternproperties.biz)*

### **4. CASE MANAGER OR SUPERVISOR**

*Dante St. Germain, Planning & Design Case Manager  
Planning & Design Services  
444 South Fifth Street, Suite 300  
Louisville, KY 40202  
(502) 574-4388  
[Dante.St.Germain@louisvilleky.gov](mailto:Dante.St.Germain@louisvilleky.gov)*

# INSTRUCTION SHEET ON HOW TO JOIN THE VIRTUAL MEETING

You may join the meeting using a computer, tablet, smart phone, or standard telephone

Stern/Preston Highway - NM  
Wed, Jun 23, 2021 6:00 PM - 7:30 PM (EDT)

Please join my meeting from your computer, tablet or smartphone.

**<https://global.gotomeeting.com/join/423545141>**

You can also dial in using your phone.  
United States (Toll Free): 1 877 309 2073  
United States: +1 (571) 317-3129

Access Code: 423-545-141

New to GoToMeeting? Get the app now and be ready when your first meeting starts:

<https://global.gotomeeting.com/install/423545141>

Note: If anyone would like the connection link emailed to them, or a set of the meeting slides, please email Anna Martinez at [anna@bardlaw.net](mailto:anna@bardlaw.net) or Nanci Dively at [nsd@bardlaw.net](mailto:nsd@bardlaw.net)

**IF YOU ARE UNABLE TO ATTEND THE VIRTUAL MEETING AND HAVE QUESTIONS, PLEASE FEEL FREE TO CONTACT ANY OF THE FOLLOWING:**

***John C. Talbott, Esq.*** – (502) 741-8783  
[John@bardlaw.net](mailto:John@bardlaw.net)  
*Bardenwerper, Talbott & Roberts, PLLC*

***Kent Gootee***– (502) 485-1508  
[kgootee@mindelscott.com](mailto:kgootee@mindelscott.com)  
*Mindel Scott & Associates, Inc.*

***Dante St. Germain, Planning & Design Case Manager***  
(502) 574-4388  
[Dante.St.Germain@louisvilleky.gov](mailto:Dante.St.Germain@louisvilleky.gov)

**PLANNING & DESIGN SERVICES (PDS's)**  
**ONLINE CUSTOMER SERVICE PORTAL INFORMATION SHEET**

To view details of the zone change online, use the link at:

<https://aca-louisville.accela.com/LJCMG/Welcome.aspx?TabName=Home&TabList=Home>

Click on the "Search" tab

Then "Planning Applications"

Enter case number in "Record Number" box

Click on "Record Info" tab

## AFTER THE NEIGHBORHOOD MEETING SHEET

### **After the Neighborhood Meeting**

This Neighborhood Meeting is an opportunity for the applicants and surrounding neighbors to discuss and develop an understanding of the proposal prior to a public hearing. At the conclusion of this neighborhood meeting, the applicant has 90 days to file a formal application with Planning & Design Services. If the formal application is not filed within 90 days, the applicant will be required to have another neighborhood meeting.

Once the formal application is filed, a public hearing will be scheduled to consider the application. This public meeting is your official opportunity to speak in support or opposition to the proposal. If you received a notice regarding this neighborhood meeting, or did not receive a notice but signed the sign in sheet, you will receive a notice of the public meeting. Please contact the case manager if you are interested in learning how to request a night hearing or hearing in the district of the project.

If you are interested in staying informed about this proposal, or have any questions about the formal review process, you may call the Planning & Design Services office at **(502) 574-6230**. Please refer to the case number in your inquiry. You may also go to **<https://louisvilleky.gov/government/planning-design>** to view meeting agendas, search case information, or obtain other Planning & Design Services information.

## Neighborhood Meeting Summary

A virtual neighborhood meeting was held on Wednesday, June 23rd, 2021 at 6:00 p.m.. Those in attendance included the applicant's representatives, John C. Talbott, attorney with Bardenwerper, Talbott & Roberts, and Kent Gootee, land planner and engineer with Mindel Scott & Associates, as well as the applicants Ben Stern and Brad Smith with Stern Development.

The meeting was very lightly attended. It began with John Talbott showing a PowerPoint presentation explaining the process of rezoning and the importance of having received the Neighborhood Meeting letter to ensure they were on the notice list. We also provided the name and contact information for the Planning and Design Services staff member handling this application. We also provided slides of the area, its current zoning, and nearby development. We did this so that everyone present was fully familiar with exactly the properties being considered and impacted. We also showed the roads in the general area of the development plan and the proposed initial plan for this site, its perimeter buffers and setbacks, the location of parking, and the proposal for points of access.

The major issues raised were from the property owners immediately east of our site who are currently running a non-conforming landscaping business on their property. They were concerned about access to one of their undeveloped lots presumably because of their desire for future development. There were also concerns that the increased traffic to the site would conflict with the trucks involved in their landscaping business at the busy times of year for them.

Mr. Gootee also explained how stormwater is handled through on-site detention, assuring that post-development peak rates of runoff will not exceed pre-development conditions.

Mr. Talbott also explained how the DPDS "Case Management Review Process" works, how agencies such as those mentioned above, will review the submitted DDDP and how those agencies' preliminary stamps of approval are required prior to this application being docketed for public meetings and hearings. He said that those attending this meeting, and who have received notice thus far, will receive official notice of those meetings so that they can appear to comment on the application finally filed.

