

DOCKET NO. 17ZONE1064

Proposed zone change from OR-3 to C-1 and a Revised Detailed District Development Plan to allow an expansion of the existing veterinary clinic on property located at 107, 111R & 113 Fairfax Avenue



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Tab 1

LOJIC Zoning Map



Search Addresses



Gray Basic Aerial Base Labels

Trinity HS

Shelbyville Rd.

White Castle

Panera

Bethal St. Paul Church

Burger King

El Tarasco

Fairfax Ave.

Tab 2

Aerial photograph of the site and
surrounding area



Search Addresses



Trinity HS

EXCELLA PLACE

SHELBYVILLE RD

Shelbyville Rd.

N SHERRIN AVE

RIDGEWAY AVE

White Castle

FAIRFAX AVE

Panera

SITE

S SHERRIN AVE

Burger King

MAGNOLIA

El Tarasco

Fairfax Ave.

ST DICK

DAYTON AVE



Tab 3

Ground level photographs of the site and surrounding area



121 Fairfax Ave
St Matthews, Kentucky

Google, Inc.

Street View - Dec 2016



SITE

Trinity HS

Fairfax Ave.

Not part
of site

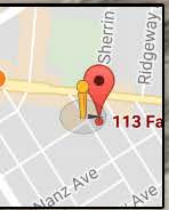
SITE

Google

Looking north towards Shelbyville Road. Site is to the right.



108 Fairfax Ave
St Matthews, Kentucky
Google, Inc.
Street View - Dec 2016



Google

Looking southeast at site from Fairfax Ave.



Fairfax Ave
Shelbyville, Kentucky
© 2017 Google, Inc.
Street View - Dec 2016

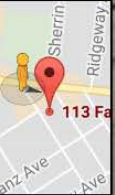
Trinity HS

Shelbyville Rd.

Panera

SITE
↓

Fairfax Ave.



Google

Images captured Dec 2016 © 2017 Google, United States Terms Report
Images captured Dec 2016 © 2017 Google, United States Terms Report

Looking east down Shelbyville Road.



Shelbyville Rd
Matthews, Kentucky
Google, Inc.
Street View - Jan 2017



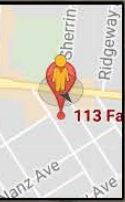
Burger King

SITE

Panera

Shelbyville Rd.

Google

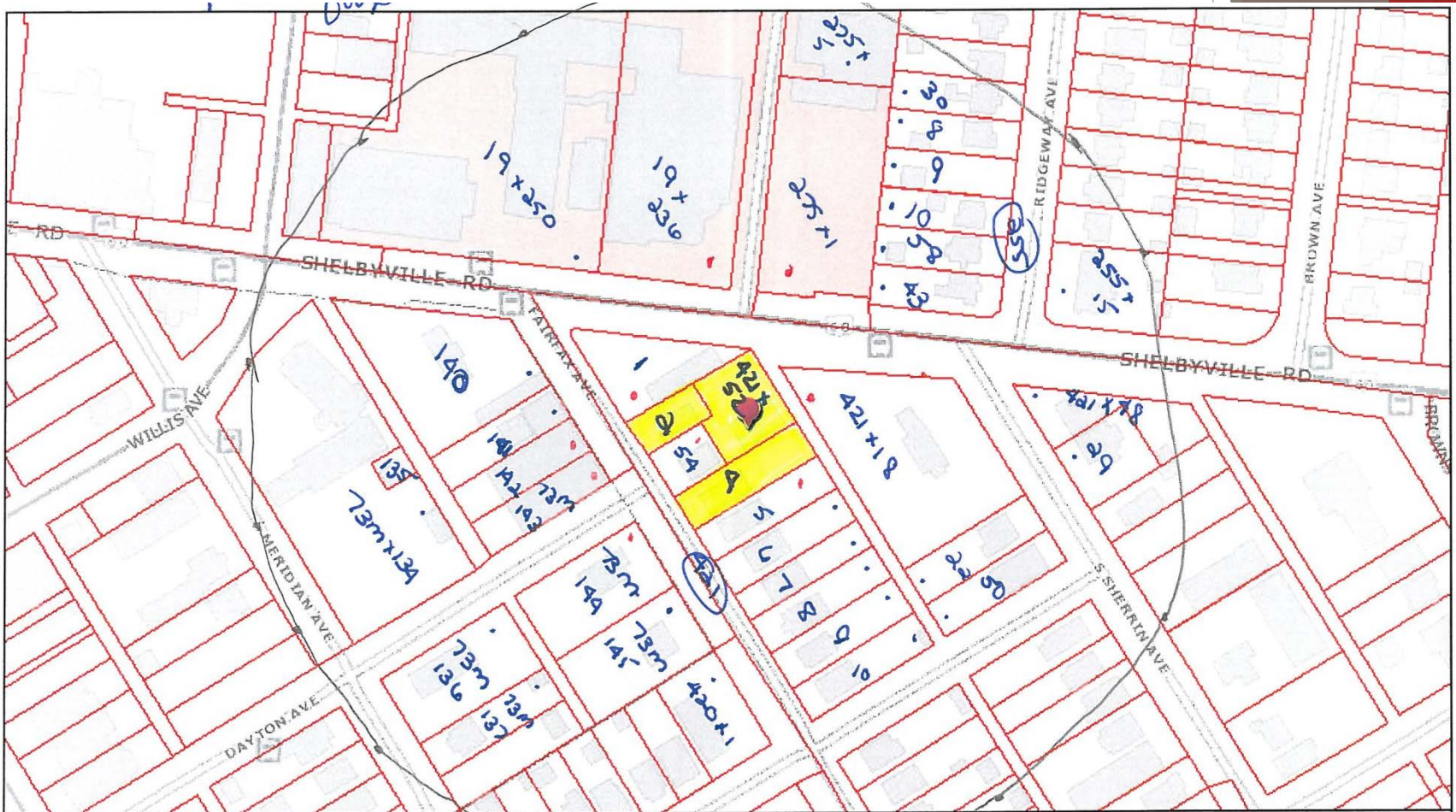


Looking south towards existing animal clinic from Shelbyville Road.

Tab 4

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

Adjoining property owner notice list map wherein 39 neighbors were invited to the various neighborhood meetings and the subsequent LD&T and Planning Commission public hearing.



0 100 200ft

11/1/2017, 10:59:54 AM



Louisville Metro, MSD, LWC & PVA © 2017
This map is not a legal document and should only be used for general reference and identification.

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

John Talbott
Direct dial: 426-0388, ext. 133
Email: JOHN@BARDLAW.NET

November 2, 2017

Dear Neighbor,

RE: Proposed change in zoning from C-1 and OR-3 to C-2 to allow a Veterinary Clinic on approximately .70 acres on property located where the existing St. Matthews Animal Clinic is located at 107, 111 R & 113 Fairfax Avenue

We are writing to invite you to a meeting we have scheduled to present neighbors with our rezoning plan to allow an addition to the existing St. Matthews Animal Clinic to allow a veterinary clinic to be located as above.

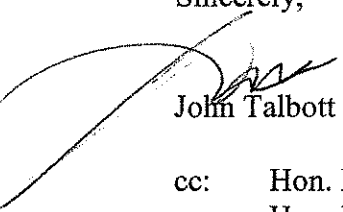
Accordingly, we will soon be filing a plan for pre-application review with the Division of Planning and Design Services (DPDS) that will be assigned a case manager, and case number. We would like to show and explain to neighbors this plan so that we might hear what thoughts, issues and perhaps even concerns you may have.

In that regard, a meeting will be held on **Thursday, November 16, 2017 at 7:00 p.m.** at the **St. Matthews-Eline branch of the Louisville Free Public Library** located at **3940 Grandview Avenue, Louisville, KY**. The meeting will be held on the Second Floor.

