

Louisville Metro Planning Commission

April 7, 2016

**CASE #15ZONE1057**

**ZONE CHANGE FROM R-4 TO C-1 TO  
ALLOW A SMALL NEIGHBORHOOD  
RETAIL CENTER WITH GAS MART ON  
PROPERTY LOCATED AT  
6503 BILLTOWN ROAD**

**C/O SHALIMAR INVESTMENTS, LLC**

Attorneys:  
Bardenwerper  
Talbot &  
Roberts, PLLC

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

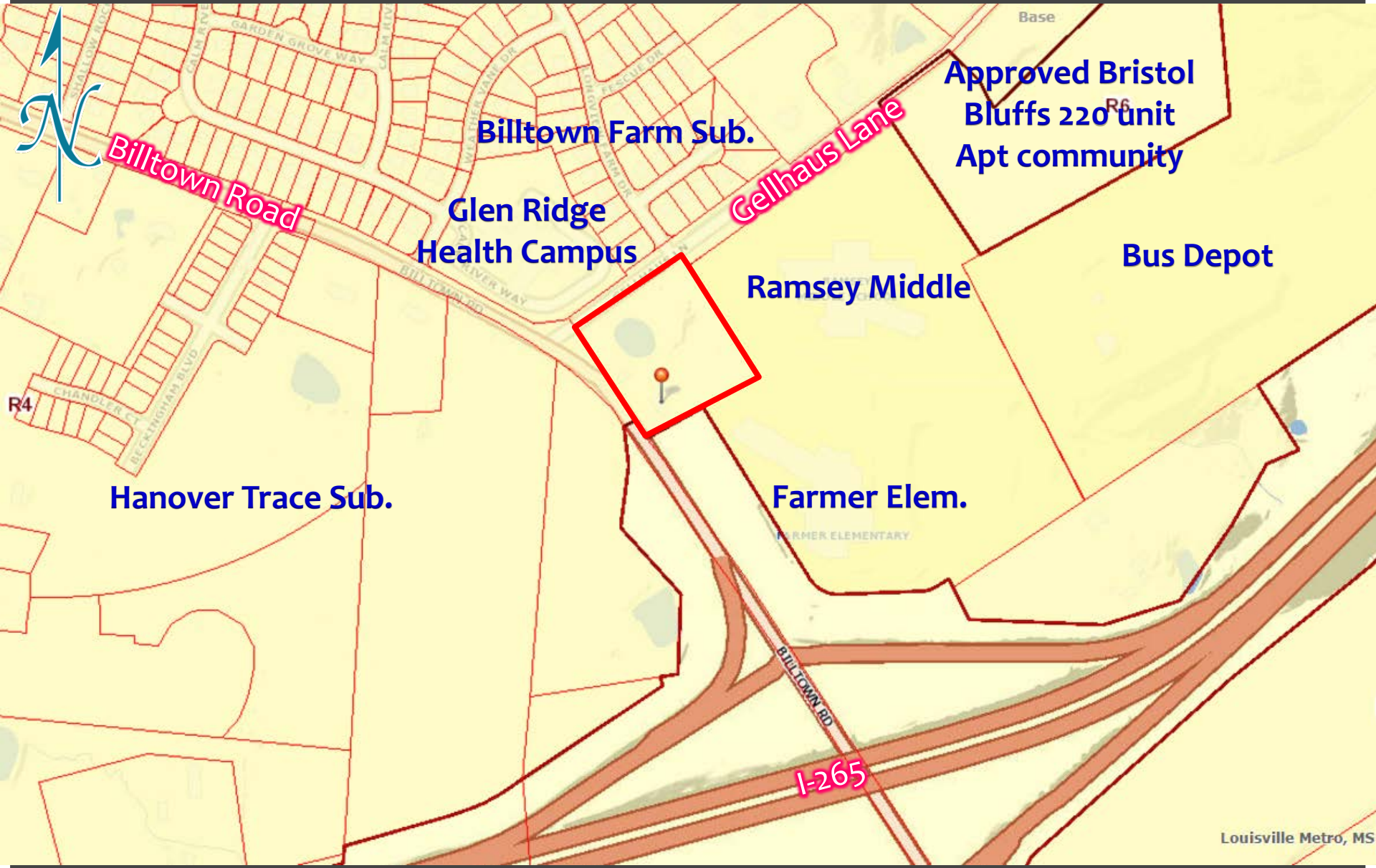
Traffic Engineer:  
CDM Smith

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8. Traffic Study
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10. Proposed findings of fact pertaining to compliance with the Comprehensive Plan and Waiver criteria

Tab 1

LOJIC Zoning Map



**Billtown Road**

**Gellhaus Lane**

**Billtown Farm Sub.**

**Glen Ridge  
Health Campus**

**Approved Bristol  
Bluffs 220 unit  
Apt community**

**Ramsey Middle**

**Bus Depot**

**Hanover Trace Sub.**

**Farmer Elem.**

**I-265**

Tab 2

Aerial photograph of the site and  
surrounding area





Billtown Farm Sub.

Glen Ridge Health Campus

Ramsey Middle

Farmer Elem.

Brown property

Approved Bristol Bluffs  
220 unit  
apt community

Gellhaus Lane

Billtown Road

I-265







Billtown Road

Billtown Farm Sub.

Glen Ridge Health Campus

Gellhaus Lane

Approved Bristol Bluffs 220 unit apt community

Bus Depot

Ramsey Middle

R4

Hanover Trace Sub.

Farmer Elem.

Brown property

I-265



Tab 3

Ground level photographs of the site and surrounding area





View of Billtown Road looking down Billtown Road. Glen Ridge Health Campus and Billtown Farms subdivision is the right.



View of site from Gellhaus Lane and Billtown Road intersection.

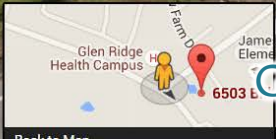




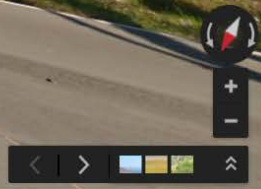
SITE

Billtown Road

Gellhaus Lane



Google



View of site from Gellhaus Lane looking down Billtown Road towards I-265.





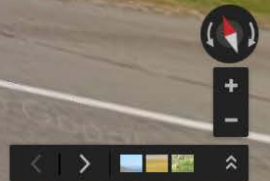
SITE

Billtown Road

Farmer Elem.



Google



View of site from Billtown Road looking towards Gellhaus Lane.

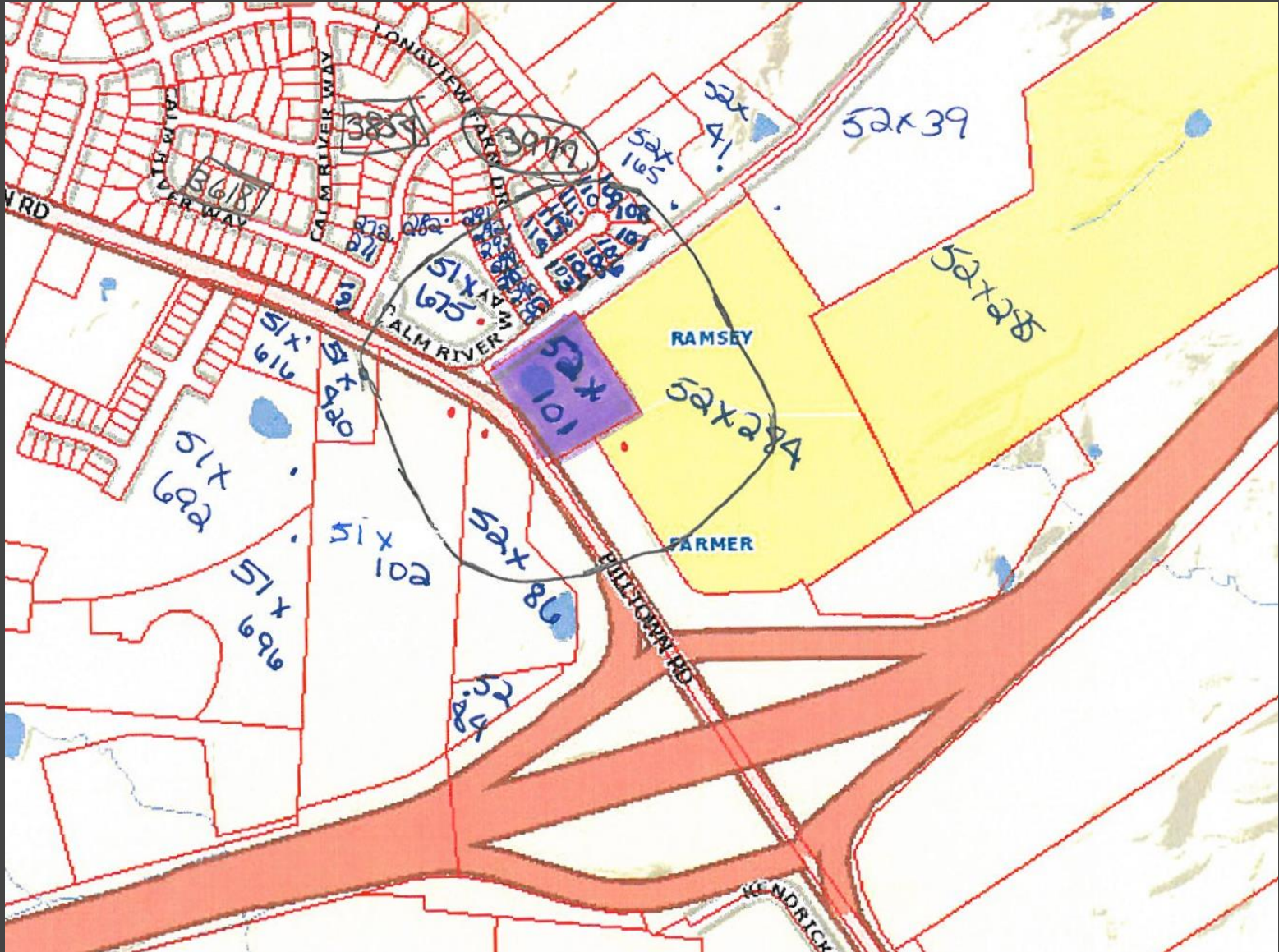


View of site from Gellhaus Lane looking towards Billtown Road. Ramsey Middle School is the left. Billtown Farms/Long View Farms Drive is the right.

