

Louisville Metro Planning Commission Public Hearing - January 21, 2021  
Louisville Metro Land Design & Transportation Committee - December 10, 2020  
Neighborhood Meeting - September 16, 2020

Docket No. 20-ZONE-0086, 20-MSUB-0008,  
20-WAIVER-0100, 20-WAIVER-0113

Proposed change in zoning from R-4 to PRD to allow a 42-lot subdivision on approximately 7.39 acres on property located at 3311 Tucker Station Road

Tucker Station Development, LLC  
c/o Dave Weis & Jason Orthober

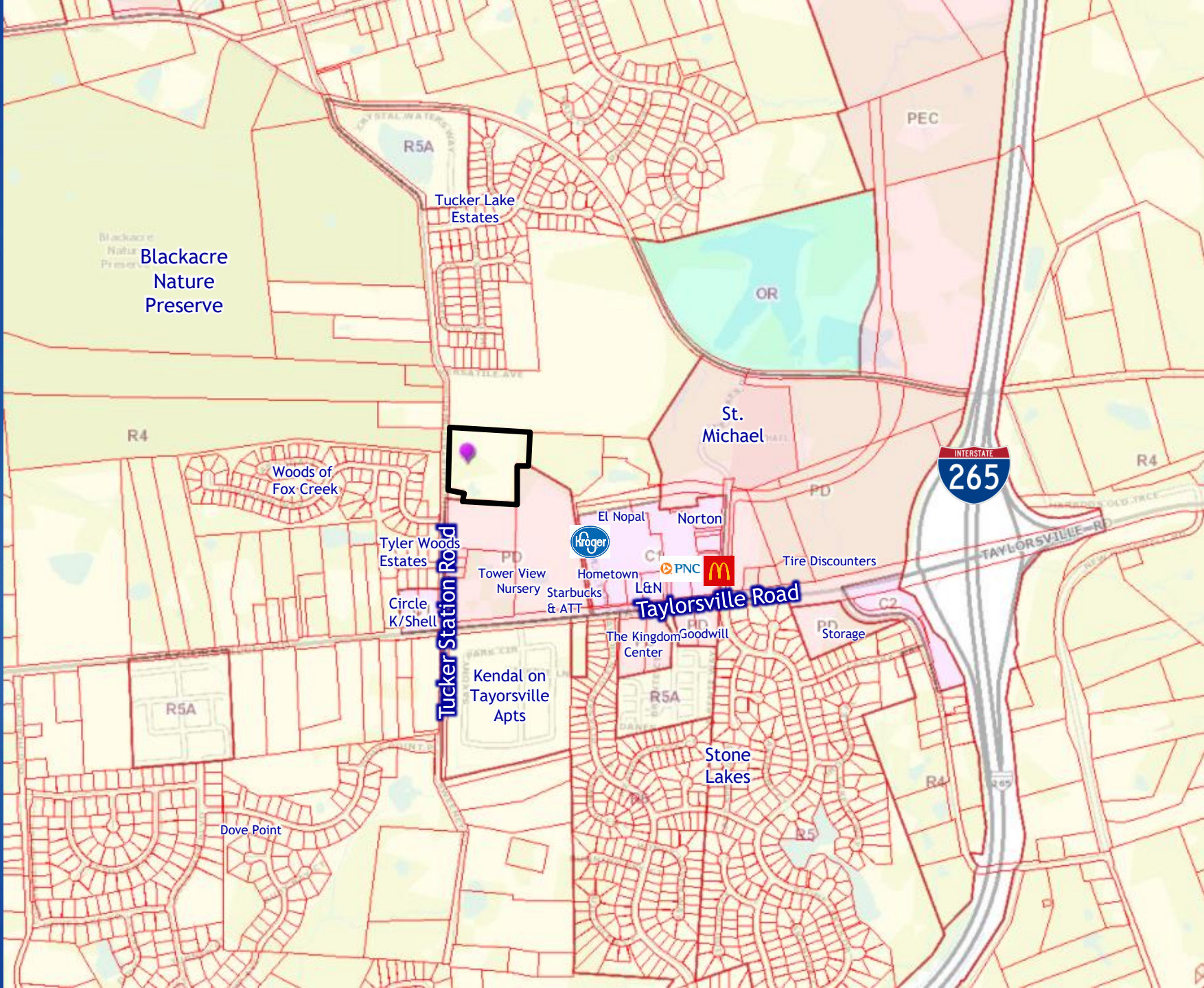
Attorneys: Bardenwerper Talbott & Roberts, PLLC  
Land Planners, Landscape Architects & Engineers: Sabak, Wilson & Lingo

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# Tab 1 LOJIC Zoning Map



Blackacre  
Nature  
Preserve

Tucker Lake  
Estates

St.  
Michael

Woods of  
Fox Creek

Tyler Woods  
Estates

El Nopal

Norton



Tower View  
Nursery  
Starbucks  
& ATT

L&N

Tire Discounters

Circle  
K/Shell

Taylorville Road

The Kingdom  
Center

Storage

Kendal on  
Taylorville  
Apts

Stone  
Lakes

Dove Point



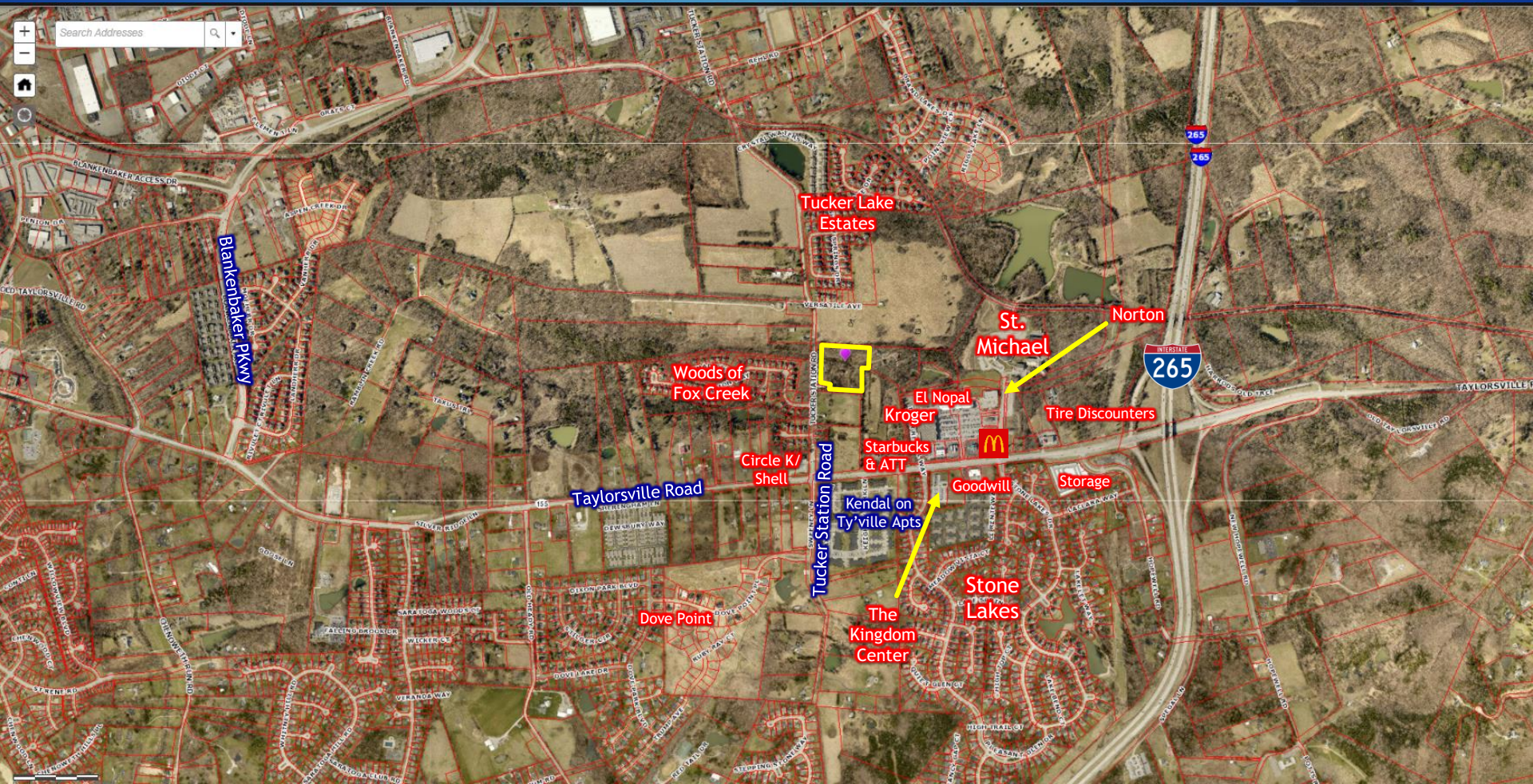
TAYLORSVILLE RD



# Tab 2

## Aerial photograph of the site and surrounding area

Development located on Tucker Station Road, near Taylorsville Road Intersection.



Development located on Tucker Station Road, near Taylorsville Road Intersection.

