

Louisville Metro Planning Commission Public Hearing – February 2, 2017

Louisville Metro LD&T Committee - January 12, 2017

Neighborhood Meeting – October 24, 2016

## Docket No. 16ZONE1065

Proposed zone change from C-1 to C-2 to allow an expansion of the existing Roosters Restaurant located at 7405 & 7409 Preston Highway



Attorneys: Bardenwerper Talbott & Roberts, PLLC

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

# INDEX

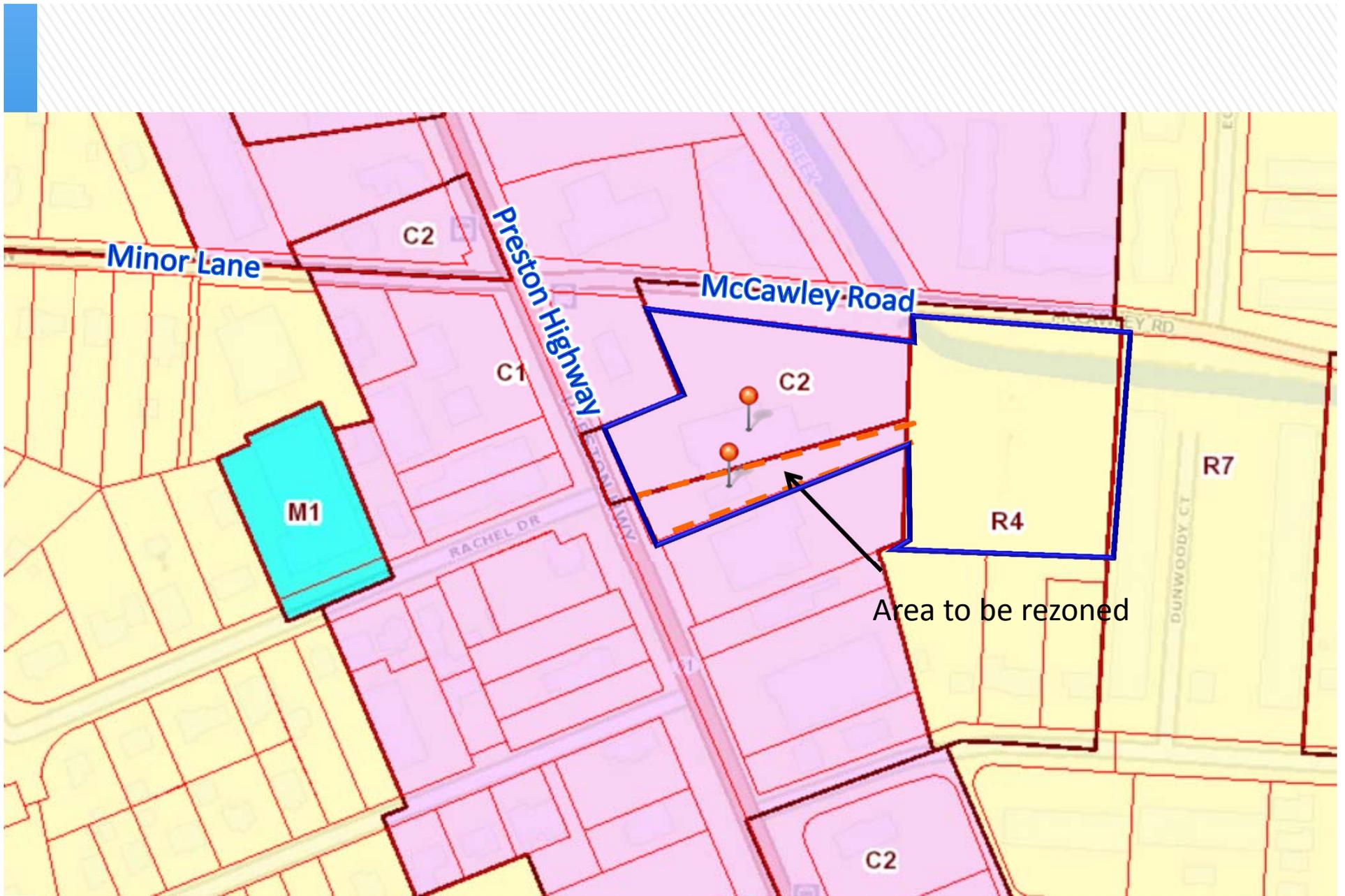
1. LOJIC Zoning Map
2. Aerial photographs of the site and surrounding area
3. Ground level photographs of the site and surrounding area
4. Neighborhood Meeting notice list map, letter to neighbors inviting them to the meeting and summary of meeting
5. Development Plan
6. Statement of Compliance filed with the original zone change application with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan
7. Proposed findings of fact pertaining to compliance with the Comprehensive Plan



