

# **LDC WAIVER JUSTIFICATION STATEMENT**

## **LAND DEVELOPMENT CODE SECTION 6.3.5.I SUBMITTED IN CONJUNCTION WITH 18MINORPLAT1136 7505 BARDSTOWN ROAD (AKA 9803 WINGFIELD ROAD)**

**February 18, 2019**

To address a very unique situation with a distinct factual background, the applicant, Southpointe Partners LLC, is requesting a waiver of Section 6.3.5.I of the Land Development Code (LDC) to alleviate the limitation on length of a street name assigned to a private street, thereby permitting the applicant to name the principal accessway to its regional commercial center – a private street – a name that unequivocally identifies with the subject regional commercial center, Southpointe Commons. LDC Section 6.3.5.I instructs that new street names should not be longer than 16 characters, excluding direction and street type (drive, BLVD, etc.). To eliminate confusion and potential delay of emergency response time, LDC Section 6.3.5.G disallows duplications of existing street names to occur. In 2010, under Case #11640, the subject property was rezoned to C2, Commercial and Regional Center Form and the associated preliminary subdivision plan and general development plan approved alongside the zoning request depicted "Southpointe Boulevard" as the assigned name to the primary access into the regional commercial center, which is located in the southeastern node of the Bardstown Road and Gene Snyder Freeway interchange. That zoning case was appealed and held up in litigation for a number of years until it was eventually dismissed by the courts.

Today, the applicant has proposed a minor plat for phase one of the regional center property whereon it consolidates and subdivides one tract into three tracts (18MINORPLAT1136). Despite development plan approval in 2010, Applicant was informed recently that, pursuant to LDC 6.3.5.G, "Southpointe Boulevard" was not an available street name because "Southpoint Drive" had already been assigned to another private street within Louisville Metro. Because applicant has relied on Southpointe Boulevard as the name of its primary accessway to its regional commercial center, especially as it relates to branding of the center that the applicant has negotiated with future tenants, and to remove all future confusion and any delays in emergency response time, the applicant requests narrow relief from LDC Section 6.3.5.I to specifically address a particular private street naming issue, the history of which provides justification for said requested relief, so that "Southpointe Commons Boulevard" can be assigned to the primary private accessway into the Southpointe Commons regional center. As more fully explained herein, the request for a waiver of Section 6.3.5.I of the LDC meets the criteria for granting waivers and, therefore, should be approved.

While the applicant fully believes the waiver being requested is justified, as set forth herein, the applicant does hereby preserve its position that LDC Section 6.3.5, including subsections 6.3.5.G and 6.3.5.I, does not apply in this specific instance because it involves the

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naming of a private street, which does not require strict adherence to LDC 6.3.5. LDC 6.3.5.A states that, "[a]ll public streets shall be named *in accordance with the provisions of this section.*" LDC 6.3.5.A goes on to also state, "[a]ll private streets ... providing the principal means of access to ... commercial ... *shall be named.*" Clearly, the LDC distinguishes between the naming of public and private streets, stating that private streets must be named, but not named in accordance with the provisions of this section, as it does for public streets. Indeed, the LDC makes a distinction for naming public streets versus naming private streets. As such, applicant reserves its argument that the naming of private streets in Louisville Metro does not require strict compliance with LDC section 6.3.5. Nevertheless, considering the unique circumstances associated with this matter, applicant believes the waiver request to name its private street "Southpointe Commons Boulevard" meets the applicable criteria and warrants approval.

The requested waiver will only positively affect adjacent property owners because the waiver relief will allow for a street name sign that identifies precisely with the regional commercial center to which it provides principal access. Applicant will proportionally increase the size of the street sign so that the dimensions of the sign provide easily readable characters. Thus, clearly identifying the primary accessway into a regional commercial center, especially where the accessway intersects with Bardstown Road – a major arterial, near the on-ramp to the Gene Snyder Freeway – will benefit drivers and emergency response, thereby also benefitting adjacent property owners. Southpointe Commons Boulevard is an appropriate street name for the main accessway into Southpointe Commons lifestyle center, for there will be zero confusion for drivers when looking for the correct direction to take when seeking their respective destination.

There are no goals, objectives nor policies that the applicant's waiver request will violate. Rather, as explained above, applicant's waiver request, if approved, will assist in better identifying the accessway to the Southpointe Commons regional center, eliminating confusion for drivers and emergency response. Accordingly, the requested waiver will not violate Plan 2040, Comprehensive Plan for Louisville Metro.

Yes, the specific extent of waiver of the regulation being requested here – allowing two additional characters to the private street sign length limitation – is the precise relief necessary to the applicant. Moreover, the strict application of the current zoning regulations would deprive the applicant of the reasonable use of the land and create an unnecessary hardship because the applicant had relied upon a previously-approved development plan whereon the subject street was named "Southpointe Boulevard" only to be informed years later that said street name was unavailable because "Southpoint Drive" had already been assigned. Given that appellant will increase the size of the private street sign to accommodate two extra characters thereon and be clearly readable, it would be an unnecessary hardship for the applicant if the principal accessway serving a large regional commercial center located at the corner of Bardstown Road and the Gene Snyder Freeway was disallowed from specifically identifying with it by name.

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