

Louisville Metro Planning Commission – October 20, 2016
Louisville Metro Land Development & Transportation Committee – September 22, 2016
Neighborhood Meeting - November 5, 2015

Docket No. 15ZONE1059

Zone change from R-4 to C-1 on a mostly zoned C-1 site to allow a combination Crossroads IGA grocery store, hardware store and gas station with drive-thru restaurant on property located at 5501 Lovers Lane and 5502 Billtown Road



Attorneys: Bardenwerper Talbott & Roberts, PLLC

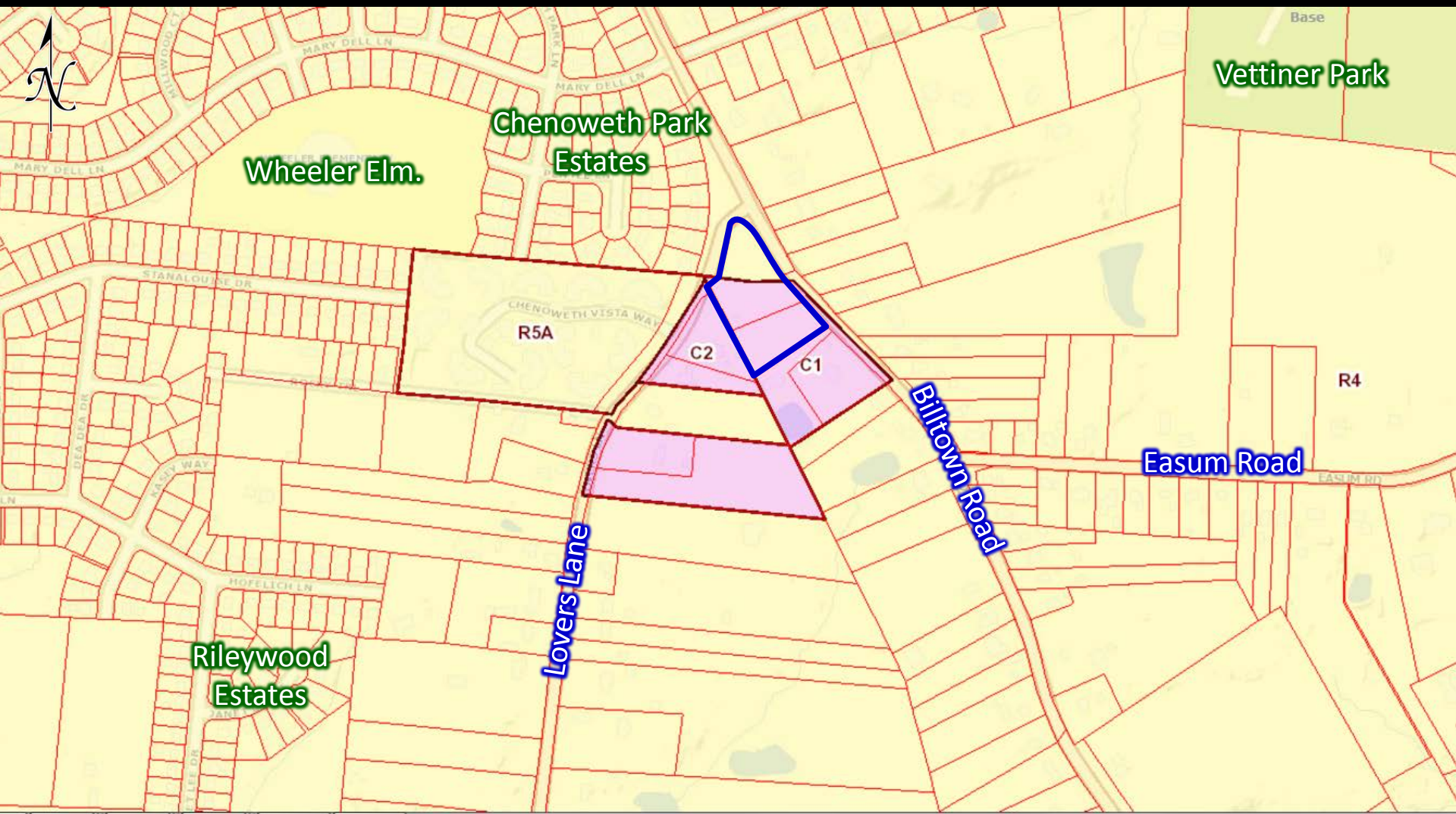
Land Planners, Landscape Architects & Engineers: Arnold Consulting Engineering Services, Inc.

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Tab 1

LOJIC Zoning Map



Wheeler Elm.