Tab 1

# LOJIC Zoning Map

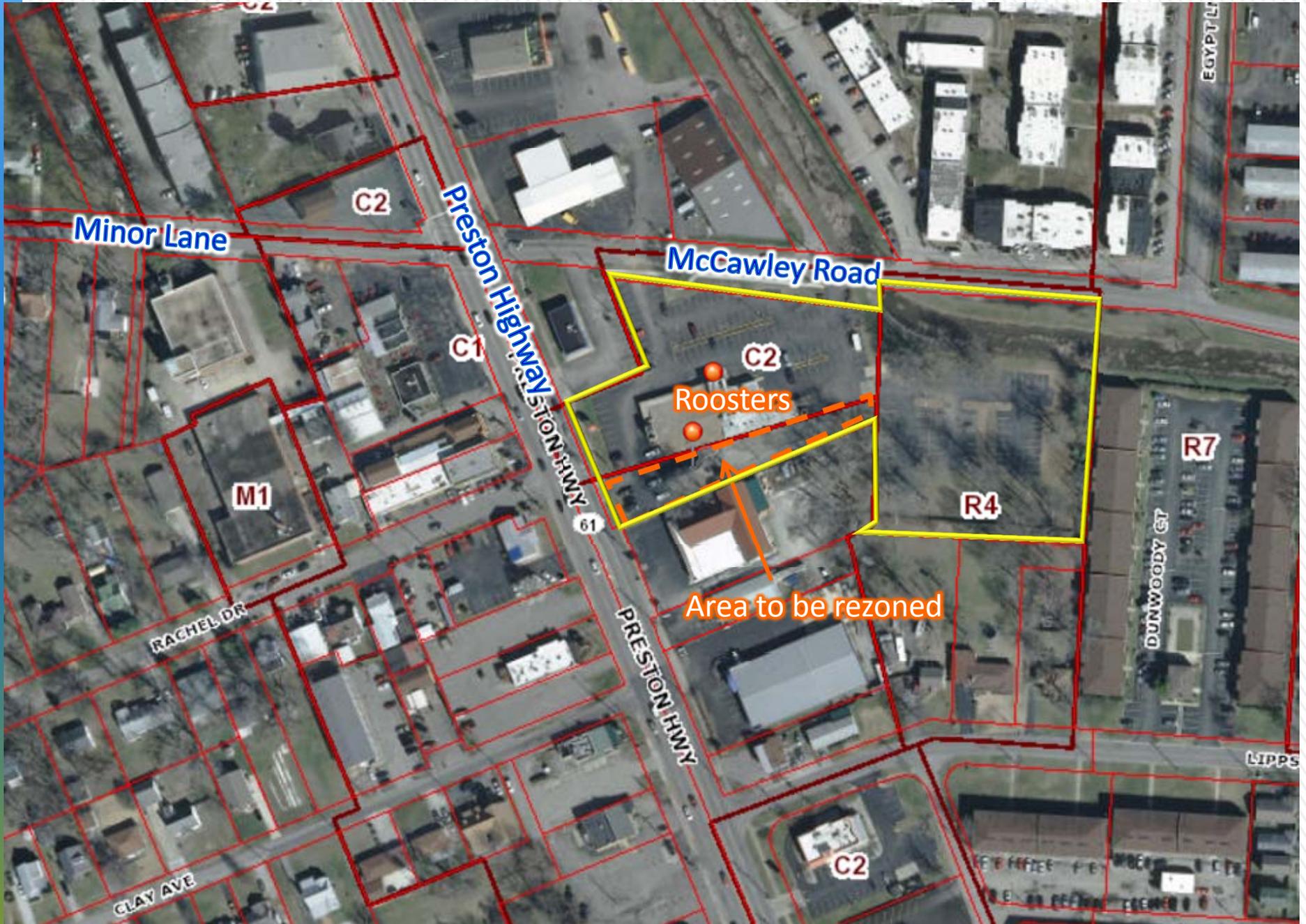




Tab 2

Aerial photograph of the  
site and surrounding  
area





Minor Lane

Preston Highway  
61

McCawley Road

C2

C1

C2

Roosters

M1

R4

R7

Area to be rezoned

RACHEL DR

PRESTON HWY

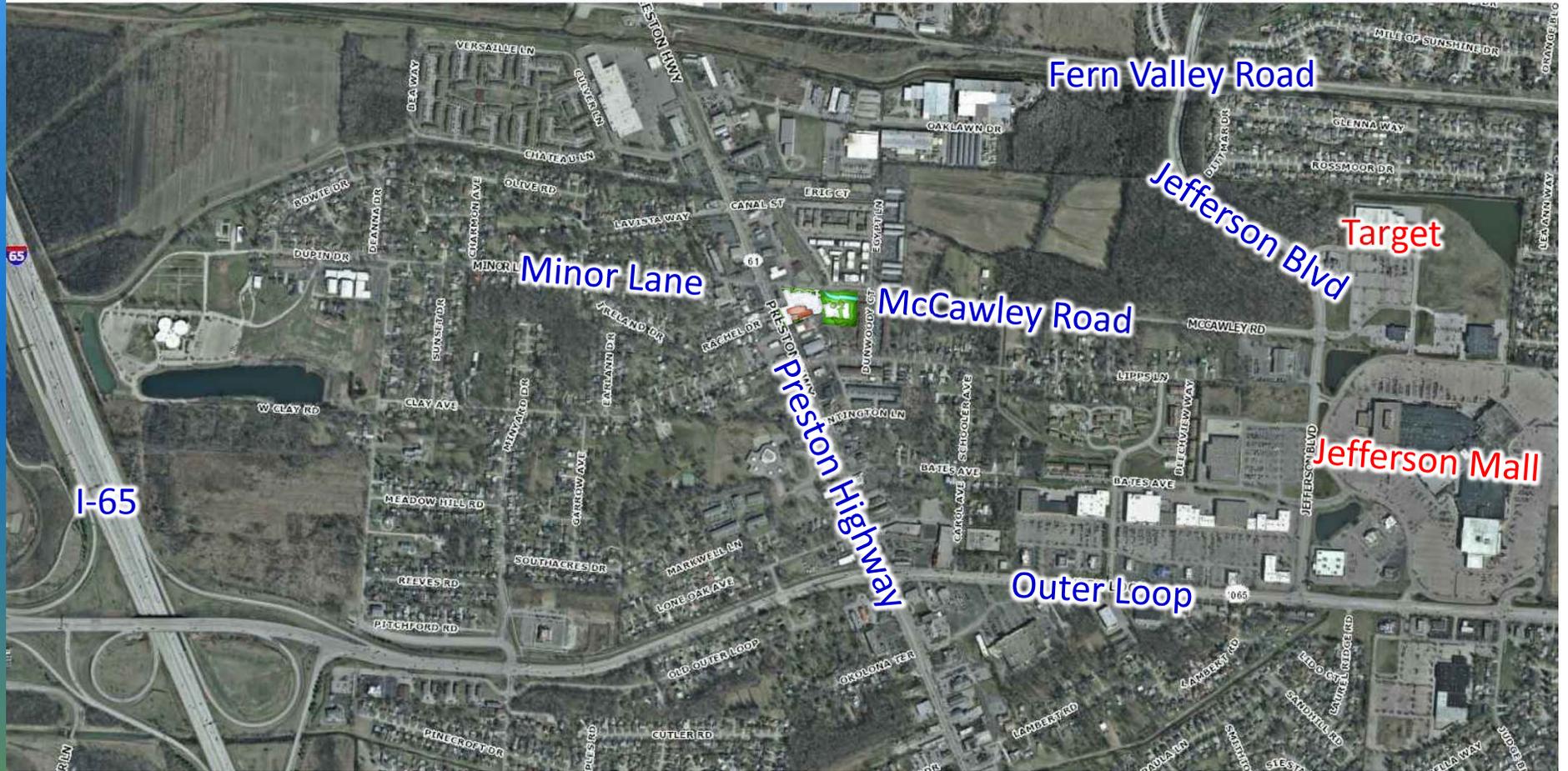
DUNWOODY CT

CLAY AVE

C2

LIPPS

EGYPT LN



65

I-65

Fern Valley Road

Jefferson Blvd

Target

Minor Lane

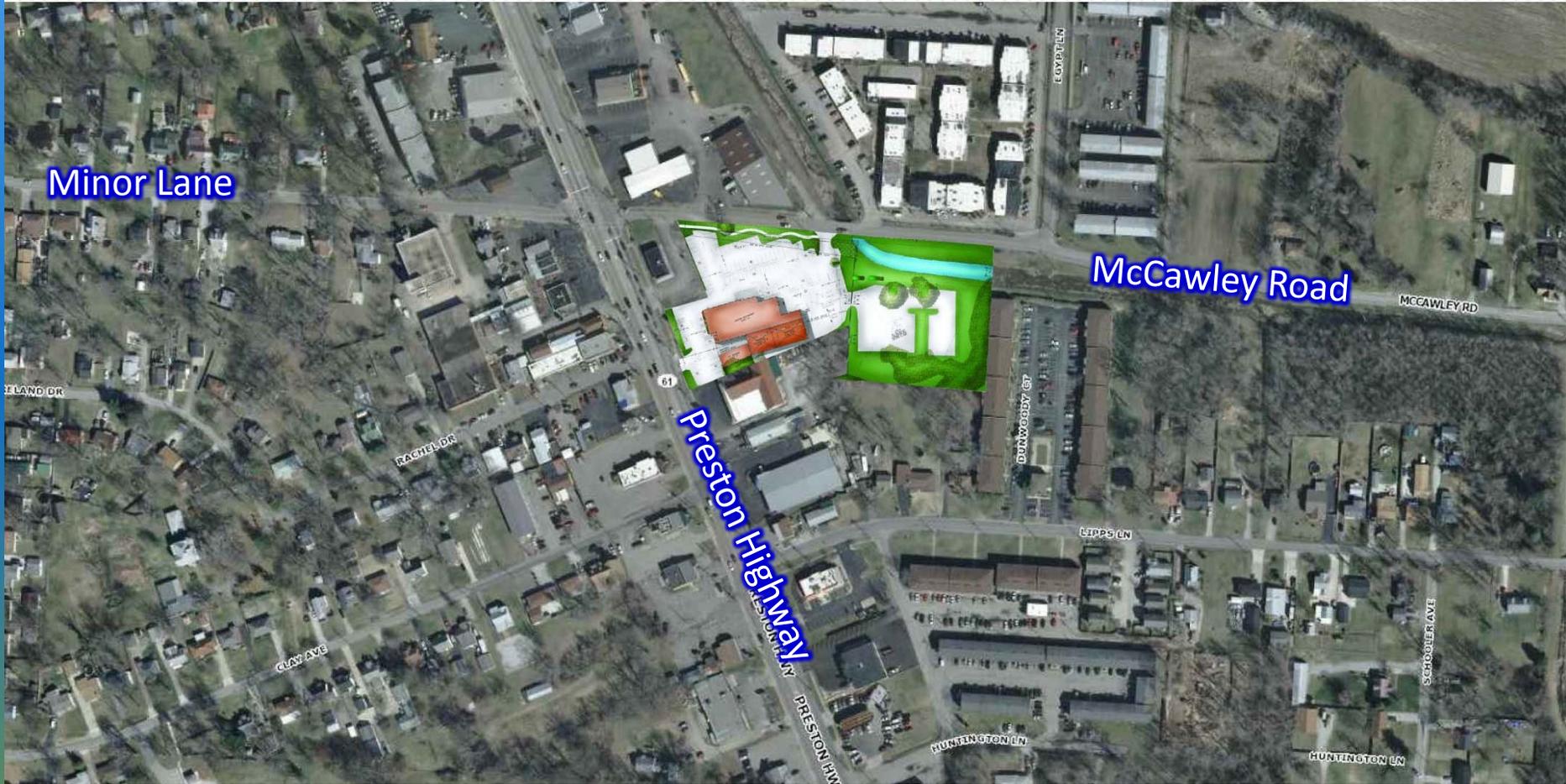
McCawley Road

Jefferson Mall

Preston Highway

Outer Loop





Minor Lane

McCawley Road

Preston Highway



Tab 3

Ground level

photographs of the site

and surrounding area





View of site from Preston Highway and McCawley Road looking eastwardly.





View of site from Preston Highway.





View of site from Preston Highway looking northwardly towards McCawley Road.





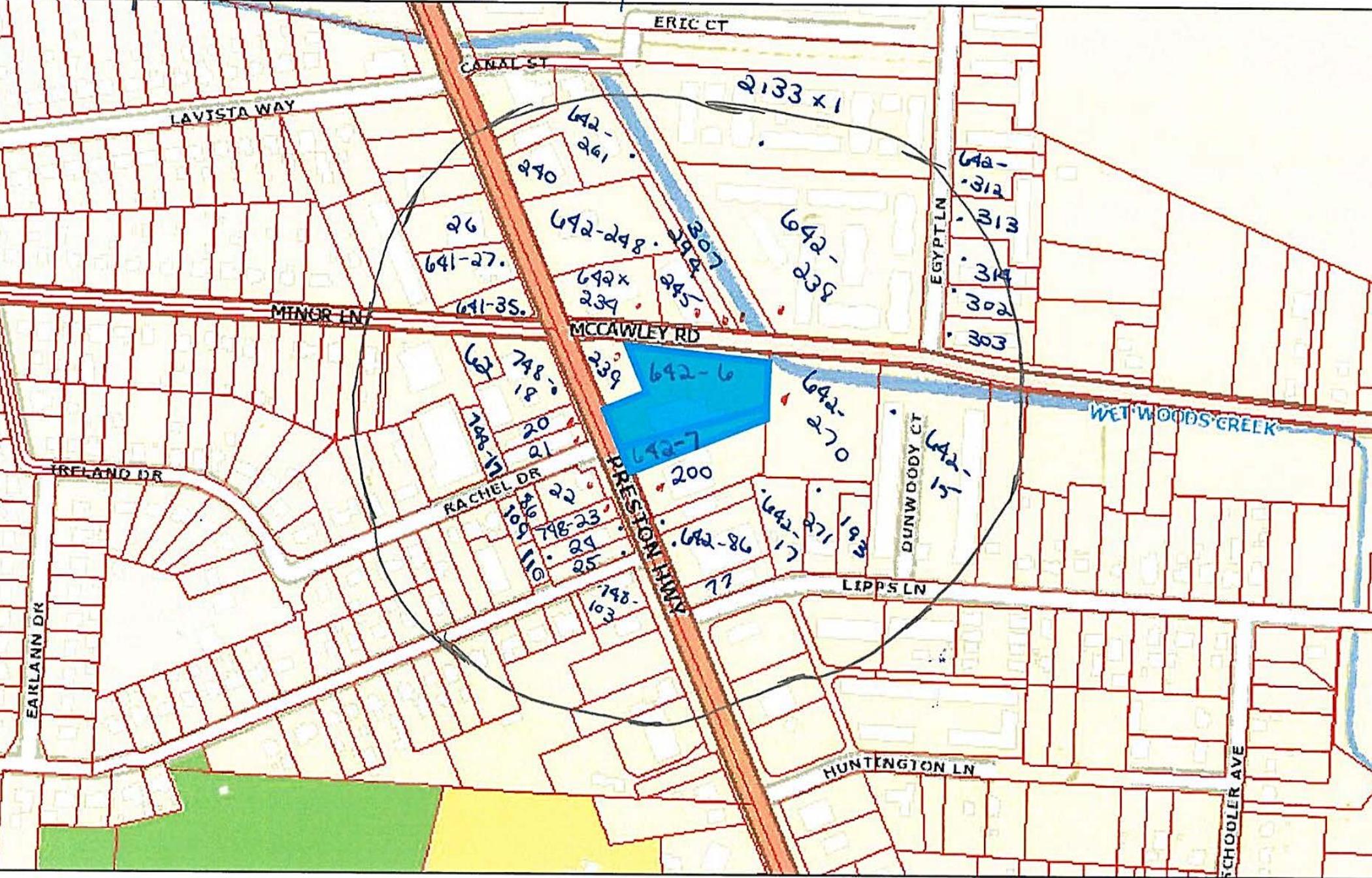
View of site from McCawley Road looking southwardly.



## Tab 4

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





ERIC CT

CANAL ST

LAVISTA WAY

2133 x 1

642-261  
240

26  
641-27.

642-248  
292  
294

642x  
239  
245

641-35.

642-238

642-312

313

314

302

303

MINOR LN

MCCAWLEY RD

EGYPT LN

642-748-18  
20  
21

642-6  
239

642-270

748-17  
22

RACHEL DR

642-7  
200

DUNWOODY CT

642-15

IRELAND DR

748-23  
24  
