

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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

Owner/Applicant: Noltemeyer Capital LTD

Project Name: Jefferson Post Apartments

Location: 4600 Fern Valley road

Proposed Uses: Apartments

Engineers, Land Planners and  
Landscape Architects: Michael Keal, Keal & Associates, Inc.

Attorneys: Bardenwerper, Talbott & Roberts, PLLC

Request: Rezoning from EZ-1 to R-6

### **INTRODUCTION**

This proposal is for a 104-unit market rate apartment community on property located along Fern Valley Road. The site contains approximately 8.418 +/- acres located at the intersection of Fern Valley Road and Jefferson Blvd. The site is appropriate for an apartment community among other reasons because it is located right next door to an apartment community constructed by this same developer and looks like it is the final section of that community, even though the adjoining apartment community is now under different ownership. Also, this site is perfect for this use because it serves both large scale commercial (notably Jefferson Mall plus significant new retail along the Outer Loop, both approved and planned) and area industrial properties (such as Ford) with ease of access to many employers in this intensively developed area. Given the still relatively new Jefferson Blvd., proximity via it and Fern Valley Road to major shopping and major local employment centers (present and planned) and community infrastructure and facilities, this should be a perfect site for another apartment community.

Apartments are the one form of development demonstrated to be in significant current demand, as Louisville Metro slowly emerges from the recent real estate Depression. Apartment communities have recently been approved all over Metro Louisville. So this is a particularly good location where relatively few new apartment communities are planned, compared to the East End of town. Whereas, all of these proposed apartment communities are expected to fill part of the gap that exists in new high quality rental housing, this is an area that appears to be particularly appropriate.

### **COMMUNITY FORM – GUIDELINE 1**

The subject property is located in the Suburban Workplace Form District which is characterized by residential, industrial and commercial uses that vary from low to high density, from low to high intensity and that naturally blend compatibility into all new development plans. High density uses are supposed to be limited in scope to minor or major arterials and to areas that have limited impact on

the low to moderate density residential areas. The Suburban Workplace Form District is also supposed to contain diverse housing types in order to provide housing choices for differing ages and incomes.

The proposed apartment community for the subject property is appropriate because of its location along a major arterial in close proximity to shopping and employment centers, as noted above, and because community facilities, as also noted above, are also located in near proximity with easy access to and from this site. Therefore, this application fully complies with this Guideline of the Comprehensive Plan.

### **CENTERS – GUIDELINE 2**

The Intents of this Guideline are to promote the efficient use of land and investment in existing infrastructure; to lower utility costs by reducing the need for extensions; to reduce commuting time and transportation-related air pollution; to provide an opportunity for a mix of residential development that includes housing types and building styles that accommodate people of different ages and incomes and that are compatible with existing neighborhoods; and to provide vitality and a sense of place in neighborhoods and the community.

This application complies with these Intents of this Guideline, among other reasons set forth herein below, because infrastructure such as roads, sewers and the like, are already available. Again, because of the relatively new Jefferson Blvd. with easy access via it and Fern Valley Road to the Jefferson Mall and other shopping and services at the Outer Loop and to such major employers as Ford, this proposed apartment community helps with commuting distances and travel time and thus tends to improve the overall air quality by reducing commuting times and vehicle miles traveled. Again, the proposed apartment community provides for the mixture of residential housing types that the Comprehensive Plan commends; and by “filling in the in-fill”, it helps create an overall newer and better, larger neighborhood.

Policies 4 and 5 of this Guideline appear to apply to this application in that they encourage compact, mixed or compatible development and uses. This is a vacant site located near major shopping and employment centers where community facilities also exist.

Policy 12 of this Guideline encourages developments, larger but perhaps also of this size, to include a focal point. The focal points here will be the pool and clubhouse.

Policy 16 of this Guideline encourages alternative transportation modes. Because the proposed apartment community is located along major arterials, which presumably includes an existing or future bus route, and because bicycle facilities and sidewalks are also located in the area and at this community, this application also complies with this Policy of this Guideline.

### **COMPATIBILITY – GUIDELINE 3**

The Intents of this Guideline are to allow a mixture of land uses and densities near each other as long as they are designed to be compatible with each other; to prohibit the location of sensitive land uses in areas where accepted standards for noise, lighting, odors and similar nuisances could be violated or visual quality could be diminished; and to preserve the character of existing neighborhoods.

