

DOCKET NO. 16ZONE1031

ZONE CHANGE FROM R-4 TO C-1 FOR AN ADJACENT
PARCEL IN ORDER TO REPLACE THE EXISTING C-1
ZONED GAS AND CONVENIENCE STORE WITH A NEW
LARGER STORE ON PROPERTY LOCATED AT
12411 AND 12415 TAYLORSVILLE ROAD

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Attorneys: Bardenwerper Talbott & Roberts, PLLC

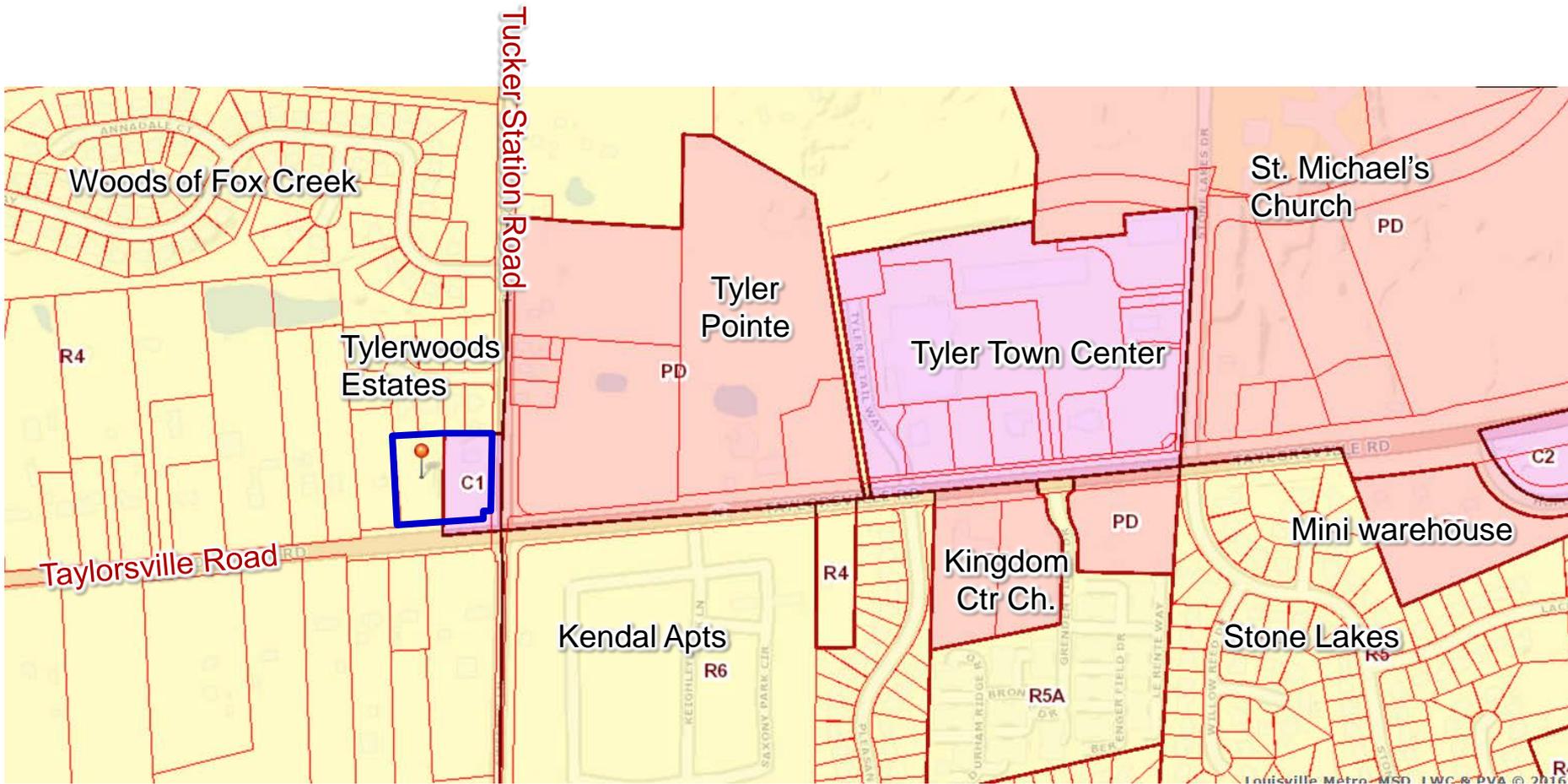
Land Planners, Landscape Architects & Engineers: Classickle Engineering & BlueStone Engineers, PLLC.