25

642-86  
17

642-271  
193

PRESTON HWY

748-103

77

LIPPS LN

WET WOODS CREEK

EARLANN DR

HUNTINGTON LN

SCHOOLER AVE

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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(502) 426-6688 • (502) 425-0561 (FAX) • WWW.BARDLAW.NET

Nicholas R. Pregliasco  
Direct dial: 426-0388, ext. 139  
Email: NRP@BARDLAW.NET

October 7, 2016

Dear Neighbor,

**RE: Proposed change in zoning from C-1 to C-2 to allow an expansion of the existing Roosters Restaurant located on approximately 1.6 acres at the southeast corner of McCawley Road and Preston Hwy at 7405 & 7409 Preston Highway**

We are writing to invite you to a meeting we have scheduled to present neighbors with our rezoning plan to allow an expansion of the existing Roosters located at the location above. The expansion will be on property currently zoned C-1 used as a barber shop.

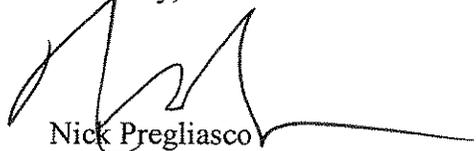
Accordingly, we have filed a plan for pre-application review on Monday, September 26<sup>th</sup> with the Division of Planning and Design Services (DPDS) that has been assigned case number **16ZONE1065** and case manager, **Beth Jones**. We would like to show and explain to neighbors this plan so that we might hear what thoughts, issues and perhaps even concerns you may have.

