

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 GOALS, OBJECTIVES AND POLICIES OF THE PLAN 2040 COMPREHENSIVE PLAN

Applicant: Phillips Edison & Co. c/o Tony Haslinger

Owner: Hurstbourne Townfair Station, LLC

Location: 1915 & 1927 S. Hurstbourne Parkway

Proposed Use: Indoor Fun Park/Entertainment Venue

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

Request: Zone change from C-1 to C-2

COMMUNITY FORM

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

The proposed zone change and detailed district development plan (DDDP) complies with applicable Objectives a, b, c, & f and applicable Policies 1, 2.1, 3.1.8, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, 27 & 28 as follows:

The proposed change in zoning to C-2 complies with Goal 1 in several ways. First, this development will take an existing vacant C-1 building and modify same only to the extent of allowing C-2 uses which is consistent with the Suburban Marketplace Form and will continue to allow property to provide medium and high intensity retail services to serve the surrounding suburban residential areas. The “anchor” tenant of this development was a Walmart Center that closed as part of a massive nationwide store closing announcement wherein two other Louisville Metro Walmart stores closed. The property also contains other retail, strip center uses drawn to the property due to the now vacant anchor tenant building. The rezoning will repurpose the building to allow it to adapt to a rapidly changing retail, commercial landscape wherein large (“big box”) stores are converted to new uses for new tenants. This proposal’s new use is an “entertainment complex” to anchor the development for the future. The new use will continue to drive retail traffic to support the remaining retail stores in the center and position the overall property to adapt readily now and in the future to new market demands. While the applicant would love to find a new large big box retail like the other similar grocery or Walmart anchored centers in Louisville, none are looking to open new stores. One of the reasons is the retail market’s shift from traditional brick-and-mortar stores to the online retail environment. At the same time, the rezoning will allow the center to survive and continue to serve the suburban area in a robust and healthy commercial manner fulfilling the Suburban Marketplace goals. The

property will continue to have connected and shared parking along with sidewalks promoting pedestrian and bicycle use consistent with the Suburban Marketplace goal.

The development and proposed zone change will remain compatible with the scale and site design of nearby existing developments because virtually no physical changes are being proposed to the already developed center and many of the neighboring developments were built after the subject center. In Louisville Metro, the standard practice had been to rezone an entire big box anchored center like this one to C-2 rather than C-1 with many existing in the Louisville Metro area. Then, at some point, this practice changed with only certain portions of these centers zoned C-2 (often the outlots). In this situation, the applicant is in the process of investing significant money into this center in order to keep it from declining like some others have with the loss of a tenant like Walmart, and as a result will propose use binding elements to prohibit some of the objectionable uses which may concern those in the area.

The property will continue to allow a mixture of densities through the expansion of the allowable uses with the negotiated buffers from the original rezoning already in place with landscaping fully developed. As a result, the appropriate buffers are already in place such that this rezoning will not cause the expansion of the Suburban Marketplace into residential areas. The proposed rezoning will continue to locate the higher density and intensity uses near the major arterial and primary collector of Hurstbourne Pkwy. and Bunsen Pkwy., and it will place the employment uses near existing infrastructure and public transportation which already exists. The potential adverse impacts, such as noise, lighting and traffic will continue to be mitigated through the use of buffers, setbacks and compliance with the Land Development Code with virtually no change from what existing as a Walmart center. Finally, the use of the entertainment venue will promote mixed use development and utilization of the large site located in the Suburban Marketplace responding to the distinctive physical, historic, and cultural qualities of the area.

