

General Waiver Justification:

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

Waiver of: Section 5.9.2.b.i to not provide a pedestrian connection from the Zaxby's front door to the Old Bardstown Road sidewalk due to the fact that significant property along the Old Bardstown Road frontage is being dedicated for future road improvements to be constructed by Metro Public Works, and a sidewalk as otherwise required would be torn out in that event.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because this sidewalk is not one that will be utilized, certainly not for long, but rather the sidewalk to and along Hillock Drive is important to pedestrians in that area.
2. The waiver will not violate the Comprehensive Plan because for all the set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the rezoning application
3. The extent of waiver of the regulation the minimum necessary to afford relief to the applicant because this is the only sidewalk requested to be eliminated.
4. Strict application of the provisions of the regulation will not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would be required to build a sidewalk that will only soon have to be torn out.

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PLANNING &
DESIGN SERVICES

BARDENWERPER, TALBOTT & ROBERTS PLLC

ATTORNEYS AT LAW

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

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| <u>Applicant:</u> | Zaxby's of Louisville |
| <u>Owner:</u> | Thomas Grove Management Co., LLC |
| <u>Location:</u> | 8018, 8102 Bardstown Road and 9816, 9816 R. Hillock Drive |
| <u>Existing Use</u> | Residential |
| <u>Proposed Use:</u> | Restaurant |
| <u>Engineers, Land Planners and Landscape Architects:</u> | Land Design & Development, LLC |
| <u>Request:</u> | Change in Zoning from R4 to C1 |

INTRODUCTORY STATEMENT

This is a corner location across from a Rite-Aid next door to a new daycare facility and proposed office building at the intersection of Hillock Dr. and Old and New Bardstown Roads. Continued use of this property as a home site is impractical given the commercial, office and institutional type uses located next door and across Hillock and given the amount of traffic at this location. The challenge has been to make this type location work, which land planners and engineers with Land Design & Development (LDD) together with the applicant and Metro Transportation Planning officials seem to have accomplished with plans devised for re-routing of Old Bardstown Rd. at its intersection with Hillock Dr. to a point farther west from the Hillock and Old Bardstown Rd. intersection with New Bardstown Rd.

GUIDELINE 1: COMMUNITY FORM

The subject property is located in the Suburban Neighborhood Form District, and the application complies with this Guideline because that form contemplates a mixture of uses, including neighborhood serving retail in an activity center such as this.

GUIDELINE 2: CENTERS

The application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 14 & 15 of this Guideline as follows. Infrastructure already exists nearby, including sanitary sewers which the applicant is working with the adjoining property owner to assure access to via agreed

upon sanitary sewer and drainage easement. Also, a Zaxby's at this location adds to the diversity of neighborhood goods and services on a property that should be revitalized from its current condition. Further, by locating another restaurant in close proximity to places where people live, this reduces vehicle miles traveled and thus contributes to better air quality. As said above, this is an existing activity center with the Rite-Aid located across Hillock and the daycare and soon-to-be-under-construction office building located next door. To the north of the Rite-Aid is a Thornton's and an Aspen Creek restaurant, and across Bardstown Rd. from all of this are several retail centers with a multiplicity of other retail uses, including a Kohl's department store. Therefore, all of this comprises a mix of compact uses. At this particular site parking will be screened and buffered from adjoining residential uses, and a parking waiver is not needed.

GUIDELINE 3: COMPATIBILITY

The application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24 & 28 of this Guideline as follows. As stated above, the facility adjoins commercial uses to the north and south and elsewhere along Bardstown Rd. in this area. Zaxby's has a very high end, quality design, as evident on the building elevation photographs and renderings that were shown at the neighborhood meeting and are attached to the neighborhood meeting summary. Although odors, noise, traffic and lighting can be associated with fast food, properties in 3 directions are unaffected because of their similar use and intensity. The day care to the south and residential properties to the west will be protected with a dual privacy fence and landscaping that the applicant agreed to, per request of neighbors in the neighborhood meeting. The high quality building design together with landscaping, screening and buffering mitigate against adverse visual impacts. The Land Development Code (LDC) assures that lighting will be directed down and away with 90 degree cutoff of light at adjoining property lines so that there is no light trespass. Metro Transportation Planning, as set forth at Guidelines 7 & 8 below, has assured that the site plan is designed with adequate parking, appropriate access and safe internal circulation. Setback and buffer standards are met or exceeded as set forth above with the added fence together with the required landscaping.