In that regard, a meeting will be held on **Monday, October 24<sup>th</sup> at 6:30 p.m.** at the **Comfort Suites Airport in the "Derby Room"** located at I-65 and Fern Valley Road, near Outback Steakhouse at **6535 Paramount Park Drive**.

If you cannot attend the meeting but have questions or concerns, please call me at 426-6688 or our land planning and engineering firm representative Derek Triplett at 426-9374.

We look forward to seeing you.

Sincerely,



Nick Pregliasco

cc: Hon. Madonna Flood, Councilwoman, District 24  
Beth Jones, case manager with Division of Planning & Design Services  
Derek Triplett, land planner with Land Design & Development, Inc.  
Robert Gauthier, President, R.C. Landlords, LLC

### NEIGHBORHOOD MEETING SUMMARY

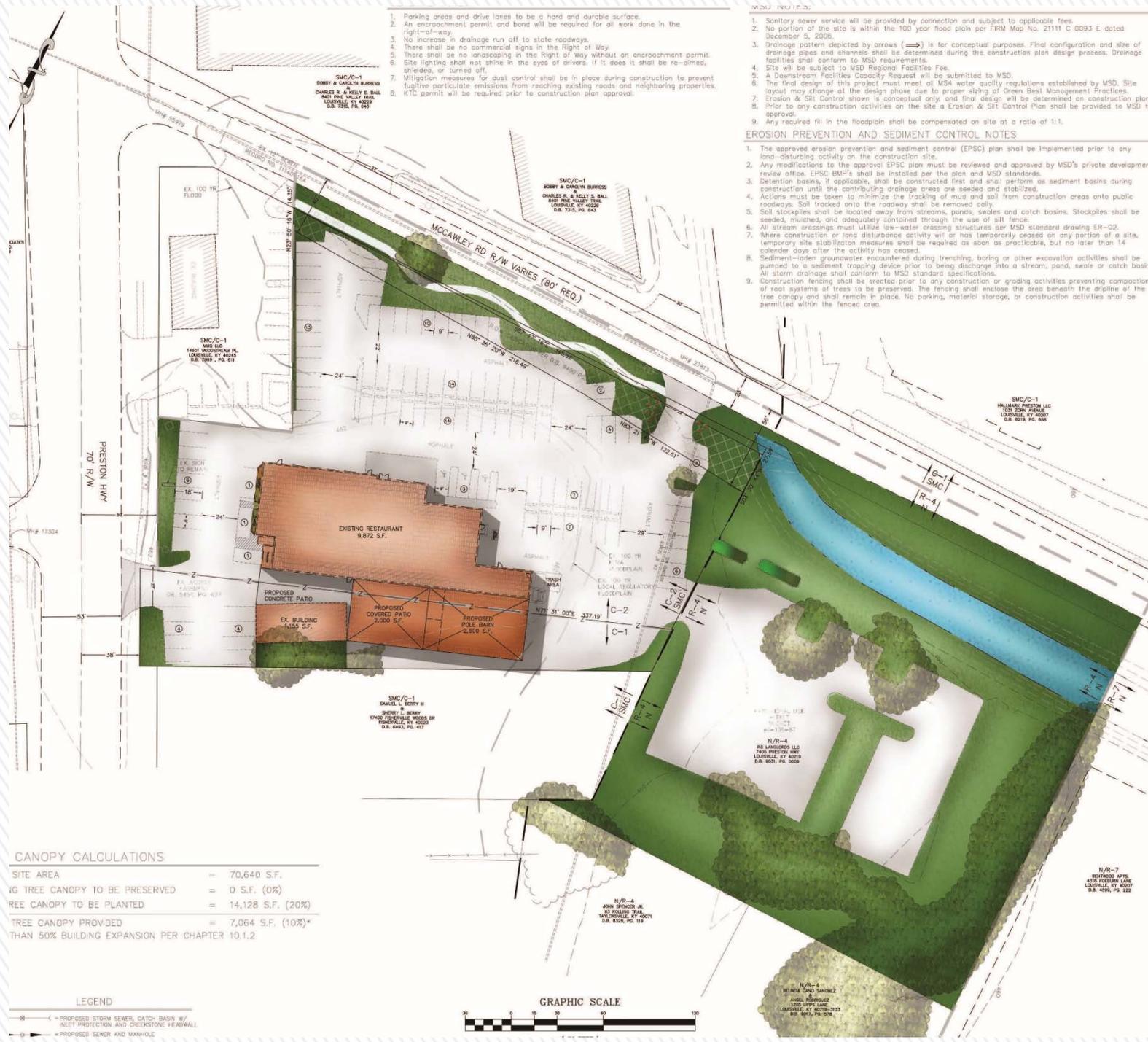
A neighborhood meeting was held on Monday, October 24, 2016 at 6:30 pm at the Comfort Suites Airport on Paramount Park Drive. Those in attendance on behalf of the applicant included Nick Pregliasco, attorney with Bardenwerper Talbott & Roberts, and Derek Triplett, land planner with Land Design & Development Inc., as well as the applicant business owner.

Councilwoman Madonna Flood was the only other person who attended the meeting. Mr. Pregliasco and Mr. Triplett answered any questions from Councilwoman Flood, who did not voice any objection or concern.

Tab 5

# Development Plan





1. Parking areas and drive lanes to be a hard and durable surface.
2. An encroachment permit and bond will be required for all work done in the right-of-way.
3. No increase in drainage run off to state roadways.
4. There shall be no commercial signs in the Right of Way.
5. There shall be no landscaping in the Right of Way without an encroachment permit.
6. Site lighting shall not shine in the eyes of drivers. If it does it shall be re-aimed, shielded, or turned off.
7. Mitigation measures for dust control shall be in place during construction to prevent fugitive particulate emissions from reaching existing roads and neighboring properties.
8. KTC permit will be required prior to construction plan approval.

- MSD (N/C):
1. Sanitary sewer service will be provided by connection and subject to applicable fees.
  2. No portion of the site is within the 100 year flood plain per FIRM Map No. 21111 C 0093 E dated December 5, 2006.
  3. Drainage pattern depicted by arrows (→) is for conceptual purposes. Final configuration and size of drainage pipes and channels shall be determined during the construction plan design process. Drainage facilities shall conform to MSD requirements.
  4. Site will be subject to MSD Regional Facilities Fee.
  5. A Downstream Facilities Capacity Request will be submitted to MSD.
  6. The final design of this project must meet or exceed water quality regulations established by MSD. Site layout may change at the design phase due to proper siting of Green Best Management Practices.
  7. Erosion & Silt Control shown is conceptual only and final design will be determined on construction plans.
  8. Prior to any construction activities on the site a Erosion & Silt Control Plan shall be provided to MSD for approval.
  9. Any required fill in the floodplain shall be compensated on site at a ratio of 1:1.