This application complies with the Intents of this Guideline, among other reasons as set forth above, because it is located right next door to another near mirror image apartment community constructed

by this same developer. Also, as noted hereinabove, apartment communities like this are encouraged along major arterials like Jefferson Blvd. and Fern Valley Road. Also, the images accompanying this application were shown to neighbors at a recent neighborhood meeting. That apartment community will not produce noise, lighting, odors or similar nuisances that aren't already typical of the area where other apartments and high volumes of traffic exist. Any problems can be fully rectified. As a consequence of this and all else set forth herein below, the character of the existing residential area is preserved in positive manners, while nearby neighborhoods, shopping and employment centers are unaffected or enhanced.

Policies 1, 2 and 3 of this Guideline pertain to building design, use of building materials, densities, buffers and so on. Once again, the images shown to neighbors at the recent neighborhood meeting and that accompany this application, demonstrate compatibility in a number of ways. Building design and materials that nearly mirror those of the brand new apartment constructed next door, involve the use of maintenance free materials. The designs of these buildings as shown on the accompanying images from the neighborhood meeting and this narrative demonstrate residential compatibility.

Policies 5, 6, 7, 8 and 9 of this Guideline pertain to impacts such as odors, traffic, noise, lighting and visual impacts. As partly already explained, a residential community would not ordinarily produce, and this one is not expected to produce, odors, noise, lighting and other visual impacts. Residents who live here would otherwise be the first to complain. Traffic, as shown on the trip generation numbers accompanying this application, is also minimal, especially relative to the size and traffic-carrying capacities of Jefferson Blvd. and Fern Valley Road.

Policies 10, 11, 12, 13, 14, 15 and 16 of this Guideline all pertain to housing types, including density in appropriate areas, and the importance of appropriate/inclusive housing. The proposed apartment community, while intended to be market rate, is also expected to be "affordable enough" so that it doesn't just market itself to the very highest income type renters. That is not to say that it is going to be a subsidized type rental housing community because it is not. But rather, because there is a large range of rental needs within this community, this particular proposed apartment community is not expected to sacrifice quality while still offering value. Indeed, because of the location of this proposed apartment community near large acreage zoned for employment use, this apartment community should attract a high demographic group of renters who want to live close to their places of employment and near other conveniences in the area. The market of course determines rental profile and rental rates. Naturally this community will welcome the elderly and handicapped.

Policies 21, 22, 23 and 24 of this Guideline are intended to deal with transitions, buffers, setbacks and minimizing the impacts of parking. As can be seen from the development plan filed with this application, especially the colored site plan that was part of the neighborhood meeting accompanying this application, parking is distributed throughout the apartment community and not located in just one central place. That helps to distribute the impacts of parking. No waivers or variances are anticipated; thus transitions, buffers and required setbacks as set forth in the Land Development Code are met.

#### **OPEN SPACE - GUIDELINE 4**

The Intent and Policies 1, 2, 3, 5, 6 and 7 of this Guideline all pertain to open space, natural resources and the design and maintenance of same. The proposed overall site plan, as explained above, will include open space in the area around the clubhouse and pool. Sidewalks and access should also be plainly visible on the plan submitted herewith.

## **ECONOMIC GROWTH AND SUSTAINABILITY – GUIDELINE 6**

The Intents of this Guideline are, among other things, to ensure the availability of necessary usable land to facilitate residential and commercial development and to reduce public and private cost of land development.

The proposed apartment community complies with the Intents of this Guideline, as with all applicable Policies hereof, because it is, as stated above, a new apartment community in a highly traveled area serving nearby shopping and employment centers of major consequence. That will help address the significant rental demand that exists in Metro Louisville, especially since the onset of the housing Depression began which hasn't ended and during the long economic Recession still evident. Thus one would expect apartments like this especially to exist in an area already so predominated by intensive commercial and workplace development as this area is. Also, because infrastructure is located at this site, developing at this in-fill location helps reduce the public and private costs for land development.

## **CIRCULATION AND TRANSPORTATION FACILITY DESIGN – GUIDELINES 7 & 8**

The Intents of these two Guidelines are to provide for safe and proper functioning street networks; to ensure that new developments do not exceed the carrying capacity of streets; to ensure good internal and external circulation; to address congestion and air quality; to provide for safe and convenient accommodations with special mobility requirements of elderly and handicapped; and to provide an efficient, safe and attractive system of roadways, transit roads, sidewalks and pathways.

