

Louisville Metro Planning Commission Public Hearing - September 15, 2022
Louisville Metro Land Development & Transportation Committee - August 25, 2022
Neighborhood Meeting - March 31, 2022

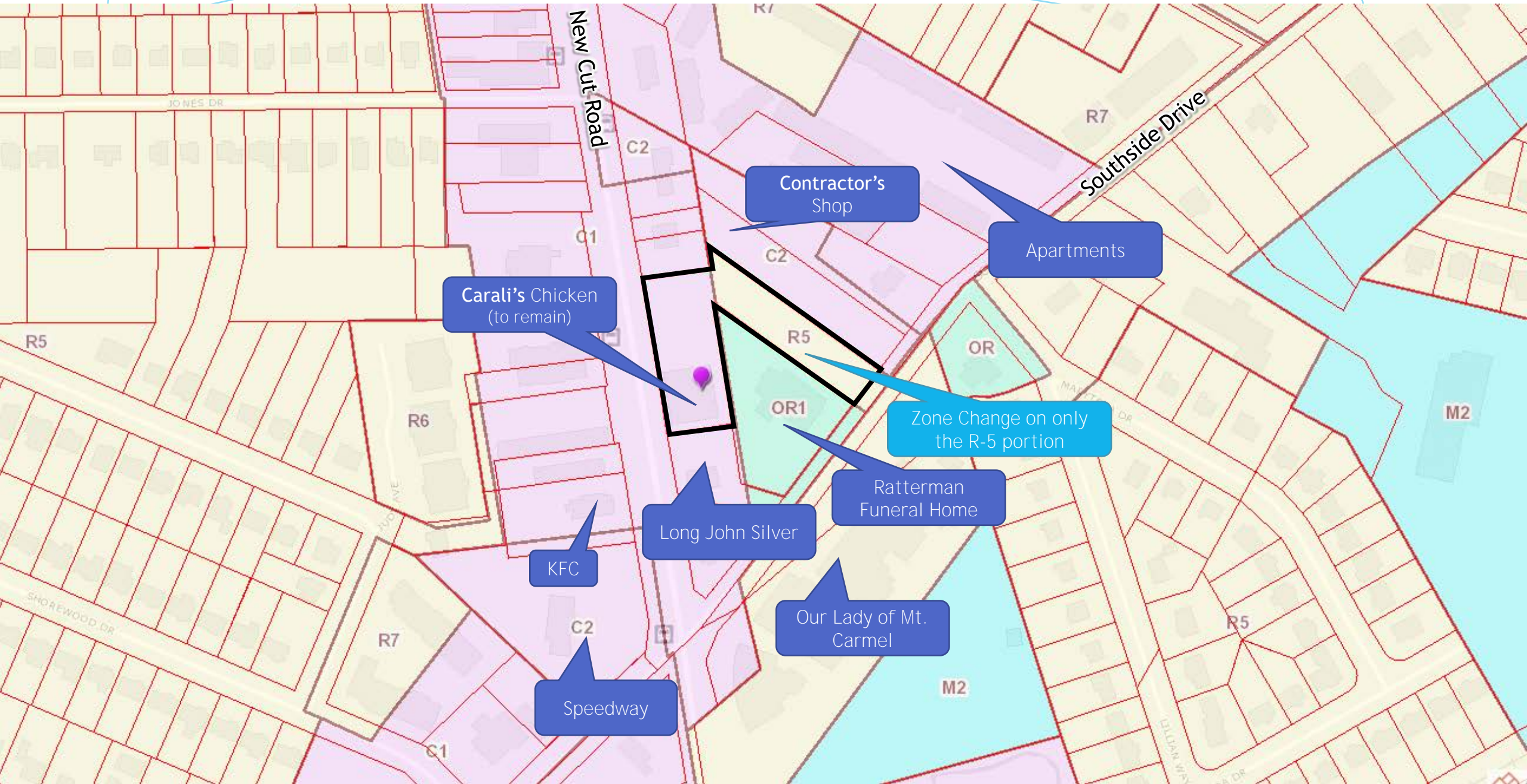
DOCKET NO. 22-ZONE-0068
ZONE CHANGE FROM R-5 TO C-1 WITH A VARIANCE AND
WAIVERS TO ALLOW A 7,200 SF RETAIL BUILDING ON
PROPERTY LOCATED AT 5437 NEW CUT ROAD
(A/K/A 5439 NEW CUT ROAD AND 7332 SOUTHSIDE)

ATTORNEYS: BARDENWERPER TALBOTT & ROBERTS, PLLC
LAND PLANNERS, LANDSCAPE ARCHITECTS & ENGINEERS: AL ENGINEERING, INC.

INDEX

1. LOJIC Zoning Map
2. Aerial photographs of the site and surrounding area
3. Ground level photographs of the site and surrounding area
4. Neighborhood Meeting notice list maps, letter to neighbors inviting them to the meeting and summary of meeting
5. Development Plan
6. Parking Agreement with Ratterman funeral home
7. Building elevations
8. Proposed additional binding elements
9. Statement of Compliance filed with the original zone change application with all applicable Goals of the 2040 Plan, Variance, and Waiver Justifications
10. Proposed findings of fact pertaining to compliance with the 2040 Plan, Variance, and Waiver criteria

TAB 1
LOJIC ZONING MAP



Carali's Chicken
(to remain)

Contractor's
Shop

Apartments

Zone Change on only
the R-5 portion

Long John Silver

Ratterman
Funeral Home

KFC

Our Lady of Mt.
Carmel

Speedway

TAB 2
AERIAL PHOTOGRAPH OF THE SITE
AND SURROUNDING AREA



Contractor's Shop

Apartments

Carali's Chicken (to remain)

Zone Change on only the R-5 portion

Ratterman Funeral Home

KFC

Long John Silver

Our Lady of Mt. Carmel

Speedway

JONES DR

New Cut Road

Southside Drive

R5

INNWOOD DR

R6

NEW CUT RD

R5

OR

MARYTENA DR

M2

SHOREWOOD DR

JUDY AVE

C2

NEW CUT RD

RATTERMAN FUNERAL HOME

LILLIAN WAY

R5

3RD STREET RD

NEW CUT RD

M2

LORA DR

C1

*TAB 3
GROUND LEVEL PHOTOGRAPHS OF
THE SITE AND SURROUNDING AREA*



Existing curb cut from New Cut Road leading to site.



SITE

View of New Cut Road looking south. Site is to the left.



View of New Cut Road looking north. Site is to the right.



View of site from Southside Drive.



SITE

View of Southside Drive looking north. Site is to the left.



View of Southside Drive looking south. Site is to the right.

*NEARBY BUSINESSES WITH
PARKING IN FRONT*

5514 KY-1865
Louisville, Kentucky
Google
Street View - Jun 2021

Auburndale
VILLAGE
Shopping Center



New Cut Road

Google

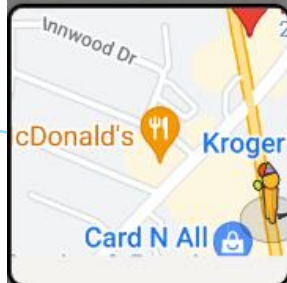
Google

Street View - Jun 2021



New Cut Road

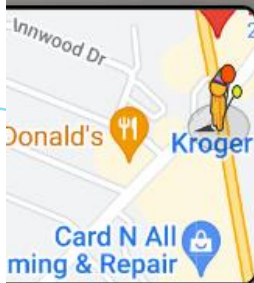
Google



Louisville, Kentucky



Street View - Jun 2021



Google

isville, Kentucky
Google
Street View - Jun 2021





JP PLUS Services LLC

5.0 ★★★★★ 22 reviews

Real estate agent

- Directions
- Save
- Nearby
- Send to phone
- Share

📍 5460 New Cut Rd #102, Louisville, KY 40214

🕒 Open · Closes 6:30PM

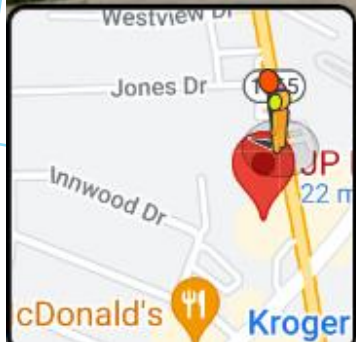
🌐 myjplus.com

📞 (502) 409-4342

📍 46WF+MH Louisville, Kentucky

🏷️ Add a label





Google

5444 KY-1865

Louisville, Kentucky



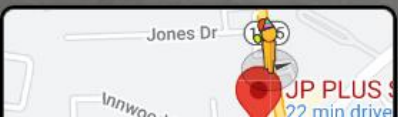
Google

Street View - Jun 2021

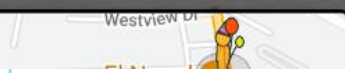
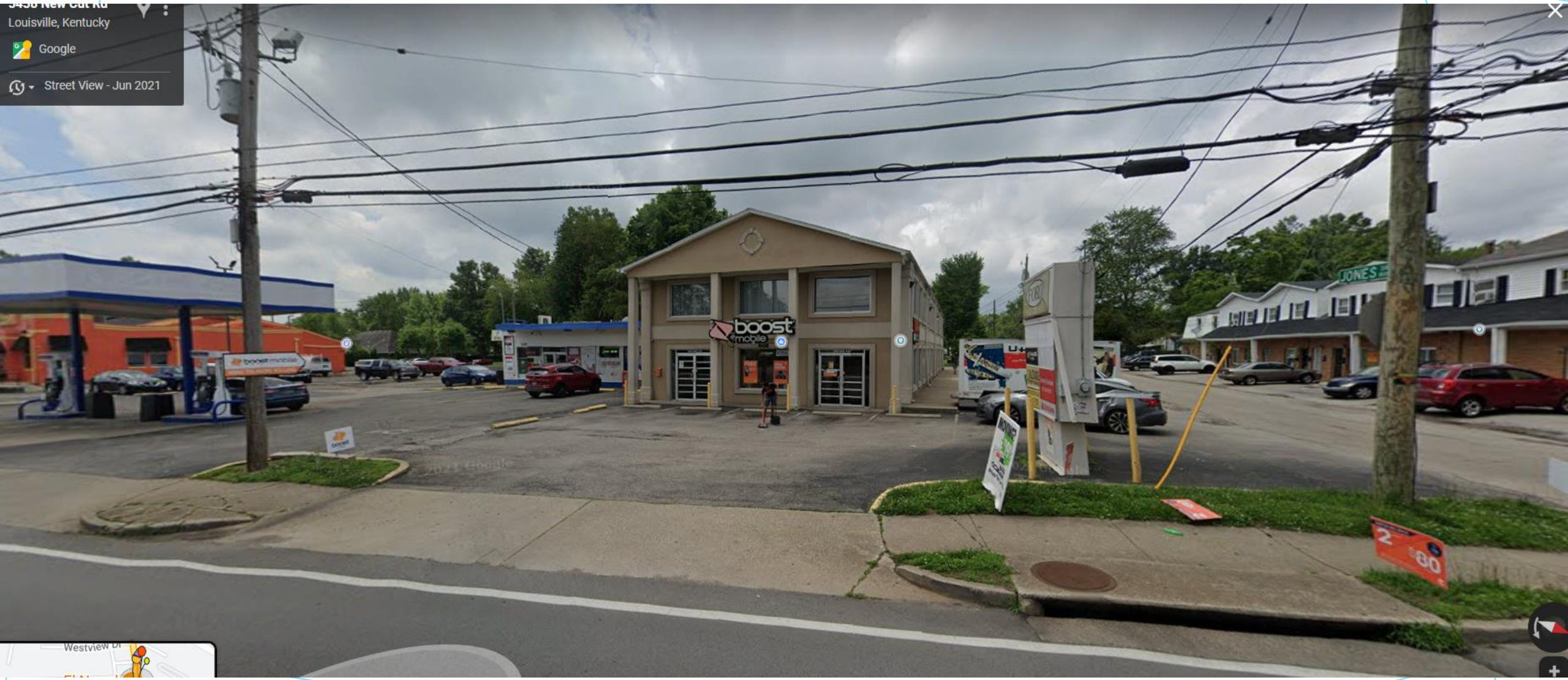