- EROSION PREVENTION AND SEDIMENT CONTROL NOTES**
1. The approved erosion prevention and sediment control (EPSC) plan shall be implemented prior to any land-disturbing activity on the construction site.
  2. Any modifications to the approved EPSC plan must be reviewed and approved by MSD's private development review office. EPSC BMP's shall be installed per the plan and MSD standards.
  3. Detention basins, if applicable, shall be constructed first and shall perform as sediment basins during construction until the contributing drainage areas are seeded and stabilized.
  4. Actions must be taken to minimize the tracking of mud and soil from construction areas onto public roadways. Soil tracked onto the roadway shall be removed daily.
  5. Soil stockpiles shall be located away from streams, ponds, swales and catch basins. Stockpiles shall be seeded, mulched, and adequately contained through the use of silt fence.
  6. All stream crossings must utilize low-water crossing structures per MSD standard drawing ER-02.
  7. Where construction or land disturbance activity will or has temporarily ceased on any portion of a site, temporary site stabilization measures shall be required as soon as practicable, but no later than 14 calendar days after the activity has ceased.
  8. Sediment-laden groundwater encountered during trenching, boring or other excavation activities shall be pumped to a sediment trapping device prior to being discharge into a stream, pond, swale or catch basin. All storm drainage shall conform to MSD standard specifications.
  9. Construction fencing shall be erected prior to any construction or grading activities preventing compaction of root systems of trees to be preserved. The fencing shall enclose the drip-line of the tree canopy and shall remain in place. No parking, material storage, or construction activities shall be permitted within the fenced area.



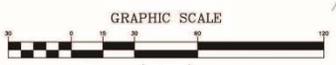
**PROJECT DATA**

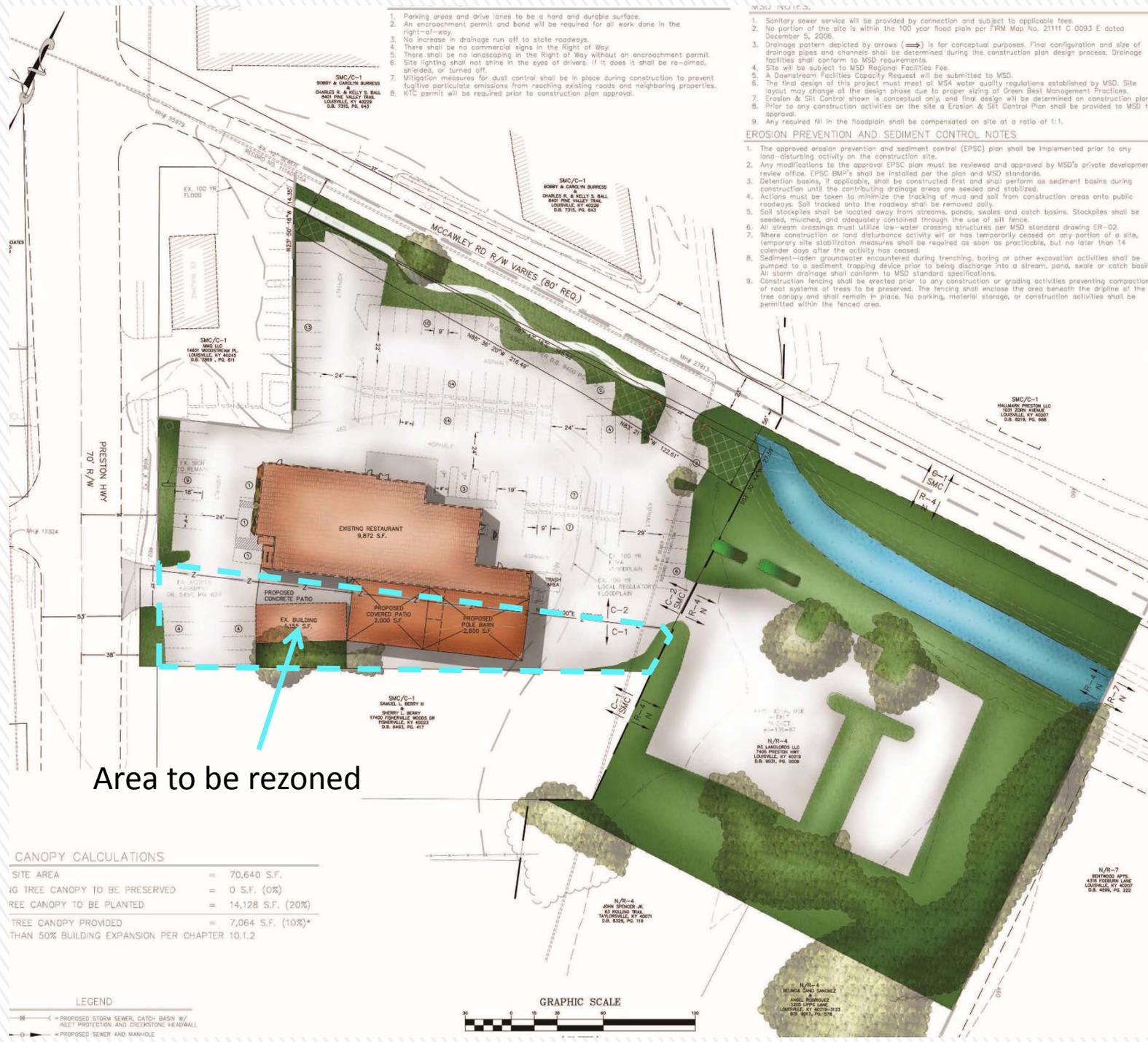
TOTAL SITE AREA	
EXISTING ZONING	
FORM DISTRICT	
EXISTING USE	
PROPOSED ZONING	
PROPOSED USE	
EXISTING BUILDING	
PROPOSED BUILDING	
BUILDING HEIGHT	
RESTAURANT P&I	
MIN 11,027/SF	
MAX 11,027/SF	
PARKING PRC	
V.U.A. C	
TOTAL V&I	
ILA REQ'D	
ILA PROV'D	

**CANOPY CALCULATIONS**

SITE AREA	=	70,640 S.F.
IG TREE CANOPY TO BE PRESERVED	=	0 S.F. (0%)
REE CANOPY TO BE PLANTED	=	14,128 S.F. (20%)
TREE CANOPY PROVIDED	=	7,064 S.F. (10%)*

\* THAN 50% BUILDING EXPANSION PER CHAPTER 10.1.2





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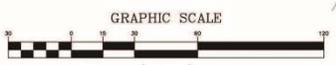
**PROJECT DATA**

EXISTING ZONING	FORM DISTRICT
EXISTING USE	
PROPOSED ZONING	
PROPOSED USE	
EXISTING BUILDING	
PROPOSED BUILDING	
BUILDING HEIGHT	
RESTAURANT P&I	
MIN 11,027/SF	
MAX 11,027/SF	
PARKING PRC	
V.U.A. C	
TOTAL VMA	
ILA REQ'D	
ILA PROVIDED	

Area to be rezoned

**CANOPY CALCULATIONS**

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TREE CANOPY PROVIDED	=	7,064 S.F. (10%)*
* THAN 50% BUILDING EXPANSION PER CHAPTER 10.1.2		





## Tab 6

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



# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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(502) 426-6688 • (502) 425-0561 (FAX) • WWW.BARDLAW.NET

## **STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN**

Applicant/Owner: RC Landlords LLC

Location: 7405 and 7409 Preston Highway

Proposed Use: Expansion of the existing restaurant

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

Request: Change in Zoning from C-1 to C-2

### **INTRODUCTION**

This proposal is a very limited one—only for C-2 zoning for a small additional portion of the site (the remainder already zoned C-2) in order for an existing restaurant, BC Roosters Restaurant, to be able to have “alfresco dining”, meaning sale of food and alcoholic beverages in a patio area outdoors. The existing restaurant building will continue operations as normal. The new patio area will be an expansion of the existing restaurant business. This location along Preston Highway, where other commercial uses already exist and where the existing restaurant has long been located and operating, will allow continued growth of the business with minimal impacts.