Tab 4

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





Neighborhood Meeting notice list map inviting 45 neighbors to the neighborhood meeting

# SHALIMAR INVESTMENTS, LLC

10412 Bluegrass Parkway  
Louisville, KY 40299

---

October 20, 2015

Dear Neighbor,

**RE: Zone change from R-4 residential to C-1 commercial to allow a small neighborhood retail center with gas mart on approximately 4.0 +/- acres located in the southeast corner of the Billtown Road and Gellhaus Lane intersection at 6503 Billtown Road**

We are writing to invite you to a meeting we have scheduled to present neighbors with our plan for a neighborhood retail center with gas mart 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 15ZONE1057. 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 **Tuesday, November 3<sup>rd</sup> 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 Kevin Young or Ann Richard at 426-9374.

We look forward to seeing you.

Sincerely,



Sukh Bains, Member

cc: Hon. Stuart Benson, Metro Councilman, District 20  
Bill Bardenwerper, attorney with Bardenwerper, Talbott & Roberts, PLLC  
Kevin Young and Ann Richard, land planners with Land Design & Development, Inc.  
Brian Davis, Planning & Design Services Supervisor

# SHALIMAR INVESTMENTS, LLC

10412 Bluegrass Parkway  
Louisville, KY 40299

---

December 7, 2015

Dear Neighbor,

**RE: Follow-up meeting regarding our zone change from R-4 residential to C-1 commercial to allow a small neighborhood retail center with gas mart on approximately 4.0 +/- acres located in the southeast corner of the Billtown Road and Gellhaus Lane intersection at 6503 Billtown Road**

We are writing to invite you to a follow-up meeting to the one held November 3<sup>rd</sup> to again present neighbors with our plan for a neighborhood retail center with gas mart 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 15ZONE1057 and case manager Julia Williams.

We have met with JCPS and officials, so have answers relative to drainage and access issues. Therefore, we would like to show and explain our updated plan to neighbors in order that we might hear what continuing or added thoughts, issues and concerns you may have.

In that regard, this follow-up meeting will be held on **Monday, December 21<sup>st</sup> 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 Kevin Young or Ann Richard at 426-9374.

We look forward to seeing you.

Sincerely,



---

Sukh Bains, Member

cc: Hon. Stuart Benson, Metro Councilman, District 20  
Bill Bardenwerper, attorney with Bardenwerper, Talbott & Roberts, PLLC  
Kevin Young and Ann Richard, land planners with Land Design & Development, Inc.  
Julia Williams, case manager, Metro Department Planning & Design Services



## **Neighborhood Meeting Summary Shalimar Investments, LLC**

Neighborhood meetings were held at the Eastside Praise Church on November 3, 2015 and December 21, 2015. In attendance at both meetings were Bill Bardenwerper, attorney for the applicant, Kevin Young, land planner and landscape architect. Also present at the second meeting were Sukh Bains, principal of the applicant entity Shalimar Investments, LLC, and Diane Zimmerman, traffic engineer. Together they all made presentations and answered questions.

Mr. Bardenwerper led off the discussions with a PowerPoint presentation of the site, with aerial photographs and LOJIC map showing zoning and other uses in and around this property. At the first meeting he showed the site plan, and at the second meeting he showed a revised site plan, together with building concept designs through renderings and photographs.

Mr. Young explained points of access and how the proposed development could connect with the state road leading to the historic home to the south, but will not if the historic home property owner and KTC prefer not. He also explained how the Gelhaus Lane access will be a right-in/right-out only.

Mr. Young also explained storm water management, how detention will be provided and how detention works.

At the first meeting Mr. Bardenwerper and Mr. Young explained their preliminary traffic expectations in light of planned KTC Billtown Road improvements. Angela Webster from Councilman Benson's office was present and helped to address what KTC plans on what schedule.

By the time of the second meeting, Mr. Bardenwerper and Mr. Young were assisted in terms of traffic explanations by Ms. Zimmerman, plus they had the benefit of having had, between the two meetings, conversations with JCPS officials as to its morning drop-off and afternoon pick-up practices and schedules as well as times that buses leaving and returning to the bus compound are scheduled to utilized area roads. It turns out that bus compound bus conflicts with peak hour traffic is less than some residents alleged.

Questions and comments, despite these explanations, still centered on peak-hour traffic particularly at Billtown Road at the Snyder Freeway, planned KTC road improvements and the timing thereof, storm water, school traffic which exacerbates traffic issues when students are being dropped off and picked up.

Respectfully submitted,

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

# Tab 5 Development Plan



Approved Bristol Bluffs 220 unit  
apt community

**Gellhaus Lane**

BUS  
COMPOUND

JAMES FARMER  
ELEMENTARY

Charlie & Prissy  
Brown property

**Billtown Farm Sub.**

BILLTOWN FARMS  
SUBDIVISION

Glen Ridge  
Health Campus

Farmer  
MIDDLE  
Elem.