© 2021 Google

© 2021 Google



3456 New Cut Rd
Louisville, Kentucky
Google
Street View - Jun 2021



6725 New Oak Rd
Louisville, Kentucky
Google
Street View - Jun 2021



PAYLESS REPAIR
WE REPAIR
SELL, TRADE AND BUY
PAY YOUR BILL HERE
FREE DIAGNOSTIC
INTERNATIONAL
CELLPHONES

PAYLESS PHONE REPAIR

PAYLESS PHONE REPAIR
SCREENS • BATTERIES
UNLOCK • FLASH
FREE DIAGNOSTIC

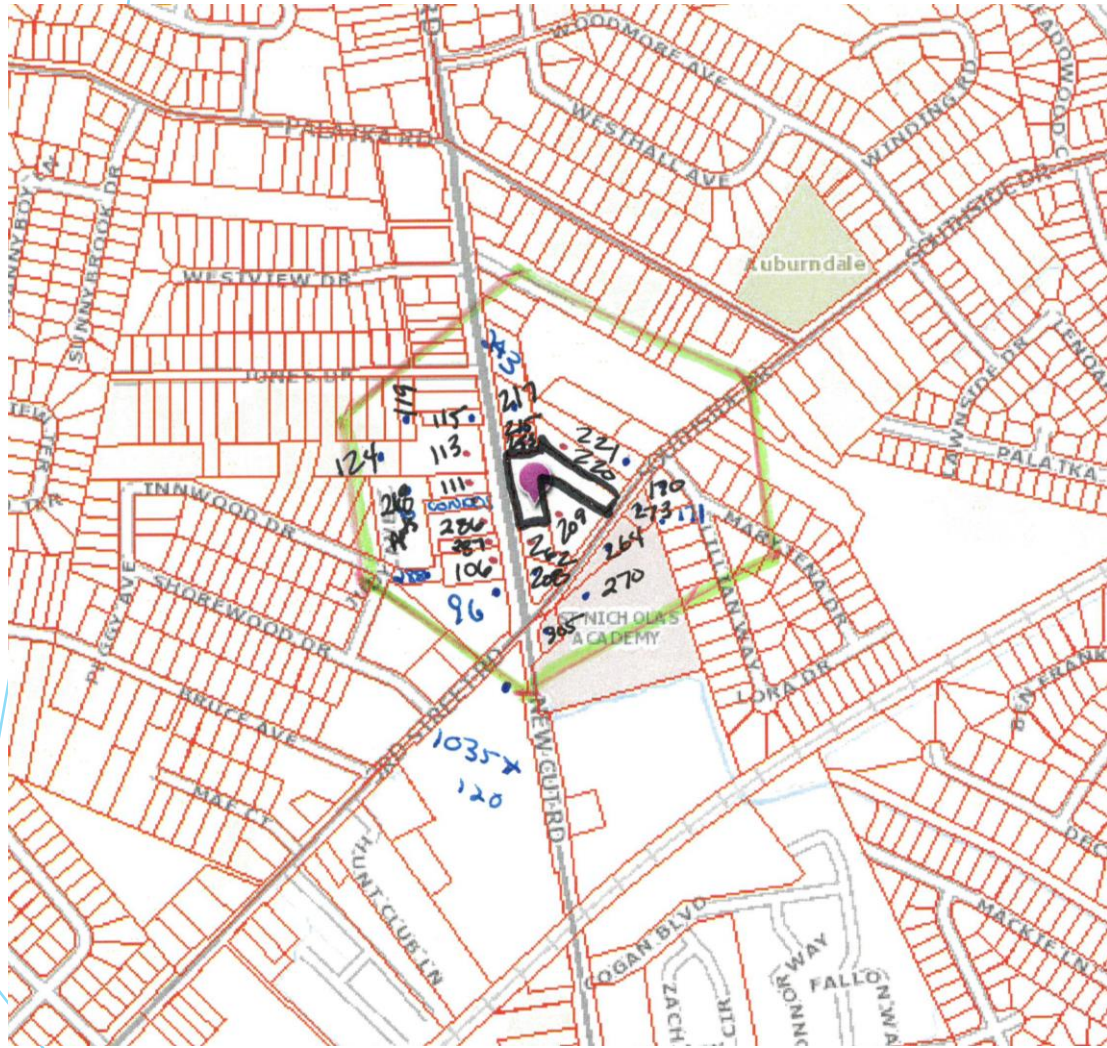
PAYLESS REPAIR
PHONE, TABLET, TV, CELL AND TRADE
502-709-5276

PAYLESS REPAIR
PHONE, TABLET, TV, CELL AND TRADE
502-709-5276



Google

*TAB 4
NEIGHBORHOOD MEETING NOTICE
LIST MAPS, LETTER TO NEIGHBORS
INVITING THEM TO THE MEETING
AND SUMMARY OF MEETING*



**ADJOINING PROPERTY OWNER NOTICE LIST MAP AND
REVISED MAP PER LD&T'S REQUEST TO UPDATE**

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG • 1000 N. HURSTBOURNE PARKWAY • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
(502) 426-6688 • WWW.BARDLAW.NET

Paul B. Whitty
Email: PAUL@BARDLAW.NET
Mobile: (502) 459-2001

March 16, 2022

RE: Neighborhood meeting for proposed change in zoning from R-5 and C-1 to C-2 to allow construction of a 7,200 sf retail building on property located at 5437 New Cut Road

Dear Neighbor:

We are writing to notify you about an upcoming virtual neighborhood meeting regarding the above referenced project. Because of the COVID-19 emergency orders requiring and/or recommending social distancing, we are required to hold the neighborhood meeting virtually at this time. The details are set forth in this letter and the supporting attachments. If you cannot obtain access to the virtual meeting, we may be able to assist you in that regard or otherwise assure a telephone or in-person conversation.

The applicant, Rafael Dapello with Golden Wash, LLC, is seeking a zone change of the property referenced above from R-5 and C-1 to C-2. The proposed building will be 7,200 sf for retail on the portion of the site that is currently used as a parking lot. The existing Carli's Rotisserie Chicken Restaurant that faces New Cut Road will remain. Accordingly, we have filed a plan for pre-application review with Planning and Design Services (PDS) that has been assigned case number **22-ZONEPA-0034** and case manager **Dante St. Germain**.

The virtual meeting will be held on **Thursday, March 31, 2022** beginning at **6:00 p.m.**

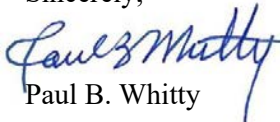
Enclosed for your review are the following:

1. The development plan sheet
2. LOJIC site location zoning map sheet showing the location of the site
3. Detailed summary sheet of the project
4. Contact information sheet and Information sheet on how to obtain case information online from PDS's online customer service portal
5. Instruction sheet on how to join the virtual meeting.
6. PDS's "After the Neighborhood Meeting" sheet

If you are unable to attend the virtual meeting, or have any questions or comments, please feel free to email or call me or contact the PDS case manager listed on the attached contact information sheet.

We look forward to our opportunity to visit virtually or by phone.

Sincerely,

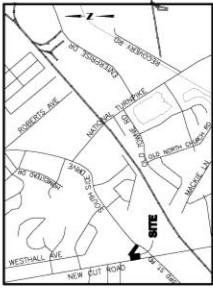


Paul B. Whitty

cc: Hon Amy Holton Stewart, Councilwoman, District 25
Dante St. Germain, case manager with Division of Planning & Design Services
Alex Rosenberg, AI Engineering, Inc.
Rafael Dapello, Applicant

DEVELOPMENT PLAN

 AL Engineering & Land Development Services Louisville, KY 40223	 GOLDEN WASH LLC Louisville, KY 40218	NEW CUT RD. DISTRICT	REZONING PLAN	D-1
--	---	-------------------------	---------------	-----



VICINITY MAP

Site Development Data

Lot No. 10
 Sublot No. 10
 Area: 10,000 S.F.
 Zoning: R-10
 Owner: Golden Wash LLC
 Project Name: New Cut Road
 Project Address: 1000 New Cut Road
 Project City: Louisville, KY 40218

Building Summary

City Area: 56,716.00 S.F.
 Building Area: 10,000.00 S.F.
 Total Building Area: 10,000.00 S.F.
 FAR: 0.17777
 Building Height: 5' 0"

Dimensional Standards

Building setbacks: 5' (Front), 5' (Side), 5' (Rear)
 Max. Height of Building: 5' 0"

Parking Summary

Shopping, goods, or services: 100 S.F.
 Building: 10,000 S.F.
 Total Spaces Required: 15
 Spaces Provided: 15

Tree Canopy

NO TREE CANOPY REQUIRED FOR TRADITIONAL FORM DISTRICTS.

I.L.A. Requirements

Total I.L.A. Area: 10,000 S.F.
 I.L.A. Requirements: 10,000 S.F.
 I.L.A. Provided: 10,000 S.F.

Impervious Areas

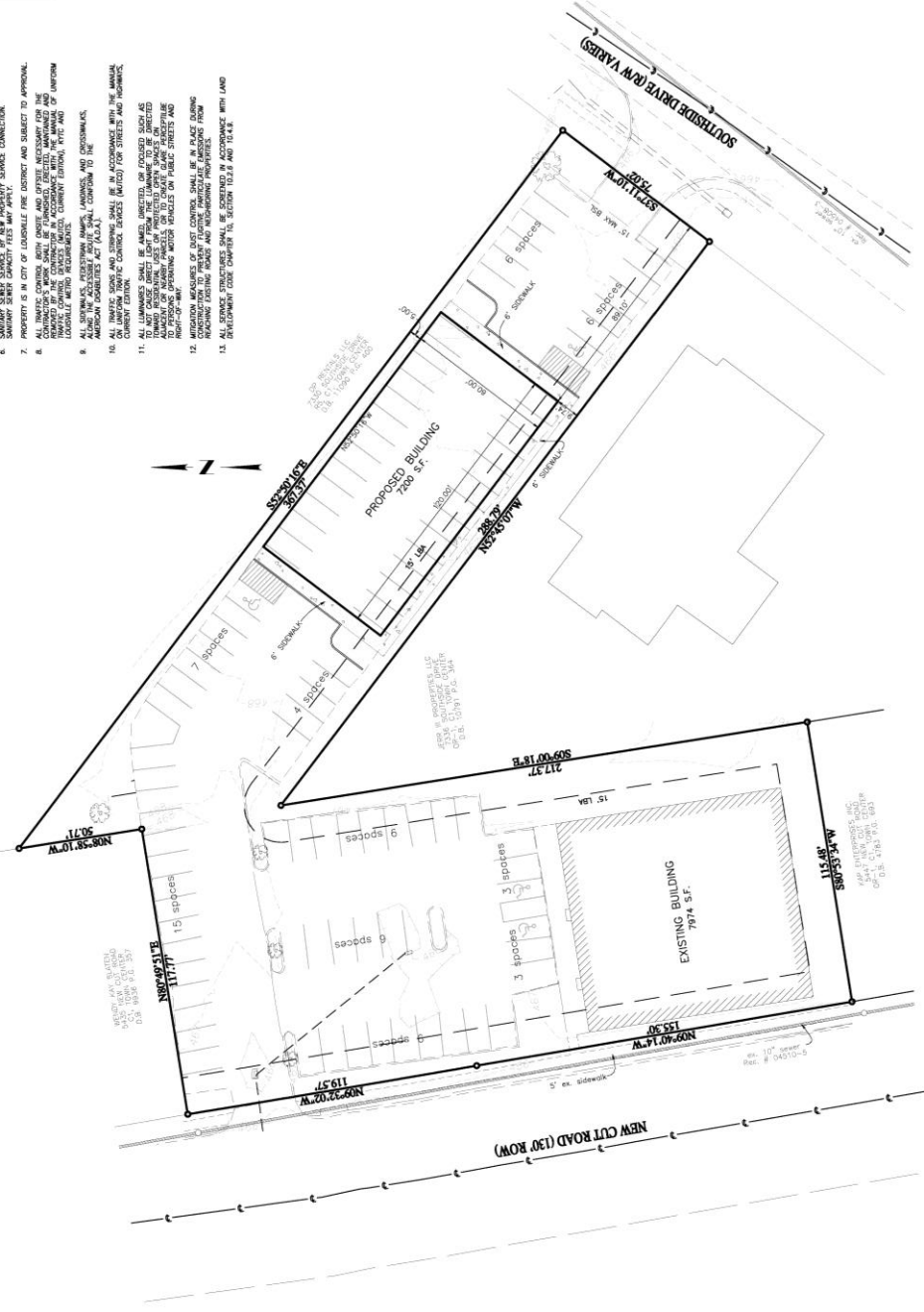
Total Impervious Area: 10,000 S.F.
 Impervious Area: 10,000 S.F.
 Proposed Conditions: 10,000 S.F.
 Area of Disturbance: 10,000 S.F.

DEVELOPMENT NOTES

1. SUBJECT PROPERTY IS LOCATED WITHIN THE CITY OF LOUISVILLE.
2. THE EXISTING UTILITIES SHOWN ARE APPROXIMATE. INDIVIDUAL SERVICE CONTRACTORS SHALL VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.
3. THE EXISTING UTILITIES SHOWN ARE APPROXIMATE. INDIVIDUAL SERVICE CONTRACTORS SHALL VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.
4. ELECTRIC SERVICE TO BE COORDINATED WITH LOUISVILLE GAS AND ELECTRIC COMPANY.
5. WATER SERVICE TO BE COORDINATED WITH LOUISVILLE WATER COMPANY.
6. SANITARY SEWER SERVICE TO BE COORDINATED WITH LOUISVILLE WATER COMPANY.
7. ALL UTILITIES SHALL BE PROTECTED AND MAINTAINED THROUGHOUT CONSTRUCTION.
8. ALL UTILITIES SHALL BE PROTECTED AND MAINTAINED THROUGHOUT CONSTRUCTION.
9. ALL UTILITIES SHALL BE PROTECTED AND MAINTAINED THROUGHOUT CONSTRUCTION.
10. ALL UTILITIES SHALL BE PROTECTED AND MAINTAINED THROUGHOUT CONSTRUCTION.
11. ALL UTILITIES SHALL BE PROTECTED AND MAINTAINED THROUGHOUT CONSTRUCTION.
12. ALL UTILITIES SHALL BE PROTECTED AND MAINTAINED THROUGHOUT CONSTRUCTION.
13. ALL UTILITIES SHALL BE PROTECTED AND MAINTAINED THROUGHOUT CONSTRUCTION.