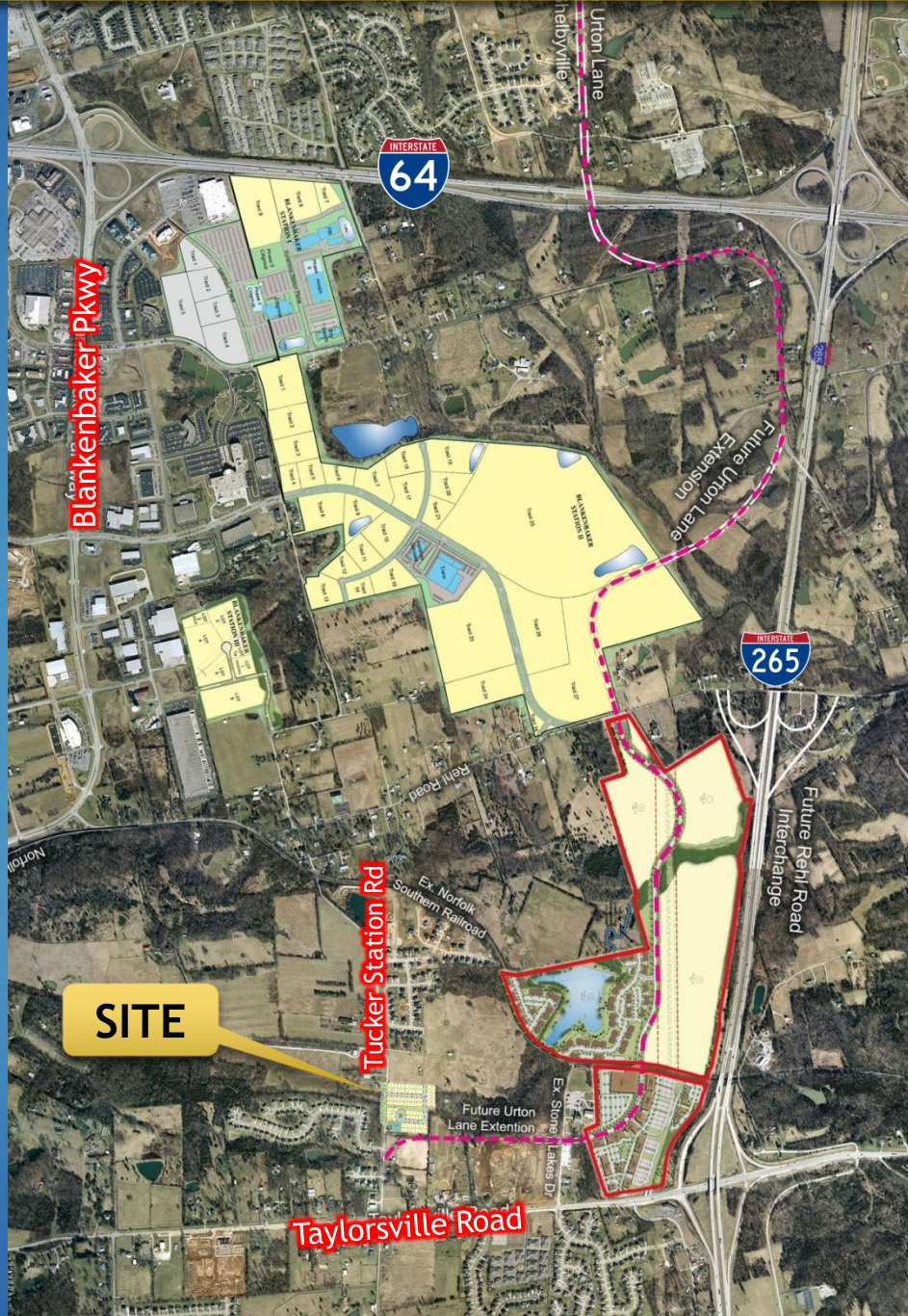


Development located near Tyler Village Commercial Activity Center.

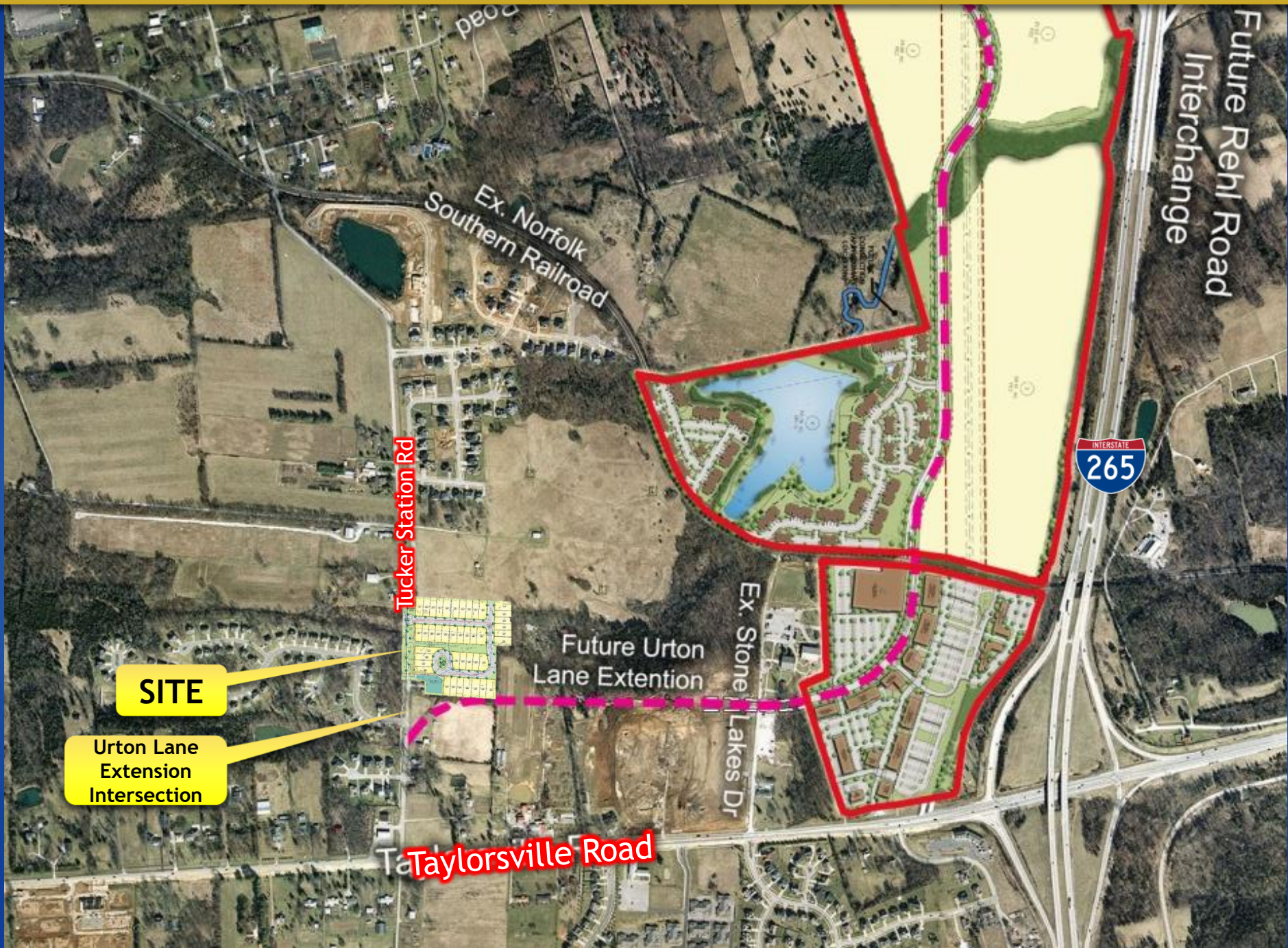




Future Urton Lane Extension will put Development directly on significant intersection.



Future Urton Lane Extension will put Development directly on significant intersection.



**SITE**

**Urton Lane  
Extension  
Intersection**

**Tucker Station Rd**

**Ex. Norfolk  
Southern Railroad**

**Future Urton  
Lane Extension**

**Ex. Stone  
Lakes Dr**

**Taylorsville Road**

**INTERSTATE  
265**

**Future Rehli Road  
Interchange**



Tab 3

Ground level photographs of the site  
and surrounding area



Existing businesses in Tyler Village Commercial Activity Center



Existing businesses in Tyler Village



Louisville, Kentucky  
Google  
Street View



Looking west down Taylorsville from Stone Lakes Drive. The Kroger-anchored Tyler Village is to the right.





12613 Taylorsville Rd  
Louisville, Kentucky

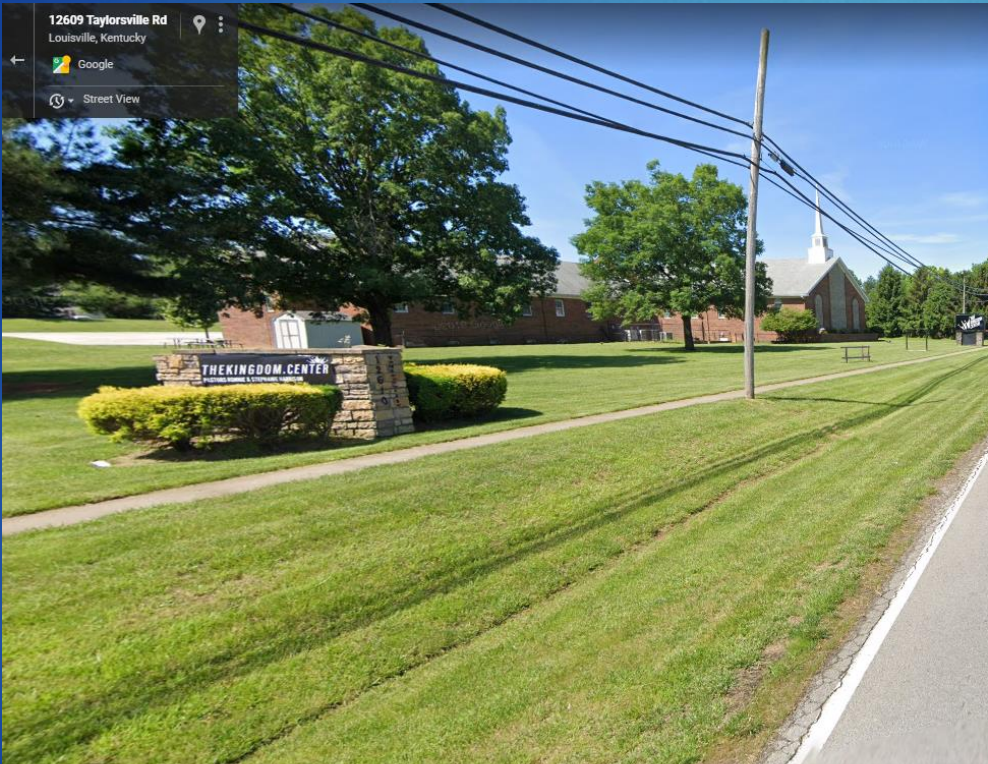
Google

Street View



Entrance to the Kroger-anchored Tyler Village Commercial Activity Center





Looking further west down Taylorsville Road. The Kingdom Center is on the left and Tyler Village on right.