Respectfully submitted,

John C. Talbott

Bardenwerper, Talbott & Roberts, PLLC

Building Association of Greater Louisville Building

1000 N. Hurstbourne Parkway, Second Floor

Louisville, KY 40223

(502) 426-6688



Tab 5

# Development Plan



Preston Highway

Interchange Drive

DRIVE-THRU RESTAURANT  
6,263 SF

THORNTONS  
4,500 SF

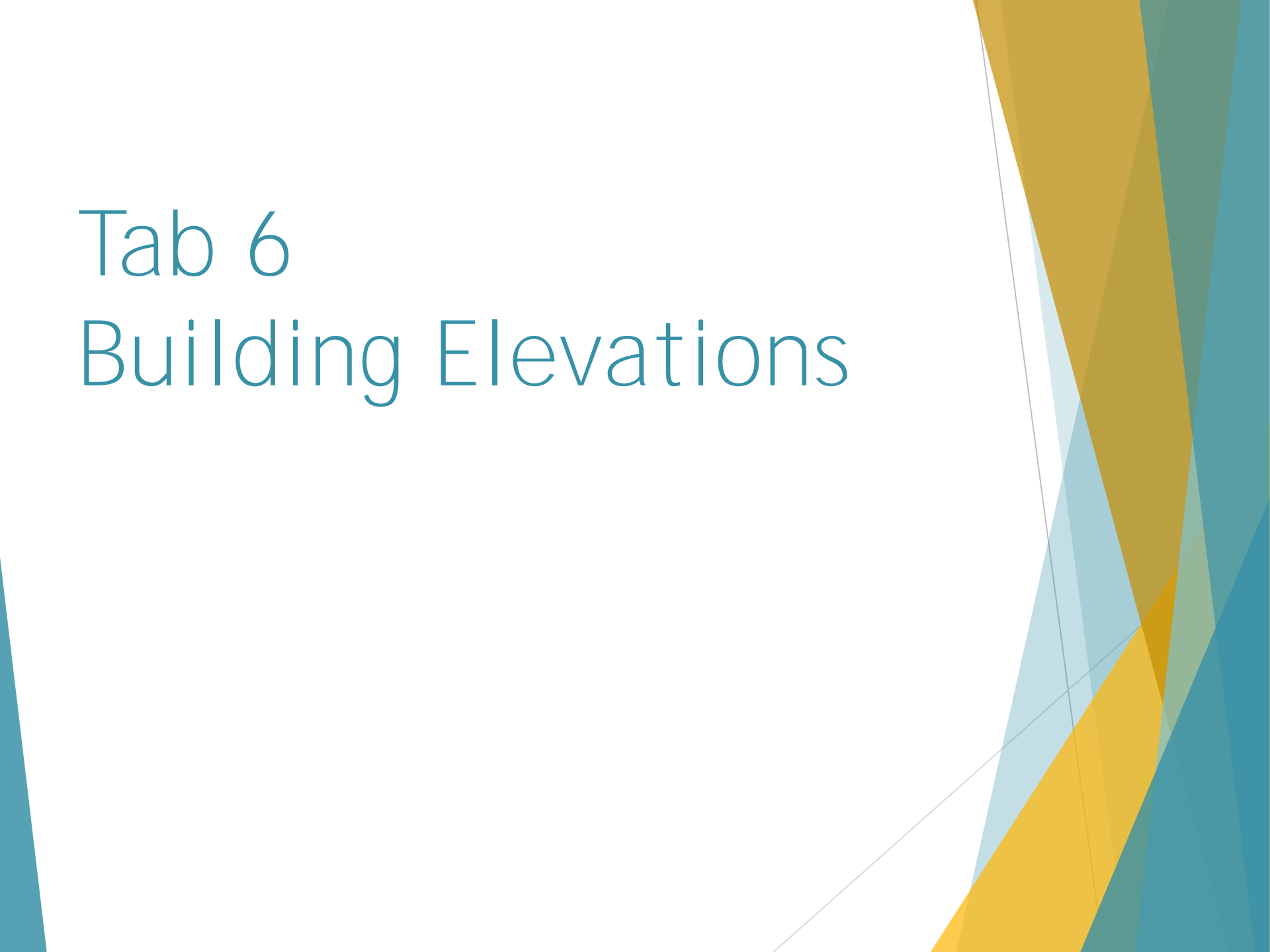
1

2

3

# Tab 6

## Building Elevations

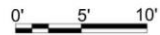




Similar style and design of proposed Thorntons.