**Billtown Road**

EVANGEL  
WORLD  
PRAYER  
CENTER

HANOVER TRACE  
SUBDIVISION  
**Hanover Trace Sub.**







Ramsey Middle TARY  
SCHOOL

Farmer Elem. LE  
SCHOOL

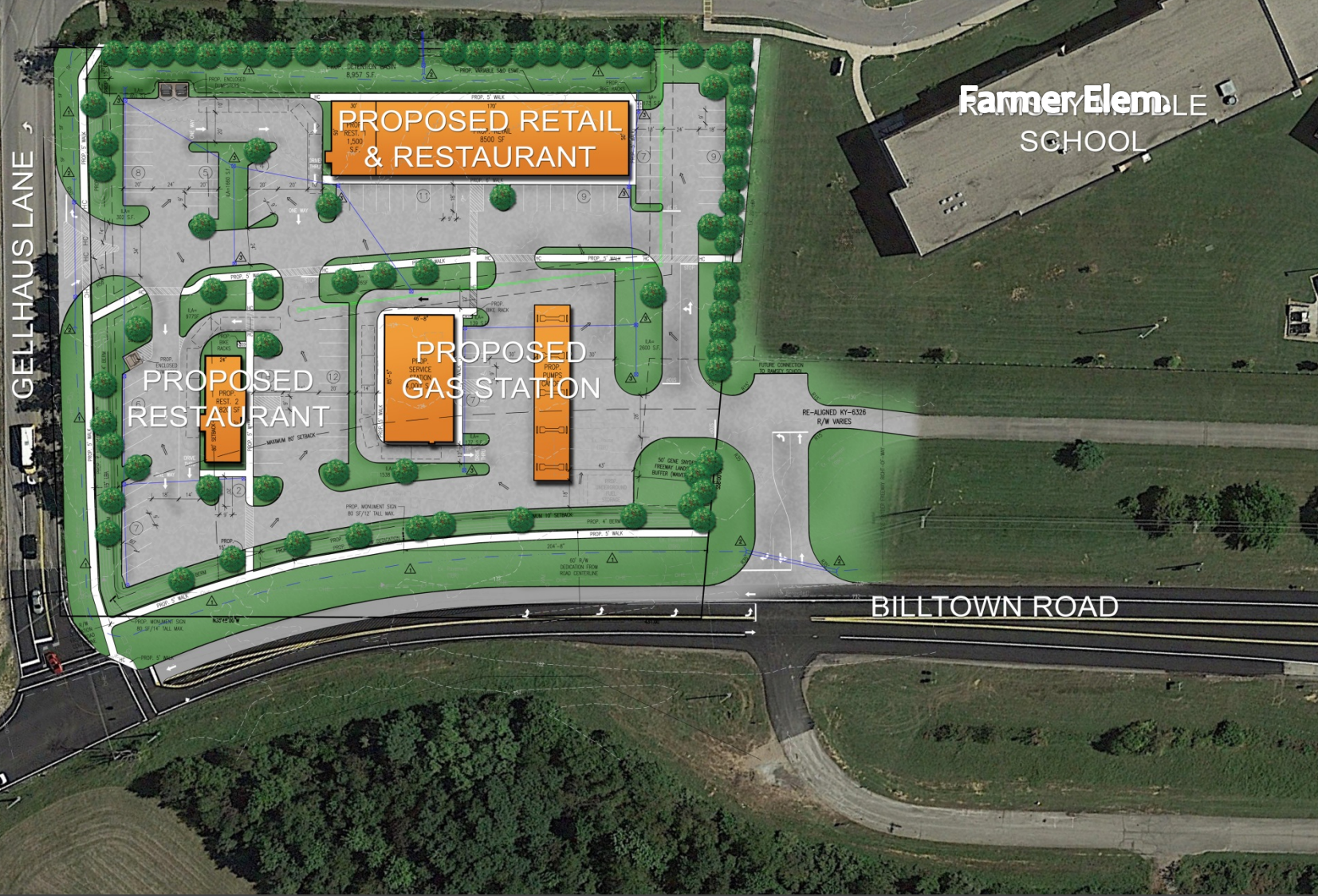
GELHAUS LANE

BILLTOWN ROAD

PROPOSED RETAIL  
& RESTAURANT  
8500 SF

PROPOSED  
RESTAURANT

PROPOSED  
SERVICE  
GAS STATION





# Current proposed development plan

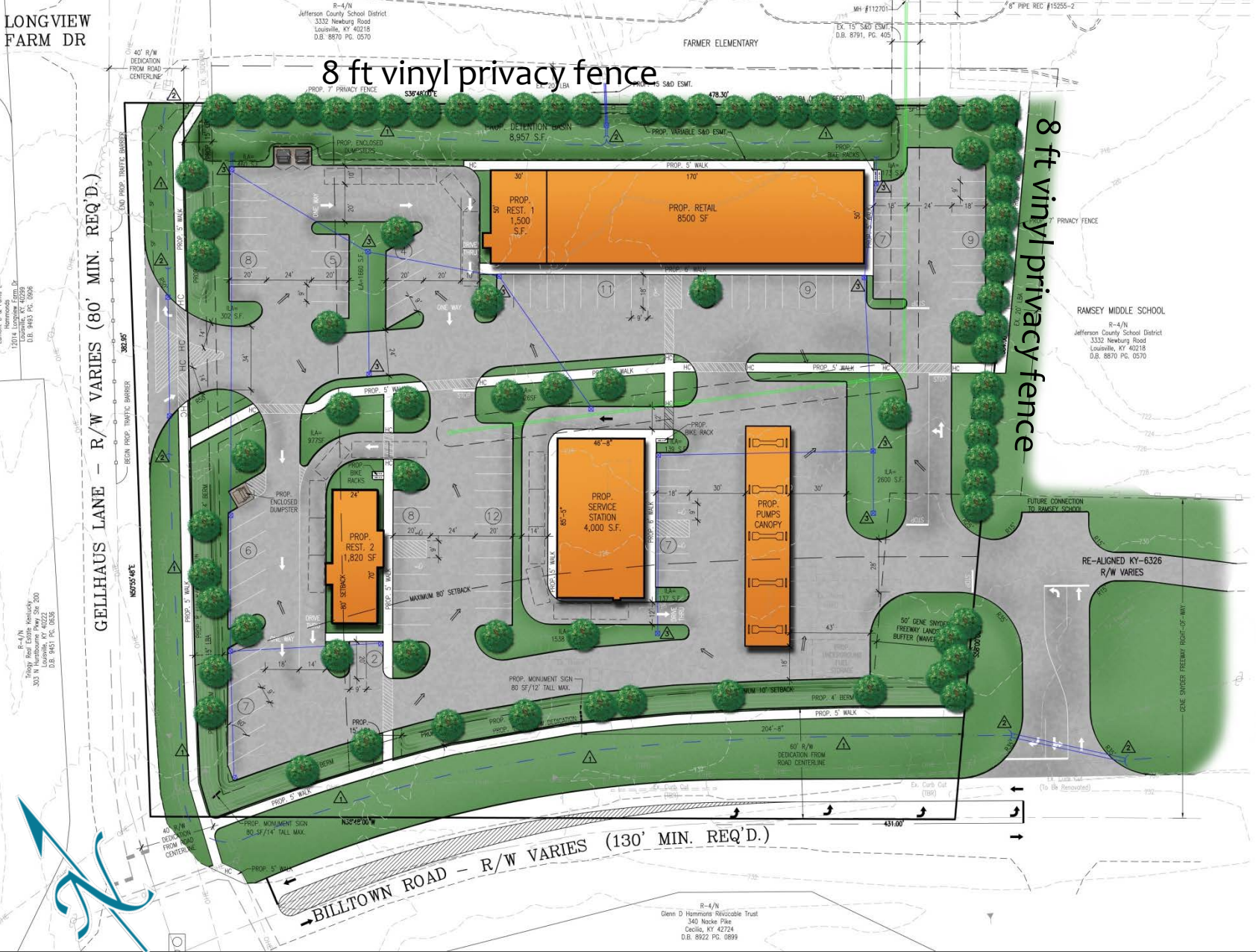
LONGVIEW FARM DR

8 ft vinyl privacy fence

8 ft vinyl privacy fence

GELHAUS LANE - R/W VARIES (80' MIN. REQ'D.)

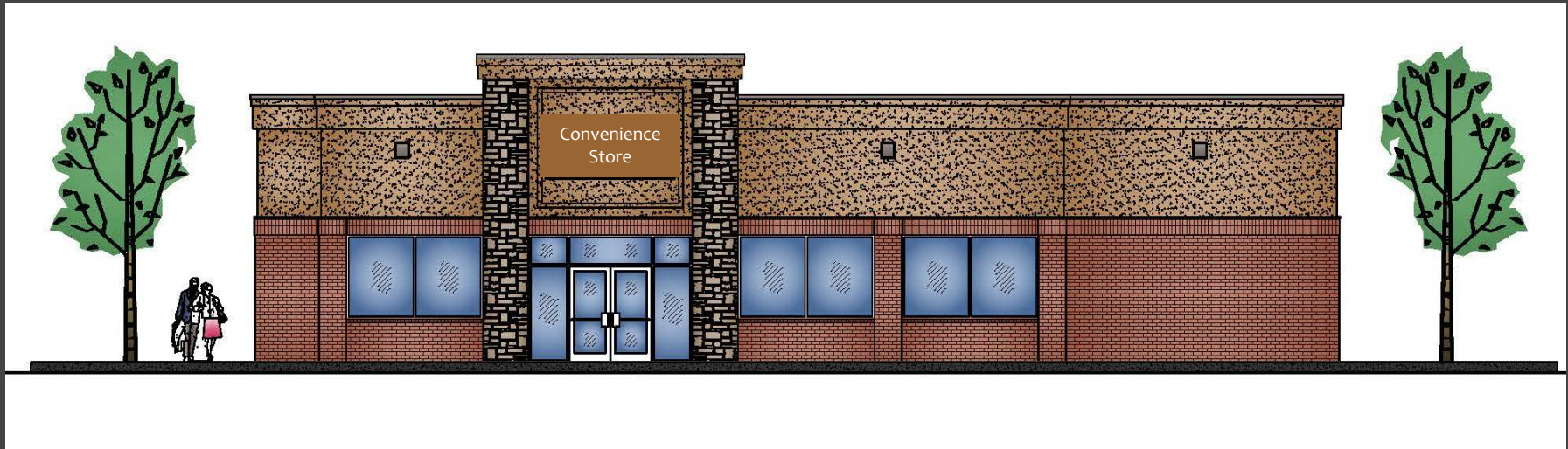
BILLTOWN ROAD - R/W VARIES (130' MIN. REQ'D.)



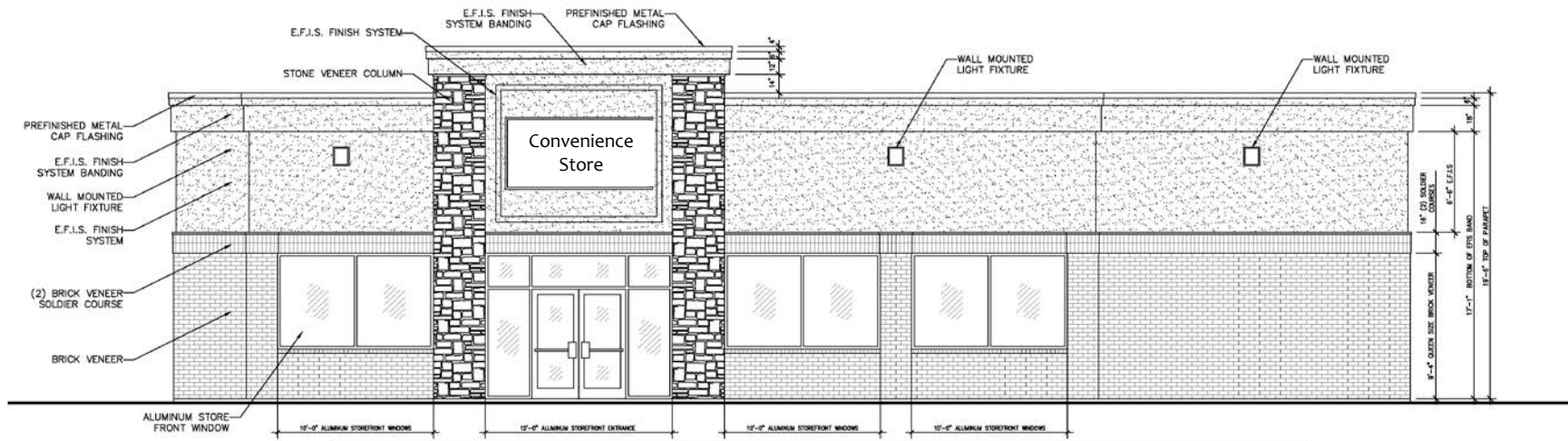
R-4/N  
Glenn D. Hummons, Reissible Trust  
340 Natche Pike  
Cecilie, KY 42724  
D.B. 8922 PG. 0899