Chenoweth Park
Estates

Vettiner Park

Base

R5A

C2

C1

R4

Easum Road

Lovers Lane

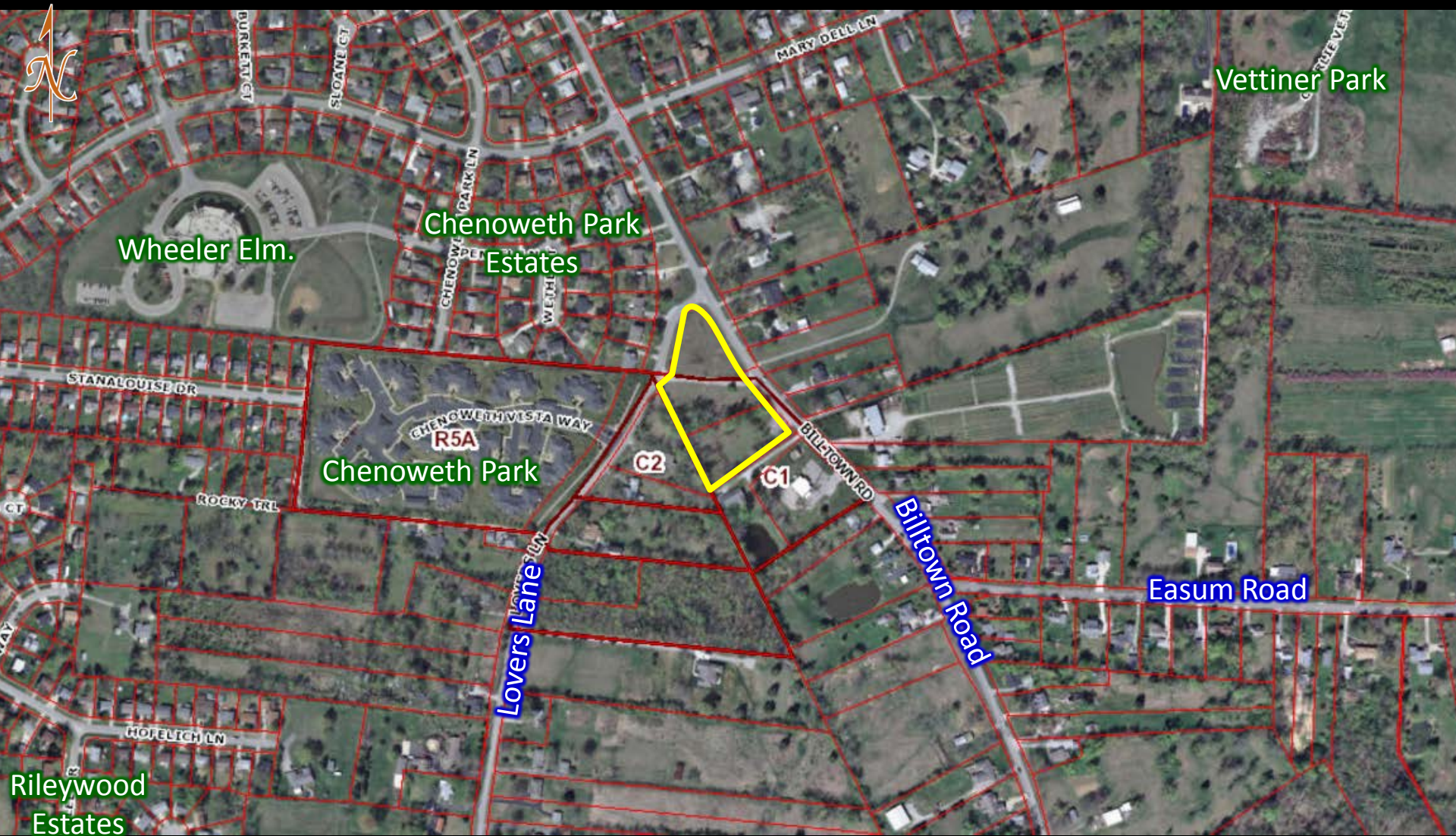
Biltown Road

Rileywood
Estates

EASUM RD

Tab 2

Aerial photograph of the site and
surrounding area



Wheeler Elm.