LEGEND

- Property Line
- Existing Fence
- Proposed Fence
- Existing Storm Line
- Proposed Storm Line
- Existing Trees
- Proposed Trees
- Existing Light pole
- Proposed Light pole
- Wood/Animal Fence

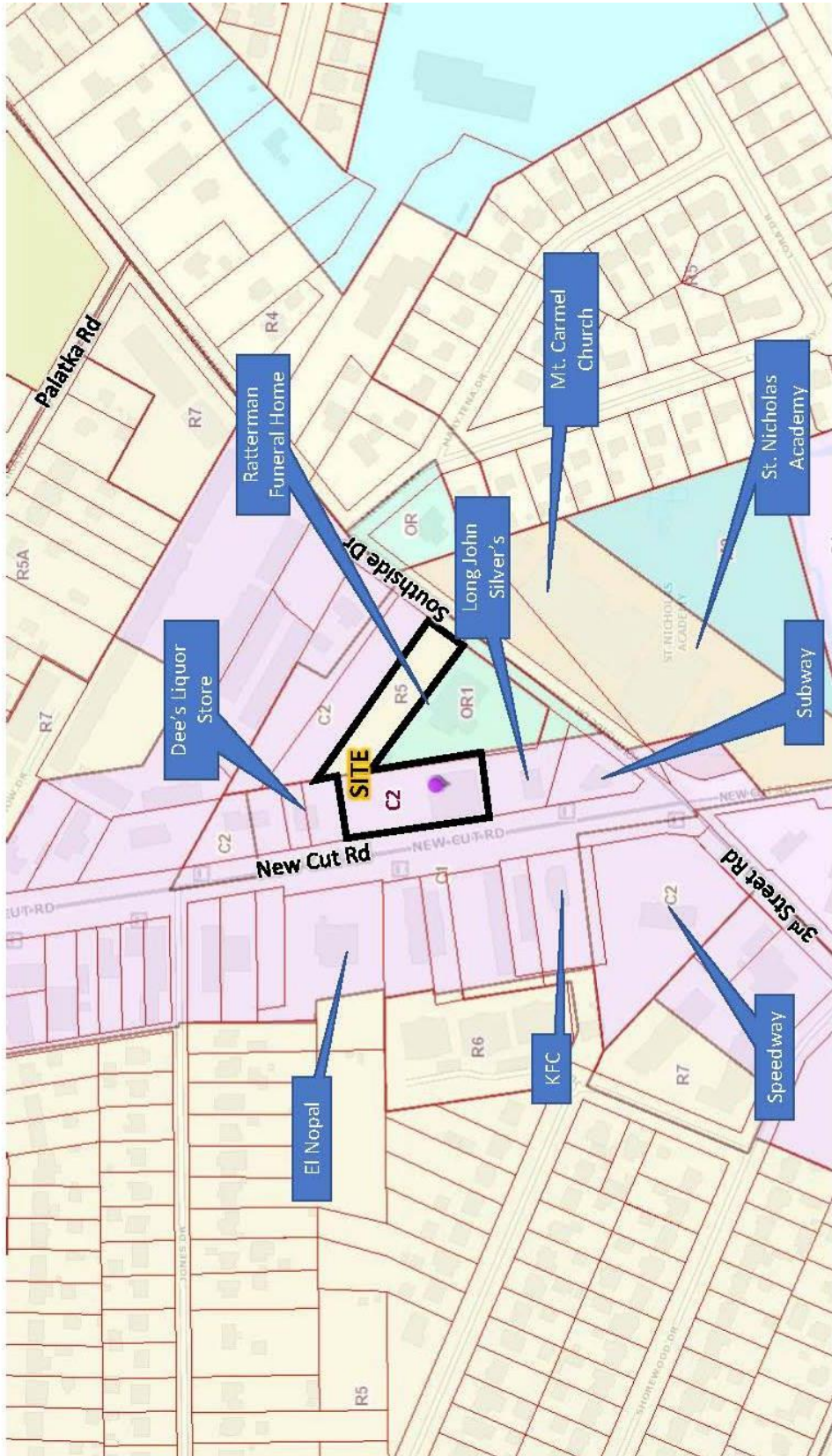


MSD NOTES WM# XXXX

1. APPROVE COUNTY AND DISTRICT ENGINEER'S DESIGN MANUAL AND STANDARD SPECIFICATIONS.
2. APPROVE COUNTY AND DISTRICT ENGINEER'S SERVICE CONNECTION.
3. THIS PROJECT IS SUBJECT TO MAKE WATER QUALITY REGULATIONS UNDER THE CLEAN WATER ACT AND THE NATIONAL POLLUTION DISCHARGE ELIMINATION ACT.
4. APPROVE TO CONSTRUCTION PLAN APPROVAL, AN EASEMENT PLAN SHALL BE REQUIRED FOR ANY THRU-DRAINAGE ON SITE.
5. FOR FURTHER INFORMATION, CONTACT THE DISTRICT ENGINEER.



LOJIC SITE LOCATION SHEET



DETAILED SUMMARY SHEET

The applicant, Rafael Dapello with Golden Wash, LLC, is seeking a zone change of the property referenced above from R-5 and C-1 to C-2. The proposed building will be 7,200 sf for retail on the portion of the site that is currently used as a parking lot. The existing Carli's Rotisserie Chicken Restaurant that faces New Cut Road will remain. Accordingly, we have filed a plan for pre-application review with Planning and Design Services (PDS) that has been assigned case number **22-ZONEPA-0034** and case manager **Dante St. Germain**.

The property is located on the east side of New Cut Road north of Southside Drive as shown on the attached "LOJIC Site Location" attachment.

Landscaping, screening and buffering will contain at least the minimum amount required by Chapter 10 of the Louisville Metro Land Development Code (LDC).

The property is in the Town Center Form District, with no proposed change thereto. Sanitary sewer service by new property service connection.

NOTICE OF POTENTIAL DEVELOPMENT PLAN CHANGES. Please be advised that this "Detailed Summary" is being provided early in the application process. As such, whereas every effort has been made to assure accuracy, changes may be made to the development plan before the now scheduled neighborhood meeting and also after it based on public comments and those of various agencies and PDS staff review. Any changes will be available for public review on the PDS Online Customer Service Portal. Instructions on how to access this information is provided in the PDS's online customer service portal information sheet. Additionally, those changes with the final plan would be presented at the time of the public hearing(s). You may also contact the PDS case manager if you have any questions, or contact any others listed on the Contact Information Sheet where contact information is provided.

CONTACT INFORMATION SHEET

1. PRIMARY CONTACT

*Bardenwerper, Talbott & Roberts, PLLC
1000 N. Hurstbourne Pkwy., 2nd Floor
Louisville, KY 40223
Attn: Paul Whitty – (502) 459-2001
Paul@bardlaw.net*

2. ENGINEERING FIRM

*Al Engineering, Inc.
Alex Rosenberg – (502) 254-2245
13000 Middletown Industrial Blvd., Ste. A
Louisville, KY 40223
alex@alengrinc.com*

3. APPLICANT

*Rafael Dapello
rafaeldapello@hotmail.com*

4. CASE MANAGER OR SUPERVISOR

*Dante St. Germain
Planning & Design Services
444 South Fifth Street, Suite 300
Louisville, KY 40202
(502) 574-4388
Dante.St.Germain@louisvilleky.gov*

PLANNING & DESIGN SERVICES (PDS's) ONLINE CUSTOMER SERVICE PORTAL INFORMATION SHEET

To view details of the zone change online, use the link at:

<https://aca-louisville.accela.com/LJCMG/Welcome.aspx?TabName=Home&TabList=Home>

Click on the “Search” tab
Then “Planning Applications”
Enter case number in “Record Number” box
Click on “Record Info” tab

INSTRUCTION SHEET ON HOW TO JOIN THE VIRTUAL MEETING

You may join the meeting using a computer, tablet, smart phone, or standard telephone.

Rafael Dapello / 5437 New Cut Road Neighbor Meeting
Thu, Mar 31, 2022 6:00 PM - 7:00 PM (EDT)

Please join my meeting from your computer, tablet or smartphone.

<https://meet.goto.com/483078853>

You can also dial in using your phone.

United States (Toll Free): [1 866 899 4679](tel:18668994679)

United States: [+1 \(571\) 317-3116](tel:+15713173116)

Access Code: 483-078-853

Get the app now and be ready when your first meeting starts: <https://meet.goto.com/install>

Note: If anyone would like the connection link emailed to them, or a set of the meeting slides, please email Anna Martinez at anna@bardlaw.net or Nanci Dively at nsd@bardlaw.net

IF YOU ARE UNABLE TO ATTEND THE VIRTUAL MEETING AND HAVE QUESTIONS, PLEASE FEEL FREE TO CONTACT ANY OF THE FOLLOWING:

Paul B. Whitty, Esq. – (502) 459-2001
paul@bardlaw.net
Bardenwerper, Talbott & Roberts, PLLC

Alex Rosenberg - (502) 254-2245
alex@alengrinc.com
Al Engineering, Inc.

Dante St. Germain, AICP
Case Manager, Planning & Design Services
(502) 574-4388
Dante.St.Germain@louisvilleky.gov

AFTER THE NEIGHBORHOOD MEETING SHEET

After the Neighborhood Meeting

This Neighborhood Meeting is an opportunity for the applicants and surrounding neighbors to discuss and develop an understanding of the proposal prior to a public hearing. At the conclusion of this neighborhood meeting, the applicant has 90 days to file a formal application with Planning & Design Services. If the formal application is not filed within 90 days, the applicant will be required to have another neighborhood meeting.

Once the formal application is filed, a public hearing will be scheduled to consider the application. This public meeting is your official opportunity to speak in support or opposition to the proposal. If you received a notice regarding this neighborhood meeting, or did not receive a notice but signed the sign in sheet, you will receive a notice of the public meeting.

If you are interested in staying informed about this proposal, or have any questions about the formal review process, you may call the Planning & Design Services office at **(502) 574-6230**. Please refer to the case number in your inquiry. You may also go to **<https://louisvilleky.gov/government/planning-design>** to view meeting agendas, search case information, or obtain other Planning & Design Services information.

NEIGHBORHOOD MEETING SUMMARY REGARDING CASE NO. 22-ZONEPA-0034; 5437 New Cut Road

A duly noticed virtual neighborhood meeting was held March 31, 2022, at 6 p.m. There were six persons in attendance as well as the presenters, Paul Whitty, Bardenwerper, Talbott & Roberts and Alex Rosenberg, AL Engineering and including Metro Council Person, Amy Holton Stewart and her Legislative Aide, Brian Powell.

A PowerPoint presentation was provided which gave all contact information, explained the rezoning process, showed the subject site with the development plan, LOJIC zoning map and LOJIC aerial map, area photographs and maps showing area uses and finally a photographic rendering as an example of the type of building to be constructed per the plan. It was explained that since the notices were mailed it had been decided to rezone only the R-5 portion of the site (fronting on Southside Drive) to C-1 rather than C-2 in order to match the desired neighborhood serving uses more closely with retail shops and services.

The neighbors raised the following concerns: traffic congestion (particularly on Sundays at Our Lady of Mt. Carmel Church and large funerals at the adjacent Ratterman funeral home; the number of likely tenants; the current condition of the property with trucks at the Southside Drive entrance, litter and dumpster maintenance; cross-parking; signage and landscaping.

The proposed retail center would be neighborhood serving uses that would not likely generate "destination" trips but pass-by existing traffic. There will likely be only one or two tenants as any more than that would not be feasible given the narrowness of the lot and the building having two entrances. The existing litter and condition of the site was addressed, and a commitment made to ensure that the property would be kept clear of litter and debris and a binding element would help ensure that the site would be well maintained. The trucks will be moved off-site. The use, capacity and condition of the dumpster enclosure will be improved. Landscaping will be provided per the LDC including plantings and trees at the Southside Drive entrance to provide an attractive appearance. Unwanted cross-parking will be addressed with both interior and exterior signage. Mr. Whitty will follow up with Fr. Tony Overton at the church to ensure that his congregation is aware of the proposal.

The meeting concluded at 6:35 p.m.

TAB 5
DEVELOPMENT PLAN

THRU DRAINAGE ON SITE.
 SUBJECT PROPERTY LIES WITHIN A FLOOD HAZARD AREA
 UP PANEL 211100081E.

- PROPERTY IS IN CITY OF LOUISVILLE FIRE DISTRICT AND SUBJECT TO APPROVAL.
- ALL TRAFFIC CONTROL BOTH ONSITE AND OFFSITE NECESSARY FOR THE CONTRACTOR'S WORK SHALL BE FURNISHED, ERECTED, MAINTAINED AND REMOVED BY THE CONTRACTOR IN ACCORDANCE WITH THE MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (MUTCD, CURRENT EDITION), KYTC AND LOUISVILLE METRO REQUIREMENTS.
- ALL SIDEWALKS, PEDESTRIAN RAMPS, LANDINGS, AND CROSSWALKS, ALONG THE ACCESSIBLE ROUTE SHALL CONFORM TO THE AMERICAN DISABILITIES ACT (A.D.A.).

- NO NEW ACCESS POINTS ALLOWED ON NEW CUT ROAD OR SOUTHSIDE DRIVE.
- CONCRETE WHEEL STOPS OR CURBING AT LEAST 6 INCHES HIGH AND 6 INCHES WIDE SHALL BE PROVIDED TO PREVENT VEHICLES FROM OVERHANGING ABUTTING SIDEWALKS, PROPERTIES OR PUBLIC RIGHTS-OF-WAY, TO PROTECT LANDSCAPED AREAS AND TO PROTECT ADJACENT PROPERTIES. SUCH WHEEL STOPS OR CURBING SHALL BE LOCATED AT LEAST 3 FEET FROM ANY ADJACENT WALL, FENCE, PROPERTY LINE, WOODY VEGETATION, WALKWAY, OR STRUCTURE.
- STREET TREES REQUIRED ALONG SOUTHSIDE DRIVE.
- MINOR PLAT AND CROSS-ACCESS EASEMENT REQUIRED PRIOR TO BUILDING PERMIT.

Tree Canopy

Gross Site Area	23,051	S.F.
Existing Tree Canopy	0	S.F.
Ex. Tree Canopy %	0.0	%
Preserved Tree Canopy Coverage Area	0	S.F.
Preserved Tree Canopy Coverage %	0.0	%
Tree Canopy Area Required	0.0	S.F.
Tree Canopy Area Required %	0.0	%
Tree Canopy Preserved	0	S.F.
New Tree Canopy Provided	2,400	S.F.
Tree Canopy Provided	2,400	S.F.
% Tree Canopy Provided	10.4	%

Walters Requested

- LDC 5.5.1A.3.a: To allow parking in front of the principal building
- LDC 5.5.1A.3.d: To not provide connection to abutting parking lot of liquor store
- LDC 5.5.1A.3.e: To omit a masonry wall along the VIA area adjacent to Southside Drive
- LDC 10.2.4.B.1: To allow encroachment of the building and parking into the LBA.