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

The proposed zone change and DDDP complies with applicable Objectives b & d and Policies 1, 2, 5, 6, 7, 9, 10, 12 13, 14, 15, 16, & 17 as follows:

The proposed change in zoning from C-1 to C-2 to allow additional uses will encourage sustainable growth and avoid the above referenced potential decline and will continue to provide density around a mixed-use center and along commercial corridors by placing density compatible with the Suburban Marketplace and existing infrastructure. The design and density are appropriate with adjacent uses that will serve the needs of the surrounding community as they will not change from what exists at the site other than the potential use. The development will be compact in an activity center resulting in efficient land use and it will take advantage of and compliment cost-effective infrastructure investment. The mixture of compatible uses will reduce traffic and limit trips for customers and users of the site. The development will reuse and rehabilitate a “big box” Walmart Store to prevent that building and the entire site from deteriorating and becoming a vacant, underused or unused activity center. This is because the applicant is not only trying to fill the vacant Walmart building, but also to lease the vacant space in the remaining retail buildings and keep the existing tenants from leaving. The plan will provide neighborhood serving retail and entertainment uses, all of which will share entrance and parking facilities so that there will be no change in traffic and no change to the number of curb

cuts currently serving the site, all of which will also continue to be accessible by pedestrian and bicycle traffic.

Goal 3 – Enhance neighborhood by protecting and integrating open space, watershed and other natural resources.

The proposed zone change and DDDP complies with applicable Objectives a, c & d and Policies 9, 10 & 12 as follows:

The proposed development plan will enhance the surrounding neighborhoods by not diminishing any open space or natural resources. The zoning change will not impact any flood prone areas, nor will it impact any wet or permeable soils or steep slopes. The proposal avoids any change in topography and does not increase any environmental changes or damage. The landscape buffers and setbacks will continue to provide the community transitions between the site and the surrounding residential properties. Moreover, the existing detention basins will continue to limit any issues with flooding or standing water with no new impervious surface proposed, while respecting the natural features of the property and protecting the health, safety and welfare of the adjacent properties and future uses of the development.

Goal 4 – Promote and preserve the historic and archaeological resources that contribute to our authenticity.

The proposed zone change and DDDP complies with applicable Objective b and Policies 1 & 2 as follows:

The rezoning and development plan will preserve the existing buildings and use of the retail activity center through interior renovations and cosmetic exterior improvements resulting from the adaptive reuse of the large “big box” Walmart building.

MOBILITY

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

The proposed zone change and DDDP complies with applicable Objectives a, b, c & e and Policies 1, 3, 4, 7 & 14 as follows:

The development plan evidences the current existing physical condition of the property which contains an accessible system of alternative transportation modes of travel through sidewalks and connections between the uses for bicycles and pedestrian traffic. The site is served by public transportation through multiple TARC bus lines adjacent to the property. The entire development with entertainment and retail uses are located on a major arterial of Hurstbourne Pkwy. and a primary collector of Bunsen Pkwy., encouraging efficient access and minimizing distances of travel. It also continues to place higher density and intensity near existing commercial corridors and along the major arterial and primary collector with TARC service available.

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

The proposed zone change and DDDP complies with applicable Objectives a, b, c & d and Policies 1, 2, 4, 5, 6, 7, & 8 as follows:

The development plan complies with the objectives and policies of Goal 2 by promoting safe, accessible and efficient transportation uses by accommodating pedestrian, bicycle and vehicular access through the connected lots and accessible rights-of-way between the lots which are already part of the development. The site distances for the curb cuts will not change and are adequate for the area. The internal circulation of pedestrian and vehicular traffic is appropriate with the connected walkways and shared access, parking, etc. The entrances are compatible with surrounding development and aesthetically pleasing to adjacent areas with the applicant proposing to install a new monument sign to replace the current Walmart sign.

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

The proposed zone change and DDDP complies with applicable Objectives a, b, c, & d and Policies 1, 2, 3, 4, 5, 7, 10, 12, 14, 17, 18, 20 & 24 as follows:

The development plan complies with the objectives and policies of Goal 3 by providing walking and bicycling opportunities with the sidewalks and interconnected walkways and by providing a mix of complimentary neighborhood serving businesses, services and reducing miles travelled by car by providing the activity center the tools to survive into the future. The plan will not burden the transportation network but will allow the site to continue to be consistent with the purpose of the Suburban Marketplace. The plan is consistent with long range transportation plans of the community. The parking requirements of the site consider the density of the use and the character and pattern of the Form District in that it will continue to serve the community in the same way that it currently serves, with the only change being replacing some retail uses with new retail uses such as entertainment. The existing curb cuts, including the recently added right in/right out on Hurstbourne Parkway will fulfill the policy of joint access for development sites. The plan also satisfies the policy of supporting biking and pedestrian travel by providing for those modes of access.