If you cannot attend the meeting but have questions or concerns, please call me at 426-6688 or the land planning and engineering firm representatives Kevin Young or Ann Richard at 426-9374.

We look forward to seeing you.

Sincerely,



John Talbott

cc: Hon. Richard Tonini, Mayor, City of St. Matthews
Hon. Bill Hollander, Councilman, District 9
Brian Davis, Planning Supervisor with Division of Planning & Design Services
Kevin Young & Ann Richard, land planners with Land Design & Development, Inc.
Matthew Elder, Redlee Construction & Development, Applicant

Neighborhood Meeting Summary

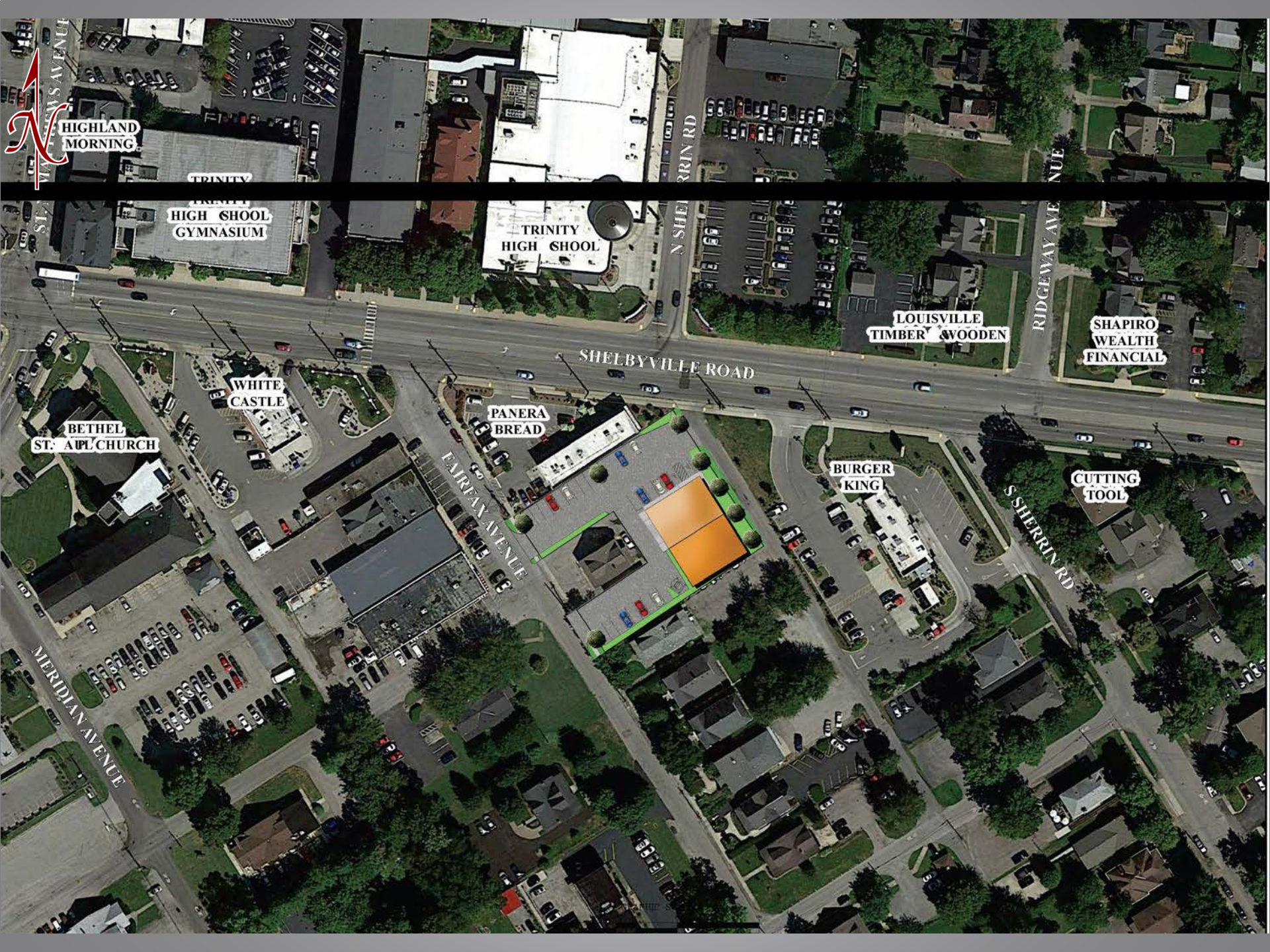
A neighborhood meeting was held on Thursday, November 16, 2017 at 7:00 p.m. at the St. Matthews-Eline branch of the Louisville Free Public Library located at 3940 Grandview Avenue. Those in attendance included the applicant's representatives, John Talbott, attorney and Ann Richard, land planner and engineer, as well as the applicant.

The only resident who attended the meeting was a fellow business owner, Dr. Robert E. Cooper, who owns "A Choice Dental Care", whose property is immediately adjacent to the site being rezoned. Dr. Cooper was shown the full PowerPoint presentation. It showed aerial view of nearby area and development with which Dr. Cooper was well acquainted. The proposed initial site plan for this site, its perimeter buffers and setbacks, the location of parking, were also all shown.

Dr. Cooper indicated that he did not have any objection to the plan. His only two concerns were parking for the new site and the impact construction might have on customer access to his business. The display of the parking being added was appreciated and satisfied his concern on parking. The Applicant, David Elder, also made it clear that his company would do everything possible to avoid any disruption to access to Dr. Cooper's dental practice, which because of the access to the site from the back ally, was not deemed to be a problem.

With no one else appearing, the meeting was adjourned at 7:45 pm.