Architect: Architectural Investments

Tab 1

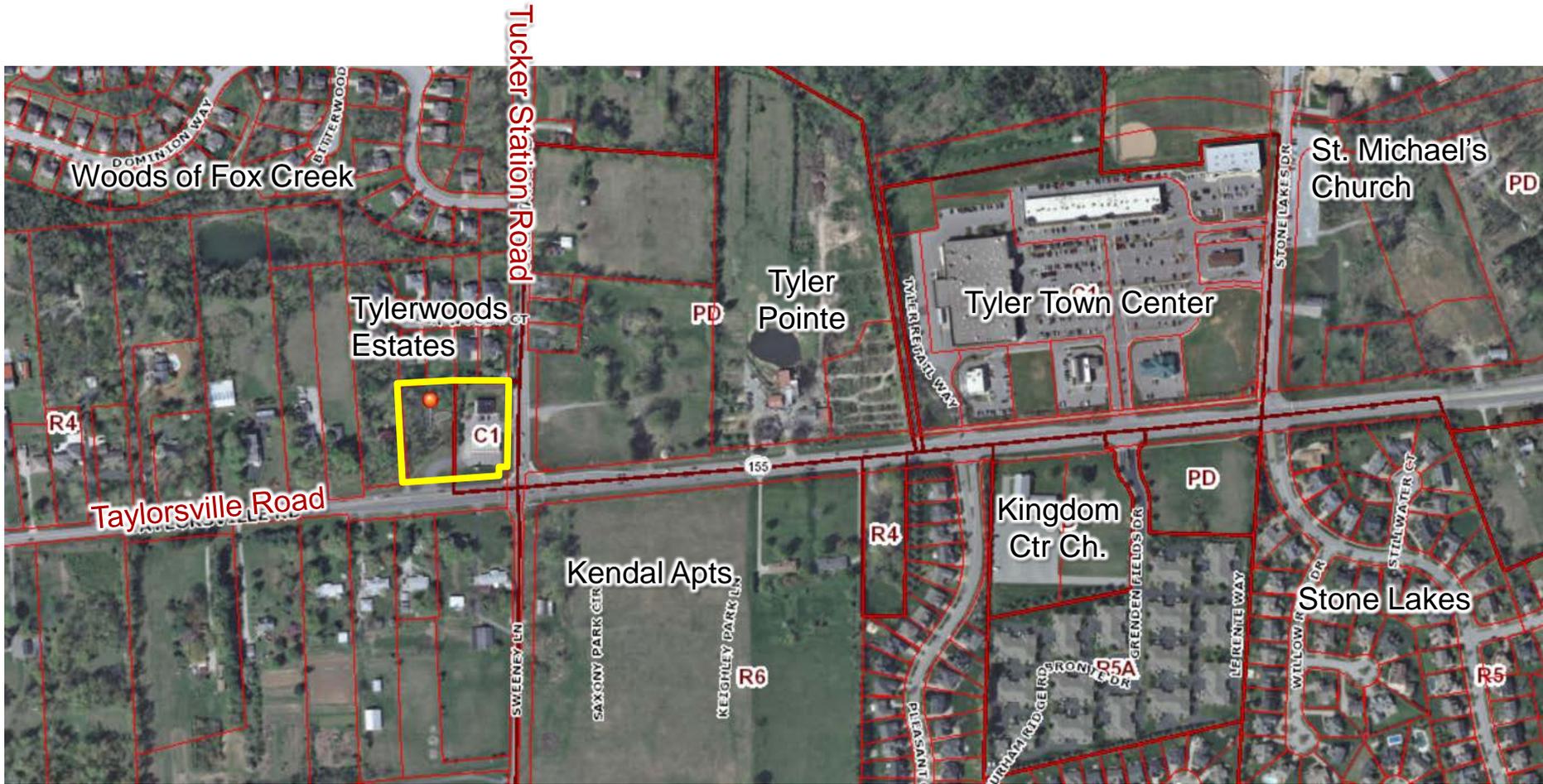
LOJIC Zoning Map





Tab 2

**Aerial photographs of the site and
surrounding areas**



Tab 3

Ground level photographs of the existing Circle K/Shell gas station and convenience store



View looking north from Taylorsville Road.



Taylorsville Road

View looking north from Taylorsville Road.



View looking north from intersection of Taylorsville and Tucker Station Roads.



View looking north from intersection of Taylorsville and Tucker Station Roads.



Google

View looking northwest from Tucker Station Road.



Taylorville Road

Tucker Station Road

View looking west from Tucker Station Road.

Tab 4

**Neighborhood Meeting notice list
map, letter to neighbors inviting
them to meetings and summary of
meetings**



BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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William B. Bardenwerper
Direct dial: 426-0388, ext. 125
Email: WBB@BARDLAW.NET

May 11, 2016

Dear Neighbor,

RE: Proposed change in zoning from R-4 to C-1 on 1.04 +/- acres on a total of 2.09 +/- acre site, 1.05 +/- acres of which are already zoned C-1, including a Revised Detailed District Development Plan (“RDDDP”) and Detailed District Development Plan (“DDDP”) for a Circle K gas and convenience store, located at the northwest quadrant of the Taylorsville and Tucker Station Roads intersection at 12411 & 12415 Taylorsville Rd.

We are writing to invite you to a meeting we have scheduled to present neighbors with our rezoning and revised detailed district development plan to allow a new Circle K gas and convenience store at this site. The new Circle K will be a larger facility which will better assist Circle K in providing customers’ needs and wants in this high growth area. This 50% larger site will assure a more successful business.

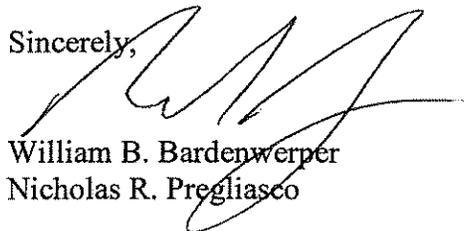
Accordingly, we will file a plan for pre-application review on Monday, May 16th with the Division of Planning and Design Services (DPDS) that we would like to show and explain to neighbors so that we might hear what thoughts, issues and perhaps even concerns you may have.

Once the pre-application plan is filed, a case number and case manager will be assigned, and we will let you know what and who that is at the meeting. In that regard, a meeting will be held on **Wednesday, May 25th at 7:00 p.m.** at the **St. Michael School, in the cafeteria (a/k/a Griner Center)** located at **3703 Stone Lakes Drive.**

If you cannot attend the meeting but have questions or concerns, please call either of us at 426-6688.

We look forward to seeing you.