Tab 6

Building Elevation

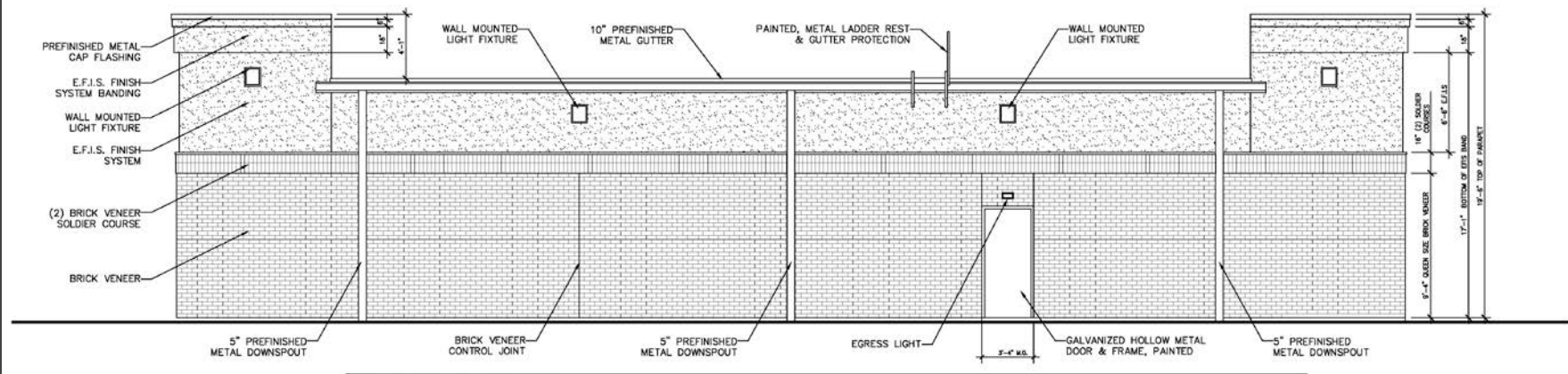






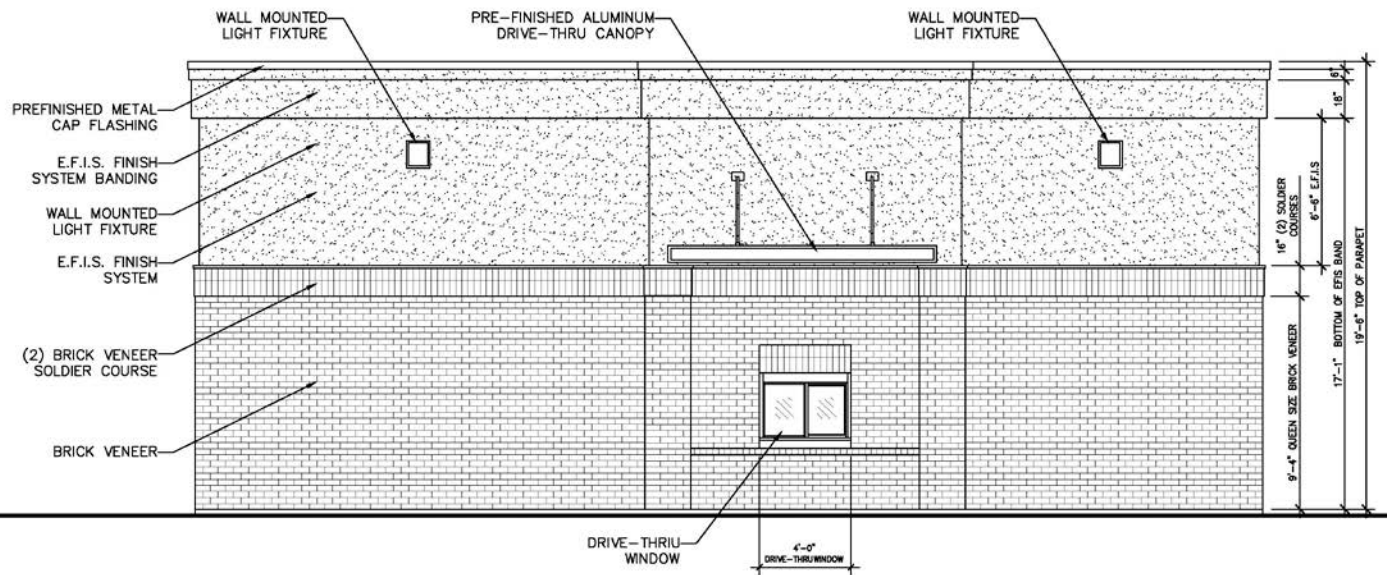
01 FRONT ELEVATION

SCALE: 1/4" = 1'-0"



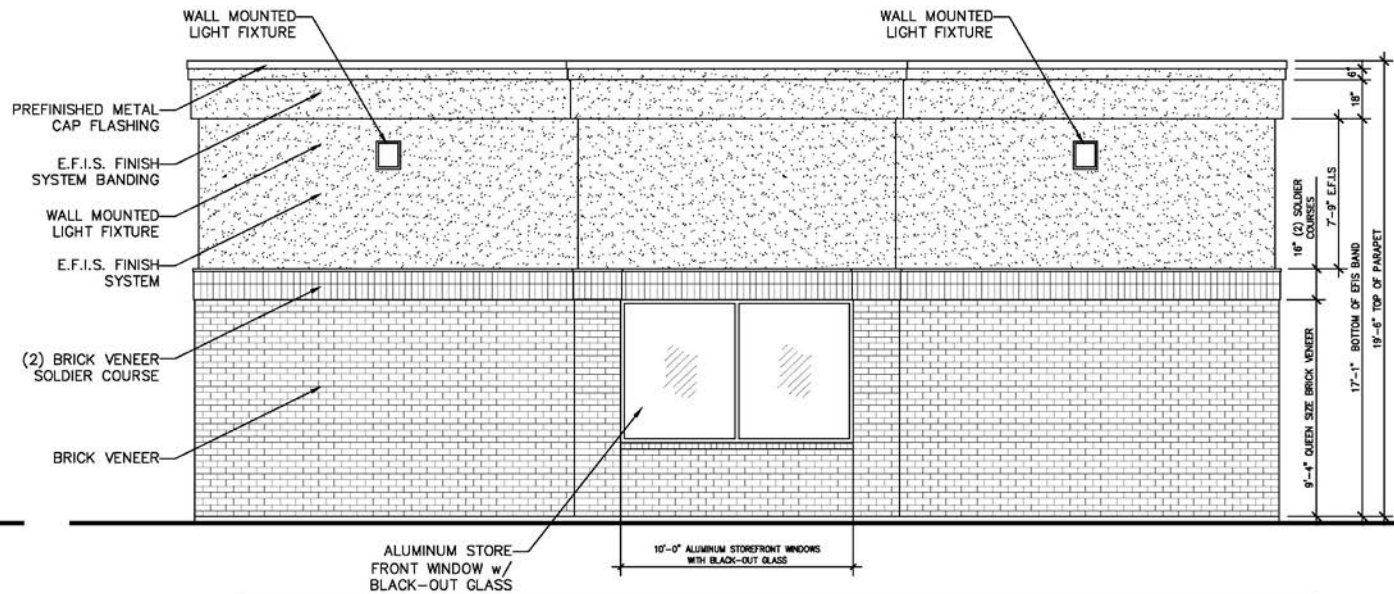
04 REAR ELEVATION

SCALE: 1/4" = 1'-0"



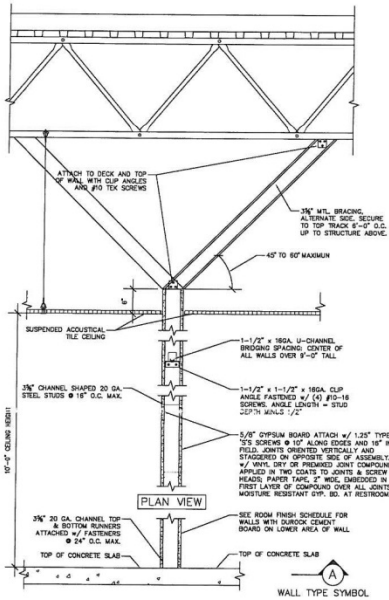
02 LEFT SIDE ELEVATION

SCALE: 1/4" = 1'-0"