Tab 5 Development Plan



HIGHLAND
MORNING

TRINITY

TRINITY
HIGH SCHOOL
GYMNASIUM

TRINITY
HIGH SCHOOL

LOUISVILLE
TIMBER WOODEN

SHAPIRO
WEALTH
FINANCIAL

WHITE
CASTLE

BETHEL
ST. APL CHURCH

PANERA
BREAD

BURGER
KING

CUTTING
TOOL

MERIDIAN AVENUE

FAIRFAX AVENUE

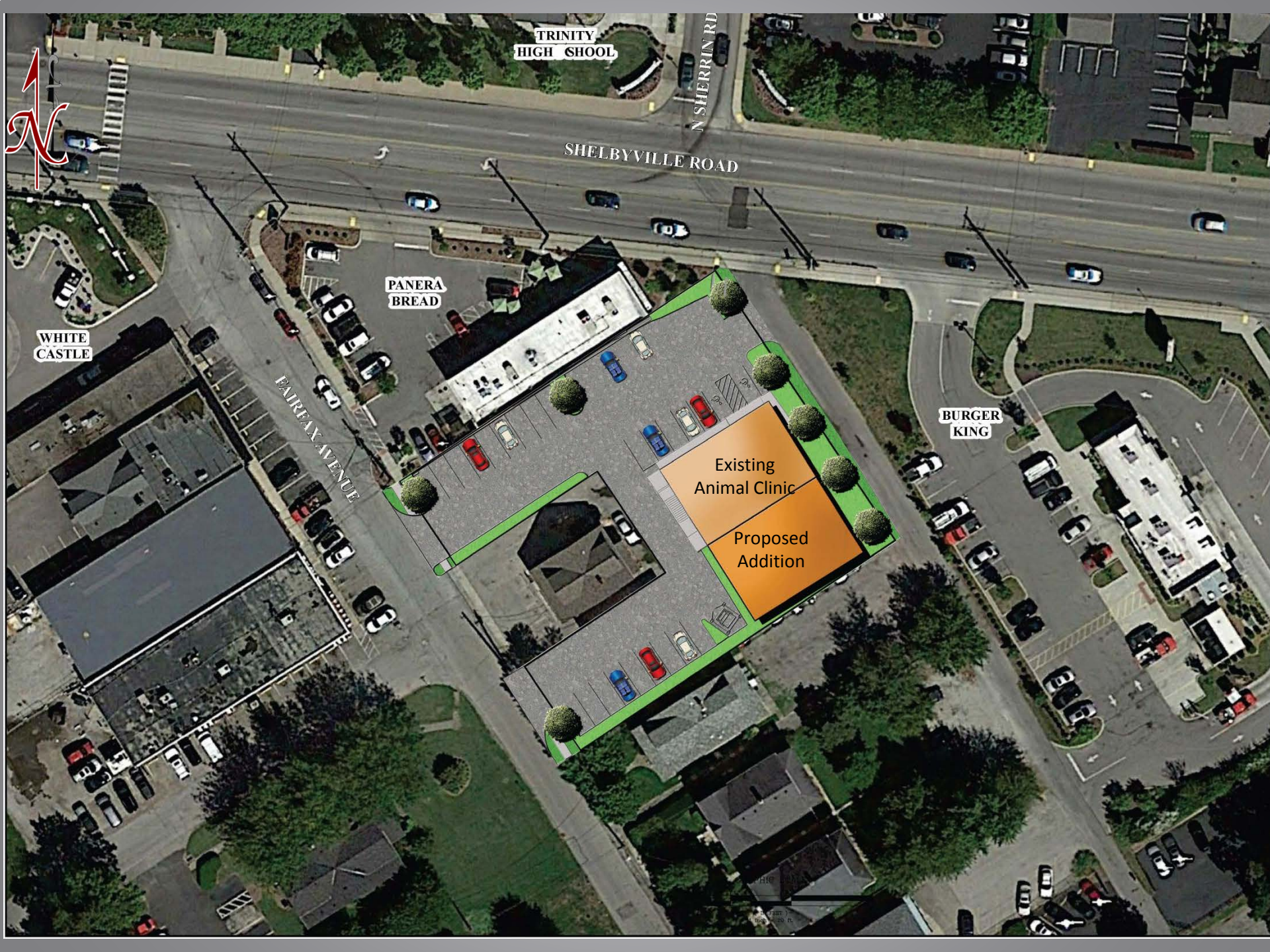
SHELBYVILLE ROAD

S SHERRIN RD

RIDGEWAY AVENUE

N SHERRIN RD

MAYNARD AVENUE



TRINITY
HIGH SCHOOL

N SHERRIN RD

SHELBYVILLE ROAD

PANERA
BREAD

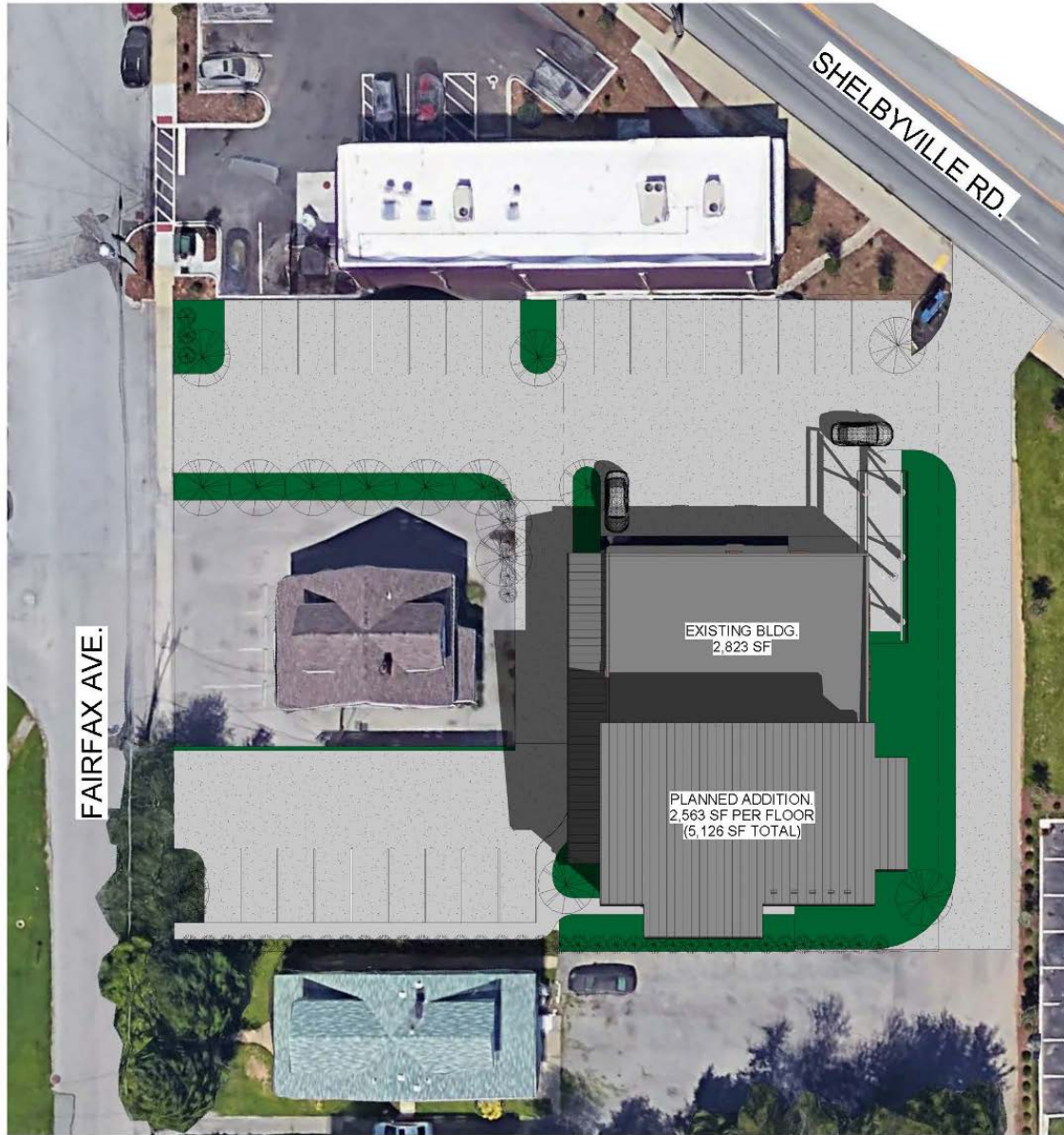
WHITE
CASTLE

FAIRFAX AVENUE

BURGER
KING

Existing
Animal Clinic

Proposed
Addition



SITE PLAN

1" = 20'-0"



C-3/7C
 SITE ADDRESS: 4024 SHELBYVILLE RD.
 N. Collins, L C 1
 6060 Catherine Ln Ste 110
 Louisville, KY 40205
 D.B. 10278 PG. 0130



OR-3/7C
 SITE ADDRESS: 111 Fairfax Ave
 Robert P. Sabor
 111 Fairfax Avenue
 Louisville, KY 40202
 D.B. 10233 PG. 0982

OR-3/7C
 SITE ADDRESS: 115 FAIRFAX AVE.
 Murrow, Cheryl
 1011 Duke Dr
 Louisville, KY 40205
 D.B. 7495 PG. 0285