Chenoweth Park
Estates

Vettiner Park

Chenoweth Park
R5A

C2

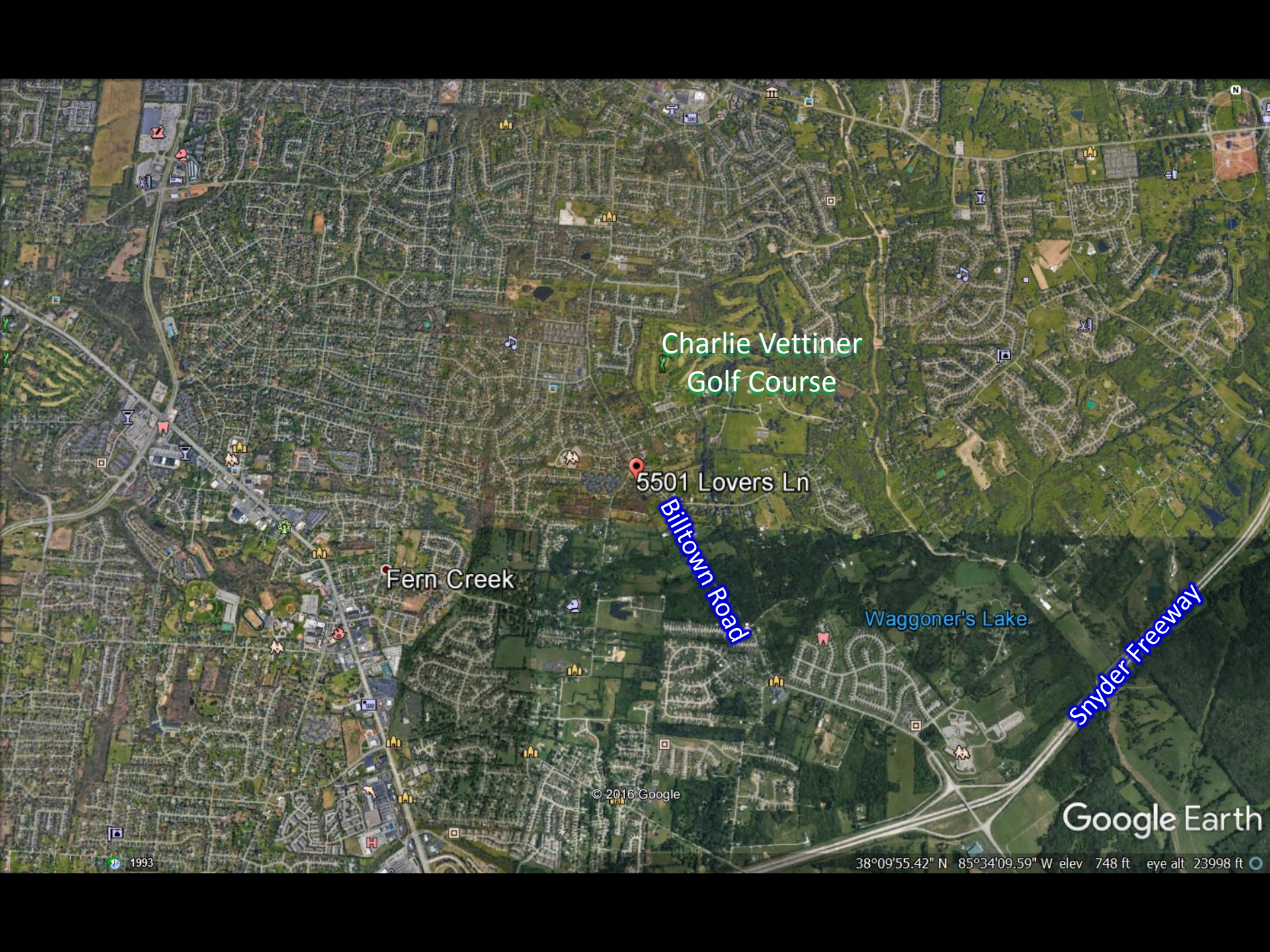
C1

Lovers Lane

Biltown Road

Easum Road

Rileywood
Estates



Charlie Vettiner
Golf Course

5501 Lovers Ln

Biltown Road

Fern Creek

Waggoner's Lake

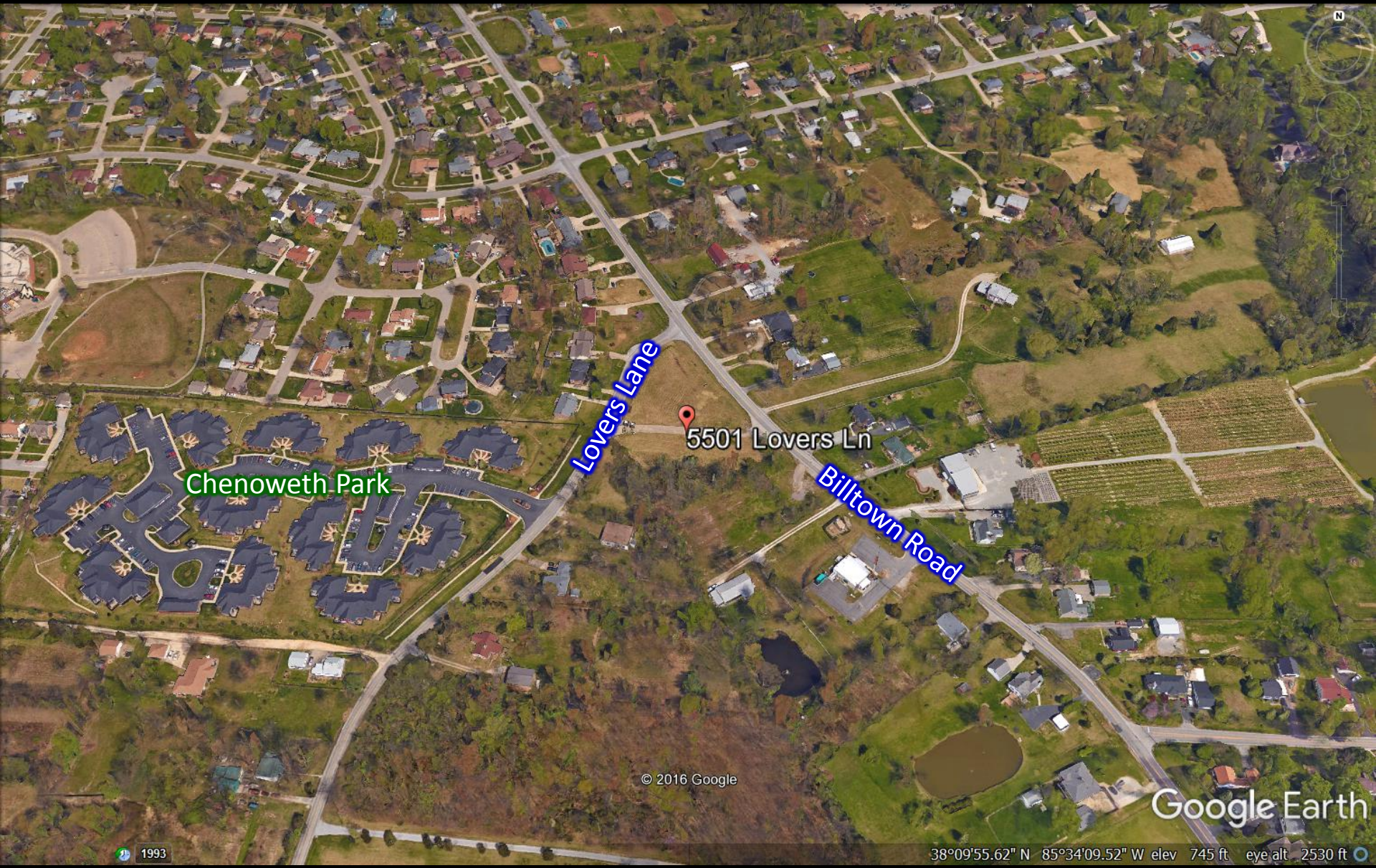
Snyder Freeway

© 2016 Google

Google Earth

1993

38°09'55.42" N 85°34'09.59" W elev 748 ft eye alt 23998 ft



Chenoweth Park

Lovers Lane

5501 Lovers Ln

Billtown Road

© 2016 Google

Google Earth

1993

38°09'55.62" N 85°34'09.52" W elev 745 ft eye alt 2530 ft

Tab 3

Ground level photographs of the site
and surrounding area

SITE

Billtown Road

Lovers Lane

© 2016 Google

© 2016 Google

Google Earth

38°09'56.34" N 85°34'10.07" W elev 743 ft eye alt 748 ft

Looking at site from corner of Lovers Lane and Billtown Road

5486 Billtown Rd

Exit Street View

SITE

© 2016 Google

© 2016 Google

Google Earth

38°09'55.31" N 85°34'09.19" W elev 738 ft eye alt 747 ft

Report a problem

Looking at the site toward Lovers Lane and Chenoweth Park condos at road closed sign facing Billtown Road

5436 Billtown Rd

  Exit Street View

SITE

Billtown Road

© 2016 Google

© 2016 Google

Google Earth

38°09'53.12" N 85°34'06.55" W elev 748 ft eye alt 747 ft

[Report a problem](#)

Looking south down Billtown Road

5486 Billtown Rd

Exit Street View

SITE

Billtown Road

© 2016 Google

© 2016 Google

Google Earth

38°09'56.40" N 85°34'08.47" W elev 739 ft eye alt 747 ft

Looking north down Billtown Road

Tab 4

Letter to neighbors inviting them to
the Neighborhood Meeting and
summary of meeting

CROSSROADS IGA
700 Church Street
Bowling Green, KY 42101

October 21, 2015

Dear Neighbor,

RE: Zone change of .20 acres from R-4 residential to C-1 commercial on a mostly zoned C-1 site to allow a combination Crossroads IGA grocery store, hardware store and gas station with drive-thru restaurant on approximately 2.05 +/- acres, located in the southwest corner of the Billtown Road and Lovers Lane intersection at 5501 Lovers Lane and 5502 Billtown Road

We are writing to invite you to a meeting we have scheduled to present neighbors with our plan for a combination Crossroads IGA grocery store, hardware store and gas station with drive-thru restaurant to be located as above.

Accordingly, we have filed a plan for pre-application review with the Division of Planning and Design Services (DPDS) that has been assigned case number 15ZONE1059 and case manager Julia Williams . We would like to show and explain our plan to neighbors so that we might hear what thoughts, issues and perhaps even concerns you may have. In that regard, a meeting will be held on **Thursday, November 5th at 7:00 p.m.** at the **Eastside Praise Church** located at **6300 Billtown Road.** (*The meeting will be held in the CHAPEL via Entrance "B".*)

If you cannot attend the meeting but have questions or concerns, please call our local land use attorney Bill Bardenwerper at 426-6688, or our land planning and engineering firm representatives Jeff Arnold and Brian Shirley at 270-780-9448.

We look forward to seeing you.

Sincerely,



Tom Rich

cc: Hon. Robin Engel, Metro Councilman, District 22
Bill Bardenwerper, attorney with Bardenwerper, Talbott & Roberts, PLLC
Jeff Arnold P.E, PLS and Brian Shirley RLA, land planners/engineers with Arnold
Consulting Engineering Services
Julia Williams, Planning & Design Services case manager

Neighborhood Meeting Summary

The neighborhood meeting was called to order by Bill Bardenwerper at the Eastside Praise Church located at 6300 Billtown Road on November 5 at 7:00 PM. Also attending were Tim Rich with Houchens Industries and Brian Shirley, land planner with Arnold Consulting Engineering Services.

Mr. Bardenwerper showed a PowerPoint presentation, which included aerial photographs of the area, close up and farther out, the site plan superimposed on aerial views, LOJIC zoning map and photographs of a similar Crossroads IGA store on Shelbyville and Beckley Station Roads.

Mr. Bardenwerper explained the fact that the site is almost totally commercially zoned at present and that it is also what the local Land Development Code (LDC) calls pre-“Plan Certain”. He said that that means that the site undergoes a discretionary review only because of the very few thousand square feet subject to the Plan Certain regulations as a consequence of the rezoning. Nevertheless, Houchens, he said, prefers to include the Ace Hardware component in the proposed Crossroads IGA store, without which it could avoid the rezoning and pre-“Plan Certain” discretionary review. He also explained the rezoning and development plan review processes and timing for official filing, DPDS Case Management Review and LD&T and Planning Commission public reviews, followed those by Metro Council.

Tim Rich next explained the Crossroads IGA concept, in this instance with the Ace Hardware store. He said that this will include fewer gas pumps than at the US 60/Beckley Station Road location. He showed design elevations of the proposed buildings.

Brian Shirley explained the proposed Lovers Lane/Billtown Road improvements contemplated by KTC. He was assisted in this regard by Councilman Stuart Benson’s legislative aide Angela Webster who was present and very knowledgeable of the KTC road improvement project.