Looking further west down Taylorsville Road. Kendal Apts are on the left and Tower View Farms & Nursery is on right.

12501 KY-155  
Louisville, Kentucky  
Google  
Street View



Looking north down Tucker Station Road from Taylorsville Road.

Louisville, Kentucky  
← Google  
📍 Street View



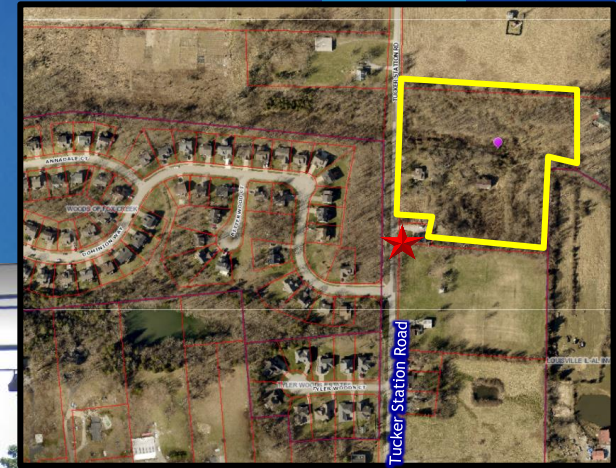
View of entrance to Fox Creek Subdivision.

1 Tucker Station Rd  
sville, Kentucky

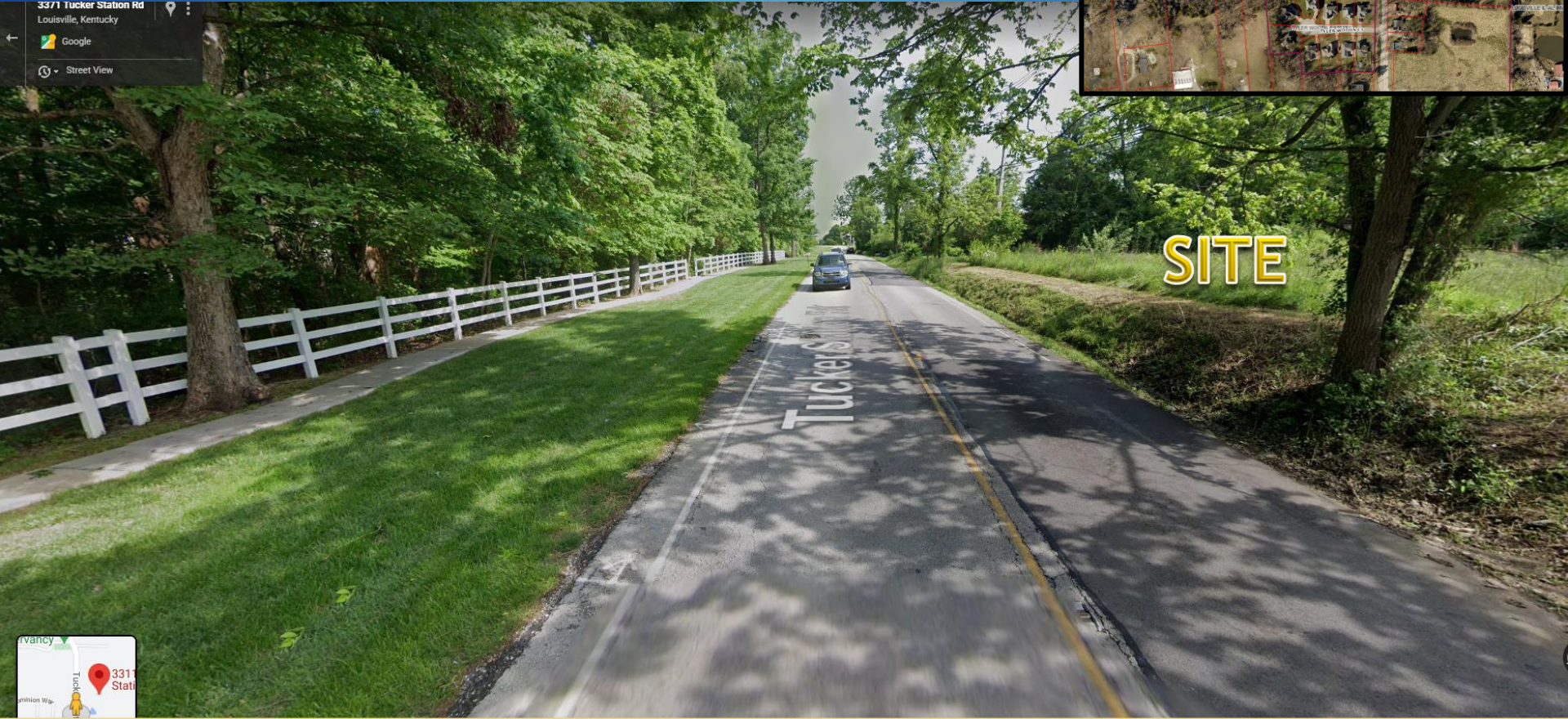
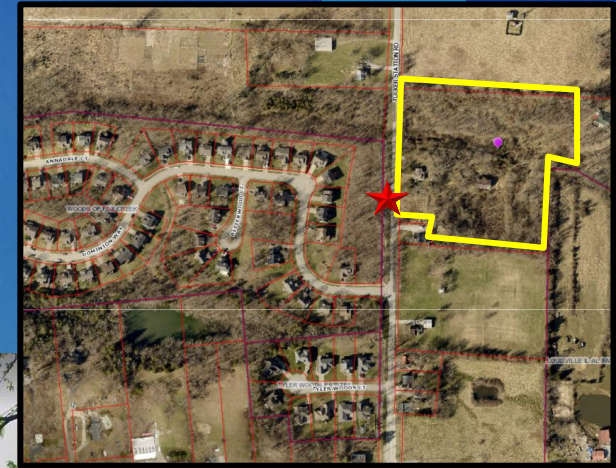
Google

Street View

SITE

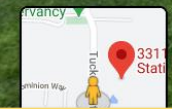


View of house adjacent to, and south of site.



**SITE**

Looking north down Tucker Station Road. Site is to the right.

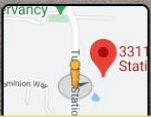
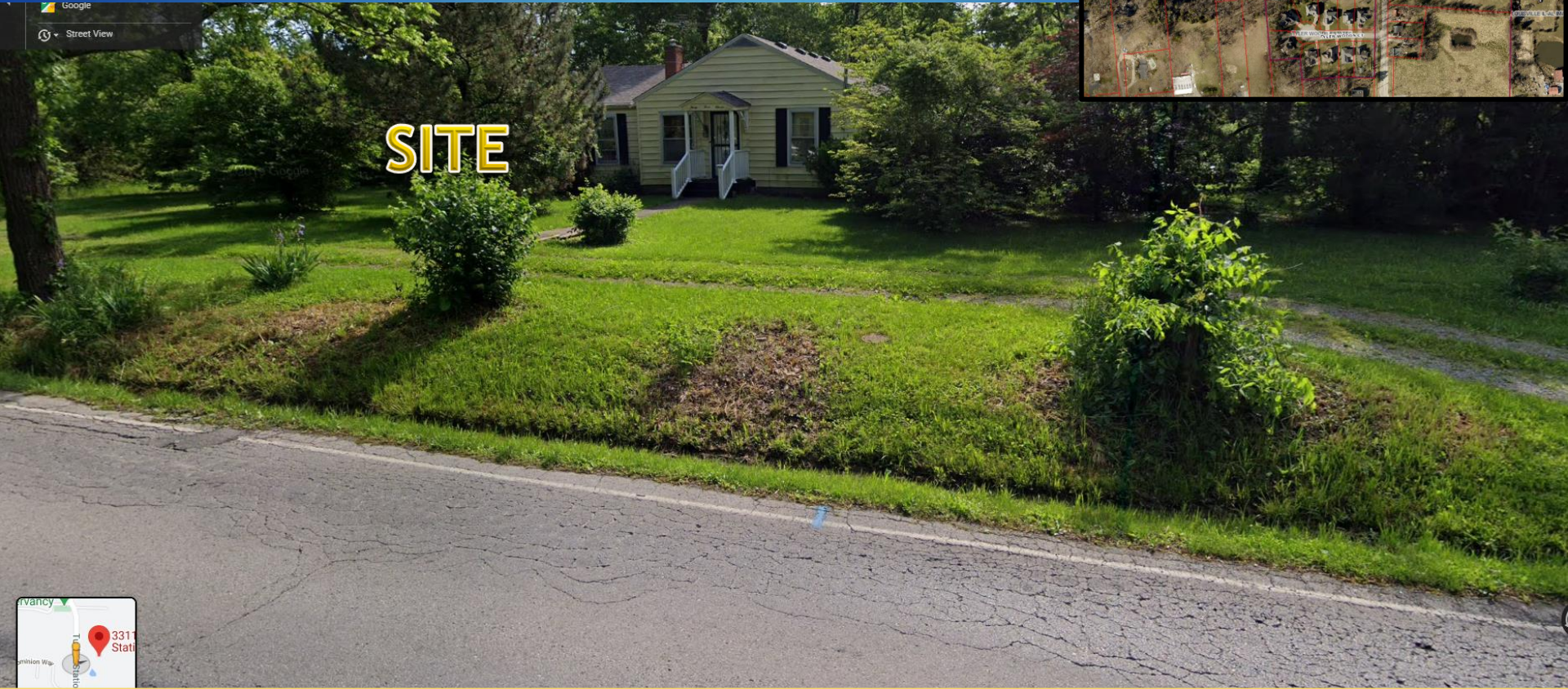
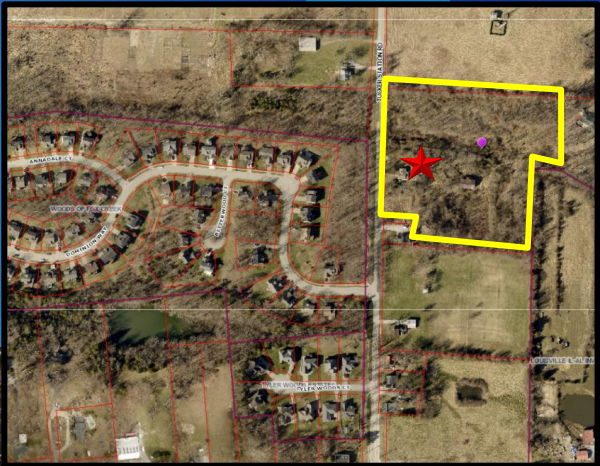