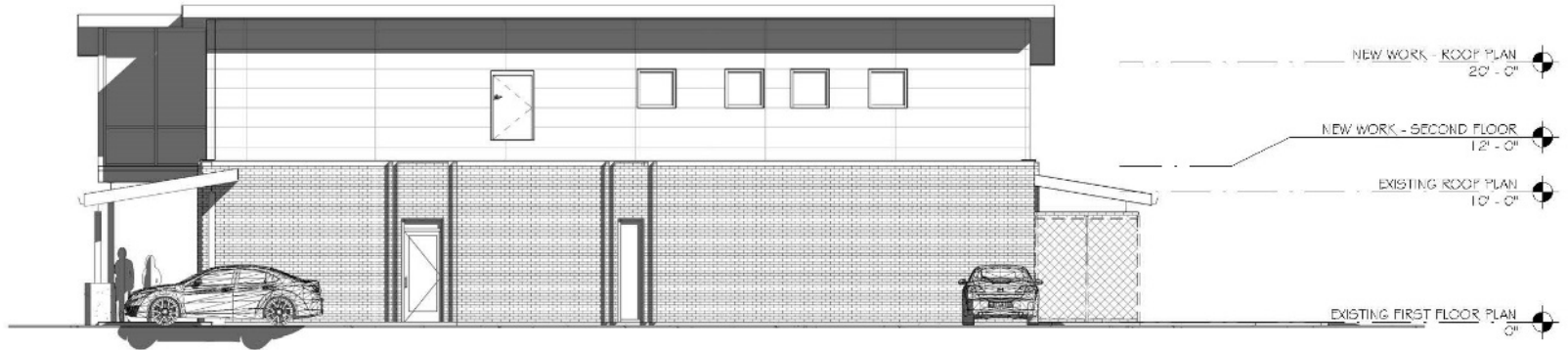
OR-1/7C
 SITE ADDRESS: 114 FAIRFAX AVE.
 Fairfax Properties LLC
 114 Fairfax Ave.
 Louisville, KY 40207
 D.B. 9888 PG. 0081

Tab 6

Building Elevations

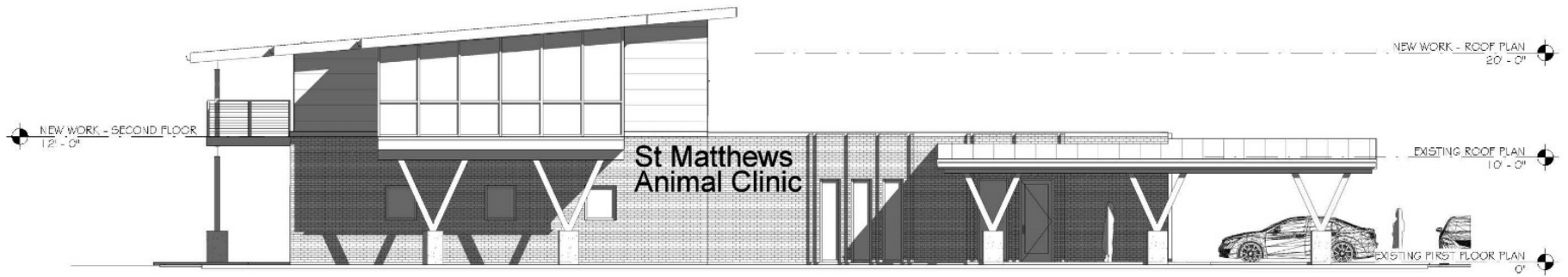


5 VIEW FROM NORTHEAST



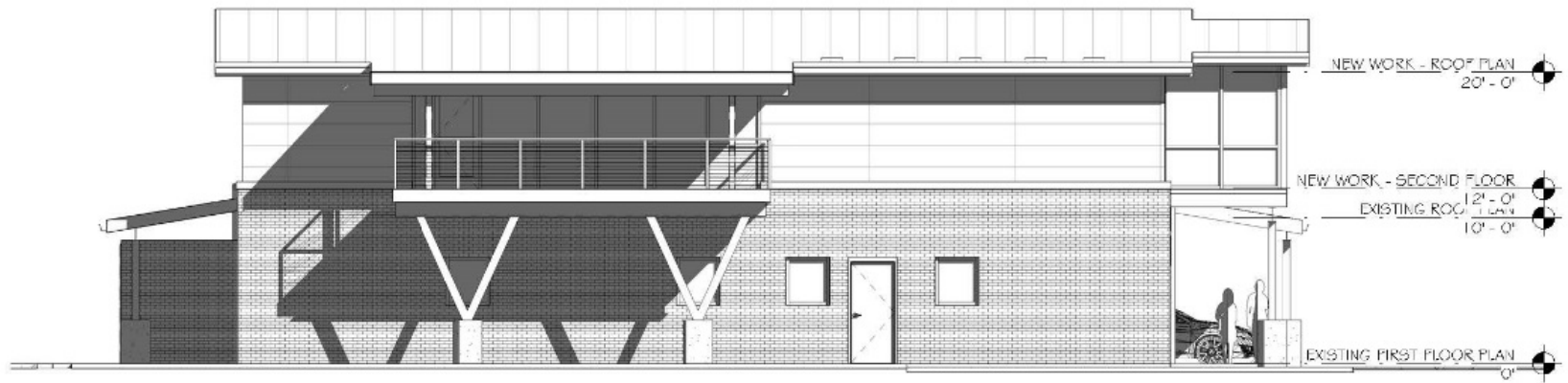
NORTH ELEVATION

1/8" = 1'-0"



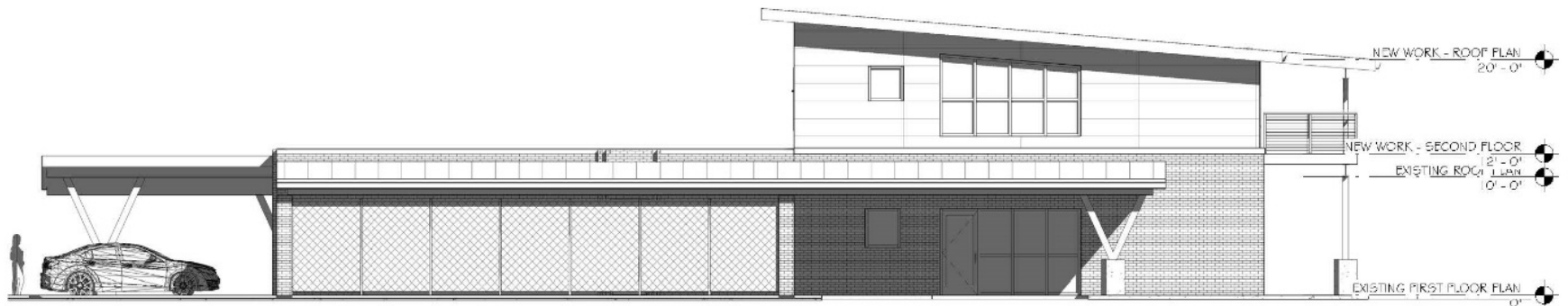
EAST ELEVATION

1/8" = 1'-0"



SOUTH ELEVATION

1/8" = 1'-0"



WEST ELEVATION

1/8" = 1'-0"

Tab 7

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

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

STATEMENT OF COMPLIANCE WITH APPLICABLE GUIDELINES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

<u>Applicant:</u>	Redlee Construction & Development, Inc.
<u>Owner:</u>	Kirk & Laura Swigert; Schardein & Swigert Property, LLC
<u>Location:</u>	107, 111 R. and 113 Fairfax Ave
<u>Proposed Use:</u>	Veterinary Clinic expansion
<u>Engineers, Land Planners and Landscape Architects:</u>	Land Design & Development, Inc.
<u>Request:</u>	Change in Zoning from OR-3 and C-1 (The request was changed from C-2 to C-1 after pre-app and confirming the proper zoning district with St. Matthews)

SUMMARY STATEMENT

This application involves an existing veterinary clinic that looks to incorporate two adjacent lots for increased parking and to add an addition to its building. This property is located in a Town Center of St. Matthews, surrounded by a Burger King restaurant, a Panera restaurant, and a dental office. The expansion is necessary for this existing business to continue to serve the growing veterinary services demand in and around the City of St. Matthews and the many surrounding and nearby residential areas. With the addition, the veterinary clinic will be better able to provide the full range of services that this busy clinic, at this long standing location needs, serve its clients and remain viable. Two of the lots are already zoned C-1 and the third lot is currently zoned OR-3 which would become C-1.