Lots of questions involved timing of the road improvements and the short term issue of access off Lovers Lane before such time as those road improvements are made. Brian Shirley had drawings which explained this, but the nearest residents to the Billtown Road/Lovers Lane intersection were not satisfied. Applicant representatives agreed to review this and present further explanations during the public review process.

An adjoining property owner to the south requested that the dumpster be moved away from their house.

Other property owners across Lovers Lane and Billtown Road requested better landscaping, screening and buffering than presented on the plan shown at the neighborhood meeting. The applicant representative agreed to this.

Most of the evening's commentary involved traffic and peak-hour road congestion along Billtown Road.

Respectfully submitted,

William B. Bardenwerper
Bardenwerper, Talbott & Roberts, PLLC
Building Industry Association of Greater Louisville Building
1000 N. Hurstbourne Parkway, 2nd Floor
Louisville, KY 40223
(502) 426-6688

\\client\houchens\billtown & lovers lane\neighbor mtg\neighborhood meeting summary.doc
JTR Rev.11/16/2015 12:59 PM

Tab 5

Development Plan



MARY DELL LANE

BILLTOWN ROAD

CHENOWETH PARK LN

PENDEL LN

WETHE CRT

CHENOWETH PARK LN

FUTURE RIGHT OF WAY

PROPOSED REZONING

EXISTING COMMERCIAL ZONING

R-4
C-1

LOT 1
28,128 SQ. FT.
0.65 ACRES

Billtown Road

Lovers Lane
LOVERS LANE

ROCKY TRAIL

CHENOWETH VISTA WAY

Easum Road



BILLTOWN ROAD

FUTURE
RIGHT OF WAY

PROPOSED
REZONING

EXISTING
COMMERCIAL
ZONING

R-4
C-1

REZONING
8,800+/- SQ. FT.
+/- 0.20 ACRES

LOT 1
+/- 89,138 SQ. FT.
+/- 2.05 ACRES

R-4
C-1

Lovers Lane

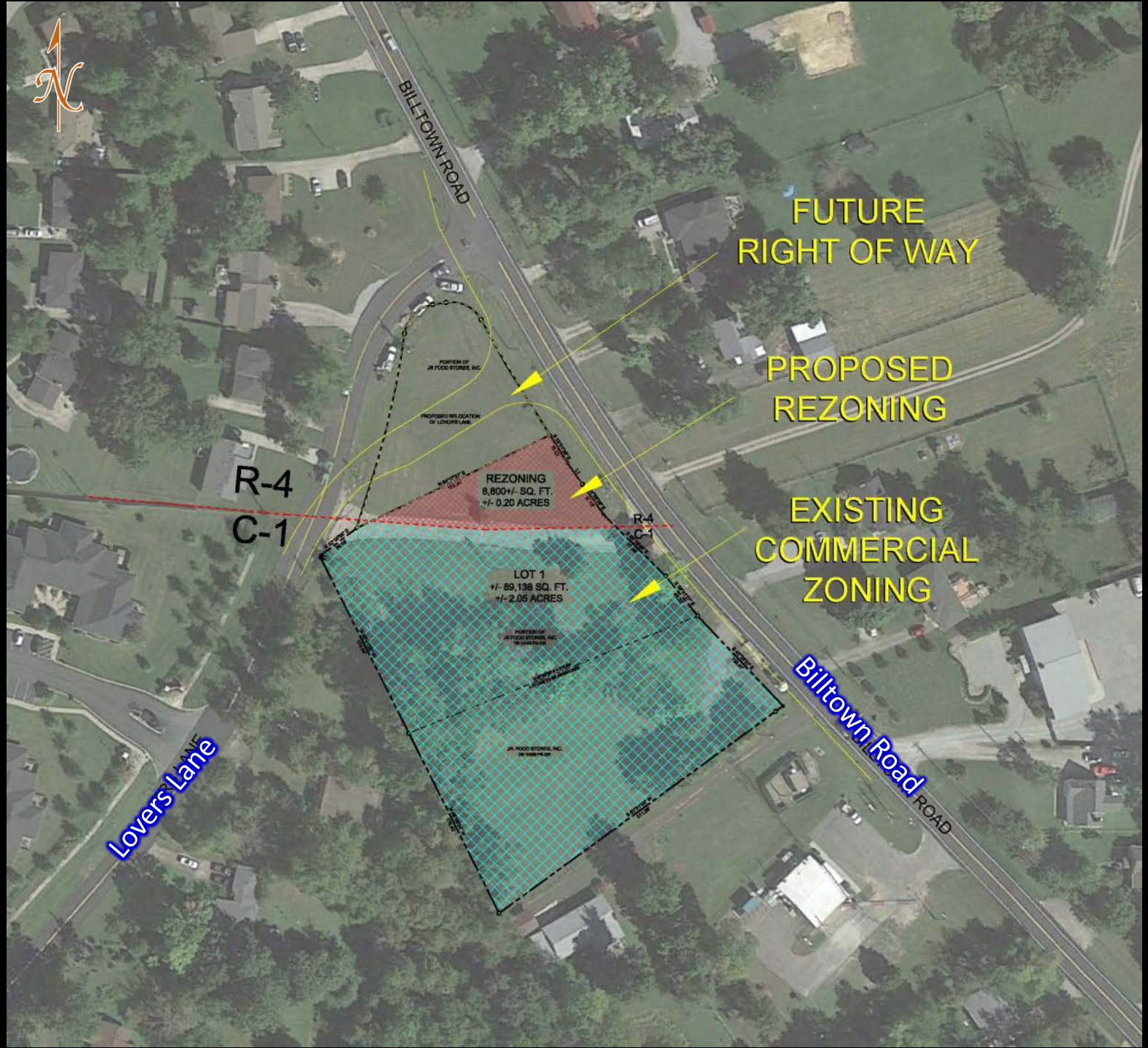
Billtown Road

PORTION OF JR FOOD STORES, INC

PROPOSED RELOCATION OF LOVERS LANE

PORTION OF JR FOOD STORES, INC

JR FOOD STORES, INC

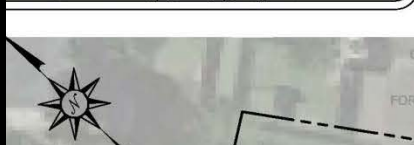




Lovers Lane

Biltown Road

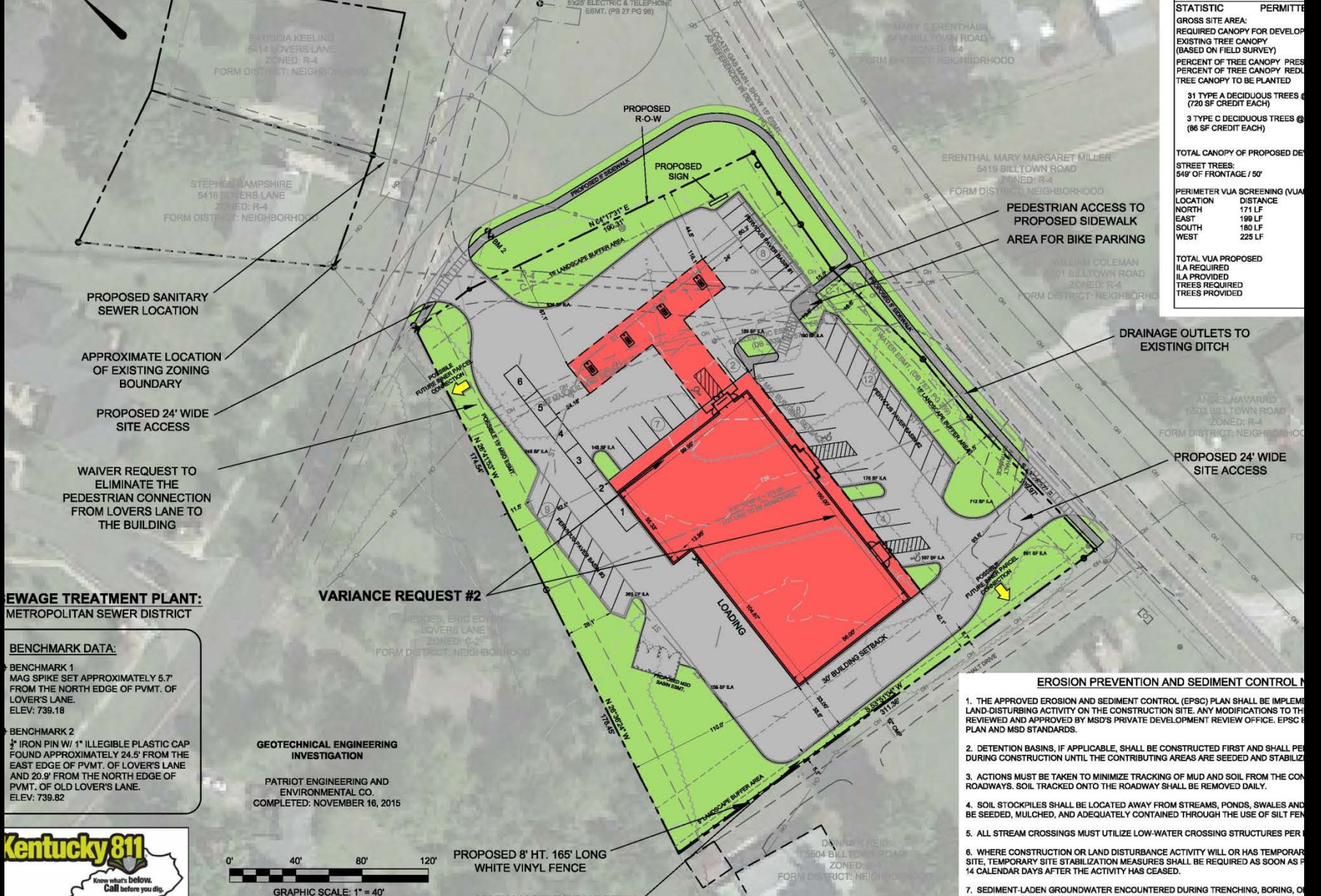
VICINITY MAP
(N.T.S.)



- 12. COMPATIBLE UTILITIES SHALL BE PLACED IN A COMMON TRENCH UNLESS APPROPRIATE AGENCIES.
- 13. THE FINAL DESIGN OF THIS PROJECT MUST MEET ALL MSD WATER QUALITY SITE LAYOUT MAY CHANGE AT THE DESIGN PHASE DUE TO PROPER SIZING MANAGEMENT PRACTICES.
- 14. ALL RETAIL SHOPS MUST HAVE INDIVIDUAL CONNECTIONS PER MSD'S POLICY.
- 15. FINAL BUILDING EXTERIOR WILL BE DESIGNED IN COMPLIANCE WITH C...

TREE CANCEL

STATISTIC	PERMITTEE