Sincerely,



William B. Bardenwerper
Nicholas R. Pregliasco

Cc: Hon. Kevin Kramer, Councilman, District 11
Hon. Stuart Benson, Councilman, District 10
Tucker Station Neighborhood Association, c/o Steve Porter and David Kaelin
Gregg Guy, Real Estate Manager, Circle K
Brian Davis, supervisor with Division of Planning & Design Services
Anthony Sickles, land planners with Classickle Engineering

BARDENWERPER, TALBOTT & ROBERTS, PLLC

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

November 14, 2016

Dear Neighbor,

RE: Follow-up meeting regarding the proposed change in zoning from R-4 to C-1 on 1.04 +/- acres on a total of 2.09 +/- acre site, 1.05 +/- acres of which are already zoned C-1, including a Revised Detailed District Development Plan (“RDDDP”) and Detailed District Development Plan (“DDDP”) for a Circle K gas and convenience store, located at the northwest quadrant of the Taylorsville and Tucker Station Roads intersection at 12411 & 12415 Taylorsville Rd. (Case No. 16ZONE1031, Julia Williams – Case Manager)

We are writing to invite you to a follow-up meeting to the one we held on May 25, 2016 to again present neighbors with our rezoning and revised detailed district development plan to allow a new Circle K gas and convenience store at this site. The new Circle K will be a larger facility which will better assist Circle K in providing customers’ needs and wants in this high growth area. This 50% larger site will assure a more successful business.

Accordingly, this follow-up meeting will be held on **Tuesday, November 29th at 7:00 p.m.** at the **St. Michael School, in the cafeteria (a/k/a Griner Center)** located at **3703 Stone Lakes Drive.**

If you cannot attend the meeting but have questions or concerns, please call either of me at 426-6688.

We look forward to seeing you.

Sincerely,



Nicholas R. Pregliasco

Cc: Hon. Kevin Kramer, Councilman, District 11
Hon. Stuart Benson, Councilman, District 20
Tucker Station Neighborhood Association, c/o Steve Porter and David Kaelin
Gregg Guy, Real Estate Manager, Circle K
Julia Williams, case manager with Division of Planning & Design Services
Anthony Sickles, land planners with Classickle Engineering

Neighborhood Meeting Summary

A neighborhood meeting was held on Wednesday, May 25, 2016 and Tuesday, November 29, 2016 at 7:00 p.m. at the St. Michael School located at 3703 Stone Lakes Drive.

Those in attendance included the applicant's representatives, Nick Pregliasco, attorney and Chris Crumpton, land planner and engineer with Bluestone Engineers, as well as the applicant. At the first neighborhood meeting, Nick Pregliasco presented a powerpoint presentation as to the site, the existing Circle K gas station that has been in existing for some time, and the proposed new Circle K gas station which is larger and will also include the adjoining residential property to the West, with the current gas station site already properly zoned. Nick Pregliasco showed the new proposed Development Plan and answered questions along with Chris Crumpton as to same, including traffic, the buffering along the properties to the North, the detention basin proposed and the drainage. The two existing curb cuts are proposed to remain. Chris answered questions as to the technical questions on the drainage, tree canopy, and setbacks. At the meeting, questions were asked as to the Tyler Rural Settlement District Neighborhood Plan. Due to the concerns raised on the style and design at this meeting, the Applicant and its representatives met with Steve Porter and representatives of the Tyler Neighborhood Association to discuss proposed changes to the building layout and the style and design of the gas station. After the meeting, Nick Pregliasco continued to work with Mr. Porter and representatives of the Neighborhood Association on new elevations and renderings with new ones sent over for review. Afterward, due to the changes both to the Development Plan and the style and design of the gas station, another neighborhood meeting was scheduled and conducted on November 29, 2016 to show the new Development Plan and the new proposed elevations to explain the changes made, along with Applicant's architect Kevin Burns. A new powerpoint was presented, showing the full proposal for those not in attendance at the first neighborhood meeting and then showing in detail all of the changes made from the first meeting. Kevin explained all the changes to the building, the proposed sign, and the proposed gas canopy and took questions as to the changes made and the ones that couldn't be made for various reasons. Neighbors to the North expressed concerns as to the screening and buffering and those were discussed as to what was requested. Concerns over potential crime were discussed with the new apartment project across Taylorsville Road. Questions as to the outdoor storage area were discussed along with possibly proposed change to the porch area on the East side of the property to make this storage instead of a porch (which was added based upon the Tyler Rural Settlement Plan). This idea would allow the style and design of showing a porch but not leave it as an area for loitering. Neighbors also discussed the idea of not having the building centered on the parking and gas station tanks. At the meeting, Chris answered questions as to trees on the site and those that would remain.