### **GUIDELINE 1 – COMMUNITY FORM**

The Suburban Marketplace Corridor is generally located along major roadways with well defined beginning and ending points. Although not a preferred form of development scheme, the Suburban Marketplace Corridor dominates many of the older major arterials of Metro Louisville, such as Preston Highway where this restaurant is already located and operating. Other Suburban Marketplace Corridors include Dixie Highway, portions of Bardstown Road, portions of Shelbyville Road and so forth. This restaurant does not propose to change anything about the existing Preston Highway Suburban Marketplace Corridor with the rezoning and additional patio area to the rear of the existing building and shielded from Preston Highway. It does not propose to increase the form district length in either direction. Rather this site is located right along the heart of the Preston Highway Suburban Marketplace Corridor. It is not a change in use but rather a slightly expanded use, by adding a 2,600 square foot pole barn, a 2,000 square foot covered patio, and a small uncovered patio, to add outdoor seating and an area for sale of food and consumption of alcoholic beverages. The site provides accommodations for transit users, bicylists, and pedestrians being located on Preston Highway.

## **GUIDELINE 2: CENTERS**

The proposed rezoning complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 7, 8, 10, 11, 12, 13, 14, 15, and 16 of Guideline 2 for these reasons.

Guideline 2 is designed to “encourage mixed land uses organized around compact activity centers that are existing, proposed or planned.” This proposal complies with this Guideline because, although a Suburban Marketplace Corridor, by definition, is not compact but rather is linear, nevertheless even a Suburban Marketplace Corridor conforms with the Centers Guideline because that is the nature of the Suburban Marketplace Corridor—you might say compact in its linear nature with beginning and end points, rather than the preferred new form of Centers which are less linear and more compact. This proposed rezoning will allow an expansion of the existing BC Roosters restaurant that already serves the surrounding area to accommodate growth rather than a new proposed restaurant in a new location, which would be less compact.

The applicable Policies of this Guideline (1, 2, 3, 4 and 5) all necessarily have to take into account conditions such as this one, a small expansion of the existing restaurant facility along a linear Suburban Marketplace Corridor. If this proposed restaurant was a brand-new one, starting from scratch on a currently residentially zoned property, rather than a site already zoned C-1, it would be forced to conform to an entirely different layout and design. As stated, new activity centers are expected to be compact, to contain focal points, utilize shared parking and so forth. But in a situation such as this, where what is at stake is an expansion of an existing use, as opposed to the continued use of a barbershop business on a portion of the area being rezoned, of an existing commercial structure and unutilized area at the rear of the building, the expectations necessarily have to be less. In this particular case, given the fact that the uses adjoining it are commercial uses (including the residentially zoned property used as a parking lot), and given the fact that this site has been a restaurant site for years, this rezoning request is simply intended to bring more life to this restaurant and allow continued expansion of the business, than might otherwise be the case. An outdoor patio area and outdoor dining will have no negative impacts on any nearby properties at this location, and this business expansion with the attraction of outdoor seating for the sale of food and consumption of alcoholic beverages, will hopefully help and continue to reinvigorate this particular site and this Suburban Marketplace Corridor activity center.

## **GUIDELINE 3: COMPATIBILITY**

The proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 3, 5, 6, 7, 8, 9, 11, 12, 21, 22, 23, 24, and 28 of Guideline 3 for these reasons.

This proposal for an outdoor patio, pole barn and outdoor seating at an unutilized portion of the current site and a portion of the site already used as a barber shop, to the rear of the existing restaurant business complies with this Guideline because, as stated, the restaurant use already exists and is simply an expansion thereof. The only thing that is involved in this application is a proposal for outdoor area and use of the existing barber shop building where food and beverage can be served, in order to help ensure a successful restaurant at this location and expansion thereof to meet demand. This particular restaurant, B. C. Roosters, has been operating for some time and is very popular in this particular area of town, which will allow outdoor seating and service of alcohol that is increasingly popular in many areas of Metro Louisville and is anticipated to be at this location as well.

The applicable Policies of this Guideline (1, 2, 3, 5, 6, 7, 8, 9, 21, 22, 23 and 28) all suggest ways to mitigate the potentially adverse impacts of a nonresidential use on nearby residential properties. This proposal for outdoor seating and sale of food and consumption of alcoholic beverages at an existing restaurant site complies with all of these Policies of this Guideline because there are no residential uses that really might be adversely impacted. The adjoining property is already zoned C-1 and the residentially zoned property is a parking lot for this center with a conditional use permit to allow same. A restaurant with a sizable amount of parking has been located at this location for years. The idea of outdoor patio, pole barn, and seating for the sale of food and the consumption of alcoholic beverages is simply to help reinvigorate this commercial stretch of Suburban Marketplace Corridor and to allow the continued growth of this popular restaurant, as stated, currently operating at this location. Further, provisions of the Land Development Code that relate to noise, lighting, signage, landscaping, screening and buffering must all be complied with, unless legitimate reasons are given for waivers therefrom. No waivers or variances are requested with this rezoning. Those provisions of the Land Development Code are designed to mitigate the potentially adverse impacts addressed by many of these Policies of this Guideline.

#### **GUIDELINES 4 AND 5 – OPEN SPACE AND NATURAL AREAS/SCENIC AND HISTORIC RESOURCES**

The proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 3, 4, and 8 of Guideline 4 and Policies 1, 5, and 6 of Guideline 5 for these reasons.

Given the location of this property along a busy arterial which serves as the main shopping corridor for this area of south central Metro Louisville, the issues of open space and natural/scenic and historic resources are not really pertinent to this property or this proposal.

#### **GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY**

The proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 3, 5, 6, 7, 8, 9, and 11 of Guideline 6 for these reasons.

This Guideline seeks to “reduce the public and private cost for land development” and to “ensure availability of necessary usable land to facilitate commercial .... development” in Metro Louisville. This proposal for an outdoor area and utilization of an existing barber shop business location at this restaurant site complies with this Guideline because it is intended to breathe new life into older commercial corridor and expansion of business to meet the demands of the current restaurant.

The applicable Policies of this Guideline (3, 5, 6 and 11) all pertain to investment in older commercial areas, redevelopment, location of activity centers along arterials and adaptive reuse. As explained, this BC Roosters Restaurant opened in the center and breathed new life therein, and this will allow the continued expansion thereof. If successful here, other B. C. Roosters Restaurants locations in other commercial strips, like this one, in Metro Louisville, may open breathing new life into older existing commercially zoned sites and corridors.

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

The proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 6, 8, 9, 10, 12, 13, 16, and 19 of Guideline 7, Policies 1, 2, 5, 7, and 9 of Guideline 8 and Policies 1, 2, 4, and 5 of Guideline 9 for these reasons.

These Guidelines are intended to “insure a balanced and comprehensive multi-modal transportation network that is coordinated with desired growth and development patterns and provides for the movement of people and goods [that insures] transportation facilities that are safe and efficient, that minimize adverse impacts upon the community and that accommodates, where possible, all modes of travel...; [and that] support[s] transit and non-motorized methods of travel.” This proposal for outdoor seating and consumption of alcoholic beverages complies with these Guidelines because the plan has been designed in accordance with requirements imposed by Metro Works and KTC. Access from Preston Highway and internal circulation comply with the requirements of those agencies. The expansion of the current business also meets the intent and goals of these Guidelines as the site is already existing and easily accessible.

The applicable Policies (1, 2, 3, 4, 5, 6, 8, 9, 10, 12, 13, 16, and 19) of Guideline 7 all address specific design features that must be addressed on every development plan. This proposal for outdoor dining and consumption of alcoholic beverages complies with these Policies of this Guideline for reasons stated, which include the fact that Land Design and Development (LD&D) has laid out the site in consultation with Metro Works and KTC, utilizing design standards that are commonplace for restaurant uses along busy commercial corridors of this kind with appropriate mitigations measures taken.