COMMUNITY FACILITIES

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

The proposed zone change and DDDP complies with applicable Objective b and Policies 1, 2, & 3 as follows:

This development plan is not a community facilities plan, but it does locate development in areas currently served by existing infrastructure, it has adequate water supply and access to sewers so as to not burden existing or future community facilities.

ECONOMIC DEVELOPMENT

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

The proposed zone change and DDDP complies with applicable Objectives a, c, d, f & h and Policies 3, 7, & 9 as follows:

This development plan complies with Goal 1 of Economic Development as it provides economic climate that improves growth, innovation, and investment opportunity for all by reusing and redeveloping a retail property for different, but similar, uses serving the surrounding community.

It locates these new potential uses in an area with existing infrastructure in an efficient manner increasing economic opportunities in the area. It will also provide opportunities to small businesses by replacing the “anchor” tenant with another large user thereby increasing economic opportunity to business owners and employment.

Goal 2 – Cultivate a vibrant, unique city that attracts, retains, and develops a highly-skilled workforce.

The proposed zone change and DDDP complies with applicable Objectives a, b, c, d & f and Policies 1, 3, 4, 5, & 7 as follows:

This development plan complies with Goal 2 of Economic Development as it enhances the quality of life in the area by reusing and readapting the current use which is very difficult to replace in the current retail market environment, while at the same time protecting and improving the economic value of the surrounding areas by assisting the economic viability of the activity center. It also satisfies the goal and policy of infill development to take advantage of the existing infrastructure.

LIVABILITY

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

The proposed zone change and DDDP complies with applicable Objectives d & e and Policies 7, 12, 17 23, 25, 26, 27, 28, 31, 32, 35, & 39 as follows:

The development plan complies with the objectives and policies of Goal 1 of Livability element in that it provides pedestrian and bicycle connectivity while not creating new traffic for the area. It also will continue to deal with any impacts to drainage associated with the site through the use of detention basins accounting for the impervious surface. Landscaping will be added where necessary and required under the Land Development Code to reduce the impacts of the site to nearby residential uses.

Goal 2 – Ensure equitable health and safety outcomes for all.

The proposed zone change and DDDP complies with applicable Objectives a, b, c & d and Policy 8 as follows:

The development plan complies with the objectives and policies of Goal 2 of Livability element by dramatically allowing the activity center to transition from the changing retail marketplace benefitting the nearby residences and businesses by preventing what will otherwise become shuttered stores and a potentially blighted site.

Goal 3 – Ensure equitable access to land use planning and Policy-making resources.

The proposed zone change and DDDP complies with applicable Objective c and Policies 1, 2, & 4 as follows:

The development plan complies with the objectives and policies of Goal 3 of Livability element providing equitable access to the land use planning and policy resources by providing the surrounding residents and property owners notice of the development changes, notice of all

public meetings, by providing the neighborhood meeting, and providing an opportunity for area involvement in the plan design and sought-after zoning changes.

Goal 4 – Integrate sustainability and resilience in community planning processes.

The proposed zone change and DDDP complies with applicable Objectives a, b, c, e & f and Policies 1, 2, & 8 as follows:

The development plan complies with the objectives and policies of Goal 4 of Livability element by providing and enhancing choices for mobility and encouraging clean air by reducing miles driven by providing needed services to an area needing such services. It also provides needed entertainment and retail services in and along high capacity transit corridors of Hurstbourne Pkwy. and Bunsen Pkwy., supporting public transportation with the medium and high intensity uses.

HOUSING

The proposed zone change and DDDP complies with applicable Objectives and applicable Policies of Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities in an existing activity center near residential areas, thereby strengthening and supporting the housing in the area. This use will facilitate connected and mixed-use areas and ensure long term affordability and living options for all in the community.

* * *

For all of these and other reasons set forth on the Detailed District Development Plan/preliminary subdivision plan accompanying this application and in accordance with evidence to be presented at Planning Commission public hearings, this application will comply with all other applicable Objectives and Policies of the Plan 2040 Comprehensive Plan.

Respectfully submitted,

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