Variance Requested

- LDC 5.2.4.C.3.a/5.1.12.A.2.a: to exceed infill set back requirement



URVE DATA
 AD=11416.16'
 CH=119.57'
 ring=S09 32' 02" E
 T=59.78'
 EX=0.16'
 Delta=0'36" 00"

NEW CUT ROAD
 NEW CUT ROAD
 (ROW VARIES, 80' MIN 130' MAX)
 MAJOR ARTERIAL

NOT A PART OF
 DEVELOPMENT PLAN

NOT A PART OF
 DEVELOPMENT PLAN



WENDY KAY SLATEN
 5435 NEW CUT ROAD
 C-1, TOWN CENTER
 D.B. 9936 P.G. 357

JERR III PROPERTIES LLC
 7336 SOUTHSIDE DRIVE
 C-1, TOWN CENTER
 D.B. 10791 P.G. 364

DC RENTALS LLC
 7336 SOUTHSIDE DRIVE
 C-1, TOWN CENTER
 D.B. 1090 P.G. 400

VAR ENTERPRISES INC.
 115.48'
 S80°53'34" W

- PROPERTY IS IN CITY OF LOUISVILLE FIRE DISTRICT AND SUBJECT TO APPROVAL.
- ALL TRAFFIC CONTROL BOTH ONSITE AND OFFSITE NECESSARY FOR THE CONTRACTOR'S WORK SHALL BE FURNISHED, ERECTED, MAINTAINED AND REMOVED BY THE CONTRACTOR IN ACCORDANCE WITH THE MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (MUTCD, CURRENT EDITION), KYTC AND LOUISVILLE METRO REQUIREMENTS.
- ALL SIDEWALKS, PEDESTRIAN RAMPS, LANDINGS, AND CROSSWALKS, ALONG THE ACCESSIBLE ROUTE SHALL CONFORM TO THE AMERICAN DISABILITIES ACT (A.D.A.).

- CONCRETE WHEEL STOPS OR CURBING AT LEAST 6 INCHES HIGH AND 6 INCHES WIDE SHALL BE PROVIDED TO PREVENT VEHICLES FROM OVERHANGING ABUTTING SIDEWALKS, PROPERTIES OR PUBLIC RIGHTS-OF-WAY, TO PROTECT LANDSCAPED AREAS AND TO PROTECT ADJACENT PROPERTIES. SUCH WHEEL STOPS OR CURBING SHALL BE LOCATED AT LEAST 3 FEET FROM ANY ADJACENT WALL, FENCE, PROPERTY LINE, WOODY VEGETATION, WALKWAY, OR STRUCTURE.
- STREET TREES REQUIRED ALONG SOUTHSIDE DRIVE.
- MINOR PLAT AND CROSS-ACCESS EASEMENT REQUIRED PRIOR TO BUILDING PERMIT.

Tree Canopy

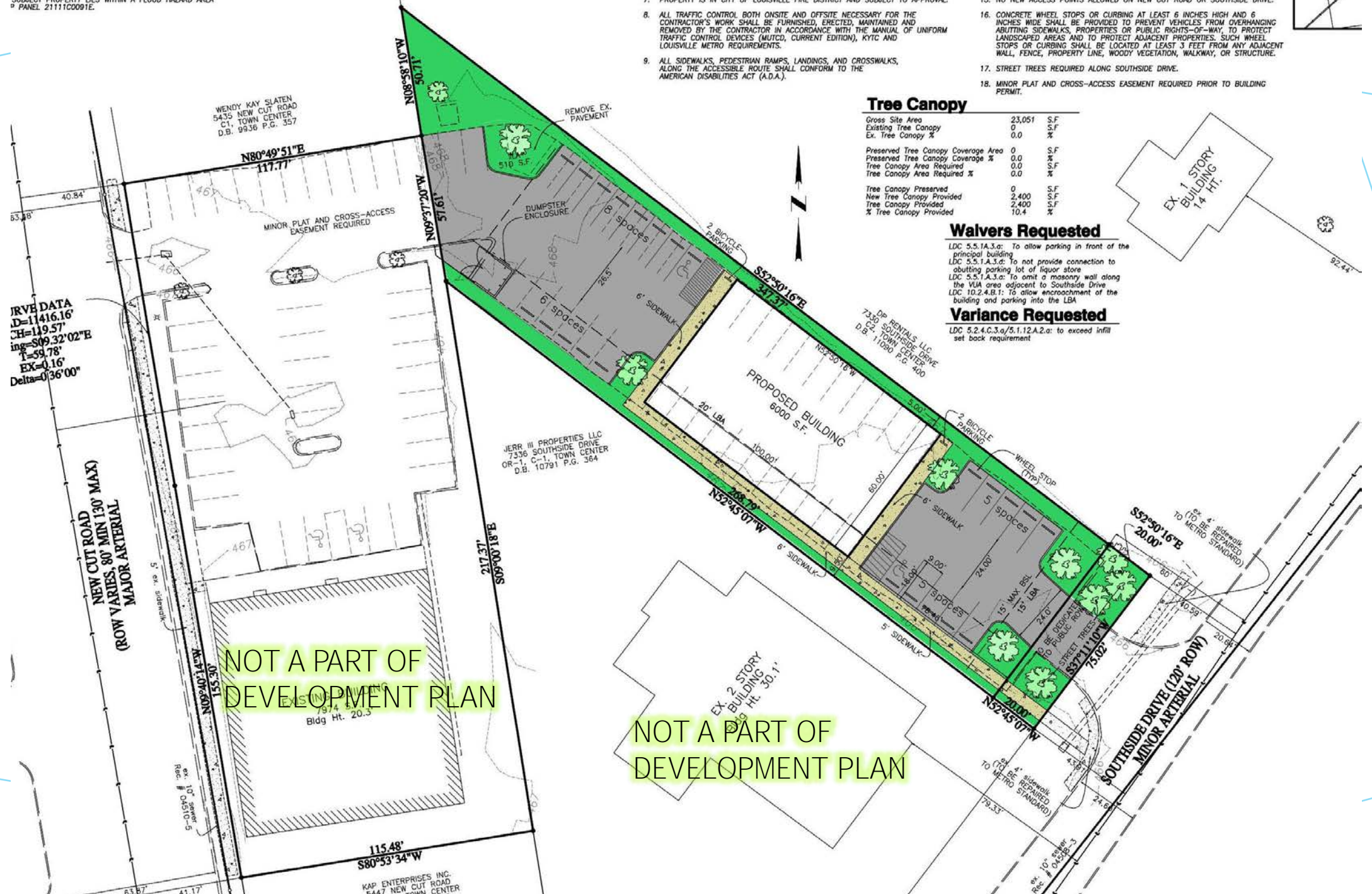
Gross Site Area	23,051	S.F.
Existing Tree Canopy	0	S.F.
Ex. Tree Canopy %	0.0	%
Preserved Tree Canopy Coverage Area	0	S.F.
Preserved Tree Canopy Coverage %	0.0	%
Tree Canopy Area Required	0.0	S.F.
Tree Canopy Area Required %	0.0	%
Tree Canopy Preserved	0	S.F.
New Tree Canopy Provided	2,400	S.F.
Tree Canopy Provided	2,400	S.F.
% Tree Canopy Provided	10.4	%

Waivers Requested

LDC 5.5.1A.3.a: To allow parking in front of the principal building
 LDC 5.5.1A.3.c: To not provide connection to abutting parking lot of liquor store
 LDC 5.5.1A.3.a: To omit a masonry wall along the VUA area adjacent to Southside Drive
 LDC 10.2.4.B.1: To allow encroachment of the building and parking into the LBA

Variance Requested

LDC 5.2.4.C.3.a/5.1.12.A.2: to exceed infill set back requirement



NOT A PART OF DEVELOPMENT PLAN

NOT A PART OF DEVELOPMENT PLAN

JRVE DATA
 D=11416.16'
 CH=119.57'
 ang=S09.32°02'E
 T=59.78'
 EX=0.16'
 Delta=0°36'00"

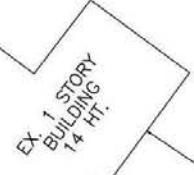
NEW CUT ROAD
 ROW VARIES, 80' MIN 130' MAX
 MAJOR ARTERIAL

WENDY KAY SLATEN
 5435 NEW CUT ROAD
 C-1, TOWN CENTER
 D.B. 9936 P.G. 357

JERR III PROPERTIES LLC
 7336 SOUTHSIDE DRIVE
 OR-1, C-1, TOWN CENTER
 D.B. 10791 P.G. 364

DP RENTALS LLC
 7130 SOUTHSIDE DRIVE
 C-1, TOWN CENTER
 D.B. 11080 P.G. 400

KAP ENTERPRISES INC.
 5447 NEW CUT ROAD
 C-1, TOWN CENTER
 D.B. 9936 P.G. 357



63.28'

40.84'

100.00'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

46.7'

N80°49'51"E
 117.77'

N08°58'10"W
 50.71'

N09°37'20"W
 57.61'

S52°50'16"E
 247.37'

N52°30'16"W

N52°30'16"W

N52°45'07"W

N52°45'07"W

N52°45'07"W

N52°45'07"W

N52°45'07"W

N52°45'07"W

217.37'
 S09°00'18"E

N09°40'14"W
 155.30'

115.48'
 S80°53'34"W

S52°50'16"E
 20.00'

S52°50'16"E
 20.00'

S52°50'16"E
 20.00'

S52°50'16"E
 20.00'

S52°50'16"E
 20.00'

SOUTHSIDE DRIVE (20' ROW)
 MINOR ARTERIAL

63.28'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

63.28'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

92.44'

63.28'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

41.17'

- 7. PROPERTY IS IN CITY OF LOUISVILLE FIRE DISTRICT AND SUBJECT TO APPROVAL.
- 8. ALL TRAFFIC CONTROL BOTH ONSITE AND OFFSITE NECESSARY FOR THE CONTRACTOR'S WORK SHALL BE FURNISHED, ERECTED, MAINTAINED AND REMOVED BY THE CONTRACTOR IN ACCORDANCE WITH THE MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (MUTCD, CURRENT EDITION), KYTC AND LOUISVILLE METRO REQUIREMENTS.
- 9. ALL SIDEWALKS, PEDESTRIAN RAMPS, LANDINGS, AND CROSSWALKS, ALONG THE ACCESSIBLE ROUTE SHALL CONFORM TO THE AMERICAN DISABILITIES ACT (A.D.A.).

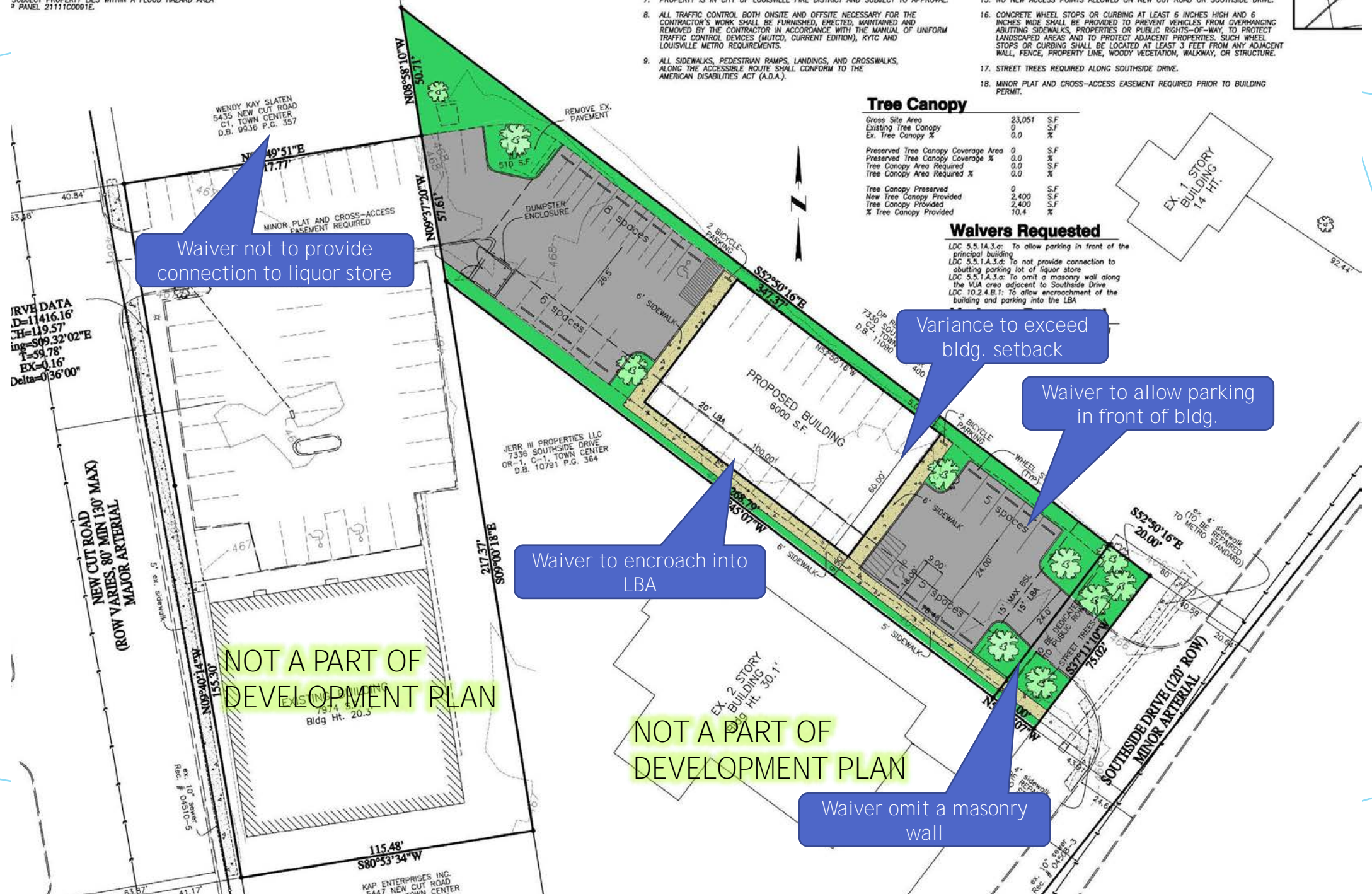
- 15. NO NEW ACCESS POINTS ALLOWED ON NEW CUT ROAD OR SOUTHSIDE DRIVE.
- 16. CONCRETE WHEEL STOPS OR CURBING AT LEAST 6 INCHES HIGH AND 6 INCHES WIDE SHALL BE PROVIDED TO PREVENT VEHICLES FROM OVERHANGING ABUTTING SIDEWALKS, PROPERTIES OR PUBLIC RIGHTS-OF-WAY, TO PROTECT LANDSCAPED AREAS AND TO PROTECT ADJACENT PROPERTIES. SUCH WHEEL STOPS OR CURBING SHALL BE LOCATED AT LEAST 3 FEET FROM ANY ADJACENT WALL, FENCE, PROPERTY LINE, WOODY VEGETATION, WALKWAY, OR STRUCTURE.
- 17. STREET TREES REQUIRED ALONG SOUTHSIDE DRIVE.
- 18. MINOR PLAT AND CROSS-ACCESS EASEMENT REQUIRED PRIOR TO BUILDING PERMIT.