Applicable Policies (1, 2, 5, 7, and 9) of Guideline 8 and Applicable Policies (1, 2, 4, and 5) of Guideline 9 all address alternate means of transportation, such as bicycle, pedestrian or transit. This proposal complies with those Policies of this Guideline because, once again, sidewalks, bicycle accessibility and transit availability are all addressed on the plan as standard design elements. The expansion of the business will allow easier access than an alternate site not located along Preston Highway and easily accessible by transit, bicycle, and pedestrians.

#### **GUIDELINES 10, 11 AND 12 – FLOODING AND STORMWATER; WATER QUALITY; AND AIR QUALITY**

The proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, and 12 of Guideline 10, Policies 1,3, 8, and 9 of Guideline 11 and Policies 1, 2, 3, 5, 6, and 8 of Guideline 12 for these reasons.

Guidelines 10, 11 and 12 requires development “minimize the potential for an impact of flooding and to effectively manage storm water; (2) protect water quality; (and to) minimize, reduce or eliminate ... air pollution ...”. This proposal for an expansion of the existing business and outdoor dining and consumption of alcoholic beverages in an existing restaurant site complies with these guidelines because it is a slightly more intense use of an already existing restaurant with existing parking. The area of the expansion is already impervious surface and won’t increase the flooding or stormwater issues. Consequently, nothing new is proposed on this property that would exacerbate any existing storm water conditions, contribute to the degradation of water quality or cause greater air pollution. In fact, the quite the contrary i.e., because to the extent that applicable agencies, such as MSD, require mitigation of existing stormwater

problems, and once construction occurs, this proposal will be required to satisfy the requirements of MSD storm water management and soil erosion sedimentation control. Also, to the extent that this is expansion of an existing site, revigorating commercial activity in the area should mitigate adverse impacts on air quality that might occur if this was a new restaurant at a new location. Utilizing this site along this busy commercial corridor in close proximity to a large residential population will help minimize vehicle miles traveled between places where people live and places where they shop and dine.

Applicable Policies (1, 2, 3, 5, 6, and 8) of Guideline 12 all suggest ways to protect air quality. This proposal complies with these Policies of this Guideline because it involves expanding an already existing restaurant site where transit exists, where sidewalks are or can be provided and where provisions for bicycle and transit are or can be assured.

### **GUIDELINE 13 – LANDSCAPE CHARACTER**

The proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, and 6 of Guideline 13 for these reasons.

This Guideline is designed to “protect and enhance landscape character.” This proposal complies with this Guideline and all of the applicable Policies (1, 4, 5 and 6) of this Guideline because the new Land Development Code requires that new land use proposals comply with the various landscape regulations unless, because of the extent of change in the particular land use, all of the provisions thereof do not have to be complied with. No waivers have been requested.

\* \* \*

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 Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,

---

**BARDENWERPER, TALBOTT & ROBERTS, PLLC**  
Bardenwerper Talbott & Roberts, PLLC  
1000 N. Hurstbourne Parkway, Second Floor  
Louisville, KY 40223  
(502) 426-6688

## Tab 7

Proposed findings of fact pertaining to compliance with the Comprehensive Plan



# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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## PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE2020 COMPREHENSIVE PLAN

<u>Applicant/Owner:</u>	RC Landlords LLC
<u>Location:</u>	7405 and 7409 Preston Highway
<u>Proposed Use:</u>	Expansion of the existing restaurant
<u>Engineers, Land Planners and Landscape Architects:</u>	Land Design & Development, Inc.
<u>Request:</u>	Change in Zoning from C-1 to C-2

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on February 2, 2017 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

### **INTRODUCTION**

**WHEREAS**, this proposal is a very limited one—only for C-2 zoning for a small additional portion of the site (the remainder already zoned C-2) in order for an existing restaurant, BC Roosters Restaurant, to be able to have “alfresco dining”, meaning sale of food and alcoholic beverages in a patio area outdoors; the existing restaurant building will continue operations as normal; the new patio area will be an expansion of the existing restaurant business; this location along Preston Highway, where other commercial uses already exist and where the existing restaurant has long been located and operating, will allow continued growth of the business with minimal impacts; and

### **GUIDELINE 1 – COMMUNITY FORM**

**WHEREAS**, the Suburban Marketplace Corridor is generally located along major roadways with well-defined beginning and ending points; although not a preferred form of development scheme, the Suburban Marketplace Corridor dominates many of the older major arterials of Metro Louisville, such as Preston Highway where this restaurant is already located and operating; with other Suburban Marketplace Corridors include Dixie Highway, portions of Bardstown Road, portions of Shelbyville Road and so forth; this restaurant does not propose to change anything about the existing Preston Highway Suburban Marketplace Corridor with the rezoning and additional patio area to the rear of the existing building and shielded from Preston Highway; it does not propose to increase the form district length in either direction; rather this site is located right along the heart of the Preston Highway Suburban Marketplace Corridor; it is not a change in use but rather a slightly expanded use, by adding a 2,600 square foot pole barn, a

2,000 square foot covered patio, and a small uncovered patio, to add outdoor seating and an area for sale of food and consumption of alcoholic beverages; the site provides accommodations for transit users, bicyclists, and pedestrians being located on Preston Highway; and

## **GUIDELINE 2: CENTERS**

**WHEREAS**, the proposed rezoning complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 7, 8, 10, 11, 12, 13, 14, 15, and 16 of Guideline 2 because Guideline 2 is designed to “encourage mixed land uses organized around compact activity centers that are existing, proposed or planned;” this proposal complies with this Guideline because, although a Suburban Marketplace Corridor, by definition, is not compact but rather is linear, nevertheless even a Suburban Marketplace Corridor conforms with the Centers Guideline because that is the nature of the Suburban Marketplace Corridor—you might say compact in its linear nature with beginning and end points, rather than the preferred new form of Centers which are less linear and more compact; this proposed rezoning will allow an expansion of the existing BC Roosters restaurant that already serves the surrounding area to accommodate growth rather than a new proposed restaurant in a new location, which would be less compact; and

**WHEREAS**, the applicable Policies of this Guideline (1, 2, 3, 4 and 5) all necessarily have to take into account conditions such as this one, a small expansion of the existing restaurant facility along a linear Suburban Marketplace Corridor; if this proposed restaurant was a brand-new one, starting from scratch on a currently residentially zoned property, rather than a site already zoned C-1, it would be forced to conform to an entirely different layout and design; as stated, new activity centers are expected to be compact, to contain focal points, utilize shared parking and so forth; but in a situation such as this, where what is at stake is an expansion of an existing use, as opposed to the continued use of a barbershop business on a portion of the area being rezoned, of an existing commercial structure and unutilized area at the rear of the building, the expectations necessarily have to be less; in this particular case, given the fact that the uses adjoining it are commercial uses (including the residentially zoned property used as a parking lot), and given the fact that this site has been a restaurant site for years, this rezoning request is simply intended to bring more life to this restaurant and allow continued expansion of the business, than might otherwise be the case; an outdoor patio area and outdoor dining will have no negative impacts on any nearby properties at this location, and this business expansion with the attraction of outdoor seating for the sale of food and consumption of alcoholic beverages, will hopefully help and continue to reinvigorate this particular site and this Suburban Marketplace Corridor activity center; and