Google

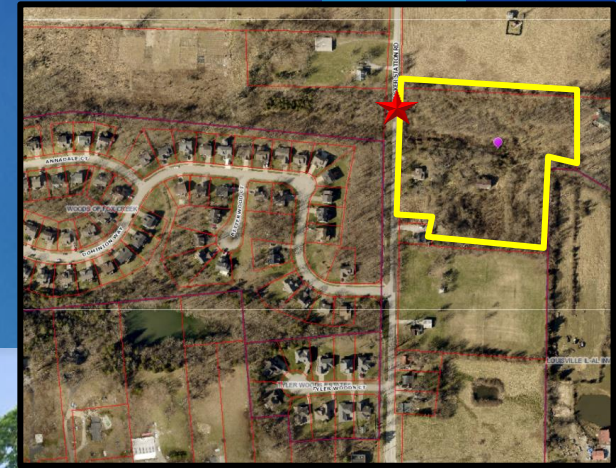
Street View

**SITE**

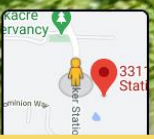


View of existing house on site.



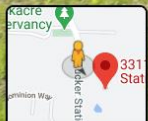


**SITE**



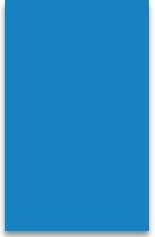
Looking further north down Tucker Station Road towards the end of the site.

3210 Tucker Station Rd  
Louisville, Kentucky  
Google  
Street View



Looking south down Tucker Station Road towards the site.

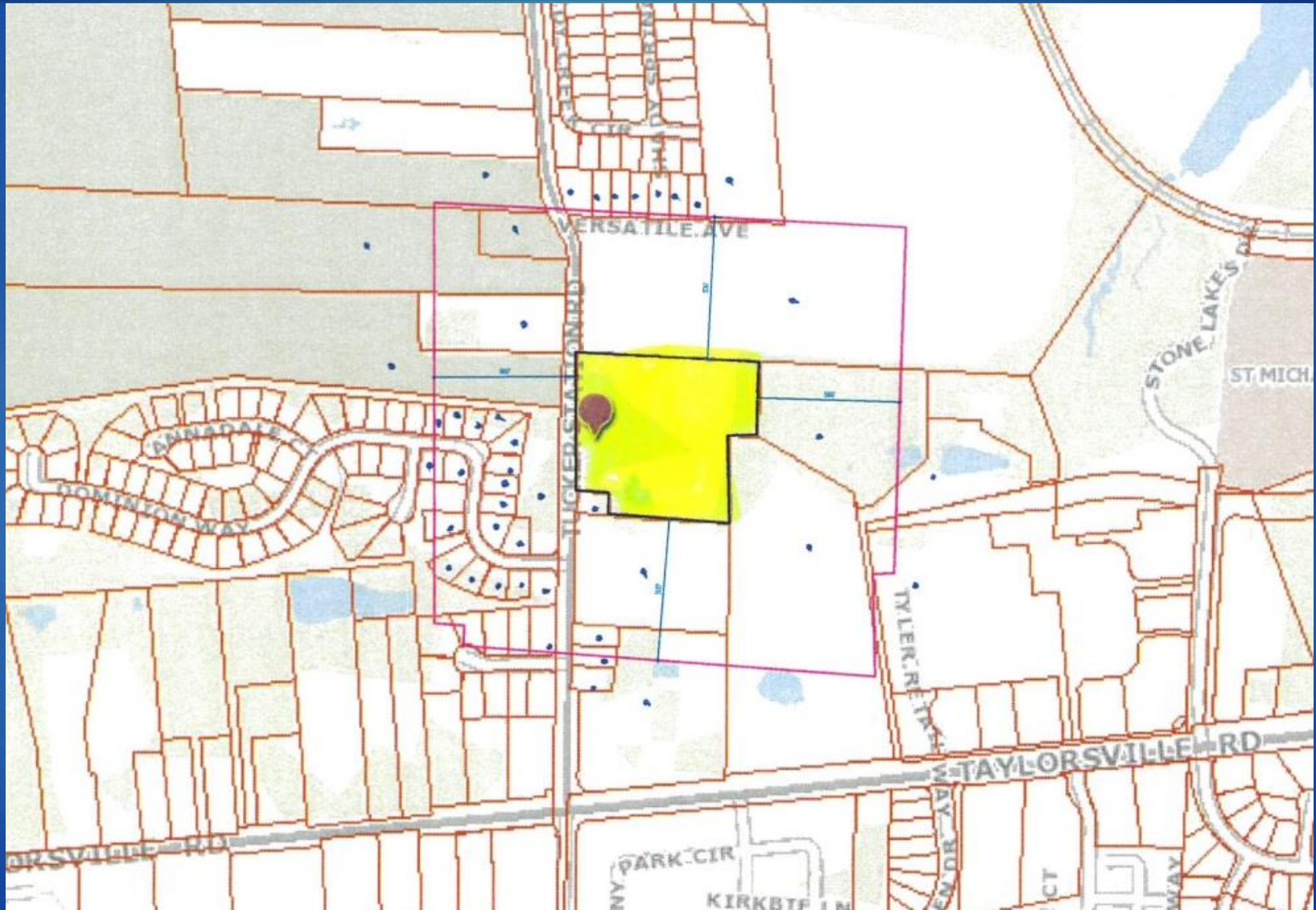




## Tab 4

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

Adjoining property owner notice list map wherein 46 neighbors plus those on the DPDS “interested party list” were invited to the neighborhood meeting and subsequent LD&T and Planning Commission public hearing.



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Cell: (502) 741-8783

## **NOTIFICATION OF VIRTUAL NEIGHBORHOOD MEETING RE: REZONING OF PROPERTY**

Date Sent: September 2, 2020

To: 1<sup>st</sup> and 2<sup>nd</sup> Tier Adjoining Property Owners of 3311 Tucker Station Road, Louisville, KY and Councilperson Stuart Benson for District 20

Case #: 20-ZONEPA-0043

From: Tucker Station Development, LLC

Re: **Virtual Neighborhood Meeting to Discuss Change in Zoning from R-4, Single-Family Residential Zoning to PRD, Planned Residential District Zoning and Joint Subdivision Plan**

We are writing to notify you about an upcoming “neighborhood meeting” on the above referenced rezoning proposal. Because of the COVID-19 emergency orders requiring and/or recommending social distancing, the neighborhood meeting is being held virtually instead of in person and the details are set forth in this letter and the supporting attachments.

The virtual meeting will be held on **Wednesday, September 16, 2020 at 6:30 p.m.**  
Please join this meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/732631589>

You can also dial in using your phone.

United States (Toll Free): 1 866 899 4679  
United States: +1 (571) 317-3116  
Access Code: 732-631-589

New to GoToMeeting? Get the app now and be ready when your first meeting starts:  
<https://global.gotomeeting.com/install/732631589>

Enclosed for your review are the following:

1. Detailed Summary
2. Contact Information
3. The LOJIC Zoning Map showing the location of the site and surrounding zoning
4. The Color Site Plan of the proposed development
5. After the Neighborhood Meeting sheet

If you have additional questions about the information you have received with this meeting notification and/or wish to speak to me directly about the proposal, feel free to call me or email me using the contact information provided herein.

We look forward to seeing and hearing from you at the virtual meeting.

Best Regards,



John C. Talbott  
Bardenwerper Talbott & Roberts, PLLC  
(502) 741-8783

cc: Benson, Stuart, Councilman, District 20  
Doug Schultz, Landscape Architect with Sabak, Wilson & Lingo, Inc.

## Neighborhood Meeting Summary

A virtual neighborhood meeting was held on Wednesday, September 16, 2020 at 6:30 pm. Those in attendance included the applicant's representatives, John C. Talbott, attorney with Bardenwerper, Talbott & Roberts, and Doug Schultz, land planner and engineer with Sabak, Wilson & Lingo, as well as the applicant team of David Weis and Jason Orthober.

Mr. Talbott made a power point presentation which explained the rezoning process and discussed the notice elements to the neighbors and how long the process would likely take to rezone. He also showed the area to be rezoned, the site plan and the site plan superimposed on the aerial map to show context with the surrounding area uses. The attendees were shown the details of the activity center nearby on Taylorsville Road and the nearby road network. Mr. Talbott showed a table comparing the density and other characteristics of residential land planning to what is allowed presently, what could be requested in PRD rezoning, and what is currently proposed with the density and number of units.

Mr. Schultz provided details about plan, discussing the storm water drainage issues and how it would not increase peak flow from the site with the detention basin being built. He also explained the open spaces along Tucker Station Road and internal to the site.