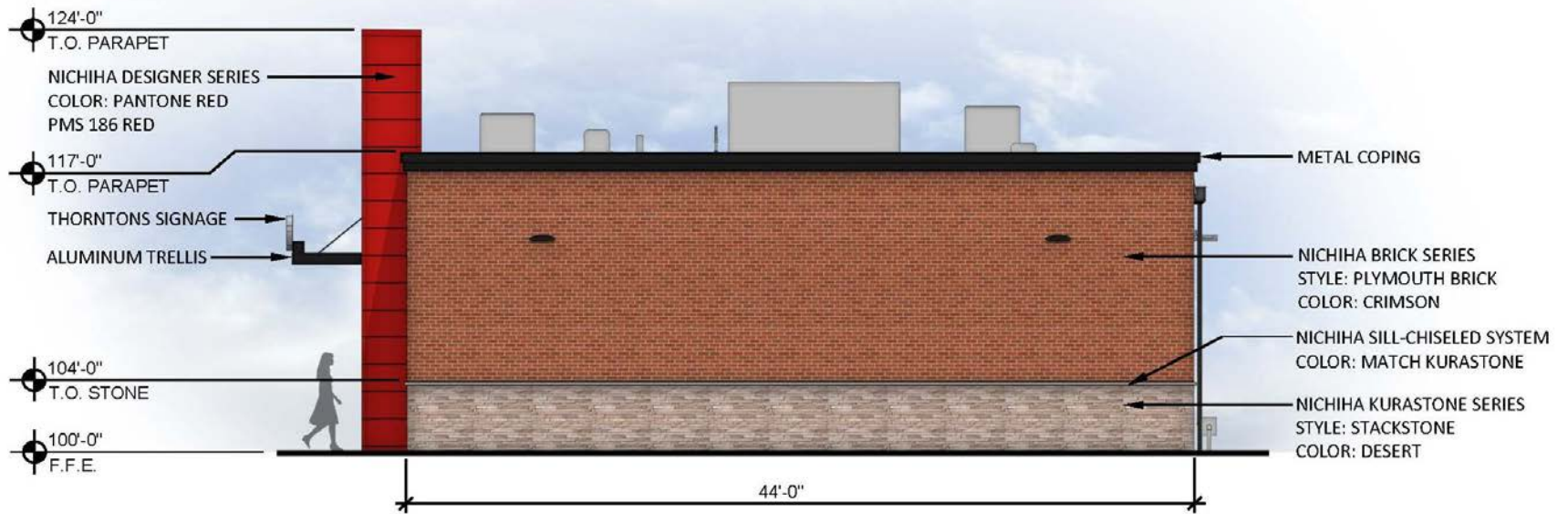


**FRONT ELEVATION**

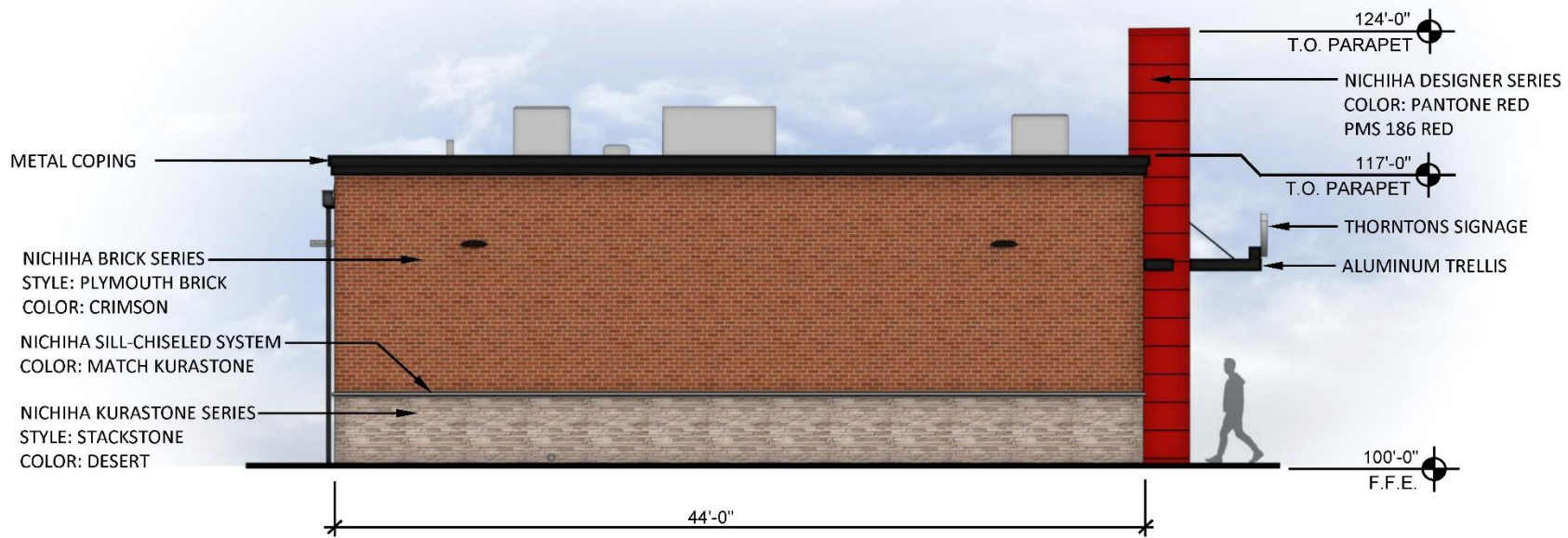




**BACK ELEVATION**



*SIDE ELEVATION*



*SIDE ELEVATION*



# Economic Impact

Salaries to Employees:  
**\$350,000+ / year**  
**25 full-time & 4 part-time**

Total Inside Sales  
(YR 1):  
**\$2.7 million**

Sales Tax to City: **2.25%**

Fuel Tax to State:  
**\$1,741,560/year**



Property Tax to County:  
**\$62,344 / year**

Sales Tax Revenue to City:  
**\$60,756 / year**  
*(anticipated to grow over time)*

Property Tax to City:  
**\$15,036 / year**



Chick-Fil-A on Bardstown Rd



Similar style and design of proposed Chick-Fil-A.



**Chick-fil-A**  
 Chick-fil-A  
 5200 Buffington Road  
 Atlanta, Georgia  
 30349-2996

SITE  
 ADAPT  
 LOGO  
 AND  
 ADDRESS

PROTOTYPICAL SET

NOT FOR  
 REGULATORY  
 APPROVAL,  
 BIDDING, OR  
 CONSTRUCTION

**CHICK-FIL-A**  
 Okolona FSU  
 10301 Preston Hwy,  
 Louisville, KY 40229

**FSR#00000**  
 BILLING CITY, MO: 07.15.2016  
 REVISED:  
 PREPARED FOR:  
 PROJECT STATUS:  
 DESIGN REVIEW:  
 3/21/16

**X-900**

**PROJECT DATA**

LEADER VISION TYPE	TOWNED BRICK	PROGRAM	90
LEADER VISION NAME	CHICK-FIL-A	DATE	10/20/15
LEADER VISION NUMBER	00000	REVISIONS	0
LEADER VISION DESCRIPTION	CHICK-FIL-A	PROJECT	OKOLONA FSU
LEADER VISION PROJECT	OKOLONA FSU	PROJECT NUMBER	00000
LEADER VISION PROJECT ADDRESS	10301 PRESTON HWY	PROJECT LOCATION	OKOLONA, MO
LEADER VISION PROJECT CONTACT	CHICK-FIL-A	PROJECT CONTACT	CHICK-FIL-A
LEADER VISION PROJECT PHONE	765.834.5000	PROJECT PHONE	765.834.5000
LEADER VISION PROJECT FAX	765.834.5000	PROJECT FAX	765.834.5000
LEADER VISION PROJECT EMAIL	CHICK-FIL-A	PROJECT EMAIL	CHICK-FIL-A
LEADER VISION PROJECT WEBSITE	CHICK-FIL-A	PROJECT WEBSITE	CHICK-FIL-A
LEADER VISION PROJECT SOCIAL MEDIA	CHICK-FIL-A	PROJECT SOCIAL MEDIA	CHICK-FIL-A
LEADER VISION PROJECT OTHER	CHICK-FIL-A	PROJECT OTHER	CHICK-FIL-A

**DESIGN APPROVAL**

DESIGN APPROVAL	DATE
OWNER APPROVAL	
ARCHITECT APPROVAL	
ENGINEER APPROVAL	



PERSPECTIVE VIEW



PERSPECTIVE VIEW



PERSPECTIVE VIEW



PERSPECTIVE VIEW

**EXTERIOR FINISHES**

FINISH SYSTEM COLOR: WHITE FINISH: SMOOTH	FINISH SYSTEM COLOR: DARK BROWN FINISH: SMOOTH	FINISH SYSTEM COLOR: LIGHT BROWN FINISH: SMOOTH
FINISH SYSTEM COLOR: DARK BROWN FINISH: SMOOTH	FINISH SYSTEM COLOR: DARK BROWN FINISH: SMOOTH	FINISH SYSTEM COLOR: DARK BROWN FINISH: SMOOTH
FINISH SYSTEM COLOR: DARK BROWN FINISH: SMOOTH	FINISH SYSTEM COLOR: DARK BROWN FINISH: SMOOTH	FINISH SYSTEM COLOR: DARK BROWN FINISH: SMOOTH

**ATTACHED CANOPY SCHEDULE**

NO.	NAME	CONTRACT NO.	DATE	REVISIONS	REVISIONS
1	ATTACHED CANOPY				
2	ATTACHED CANOPY				
3	ATTACHED CANOPY				
4	ATTACHED CANOPY				
5	ATTACHED CANOPY				



PERSPECTIVE VIEW

**REF. ENCLOSURE FINISHES**

FINISH SYSTEM COLOR: DARK BROWN FINISH: SMOOTH
FINISH SYSTEM COLOR: DARK BROWN FINISH: SMOOTH



EXTERIOR ELEVATION



EXTERIOR ELEVATION



PERSPECTIVE VIEW

**REF. CANOPY FINISHES**

FINISH SYSTEM COLOR: DARK BROWN FINISH: SMOOTH
FINISH SYSTEM COLOR: DARK BROWN FINISH: SMOOTH
FINISH SYSTEM COLOR: DARK BROWN FINISH: SMOOTH