Tree Canopy

Gross Site Area	23,051	S.F.
Existing Tree Canopy	0	S.F.
Ex. Tree Canopy %	0.0	%
Preserved Tree Canopy Coverage Area	0	S.F.
Preserved Tree Canopy Coverage %	0.0	%
Tree Canopy Area Required	0.0	S.F.
Tree Canopy Area Required %	0.0	%
Tree Canopy Preserved	0	S.F.
New Tree Canopy Provided	2,400	S.F.
Tree Canopy Provided	2,400	S.F.
% Tree Canopy Provided	10.4	%

Waivers Requested

LDC 5.5.1.A.3.a: To allow parking in front of the principal building
 LDC 5.5.1.A.3.c: To not provide connection to abutting parking lot of liquor store
 LDC 5.5.1.A.3.a: To omit a masonry wall along the VUA area adjacent to Southside Drive
 LDC 10.2.4.B.1: To allow encroachment of the building and parking into the LBA



Waiver not to provide connection to liquor store

Variance to exceed bldg. setback

Waiver to allow parking in front of bldg.

Waiver to encroach into LBA

NOT A PART OF DEVELOPMENT PLAN

NOT A PART OF DEVELOPMENT PLAN

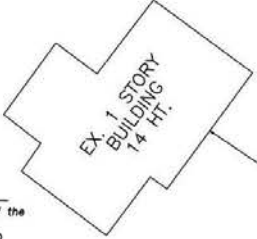
Waiver omit a masonry wall

JRVE DATA
 D=11416.16'
 CH=119.57'
 ang=S09.32°02'E
 T=59.78'
 EX=0.16'
 Delta=0°36'00"

NEW CUT ROAD
 ROW VARIES, 80' MIN 130' MAX
 MAJOR ARTERIAL

KAP ENTERPRISES INC.
 5447 NEW CUT ROAD
 TOWN CENTER
 D.B. 9936 P.G. 357

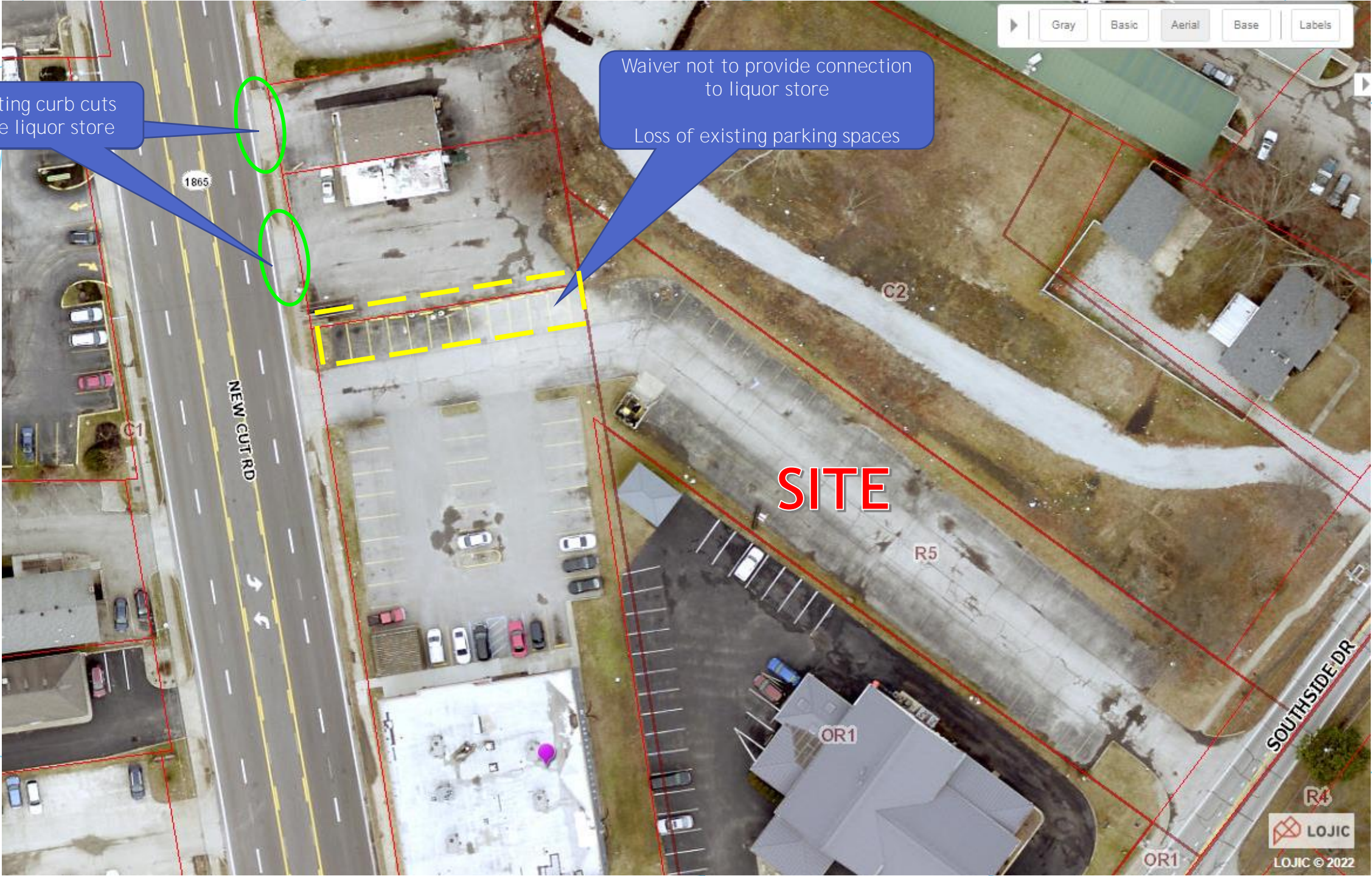
JERR III PROPERTIES LLC
 7336 SOUTHSIDE DRIVE
 OR-1, C-1, TOWN CENTER
 D.B. 10791 P.G. 364



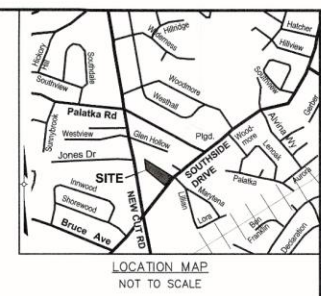
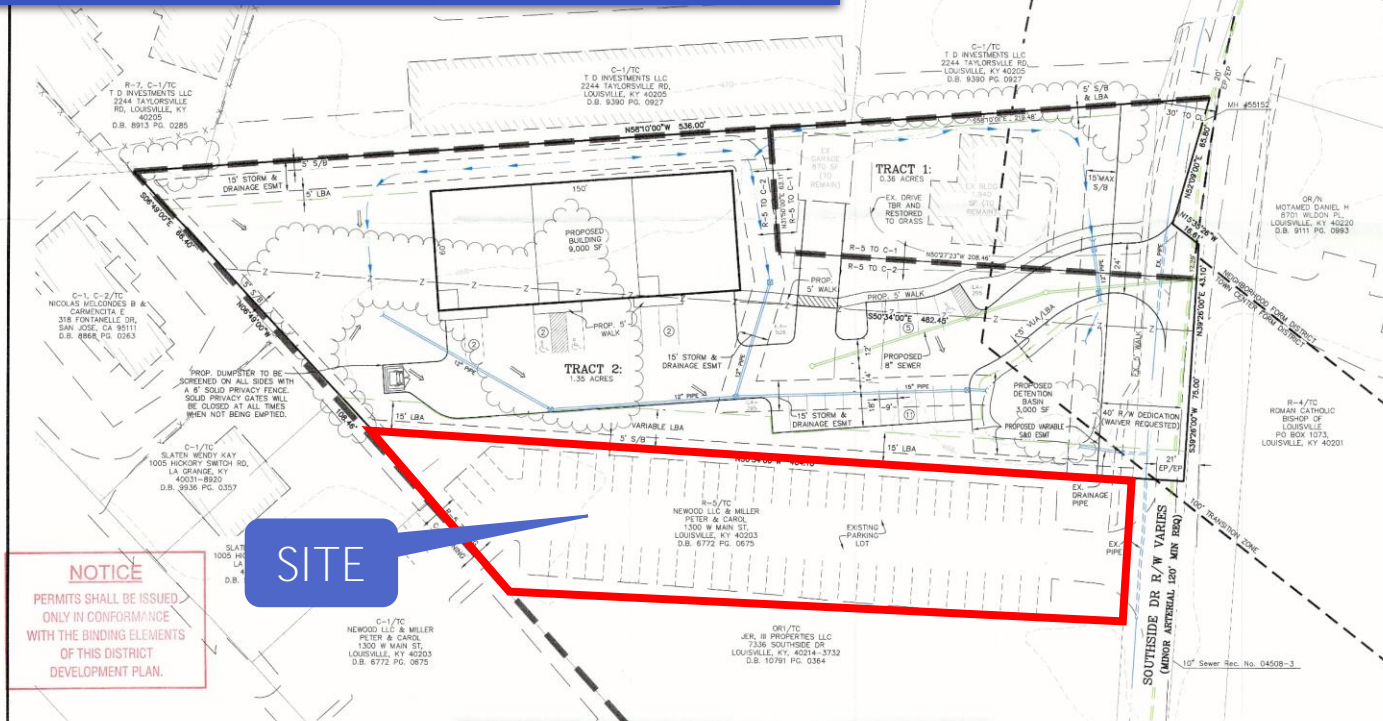
2 existing curb cuts for the liquor store

Waiver not to provide connection to liquor store
Loss of existing parking spaces

SITE



Approved zone change (from R-5 to C-1 & C-2) for contractor's shop to on property to north of proposed site (#18ZON1067)



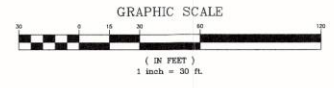
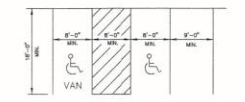
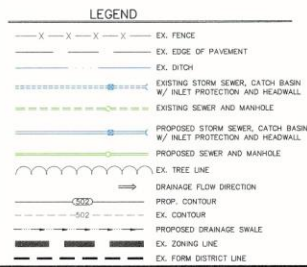
NOTICE
PERMITS SHALL BE ISSUED ONLY IN CONFORMANCE WITH THE BINDING ELEMENTS OF THIS DISTRICT DEVELOPMENT PLAN.

SITE

APPROVED DISTRICT DEVELOPMENT PLAN
DOCKET NO. 18ZON1067
APPROVAL DATE: 06/19/2019
EXPIRATION DATE: 06/19/2023
SIGNATURE OF PLANNING COMMISSION

DETENTION BASIN CALCULATIONS
X = 6 CRA/12
AC = 0.75 - 0.30 = 0.45
A = ACRES = 1.71
R = INCHES = 2.8/12
X = (0.45)(1.71)(2.8)/12 = 0.18 AC.-FT.
REQUIRED, 7,840 = CU.FT.
PROVIDED BASIN = 3,000 SQ.FT.
TOTAL = 3,000 SQ.FT. @ APPROX. 3 FT. DEPTH = 9,000 CU.FT. > 7,840 CU.FT.

TREE CANOPY CALCULATIONS
TOTAL SITE AREA = 74,785 SF
EXISTING TREE CANOPY AREA = 12,562 SF (17% OF SITE AREA)
EXISTING TREE CANOPY TO BE PRESERVED = 42 (3,213 SF)
TOTAL TREE CANOPY AREA REQUIRED = 6% (4,487 SF)
PROPOSED TREE CANOPY TO BE PLANTED = 1,920 SF
2 TYPE "A" TREES @ 960 SF EACH
TOTAL TREE CANOPY PROVIDED = 5,113 SF (7%)



WAIVERS REQUESTED

- FROM SECTION 5.5.1.1.1.6. TO ALLOW THE PRINCIPAL BUILDING ENTRANCE ON TRACT 2 TO NOT FACE SOUTHSIDE DRIVE.
- FROM SECTION 5.5.1.1.3 TO ALLOW PARKING IN FRONT OF BUILDING.
- FROM SECTION 5.5.1.1.3.4 TO NOT PROVIDE PEDESTRIAN AND VEHICULAR CONNECTIONS TO THE ADJACENT PROPERTIES.

VARIANCE REQUESTED

- FROM SECTION 5.2.4.C.3.3 TO ALLOW THE BUILDINGS TO EXCEED THE 15' MAXIMUM FRONT SETBACK REQUIREMENT.