GUIDELINE 6: ECONOMIC GROWTH AND SUSTAINABILITY

The application complies with the Intents and applicable Policies 1, 2, 3, 5 & 6 of this Guideline as follows. This is an existing activity center where a gap exists between other commercial uses given that this property is currently an older residential site suitable for rehabilitation and re-use. The Zaxby's provides added retail and employment opportunities to a burgeoning population area.

GUIDELINES 7: CIRCULATION & 8: TRANSPORTATION FACILITY DESIGN & 9: BICYCLE, PEDESTRIAN AND TRANSIT

The application complies with the Intents and applicable Policies 1, 2, 9, 10, 11, 12, 14 & 16 of Guideline 7 and Policies 4, 5, 7, 9, 10 & 11 of Guideline 8, plus Policies 1 & 4 of Guideline 9 as follows. The Detailed District Development Plan that has been filed with this application has been designed in consultation with Metro Transportation Planning in order to assure the dedication of additional right-of-way in order to create a better intersection of Old Bardstown

Rd. with Hillock Dr. at New Bardstown Rd. This does not result in a perfect traffic situation, but it does result in a much improved one, which would be difficult or impossible and more costly without the cooperation of this Zaxby's developer. Adequate parking exists on site. Access points have been selected by Metro Transportation Planning. Cross access with the office building soon under construction to the south will be provided. Internal circulation has been designed in consultation with Metro Transportation Planning. Sidewalks are included on the plan. Provisions for bicycles at Zaxby's will be included as required.

GUIDELINE 10: STORM WATER MANAGEMENT

The application complies with the Intents and applicable Policies 1, 3, 4, 6, 7, 10 & 11 of this Guideline as follows. Because of the small size of the site, vault storage will be provided instead of a detention basin. But the plan for same and resulting storm water runoff must be reviewed and approved by MSD prior to docketing of this plan before public review, which is anticipated.

GUIDELINES 11: WATER QUALITY; & 12: AIR QUALITY

The application complies with the Intents and applicable Policies 3, 4 & 5 of Guideline 11 and Policies 1, 4, 6, 7 & 8 of Guideline 12 as follows. MSD requirements for soil erosion and sediment control will be addressed at time of construction. Water quality facilities will be installed as necessary, if any.

GUIDELINE 13: LANDSCAPE CHARACTER

The application complies with the Intents and applicable Policies 1, 2, 4, 5 & 6 of this Guideline as follows. The landscape plan prepared following approval of the DDDP will comply with the Land Development Code in all these respects.

For these and other reasons set forth herein and as further explained at the LD&T Committee and in public hearing, this application complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,


William B. Bardenwerper

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

Applicant: Zaxby's of Louisville

Owner: Thomas Grove Management Co., LLC

Location: 8018, 8102 Bardstown Road and
9816, 9816 R. Hillock Drive

Existing Use Residential

Proposed Use: Restaurant

Engineers, Land Planners and
Landscape Architects: Land Design & Development, LLC

Request: Change in Zoning from R4 to C1

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on November 20, 2014 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

WHEREAS, this is a corner location across from a Rite-Aid next door to a new daycare facility and proposed office building at the intersection of Hillock Dr. and Old and New Bardstown Roads; continued use of this property as a home site is impractical given the commercial, office and institutional type uses located next door and across Hillock and given the amount of traffic at this location; the challenge has been to make this type location work, which land planners and engineers with Land Design & Development (LDD) together with the applicant and Metro Transportation Planning officials seem to have accomplished with plans devised for re-routing of Old Bardstown Rd. at its intersection with Hillock Dr. to a point farther west from the Hillock and Old Bardstown Rd. intersection with New Bardstown Rd; and

GUIDELINE 1: COMMUNITY FORM

WHEREAS, the subject property is located in the Suburban Neighborhood Form District, and the application complies with this Guideline because that form contemplates a mixture of uses, including neighborhood serving retail in an activity center such as this; and