EXTERIOR ELEVATION



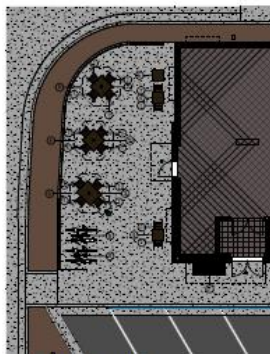
EXTERIOR ELEVATION



PERSPECTIVE VIEW - PATIO

**PATIO SEATING SCHEDULE**

NO.	NAME	CONTRACT NO.	DATE	REVISIONS	REVISIONS
1	PATIO SEATING				
2	PATIO SEATING				
3	PATIO SEATING				

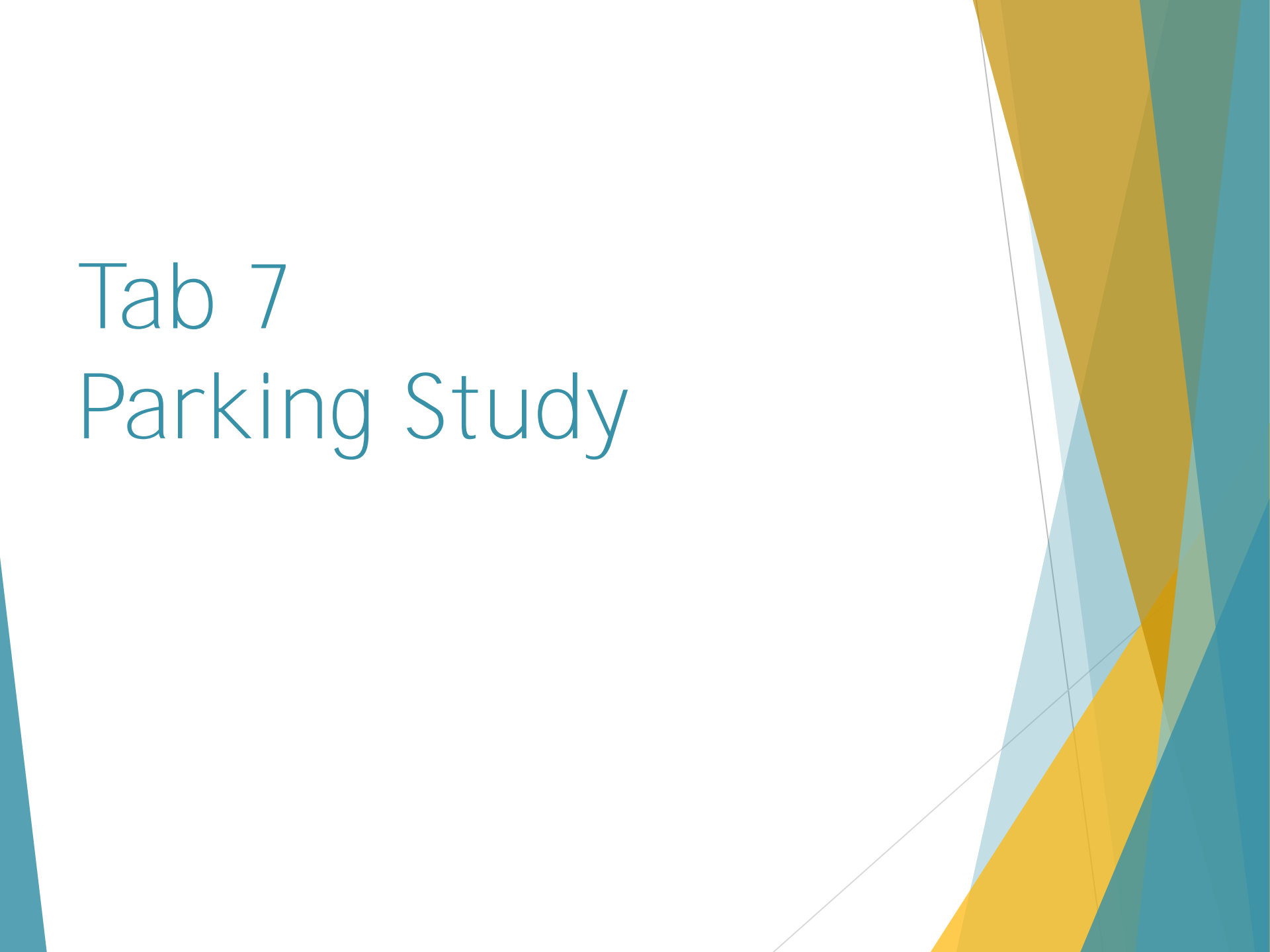


DINING PATIO PLAN

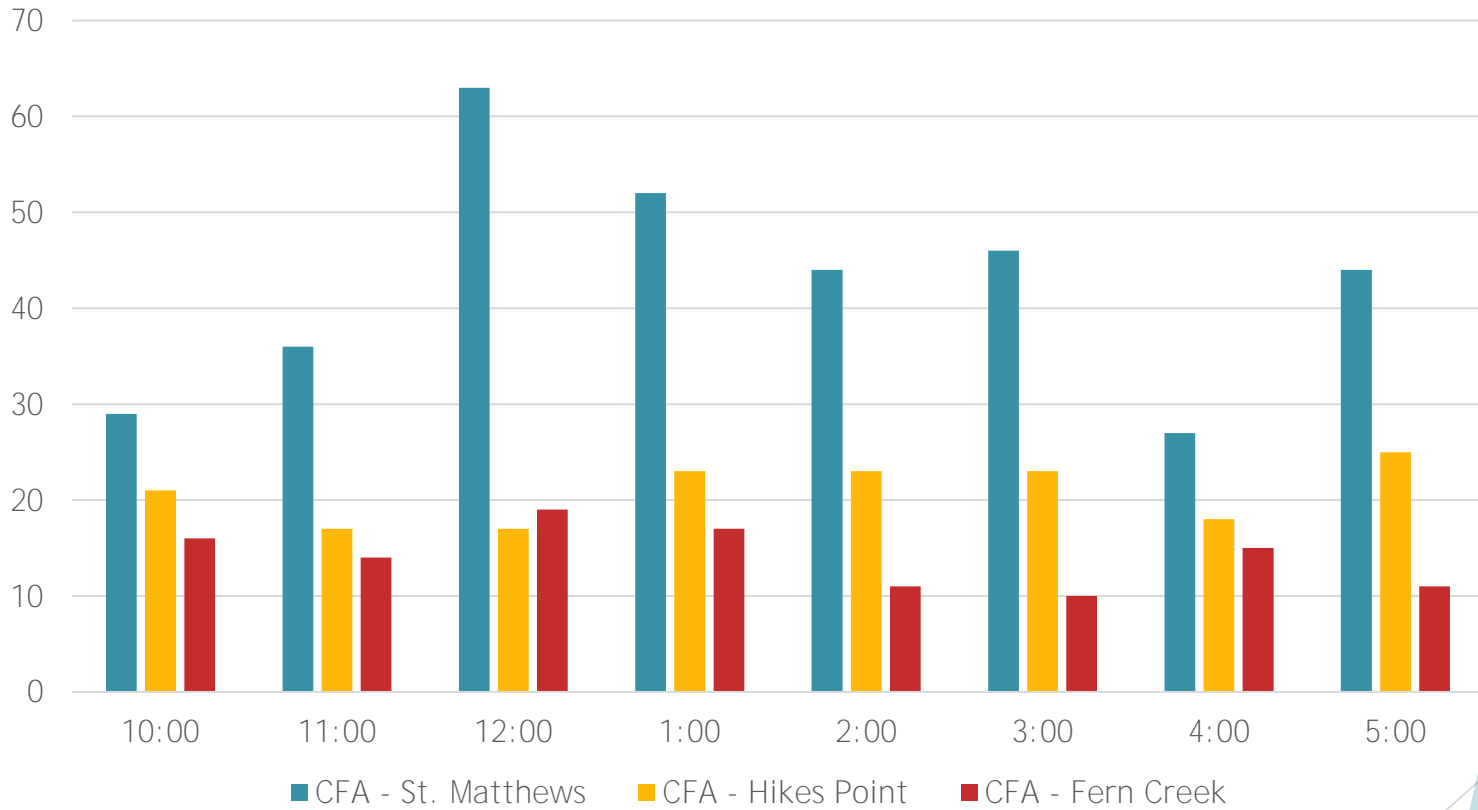
10/20/2015 11:26 AM ARJ CHICK-FIL-A OKOLONA FSU 10301 PRESTON HWY, LOUISVILLE, KY 40229