## **GUIDELINE 3: COMPATIBILITY**

**WHEREAS**, the proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 3, 5, 6, 7, 8, 9, 11, 12, 21, 22, 23, 24, and 28 of Guideline 3 because this proposal for an outdoor patio, pole barn and outdoor seating at an unutilized portion of the current site and a portion of the site already used as a barber shop, to the rear of the existing restaurant business complies with this Guideline because, as stated, the restaurant use already exists and is simply an expansion thereof; the only thing that is involved in this application is a proposal for outdoor area and use of the existing barber shop building where food and beverage can be served, in order to help ensure a successful restaurant at this location and expansion thereof to meet demand; this particular restaurant, B. C. Roosters, has been operating for some time and is very popular in this particular area of town, which will allow outdoor seating and service of alcohol

that is increasingly popular in many areas of Metro Louisville and is anticipated to be at this location as well; and

**WHEREAS**, the applicable Policies of this Guideline (1, 2, 3, 5, 6, 7, 8, 9, 21, 22, 23 and 28) all suggest ways to mitigate the potentially adverse impacts of a nonresidential use on nearby residential properties; this proposal for outdoor seating and sale of food and consumption of alcoholic beverages at an existing restaurant site complies with all of these Policies of this Guideline because there are no residential uses that really might be adversely impacted. The adjoining property is already zoned C-1 and the residentially zoned property is a parking lot for this center with a conditional use permit to allow same; a restaurant with a sizable amount of parking has been located at this location for years; the idea of outdoor patio, pole barn, and seating for the sale of food and the consumption of alcoholic beverages is simply to help reinvigorate this commercial stretch of Suburban Marketplace Corridor and to allow the continued growth of this popular restaurant, as stated, currently operating at this location; further, provisions of the Land Development Code that relate to noise, lighting, signage, landscaping, screening and buffering must all be complied with, unless legitimate reasons are given for waivers therefrom; no waivers or variances are requested with this rezoning; those provisions of the Land Development Code are designed to mitigate the potentially adverse impacts addressed by many of these Policies of this Guideline; and

#### **GUIDELINES 4 AND 5 – OPEN SPACE AND NATURAL AREAS/SCENIC AND HISTORIC RESOURCES**

**WHEREAS**, the proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 3, 4, and 8 of Guideline 4 and Policies 1, 5, and 6 of Guideline 5 because given the location of this property along a busy arterial which serves as the main shopping corridor for this area of south central Metro Louisville, the issues of open space and natural/scenic and historic resources are not really pertinent to this property or this proposal; and

#### **GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY**

**WHEREAS**, the proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 3, 5, 6, 7, 8, 9, and 11 of Guideline 6 because this Guideline seeks to “reduce the public and private cost for land development” and to “ensure availability of necessary usable land to facilitate commercial .... development” in Metro Louisville; this proposal for an outdoor area and utilization of an existing barber shop business location at this restaurant site complies with this Guideline because it is intended to breathe new life into older commercial corridor and expansion of business to meet the demands of the current restaurant; and

**WHEREAS**, the applicable Policies of this Guideline (3, 5, 6 and 11) all pertain to investment in older commercial areas, redevelopment, location of activity centers along arterials and adaptive reuse; as explained, this BC Roosters Restaurant opened in the center and breathed new life therein, and this will allow the continued expansion thereof; if successful here, other B. C. Roosters Restaurants locations in other commercial strips, like this one, in Metro Louisville, may open breathing new life into older existing commercially zoned sites and corridors; and

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

**WHEREAS**, the proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 6, 8, 9, 10, 12, 13, 16, and 19 of Guideline 7, Policies 1, 2, 5, 7, and 9 of Guideline 8 and Policies 1, 2, 4, and 5 of Guideline 9 because these Guidelines are intended to “insure a balanced and comprehensive multi-modal transportation network that is coordinated with desired growth and development patterns and provides for the movement of people and goods [that insures] transportation facilities that are safe and efficient, that minimize adverse impacts upon the community and that accommodates, where possible, all modes of travel...; [and that] support[s] transit and non-motorized methods of travel”; this proposal for outdoor seating and consumption of alcoholic beverages complies with these Guidelines because the plan has been designed in accordance with requirements imposed by Metro Works and KTC; access from Preston Highway and internal circulation comply with the requirements of those agencies; the expansion of the current business also meets the intent and goals of these Guidelines as the site is already existing and easily accessible; and

**WHEREAS**, the applicable Policies (1, 2, 3, 4, 5, 6, 8, 9, 10, 12, 13, 16, and 19) of Guideline 7 all address specific design features that must be addressed on every development plan; this proposal for outdoor dining and consumption of alcoholic beverages complies with these Policies of this Guideline for reasons stated, which include the fact that Land Design and Development (LD&D) has laid out the site in consultation with Metro Works and KTC, utilizing design standards that are commonplace for restaurant uses along busy commercial corridors of this kind with appropriate mitigations measures taken; and

**WHEREAS**, applicable Policies (1, 2, 5, 7, and 9) of Guideline 8 and Applicable Policies (1, 2, 4, and 5) of Guideline 9 all address alternate means of transportation, such as bicycle, pedestrian or transit; this proposal complies with those Policies of this Guideline because, once again, sidewalks, bicycle accessibility and transit availability are all addressed on the plan as standard design elements; the expansion of the business will allow easier access than an alternate site not located along Preston Highway and easily accessible by transit, bicycle, and pedestrians; and

**GUIDELINES 10, 11 AND 12 – FLOODING AND STORMWATER; WATER QUALITY;  
AND AIR QUALITY**

**WHEREAS**, the proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, and 12 of Guideline 10, Policies 1,3, 8, and 9 of Guideline 11 and Policies 1, 2, 3, 5, 6, and 8 of Guideline 12 because Guidelines 10, 11 and 12 requires development “minimize the potential for an impact of flooding and to effectively manage storm water; (2) protect water quality; (and to) minimize, reduce or eliminate ... air pollution ...”; this proposal for an expansion of the existing business and outdoor dining and consumption of alcoholic beverages in an existing restaurant site complies with these guidelines because it is a slightly more intense use of an already existing restaurant with existing parking; the area of the expansion is already impervious surface and won’t increase the flooding or stormwater issues; consequently, nothing new is proposed on this property that would exacerbate any existing storm water conditions, contribute to the degradation of water quality or cause greater air pollution. In fact, the quite the contrary i.e., because to the extent that applicable agencies, such as MSD,

require mitigation of existing stormwater problems, and once construction occurs, this proposal will be required to satisfy the requirements of MSD storm water management and soil erosion sedimentation control; also, to the extent that this is expansion of an existing site, reinvigorating commercial activity in the area should mitigate adverse impacts on air quality that might occur if this was a new restaurant at a new location; utilizing this site along this busy commercial corridor in close proximity to a large residential population will help minimize vehicle miles traveled between places where people live and places where they shop and dine; and

**WHEREAS**, applicable Policies (1, 2, 3, 5, 6, and 8) of Guideline 12 all suggest ways to protect air quality; this proposal complies with these Policies of this Guideline because it involves expanding an already existing restaurant site where transit exists, where sidewalks are or can be provided and where provisions for bicycle and transit are or can be assured; and

### **GUIDELINE 13 – LANDSCAPE CHARACTER**

**WHEREAS**, the proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, and 6 of Guideline 13 because this Guideline is designed to “protect and enhance landscape character”; this proposal complies with this Guideline and all of the applicable Policies (1, 4, 5 and 6) of this Guideline because the new Land Development Code requires that new land use proposals comply with the various landscape regulations unless, because of the extent of change in the particular land use, all of the provisions thereof do not have to be complied with; no waivers have been requested; and

\* \* \*

**WHEREAS**, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

**NOW, THEREFORE**, the Louisville Metro Planning Commission hereby recommends to the Louisville Metro Council that it rezone the subject property from C-1 to C-2 and approves the Detailed District Development Plan.

Respectfully submitted,

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