GUIDELINE 1 – COMMUNITY FORM

The proposed zone change complies with all of the applicable Intents and Policies of Town Center Form Area/Form District of Guideline 1 for these reasons.

Although St. Matthew's has not adopted the Cornerstone 2020 Land Development Code (LDC), it did adopt Form Areas, although perhaps not the LDC's "Form Districts". This site is located in the Town Center Form Area/Form District, which is a traditional form with an identifiable core usually located along a historic crossroads and or major thoroughfare, such as US 60 (an arterial) in this case. The Town Center form typically has a compact mixture of a variety of moderately intense uses, with buildings generally oriented toward and located near the primary

street. This existing business location and the surrounding commercial uses are located on small lots and are very compact. This application complies with this Guideline because the existing use, that is proposed for expansion, already conforms to most, if not all, Town Center characteristic, some as enumerated. Like most town centers, this property provides easy access, both pedestrian and vehicular, as well as TARC service.

GUIDELINE 2: CENTERS

The application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 11, 13, 14, 15 and 16 of this Guideline as follows.

The Intents and Policies this Guideline all pertain to how a specific land use in a given Form Area/District should be designed in terms of the specific context and site. This proposed development is compatible with the adjoining uses as this is an expansion of an existing use on the property for some time. The fact that the current building and property are not sufficient for the existing business demonstrates there is an adequate population in the area to support the request. This application complies with this Guideline, its Intents and Policies because it is located in the Town Center of St. Matthews and is, as the development plan filed with this application and land use map demonstrate, fits within its compact setting surrounded by a mixture of compatible uses. This proposal is compatible with the nearby residential as there is no residentially zoned property within a block or more, and in some directions, even further. Parking will be increased and the site will also have access to public transportation. The property already has access to all utility services needed.

GUIDELINE 3: COMPATIBILITY

The application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 11, 19, 12, 21, 22, 23, 24, and 28 of this Guideline as follows.

The Intents and Policies of this Guideline all pertain to the mitigation of various impacts, such as design, considering building materials, odors, traffic, noise, lighting, screening and buffering and signage. Again, as this is an existing use, just one that desires to better serve its active customer base, it is not intending to introduce new impacts to an area that do not already exist. It will add very much needed parking and also improve access by removing two existing structures. The use will be largely fully enclosed, and further because parking and access are improved, while lighting and signage will not significantly change, once again new negative impacts are not created. Existing impacts will be fully mitigated, just as they have been in the past, or through added binding elements. The applicant will demonstrate the style, design, and building materials of the proposal are compatible with the surrounding uses through elevations/renderings to be provided for review. This proposal requests a rezoning of a property zoned OR-3 and thus does not constitute an expansion into a residential area. The property is located adjacent to an arterial road allowing easy access. Because a large portion of the existing customers live in the St. Matthews area, the added capacity to serve more local residents will keep these customers from having to drive further for veterinary services. Because the proposed new building will be enclosed, noise and odors will be increased from what they are currently. Because this is a redevelopment of an already developed site, this proposal will reduce the impervious surface on the site. Therefore this application complies with this Guideline and its applicable Intents and Policies as enumerated above and for reasons set forth above and in the development plan.

GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

The application complies with the Intents and applicable Policies 1, 2, 3, 5, 6 and 11 of this Guideline as follows.

The Intents and Policies of this Guideline all pertain to ensuring viable successful businesses, especially those that seek to expand at their current locations. This application complies with this Guideline, its Intents and Policies because it represents precisely what is largely encouraged through this Guideline, which is an adaptive reuse of an existing facility through expansion, encourage investment in existing commercial areas, and to provide employment with access to population centers, in order to sustain and grow an existing business. The growth of an existing business in a heavily commercial area is preferred over new development in areas that have less intense uses and that would have more impacts on adjoining properties.

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

The application complies with the Intents and applicable Policies 1, 2, 3, 4, 6, 9, 10, 13, 14, 16, and 18, of Guideline 7; Policies 1, 7, 9, and 10 of Guideline 8; and Policies 1, 2, and 4 of Guideline 9 as follows.

The Intents and Policies of these Guidelines all pertain to transportation, whether that be vehicular, transit, pedestrian or bicycle. Although this is largely an existing site, with the addition of the two lots for expansion, sidewalks will be added, greatly enhancing pedestrian traffic, access points will be added improving internal circulation and access to the surrounding street system, and parking will be added, reducing pressure on current congested parking. The property is located in close proximity to multiple TARC lines on US-60. Any ROW dedication requests will be complied with. Consequently, with the anticipated preliminary stamp of approval from Metro Works and the St. Matthew's City Engineer, all of the Intents and applicable Policies of these Guidelines are fully satisfied.

GUIDELINES 10– FLOODING AND STORMWATER

The application complies with the Intents and applicable Policies 1, 2, 3, 6, 10 and 11 of this Guideline as follows.

The Intents and Policies of this Guideline all pertain to MSD's concerns about stormwater management. This proposal will reduce the current impervious surface and will actually improve stormwater runoff. This application complies with the Intent and these Policies of this Guideline because it will have received, by the time of official Planning Commission and City of St. Matthew's review, the preliminary stamp of approval from MSD, thus assuring no adverse consequences of stormwater run-off on nearby properties.

GUIDELINE 11 – WATER QUALITY

The application complies with the Intents and applicable Policies 3, 5 and 8 of this Guideline as follows.

MSD has promulgated both soil erosion/sedimentation control regulations and even newer ones with respect to water quality. Construction plans for this center will require compliance with these regulations prior to obtaining building permits.

GUIDELINE 12 – AIR QUALITY

The application complies with the Intents and applicable Policies 2, 3, and 8 of this Guideline as follows.

This proposed expansion of a veterinary clinic is located in the heart of the City of St. Matthews' Town Center, it will provide sidewalks and access to public transportation, thus reducing the vehicle miles driven for people in the area, and also providing services for people already engaged in commerce residing in the area. Reduced miles driven leads to improved air quality.

GUIDELINE 13 – LANDSCAPE CHARACTER

The application complies with the Intents and applicable Policies 1, 2, 4 and 6 of this Guideline as follows.

The Intent and Policies of this Guideline address the same things that are more specifically found in the applicable St. Matthew's landscape regulation. This application complies with the Intent and these Policies of this Guideline to the maximum extent that it can as an as-built building as on as-built site.

* * *

For all the reasons listed above and as will be further explained at LD&T and the public hearing, the application complies with the listed and all other relevant and applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan and should be approved.

Respectfully submitted,

John C. Talbott
William B. Bardenwerper
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 6.3.C.2.E of the St. Matthews LDC to allow the proposed parking area and drive lane to encroach into the 5 ft side yards adjacent to 111 Fairfax Ave. and 113 Fairfax Ave.

1. The variance will not adversely affect the public health, safety or welfare because as this is in part an existing use. 107 Fairfax currently has parking and a drive which extends into the 5 foot side yard area. 113 Fairfax does not have parking in this area, but the property immediately next to it (111 Fairfax Ave) also has parking which extends all the way to the side-yard property line, so the variance will make the property consistent with the immediately adjacent property of 111 Fairfax Ave. and other nearby properties which is not part of this project. This encroachment will allow the property to better serve its active customer base and allow the better flow of traffic through the site, as well and increased parking which is needed in the area and at a premium in this part of the Town Center.

2. The variance will not alter the essential character of the general vicinity because this site is located in the Town Center of St. Matthews and is, as the development plan filed with this application and land use map demonstrate, fits within its compact setting surrounded by a mixture of compatible uses. Further, this is an existing business for the veterinary clinic that has been operating at the location of 111R Fairfax Ave. for many years and any increase in needed parking from the site will be offset by the businesses being removed from 107 and 113 Fairfax Ave. and the parking spaces being added.