Mr. Weis showed renderings of the homes expected to be built, in addition to showing homes from another development he and Mr. Orthober developed which will be similar to this site in size, building materials, quality and price points.

There were effectively no questions from those in attendance and the meeting adjourned at approximately 7:45.



# Tab 5 Development Plan

# Former proposed development plan

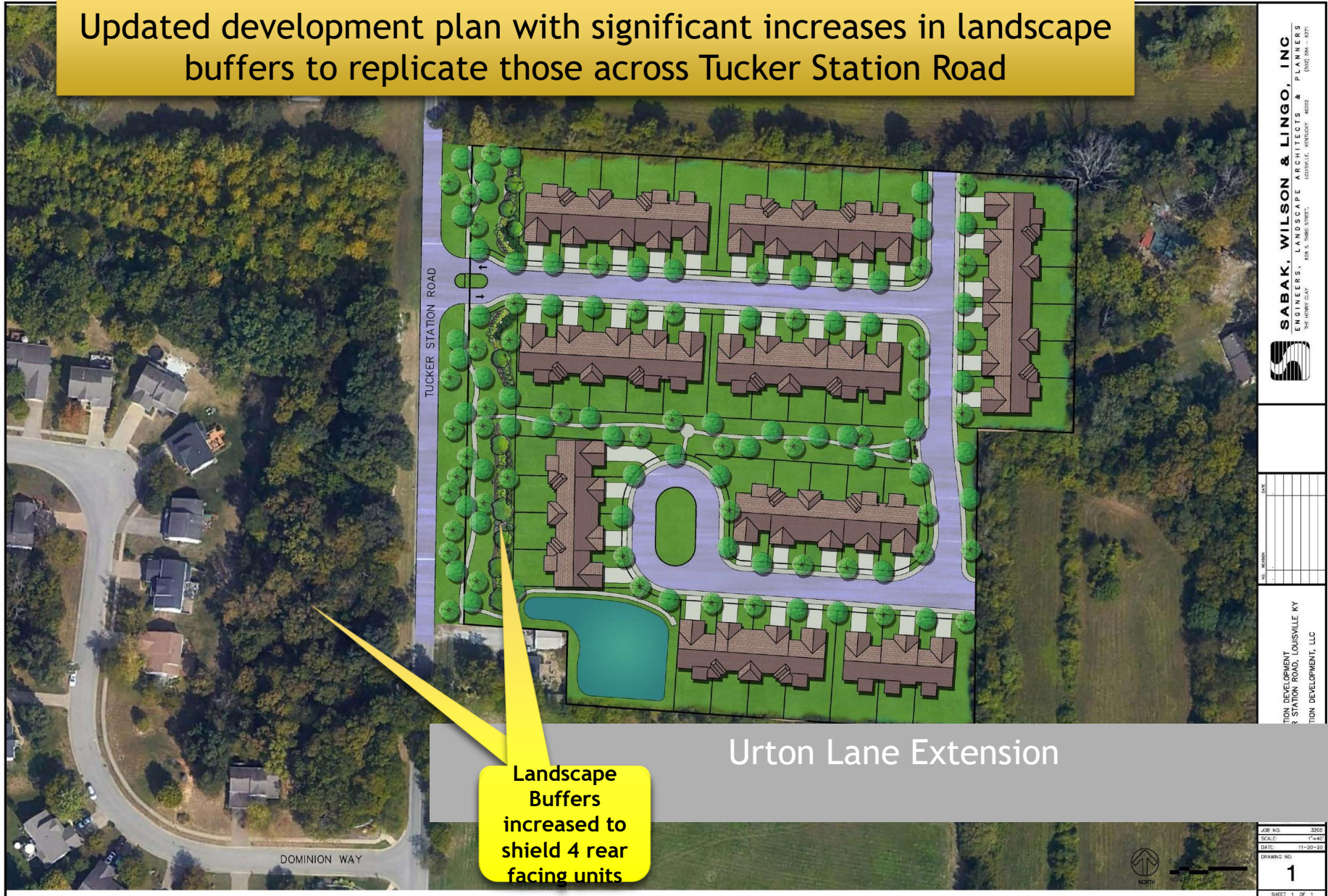


Urton Lane Extension

DOMINION WAY



# Updated development plan with significant increases in landscape buffers to replicate those across Tucker Station Road



Landscape Buffers increased to shield 4 rear facing units

Urton Lane Extension



Open space area shaded in light green



Urton Lane Extension

DOMINION WAY



# Detail on increases in landscape buffers to replicate those across Tucker Station Road



Planned  
Residential  
Development  
District  
“PRD”

Single Family  
Residential

Purpose is to provide flexibility in design of residential developments in a manner that promotes implementation of Cornerstone 2020.

PRD allows zero lot line, townhouses, cluster housing, reduced lot sizes and other innovative design.

- ▶ Plan meets infill objectives consistent with adopted plan.
- ▶ Creates variety of housing styles serving differing needs
- ▶ Expands diversity of housing
- ▶ Creates permanently protected open space

# Planned Residential Development District “PRD” Single Family Residential

	Required	Proposed
Maximum Density	7.26 du/a	7.19 du/a
Maximum floor Area	2.0 FAR	(approx) 0.4
Stories	Max 35 ft	(approx) 22-23 ft

# Comprehensive Plan vs the Land Development Code

The Comprehensive Plan serves as a scheme of general planning and is designed as a general guide.

Land development Code, which is based upon the Comprehensive Plan, is regulatory, objective, and specific.

No waivers are required for the Comprehensive Plan.

Waivers and variances are required from the Land Development Code.

# Over 50 years of Court Decisions Defining the application of the Comprehensive Plan

## Ward v. Knippenberg, 416 SW2d 746 (Ky. 1967)

With respect to the first proposition, it seems clear that HN1 [ ] a zoning agency is not bound to follow every detail of a land use plan. As we understand it, such a plan is simply a basic scheme generally outlining planning and zoning objectives in an extensive area. It is in no sense a final plan and is continually subject to modification in the light of actual land use development. It serves as a guide rather than a strait-jacket.

## Morris v. Carter, 2007 Ky.App. Lexis 259

A local legislative body is not required to follow the Comprehensive Plan in every detail. The Comprehensive Plan serves as a scheme of general planning and zoning objectives in an area with what can be perceived as the best way to zone an area with the current and foreseeable development. But in no way is the Comprehensive Plan a final plan and it is continually subject to modification as developments continue to impact the land and change its foreseeable use. In fact, the Comprehensive Plan was intended to ". . . [serve] as a guide rather than a strait-jacket ."

# The Tyler Rural Settlement Plan is part of the Comprehensive Plan

## Compliance with Tyler Rural Settlement Plan

**Land Use/Community Form:** "Land adjacent to the activity center and along Taylorsville Road to Tucker Station Road may be most appropriately used for higher density residential (5 to 12 units per acre)"

"Appropriate open spaces and greenway corridors must be integrated into the other uses in order to maintain the rural and natural character of the District"

# The Tyler Rural Settlement Plan Compliance

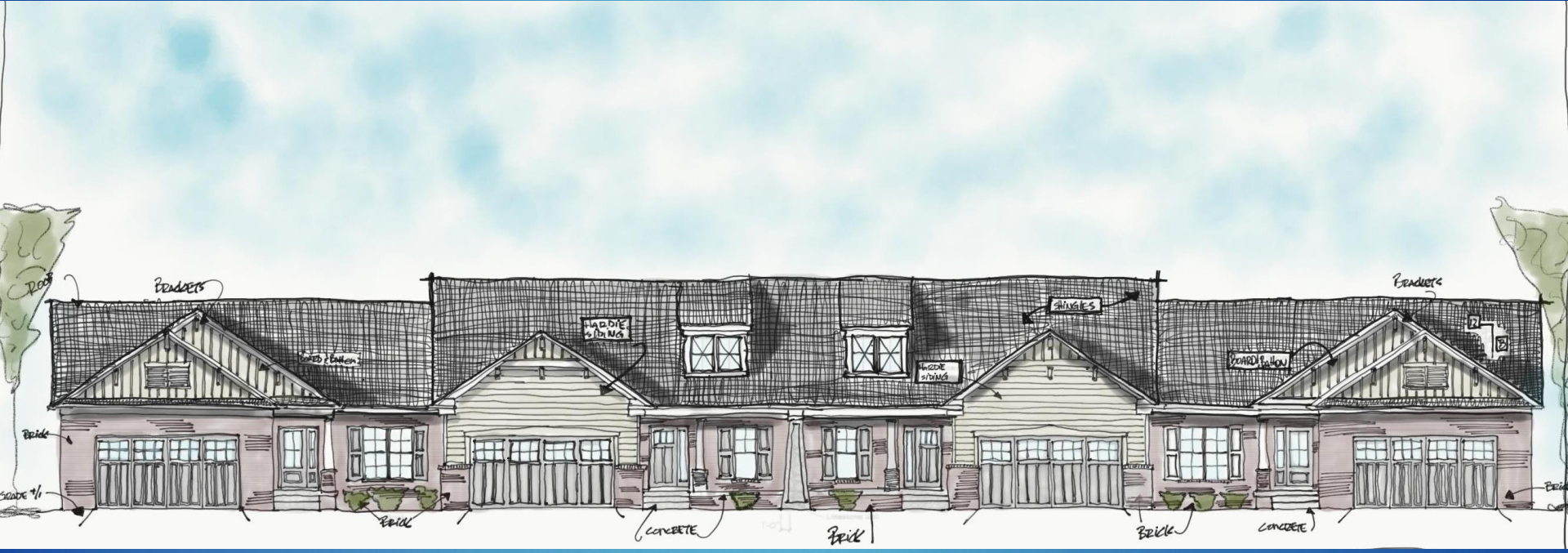
**Community Form Priorities:** "Land use transition standards should focus on lighting, landscaping, preservation, and building heights"

**Conservation Design Concepts:** "Of primary focus was the notion that it would be preferable to site homes located on smaller lots, resulting in large, contiguous areas of open space, rather than typical subdivisions where all the land is divided amongst larger lots with no open space. The open space could allow for preservation of historic or natural elements; buffering from adjacent roads or properties; community greens or gathering spaces; recreation areas; multi-use trail corridors; agricultural or forestry practices; and alternative methods of sanitary waste disposal. Any of these amenities would make for a more desirable neighborhood than most typical subdivisions currently do."