# Tab 7

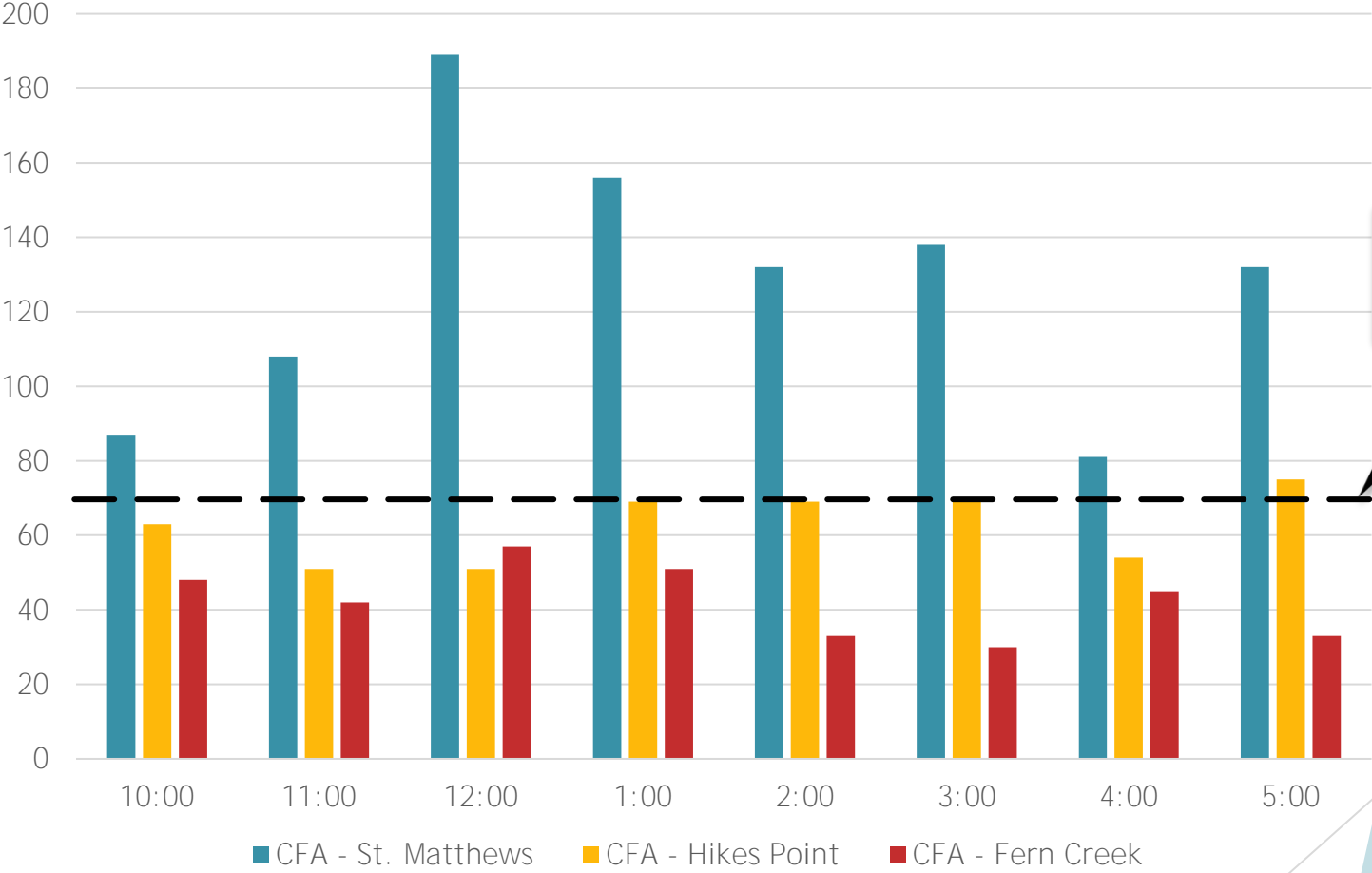
## Parking Study



## Present Parking Counts



# Parking Counts Using Pre-Covid Ratios



CFA - Preston requested parking

## Tab 8

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

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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

## **STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICES OF THE PLAN 2040 COMPREHENSIVE PLAN**

Applicant: Stern Development

Owner: Becky K. Young, Ashley P. Hembree, and Christopher Powell

Location: 10501 and 10511 Preston Highway

Proposed Use: Thornton's Gas and Convenience Store & Chick-fil-A Restaurant

Engineers, Land Planners and  
Landscape Architects: Mindel Scott & Associates, Inc.

Request: Change in Zoning from R-4 to C-2

### **INTRODUCTION**

This is a proposal to consolidate two lots and rezone them from R-4 to C-2. The purpose of this application is to situate a gas and food mart and fast food and on the east side of Preston to pick up northbound traffic. Gas/food marts and fast food like these two are typically located major arterials often at signalized intersections because (a) there is easily enough business on busy arterials like this to satisfy the business needs, and (b) there is similarly more than adequate market demand on a busy arterial.