3. The variance will not cause a hazard or a nuisance to the public because this clinic has been operating at the location of 111R Fairfax Ave. in St. Matthew's for many years. Applicant is expanding the clinic to better serve its customers and the added parking will add valuable parking to an already underserved area so as to not create any negative impacts of parking problems on the neighboring businesses. It is not intending to introduce new impacts to an area that do not already exist. Because parking is being added and the flow of traffic improved, new impacts will not be appreciably created.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the only reason the variance is required is because the existing buildings are being removed to provide additional parking for the veterinary business which has been located

at 111R Fairfax for an extended period of time.

Additional consideration:

1. The Variance arises from special circumstances which do not generally apply to land in the general vicinity because it is an existing business within St. Matthews which has not adopted the Cornerstone 2020 Land Development Code (LDC) though it did adopt Form Areas. This site is located in the Town Center Form Area/Form District, which is a traditional form with an identifiable core usually located along a historic crossroads and or major thoroughfare, such as US 60. The Town Center form typically has a compact mixture of a variety of moderately intense uses, with buildings generally oriented toward and located near the primary street. This application complies with the Form Area because the existing use that is proposed for expansion already conforms to most, if not all, Town Center characteristics.
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 this is an existing business which is purchasing two adjacent lots for expansion to serve its growing customer base, and has served in this location for many years. This entire site is located in the Town Center of St. Matthews, many of the businesses in the area currently extend parking into the 5 foot side setback, and it fits within its compact setting surrounded by a mixture of compatible uses.
3. It is worthy of mention as well that another adjacent property, 115 Fairfax Ave. is also currently pursuing a zoning change to C-1, which would lessen the impacts of this request if such plan and zoning change are approved.

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 6.3.C.2.E of the St. Matthews LDC to allow the building addition to encroach into the 25 ft rear yard on 113 Fairfax Ave.

1. The variance will not adversely affect the public health, safety or welfare because as this is a use which will allow the building currently existing on 111R Fairfax Ave. to be extended onto the adjacent lot of 113 Fairfax Ave. Currently, 111R Fairfax has an existing variance for the same condition which was previously approved. The expansion of the building is being requested to better serve its active customer base and it is not intending to introduce new impacts to an area that do not already exist. Because the use is largely pre-existing, access, parking, lighting and signage will not substantially change. Consequently, significant new impacts are not created. Existing impacts will be fully mitigated, just as they have been in the past, or through added binding elements.

2. The variance will not alter the essential character of the general vicinity because this site is located in the Town Center of St. Matthews and is, as the development plan filed with this application and land use map demonstrate, fits within its compact setting surrounded by a mixture of compatible uses. Further, this is an existing business for the veterinary clinic that has been operating at the location of 111R Fairfax Ave. for many years and any increase in the building located on the site will be offset by the building and businesses being removed from 113 Fairfax Ave.

3. The variance will not cause a hazard or a nuisance to the public because this clinic has been operating at the location of 111R Fairfax Ave. in St. Matthew's for many years. Applicant is expanding the clinic to better serve its customers and the expansion of the structure onto 113 Fairfax Ave. will add enable to business to remain in St. Matthews and to continue to serve its customer base. The expansion also will not create any negative impacts because the existing building is being removed, allowing a better flow of traffic and an increase in parking for the site. It is not intending to introduce new impacts to an area that do not already exist. Because the current building on the site is being removed, new impacts will not be appreciably created.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the only reason the variance is required is because the existing buildings are being removed to provide room to allow the expansion of the veterinary business, extending the prior built condition on 111R Fairfax Ave. to be extended onto 113 Fairfax Ave.

Additional consideration:

1. The Variance arises from special circumstances which do not generally apply to land in the general vicinity because it is an existing business within St. Matthews which has not adopted the Cornerstone 2020 Land Development Code (LDC) though it did adopt Form Areas. This site is located in the Town Center Form Area/Form District, which is a traditional form with an identifiable core usually located along a historic crossroads and or major thoroughfare, such as US 60. The Town Center form typically has a compact mixture of a variety of moderately intense uses, with buildings generally oriented toward and located near the primary street. This application complies with the Form Area because the existing use that is proposed for expansion already conforms to most, if not all, Town Center characteristics.

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 this is an expansion of an existing building that has been operating at this location for many years. This site is located in the Town Center of St. Matthews, and it fits within its compact setting surrounded by a mixture of compatible uses.

3. It is worthy of mention as well that another adjacent property, 115 Fairfax Ave. is also currently pursuing a zoning change to C-1, which would lessen the impacts of this request is such plan and zoning change are approved.

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 6.3.C.2.E of the St. Matthews LDC to allow the proposed parking area and drive lane on the properties now known as 107 and 113 Fairfax Ave. to encroach into the 25 ft. front yard on Fairfax Ave

1. The variance will not adversely affect the public health, safety or welfare because as this is in part an existing use. 107 Fairfax currently has parking well into the 25 foot front yard area, which extends all the way to the sidewalk. 113 Fairfax does not have parking in this area, but the property immediately next to it (111 Fairfax Ave) also has parking which extends to the sidewalk, so the variance will make the property consistent with the adjacent property which is not part of this project. This encroachment will allow the property to better serve its active customer base, and to the extent it does create additional impacts on 113 Fairfax Ave., those impacts are mitigated because of the additional parking being added which is at a premium in this part of the Town Center.

2. The variance will not alter the essential character of the general vicinity because this site is located in the Town Center of St. Matthews and is, as the development plan filed with this application and land use map demonstrate, fits within its compact setting surrounded by a mixture of compatible uses. Further, this is an existing business for the veterinary clinic that has been operating at the location of 111R Fairfax Ave. for many years and any increase in parking derived from the site will be offset by the businesses being removed from 107 and 113 Fairfax Ave. and the parking being added.

3. The variance will not cause a hazard or a nuisance to the public because this clinic has been operating at the location of 111R Fairfax Ave. in St. Matthew's for many years. Applicant is expanding the clinic to better serve its customers and the added parking will add valuable parking to an already underserved area so as to not create any negative impacts of parking problems on the neighboring businesses. It is not intending to introduce new impacts to an area that do not already exist. Because parking is being added, new impacts will not be appreciably created.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the only reason the variance is required is because the existing buildings are

being removed to provide additional parking for the veterinary business which has been located at 111R Fairfax for an extended period of time.

Additional consideration:

1. The Variance arises from special circumstances which do not generally apply to land in the general vicinity because it is an existing business within St. Matthews which has not adopted the Cornerstone 2020 Land Development Code (LDC) though it did adopt Form Areas. This site is located in the Town Center Form Area/Form District, which is a traditional form with an identifiable core usually located along a historic crossroads and or major thoroughfare, such as US 60. The Town Center form typically has a compact mixture of a variety of moderately intense uses, with buildings generally oriented toward and located near the primary street. This application complies with the Form Area because the existing use that is proposed for expansion already conforms to most, if not all, Town Center characteristics.

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 this is an existing business which is purchasing two adjacent lots for expansion to serve its growing customer base, and has served in this location for many years. This entire site is located in the Town Center of St. Matthews, many of the businesses in the area currently extend parking into the 25 foot setback, and it fits within its compact setting surrounded by a mixture of compatible uses.

3. It is worthy of mention as well that another adjacent property, 115 Fairfax Ave. is also currently pursuing a zoning change to C-1, which would lessen the impacts of this request if such plan and zoning change are approved.