# Tab 6

## Building Elevations



Examples from another  
development by the developer



Examples from another  
development by the developer



Examples from another  
development by the developer



Examples from another  
development by the developer



Examples from another  
development by the developer





## 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

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## **STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GOALS, GUIDELINES AND POLICIES OF THE CORNERSTONE 2040 COMPREHENSIVE PLAN**

<u>Applicant:</u>	Tucker Station Development, LLC
<u>Owner:</u>	Lori & Christopher Dan Jones
<u>Location:</u>	3311 Tucker Station Road
<u>Proposed Use:</u>	Single Family Attached Subdivision
<u>Engineers, Land Planners and Landscape Architects:</u>	Sabak Wilson & Lingo
<u>Request:</u>	Zone change from R-4 to PRD

The purpose of the Planned Development (PRD) District is to provide flexibility in layout and design of residential developments in a manner that promotes implementation of the Plan 2040 Comprehensive Plan for Louisville Metro. The PRD district allows for zero lot line homes, cluster housing, reduced lot sizes and building setbacks, and other innovative designs which meet the intents of the Comprehensive Plan, all of which this development plan complies with. In that regard, the PRD regulation requires that a PRD plan shall meet at least two of the following criteria:

1. The site has certain topographic and landform limitations or environmental constraints and the proposed plan preserves these features from development and disturbance; or
2. The site meets infill objectives consistent with recommendations of an officially adopted neighborhood plan, corridor plan or Urban renewal plan; or
3. The proposal creates a variety of housing styles serving the needs of people of differing ages or incomes; or
4. The proposal expands the diversity of housing types available within a neighborhood; or
5. The proposal creates permanently protected open space that meets outdoor recreation needs, preserves wildlife habitat, or extends a community-wide greenway system.

This proposed PRD home style development meets three of the above criteria, notably numbers 3, 4, and 5. This is planned to be a diverse community, attractive to young and older single professionals, small families, and empty-nesters who are interested in the less maintenance associated with smaller yards, as opposed to that form of housing that still predominates most of Metro Louisville – i.e., standard single family homes on larger lots which residents are normally expected to maintain by themselves; this particular area of Metro Louisville is like almost all

others where traditional style, detached single family homes are the norm; there are very few PRD style housing options in the area that allows homeownership; the proposed home community of attached housing on smaller lots thus adds to the diversity of housing types in this area and will supply needed housing under demand for the differing age base of the community; and the smaller lots also allow for the implementation of permanent green space along Tucker Station Road; and

The Cornerstone 2040 Comprehensive Plan also strongly supports the provision of affordable and appropriate housing, and this new and additional housing option will provide just that being in a different price point than some of the surrounding residential homes; and

#### **PLAN ELEMENT 4.1 - COMMUNITY FORM**

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policies 3.1.3, 4, 5, 6, 7, 9, 10, 11, 14, 16, 17, 18, 19, 20 & 28 of Goal 1 of the Community Form Plan Element as the subject property is located in the Neighborhood Form District which is characterized by predominately residential uses from low to high density, with diverse housing types in order to provide housing choice for differing incomes, ages, and abilities, and zero-lot line neighborhoods with open space, all of which this DDDP provides; the site provides open space as is encouraged in the Neighborhood Form District at a scale that is appropriate for nearby neighborhoods; the site location on Tucker Station Road, near the Taylorsville Road intersection, which are classified as a primary collector and major arterial respectively, ensures easy access to the nearby “activity centers” just south-east of the site with an abundance of commercial uses and is appropriate for the slightly higher intensity, zero-lot line subdivision; this proposal will provide this area with new, attractive, housing choices for residents who desire to live in this community but prefer less maintenance, less demanding style living; major commercial land uses down Taylorsville Road east of the site in close proximity to the subject property will especially make this an attractive location for a diverse group of home buyers, who will likely include professionals, small families, and “empty-nesters”; and the existing services and infrastructure on the Taylorsville Road corridor makes this area extremely popular and appropriate for this type of residential development; and it provides low density development with compensating open space, attractive building materials in a traditional design to blend easily with adjoining neighborhoods, albeit with an upgrade on some of the older, deteriorating properties in the area; and future residents will support and be supported by the businesses, services, schools and churches emerging in and around this site and nearby activity centers; and

The gross density will be in the low density range appropriate for the area, but still providing a mixture of density compared to some of the surrounding residences and subdivisions; and buildings will be constructed of attractive building materials (brick and hardy board) and will feature architectural details similar to and compatible with those in other nearby residential neighborhoods, to ensure that the scale and appearance of this community will be compatible with the existing communities and residences in this area; perimeter setbacks and landscape buffer areas are preserved along all property lines to screen resident activities from adjoining property owners; and the HOA will contract with professional groundskeepers for care of the common areas including the entrance frontage, buffers and open space areas, as is typical for planned residential communities; and these features will further serve to keep resident activities

away from adjoining properties and to ensure a positive overall appearance for this proposed community; and

The development plan will utilize landscaping to provide appropriate transitions and buffers to mitigate impacts between this development and existing, adjacent homes; the setbacks are all appropriate for the area and consistent with nearby residences; and the height of the homes, all being limited to single-story and two-story homes, are wholly compatible with nearby residences; the proposed subdivision does not involve any known nuisances, such as odors, noises, lighting, aesthetics or traffic different than what already exists in the greater area; Refuse will be picked up on a regular basis in separate containers for each home, as in any residential development in the area; lighting will be residential in character in conformance with Land Development Code regulations; and setbacks will be compatible with residential subdivisions allowed in the Neighborhood Form District; and

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policies 2, 2.1, 3, 6, 8, 9, 13, 15, 16, & 17 of Goal 2 of the Community Form Plan Element as the subject property is located near a major arterial, with access to nearby activity centers, sidewalks will be provided on site which will provide safe areas for pedestrians and bicyclists to travel to nearby neighborhoods and locations; the proposed use and density are compatible with adjacent uses and meets Form District guidelines; the development plan encourages use of nearby activity centers near the development and easy access to the I-265 interchange on Taylorsville Road; it results in efficient land use and cost effective infrastructure use, reducing public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services; the plan places residential development in an appropriate location which is a designated residential center; and the utility easements provide for access, maintenance, and repair; and

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policies 2, 3, 6, 7, 8, 9 & 12 of Goal 3 of the Community Form Plan Element as the subject property because, unlike most standard single-family subdivisions, this one includes some meaningful perimeter open space, conserving some natural resources and features, assuring good transitions to neighboring properties; and providing for passive outdoor activities off residents' individual home lots; and the site's open space will help meet the recreational needs of the community; it assures for better buffers and a far superior neighborhood look and feel; the homeowners association will maintain these open areas; and the site plan is designed to prevent foundation failure, and to minimize environmental degradation; and appropriate measures have been taken to protect the health, safety and welfare of future users of the development; and

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policies 1, 2 & 3 of Goal 4 of the Community Form Plan Element as no portion of the subject property has been designated as a natural, historic or scenic preservation site; and

#### **PLAN ELEMENT 4.2 - MOBILITY**

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policies 1, 2, 3, 6, 7 & 14 of Goal 1 of the Mobility Plan Element as the proposed development's entrance along Tucker Station Road near Taylorsville Road, along with the

internal street system with stubs for future connectivity, and sidewalk system, will provide safe, controlled and efficient traffic flow to and through the community, as well as accommodate and support the needs of pedestrians and bicycle traffic to and from the development to nearby activity centers and commercial and retail land uses; and the addition and inclusion of sidewalks and bicycle traffic will promote both as a source of transportation as well as recreation; and

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policies 1, 2, 4, 5, 6, 7, & 8 of Goal 2 of the Mobility Plan Element as the subdivision and site location provide access to transportation facilities that accommodate all users consistent with those in the Neighborhood Form District through the use of roads, entryways and sidewalks; the site distance for the curb cut entrance is adequate for the use and location; the internal circulation of pedestrian and vehicular traffic is appropriate with the connected walkways and shared access, parking, etc.; the site does not allow or cause higher intensity use to circulate through areas of lower intensity or density developments; and

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policies 1, 2, 3, 4, 5, 7, 10, 12, 14, 17, 18, 20, 21, 23, 24, & 27 of Goal 3 of the Mobility Plan Element as the development plan provides walking and bicycling opportunities with the sidewalks and interconnected walkways, and by providing a diverse, but compatible mix of residential uses nearby to existing commercial and retail activity centers, thereby reducing miles traveled; the plan will not burden the transportation network, but will enhance it by developing the property in a way that is appropriate for the Neighborhood Form District along Taylorsville Road, which is a major arterial; the plan is consistent with long range transportation plans; and the plan also satisfies the policy of infill development opportunities supporting biking and pedestrian travel; and

Tucker Station Road, near the Taylorsville Road interchange, is adequate to handle the amount of traffic generated by this proposal; and the accompanying plan is expected to received the preliminary stamp of approval from Metro Works, thus further demonstrating this project's compliance with all of the Mobility Plan Elements' Goals, Objectives and Policies of the 2040 Comprehensive Plan; and

#### **PLAN ELEMENT 4.3 - COMMUNITY FACILITIES**

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policies of the Community Facilities Plan Element as 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 so as to not burden existing or future community facilities; and