03 RIGHT SIDE ELEVATION

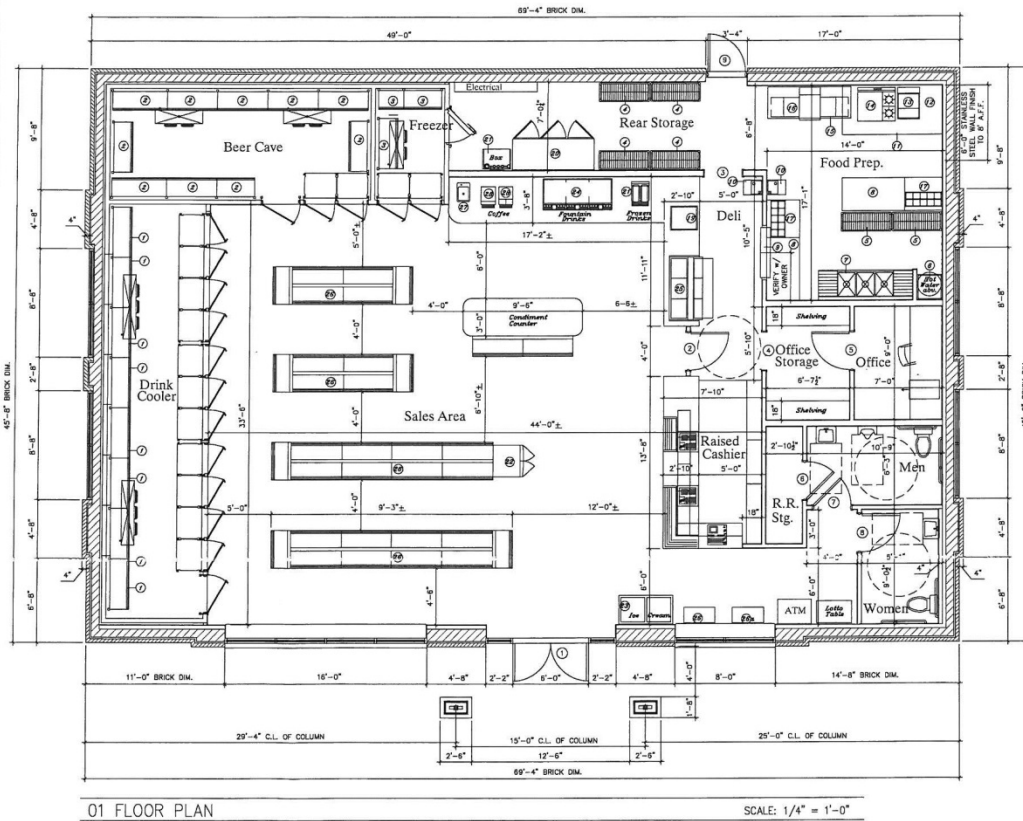
SCALE: 1/4" = 1'-0"



- 'A' WALL TYPE SCALE: 1" = 1'-0"
- 'B' WALL TYPE SCALE: 1" = 1'-0"
- 'B' SIMILAR TO 'A' EXCEPT w/ 6" METAL STUDS
- 'C' WALL TYPE SCALE: 1" = 1'-0"
- 'C' SIMILAR TO 'A' EXCEPT NO GYPSUM BOARD OR CEILING ON WALK-IN COOLER SIDE OF WALL

EQUIPMENT SCHEDULE			
NO.	QTY	EQUIPMENT DESCRIPTION	EQUIPMENT REMARKS
1	1	DRINK COOLER SHELVING	TO BE DETERMINED
2	1	BLUES GRILL SHELVING	TO BE DETERMINED
3	1	WALK IN REFRIG SHELVING	TO BE DETERMINED
4	1	STORAGE AREA SHELVING	TO BE DETERMINED
5	1	PREP AREA SHELVING	TO BE DETERMINED
6	1	GRAND FLOOR SIGN	TO BE DETERMINED
7	1	3-20" DIA. TABLE	TO BE DETERMINED
8	2	30" x 36" W/WORK TABLE	TO BE DETERMINED
9	1	30" x 36" PASS-PANTRY LINECUT	TO BE DETERMINED
10	1	HAND SINK	TO BE DETERMINED
11	1	SPRINKLE HOOD	TO BE DETERMINED
12	1	48" ISB FRYER	TO BE DETERMINED
13	1	48" ISB FRYER	TO BE DETERMINED
14	1	2-30" DIA. TABLE	TO BE DETERMINED
15	1	30" x 36" W/WORK TABLE	TO BE DETERMINED

EQUIPMENT SCHEDULE			
NO.	QTY	EQUIPMENT DESCRIPTION	EQUIPMENT REMARKS
16	1	30" x 36" W/WORK TABLE	TO BE DETERMINED
17	2	30" x 36" W/WORK TABLE	TO BE DETERMINED
18	1	FRYER	TO BE DETERMINED
19	1	30" x 36" W/WORK TABLE	TO BE DETERMINED
20	1	30" x 36" W/WORK TABLE	TO BE DETERMINED
21	1	30" x 36" W/WORK TABLE	TO BE DETERMINED
22	1	30" x 36" W/WORK TABLE	TO BE DETERMINED
23	1	30" x 36" W/WORK TABLE	TO BE DETERMINED
24	1	30" x 36" W/WORK TABLE	TO BE DETERMINED
25	1	30" x 36" W/WORK TABLE	TO BE DETERMINED
26	1	30" x 36" W/WORK TABLE	TO BE DETERMINED
27	1	30" x 36" W/WORK TABLE	TO BE DETERMINED
28	1	30" x 36" W/WORK TABLE	TO BE DETERMINED



01 FLOOR PLAN

SCALE: 1/4" = 1'-0"

PRIOR TO GYPSUM BOARD INSTALLATION THE FRAMING SUB-CONTRACTOR IS TO INSTALL BLOCKING & NAILERS AS REQ. FOR OWNER'S WALL MOUNTED EQUIPMENT, ACCESSORIES & SHELVING. OBTAIN COMPLETE SCOPE OF THIS WORK FROM THE OWNER.

ALL INTERIOR DIMENSIONS ARE TO FACE OF GYPSUM BOARD. ALL EXTERIOR DIMENSIONS ARE TO FACE OF BRICK.

WALL TYPE SYMBOL. SEE WALL TYPE DETAILS ON DRAWING A.3.0

REFER TO SITE PLANS FOR ALL PARKING & CURBS. CONCRETE SIDEWALKS AGAINST BUILDING ARE PER ARCHITECTURAL PLAN.

**KENTUCKY PROPERTY INVESTMENTS, LLC**  
14619 INSPIRATION COURT  
LOUISVILLE, KENTUCKY 40245  
(502) 836-4625

**NEW BUILDING CONVENIENCE STORE**  
LOT-4 CLEARWATER FARM  
FERN VALLEY ROAD & SHEPHERDSVILLE ROAD  
LOUISVILLE, KENTUCKY 40228

**EDWARD EICHE ARCHITECT**  
10011 LUPPENCE TRACE  
LOUISVILLE, KENTUCKY 40223  
(502) 797-1441 (502) 244-4865 FAX

DRAWN BY: \_\_\_\_\_  
REVIEW BY: EKE  
DATE: 7/9/15  
SHEET INDEX: \_\_\_\_\_  
FLOOR PLAN: \_\_\_\_\_  
EQUIPMENT SCH: \_\_\_\_\_  
DETAILS: \_\_\_\_\_  
REVISIONS: \_\_\_\_\_

A1.00

SHEET NUMBER







Tab 7

# Proposed Additional Binding Elements

## Proposed Additional Binding Elements

- The Gellhaus Lane access shall be right-in only unless Metro approves either a full-cut at this point of access or a right-in/right-out. If a right-in/right-out, such access shall be constructed in concert with a deceleration right-turn lane into the adjoining Jefferson County Public School, thereby assuring that any right-turns out intending to make a U-turn back in the direction of the Gellhaus Lane/Billtown Road intersection are unlikely to make that U-turn using Longview Farm Drive.
- Developer shall work with MSD and JCPS to better define the ditch along the JCPS frontage on Gellhaus Lane to improve the flow of stormwater entering an existing storm pipe.
- A 8 ft high vinyl privacy fence shall be installed along the east and south property lines adjoining the JCPS and Brown properties as shown on the color site plan accompanying the presentation shown at the April 7, 2016 Public Hearing.
- No outdoor music shall be allowed, and any PA system installed within the pump canopy area or elsewhere shall be inaudible at the property lines.
- Landscaping shall be in accordance with the concept landscape plan presented at the March 17, 2016 Public Hearing and shall include along Gellhaus Lane 2-2 ½ inch caliper trees 8 ft in height at time of planting, all otherwise in compliance with the LDC Landscape Regulation.
- Lighting shall be in accordance with the lighting plan presented at the April 7, 2016 Public Hearing and shall include maximum 16 ft tall light poles with shoebox-style fixtures and a 90 degree cut-off with lighting not in excess of 0.5 foot candles at the property lines.
- Hours of operation shall be limited to 5 am to Midnight, Sunday – Thursday, and 5 am to 2 am, Friday and Saturday.
- Styles and designs of buildings shall be in accordance with the building elevations accompanying this presentation shown at the April 7, 2016 Public Hearing.
- Freestanding signage shall be limited to monument, not pylon, style, otherwise in accordance with the sign regulations of the LDC. Gas prices shall be advertised with LED lighting, not manually changed pricing numbers.
- There shall be no exterior access to bathrooms.
- Attractive trash receptacles shall be placed for ease of use at multiple points under the gas canopy and along the front facades of the retail and restaurant buildings.
- Dumpsters shall be fully enclosed with a solid fence screen.
- Commercial uses on the site shall not permit liquor stores, check cashing store, laundromats, pawn shops, medical labs, hotel/motels, funeral homes and homeless shelters.