PROJECT DATA

TOTAL SITE AREA	= 1.71 AC (74,785 SF)
TRACT ONE	= 0.36 AC (15,786 SF)
TRACT TWO	= 1.35 AC (58,999 SF)
NET SITE AREA	= 1.44 AC (71,435 SF)
EXISTING ZONING	= R-5
PROPOSED ZONING	= C-1 & C-2
FORM DISTRICT	= TOWN CENTER
PROPOSED USE	= SINGLE FAMILY RESIDENTIAL OFFICE AND CONTRACTOR'S SHOP
BUILDING HEIGHT	= 120' HT MAX. ALLOWED
BUILDING AREA	= 11,800 SF
EXISTING OFFICE	= 1,940 SF
EXISTING GARAGE	= 870 SF
PROPOSED CONTRACTOR'S SHOP	= 8,000 SF

PARKING REQUIRED

	MIN.	MAX.
1,940 SF OFFICE SPACE:		
1 SP/200 SF (MIN)	= 4 SP	13 SP
1 SP/150 SF (MAX)		
8,000 SF WAREHOUSE:		
1 SP FOR EA. 1.5 EMPLOYEES MIN (1ST & 2ND SHIFTS)		
15 EMPLOYEES BOTH SHIFTS TOTAL	= 10 SP	
1 SP FOR EA. EMPLOYEE MAX (1ST & 2ND SHIFTS)		
15 EMPLOYEES BOTH SHIFTS TOTAL	= 14 SP (MIN) 28 SP (MAX)	
TOTAL PARKING PROVIDED	= 21 (3 HC SP INCLUDED)	

TOTAL VEHICULAR USE AREA

TOTAL VEHICULAR USE AREA	= 18,905 SF
INTERIOR LANDSCAPE AREA REQUIRED	= 995 SF
INTERIOR LANDSCAPE AREA PROVIDED	= 1,116 SF
EXISTING IMPERVIOUS	= 2,960 SF
PROPOSED IMPERVIOUS	= 32,600 SF

GENERAL NOTES:

- PARKING AREAS AND DRIVE LANES TO BE A HARD AND DURABLE SURFACE.
- AN ENCROACHMENT PERMIT AND BOND WILL BE REQUIRED FOR ALL WORK DONE IN THE RIGHT-OF-WAY.
- NO INCREASE IN DRAINAGE RUN OFF TO STATE ROADWAYS.
- THERE SHALL BE NO COMMERCIAL SIGNS IN THE RIGHT-OF-WAY.
- SITE LIGHTING SHALL NOT SHINE IN THE EYES OF DRIVERS. IF IT DOES IT SHALL BE RE-ARMED, SHIELDED, OR TURNED OFF.
- CONSTRUCTION FENCING SHALL BE ERRECTED PRIOR TO ANY CONSTRUCTION OR GRADING ACTIVITIES PREVENTING COMPACTION OF ROOT SYSTEMS OF TREES TO BE PRESERVED. THE FENCING SHALL ENCLOSE THE AREA BENEATH THE DRIP LINE OF THE TREE CANOPY AND SHALL REMAIN IN PLACE. NO PARKING, MATERIAL STORAGE, OR CONSTRUCTION ACTIVITIES SHALL BE PERMITTED WITHIN THE FENCED AREA.
- MITIGATION MEASURES FOR DUST CONTROL SHALL BE IN PLACE DURING CONSTRUCTION TO PREVENT FUGITIVE PARTICULATE EMISSIONS FROM REACHING EXISTING ROADS AND NEIGHBORING PROPERTIES.
- TWO LONG-TERM BIKE PARKING SPACES TO BE PROVIDED IN BUILDING.
- EXISTING DRIVEWAYS TO BE REPAIRED.

MSD NOTES:

- CONSTRUCTION PLANS AND DOCUMENTS SHALL COMPLY WITH LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT DESIGN MANUAL AND STANDARD SPECIFICATIONS AND OTHER LOCAL, STATE AND FEDERAL ORDINANCES.
- SANITARY SEWER SERVICE WILL BE PROVIDED BY LATERAL EXTENSION AND SUBJECT TO APPLICABLE FEES. A DOWNSTREAM FACILITIES CAPACITY REQUEST HAS BEEN APPROVED BY MSD.
- NO PORTION OF THE SITE IS WITHIN THE 100 YEAR FLOOD PLAIN PER FIRM MAP NO. 21111 C 0091 E DATED DECEMBER 5, 2008.
- DRAINAGE PATTERN DEPICTED BY ARROWS (==>) IS FOR CONCEPTUAL PURPOSES.
- IF THE SITE HAS THRU DRAINAGE AN EASEMENT PLAN WILL BE REQUIRED PRIOR TO MSD GRANTING CONSTRUCTION PLAN APPROVAL.
- DRIVE SETBACKS WILL BE PROVIDED. POST-DEVELOPED PEAK FLOWS WILL BE LIMITED TO PRE-DEVELOPED PEAK FLOWS FOR 2,10,25, AND 100 YEAR STORMS OR TO THE CAPACITY OF THE DOWN-STREAM SYSTEM, WHICHEVER IS MORE RESTRICTIVE.
- THE FINAL DESIGN OF THIS PROJECT MUST MEET ALL WQA WATER QUALITY REGULATIONS ESTABLISHED BY MSD. SITE LANDSCAPE CHANGE AT THE DESIGN PHASE DUE TO PROPOSED CHANGES OF GREEN BEST MANAGEMENT PRACTICES.
- ALL DRAINAGE, EPSC AND WATER QUALITY PRACTICES SHOWN ON THIS PLAN ARE FOR CONCEPTUAL PURPOSES ONLY. FINAL DESIGN OF THESE ELEMENTS WILL DETERMINED PRIOR TO CONSTRUCTION PLAN APPROVAL AND SHALL COMPLY WITH ALL MSD AND MSD DESIGN MANUAL REQUIREMENTS.
- SOIL VOLUME IMPACT ANALYSIS REQUIRED. CALCULATION BASED ON BRP # 1.5.
- KYIC APPROVAL REQUIRED PRIOR TO MSD CONSTRUCTION PLAN APPROVAL.
- MSD DRAINAGE BOND REQUIRED PRIOR TO CONSTRUCTION PLAN APPROVAL.

PRELIMINARY APPROVAL DEVELOPMENT PLAN
CONDITIONS:
Today Row Waiver
BY: *Eugene Wynn*
DATE: 12-10-18
LOUISVILLE, JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT

PRELIMINARY APPROVAL
Condition of Approval:
Tammyell 4-24-19
DATE: APR 22 2019
LOUISVILLE & JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT
SITE ADDRESS: 7328 + 7330 SOUTHSIDE DRIVE
APR 22 2019
DESIGN SERVICE: WM# 11854

OWNER: DP, RENTALS LLC 295 N HUBBARDS LN LOUISVILLE, KY, 40207
7328 + 7330 SOUTHSIDE DRIVE
7328 TAX BLOCK 062N, LOT 0221
7330: TAX BLOCK 062N, LOT 0220
7328: D.B. 11090, PG. 386
7330: D.B. 11090, PG. 400

REVISIONS

NO.	DATE	DESCRIPTION
1	1/7/19	AGENCY COMMENTS
2	4-22-19	REV. FOR FLOOR PLAN UPDATE

PROJECT DATA
FILE NAME: 18109.PDF
DATE: 12-10-18
CHECKED BY: JH
SCALE AS SHOWN
DRAWN BY: JRT

LD&D
LAND DESIGN & DEVELOPMENT, INC.
609 WASHINGTON PKWY., SUITE 100, LOUISVILLE, KY 40203
PH: 502.261.1111 FAX: 502.261.1122

OWNER/DEVELOPER
DP, RENTALS LLC
295 N HUBBARDS LANE
SUITE 102
LOUISVILLE, KY 40207

DETAILED DISTRICT DEVELOPMENT PLAN
7328 + 7330 SOUTHSIDE DRIVE

JOB NO. 18109
SHEET 1 OF 1

*TAB 6
PARKING AGREEMENT WITH
RATTERMAN FUNERAL HOME*

Draft 5/13/22

PARKING EASEMENT AGREEMENT

THIS PARKING EASEMENT AGREEMENT (“Easement”) is made and entered into this ___ day of _____, 2022, by **GOLDEN WASH, LLC**, a Kentucky limited liability company, with a mailing address of 3704 Klondike Lane, Louisville, KY 40218 (“GW”) and **JER III Properties, LLC** with a mailing address of 7336 Southside Drive, Louisville, KY 40214 (“JER”).

W I T N E S S E T H:

WHEREAS, JER is the owner in fee simple of that certain .968 acre tract of land at 7336 southside Drive by virtue of a certain deed of record in Deed Book 10791, Page 365 in the Office of the Clerk of Jefferson County, KY; and

WHEREAS, GW is the owner in fee simple of that certain acre tract of land at 5437 New Cut Road, Louisville, Kentucky by virtue of a certain deed of record in Deed Book 6093, Page 490 in the Office of Jefferson County, Kentucky: and

WHEREAS, the JER property and the GW property have experienced unauthorized parking by its respective customers creating business disruption and unwanted liability; and

WHEREAS, JER and GW, as adjacent property owners, desire to provide certain rights to cross-parking for the benefit of their respective properties.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration the receipt and sufficiency of which are acknowledged by the parties, GW and JER agree as follows:

1. **Grant of Easement.** GW hereby grants an easement to JER to utilize parking spaces on the GW property as shown on **Exhibit A** (the “Easement Area”) for occasional overflow parking for the customers of JER. JER shall give GW 10 days advance notice of its intent to utilize the Easement Area for its parking needs for large funerals. The aforesaid use of the Easement Area shall not exceed once per quarter unless specific permission is granted by GW.

2, **Maintenance and Use.** GW shall be solely responsible to maintain the Easement Area in good condition and in compliance with all applicable laws and regulations for the benefit of its invitees, licensees, employees and guests, for passenger vehicle parking only.

3. **No Rights in Public; No Implied Easements.** Nothing contained in this Easement shall ever be deemed to create a gift or dedication of all or any portion of the property described herein to the general public or for any public use or public purpose

TAB 7
BUILDING ELEVATIONS

Similar style and design of proposed building



MATERIAL PALATE



LIMESTONE



BRICK



METAL
ALUMINUM & STEEL

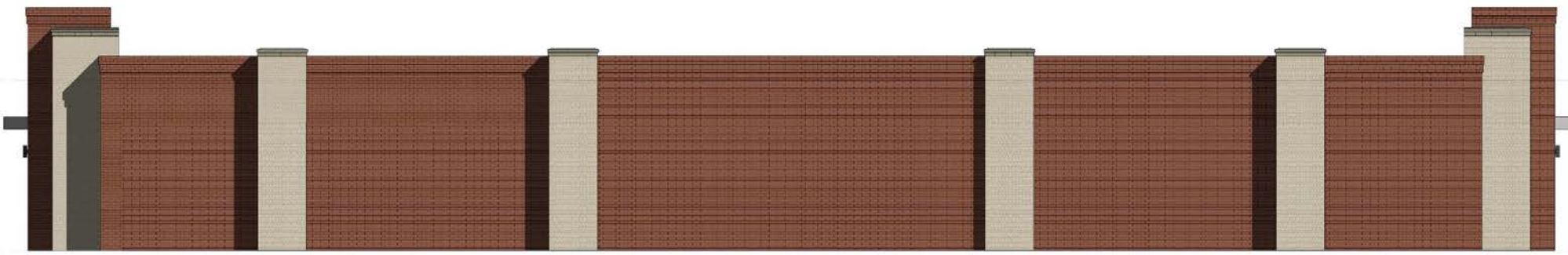




① North
3/16" = 1'-0"



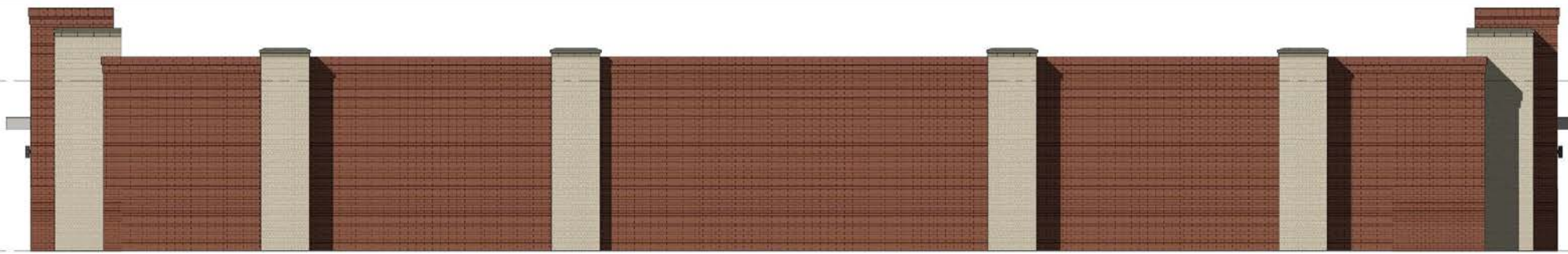
② South
3/16" = 1'-0"



Roof
14'-0"

Level 1
0'-0"

4 East
3/16" = 1'-0"



Roof
14'-0"

Level 1
0'-0"

3 West
3/16" = 1'-0"

*TAB 8
PROPOSED ADDITIONAL
BINDING ELEMENTS*

PROPOSED ADDITIONAL BINDING ELEMENTS

- The following land uses shall be prohibited:
 - Payday loan operations
 - Car washes
 - Adult entertainment
 - Vaping shop
 - Smoking/Cigarette/Cigar Shop

*TAB 9
STATEMENT OF COMPLIANCE FILED
WITH THE ORIGINAL ZONE CHANGE
APPLICATION WITH ALL APPLICABLE
GOALS OF THE 2040 PLAN AND WAIVER
JUSTIFICATION*

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

1000 N. HURSTBOURNE PARKWAY • BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG. • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
(502) 426-6688 • (502) 425-0561 (FAX) • WWW.BARDLAW.NET

STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GOALS, OBJECTIVES AND POLICIES OF THE PLAN 2040 COMPREHENSIVE PLAN

<u>Applicant & Owner:</u>	Golden Wash, LLC
<u>Location:</u>	5437 New Cut Road
<u>Proposed Use:</u>	Commercial/Retail center
<u>Engineers, Land Planners and Landscape Architects:</u>	AL Engineering, Inc.
<u>Request:</u>	Zone change from R-5 to C-1

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) comply with applicable Objectives a, b, c, e & f and applicable Policies 1, 2.1, 3.1.5., 4, 6, 7, 14, 15, 17, 18, 19 and 20, as follows:

The proposed change in zoning to C-1 complies with Goal 1 in several ways. A small neighborhood serving retail center is proposed in an existing Town Center where a large retail activity center already exists. There is a substantial residential area both single and multi-family that would benefit from additional goods and services.

The new retail center will provide additional goods and services while also supporting the existing retail stores in the proposed center and position the overall development to adapt readily now and in the future to new market demands. Its location close to neighboring residential developments will be convenient for the residents and will reduce vehicle miles travelled for those seeking routine neighborhood serving products and services without driving to large commercial centers. The rezoning will serve the suburban area in a robust and healthy commercial manner fulfilling the Town Center form district goals.