#### **PLAN ELEMENT 4.4 – ECONOMIC DEVELOPMENT**

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policy 7 of Goal 1 of the Economic Development Plan Element as this development plan provides economic climate that improves growth, innovation, and investment opportunity for all by reusing and redeveloping a deteriorating property and provides additional diverse residential development, all in an area with existing infrastructure in an efficient manner;

it will increase economic opportunity to nearby business owners and employment providing a variety of home style choices that will be available at the development and future residents will support the businesses and services in nearby activity centers; also future residents will find that the ease of access to retail development on Taylorsville Road, and to other nearby activity centers is an amenity, promoting an economic climate that improves growth, innovation, and opportunity for all; the development, as proposed, will provide easy access to Taylorsville Road and I-265 and several other roads in the area, and from there to greater Louisville employment and commercial centers; and it will make efficient use of available property that lies within the Neighborhood Form District and is located in an area where residents currently seek new housing options and have easy access to nearby commercial and employment centers; and

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policies 2, 3, 4, 5, & 8, of Goal 2 of the Economic Development Plan Element as it enhances the quality of life in the area by reusing and readapting a current less desirable current use, while at the same time protecting and improving the economic value of the surrounding areas by ensuring the property is properly maintained and updated for today's current residential market demands; it satisfies the goal and policy of infill development to take advantage of the existing infrastructure; the design elements being used will limit the heat island effect through the use of green detention basins; and it promotes more affordable housing in the area; and

#### **PLAN ELEMENT 4.5 – LIVABILITY**

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policies 2, 7, 11, 21, 23, 25, 26, 27, 28, 31, 35, 36, & 39 of Goal 1 of the Livability Plan Element as the development plan preserves the natural features of the topography of the site and provides appropriate landscaping design standards for the area; the site minimizes impervious surface by the use of zero-lot line homes and detention basins, and protects groundwater sources through the development and connection to existing MSD sewer infrastructure; it provides pedestrian and bicycle connectivity while not overly burdening traffic for the area near a major arterial; it also not burden current drainage associated with the site through the use of detention basins reducing storm water run-off; the site is in-fill development, thereby reducing miles traveled by developing in areas with infrastructure and nearby services; landscaping will be added to reduce the impacts of the site to other adjacent housing; the site will feature open spaces interspersed among the buildings that will be available for low impact recreational use by residents and will serve to provide natural areas and an overall positive appearance for the community; no portion of the site lies within the 100 year floodplain, all drainage will comply with MSD requirements, and this development plan will likely receive preliminary approval by MSD; Louisville Water Company will provide water to the site; and air quality will remain at good levels because, as noted above, the proposed internal road system and controlled entrance will distribute traffic to reduce air quality impacts relating to congestion or delays; and

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policy 8 of Goal 2 of the Livability Plan Element as the development plan provides and satisfies design standards of the Neighborhood Form District and provides safe, healthy and accessible housing with infill development in a residential area; and

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policies 1, 2, & 4 of Goal 3 of the Livability Plan Element by providing equitable access to the land use planning and policy resources to the surrounding residents and property owners by providing notice of the development, notice of all public meetings and by providing the neighborhood meeting, which encouraged and provided an opportunity for area involvement in the plan design; and providing handicap parking and access in the site for the disabled and other safety measures in accordance with law; and

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policies 1, 2, & 8 of Goal 4 of the Livability Plan Element by providing and enhancing choices for mobility choices through vehicular access, sidewalks for pedestrian traffic, and bicycle use, encouraging clean air by reducing miles driven by providing more residential density in a residential area near to the major arterial of Taylorsville Road, thus supporting premium traffic systems; and

#### **PLAN ELEMENT 4.6– HOUSING**

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policies 1, 2, 3, 6, 7, & 9 of Goal 1 of the Housing Plan Element by providing a variety of housing types in the area, including zero-lot line homes where none exist presently, but still incorporating appropriate single buildings with design compatible and appropriate to the surrounding areas; the zero-lot line homes, with much of the maintenance burden taken by the HOA supports “aging in place” and housing for older, empty-nester adults, along with and busy younger homeowners who chose to not have large yards; and the flexibility in design for the PRD subdivision will promote an adaptive use and infill development; and

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policies 1, 2, 5, 6, 7, & 9 of Goal 2 of the Housing Plan Element as this diverse housing plan promotes inter-generational, mixed income residents, including older “empty nesters”, younger “millennials”, and professionals and small families; the site is along near a major arterial providing proximity to multi-modal transportation; the design and plan provides housing which is in demand in the current residential marketplace with adequate access to employment centers with the nearby connection to Taylorsville Road; and it encourages new residential development in an older residential area, while at the same time not causing the residential development to expand into or near industrial type areas; and

The proposed rezoning and preliminary subdivision plan complies with all the applicable Objectives and Policies 1, 2, 3, 5, 6, 7, & 12 of Goal 3 of the Housing Plan Element as it reduces the lot size and lines, thereby increasing density over what currently exists on the property, creating more affordable housing choices than currently exist in this area; the development of the site, with lighting and higher density will eliminate the isolation of the current home, thereby

likely reducing the likelihood of crime; and the PRD subdivision provides innovative methods for residential development; and

\* \* \*

For all of these and other reasons set forth on the Detailed District Development Plan/preliminary subdivision plan accompanying this application and in accordance with evidence presented at Planning Commission public hearings, this application will comply with all other applicable Guidelines and of the Plan 2040 Comprehensive Plan.

Respectfully submitted,

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(502) 426-6688



## Tab 10

Proposed findings of fact  
pertaining to compliance with the  
2040 Plan and Waiver criteria



# BARDENWERPER, TALBOTT & ROBERTS, PLLC

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## **PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GOALS OF THE 2040 PLAN**

Applicant: Tucker Station Development, LLC

Owner: Lori & Christopher Dan Jones

Location: 3311 Tucker Station Road

Proposed Use: Single Family Attached Subdivision

Engineers, Land Planners and  
Landscape Architects: Sabak Wilson & Lingo

Request: Zone change from R-4 to PRD

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on January 21, 2021 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

**WHEREAS**, the purpose of the Planned Development (PRD) District is to provide flexibility in layout and design of residential developments in a manner that promotes implementation of the Plan 2040 Comprehensive Plan for Louisville Metro; the PRD district allows for zero lot line homes, cluster housing, reduced lot sizes and building setbacks, and other innovative designs which meet the intents of the Comprehensive Plan, all of which this development plan complies with; in that regard, the PRD regulation requires that a PRD plan shall meet at least two of the following criteria:

1. The site has certain topographic and landform limitations or environmental constraints and the proposed plan preserves these features from development and disturbance; or
2. The site meets infill objectives consistent with recommendations of an officially adopted neighborhood plan, corridor plan or Urban renewal plan; or
3. The proposal creates a variety of housing styles serving the needs of people of differing ages or incomes; or
4. The proposal expands the diversity of housing types available within a neighborhood; or
5. The proposal creates permanently protected open space that meets outdoor recreation needs, preserves wildlife habitat, or extends a community-wide greenway system;

**WHEREAS**, this proposed PRD home style development meets three of the Planned Residential District criteria, notably numbers 3, 4, and 5; this is planned to be a diverse community, attractive

to young and older single professionals, small families, and empty-nesters who are interested in the less maintenance associated with smaller yards, as opposed to that form of housing that still predominates most of Metro Louisville – i.e., standard single family homes on larger lots which residents are normally expected to maintain by themselves; this particular area of Metro Louisville is like almost all others where traditional style, detached single family homes are the norm; there are very few PRD style housing options in the area that allow homeownership; the proposed home community of attached housing on smaller lots thus adds to the diversity of housing types in this area and will supply needed housing in demand for the differing age base of the community; and the smaller lots also allow for the implementation of permanent green space along Tucker Station Road; and

**WHEREAS**, the Cornerstone 2040 Comprehensive Plan also strongly supports the provision of affordable and appropriate housing, and this new and additional housing option will provide just that being in a different price point than some of the surrounding residential homes; and

**WHEREAS**, the proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policies 3.1.3, 4, 5, 6, 7, 9, 10, 11, 14, 16, 17, 18, 19, 20 & 28 of Goal 1 of the Community Form Plan Element as the subject property is located in the Neighborhood Form District which is characterized by predominately residential uses from low to high density, with diverse housing types in order to provide housing choice for differing incomes, ages, and abilities, and zero-lot line neighborhoods with open space, all of which this DDDP provides; the site provides open space as is encouraged in the Neighborhood Form District at a scale that is appropriate for nearby neighborhoods; the site location on Tucker Station Road, near the Taylorsville Road intersection, which are classified as a primary collector and major arterial respectively, ensures easy access to the nearby “activity centers” just south-east of the site with an abundance of commercial uses and is appropriate for the slightly higher intensity, zero-lot line subdivision; this proposal will provide this area with new, attractive, housing choices for residents who desire to live in this community but prefer less maintenance, less demanding style living; major commercial land uses down Taylorsville Road east of the site in close proximity to the subject property will especially make this an attractive location for a diverse group of home buyers, who will likely include professionals, small families, and “empty-nesters”; and the existing services and infrastructure on the Taylorsville Road corridor makes this area extremely popular and appropriate for this type of residential development; and it provides low density development with compensating open space, attractive building materials in a traditional design to blend easily with adjoining neighborhoods, albeit with an upgrade on some of the older, deteriorating properties in the area; and future residents will support and be supported by the businesses, services, schools and churches emerging in and around this site and nearby activity centers; and

**WHEREAS**, the gross density will be in the low density range appropriate for the area, but still providing a mixture of density compared to some of the surrounding residences and subdivisions; and buildings will be constructed of attractive building materials (brick and hardy board) and will feature architectural details similar to and compatible with those in other nearby residential neighborhoods, to ensure that the scale and appearance of this community will be compatible with the existing communities and residences in this area; perimeter setbacks and landscape buffer areas are preserved along all property lines to screen resident activities from adjoining property owners; specifically, only four units out of 42 back up to Tucker Station Road but set back approximately 75 feet from the road and their backyards will be further separated from the road by open space which will be heavily vegetated buffers, and the CCRs will prohibit outbuildings and other

structures attached in those rear yards to ensure an appropriate viewshed along Tucker Station Road; and the HOA will contract with professional groundskeepers for care of the common areas including the entrance frontage, buffers and open space areas, as is typical for planned residential communities; and these features will further serve to keep resident activities away from adjoining properties and to ensure a positive overall appearance for this proposed community; and