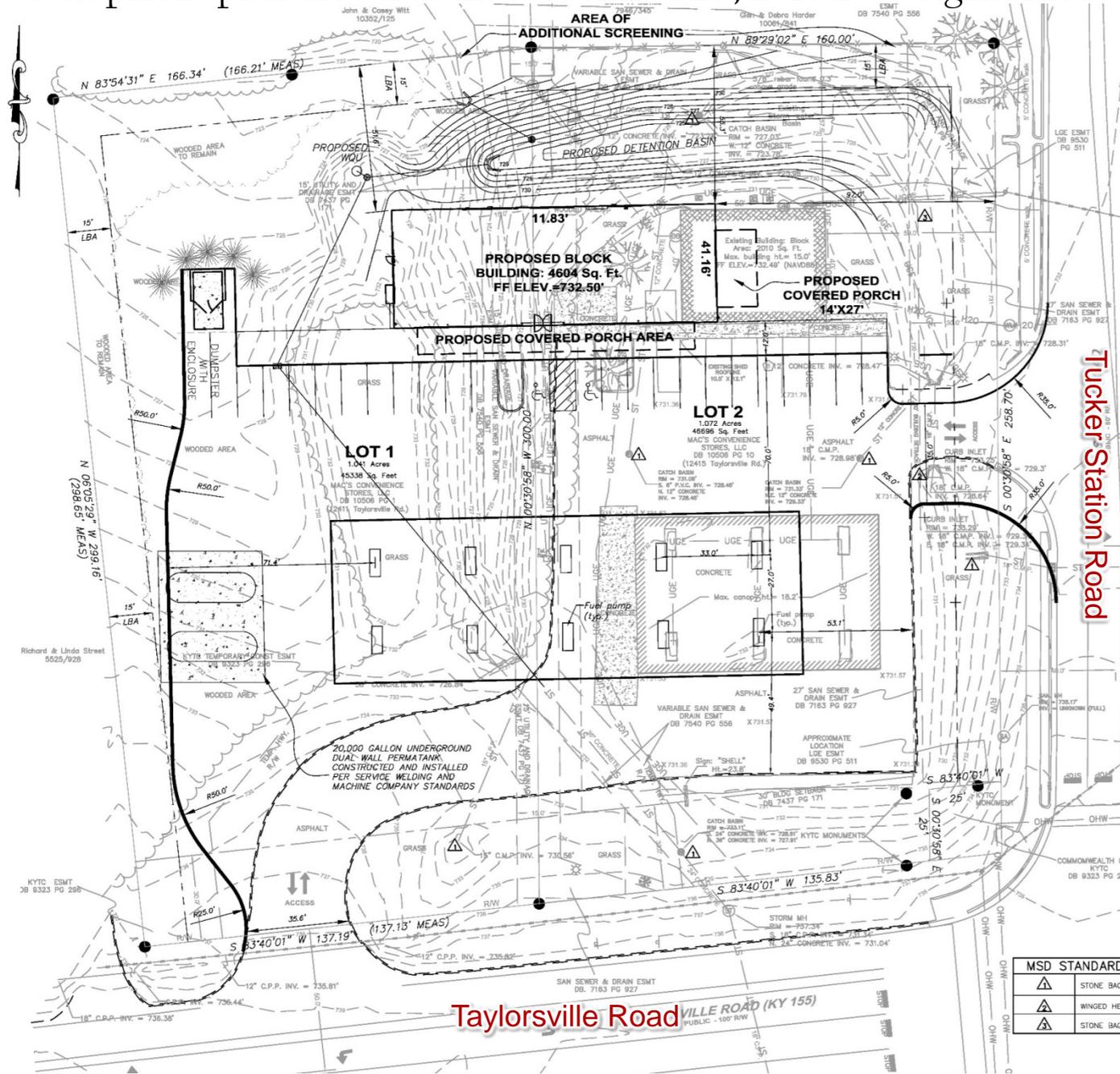
Tab 5

**Previous development plans shown at
the 5/24/16 and 11/29/16 neighbor
meetings**

Previous development plan shown at the May 24, 2016 Neighborhood Meeting



Previous development plan shown at the November 29, 2016 2nd Neighborhood Meeting



Taylorsville Road (KY 155)