Tab 8

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

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

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

<u>Applicant:</u>	Redlee Construction & Development, Inc.
<u>Owner:</u>	Kirk & Laura Swigert; Schardein & Swigert Property, LLC
<u>Location:</u>	107, 111 R. and 113 Fairfax Ave
<u>Proposed Use:</u>	Veterinary Clinic expansion
<u>Engineers, Land Planners and Landscape Architects:</u>	Land Design & Development, Inc.
<u>Request:</u>	Change in Zoning from OR-3 and C-1

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on February 15, 2018 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

SUMMARY STATEMENT

WHEREAS, this application involves an existing veterinary clinic that looks to incorporate two adjacent lots for increased parking and to add an addition to its building; this property is located in a Town Center of St. Matthews, surrounded by a Burger King restaurant, a Panera restaurant, and a dental office; the expansion is necessary for this existing business to continue to serve the growing veterinary services demand in and around the City of St. Matthews and the many surrounding and nearby residential areas; with the addition, the veterinary clinic will be better able to provide the full range of services that this busy clinic, at this long standing location needs, serve its clients and remain viable; and two of the lots are already zoned C-1 and the third lot is currently zoned OR-3 which would become C-1; and

GUIDELINE 1 – COMMUNITY FORM

WHEREAS, the proposed zone change complies with all of the applicable Intents and Policies of Town Center Form Area/Form District of Guideline 1 because although St. Matthew's has not adopted the Cornerstone 2020 Land Development Code (LDC), it did adopt Form Areas, although perhaps not the LDC's "Form Districts"; this site is located in the Town Center Form Area/Form District, which is a traditional form with an identifiable core usually located along a historic crossroads and or major thoroughfare, such as US 60 (an arterial) in this case; the Town Center form typically has a compact mixture of a variety of moderately intense uses, with buildings generally oriented toward and located near the primary street; this existing business location and the surrounding commercial uses are located on small lots and are very compact;

this application complies with this Guideline because the existing use, that is proposed for expansion, already conforms to most, if not all, Town Center characteristic, some as enumerated; and like most town centers, this property provides easy access, both pedestrian and vehicular, as well as TARC service; and

GUIDELINE 2: CENTERS

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 11, 13, 14, 15 and 16 of this Guideline because the Intents and Policies of this Guideline all pertain to how a specific land use in a given Form Area/District should be designed in terms of the specific context and site; this proposed development is compatible with the adjoining uses as this is an expansion of an existing use on the property for some time; the fact that the current building and property are not sufficient for the existing business demonstrates there is an adequate population in the area to support the request; this application complies with this Guideline, its Intents and Policies because it is located in the Town Center of St. Matthews and is, as the development plan filed with this application and land use map demonstrate, fits within its compact setting surrounded by a mixture of compatible uses; this proposal is compatible with the nearby residential as there is no residentially zoned property within a block or more, and in some directions, even further; parking will be increased and the site will also have access to public transportation; and the property already has access to all utility services needed; and

GUIDELINE 3: COMPATIBILITY

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 11, 19, 21, 22, 23, 24, and 28 of this Guideline because the Intents and Policies of this Guideline all pertain to the mitigation of various impacts, such as design, considering building materials, odors, traffic, noise, lighting, screening and buffering and signage; this is an existing use that desires to better serve its active customer base and it is not intending to introduce new impacts to an area that do not already exist; it will add very much needed parking and also improve access by removing two existing structures; the use will be largely fully enclosed, and further because parking and access are improved, while lighting and signage will not significantly change, once again new negative impacts are not created; existing impacts will be fully mitigated, just as they have been in the past, or through added binding elements; the applicant will demonstrate the style, design, and building materials of the proposal are compatible with the surrounding uses through elevations/renderings to be provided for review; this proposal requests a rezoning of a property zoned OR-3 and thus does not constitute an expansion into a residential area; the property is located adjacent to an arterial road allowing easy access; a large portion of the existing customers live in the St. Matthews area, the added capacity to serve more local residents will keep these customers from having to drive further for veterinary services; because the proposed new building will be enclosed, noise and odors will be decreased from what they are currently; because this is a redevelopment of an already developed site, this proposal will reduce the impervious surface on the site; and therefore this application complies with this Guideline and its applicable Intents and Policies as enumerated above and for reasons set forth above and in the development plan; and

GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 3, 5, 6 and 11 of this Guideline because the Intents and Policies of this Guideline all pertain to ensuring

viable successful businesses, especially those that seek to expand at their current locations; this application complies with this Guideline, its Intents and Policies because it represents precisely what is largely encouraged through this Guideline, which is an adaptive reuse of an existing facility through expansion, encourage investment in existing commercial areas, and to provide employment with access to population centers, in order to sustain and grow an existing business; and the growth of an existing business in a heavily commercial area is preferred over new development in areas that have less intense uses and that would have more impacts on adjoining properties; and

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

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 3, 4, 6, 9, 10, 13, 14, 16, and 18, of Guideline 7; Policies 1, 7, 9, and 10 of Guideline 8; and Policies 1, 2, and 4 of Guideline 9 because the Intents and Policies of these Guidelines all pertain to transportation, whether that be vehicular, transit, pedestrian or bicycle; although this is largely an existing site, with the addition of the two lots for expansion, sidewalks will be added, greatly enhancing pedestrian traffic, access points will be added improving internal circulation and access to the surrounding street system, and parking will be added, reducing pressure on current congested parking; the property is located in close proximity to multiple TARC lines on US-60; any ROW dedication requests will be complied with; with the preliminary stamp of approval from Metro Works and the St. Matthew’s City Engineer, all of the Intents and applicable Policies of these Guidelines are fully satisfied; and

GUIDELINES 10– FLOODING AND STORMWATER

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 3, 6, 10 and 11 of this Guideline because the Intents and Policies of this Guideline all pertain to MSD’s concerns about stormwater management; this proposal will reduce the current impervious surface and will actually improve stormwater runoff; this application complies with the Intent and these Policies of this Guideline because it has received, by the time of official Planning Commission and City of St. Matthew’s review, the preliminary stamp of approval from MSD, thus assuring no adverse consequences of stormwater run-off on nearby properties; and

GUIDELINE 11 – WATER QUALITY

WHEREAS, the application complies with the Intents and applicable Policies 3, 5 and 8 of this Guideline because MSD has promulgated both soil erosion/sedimentation control regulations and even newer ones with respect to water quality; and construction plans for this center will require compliance with these regulations prior to obtaining building permits; and

GUIDELINE 12 – AIR QUALITY

WHEREAS, the application complies with the Intents and applicable Policies 2, 3, and 8 of this Guideline because this proposed expansion of a veterinary clinic is located in the heart of the City of St. Matthews’ Town Center, it will provide sidewalks and access to public transportation, thus reducing the vehicle miles driven for people in the area, and also providing services for people already engaged in commerce residing in the area; reduced miles driven leads to improved air quality; and

GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 4 and 6 of this Guideline because the Intent and Policies of this Guideline address the same things that are more specifically found in the applicable St. Matthew’s landscape regulation; and this application complies with the Intent and these Policies of this Guideline to the maximum extent that it can as an as-built building as on as-built site; and

* * * * *

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby recommends to the Louisville Metro Council that it rezone the subject property from R-4 to C-1 and approves the Detailed District Development Plan.

Variance Findings of Fact

Variance of Section 6.3.C.2.E of the St. Matthews LDC to allow the proposed parking area and drive lane to encroach into the 5 ft side yards adjacent to 111 Fairfax Ave. and 113 Fairfax Ave.