- The developer shall prohibit construction access via and construction and maintenance vehicles use of Billtown Farms subdivision streets.

Tab 8

Traffic Study



REPORT

**Billtown Center  
6503 Billtown Road  
Louisville, KY**

**Traffic Impact Study**

Louisville Metro Planning

January 26, 2016





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# Introduction

Shalimar Investments LLC is proposing a neighborhood retail center on Billtown Road in Louisville, KY. The neighborhood retail center is proposed as a convenience store with eight fueling positions, a 12,000 square foot building, and a 1,820 square foot restaurant. **Figure 1** displays a map of the site. Access to the site will be from an entrance on Billtown Road and a right-in/right-out on Gellhaus Lane. The purpose of this study is to examine the traffic impacts of the proposed development upon the adjacent highway system. For this study the impact area was defined to be the intersections of Billtown Road at Gellhaus Lane and Gellhaus Lane at Longview Farm Road/school entrance.



**Figure 1**  
Site Location

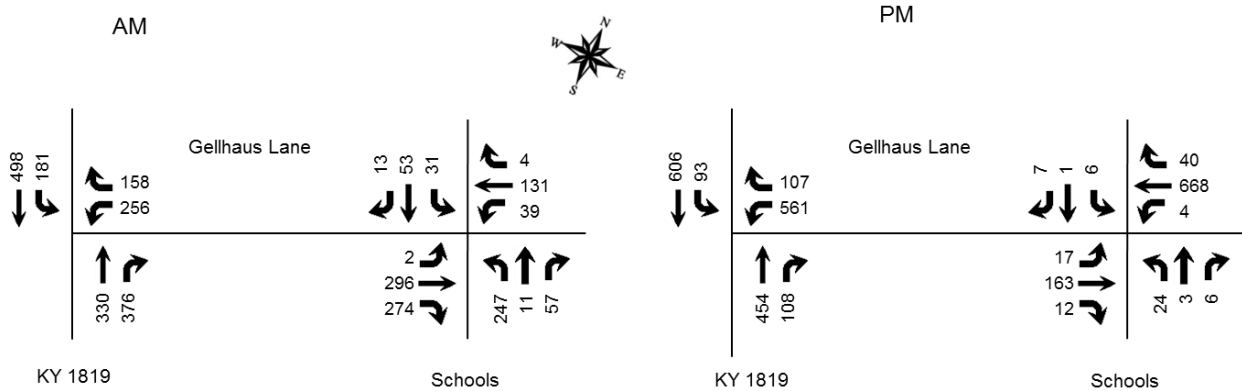
## Existing Conditions

Billtown Road, KY 1819, is maintained by the Kentucky Transportation Cabinet (KYTC) with an estimated 2015 ADT of 10,000 vehicles per day between I 265 and Lovers Lane (KY 1065), as estimated from the Kentucky Transportation Cabinet count at station 325. The road is a two-lane road with nine-foot lanes and a three-foot shoulder. The posted speed limit is 35 mph. There are no sidewalks south of Gellhaus Lane. The intersection with Gellhaus Lane is controlled with a traffic signal. There is a southbound left turn lane on Billtown Road. The Gellhaus Lane approach has separate right and left turn lanes.

Gellhaus Lane is maintained by Metro Louisville with an estimated 2015 ADT of 2,400 vehicles per day, as estimated from the Kentucky Transportation Cabinet count at station 324. The road is a two lane road with ten-foot lanes and a one foot shoulder. The posted speed limit is 35 mph.

There are sidewalks on the north side and along the school property. The intersection with Longview Farm Drive/school entrance is controlled with a stop sign. There is a left turn lane on Gellhaus Lane. The driveway serving both Farmer Elementary and Ramsey Middle School is wide enough to accommodate a separate left turn lane. During arrival and dismissal the schools provide a crossing guard.

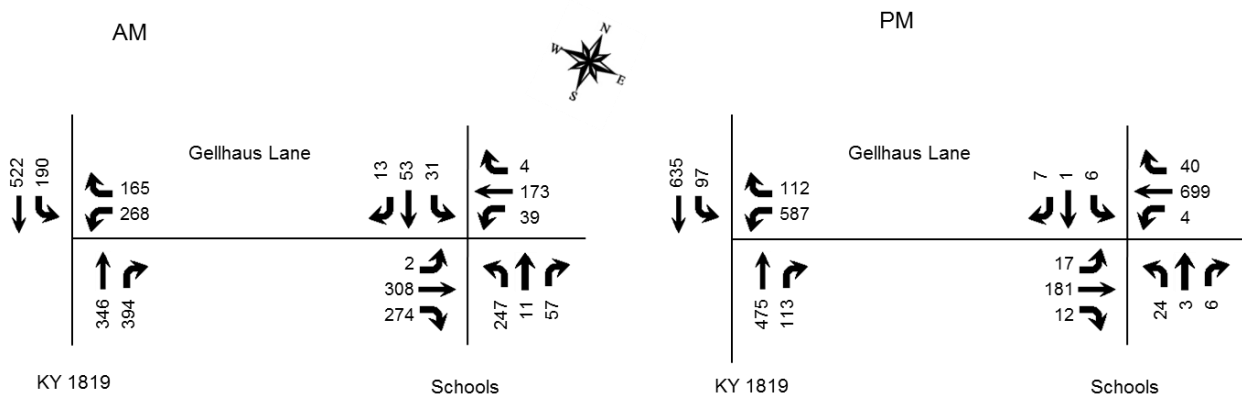
A.m. and p.m. peak hour traffic counts were obtained at the intersection on December 17, 2015. The a.m. peak hour occurred between 7:00 and 8:00 and the p.m. peak hour occurred between 4:45 and 5:45 p.m. **Figure 2** illustrates the existing peak hour traffic volumes.



**Figure 2**  
2015 Peak Hour Counts

## Future Conditions

The projected completion year for this development is 2017, so the analysis year for this study is 2017. To predict traffic conditions in 2017, two and one third percent annual growth in traffic was added. **Figure 3** displays the 2017 No Build volumes.



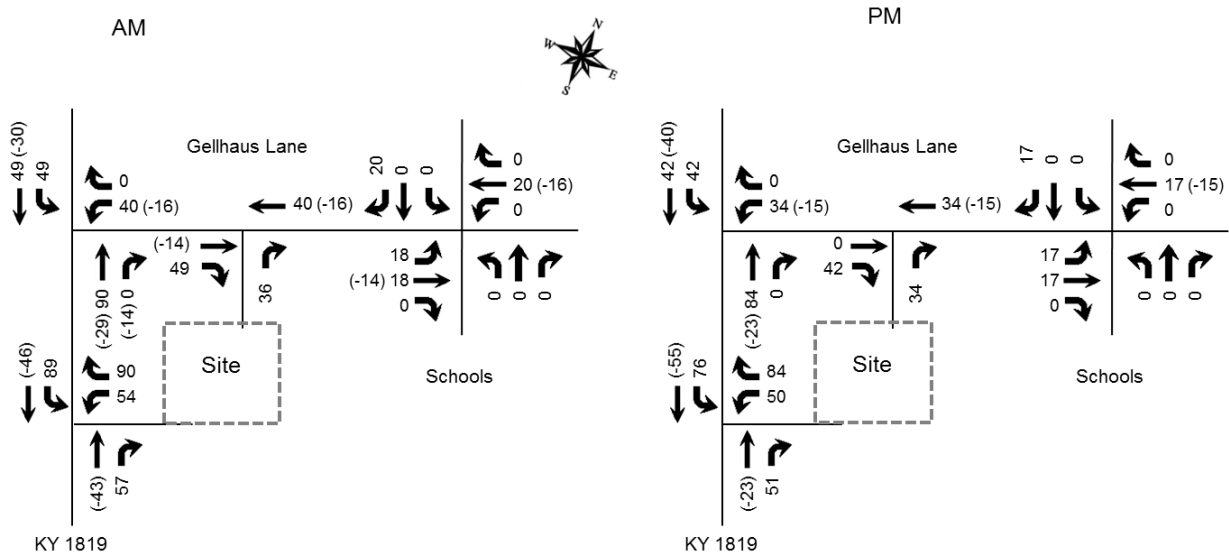
**Figure 3**  
2017 No Build Peak Hour Volumes

## Trip Generation

The Institute of Transportation Engineers Trip Generation Manual, 9<sup>th</sup> Edition contains trip generation rates for a wide range of developments. The land uses of “Gas/Service with a Convenience Market (945)”, “Fast Food with a Drive Through (934)”, and “Specialty Retail Center (826)” best describes this development. For the a.m. peak hour there is no data for Specialty Retail Center therefore “Shopping Center” (820) was used. The site plan shows three potential fast food sites incorporated into the buildings. The table below reflects the total potential square feet of fast-food space. The trip generation results are listed in **Table 1**. The results of the trip generation analysis are that this development will generate 375 a.m. peak hour trips and 337 p.m. peak hour trips. The trips were assigned to the highway network with 50 percent to/from the north, 30 percent to/from the south, 10 percent to/from Billtown Farms and 10 percent to/from Gellhaus Lane. Pass-by trips were assigned to the network using the existing traffic patterns. **Figure 4** shows the trips generated by this development and distributed throughout the road network for the year 2017 during the peak hours. Pass-by trips are shown in parenthesis. **Figure 5** displays the individual turning movements for the year 2017 for the peak hours when the development is completed.