Tucker Station Road

MSD STANDARD	
	STONE BAG
	WINGED HEI
	STONE BAG

Tab 6

Current development plan



Tucker Station Road

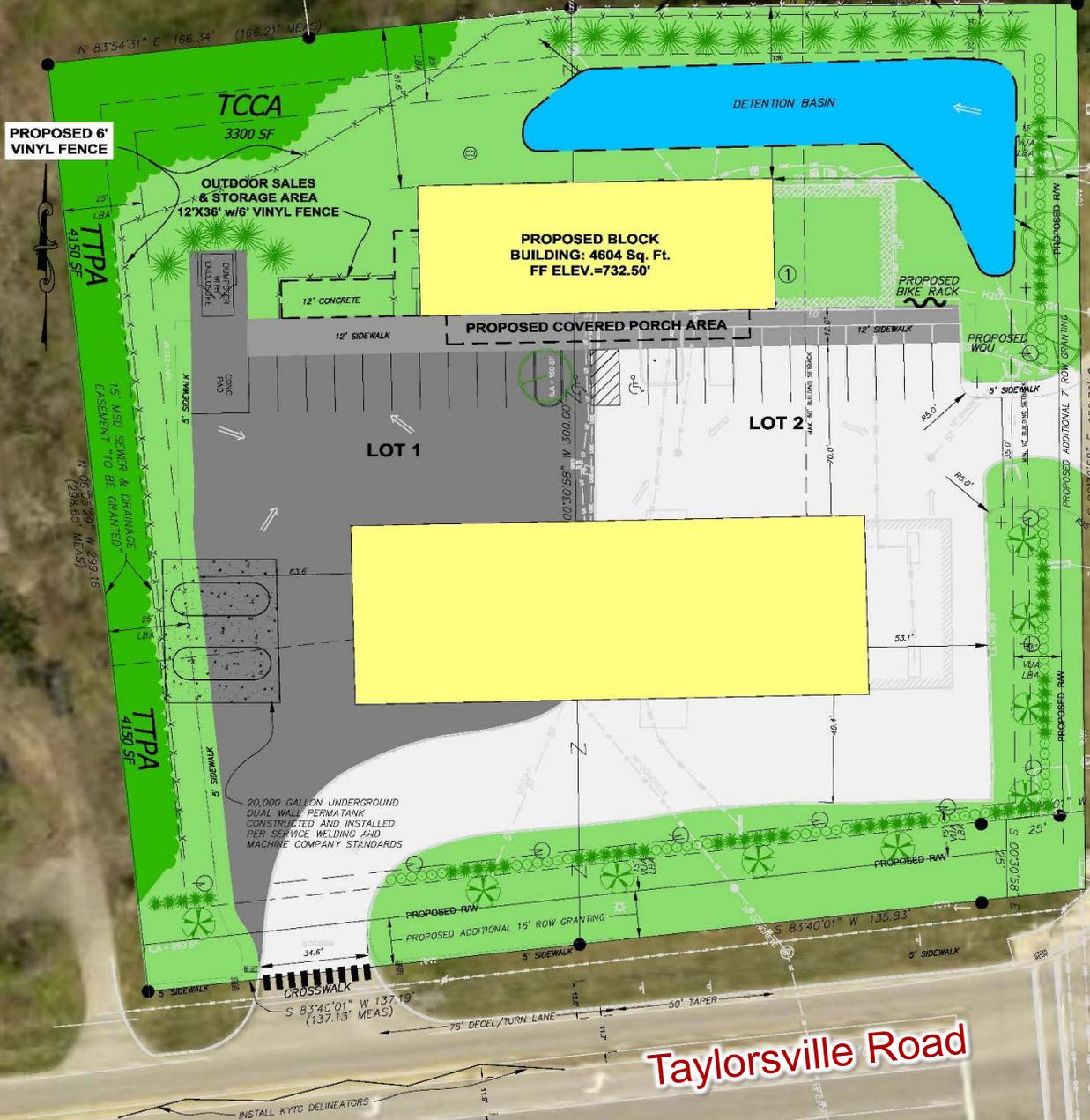
Taylorsville Road



Current Development Plan

PROPOSED 6' VINYL FENCE

PROPOSED 6' VINYL FENCE



TCCA
3300 SF

DETENTION BASIN

OUTDOOR SALES
& STORAGE AREA
12'X36' w/6' VINYL FENCE

PROPOSED BLOCK
BUILDING: 4604 Sq. Ft.
FF ELEV.=732.50'

PROPOSED COVERED PORCH AREA

LOT 1

LOT 2

TPPA
4150 SF

TPPA
4150 SF

20,000 GALLON UNDERGROUND
DUAL WALL PERMATANK
CONSTRUCTED AND INSTALLED
PER SERVICE WELDING AND
MACHINE COMPANY STANDARDS