The development and proposed zone change will remain compatible with the scale and site design of the neighboring residential. The rezoning will allow additional goods and services through the development of this small parcel in the best way possible. This rezoning will not cause the expansion into residential areas. 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 to the greatest extent possible.

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

The proposed zone change and DDDP comply with applicable Objectives a, b & d and Policies 1, 2.1, 5, 6, 7, 8, 9 and 10 as follows:

The proposed change in zoning from R-4 to C-1 to allow the additional retail uses that will encourage sustainable growth and avoid potential decline and will continue to provide goods and services in an existing activity center and along commercial corridors by placing low intensity commercial uses compatible with the neighborhoods and existing infrastructure. The design is appropriate with adjacent uses that will serve the needs of the surrounding community. The development will be compact in an existing activity center resulting in efficient land use and it will take advantage of and compliment cost-effective infrastructure investment. The mixture of compatible neighborhood serving uses will reduce traffic and limit trips for customers and users of the site, along with providing “capture trips” by providing additional retail services to those already traveling New Cut Road and southside Drive avoiding more lengthy trips. The potential uses are not ones that would be destinations, or if so, ones they would go during non-peak hour times. This site is within a corridor where major support population exists. As a relatively small retail center, it will be compact and will contain a mixture of acceptable/desirable retail/residential uses, complimentary to what exists in the growing area. In meeting with adjacent neighbors, the Applicant has agreed to prohibit payday loan stores and car washes by binding element. According to the New Cut Road/Taylor Boulevard Corridor Study this is a commercial node which punctuates an otherwise predominantly single-family residential use area (p. 38) and suggested objective for the area is to focus on neighborhood serving commercial development (p. 63).

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

The proposed zone change and DDDP comply with applicable Objectives a and d, and Policies 9, 10, 11 and 12 follows:

The proposed development plan will enhance the surrounding neighborhoods by not diminishing any open space or natural resources. There are no natural features or wet or highly permeable soils, severe, steep, or unstable slopes on the site. The zoning change will not impact any flood prone areas and there are no known kart areas on the site. The proposal avoids any significant change in topography and does not cause any environmental changes or damage. The landscape buffers and setbacks will continue to provide the community transitions between the site and the surrounding properties

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

The proposed zone change and DDDP comply with applicable Policies 1 & 2 as follows:

There are no historic buildings or features on the property. The rezoning and development plan will essentially provide an infill activity center location where a large support population exists. Thus, it represents a good opportunity for continued economic development for the area.

MOBILITY

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

The proposed zone change and DDDP complies with applicable Objectives e and Policy 4 as follows:

Although the neighborhood serving mixed use retail is more intense than the existing, but less intense than adjacent zoning, it is a small-scale development to serve the surrounding existing and approved and future residential with access from New Cut Road, a major arterial and Southside Drive, a minor arterial. Sidewalks are currently available along New Cut and Southside. TARC service is available to the site.

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

The proposed zone change and DDDP comply with applicable Objectives a, b, c & d and Policy 4 as follows:

The development plan complies with the objectives and applicable policy of Goal 2 by promoting safe, accessible and efficient transportation uses by accommodating pedestrian, bicycle and vehicular access to a minor arterial (Southside Drive) and a major arterial (New Cut Road) which is not through areas of significantly lower density or intensity and will not thereby create a nuisance.

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

The proposed zone change and DDDP comply with applicable Objectives a, b, c, & d and Policies 1, 2, 3, 4, 5, 6, 9 and 10 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 with additional development in this infill situation. The plan will not burden the transportation network but will allow the site to continue to be consistent with the purpose of the Town Center. The parking requirements of the site consider the intensity and density of the use and the character and pattern of the Form District in that it will continue to serve the community. The plan also satisfies the policy of supporting biking and pedestrian travel by providing for those modes of access, with excess bike parking provided. All required utilities are available to the site.

COMMUNITY FACILITIES

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

The proposed zone change and DDDP comply with applicable 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 such that it will 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 b, d, f & h and Policies 2, 3, and 4 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 providing for the use of an otherwise underutilized parcel in an infill context. 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 providing another location with convenient access to major arterials and roadway infrastructure without generating high volumes of traffic. The site is not located near the airport of the Ohio River. The New Cut/Taylor Boulevard Corridor Study notes that there is over a \$76 million gap between supply and demand for retail trade in the study area (p.24).

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 comply with applicable Policy 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. Landscaping will be added where necessary and required under the Land Development Code to reduce the impacts of the site to nearby uses. There are no known karst features on the site.

HOUSING

The proposed zone change and DDDP comply with applicable Objectives and applicable Policies of Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities 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. The proposed zoning will support diversity in mixed-income and inter-generational residency without displacing any current residents.

* * *

For all of these and other reasons set forth on the Detailed District Development 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

Variance Justification: 22-ZONEPA-0034; 5437 New Cut Road

The Applicant hereby requests a variance of: LDC Sections 5.2.4.C.3.a and 5.1.12.A.2.a to allow the buildings to exceed the 15 ft maximum front setback and infill requirements.

1. The variances will not adversely affect the public health, safety or welfare because these are aesthetic issues only.
2. The variances will not alter the essential character of the general vicinity because, if anything, the general character of the area is one of buildings set back as significantly already from the public street, as all buildings in this area were originally located on their respective sites before this was designated by Cornerstone 2020 and Plan 2040 as a Town Center Form District. Moreover, this overall plan allows neighborhood serving uses in a mixed-use area. This commercial building will sit further away from the road, but it is a use which will be designed to fit in the area's design and is necessary because of the long, narrow and irregular shape of the overall property relative to building sizes and shapes.
3. The variance will not cause a hazard or a nuisance to the public because again this is an aesthetic not hazard or nuisance issue.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because of all that is said above include the fact that the proposed commercial building is a rehabilitates a vacant lot that has only attracted vagrancy and a very poor visual condition for the neighborhood.

Additional consideration:

1. The variance arises from special circumstances, which do not generally apply to land in the general vicinity because of the unusually long and narrow configuration of the lot.
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 applicant wouldn't be able to provide parking adjacent to Southside Drive that would make this a commercially viable site.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of the shape of the buildings the overall site and the present as-built condition of the property.

General Waiver Justification: 22-ZONEPA-0034; 5437 New Cut Road

The Applicant requests a waiver of: Section 5.5.1.A.3 to allow parking to be located in front of the building facing Southside Drive.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because they are commercial users and multi-family that have far less in common with either Cornerstone 2020 Land Development Code or Plan 2040 than this proposed project because those were developed before this area was designated as a Town Center Form District. Furthermore, the site will have landscaping that mitigate the potential adverse consequences of parking located in the front of the building than the LDC otherwise technically permits and at this location the parking will be across the street from an institutional use.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Goals, Objectives and Policies of the Plan 2040 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 involves an unusually shaped lot (long and narrow) that cannot accommodate all of its parking in the rear that is accessible by another street (New Cut Road) where parking is situated in order to accommodate the plan for this mixed use in the area's activity center. The adjacent funeral home has parking and a vehicle use area in front of its building so as proposed this parking is not out of character for the area.
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 it would lose valuable/necessary parking in an area where, as noted, there are no negative resulting impacts and due to the configuration of the lot would make the proposed building commercially unviable.

General Waiver Justification: 22-ZONE-0068; 5437 New Cut Road

The Applicant hereby requests a waiver of Section 5.5.1.A.3.a to omit a masonry wall long the VUA area adjacent to the street.

Explanation of Waiver:

1. This waiver will not adversely affect adjacent property owners because the wall would be a small feature to shield only a few parking spaces; it also will not adversely affect public health, safety or welfare because this is an aesthetic code requirement which can be mitigated by increased vegetative plantings as set forth in the landscape plan. LDC 5.5.1.A.3.a states in pertinent part: “Side parking that exceeds 40% of the total linear lot frontage adjacent to right-of-way shall provide a minimum 3-foot masonry, stone or concrete wall **THAT MAKES REFERENCE TO A SIMILAR DESIGN WITH THE SURROUNDING AREA...**”. (Emphasis added) The New Cut Road/Taylor Boulevard Corridor Study notes in pertinent part that “the section of roadway between Palatka Road and Third Street Road consists of various commercial and retail buildings as well as some apartments. **This appears to be the least consistent street face along the entire corridor as the building character, setbacks, parking facilities and other features appear to be random.**” Thus, there is no similar design to which reference can be made for this construction and the lack of the wall is not out of character for the area.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth herein in the Detailed Statement of Compliance with all applicable Guidelines and Policies of Plan 2040 Comprehensive Plan filed with the original rezoning application. As only a portion of the original tract is being developed, and the only new 2040 Plan Guidelines and Policies of consequence are those pertaining to building design, landscaping and screening, all of which are being greatly improved as shown on the development plan and the landscape plan.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because only a small portion of this site would be required to insert a knee wall where, given the circumstances of the overall site, the landscaping is greatly improved and in keeping with the overall aesthetic scheme for this mixed use activity center and the New Cut/Taylor Boulevard Corridor Study; further, the as-built condition that is being improved with a new building, added screening and landscaping does not add to non-compliance with the Land Development Code, but rather, if anything, the partial re-build and site improvements bring the plan into better compliance with the Land Development Code and the Plan 2040 Comprehensive Plan.
4. Strict application of the provisions of the regulation would deprive the Applicant of a reasonable use of the land and would create an unnecessary hardship on the Applicant because it would have to build a wall at considerable expense relative to the small scale of the development on Southside Drive and where it does not make common sense because of the limited area

adjacent to right of way which has been dedicated to Metro Works and where other, better and more practical landscape devices can be employed.

General Waiver Justification: 22-ZONEPA-0034; 5437 New Cut Road

The Applicant hereby submits a waiver of LDC Section 5.5.1.A.3.d to waive the pedestrian and vehicular connections to parking lots of the abutting developments.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners or the public because cross-parking with the adjacent funeral home has been a problem that the parties intend to resolve by contractual agreement to ensure that there is no disruption to the respective businesses using their parking particularly with respect to occasional large funerals that require additional parking. A copy of this agreement will be provided to DPDS staff when completed. The adjacent C-2 contractors' site on Southside Drive has been granted a waiver of this requirement under Docket #18-ZONE-1067. The liquor store adjacent to the north on New Cut Road has an existing curb cut and does not require an additional access to New Cut Road. The plan as proposed does not provide access from the north to Southside Drive due to the existing configuration of the lot.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Goals, Objectives and Policies of the Plan 2040 Comprehensive Plan filed with the original rezoning application. Pedestrian connectivity is provided by existing sidewalks and vehicular access to adjacent roadways is sufficient for the abutting properties.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the connection would not serve any purpose and would have the effect of reducing the available parking on site which is in cooperation with the funeral home for overflow parking during large funeral events.
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 it would lose valuable/necessary parking, it would serve no useful purpose, and would compromise the ability of the neighboring funeral home, restaurant and laundromat to share parking as needed.

General Waiver Justification: Golden Wash LLC; 5437 New Cut Road; 22-ZONE-0068

The Applicant hereby requests a partial waiver of: Section 10.2.4.B.1 to allow the proposed building, dumpster enclosure and parking to encroach 10 feet into the 20-foot LBA along the adjacent OR-1 zoned property south of the site.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because there is only one adjacent property owner, Ratterman Funeral Home. Parking spaces have been in place in this location for many years. The difference is that part of the area will now also contain approximately 1000 square feet the proposed 6000 square foot building which will be located 60 feet back from the front of the funeral home and the parking spaces in that area will not extend beyond its front facade so there will be no adverse effect. There will also be a pedestrian sidewalk in this location between the two properties which will facilitate the anticipated two users of the proposed retail building. Landscaping is also proposed at the front of the building along Southside Drive which will mitigate the effect of the encroachment.

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 Plan 2040 filed with the original rezoning application. Accommodating a sidewalk is important for pedestrian connectivity and is an important part of the “complete streets” program and supported by Mobility Goal 1, Policy 35.

3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the subject site is very narrow, and the original tract had an unusual “V” shape. At this location the lot is only 75 feet wide in total. In order to have a functional retail building on this narrow lot the encroachment has become the minimum necessary.

4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land and would create an unnecessary hardship on the applicant because it would make the current proposed layout impossible and result in a building too narrow for retail purposes and the entire project infeasible.

*TAB 10
PROPOSED FINDINGS OF FACT
PERTAINING TO COMPLIANCE WITH THE
2040 PLAN AND WAIVER CRITERIA*

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

1000 N. HURSTBOURNE PARKWAY • BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG. • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
(502) 426-6688 • (502) 425-0561 (FAX) • WWW.BARDLAW.NET

PROPOSED FINDINGS OF FACT CASE NO. 22-ZONE-0068

<u>Applicant & Owner:</u>	Golden Wash, LLC
<u>Location:</u>	5437 New Cut Road
<u>Proposed Use:</u>	Commercial/Retail center
<u>Engineers, Land Planners and Landscape Architects:</u>	AL Engineering, Inc.
<u>Request:</u>	Zone change from R-5 to C-1

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on September 15, 2022 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

WHEREAS, the proposed zone change, and detailed district development plan (DDDP) comply with Community Form Goal 1 and its applicable Objectives a, b, c, e & f and applicable Policies 1, 2.1, 3.1.5., 4, 6, 7, 14, 15, 17, 18, 19 and 20, because the proposed change in zoning from R-5 to C-1 will permit a small neighborhood serving retail center in an existing Town Center where a large retail activity center already exists and there is a substantial residential area both single and multi-family that would benefit from additional goods and services.

The new retail center will provide additional goods and services while also supporting the existing retail stores in the proposed center and position the overall development to adapt readily now and in the future to new market demands. Its location close to neighboring residential developments will be convenient for the residents and will reduce vehicle miles travelled for those seeking routine neighborhood serving products and services without driving to large commercial centers. The rezoning will serve the suburban area in a robust and healthy commercial manner fulfilling the Town Center form district goals.