WHEREAS, the variance will not adversely affect the public health, safety or welfare because this is in part an existing use; 107 Fairfax currently has parking and a drive which extends into the 5 foot side yard area; 113 Fairfax does not have parking in this area, but the property immediately next to it (111 Fairfax Ave) also has parking which extends all the way to the side-yard property line, so the variance will make the property consistent with the immediately adjacent property of 111 Fairfax Ave. and other nearby properties which is not part of this project; and this encroachment will allow the property to better serve its active customer base and allow the better flow of traffic through the site and increased parking which is needed in the area and at a premium in this part of the Town Center; and

WHEREAS, the variance will not alter the essential character of the general vicinity because this site is located in the Town Center of St. Matthews and is, as the development plan filed with this application and land use map demonstrate, fits within its compact setting surrounded by a mixture of compatible uses; further, this is an existing business for the veterinary clinic that has been operating at the location of 111R Fairfax Ave. for many years and any increase in needed parking from the site will be offset by the businesses being removed from 107 and 113 Fairfax Ave. and the parking spaces being added; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because this clinic has been operating at the location of 111R Fairfax Ave. in St. Matthew's for many years; the applicant is expanding the clinic to better serve its customers and the added parking will add valuable parking to an already underserved area so as to not create any negative impacts of parking problems on the neighboring businesses; it is not intending to introduce new impacts to an area that do not already exist; and because parking is being added and the flow of traffic improved, new impacts will not be appreciably created; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the only reason the variance is required is because the existing buildings are being removed to provide additional parking for the veterinary business which has been located at 111R Fairfax for an extended period of time; and

WHEREAS, the variance arises from special circumstances which do not generally apply to land in the general vicinity because it is an existing business within St. Matthews which has not adopted the Cornerstone 2020 Land Development Code (LDC) though it did adopt Form Areas; this site is located in the Town Center Form Area/Form District, which is a traditional form with an identifiable core usually located along a historic crossroads and or major thoroughfare, such as US 60; the Town Center form typically has a compact mixture of a variety of moderately intense uses, with buildings generally oriented toward and located near the primary street; this application complies with the Form Area because the existing use that is proposed for expansion already conforms to most, if not all, Town Center characteristics; 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 this is an existing business which is purchasing two adjacent lots for expansion to serve its growing customer base, and has served in this location for many years; this entire site is located in the Town Center of St.

Matthews, many of the businesses in the area currently extend parking into the 5 foot side setback, and it fits within its compact setting surrounded by a mixture of compatible uses; and

WHEREAS, another adjacent property, 115 Fairfax Ave. is also currently pursuing a zoning change to C-1, which would lessen the impacts of this request if such plan and zoning change are approved;

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

Variance Findings of Fact

Variance of Section 6.3.C.2.E of the St. Matthews LDC to allow the building addition to encroach into the 25 ft rear yard on 113 Fairfax Ave.

WHEREAS, the variance will not adversely affect the public health, safety or welfare because as this is a use which will allow the building currently existing on 111R Fairfax Ave. to be extended onto the adjacent lot of 113 Fairfax Ave.; currently, 111R Fairfax has an existing variance for the same condition which was previously approved; the expansion of the building is being requested to better serve its active customer base and it is not intending to introduce new impacts to an area that do not already exist; because the use is largely pre-existing, access, parking, lighting and signage will not substantially change; consequently, significant new impacts are not created; and existing impacts will be fully mitigated, just as they have been in the past, or through added binding elements; and

WHEREAS, the variance will not alter the essential character of the general vicinity because this site is located in the Town Center of St. Matthews and is, as the development plan filed with this application and land use map demonstrate, fits within its compact setting surrounded by a mixture of compatible uses; further, this is an existing business for the veterinary clinic that has been operating at the location of 111R Fairfax Ave. for many years and any increase in the building located on the site will be offset by the building and businesses being removed from 113 Fairfax Ave; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because this clinic has been operating at the location of 111R Fairfax Ave. in St. Matthew's for many years; the applicant is expanding the clinic to better serve its customers and the expansion of the structure onto 113 Fairfax Ave. will add enable to business to remain in St. Matthews and to continue to serve its customer base; the expansion also will not create any negative impacts because the existing building is being removed, allowing a better flow of traffic and an increase in parking for the site; it is not intending to introduce new impacts to an area that do not already exist; and because the current building on the site is being removed, new impacts will not be appreciably created; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the only reason the variance is required is because the existing buildings are being removed to provide room to allow the expansion of the veterinary business, extending the prior built condition on 111R Fairfax Ave. to be extended onto 113 Fairfax Ave; and

WHEREAS, the variance arises from special circumstances which do not generally apply to land in the general vicinity because it is an existing business within St. Matthews which has not adopted the Cornerstone 2020 Land Development Code (LDC) though it did adopt Form Areas; this site is located in the Town Center Form Area/Form District, which is a traditional form with an identifiable core usually located along a historic crossroads and or major thoroughfare, such as US 60; the Town Center form typically has a compact mixture of a variety of moderately intense uses, with buildings generally oriented toward and located near the primary street; this application complies with the Form Area because the existing use that is proposed for expansion already conforms to most, if not all, Town Center characteristics; 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 this is an expansion of an existing building that has been operating at this location for many years; this site is located in the Town Center of St. Matthews, and it fits within its compact setting surrounded by a mixture of compatible uses; and

WHEREAS, another adjacent property, 115 Fairfax Ave. is also currently pursuing a zoning change to C-1, which would lessen the impacts of this request is such plan and zoning change are approved;

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

Variance Findings of Fact

Variance of Section 6.3.C.2.E of the St. Matthews LDC to allow the proposed parking area and drive lane on the properties now known as 107 and 113 Fairfax Ave. to encroach into the 25 ft. front yard on Fairfax Ave

WHEREAS, the variance will not adversely affect the public health, safety or welfare because as this is in part an existing use; 107 Fairfax currently has parking well into the 25 foot front yard area, which extends all the way to the sidewalk; 113 Fairfax does not have parking in this area, but the property immediately next to it (111 Fairfax Ave) also has parking which extends to the sidewalk, so the variance will make the property consistent with the adjacent property which is not part of this project; this encroachment will allow the property to better serve its active customer base, and to the extent it does create additional impacts on 113 Fairfax Ave., those impacts are mitigated because of the additional parking being added which is at a premium in this part of the Town Center; and

WHEREAS, the variance will not alter the essential character of the general vicinity because this site is located in the Town Center of St. Matthews and is, as the development plan filed with this application and land use map demonstrate, fits within its compact setting surrounded by a mixture of compatible uses; further, this is an existing business for the veterinary clinic that has been operating at the location of 111R Fairfax Ave. for many years and any increase in parking derived from the site will be offset by the businesses being removed from 107 and 113 Fairfax Ave. and the parking being added; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because this clinic has been operating at the location of 111R Fairfax Ave. in St. Matthew's for many years; the applicant is expanding the clinic to better serve its customers and the added parking will add valuable parking to an already underserved area so as to not create any negative impacts of parking problems on the neighboring businesses; it is not intending to introduce new impacts to an area that do not already exist; and because parking is being added, new impacts will not be appreciably created; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the only reason the variance is required is because the existing buildings are being removed to provide additional parking for the veterinary business which has been located at 111R Fairfax for an extended period of time; and

WHEREAS, the Variance arises from special circumstances which do not generally apply to land in the general vicinity because it is an existing business within St. Matthews which has not adopted the Cornerstone 2020 Land Development Code (LDC) though it did adopt Form Areas; this site is located in the Town Center Form Area/Form District, which is a traditional form with an identifiable core usually located along a historic crossroads and or major thoroughfare, such as US 60; the Town Center form typically has a compact mixture of a variety of moderately intense uses, with buildings generally oriented toward and located near the primary street; this application complies with the Form Area because the existing use that is proposed for expansion already conforms to most, if not all, Town Center characteristics; 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 this is an existing business which is purchasing two adjacent lots for expansion to serve its growing customer base,

and has served in this location for many years; this entire site is located in the Town Center of St. Matthews, many of the businesses in the area currently extend parking into the 25 foot setback, and it fits within its compact setting surrounded by a mixture of compatible uses; and

WHEREAS, another adjacent property, 115 Fairfax Ave. is also currently pursuing a zoning change to C-1, which would lessen the impacts of this request if such plan and zoning change are approved;

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