GROSS SITE AREA:	
REQUIRED CANOPY FOR DEVELOPMENT	
EXISTING TREE CANOPY (BASED ON FIELD SURVEY)	
PERCENT OF TREE CANOPY PRESERVED	
PERCENT OF TREE CANOPY REDUCED	
TREE CANOPY TO BE PLANTED	
31 TYPE A DECIDUOUS TREES @ (720 SF CREDIT EACH)	
3 TYPE C DECIDUOUS TREES @ (86 SF CREDIT EACH)	
TOTAL CANOPY OF PROPOSED DEVELOPMENT	
STREET TREES: 549' OF FRONTAGE / 150'	
PERIMETER VUA SCREENING (VUA) LOCATION DISTANCE	
NORTH	174 LF
EAST	198 LF
SOUTH	180 LF
WEST	225 LF
TOTAL VUA PROPOSED	
I/A REQUIRED	
I/A PROVIDED	
TREES REQUIRED	
TREES PROVIDED	



SEWAGE TREATMENT PLANT:
METROPOLITAN SEWER DISTRICT

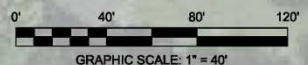
BENCHMARK DATA:

BENCHMARK 1
MAG SPIKE SET APPROXIMATELY 5.7' FROM THE NORTH EDGE OF PVMT. OF LOVER'S LANE.
ELEV. 739.18

BENCHMARK 2
3" IRON PIN W/ 1" ILLEGIBLE PLASTIC CAP FOUND APPROXIMATELY 24.5' FROM THE EAST EDGE OF PVMT. OF LOVER'S LANE AND 20.9' FROM THE NORTH EDGE OF PVMT. OF OLD LOVER'S LANE.
ELEV. 739.82

GEOTECHNICAL ENGINEERING INVESTIGATION

PATRIOT ENGINEERING AND ENVIRONMENTAL CO.
COMPLETED: NOVEMBER 16, 2015



EROSION PREVENTION AND SEDIMENT CONTROL PLAN

1. THE APPROVED EROSION AND SEDIMENT CONTROL (EPSC) PLAN SHALL BE IMPLEMENTED DURING ALL LAND-DISTURBING ACTIVITY ON THE CONSTRUCTION SITE. ANY MODIFICATIONS TO THE PLAN SHALL BE REVIEWED AND APPROVED BY MSD'S PRIVATE DEVELOPMENT REVIEW OFFICE. EPSC PLAN AND MSD STANDARDS.
2. DETENTION BASINS, IF APPLICABLE, SHALL BE CONSTRUCTED FIRST AND SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION UNTIL THE CONTRIBUTING AREAS ARE SEEDED AND STABILIZED.
3. ACTIONS MUST BE TAKEN TO MINIMIZE TRACKING OF MUD AND SOIL FROM THE CONSTRUCTION SITE TO ADJACENT ROADWAYS. SOIL TRACKED ONTO THE ROADWAY SHALL BE REMOVED DAILY.
4. SOIL STOCKPILES SHALL BE LOCATED AWAY FROM STREAMS, PONDS, SWALES AND DITCHES. STOCKPILES SHALL BE SEEDED, MULCHED, AND ADEQUATELY CONTAINED THROUGH THE USE OF SILT FENCE.
5. ALL STREAM CROSSINGS MUST UTILIZE LOW-WATER CROSSING STRUCTURES PER MSD STANDARDS.
6. WHERE CONSTRUCTION OR LAND DISTURBANCE ACTIVITY WILL OR HAS TEMPORARILY OCCURRED, TEMPORARY SITE STABILIZATION MEASURES SHALL BE REQUIRED AS SOON AS POSSIBLE AND MAINTAINED FOR 14 CALENDAR DAYS AFTER THE ACTIVITY HAS CEASED.
7. SEDIMENT-LADEN GROUNDWATER ENCOUNTERED DURING TRENCHING, BORING, OR OTHER CONSTRUCTION ACTIVITIES SHALL BE PUMPED TO A SEDIMENT TRAPPING DEVICE PRIOR TO BEING DISCHARGED INTO ANY ADJACENT WATER BODY.