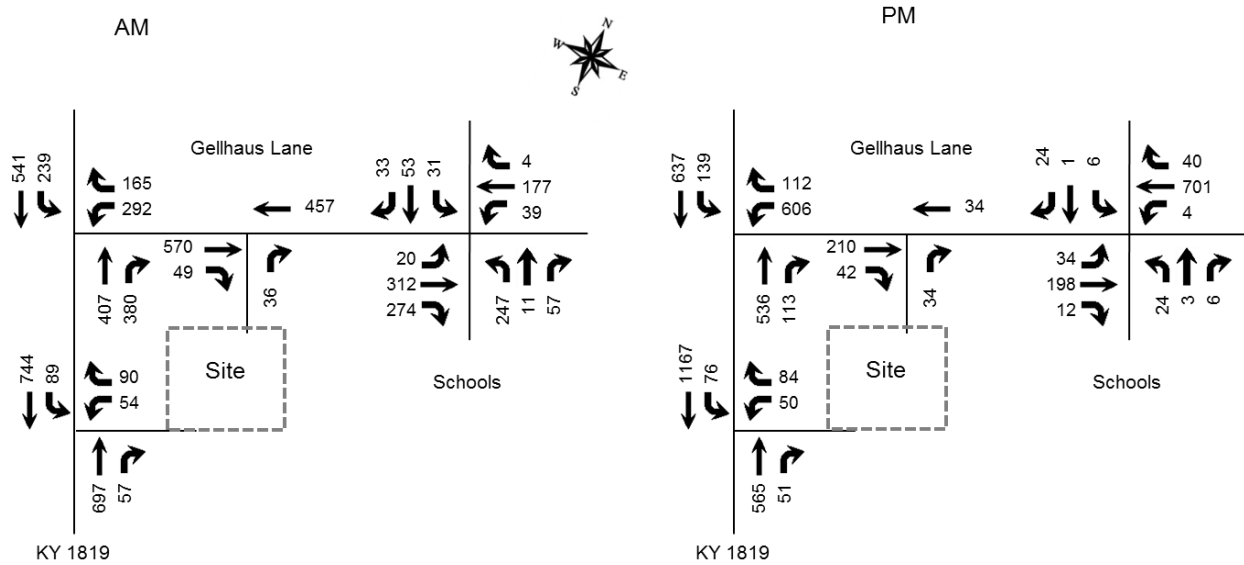
**Table 1 – Trip Generation**

	AM Peak Hour				PM Peak Hour			
	Total	Enter	Exit	Pass-by	Total	Enter	Exit	Pass-by
Gas/Service w/ Convenience Store (8 pumps)	255	130	125	64	183	95	88	48
Fast Food w/ Drive Thru Window (5,620 sq. ft.)	81	41	40	25	108	54	54	30
Specialty Retail Center (10,200 sq. ft.)	39	24	15	0	46	20	26	0
<b>TOTAL</b>	<b>375</b>	<b>195</b>	<b>180</b>	<b>89</b>	<b>337</b>	<b>169</b>	<b>168</b>	<b>78</b>



**Figure 4**  
Trip Distribution for Site





**Figure 5**  
2017 Build Peak Hour Volumes

## Analysis

The qualitative measure of operation for a roadway facility or intersection is evaluated by assigning a “Level of Service” or LOS. Level of Service is a ranking scale from A through F with each level representing a range. LOS results depend upon the type of facility that is analyzed. In this case, the LOS is based upon the average vehicle delay each movement experiences at an intersection.

To evaluate the impact of the proposed development, the vehicle delays at the intersection were determined using procedures detailed in the Highway Capacity Manual, 2010 edition. Future delay and Level of Service were determined for the intersection using HCS 2010 Streets and TWSC (version 6.70) and software. **Table 2** shows the results of the analysis for the three scenarios analyzed. The full printouts are included in Appendix B.

Using the Kentucky Transportation Cabinet Auxiliary Turn Lane Policy dated 7/20/2009 and the volumes in **Figure 5**, a southbound left turn lane will be required at the proposed entrance. The volumes do not meet the warrants for a northbound right turn lane.

**Table 2 - Level of Service Results**

	AM Peak Hour				PM Peak Hour			
	2015 Existing	2017 No Build	2017 Build	2017 Build Imp.	2015 Existing	2017 No Build	2017 Build	2017 Build Imp.
<b>Billtown Road at Gellhaus Lane</b>	<b>C</b> <b>30.2</b>	<b>D</b> <b>40.3</b>	<b>E</b> <b>64.2</b>	<b>B</b> <b>18.5</b>	<b>C</b> <b>32.6</b>	<b>D</b> <b>37.7</b>	<b>D</b> <b>50.5</b>	<b>D</b> <b>36.5</b>
Gellhaus Lane Westbound	D 37.0	D 39.9	D 44.8	C 26.8	D 43.4	D 47.9	E 75.0	D 49.6
Billtown Road Northbound	D 42.2	E 63.3	F 117.9	C 21.1	D 35.4	D 44.2	D 56.2	D 37.2
Billtown Road Southbound	B 13.7	B 16.5	C 21.5	B 11.1	C 20.1	C 22.8	C 23.1	C 23.9
<b>Gellhaus Lane at Longview Farm Drive</b>								
Gellhaus Lane Eastbound	A 9.4	A 9.4	A 9.5	A 9.5	A 9.2	A 9.4	A 9.5	A 9.5
Gellhaus Lane Westbound	A 9.3	A 9.4	A 9.4	A 9.4	A 7.6	A 7.6	A 7.7	A 7.7
School Northbound	F 96.6	F 121.4	F 190.7	F 87.8	C 15.8	C 16.5	C 18.1	C 18.0
Longview Farm Drive Southbound	B 10.5	B 10.9	B 11.6	B 10.3	B 14.2	B 14.7	B 15.0	B 15.0
<b>Billtown Road at Entrance</b>								
Entrance Westbound			D 26.9				D 31.1	
Billtown Road Southbound Left			B 10.3				A 9.2	

Note: Level of Service, delay in seconds

The poor level of service in the a.m. peak hour was further evaluated to determine improvements. At the intersection of Billtown Road and Gellhaus Lane a northbound right turn lane was evaluated and determined to provide significant improvement to the intersection. At the intersection of Gellhaus Lane at Longview Farm Drive/School entrance, an eastbound right turn lane will improve the operation of the intersection. Implementation of this option needs to be coordinated with Jefferson County Public Schools.

## Conclusions

Based upon the volume of traffic generated by the development and the amount of traffic forecasted for the year 2017, there will be manageable impacts to the existing highway network. The proposed entrance will require a southbound left turn lane.

The existing operating conditions are deficient and improvements are needed without this development. The intersection of Billtown Road at Gellhaus Lane should have a northbound right turn lane constructed. The intersection of Gellhaus Lane at Longview Drive should have an eastbound right turn lane constructed.

Tab 9

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

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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

Applicant: Shalimar Investments, LLC

Owner: Donald F. Rogers

Location: 6503 Billtown Road

Proposed Use: Gas station & retail center

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

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

### **INTRODUCTION**

This property has been the subject both discussion and contract relative to retail centers of this kind on prior occasions dating back years. The reason for that is because of its highly desirable (and of course heavily trafficked) location along Billtown Road just north of the Snyder Freeway. It would be the first right-turn in from the Snyder Freeway headed north on Billtown Road. It is already an “activity center” location because of the proximity next door to JCPS elementary and middle schools, and next door to a senior care facility, just a short distance toward Billtown Road along Gelhaus Lane from an approved apartment community and across Gelhaus Lane from the access to a large single-family subdivision called “Billtown Farms.”

### **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. This small retail center is precisely what is contemplated by the Suburban Neighborhood Form District. Indeed, when the above-referenced apartment community was discussed following public hearing and endorsement by the Metro Planning Commission, some of the Planning Commission commentary had to do with the fact that that apartment community needed a retail center located close by it, which this would provide, in order to round out the “activity center” that the apartment community and other above-named uses are a part of.

### **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 subject property adjoins the mixture of institutional, high-density residential and single-family residential uses mentioned above, placing it in the activity center that already exists in and around this location. With goods and services available in close proximity to the Snyder Freeway-Billtown Road interchange and the institutional and residential uses mentioned above, this small retail 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 small center. Others will find it a convenient first-stop on their ways home returning north along Billtown Road from the Snyder Freeway, where others will find it convenient for stops on their ways either to work in and around Jeffersontown arriving from the Snyder Freeway, or to and from the JCPS elementary and middle schools.

As an “activity center”, it is appropriately located at the intersection of collector and arterial roads, and it 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 presently is contemplated to include four uses: a convenience store, a restaurant, a branch bank and other small retail. 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 an attractive look and feel in accordance with the design elevations and photographs accompanying this application. Odors would only exist as a consequence of the proposed restaurant, but the nearest uses are the JCPS elementary and middle schools that wouldn’t even notice this. Noise would only potentially emanate from an all night or late evening convenience store. But residential properties potentially impacted by such nuisances are located significant distances away. 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 east side will be attractively screened with fence and landscaping. Parking will be shared. Loading and delivery will be located and/or screened so as to minimize impacts on nearby 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, 5, 6 and 11 of this Guideline as follows.