### **COMMUNITY FORM**

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

This proposal complies with Policies 2.1, 3.1.4, 4.1, 7, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20 and 23 for the following reasons. The subject properties are situated within the Suburban Neighborhood Form District, which is characterized by both residential uses and, at appropriate locations, neighborhood centers with a mixture of offices, retail shops, restaurants and services. This application complies with this Guideline because the proposed use at this location is part of a center of retail/commercial activity at this location and nearly in an unbroken stretch from the Snyder Freeway interchange south to Cooper Chapel Way, and continuing south. This proposed Thorntons and Chick-Fil-A will be easily accessible from the four-lane arterial Preston Highway, as well as from Cooper Chapel and the Synder Freeway, without adversely impacting the public safety or traffic flows. This is a highly auto-centric area, thus gas stations, fast-food, and other services are important for vehicular travel. This is an investment in upgrading neighborhood serving uses (gas and convenience store and fast food) in the mix of uses appropriate for area and



surrounding development. The building and dumpsters are located away (buffered and transitioned) from existing residential uses and the area has adequate infrastructure as it is located on an arterial road. There will be no hazardous use, and noise and light emissions will comply with LMCO and LDC restrictions. This plan provides neighborhood level services and needed goods and services

Land Development Code required height restrictions, interior and perimeter landscaping, minimum parking, maximum lighting and signage and most required setbacks (with only minimal variances or waivers) will also be met.

Also, as this proposed commercially zoned site is adjacent to the growing commercial activity center anchored by Menards to the north, Commerce Crossings to the west, and the Synder Freeway to the north, travel distances are reduced, with a centrally placed gas/convenience store and fast food for the drivers utilizing the area, reducing miles driven and contributing to improved air quality.

The quality components, color scheme, and style and design of this development assures compatibility with and improvement on the general quality of construction in the area. Plus landscaping, screening, buffering and sidewalks help assure appropriateness for the Preston Highway area and compatibility with adjoining commercial and residential uses.

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

The proposal complies with Policies 1, 2, 3, 4, 5, 6, 7, 8, 9 and 13 for the reasons set forth below. The site is an expansion of an existing activity center providing neighborhood goods and services with a sufficient support population and appropriate access and connectivity with a compact pattern of development. The placement and design of the building is appropriate.

Goal 3: Encourage neighborhoods by protecting and integrating open space, watersheds and other natural resources.

This proposal complies with Policies 5, 8, 9, 10 and 12 because there are no known natural features, karst terrain, slopes, flood prone areas or hydric soils on the site.

Goal 4: Promote and preserve the historic and archeological resources that contribute to our authenticity.

The proposal complies with Policies 1 and 2 because there are no historic assets or distinctive cultural features evident on the site.

## **MOBILITY**

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

This proposal complies with Policies 1, 3 and 4 as the site will provide a sidewalk along Preston Highway to facilitate connections to the existing activity center.

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

This proposal complies with Policies 2 and 4 because the plan provides sidewalk along Preston Highway. There are no current or proposed TARC routes accessible to the site.

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

This proposal complies with Policies 5, 6 and 9 to the extent it is within its power to do so. Transportation Planning is still reviewing the proposal. There are currently no TARC routes along this section of Preston Highway. The plan does provide a sidewalk along its frontage of a major arterial roadway.

### **COMMUNITY FACILITIES**

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

This proposal complies with Policies 1, 2 and 3 because existing utilities are and have long been available to the site, including potable water and water for sewer services. Churches, schools, and a fire station are located a short distance away.

### **ECONOMIC DEVELOPMENT**

Goal 1: Provide an economic climate that improves growth, innovation, investment and opportunity for all.

The only applicable Policy is Policy 3 which recommends locating commercial uses generating high volumes of traffic on a major arterial street, which Preston Highway satisfies. (Emphasis added.) The use will not have negative impacts on the area as the only residential property nearby is currently being used for commercial activities. As Louisville Metro's population continues to grow, so does demand for all types of services such as is provided in this plan. This proposed improvement and expansion of a current use is part of a developer/owner response to that demand, and as such both stabilizes and offers increased opportunities for employment and tax base for the City.

### **LIVABILITY**

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

This proposal complies with Policies 4, 5, 17, 21 and 24 because the site is not proposed for industrial zoning and is not located near the Ohio River or the airport and does not contain karst terrain or a regulatory floodplain.

### **HOUSING**

Goal 1: Expand and ensure a diverse range of housing choices.

This proposal complies with Policy 1 because it supports aging in place by increasing the variety of neighborhood-serving goods and services in the immediate area. The expanded convenience store will provide a wider variety and choice of groceries, household goods and services.

Goal 2: Facilitate the development of connected mixed-use neighborhoods.

This proposal complies with Policies 1 and 2 because it permits inter-generational, mixed-income and mixed use development connected to the surrounding area and provides amenities in the provision of goods and services in proximity to housing. This site on a major arterial adjacent to an activity center is not appropriate for single family development.

Goal 3: Ensure long-term affordability and livable options in all neighborhoods.

This proposal complies with Policies 2 and 3 because no existing residents who are not willingly selling will be displaced and it provides goods and services in close proximity to more appropriate areas for residential uses nearby to the activity center.

\* \* \*

For all of these and other reasons set forth on the Detailed District Development 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 Plan 2040 Comprehensive Plan.

Respectfully submitted,

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John C. Talbott  
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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 Table 5.3.2 to allow the proposed building to exceed the maximum setback

1. The variance will not adversely affect the public health, safety or welfare because this is an aesthetic code requirement. There is no evidence that the extra setback at this location will cause any traffic or other safety problems; indeed the opposite would occur if safe and convenient access and internal circulation were not provided.
2. The variance will not alter the essential character of the general vicinity this is an aesthetic code requirement. Also, the proposed building is set to the extent possible given the nature of fuel stations and their specific needs for safe maneuvering on the site.
3. The variance will not cause a hazard or a nuisance to the public because this is an aesthetic code requirement. Because of the reasons set forth above, notably the fact that the existing points of access and circulation will provide internal circulation with safe pedestrian access ensures there will not be a hazard or nuisance to the public. Compliance with which will make the investment in the property infeasible.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this is an aesthetic code requirement, and because this design will result in an improvement of the existing building and current parking layout.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this is an aesthetic code requirement that should not apply to this type of use. There is no fueling station in Metro Louisville that complies with this requirement.
2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this is an aesthetic code requirement, and because the expanded gas station and convenience store simply could not be accommodated on this site without these variances.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are a result of a constrained site based on size and location

and is an existing condition.