Tab 6

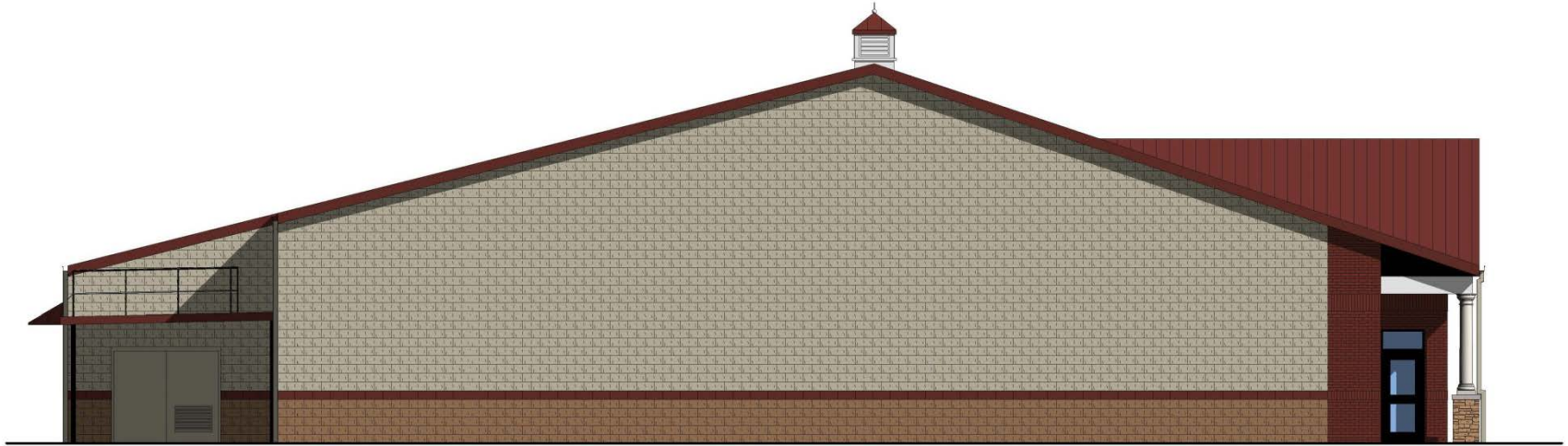
Building elevations and interior photos



1 EXTERIOR BUILDING COLOR ELEVATION - GROCERY ENTRANCE
1/8" = 1'-0"



2 EXTERIOR BUILDING COLOR ELEVATION - DRIVE-THRU
1/8" = 1'-0"



4

EXTERIOR BUILDING COLOR ELEVATION - SERVICE / LOADING
1/8" = 1'-0"



3

EXTERIOR BUILDING COLOR ELEVATION - GAS ENTRANCE
1/8" = 1'-0"



Typical Grocery Section Featuring Fresh Produce



Fresh Fruits, Vegetables, and Meat





IGA
ORGANIC GRAPE TOMATOES
\$2.99

IGA
HINES PECAN HALVES
\$6.99

Earthbound Farm
ORGANIC
Earthbound Farm
ORGANIC
Earthbound Farm
ORGANIC
Earthbound Farm
ORGANIC
Earthbound Farm
ORGANIC

SALE

SALE

\$3.99

\$1.99

SAVE 50%

Frozen Food Department



Dairy Department



Breakfast and Deli Meats



Standard Grocery Offerings



Coffee Area



Tab 7

Statement of Compliance filed with the original zone change application with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive 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 POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

Applicant: Houchens Industries

Owner: JR Food Stores, Inc.

Location: 5501 Lovers Lane and 5502 Billtown Road

Proposed Use: Grocery, fuel pumps, hardware store & restaurant

Engineers, Land Planners and
Landscape Architects: Arnold Consulting Engineering Service, Inc.

Request: Zone Change from R-4 to C-1

SUMMARY STATEMENT

Houchens is the largest employee-owned company in the United States. It owns and operates various enterprises, and included among them are several hundred grocery stores. The grocery concept proposed for this location is a relatively new one in that it will contain a small grocery with product (including fresh produce and meats) at grocery, not convenience, store prices along with an Ace Hardware store and sit-down Subway with drive-thru. The store will be of an upscale design tailor-made for this particular neighborhood with fewer fuel pumps than at Houchens' first Crossroads IGA store in this market, which is at US 60 and Beckley Station Road.

The site is already mostly zoned C-1 with a small sliver requiring C-1 zoning as well. Without that small addition to the current C-1 zoning, the pre-“Plan Certain” site could be developed after a ministerial, not discretionary, review. And the only thing that would be lost would be the internal Ace Hardware component. The site is also surrounded by other C-1 and C-2 undeveloped pre-“Plan Certain” properties. It is also the subject of a partial KTC acquisition for the Billtown Road widening, which includes a redesigned intersection of Lovers Lane and Billtown Road to provide for better turning movements and improved safety.

GUIDELINE 1 – COMMUNITY FORM

The application complies with the Suburban Neighborhood Form District description of an area characterized by *predominantly* residential uses but that also includes, at appropriate locations, a mixture of uses, such as offices, retail shops, restaurants and services so long as these uses are at a scale appropriate for the nearby neighborhoods.

GUIDELINE 2 – CENTERS

The application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 14 and 15 of this Guideline as follows.

The land is already mostly zoned commercial as explained above and has utilities located nearby. It also is located where a small retail center can be developed in close proximity to residential communities, thus reducing commuting time and transportation-related air pollution. With the diversity of goods and services in close proximity to residential housing, including a patio home community almost directly across Lovers Lane, this small grocery-anchored center adds to the vitality and sense of place among the mostly disconnected nearby neighborhoods, some of whose residents will be able to walk to this grocery.

As an “activity center”, it is appropriately located at the intersection of a collector and arterial street and is designed to be of intensity, density, size and mix of uses appropriate for a small neighborhood center. Everything within this small center is compact, and it includes four uses: a grocery, a hardware store, a small restaurant and a fuel station. They share parking and work off the same utility infrastructure.

GUIDELINE 3 – COMPATIBILITY

The application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24 and 28 of this Guideline as follows.

As set forth above, this is a small neighborhood serving retail center. It will have the look and feel of the store already built at US 60 and Beckley Station Road. Elevation renderings are included in the neighborhood meeting PowerPoint presentation accompanying this application. Odors will be contained within the building, especially given that the type restaurant will be a Subway. Noise will not be a late evening/over night factor given that the store will be closed during those hours. Lighting will follow restrictions of the Land Development Code (LDC) and thus be directed down and away from nearby residential properties, with 90 degree cut-off at property lines. Transitions to adjoining properties on the south and west sides are to other already-zoned commercial properties. However, landscaping, screening and buffering will be enhanced on all sides beyond LDC requirements, as promised neighbors at the neighborhood meeting. Parking will be shared. Loading and delivery will be located and/or screened so as to minimize impacts on any nearby residentially occupied properties. Signage will be in conformance with the LDC.

GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

The application complies with the Intents and applicable Policies 2, 3, 5, 6 and 11 of this Guideline as follows.