As set forth above, this property is located at the busy intersection of Billtown Road and the Snyder Freeway next to two JCPS schools and no longer has any single-family residential viability. As part of an existing activity center, it is designed to be a high quality, neighborhood compatible retail center. 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 Gelhaus Lane. Absent this rezoning application, this no longer suitable single-family property could not be reused in virtually any other manner.

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

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; Policies 1, 4, 5, 7, 9, 10 and 11 of Guideline 8; and Policies 1, 2, 3 and 4 of Guideline 9 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 intersection of Billtown Road and Gelhaus Lane is already a signalized one, which helps with traffic flows through that intersection and into and out of this site by creating traffic gaps for vehicles to safely enter and exit. 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. 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. The applicant's professional representatives have met with JCPS to review area resident concerns about the potential of nonfunctioning detention basins on the JCPS property and about connecting the storm water pipe from this property to that on the JCPS property. JCPS and this applicant will work together on that.

**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 the Snyder Freeway and 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 and as will be further explained at LD&T and the public hearing, 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**  
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### **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 8.2.1.D.6 to allow the LED sign to be closer than 300 ft to the adjoining residential zoned properties

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the LED for the gas pumps will be located adjacent to the Billtown Road access to the site, which is the further practical location from the existing Billtown Farms subdivision, the adjoining single family home where the senior care facility across Gellhaus Lane, and further more Billtown Farms residents have requested the LED sign in place of letters manually altered to reflect changing gas prices.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the sign is proposed as an LED one for purposes of gas prices per request of Billtown Farms residents and because it will be located at the farthest practical distance from residentially occupied buildings.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because, without this waiver the applicant would be unable to satisfy the sign design preference of the majority of residents who have stated a preference as to how gas pricing is advertised.



### **General Waiver Justification:**

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

Waiver of: Section 10.2.4 to reduce the required 25 ft property perimeter LBA to 5 ft

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the applicant has met with JCPS representatives who seem to be satisfied with privacy fencing along these lines together with other accommodations not associated with the waiver but nevertheless provided to the benefit of JCPS relative to creation of a record drainage easement and potential improvements to draining ditch along Gelhaus Lane.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this is the only landscape waiver requested, and is being requested in consultation with screening preferences of JCPS.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because, as said above, the applicant is making other accommodations to JCPS and is committed to the level of screen and buffer that JCPS requests.

**General Waiver Justification:**

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

Waiver of: Section 10.3.7 to reduce the required 50 ft Gene Snyder Freeway Buffer from 50 ft to 15 ft.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because this setback reduction is as a consequence of the adjoining state road that resulted from how the Snyder Freeway interchange was designed, severing certain properties, and that serves one large property, the front portion of which has development potential, just as this property does.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it is only in this area where this property adjoins a dead-end state road, which was created as a consequence of the Snyder Freeway interchange design.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would end up having to shrink its development on this small site without any resulting benefit to the KTC road system or other properties.

Tab 10

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

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

Applicant: Shalimar Investments, LLC

Owner: Donald F. Rogers

Location: 6503 Billtown Road

Proposed Use: Gas station & retail center

Engineers, Land Planners and Landscape Architects: Land Design & Development, 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 April 7, 2016 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

### **INTRODUCTION**

**WHEREAS**, this property has been the subject both discussion and contract relative to retail centers of this kind on prior occasions dating back years; the reason for that is because of its highly desirable (and of course heavily trafficked) location along Billtown Road just north of the Snyder Freeway; it would be the first right-turn in from the Snyder Freeway headed north on Billtown Road; and it is already an "activity center" location because of the proximity next door to JCPS elementary and middle schools, and next door to a senior care facility, just a short distance toward Billtown Road along Gellhaus Lane from an approved apartment community and across Gellhaus Lane from the access to a large single-family subdivision called "Billtown Farms"; 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; this small retail center is precisely what is contemplated by the Suburban Neighborhood Form District; indeed, when the above-referenced apartment community was discussed following public hearing and endorsement by the Metro Planning Commission, some of the Planning Commission commentary had to do with the fact that that apartment community needed a retail center located close by it, which this would provide, in order to round out the "activity center" that the apartment community and other above-named uses are a part of; 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 as follows; and

**WHEREAS**, the subject property adjoins the mixture of institutional, high-density residential and single-family residential uses mentioned above, placing it in the activity center that already exists in and around this location; with goods and services available in close proximity to the Snyder Freeway-Billtown Road interchange and the institutional and residential uses mentioned above, this small retail 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 small center; and others will find it a convenient first-stop on their ways home returning north along Billtown Road from the Snyder Freeway, where others will find it convenient for stops on their ways either to work in and around Jeffersontown arriving from the Snyder Freeway, or to and from the JCPS elementary and middle schools; and

**WHEREAS**, as an “activity center”, it is appropriately located at the intersection of collector and arterial roads, and it 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 presently is contemplated to include four uses: a convenience store, a restaurant, a branch bank and other small retail; 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 as follows; and

**WHEREAS**, as set forth above, this is a small neighborhood-serving retail center; it will have an attractive look and feel in accordance with the design elevations and photographs accompanying this application; odors would only exist as a consequence of the proposed restaurant, but the nearest uses are the JCPS elementary and middle schools that wouldn't even notice this; noise would only potentially emanate from an all night or late evening convenience store; but residential properties potentially impacted by such nuisances are located significant distances away; 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 east side will be attractively screened with fence and landscaping; parking will be shared and loading and delivery will be located and/or screened so as to minimize impacts on nearby 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, 5, 6 and 11 of this Guideline as follows; and

**WHEREAS**, as set forth above, this property is located at the busy intersection of Billtown Road and the Snyder Freeway next to two JCPS schools and no longer has any single-family residential viability; as part of an existing activity center, it is designed to be a high

quality, neighborhood compatible retail center; 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 Gellhaus Lane; and absent this rezoning application, this no longer suitable single-family property could not be reused in virtually any other manner; and

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

**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; Policies 1, 4, 5, 7, 9, 10 and 11 of Guideline 8; and Policies 1, 2, 3 and 4 of Guideline 9 as follows; and

**WHEREAS**, 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 Gellhaus Lane is already a signalized one, which helps with traffic flows through that intersection and into and out of this site by creating traffic gaps for vehicles to safely enter and exit; 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 was required to review the detailed district development plan (DDDP) submitted with this application prior to time of LD&T and Planning Commission public review; 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 are all satisfied; and 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 as follows; and

**WHEREAS**, 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 was required to review the storm water management plan and has given its preliminary stamp of approval to the DDDP prior to docketing for LD&T and Planning Commission public reviews; the applicant's professional representatives have met with JCPS to review area resident concerns about the potential of nonfunctioning detention basins on the JCPS property and about connecting the storm water pipe from this property to that on the JCPS property and JCPS and this applicant have worked together on that; and

**GUIDELINE 11 – WATER QUALITY**

**WHEREAS**, the application complies with the Intents and applicable Policies 3, 5 and 8 of this Guideline as follows; and

**WHEREAS**, 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 as follows; and

**WHEREAS**, 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 the Snyder Freeway and 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 as follows; and

**WHEREAS**, compliance with this Guideline is achieved by virtue of compliance with LDC requirements; and 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 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.

**Waiver Proposed Findings of Fact**

Waiver of: Section 10.3.7 to reduce the required 50 ft Gene Snyder Freeway Buffer from 50 ft to 15 ft.

**WHEREAS**, the waiver will not adversely affect adjacent property owners because this setback reduction is as a consequence of the adjoining state road that resulted from how the Snyder Freeway interchange was designed, severing certain properties, and that serves one large property, the front portion of which has development potential, just as this property does; 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 it is only in this area where this property adjoins a dead-end state road, which was created as a consequence of the Snyder Freeway interchange design; 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 on the applicant because the applicant would end up having to shrink its development on this small site without any resulting benefit to the KTC road system or other properties; and

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



**Waiver Proposed Findings of Fact**

Waiver of Section 8.2.1.D.6 to allow the LED sign to be closer than 300 ft to the adjoining residential zoned properties

**WHEREAS**, the waiver will not adversely affect adjacent property owners because the LED for the gas pumps will be located adjacent to the Billtown Road access to the site, which is the further practical location from the existing Billtown Farms subdivision, the adjoining single family home where the senior care facility across Gellhaus Lane, and further more Billtown Farms residents have requested the LED sign in place of letters manually altered to reflect changing gas prices; 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 sign is proposed as an LED one for purposes of gas prices per request of Billtown Farms residents and because it will be located at the farthest practical distance from residentially occupied buildings; 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 on the applicant because, without this waiver the applicant would be unable to satisfy the sign design preference of the majority of residents who have stated a preference as to how gas pricing is advertised;

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

**Waiver Proposed Findings of Fact**

Waiver of: Section 10.2.4 to reduce the required 25 ft property perimeter LBA to 5 ft

**WHEREAS**, the waiver will not adversely affect adjacent property owners because the applicant has met with JCPS representatives who seem to be satisfied with privacy fencing along these lines together with other accommodations not associated with the waiver but nevertheless provided to the benefit of JCPS relative to creation of a record drainage easement and potential improvements to draining ditch along Gellhaus Lane; 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 this is the only landscape waiver requested, and is being requested in consultation with screening preferences of JCPS; 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 on the applicant because, as said above, the applicant is making other accommodations to JCPS and is committed to the level of screen and buffer that JCPS requests;

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