The proposed apartment community addresses all of these Intents of these Guidelines, among other reasons because the still relatively new Jefferson Blvd. and wide Fern Valley Road can easily accommodate the additional traffic from this proposed development. Jefferson Blvd. was built because of traffic-moving problems that previously existed, so as to ensure a better means of access between two major arterials, i.e., Outer Loop and Fern Valley Road. Locating an apartment community at the subject property, near the referenced shopping and employment centers, helps move traffic to and from this site around the larger community in a relatively easy manner. Jefferson Blvd. and Fern Valley Road surely are not at capacity. Public transportation, to the extent it exists now or in the future along Jefferson Blvd. and/or Fern Valley Road, will have access to the site. Again, by locating this apartment community at an in-fill site with easy access to arterials helps address transportation-related air quality issues in this community. Furthermore, this plan has been designed to address requirements of the elderly and physically challenged. Further, required setbacks along Jefferson Blvd. and Fern Valley Road, the provision of sidewalks and the protection and preservation of open space help protect and enhance the public enjoyment of attractive corridors.

Policies 1, 2, 3, 4, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of Guideline 7 all pertain to specific design requirements to ensure transportation impact mitigation, appropriateness of the local transportation network, adequacy of parking and specific site design in accordance with Metro Works' Transportation design manual. The development plan accompanying this application demonstrates compliance with all of these Policies. In anticipation of docketing for LD&T review, it is imperative that this development plan receive the preliminary stamp of approval from Metro Transportation Planning, thus demonstrating compliance with all of these Policies of this Guideline which is anticipated.

Policies 4, 5, 7, 8, 9, 10 and 11 of Guideline 8 raise many of these same issues. And so once again, the answer to the question of compliance is that the detailed development plan accompanying this application evidences compliance with all the Metro Transportation Planning and Works' transportation design manual requirements. Moreover, as stated, this development plan will require the preliminary stamp of approval from Metro Transportation Planning prior to docketing for LD&T for review. That preliminary stamp is fully anticipated. To the extent that the development plan changes between this filing and LD&T review are required, those changes will be made.

#### **BICYCLE, PEDESTRIAN TRANSIT – GUIDELINE 9**

The Intents and Policies of this Guideline are to assure bicycle access, pedestrian safety and the accommodation of mass transit. The development plan accompanying this application addresses all of those requirements.

#### **FLOODING AND STORMWATER – GUIDELINE 10**

The Intents and Policies of this Guideline are to assure that flooding and stormwater are addressed. MSD has required the applicant and its engineers to include detention on the development plan, as shown. As with Metro Transportation Planning, MSD must also give its preliminary stamp of approval to this development plan prior to docketing for LD&T review. That is anticipated.

#### **WATER QUALITY -- GUIDELINE 11**

The Intent and Policies of this Guideline are to assure that water quality is not degraded due to water pollution and erosion. The normal way that this Guideline is addressed is through construction plans and actual construction compliance with the soil erosion and sedimentation requirements of MSD. This applicant will fully comply.

#### **AIR QUALITY -- GUIDELINE 12**

The Intents and Policies of this Guideline are to support an efficient land use pattern that reduces travel distances between work, shopping and home and to encourage development with densities that encourage mass transit. As stated above, because this application is for an apartment community along major arterials with easy access to existing shopping and employment centers, this application addresses all of these Intents and Policies of this Guideline in exactly the way that it is supposed to. By promoting density and intensity at in-fill locations such as this, near shopping and employment centers and along arterials with easy access to other arterials, commuting times are reduced, thus promoting air quality benefits.

#### **LANDSCAPE CHARACTER – GUIDELINE 13**

The Intents and Policies of this Guideline are to protect and enhance landscape character. This application complies with the Intents and Policies of this Guideline because it will fully comply with the Land Development Code by providing landscaping where required or needed to mitigate potential adverse impacts on adjoining properties.

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For all the reasons set forth hereinabove on the detailed district development plan and in testimony and other evidence presented at LD&T and at the full public hearing, this application complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan

Respectfully submitted,

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