As set forth above, this property, like those to the south and west of it, are already commercially zoned as pre-“Plan Certain” sites. Because of the small sliver of this site that requires rezoning, that puts this review into the discretionary category and, as a consequence thereof, essentially mandates that this applicant “up its game”, so to speak. That means that it will be a high quality, neighborhood compatible activity center designed. It is located close to fairly intense residential

populations the length of Billtown Road from Jeffersontown to the Snyder Freeway and along collector-level streets connecting with Billtown Road, such as Lovers Lane and Fairground Road. Absent this rezoning application, this already mostly commercially zoned site could be developed and reused without virtually any public review and opportunity to be heard.

GUIDELINE 7 AND 8 – CIRCULATION AND TRANSPORTATION FACILITY DESIGN

The application complies with the Intents and applicable Policies 1, 2, 4, 6, 9, 10, 11, 12, 13, 14, 15, 16 and 18 of Guideline 7 and Policies 1, 4, 5, 7, 9, 10 and 11 of Guideline 8 as follows.

As mentioned above, Billtown Road is slated for near-term reconstruction to add a center turn lane. This will move traffic much more efficiently along this very busy, peak-hour heavy arterial roadway. That is because what slows traffic and creates congestion are left-hand turns, not from the center turn lane. Also, the intersections of Billtown Road and Lovers Lane is expected to be a signalized one after Lovers Lane is straightened out utilizing land acquired from this property owner. Furthermore, the design of this small center, together with its points of access, take into account the standards promulgated by KTC and Metro Transportation Planning and Public Works. The latter will be required to review the detailed district development plan (DDDP) submitted with this application prior to time of LD&T and Planning Commission public reviews, or this application will not be publicly heard. That review and preliminary stamp of approval will assure that Transportation Planning and Public Works standards for corner clearances, access, connectivity, internal circulation and parking minimums are all satisfied. Additional right-of-way is under contract to purchase by KTC for purposes of the Lovers Lane/ Billtown Road intersections improvements.

GUIDELINE 9 - BICYCLE, PEDESTRIAN AND TRANSIT

The application complies with the Intents and applicable Policies 1, 2, 3 and 4 of this Guideline as follows.

Bike racks and sidewalks will be provided as required.

GUIDELINES 10 - FLOODING AND STORMWATER

The application complies with the Intents and applicable Policies 1, 3, 4, 6, 7, 10 and 11 of this Guideline as follows.

A detention basin is shown on the DDDP, in compliance with MSD's standards for storm water management. Accordingly, post-development rates of runoff will not exceed pre-development conditions. MSD will be required to review the storm water management plan and give its preliminary stamp of approval to the DDDP prior to docketing for LD&T and Planning Commission public reviews.

GUIDELINE 11 – WATER QUALITY

The application complies with the Intents and applicable Policies 3, 5 and 8 of this Guideline as follows.

MSD has promulgated both soil erosion/sedimentation control regulations and even newer ones with respect to water quality. Construction plans for this center will require compliance with these regulations prior to obtaining building permits.

GUIDELINE 12 – AIR QUALITY

The application complies with the Intents and applicable Policies 2, 4, 7 and 8 of this Guideline as follows.

By locating this small neighborhood center in close proximity to a large residential support population, notably along an already busy arterial road at its intersection with a busy collector level road, not only will vehicle miles traveled be reduced, but also customers already driving these road systems will be able to pop in and pop out of this center without having to travel greater distances for the exact same services.

GUIDELINE 13 – LANDSCAPE CHARACTER

The application complies with the Intents and applicable Policies 1, 2, 4, 5 and 6 of this Guideline as follows.

Compliance with this Guideline is achieved by virtue of compliance with LDC requirements. But as stated above, landscaping, screening and buffering will exceed LDC requirements, as promised neighbors at the neighborhood meeting.

* * *

For all the reasons listed above, the application complies with the listed and all other relevant and applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan and should be approved.

Respectfully submitted,

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

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 allow vehicle maneuvering to encroach into the 30 ft setback along the south eastern property line.

- a) Will not adversely affect the public health, safety or welfare because the applicant will install and 8 ft high vinyl privacy fence in this area with landscaping and take other mitigation measures so as not to adversely affect the adjoining property.
- b) Will not alter the essential character of the general vicinity because this property is already almost entirely zoned for this use. It is a pre-“Plan Certain” site, meaning that it could be developed without a discretionary review in a less attractive, more impactful way but for the small amount of additional rezoning requested plus one waiver and one variance.
- c) Will not cause a hazard or a nuisance to the public because the nuisance issues is addressed with screening and buffering. No hazard issue is involved with this request.
- d) Will not allow an unreasonable circumvention of the requirements of the zoning regulations because of the mitigation measures explained above, notably screening and buffering and high quality aesthetics.

Additional consideration:

- a) 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 because the applicant would likely lose its drive-thru or would have to eliminate part of the store.
- b) The circumstances of this variance are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought but rather they are the result of the size, configuration and location of utilities and access of and on this lot.

General Waiver Justification:

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

Waiver of: Section 5.6.1.C.1 to allow less than 50% clear glazing on the Lovers Lane and Billtown Road street facades

A. The waiver will not adversely affect adjacent property owners because this a design issue that does not have to do with issues of impact on adjoining properties. Moreover, aesthetics of this site and building are also not negatively impacted by this waiver.

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

C. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the building otherwise remains aesthetically attractive, although this is a minor waiver for some building facades so as not to adversely impact internal store operations.

D. The 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 the applicant would have to design its building in a manner that significantly affect internal store operations particularly as respects shelf space and display of merchandise.

Tab 8

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

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

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

Applicant: Houchens Industries

Owner: JR Food Stores, Inc.

Location: 5501 Lovers Lane and 5502 Billtown Road

Proposed Use: Grocery, fuel pumps, hardware store & restaurant

Engineers, Land Planners and Landscape Architects: Arnold Consulting Engineering Service, Inc.

Request: Zone Change from R-4 to C-1

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on October 20, 2016 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

SUMMARY STATEMENT

WHEREAS, Houchens is the largest employee-owned company in the United States; it owns and operates various enterprises, and included among them are several hundred grocery stores; the grocery concept proposed for this location is a relatively new one in that it will contain a small grocery with product (including fresh produce and meats) at grocery, not convenience, store prices along with an Ace Hardware store and combination fast casual restaurant with drive-thru; the store will be of an upscale design tailor-made for this particular neighborhood with fewer fuel pumps than at Houchens' first Crossroads IGA store in this market, which is at US 60 and Beckley Station Road; and there will be 4 pump locations with canopy at this site; and

WHEREAS, the site is already mostly zoned C-1 with a small sliver requiring C-1 zoning as well; without that small addition to the current C-1 zoning, the pre-"Plan Certain" site could be developed after a ministerial, not discretionary, review; and the only thing that would be lost would be the internal Ace Hardware component; the site is also surrounded by other C-1 and C-2 undeveloped pre-"Plan Certain" properties; and it is also the subject of a partial KTC acquisition for the Billtown Road widening, which includes a redesigned intersection of Lovers Lane and Billtown Road to provide for better turning movements and improved safety; and

GUIDELINE 1 – COMMUNITY FORM

WHEREAS, the application complies with the Suburban Neighborhood Form District description of an area characterized by *predominantly* residential uses but that also includes, at

appropriate locations, a mixture of uses, such as offices, retail shops, restaurants and services so long as these uses are at a scale appropriate for the nearby neighborhoods; and