Tucker Station Road

Taylorville Road

3" MIN.
DEP TH
HARDWOOD

4/1/20

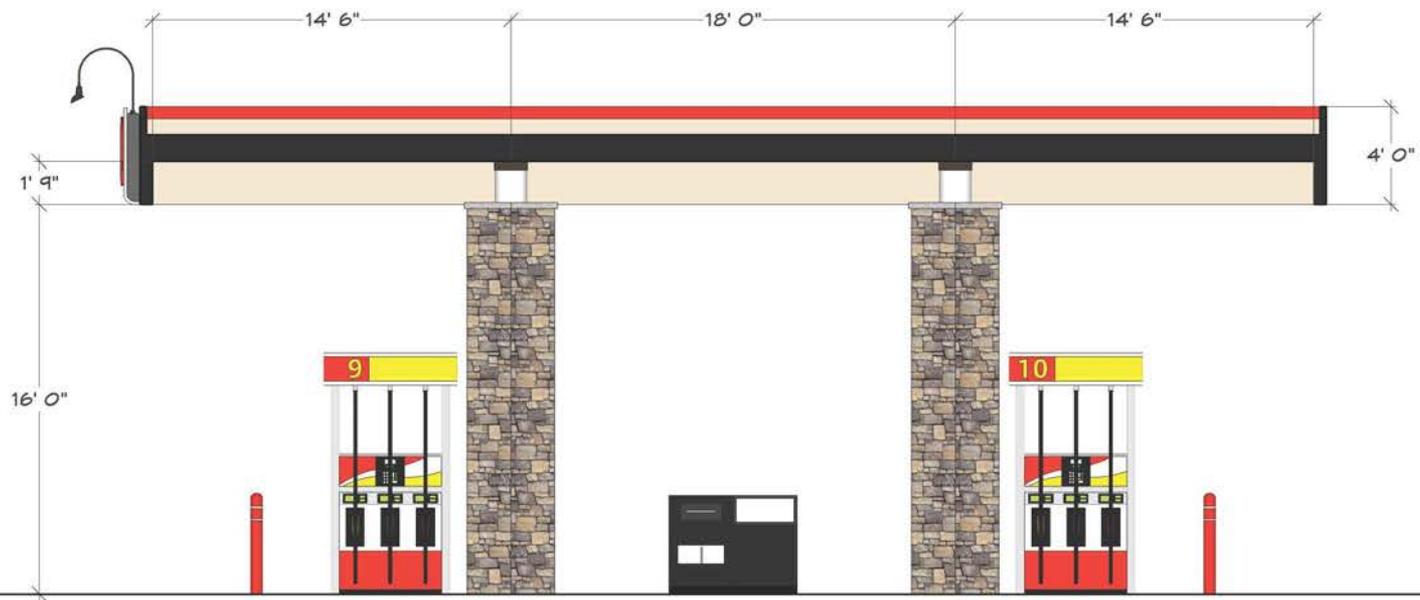
Tab 7

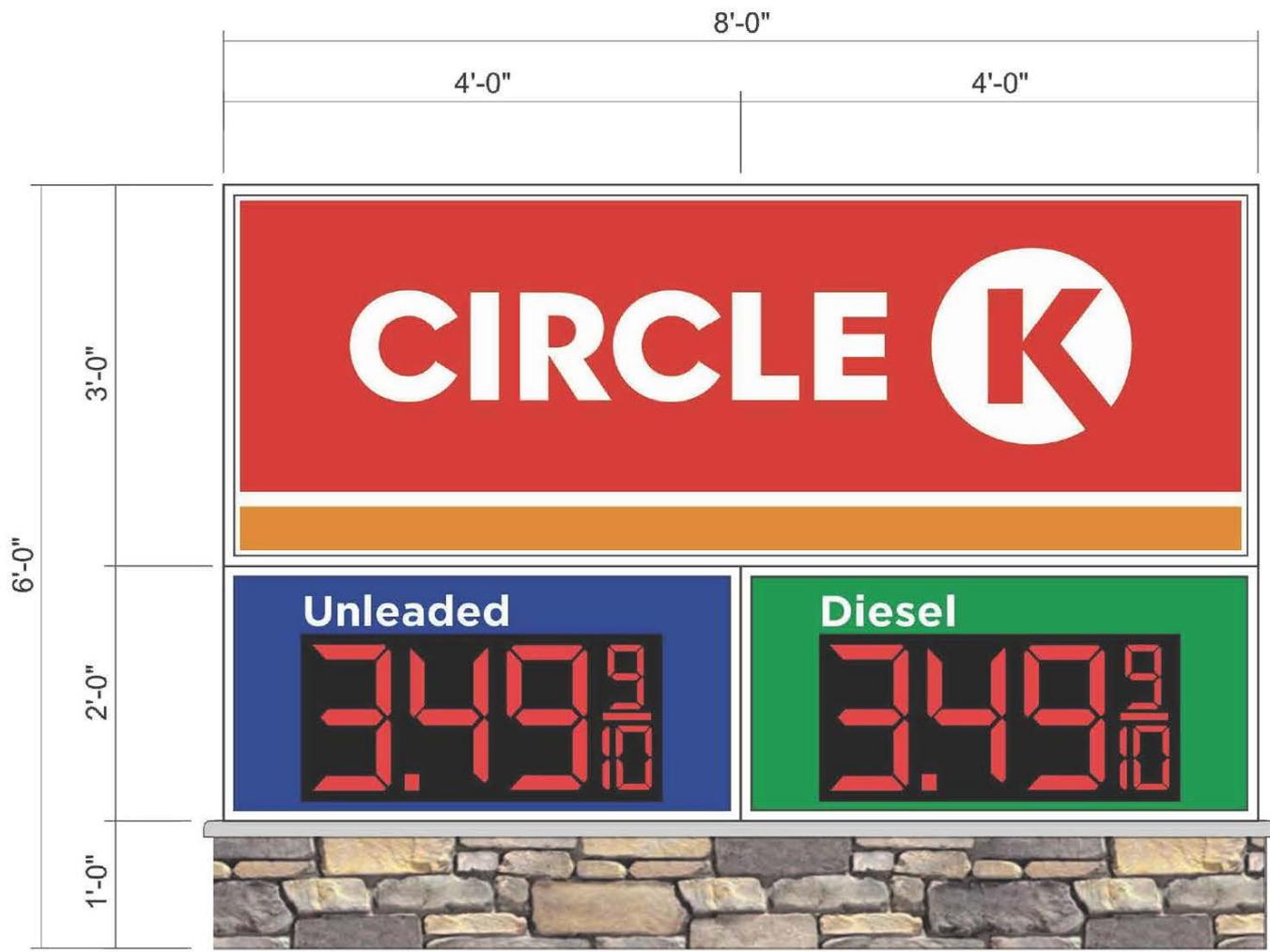
**Proposed building and gas pump
elevations and monument sign
elevation**











Tab 8

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 Justifications



BARDENWERPER, TALBOTT & ROBERTS, PLLC

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

Applicant/Owner: Mac's Convenience Stores, LLC

Location: 12411 Taylorsville Road

Proposed Use: Circle K Gas and Convenience Store

Engineers, Land Planners and
Landscape Architects: Classickle Engineering

Request: Change in Zoning from R-4 to C-1

INTRODUCTION

This rezoning involves a proposal to add approximately 1.04 acres to an existing 1.05 acre already C-1 zoned gas and convenience store site in order that the resulting, new gas and convenience store is a larger combined 2.09 acre site better able to accommodate a modern day Circle K gas and convenience store, more closely designed in accordance with Tyler Rural Settlement District design criteria. Long term, multiple neighborhood meeting efforts have resulted in the improved, yet admittedly expanded, gas and convenience store proposed for this location.

GUIDELINE 1 – COMMUNITY FORM

The proposed gas and convenience store on this site is appropriate because Suburban Neighborhoods contain retail uses at appropriate locations at appropriate scale when designed to be compatible with residential neighborhoods. This proposal is to combine a new unzoned site with an already C-1 zoned site that takes into account, as noted above, Tyler Rural Settlement District design criteria as promoted by the Tucker Station Neighborhood Association. The result is a gas and convenience store closer to the design expectations of the Suburban Neighborhood form district.

GUIDELINE 2: CENTERS

The proposed gas and convenience store complies with all of the applicable Intents and Policies 2, 3, 4, 5, 7, 8, 9, 11, 12, 13, 14 and 15 of Guideline 2. This is because the added site, adjacent to an already properly C-1 zoned site that has long been a gas station site, involves an efficient use of land similarly used next door and an investment in existing infrastructure. Gas and convenience customers already visiting the existing gas station long established next door will have travel times and distances reduced when buying their gas and convenience items along a busy arterial already lined from Tucker Station Road east to the Snyder Freeway with other Planned Development District (PDD) zoned properties. Since this is an expansion of an already

properly C-1 zoned site with a history of gas station use located next door, this rezoning does not involve an isolated commercial use expansion. The activity center already established along this stretch of Taylorsville Road means this involves an expansion of same and not the creation of a new activity center. The small addition of land to a long-standing gas and convenience store site promises to enhance the commercial use already existing at that location. The new Circle K store to locate here and next door will be of a high-end design, much more closely compatible with Tyler Rural Settlement District design criteria. Existing utilities will be utilized. Parking will be well landscaped and screening is imposed along the residential side of the property to the north where the proposed detention basin is located.

GUIDELINE 3: COMPATIBILITY

The proposed gas and convenience store complies with all of the applicable Intents and Policies 1, 2, 4, 5, 6, 7, 8, 9, 20, 21, 22, 23, 24, 28 and 29 of Guideline 3. This is because the proposed new gas and convenience store here and next door is a compatible use in an area of other PDD/commercial activities. The proposed Circle K store will replace the presently existing older store on the already C-1 zoned adjacent site which will hereinafter include an attractive building consisting of high quality building materials and design elements selected to conform to the maximum extent possible with the Tyler Rural Settlement District design criteria. Odors and air quality emissions, traffic, noise, lighting and visual impacts are addressed on this DDDP site by virtue of proposed detailed landscaping, screening, lighting, drainage facility and store designs proposed through meetings with the Tucker Station Neighborhood Association and other neighbors. The accompanying images from the neighborhood meetings detail a lot of this, including enhanced setbacks with good screening and buffering, less intense lighting and much better building design.

GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

The proposed gas and convenience store complies with all of the applicable Intents and Policies 1, 2, 5 and 6 of Guideline 6. This is because this site represents a small expansion at a high-traffic location to accommodate a new gas and convenience store in an already existing activity center. This reduces costs of land development and further promotes an existing employment center with good access to a support population that will visit this new gas and convenience store.

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

The proposed gas and convenience store complies with all of the applicable Intents and Policies 1, 2, 4, 10, 11, 13, 14, 15 and 18 of Guideline 7, Policies 1, 5, 7, 8, 9, 10 and 11 of Guideline 8, and Policies 1, 2, 3 and 4 of Guideline 9. This is because Taylorsville Road has adequate traffic-carrying capacity for business growth, and a updated gas and convenience store with better design does not necessarily generate more traffic than at present but rather better serves its existing customers. Since roads systems are adequate, the issues to address, as addressed on the DDDP accompanying this application, involve the issues of parking adequacy, alternative transportation modes, and whether internal traffic movements, internal parking arrangements and access from Taylorsville Road are appropriately designed. The DDDP accompanying this application satisfies all of the design requirements of Metro Public Works and Transportation

planning which are inherent in all three of these Guidelines. The DDDP must receive the preliminary stamp of approval from these agencies prior to public review.

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

The proposed gas and convenience store complies with all of the applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10, Policies 3 and 5 of Guideline 11, and Policies 1, 4, 7, 8 and 9 of Guideline 12. This is because MSD requires that post development peak rates of runoff do not exceed pre-development conditions and that adjacent properties are not adversely affected by the subject site's new and through drainage from storm water run-off. The detention basin shown on the DDDP accomplishes this. MSD's preliminary stamp of approval will be required on the DDDP prior to public review. MSD has also established soil erosion and sediment control as well as water quality standards which must be met with this development's construction plans. As to all of the Policies associated with air quality, they are always addressed when commuting times and distances are reduced when new activities congregate, as here, in an existing activity center.

GUIDELINE 13 – LANDSCAPE CHARACTER

The proposed gas and convenience store complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5 and 7 of Guideline 13. This is because, as the concept landscape plan produced at the neighborhood meetings and accompanying this application demonstrate, as will be included in the eventual landscape plan filed with DPDS post zoning approval, that this site will not just comply with, but rather exceed, LDC landscape requirements. And as mentioned above as respects stormwater management, enhanced landscaping, screening and buffering are added next door where not required.

* * *

For all of these and other reasons set forth on the Detailed District Development Plan accompanying this application and in accordance with evidence presented at Planning Commission public hearings, this application will comply with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,

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

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: Section 5.1.8 of the Land Development Code to allow the building to exceed the maximum building setback from Taylorsville Road and from Tucker Station Road.

1. The variance will not adversely affect the public health, safety or welfare because there is no evidence that the extra setback at this location will cause any traffic or other safety problems; indeed the opposite would occur if safe and convenient access and internal circulation were not provided. The proposed new building will also not set back any further from Taylorsville Road than the existing gas station building currently does.
2. The variance will not alter the essential character of the general vicinity because the existing building is an old and unsightly cinder block building, which is proposed to be replaced with a new and improved building with the design aimed to be compatible with the Tyler Rural Settlement District neighborhood plan after meeting with representatives of the neighboring homes and association. The additional gas canopies will also provide the appearance of being closer to Taylorsville Road.
3. The variance will not cause a hazard or a nuisance to the public because of the reasons set forth above, notably the fact that the existing points of access and circulation shall remain with an added improvement for a new turn lane. Further, a covered porch has been added after meetings with neighbors aimed at compliance with the Tyler Rural Settlement District neighborhood plan providing an appearance the building is closer to Tucker Station Road.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this design will result in an improvement of the existing building and current parking layout.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this is an as-built site that is out of Land Development Code compliance, and this proposal represents an opportunity to utilize an underperforming site and to bring investment to the area.
2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the expanded gas station and convenience store simply could not be accommodated on this site without these variances.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought but rather are a result of a constrained site based on size and location.

Tab 9

Proposed findings of fact pertaining to compliance with the the Cornerstone 2020 Comprehensive Plan, Variance and Waiver criteria

BARDENWERPER, TALBOTT & ROBERTS, PLLC

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

Applicant/Owner: Mac's Convenience Stores, LLC

Location: 12411 Taylorsville Road

Proposed Use: Circle K Gas and Convenience Store

Engineers, Land Planners and Landscape Architects: BlueStone Engineers, PLLC & Classickle Engineering

Request: Change in Zoning 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 January 18, 2018 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

INTRODUCTION

WHEREAS, this rezoning involves a proposal to add approximately 1.04 acres to an existing 1.05 acre already C-1 zoned gas and convenience store site in order that the resulting, new gas and convenience store is a larger combined 2.09 acre site better able to accommodate a modern day Circle K gas and convenience store, more closely designed in accordance with Tyler Rural Settlement District design criteria; and long term, multiple neighborhood meeting efforts have resulted in the improved, yet admittedly expanded, gas and convenience store proposed for this location.

GUIDELINE 1 – COMMUNITY FORM

WHEREAS, the proposed gas and convenience store on this site is appropriate because Suburban Neighborhoods contain retail uses at appropriate locations at appropriate scale when designed to be compatible with residential neighborhoods; this proposal is to combine a new unzoned site with an already C-1 zoned site that takes into account, as noted above, Tyler Rural Settlement District design criteria as promoted by the Tucker Station Neighborhood Association; and the result is a gas and convenience store closer to the design expectations of the Suburban Neighborhood form district.