The development and proposed zone change will remain compatible with the scale and site design of the neighboring development. The rezoning will allow additional goods and services through the development of this small parcel in the best way possible and does not cause the expansion into residential areas. 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 to the greatest extent possible; and

WHEREAS, The proposed zone change and DDDP comply with Community Form Goal 2 and its applicable Objectives a, b & d and Policies 1, 2.1, 5, 6, 7, 8, 9 and 10 because the proposed change in zoning from R-4 to C-1 will allow the additional retail uses that will encourage sustainable growth and avoid potential decline and will continue to provide goods and services in an existing activity center and along commercial corridors by placing low intensity commercial

uses compatible with the neighborhoods and existing infrastructure. The design is appropriate with adjacent uses that will serve the needs of the surrounding community. The development will be compact in an existing activity center resulting in efficient land use and it will take advantage of and complement cost-effective infrastructure investment. The mixture of compatible neighborhood serving uses will reduce traffic and limit trips for customers and users of the site, along with providing “capture trips” by providing additional retail services to those already traveling New Cut Road and southside Drive avoiding more lengthy trips. The potential uses are not ones that would be destinations, or if so, ones they would go during non-peak hour times. This site is within a corridor where major support population exists. As a relatively small retail center, it will be compact and will contain a mixture of acceptable/desirable retail/residential uses, complementary to what exists in the growing area. In meeting with adjacent neighbors, the Applicant has agreed to prohibit adult entertainment, vaping and cigar/smoke shops, payday loan stores and car washes by binding element. The Applicant has also agreed to share parking with the adjacent funeral home per a cross-parking agreement. According to the New Cut Road/Taylor Boulevard Corridor Study this is a commercial node which punctuates an otherwise predominantly single-family residential use area and suggested objective for the area is to focus on neighborhood serving commercial development; and

WHEREAS, the proposed zone change and DDDP complies with Community Form Goal 3 and its applicable Objectives a and d, and Policies 9, 10, 11 and 12 because the proposed development plan will enhance the surrounding neighborhoods by not diminishing any open space or natural resources. There are no natural features or wet or highly permeable soils, severe, steep, or unstable slopes on the site and the proposed plan will not impact any flood prone areas and there are no known karst areas on the site. The proposal avoids any significant change in topography and does not cause any environmental changes or damage. The landscape buffers and setbacks will continue to provide the community transitions between the site and the surrounding properties; and

WHEREAS, the proposed zone change and DDDP comply with Community Form Goal 4 and its applicable Policies 1 & 2 because there are no historic buildings or features on the property. The rezoning and development plan will essentially provide an infill activity center location where a large support population exists and represents a good opportunity for continued economic development for the area; and

WHEREAS, the proposed zone change and DDDP comply with Mobility Goal 1 and its applicable Objectives e and Policy 4 because although the neighborhood serving mixed use retail is more intense than the existing, but less intense than adjacent zoning, it is a small-scale development to serve the surrounding existing and approved and future residential with access from New Cut Road, a major arterial and Southside Drive, a minor arterial. Sidewalks are currently available along New Cut and Southside. TARC service is available to the site; and

WHEREAS, the proposed zone change and DDDP comply with Mobility Goal 2 and its applicable Objectives a, b, c & d, and Policy 4 because it promotes safe, accessible, and efficient transportation uses by accommodating pedestrian, bicycle, and vehicular access to a minor arterial (Southside Drive) and a major arterial (New Cut Road) which is not through areas of significantly lower density or intensity and will not thereby create a nuisance; and

WHEREAS, the proposed zone change and DDDP comply with Mobility Goal 3 and its applicable Objectives a, b, c, & d and Policies 1, 2, 3, 4, 5, 6, 9 and 10 because the development provides walking and bicycling opportunities with the sidewalks and interconnected walkways and by providing a mix of complementary neighborhood serving businesses, services and reducing miles travelled by car by providing the activity center with additional development in this infill situation which will not burden the transportation network but will allow the site to continue to be consistent with the purpose of the Town Center. The parking requirements of the site considers the intensity of the use and the character and pattern of the Form District in that it will continue to serve the community. The plan also satisfies the policy of supporting biking and pedestrian travel by providing for those modes of access, with excess bike parking provided. All required utilities are available to the site; and

WHEREAS, the proposed zone change and DDDP comply with Community Facilities Goal 2 and its applicable Policies 1, 2, & 3 because 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 such that it will not burden existing or future community facilities; and

WHEREAS, the proposed zone change and DDDP comply with Economic Development Goal 1 and its applicable Objectives b, d, f & h and Policies 2, 3, and 4 because 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 providing for the use of an otherwise underutilized parcel in an infill context locating 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 providing another location with convenient access to major arterials and roadway infrastructure without generating high volumes of traffic. The site is not located near the airport of the Ohio River. The New Cut/Taylor Boulevard Corridor Study notes that there is over a \$76 million gap between supply and demand for retail trade in the study area; and

WHEREAS, the proposed zone change and DDDP comply with Livability Goal 1 and its applicable Policies 7, 12, 17 23, 25, 26, 27, 28, 31, 32, 35, & 39 because it provides pedestrian and bicycle connectivity while not creating new traffic for the area. Landscaping will be added where necessary and required under the Land Development Code to reduce the impacts of the site to nearby uses. There are no known karst features on the site; and

WHEREAS, the proposed zone change and DDDP comply with Housing Goals 1, 2 and 3 and their applicable Objectives and Policies as it creates and locates necessary services and employment opportunities 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. The proposed zoning will support diversity in mixed-income and inter-generational residency without displacing any current residents; and

WHEREAS, the existing R-5 zoning classification is inappropriate and the proposed zoning classification is appropriate as the above findings demonstrate and there have been major changes of an economic, physical or social nature within the area which were not anticipated in the comprehensive and which have substantially altered the basic character of the area because the property adjacent to the east was recently rezoned to C-2 for a contractors shops and is adjacent to the west by Ratterman's Funeral Home and it is extremely unlikely that anyone would want to build a single-family home between these two intense commercial uses. The immediate area has since become more commercial in nature and to the north are commercial uses and to the south is a church and school institutional uses.

* * *

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 Goals of the 2040 Plan;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby recommends to the Louisville Metro Council that it rezone the subject property from R-5 to C-1 and approves the Detailed District Development Plan.

Variance Findings of Fact: 22-ZONEPA-0034; 5437 New Cut Road

WHEREAS, the Applicant requested a variance of: LDC Sections 5.2.4.C.3.a and 5.1.12.A.2.a to allow the buildings to exceed the 15 ft maximum front setback and infill requirements, the Planning Commission upon hearing the staff report, evidence and testimony finds:

WHEREAS, the variance will not adversely affect the public health, safety or welfare because these are aesthetic issues only and will accommodate the positive development of a largely vacant infill site; and

WHEREAS, the variance will not alter the essential character of the general vicinity because, if anything, the general character of the area is one of buildings set back as significantly already from the public street, as all buildings in this area were originally located on their respective sites before this was designated by Cornerstone 2020 and Plan 2040 as a Town Center Form District and this overall plan allows neighborhood serving uses in a mixed-use area. This commercial building will sit further away from the road, but it is a use which will be designed to fit in the area's design and is necessary because of the long, narrow and irregular shape of the overall property relative to building sizes and shapes; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because again this is an aesthetic not hazard or nuisance issue and will allow for convenient and safe parking to serve the building; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because of all that is said above include the fact that the proposed commercial building is a rehabilitates a vacant lot that has only attracted vagrancy and a very poor visual condition for the neighborhood; and

WHEREAS, the variance arises from special circumstances, which do not generally apply to land in the general vicinity because of the unusually long and narrow configuration of the lot; and

WHEREAS, a strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create unnecessary hardship because the applicant wouldn't be able to provide parking adjacent to Southside Drive that would make this a commercially viable site, and which is a condition predominant throughout the area; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of the shape of the building the overall site and the present as-built condition of the property.

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

Waiver Findings of Fact: Golden Wash LLC; 5437 New Cut Road; 22-ZONE-0068

WHEREAS, the Applicant has requested a partial waiver of: Section 10.2.4.B.1 to allow the proposed building, dumpster enclosure and parking to encroach 10 feet into the 20-foot LBA along the adjacent OR-1 zoned property south of the site; and

WHEREAS, the waiver will not adversely affect adjacent property owners because there is only one adjacent property owner, Ratterman Funeral Home where parking spaces have been in place in this location for many years. The difference is that part of the area will now also contain approximately 1000 square feet the proposed 6000 square foot building which will be located 60 feet back from the front of the funeral home and the parking spaces in that area will not extend beyond its front facade so there will be no adverse effect. There will also be a pedestrian sidewalk in this location between the two properties which will facilitate the anticipated two users of the proposed retail building. Landscaping is also proposed at the front of the building along Southside Drive which will mitigate the effect of the encroachment 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 Plan 2040 filed with the original rezoning application. Accommodating a sidewalk is important for pedestrian connectivity and is an important part of the “complete streets” program and supported by Mobility Goal 1, Policy 35; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the subject site is very narrow, and the original tract had an unusual “V” shape. At this location the lot is only 75 feet wide in total. In order to have a functional retail building on this narrow lot the encroachment has become the minimum necessary to afford relief; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land and would create an unnecessary hardship on the applicant because it would make the current proposed layout impossible and result in a building too narrow for retail purposes and the entire project infeasible.

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

Waiver Findings of Fact : 22-ZONEPA-0034; 5437 New Cut Road

WHEREAS, The Applicant has requested a waiver of LDC Section 5.5.1.A.3 to allow parking to be located in front of the building facing Southside Drive; and

WHEREAS, the waiver will not adversely affect adjacent property owners because they are commercial users and multi-family that have far less in common with either Cornerstone 2020 Land Development Code or Plan 2040 than this proposed project because those were developed before this area was designated as a Town Center Form District. Furthermore, the site will have landscaping to mitigate the potential adverse consequences of parking located in the front of the building than the LDC otherwise technically permits and at this location the parking will be across the street from an institutional use and next to commercial uses; 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 Goals, Objectives and Policies of the Plan 2040 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 involves an unusually shaped lot (long and narrow) that cannot accommodate all of its parking in the rear that is accessible by another street (New Cut Road) where parking is situated in order to accommodate the plan for this mixed use in the area's activity center. The adjacent funeral home has a vehicle use area in front of its building so as proposed this parking is not out of character for the area 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 it would lose valuable/necessary parking in an area where, as noted, there are no negative resulting impacts and due to the configuration of the lot would make the proposed building commercially unviable.

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

Waiver Findings of Fact: 22-ZONE-0068; 5437 New Cut Road

WHEREAS, the Applicant has requested a waiver of Section 5.5.1.A.3.a to omit a masonry wall long the VUA area adjacent to the street; and

WHEREAS, this waiver will not adversely affect adjacent property owners because the wall would be a small feature to shield only a few parking spaces and will not adversely affect public health, safety or welfare because this is an aesthetic code requirement which can be mitigated by increased vegetative plantings as set forth in the landscape plan. LDC 5.5.1.A.3.a states in pertinent part: “Side parking that exceeds 40% of the total linear lot frontage adjacent to right-of-way shall provide a minimum 3-foot masonry, stone or concrete wall THAT MAKES REFERENCE TO A SIMILAR DESIGN WITH THE SURROUNDING AREA...”. (Emphasis added) The New Cut Road/Taylor Boulevard Corridor Study notes in pertinent part that “the section of roadway between Palatka Road and Third Street Road consists of various commercial and retail buildings as well as some apartments. **This appears to be the least consistent street face along the entire corridor as the building character, setbacks, parking facilities and other features appear to be random.**” and there is no similar design to which reference can be made for this construction and the lack of the wall is not out of character for the area; and

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth herein in the Detailed Statement of Compliance with all applicable Guidelines and Policies of Plan 2040 Comprehensive Plan filed with the original rezoning application and as only a portion of the original tract is being developed, and the only new 2040 Plan Guidelines and Policies of consequence are those pertaining to building design, landscaping and screening, all of which are being greatly improved as shown on the development plan and the landscape plan; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because only a small portion of this site would be required to insert a knee wall where, given the circumstances of the overall site, the landscaping is greatly improved and in keeping with the overall aesthetic scheme for this mixed use activity center and the New Cut/Taylor Boulevard Corridor Study; further, the as-built condition that is being improved with a new building, added screening and landscaping does not add to non-compliance with the Land Development Code and the partial re-build and site improvements bring the plan into better compliance with the Land Development Code and the Plan 2040 Comprehensive Plan; and

WHEREAS, strict application of the provisions of the regulation would deprive the Applicant of a reasonable use of the land and would create an unnecessary hardship on the Applicant because it would have to build a wall at considerable expense relative to the small scale of the development on Southside Drive and where it does not make common sense because of the limited area adjacent to right of way which has been dedicated to Metro Works and where other, better and more practical landscape devices can be employed.

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

Waiver Findings of Fact: 22-ZONEPA-0034; 5437 New Cut Road

WWHEREAS, the Applicant has requested a waiver of LDC Section 5.5.1.A.3.d to waive the pedestrian and vehicular connections to parking lots of the abutting developments; and

WHEREAS, the waiver will not adversely affect adjacent property owners or the public because cross-parking with the adjacent funeral home has been a problem that the parties intend to resolve by contractual agreement to ensure that there is no disruption to the respective businesses using their parking particularly with respect to occasional large funerals that require additional parking. A copy of this agreement has been provided to DPDS staff and the adjacent C-2 contractors' site on Southside Drive has been granted a waiver of this requirement under Docket #18-ZONE-1067. The liquor store adjacent to the north on New Cut Road has two existing curb cuts and does not require a third additional access to New Cut Road and the plan as proposed does not provide access from the north to Southside Drive due to the existing configuration of the lot; 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 Goals, Objectives and Policies of the Plan 2040 Comprehensive Plan filed with the original rezoning application. Pedestrian connectivity is provided by existing sidewalks and vehicular access to adjacent roadways is sufficient for the abutting properties; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the connection would not serve any purpose and would have the effect of reducing the available parking on site which is in cooperation with the funeral home for overflow parking during large funeral events; 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 it would lose valuable/necessary parking, it would serve no useful purpose, and would compromise the ability of the neighboring funeral home, restaurant and laundromat to share parking as needed.

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