GUIDELINE 2 – CENTERS

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 14 and 15 of this Guideline because the land is already mostly zoned commercial as explained above and has utilities located nearby; it also is located where a small retail center can be developed in close proximity to residential communities, thus reducing commuting time and transportation-related air pollution; and with the diversity of goods and services in close proximity to residential housing, including a patio home community almost directly across Lovers Lane, this small grocery-anchored center adds to the vitality and sense of place among the mostly disconnected nearby neighborhoods, some of whose residents will be able to walk to this grocery; and

WHEREAS, as an “activity center”, it is appropriately located at the intersection of a collector and arterial street and is designed to be of intensity, density, size and mix of uses appropriate for a small neighborhood center; and everything within this small center is compact, and it includes four uses: a grocery, a hardware store, a small restaurant and a fuel station and they share parking and work off the same utility infrastructure; and

GUIDELINE 3 – COMPATIBILITY

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24 and 28 of this Guideline because, as set forth above, this is a small neighborhood serving retail center; it will have the look and feel of the store already built at US 60 and Beckley Station Road; acceptable elevation renderings were shown at the Planning Commission hearing on this application; odors will be contained within the building, especially given that the type restaurant will be a small fast casual type; noise will not be a late evening/over night factor given that the store will be closed during those hours; lighting will follow restrictions of the Land Development Code (LDC) and thus be directed down and away from nearby residential properties, with 90 degree cut-off at property lines; transitions to adjoining properties on the south and west sides are to other already-zoned commercial properties; landscaping, screening and buffering on all sides will meet LDC requirements; parking will be shared; loading and delivery will be located and/or screened so as to minimize impacts on any nearby residentially occupied properties; and signage will be in conformance with the LDC; and

GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

WHEREAS, the application complies with the Intents and applicable Policies 2, 3, 5, 6 and 11 of this Guideline because, as set forth above, this property, like those to the south and west of it, are already commercially zoned as pre-“Plan Certain” sites; because of the small sliver of this site that requires rezoning, that puts this review into the discretionary category and, as a consequence thereof, essentially mandates that this applicant “up its game”, so to speak; that means that it will be a high quality, neighborhood compatible activity center designed; it is located close to fairly intense residential populations the length of Billtown Road from Jeffersontown to the Snyder Freeway and along collector-level streets connecting with Billtown

Road, such as Lovers Lane and Fairground Road; and absent this rezoning application, this already mostly commercially zoned site could be developed and reused without virtually any public review and opportunity to be heard; and

**GUIDELINE 7 AND 8 – CIRCULATION AND TRANSPORTATION FACILITY
DESIGN**

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 4, 6, 9, 10, 11, 12, 13, 14, 15, 16 and 18 of Guideline 7 and Policies 1, 4, 5, 7, 9, 10 and 11 of Guideline 8 because, as mentioned above, Billtown Road is slated for near-term reconstruction to add a center turn lane; this will move traffic much more efficiently along this very busy, peak-hour heavy arterial roadway; that is because what slows traffic and creates congestion are left-hand turns, not from the center turn lane; also, the intersection of Billtown Road and Lovers Lane is expected to be a signalized one after Lovers Lane is straightened out utilizing land acquired from this property owner; furthermore, the design of this small center, together with its points of access, take into account the standards promulgated by KTC and Metro Transportation Planning and Public Works; the latter required a review of the detailed district development plan (DDDP) submitted with this application prior to time of LD&T and Planning Commission public reviews, or this application would not have been publicly heard; that review and preliminary stamp of approval assured that Transportation Planning and Public Works standards for corner clearances, access, connectivity, internal circulation and parking minimums were all satisfied; and additional right-of-way is under contract to purchase by KTC for purposes of the Lovers Lane/Billtown Road intersections improvements; and

GUIDELINE 9 - BICYCLE, PEDESTRIAN AND TRANSIT

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 3 and 4 of this Guideline because, bike racks and sidewalks will be provided as required; and

GUIDELINES 10 - FLOODING AND STORMWATER

WHEREAS, the application complies with the Intents and applicable Policies 1, 3, 4, 6, 7, 10 and 11 of this Guideline because, a detention basin is shown on the DDDP, in compliance with MSD's standards for storm water management; accordingly, post-development rates of runoff will not exceed pre-development conditions; and MSD reviewed the storm water management plan and gave its stamp of approval to the DDDP prior to docketing for LD&T and Planning Commission public reviews; and

GUIDELINE 11 – WATER QUALITY

WHEREAS, the application complies with the Intents and applicable Policies 3, 5 and 8 of this Guideline because, MSD has promulgated both soil erosion/sedimentation control regulations and even newer ones with respect to water quality; and construction plans for this center will require compliance with these regulations prior to obtaining building permits; and

GUIDELINE 12 – AIR QUALITY

WHEREAS, the application complies with the Intents and applicable Policies 2, 4, 7 and 8 of this Guideline because, by locating this small neighborhood center in close proximity to a large residential support population, notably along an already busy arterial road at its intersection with a busy collector level road, not only will vehicle miles traveled be reduced, but also customers already driving these road systems will be able to pop in and pop out of this center without having to travel greater distances for the exact same services; and

GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 4, 5 and 6 of this Guideline because, compliance with this Guideline is achieved by virtue of compliance with LDC requirements; but as stated above, landscaping, screening and buffering will exceed LDC requirements, as promised neighbors at the neighborhood meeting; and

* * * * *

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books and 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 R-4 to C-1 and approves the Detailed District Development Plan.

Variance Findings of Fact

Variance from Table 5.3.2 allow vehicle maneuvering to encroach into the 30 ft setback along the south eastern property line.

WHEREAS, this variance will not adversely affect the public health, safety or welfare because the applicant will install and 8 ft high vinyl privacy fence in this area with landscaping and take other mitigation measures so as not to adversely affect the adjoining property; and

WHEREAS, this variance will not alter the essential character of the general vicinity because this property is already almost entirely zoned for this use; it is a pre-“Plan Certain” site, meaning that it could be developed without a discretionary review in a less attractive, more impactful way but for the small amount of additional rezoning requested plus one waiver and one variance; and

WHEREAS, this variance will not cause a hazard or a nuisance to the public because the nuisance issues is addressed with screening and buffering; no hazard issue is involved with this request; and

WHEREAS, this variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because of the mitigation measures explained above, notably screening and buffering and high quality aesthetics; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship because the applicant would likely lose its drive-thru of would have to eliminate part of the store; and

WHEREAS, the circumstances of this variance are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought but rather they are the result of the size, configuration and location of utilities and access of and on this lot; and

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

Waiver Findings of Fact

Waiver of Section 5.6.1.C.1 to allow less than 50% clear glazing on the Lovers Lane and Billtown Road street facades

WHEREAS, the waiver will not adversely affect adjacent property owners because this a design issue that does not have to do with issues of impact on adjoining properties; moreover, aesthetics of this site and building are also not negatively impacted by this waiver; and

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

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the building otherwise remains aesthetically attractive, although this is a minor waiver for some building facades so as not to adversely impact internal store operations; and

WHEREAS, the 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 the applicant would have to design its building in a manner that significantly affect internal store operations particularly as respects shelf space and display of merchandise; and

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