GUIDELINE 2: CENTERS

WHEREAS, the proposed gas and convenience store complies with all of the applicable Intents and Policies 2, 3, 4, 5, 7, 8, 9, 11, 12, 13, 14 and 15 of Guideline 2 because the added site, adjacent to an already properly C-1 zoned site that has long been a gas station site, involves an efficient use of land similarly used next door and an investment in existing infrastructure; gas and convenience customers already visiting the existing gas station long established next door will have travel times and distances reduced when buying their gas and convenience items along a busy arterial already lined from Tucker Station Road east to the Snyder Freeway with other Planned Development District (PDD) zoned properties; since this is an expansion of an already properly C-1 zoned site with a history of gas station use located next door, this rezoning does not involve an isolated commercial use expansion; the activity center already established along this stretch of Taylorsville Road means this involves an expansion of same and not the creation of a new activity center; the small addition of land to a long-standing gas and convenience store site promises to enhance the commercial use already existing at that location; the new Circle K store to locate here and next door will be of a high-end design, much more closely compatible with Tyler Rural Settlement District design criteria; existing utilities will be utilized; and parking will be well landscaped and screening is imposed along the residential side of the property to the north where the proposed detention basin is located.

GUIDELINE 3: COMPATIBILITY

The proposed gas and convenience store complies with all of the applicable Intents and Policies 1, 2, 4, 5, 6, 7, 8, 9, 20, 21, 22, 23, 24, 28 and 29 of Guideline 3; this is because the proposed new gas and convenience store here and next door is a compatible use in an area of other PDD/commercial activities; the proposed Circle K store will replace the presently existing older store on the already C-1 zoned adjacent site which will hereinafter include an attractive building consisting of building materials and design elements selected to conform to the maximum extent possible with the Tyler Rural Settlement District design criteria; odors and air quality emissions, traffic, noise, lighting and visual impacts are addressed on this DDDP site by virtue of proposed detailed landscaping, screening, lighting, drainage facility and store designs proposed through meetings with the Tucker Station Neighborhood Association and other neighbors; and the accompanying images from the neighborhood meetings detail a lot of this, including enhanced setbacks with good screening and buffering, less intense lighting and much better building design.

GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

The proposed gas and convenience store complies with all of the applicable Intents and Policies 1, 2, 5 and 6 of Guideline 6; this is because this site represents a small expansion at a high-traffic location to accommodate a new gas and convenience store in an already existing activity center; and this reduces costs of land development and further promotes an existing employment center with good access to a support population that will visit this new gas and convenience store.

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

The proposed gas and convenience store complies with all of the applicable Intents and Policies 1, 2, 4, 10, 11, 13, 14, 15 and 18 of Guideline 7, Policies 1, 5, 7, 8, 9, 10 and 11 of Guideline 8,

and Policies 1, 2, 3 and 4 of Guideline 9; this is because Taylorsville Road has adequate traffic-carrying capacity for business growth, and the applicant is mitigating any negative impact through the addition of a deceleration lane; and a updated gas and convenience store with better design does not necessarily generate more traffic than at present but rather better serves its existing customers; since roads systems are adequate, the issues to address, as addressed on the DDDP accompanying this application, involve the issues of parking adequacy, alternative transportation modes, and whether internal traffic movements, internal parking arrangements and access from Taylorsville Road are appropriately designed; the DDDP accompanying this application satisfies all of the design requirements of Metro Public Works and Transportation planning which are inherent in all three of these Guidelines; and the DDDP must receive the preliminary stamp of approval from these agencies prior to public review.

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

The proposed gas and convenience store complies with all of the applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10, Policies 3 and 5 of Guideline 11, and Policies 1, 4, 7, 8 and 9 of Guideline 12; this is because MSD requires that post development peak rates of runoff do not exceed pre-development conditions and that adjacent properties are not adversely affected by the subject site's new and through drainage from storm water run-off; the detention basin shown on the DDDP accomplishes this; MSD's preliminary stamp of approval will be required on the DDDP prior to public review; MSD has also established soil erosion and sediment control as well as water quality standards which must be met with this development's construction plans; and as to all of the Policies associated with air quality, they are always addressed when commuting times and distances are reduced when new activities congregate, as here, in an existing activity center.

GUIDELINE 13 – LANDSCAPE CHARACTER

The proposed gas and convenience store complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5 and 7 of Guideline 13; this is because, as the concept landscape plan produced at the neighborhood meetings and accompanying this application demonstrate, as will be included in the eventual landscape plan filed with DPDS post zoning approval, that this site will not just comply with, but rather exceed, LDC landscape requirements; and as mentioned above as respects stormwater management, enhanced landscaping, screening and buffering are added next door where not required.

* * *

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 and approves the Detailed District Development Plan.

Variance Findings of fact

Variance of: Section 5.1.8 of the Land Development Code to allow the building to exceed the maximum building setback from Taylorsville Road and from Tucker Station Road.

WHEREAS, the variance will not adversely affect the public health, safety or welfare because there is no evidence that the extra setback at this location will cause any traffic or other safety problems; indeed the opposite would occur if safe and convenient access and internal circulation were not provided; and the proposed new building will also not set back any further from Taylorsville Road than the existing gas station building currently does; and

WHEREAS, the variance will not alter the essential character of the general vicinity because the existing building is an old and unsightly cinder block building, which is proposed to be replaced with a new and improved building with the design aimed to be compatible with the Tyler Rural Settlement District neighborhood plan after meeting with representatives of the neighboring homes and association; and the additional gas canopies will also provide the appearance of being closer to Taylorsville Road; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because of the reasons set forth above, notably the fact that the existing points of access and circulation shall remain with an added improvement for a new turn lane; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this design will result in an improvement of the existing building and current parking layout; and

WHEREAS, the Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this is an as-built site that is out of Land Development Code compliance, and this proposal represents an opportunity to utilize an underperforming site and to bring investment to the area; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the expanded gas station and convenience store simply could not be accommodated on this site without this variance; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought but rather are a result of a constrained site based on size and location;

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