### **General Waiver Justification:**

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

Waiver of: Section 10.2.4 to omit the LBA long the north property line and to allow the drive-thru aisle to encroach.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because this is a new development of a currently vacant site and the property affected is owned by the Kentucky Department of Transportation (“KDOT”). Even though the LBA along the north property line cannot be satisfied, added trees and landscaping will be provided in areas that do not need to be devoted to parking, as adequate parking is essential for a reuse of this vacant site.
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 Comp Plan 2040 filed with the rezoning application. The waiver will not violate the Comprehensive Plan because as stated above, all LBAs are provided that can be provided, what is missing or is under-sized can be enhanced with additional landscaping, and the affected property is not used residentially, but is owned by KDOT.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this encroachment into the LBA is the minimum required for the new fast food restaurants to locate on the property to provide the required parking, dumpster location, and site constraints which provides an updated modern facility to serve this area of Preston Highway.
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 landscape waiver along the north property line, the applicant would not have adequate space for the drive-thru aisle to serve its customers in an efficient manner.

**Parking Waiver Justification:**

In order to justify approval of any parking waiver, the Planning Commission 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.**

*For all Parking Waivers:*

1. 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 Plan 2040 Comprehensive Plan filed with the rezoning application. Moreover, waiving the parking study requirement contained in Section 9.1.16 is allowed pursuant to Section 9.1.17, which states that the “Public Works Director or designee . . . may waive any of these required contents.” Upon reviewing the “Contents” of the parking study, it is clear that the parking study requirements are neither necessary, helpful, or required. The parking issues for Chick-Fil-A are well known to the Planning Commission generally and the Thorntons is expected to also have increased traffic because of the growth on this area of Preston Highway and the limited amount of gasoline stations in the area. Every site is also unique, so it would be very difficult to find effectively the same situation and site set up regarding the parking available to it. Requiring site surveys and “peak parking” analysis would add little to no useful information, when the number of spaces needed is a simple function of the number of employees and patrons which constantly changes with time and day (with a very slight addition for vendors).
2. The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions. 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 of the unique type of office use business being operated. Unlike many fast food establishments, all Chick Fil As have much more traffic than a typical fast food restaurant, in addition to a relatively high number of employees needing to park to serve those customer. The Thorntons is also expected to have significant patronage and therefore need additional parking due to the growth in the area and the lack of gas stations in the immediate area. Despite the added parking spaces needed, a Chick Fil A and Thorntons use is very much in keeping with the area along this major arterial of Preston Highway.

*Waivers to provide more parking spaces than the maximum allowed:*

1. & 2. The requirements found in Table 9.1.2 do not allow the provision of the number of parking spaces needed to accommodate the parking needs and the requested increase is the minimum needed to do so. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant as a fast food user operating a Chick-Fil-A and the Thorntons. The Chick Fil A often requires more than 30 employees alone working at one time with large breakfast, lunch, and dinner crowds. Requiring employees to park off site, necessitating a long walk to the restaurant would also be dangerous because of the high volume of traffic on Preston Highway as well as having to deal with inclement weather, such as rain, storms and snow at times. Thorntons is expected to also have above average patronage because of the limited gas

stations in the area. Along with the number of employees needed to serve the customers, the waiver of the parking limit is the minimum necessary to afford relief requested to safely serve the expected number of patrons. Also, without the waiver, the cars patronizing the Chick Fil A (as has been shown with other Chick Fil As) and Thorntons would impede the proper flow of traffic in adjacent sites and also possibly on Preston Highway itself.



## Tab 9

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

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## **PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICES OF THE PLAN 2040 COMPREHENSIVE PLAN**

Applicant: Stern Development

Owner: Becky K. Young, Ashley P. Hembree, and  
Christopher Powell

Location: 10501 and 10511 Preston Highway

Proposed Use: Thornton's Gas and Convenience Store &  
Chick-fil-A Restaurant

Engineers, Land Planners and  
Landscape Architects: Mindel Scott & Associates, Inc.

Request: Change in Zoning from R-4 to C-2

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on November 18, 2021 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

### **INTRODUCTION**

**WHEREAS**, this is a proposal to consolidate two lots and rezone them from R-4 to C-2. The purpose of this application is to situate a gas and food mart and fast food restaurant on the east side of Preston to pick up northbound traffic. Gas/food marts and fast food operations like these two are typically located on major arterials, often at signalized intersections, because (a) there is easily enough business on busy arterials like this to satisfy the business needs, and (b) there is similarly more than adequate market demand on a busy arterial; and

### **COMMUNITY FORM**

**WHEREAS**, this proposal complies with Goal 1 and its applicable Policies 2.1, 3.1.4, 4.1, 7, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20 and 23 because the subject properties are situated within the Suburban Neighborhood Form District, which is characterized by both residential uses and, at appropriate locations, neighborhood centers with a mixture of offices, retail shops, restaurants and services and because the proposed use at this location is part of a center of retail/commercial activity at this location and nearly in an unbroken stretch from the Snyder Freeway interchange south to Cooper Chapel Way, and continuing south. This proposed Thorntons and Chick-Fil-A will be easily accessible from the four-lane arterial Preston Highway, as well as from Cooper

Chapel and the Snyder Freeway, without adversely impacting the public safety or traffic flows. This is a highly auto-centric area, thus gas stations, fast-food, and other services are important for vehicular travel. This is an investment in upgrading neighborhood serving uses (gas and convenience store and fast food) in the mix of uses appropriate for area and surrounding development. The building and dumpsters are located away (buffered and transitioned) from existing residential uses and the area has adequate infrastructure as it is located on an arterial road. There will be no hazardous use; and noise and light emissions will comply with LMCO and LDC restrictions. This plan provides neighborhood level services and needed goods and services for the area; and

**WHEREAS**, the Land Development Code required height restrictions, interior and perimeter landscaping, minimum parking, maximum lighting and signage and most required setbacks (with only minimal variances or waivers) will also be met and as this proposed commercially zoned site is adjacent to the growing commercial activity center anchored by Menards to the north, Commerce Crossings to the west, and the Snyder Freeway to the north, travel distances are reduced, with a centrally placed gas/convenience store and fast food for the drivers utilizing the area, reducing miles driven and contributing to improved air quality; and because the quality components, color scheme, and style and design of this development assures compatibility with and improvement on the general quality of construction in the area; and landscaping, screening, buffering and sidewalks help assure appropriateness for the Preston Highway area and compatibility with adjoining commercial and residential uses; and

**WHEREAS**, the proposal complies with Goal 2 and applicable Policies 1, 2, 3, 4, 5, 6, 7, 8, 9 and 13 because the site is an expansion of an existing activity center providing neighborhood goods and services with a sufficient support population and appropriate access and connectivity with a compact pattern of development and the placement and design of the building is appropriate; and

**WHEREAS**, this proposal complies with Policies 5, 8, 9, 10 and 12 because there are no known natural features, karst terrain, slopes, flood prone areas or hydric soils on the site; and

**WHEREAS**, the proposal complies with Policies 1 and 2 because there are no historic assets or distinctive cultural features evident on the site; and