GUIDELINE 2: CENTERS

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 14 & 15 of this Guideline as follows: infrastructure already exists nearby, including sanitary sewers which the applicant is working with the adjoining property owner to assure access to via agreed upon sanitary sewer and drainage easement; also, a Zaxby's at this location adds to the diversity of neighborhood goods and services on a property that should be revitalized from its current condition; further, by locating another restaurant in close proximity to places where people live, this reduces vehicle miles traveled and thus contributes to better air quality; this is an existing activity center with the Rite-Aid located across Hillock and the daycare and soon-to-be-under-construction office building located next door; to the north of the Rite-Aid is a Thornton's and an Aspen Creek restaurant, and across Bardstown Rd. from all of this are several retail centers with a multiplicity of other retail uses, including a Kohl's department store; therefore, all of this comprises a mix of compact uses; at this particular site parking will be screened and buffered from adjoining residential uses, and a parking waiver is not needed; and

GUIDELINE 3: COMPATIBILITY

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24 & 28 of this Guideline as follows: the facility adjoins commercial uses to the north and south and elsewhere along Bardstown Rd. in this area; Zaxby's has a quality design, as evident on the building elevation photographs and renderings that were shown at the neighborhood meeting and are attached to the neighborhood meeting summary; although odors, noise, traffic and lighting can be associated with fast food, properties in 3 directions are unaffected because of their similar use and intensity; the day care to the south and residential properties to the west will be protected with a dual privacy fence and landscaping that the applicant agreed to, per request of neighbors in the neighborhood meeting; the quality building design together with landscaping, screening and buffering mitigate against adverse visual impacts; the Land Development Code (LDC) assures that lighting will be directed down and away with 90 degree cutoff of light at adjoining property lines so that there is no light trespass; Metro Transportation Planning, as set forth at Guidelines 7 & 8 below, has assured that the site plan is designed with adequate parking, appropriate access and safe internal circulation; and setback and buffer standards are met or exceeded as set forth above with the added fence together with the required landscaping; and

GUIDELINE 6: ECONOMIC GROWTH AND SUSTAINABILITY

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 3, 5 & 6 of this Guideline as follows: this is an existing activity center where a gap exists between other commercial uses given that this property is currently an older residential site suitable for rehabilitation and re-use; the Zaxby's provides added retail and employment opportunities to a burgeoning population area; and

GUIDELINES 7: CIRCULATION & 8: TRANSPORTATION FACILITY DESIGN & 9: BICYCLE, PEDESTRIAN AND TRANSIT

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 9, 10, 11, 12, 14 & 16 of Guideline 7 and Policies 4, 5, 7, 9, 10 & 11 of Guideline 8, plus Policies 1 & 4 of Guideline 9 as follows: the Detailed District Development Plan that has been filed with this

application has been designed in consultation with Metro Transportation Planning in order to assure the dedication of additional right-of-way in order to create a better intersection of Old Bardstown Rd. with Hillock Dr. at new Bardstown Rd.; this does not result in a perfect traffic situation, but it does result in a much improved one, which would be difficult or impossible and more costly without the cooperation of this Zaxby's developer; adequate parking exists on site; access points have been selected by Metro Transportation Planning. Cross access with the office building soon under construction to the south will be provided; internal circulation has been designed in consultation with Metro Transportation Planning; sidewalks are included on the plan; and provisions for bicycles at Zaxby's will be included as required; and

GUIDELINE 10: STORM WATER MANAGEMENT

WHEREAS, the application complies with the Intents and applicable Policies 1, 3, 4, 6, 7, 10 & 11 of this Guideline as follows: because of the small size of the site, vault storage will be provided instead of a detention basin; but the plan for same and resulting storm water runoff must be reviewed and approved by MSD prior to docketing of this plan before public review, which is anticipated; and

GUIDELINES 11: WATER QUALITY; & 12: AIR QUALITY

WHEREAS, the application complies with the Intents and applicable Policies 3, 4 & 5 of Guideline 11 and Policies 1, 4, 6, 7 & 8 of Guideline 12 as follows: MSD requirements for soil erosion and sediment control will be addressed at time of construction; water quality facilities will be installed as necessary, if any; and

GUIDELINE 13: LANDSCAPE CHARACTER

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 4, 5 & 6 of this Guideline as follows: the landscape plan prepared following approval of the DDDP will comply with the Land Development Code in all these respects; and

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books and 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 approves the detailed district development plan and recommends to the Louisville Metro Council that it rezone the subject property from R-4 to C-1.