### **MOBILITY**

**WHEREAS**, this proposal complies with Goal 1 and applicable Policies 1, 3 and 4 as the site will provide a sidewalk along Preston Highway to facilitate connections to the existing activity center; and

**WHEREAS**, this proposal complies with Goal 2 and applicable Policies 2 and 4 because the plan provides a sidewalk along Preston Highway although there are no current or proposed TARC routes accessible to the site; the rights of way comply with community design policies and the site avoids access through areas of lower intensity or density;

**WHEREAS**, this proposal complies with Goal 3 and applicable Policies 5, 6 and 9 as there are currently no TARC routes along this section of Preston Highway and the plan does provide a sidewalk along its frontage of a major arterial roadway; and

## COMMUNITY FACILITIES

**WHEREAS**, this proposal complies with Goal 2 and applicable Policies 1, 2 and 3 because existing utilities are and have long been available to the site, including potable water and water for sewer services and churches, schools, and a fire station are located a short distance away; and

## ECONOMIC DEVELOPMENT

**WHEREAS**, as for Goal 1 is the only applicable Policy is Policy 3 which recommends locating commercial uses generating high volumes of traffic on a major arterial street, which is satisfied by Preston Highway. The use will not have negative impacts on the area as the only residential property nearby is currently being used for commercial activities and as Louisville Metro's population continues to grow, so does demand for all types of services such as is provided in this plan. This proposed improvement and expansion of a current use is part of a developer/owner response to that demand, and as such both stabilizes and offers increased opportunities for employment and tax base for Metro Louisville; and

## LIVABILITY

**WHEREAS**, this proposal complies with Goal 1 and applicable Policies 4, 5, 17, 21 and 24 because the site is not proposed for industrial zoning and is not located near the Ohio River or the airport and does not contain karst terrain or a regulatory floodplain; and

## HOUSING

**WHEREAS**, this proposal complies with Goal 1 and applicable Policy 1 because it supports aging in place by increasing the variety of neighborhood-serving goods and services in the immediate area. The expanded convenience store will provide a wider variety and choice of groceries, household goods and services; and

**WHEREAS**, this proposal complies with Goal 2 and applicable Policies 1 and 2 because it permits inter-generational, mixed-income and mixed use development connected to the surrounding area and provides amenities in the provision of goods and services in proximity to housing; and a major arterial adjacent to an activity center is not appropriate for single family development; and

**WHEREAS**, this proposal complies with Goal 3 and applicable Policies 2 and 3 because no existing residents who are not willingly selling will be displaced from their homes and it provides goods and services in close proximity to more appropriate areas for residential uses nearby to the activity center.

\* \* \*

For all of these and other reasons set forth on the Detailed District Development 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 Plan 2040 Comprehensive Plan.

## **PROPOSED FINDINGS OF FACT FOR VARIANCE**

WHEREAS, the applicant has requested a variance of Table 5.3.2 to allow the proposed building to exceed the maximum setback in connection with a rezoning and development plan application for a Thorntons Gas Station and Convenience store at 10501 Preston Highway; and

WHEREAS, the Louisville Metro Planning Commission, having heard testimony before its Land Development and Transportation Committee and in the Public Hearing held November 18, 2021 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

WHEREAS, the variance will not adversely affect the public health, safety or welfare because this is an aesthetic code requirement. There is no evidence that the extra setback as requested at this location will cause any traffic or other safety problems and it appears the opposite would occur if safe and convenient access and internal circulation were not provided; and

WHEREAS, the variance will not alter the essential character of the general vicinity as this is an aesthetic code requirement in an expanding commercial area and, the proposed building is set back to the extent possible given the nature of fuel stations and their specific needs for safe maneuvering for tanker fuel supply trucks and customers on the site; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because this is will actually improve the safety of the public in allowing for sufficient vehicle maneuvering and because of the reasons set forth above, notably the fact that the existing points of access and circulation will provide internal circulation with safe pedestrian access ensuring there will not be a hazard or nuisance to the public; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this is an aesthetic code requirement, and because this design will result in a safety improvement of the proposed building and parking layout; and

WHEREAS, as additional considerations, the proposed variance does arise from special circumstances, which do not generally apply to land in the general vicinity because this is an aesthetic code requirement that should not apply to this type of use. There is no fueling station in Metro Louisville that complies with this requirement; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this is an aesthetic code requirement, and because the expanded gas station and convenience store simply could not be accommodated on this site without this variance; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are a result of a constrained site based on size and location and created by existing conditions.

## **PROPOSED FINDINGS FOR PARKING WAIVER**

**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 Plan 2040 Comprehensive Plan filed with the rezoning application; moreover, waiving the parking study requirement contained in Section 9.1.16 is allowed pursuant to Section 9.1.17, which states that the “Public Works Director or designee . . . may waive any of these required contents”; upon reviewing the “Contents” of the parking study, it is clear that the parking study requirements are neither necessary, helpful, or required; the parking issues for Chick-Fil-A are well known to the Planning Commission generally and the Thorntons is expected to also have increased traffic because of the growth on this area of Preston Highway and the limited amount of gasoline stations in the area; every site is also unique, so it would be very difficult to find effectively the same situation and site set up regarding the parking available to it; requiring site surveys and “peak parking” analysis would add little to no useful information, when the number of spaces needed is a simple function of the number of employees and patrons which constantly changes with time and day (with a very slight addition for vendors); and

**WHEREAS**, the applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions; 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 of the unique type of office use business being operated; unlike many fast food establishments, all Chick-Fil-A’s have much more traffic than a typical fast food restaurant, in addition to a relatively high number of employees needing to park to serve those customer; the Thorntons is also expected to have significant patronage and therefore need additional parking due to the growth in the area and the lack of gas stations in the immediate area; despite the added parking spaces needed, a Chick-Fil-A and Thorntons use is very much in keeping with the area along this major arterial of Preston Highway; and

**WHEREAS**, the requirements found in Table 9.1.2 do not allow the provision of the number of parking spaces needed to accommodate the parking needs, and the requested increase is the minimum needed; the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant’s plan for a fast food operation Chick-Fil-A and the Thorntons gas/convenience store; the Chick-Fil-A often requires more than 30 employees alone working at one time with large breakfast, lunch, and dinner crowds; requiring employees to park off site, necessitating a long walk to the restaurant is also dangerous because of the high volume of traffic on Preston Highway as well as having to deal with inclement weather, such as rain, storms and snow; Thorntons is expected to also have above average patronage because of the limited gas stations in the area; along with the number of employees needed to serve the customers, the waiver of the parking limit is the minimum necessary to afford relief requested to safely serve the expected number of patrons; also, without the waiver, the cars patronizing the Chick-Fil-A (as has been shown with other Chick-Fil-A’s and Thorntons would impede the proper flow of traffic in adjacent sites and also possibly on Preston Highway itself;

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