**WHEREAS**, the development complies with the Community Form Priorities of the Tyler Rural Settlement Plan in that it will utilize lighting consistent with the current requirements in the Land Development Code significantly reducing glare with night sky-lighting and eliminating light trespass onto other adjoining properties; and

**WHEREAS**, the development complies with the Community Form Priorities and Conservation Design Concepts of the Tyler Rural Settlement Plan in that will use land use transition standards focusing on lighting, landscaping buffering, open spaces and building heights; it will utilize lighting consistent with the current requirements in the Land Development Code significantly reducing glare with night sky-lighting and eliminating light trespass onto other adjoining properties; it will use building heights appropriate for the area; and it will use significant landscape buffers to adjacent properties and notably use significant landscape buffers along Tucker Station Road to protect its scenic, rural character; and

**WHEREAS**, the development complies with Conservation Design Concepts of the Tyler Rural Settlement Plan because it incorporates many of the conservation “design concepts” noted in the small area plan, such as small lots, contiguous area of open space, buffering along adjacent roads, and community greens and gathering space, particularly since the site is not even eligible for a “conservation subdivision” because it had invasive pear trees removed in August of 2019 as per LDC 7.11.4.D and because it lacks the significant unique cultural and natural features necessary to be eligible for a conservation subdivision; and

**WHEREAS**, the development complies with Conservation Design Concept of the Tyler Rural Settlement Plan, of which the “primary focus” is to develop homes on smaller lots to provide for open space as is used in this plan, and which also provides for, protects and preserves the pond being used for water detention;

**WHEREAS** the development complies with the Land Use Community Form of the Tyler Rural Settlement Plan in that the small area plan allows for residential density of 5-12 units per acre near activity centers, of which this is near the Tyler Village activity center and this site has only a density of slightly over seven; and

**WHEREAS**, the development plan will utilize landscaping to provide appropriate transitions and buffers to mitigate impacts between this development and existing, adjacent homes; the setbacks are all appropriate for the area and consistent with nearby residences; and the height of the homes, all being limited to single-story and two-story homes, are compatible with nearby residences; the proposed subdivision will not produce nuisances, such as odors, noises, lighting, design or traffic different than what already exists in the greater area; Refuse will be picked up on a regular basis in separate containers for each home, as in any residential development in the area; lighting will

be residential in character in conformance with Land Development Code regulations; and setbacks will be compatible with residential subdivisions allowed in the Neighborhood Form District; and

**WHEREAS**, the proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policies 2, 2.1, 3, 6, 8, 9, 13, 15, 16, & 17 of Goal 2 of the Community Form Plan Element as the subject property is located near a major arterial, with access to nearby activity centers; sidewalks will be provided on site which will provide safe areas for pedestrians and bicyclists to travel to nearby neighborhoods and commercial areas; the proposed use and density are compatible with adjacent uses and meet Form District guidelines; the development plan encourages use of nearby activity centers and easy access to the I-265 interchange on Taylorsville Road; it results in efficient land use and cost effective infrastructure use, reducing public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services; the plan places residential development in an appropriate location which is a designated residential center; and the utility easements provide for access, maintenance, and repair; and

**WHEREAS**, the proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policies 2, 3, 6, 7, 8, 9 & 12 of Goal 3 of the Community Form Plan Element as the subject property because, unlike most standard single-family subdivisions, this includes some meaningful perimeter open space, conserving some natural resources and features, assuring good transitions to neighboring properties; and providing for passive outdoor activities off on residents' individual home lots; and the site's open space will help meet the recreational needs of the community; it assures for better buffers and a far superior neighborhood look and feel; the homeowners association will maintain these open areas; and the site plan is designed to prevent foundation failure, and to minimize environmental degradation; and appropriate measures have been taken to protect the health, safety and welfare of future users of the development; and

**WHEREAS**, the proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policies 1, 2 & 3 of Goal 4 of the Community Form Plan Element as no portion of the subject property has been designated as a natural, historic or scenic preservation site; and

**WHEREAS**, the proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policies 1, 2, 3, 6, 7 & 14 of Goal 1 of the Mobility Plan Element as the proposed development's entrance along Tucker Station Road near Taylorsville Road, along with the internal street system with stubs for future connectivity, and sidewalk system, will provide safe, controlled and efficient traffic flow to and through the community, as well as accommodate and support the needs of pedestrians and bicycle traffic to and from the development to nearby activity centers and commercial and retail land uses; and the addition and inclusion of sidewalks and bicycle traffic will promote both as a source of transportation as well as recreation; and

**WHEREAS**, the proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policies 1, 2, 4, 5, 6, 7, & 8 of Goal 2 of the Mobility Plan Element as the subdivision and site location provide access to transportation facilities that accommodate all users consistent with those in the Neighborhood Form District through the use of roads, entryways and sidewalks; the site distance for the curb cut entrance is adequate for the use and location; the internal circulation of pedestrian and vehicular traffic is appropriate with the connected walkways

and shared access, parking, etc.; the site does not allow or cause higher intensity use to circulate through areas of lower intensity or density developments; and

**WHEREAS**, the proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policies 1, 2, 3, 4, 5, 7, 10, 12, 14, 17, 18, 20, 21, 23, 24, & 27 of Goal 3 of the Mobility Plan Element as the development plan provides walking and bicycling opportunities with the sidewalks and interconnected walkways, and by providing a diverse, but compatible mix of residential uses nearby to existing commercial and retail activity centers, thereby reducing miles traveled; the plan will not burden the transportation network, but will enhance it by developing the property in a way that is appropriate for the Neighborhood Form District along Taylorsville Road, which is a major arterial; the plan is consistent with long range transportation plans; and the plan also satisfies the policy of infill development opportunities supporting biking and pedestrian travel; and

**WHEREAS**, Tucker Station Road, near the Taylorsville Road interchange, is adequate to handle the amount of traffic generated by this development; and the accompanying plan is expected to receive the preliminary stamp of approval from Metro Works, thus further demonstrating this project's compliance with all of the Mobility Plan Elements' Goals, Objectives and Policies of the 2040 Comprehensive Plan; and

**WHEREAS**, the proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policies of the Community Facilities Plan Element as 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 so as to not burden existing or future community facilities; and

The proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policy 7 of Goal 1 of the Economic Development Plan Element as this development plan provides economic climate that improves growth, innovation, and investment opportunity for all by reusing and redeveloping a deteriorating property and provides additional diverse residential development, all in an area with existing infrastructure in an efficient manner; it will increase economic opportunity to nearby business owners and employment providing a variety of home style choices that will be available at the development and future residents will support the businesses and services in nearby activity centers; also future residents will find that the ease of access to retail development on Taylorsville Road, and to other nearby activity centers is an amenity, promoting an economic climate that improves growth, innovation, and opportunity for all; the development, as proposed, will provide convenient access to Taylorsville Road and I-265 and several other roads in the area, and from there to greater Louisville employment and commercial centers; and it will make efficient use of available property that lies within the Neighborhood Form District and is located in an area where residents currently seek new housing options and have easy access to nearby commercial and employment centers; and

The proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policies 2, 3, 4, 5, & 8, of Goal 2 of the Economic Development Plan Element as it enhances the quality of life in the area by reusing and readapting a current less desirable current use, while at the same time protecting and improving the economic value of the surrounding areas by ensuring the property is properly maintained and updated for today's current residential market demands; it satisfies the goal and policy of infill development to take advantage of the existing infrastructure;

the design elements being used will limit the heat island effect through the use of green detention basins; and it promotes more affordable housing in the area; and

The proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policies 2, 7, 11, 21, 23, 25, 26, 27, 28, 31, 35, 36, & 39 of Goal 1 of the Livability Plan Element as the development plan preserves the natural features of the topography of the site and provides appropriate landscaping design standards for the area; the site minimizes impervious surface by the use of zero-lot line homes and detention basins, and protects groundwater sources through the development and connection to existing MSD sewer infrastructure; it provides pedestrian and bicycle connectivity while not overly burdening traffic for the area near a major arterial; it also improves current drainage associated with the site through the use of detention basins reducing storm water run-off; the site is in-fill development, thereby reducing vehicle miles traveled by developing in an area with existing infrastructure and nearby services; landscaping will be added to reduce the impacts of the site to other adjacent housing; the site will feature open spaces interspersed among the buildings that will be available for low impact recreational use by residents and will serve to provide natural areas and an overall positive appearance for the community; no portion of the site lies within the 100 year floodplain, all drainage will comply with MSD requirements, and this development plan will likely receive preliminary approval by MSD; Louisville Water Company will provide water to the site; and air quality will remain at good levels because, as noted above, the proposed internal road system and controlled entrance will distribute traffic to reduce air quality impacts relating to congestion or delays; and

The proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policy 8 of Goal 2 of the Livability Plan Element as the development plan provides and satisfies design standards of the Neighborhood Form District and provides safe, healthy and accessible housing with infill development in a residential area; and

The proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policies 1, 2, & 4 of Goal 3 of the Livability Plan Element by providing equitable access to the land use planning and policy resources to the surrounding residents and property owners by providing notice of the development, notice of all public meetings and by providing the neighborhood meeting, which encouraged and provided an opportunity for area involvement in the plan design; and providing handicap parking and access in the site for the disabled and other safety measures in accordance with law; and

The proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policies 1, 2, & 8 of Goal 4 of the Livability Plan Element by providing and enhancing choices for mobility choices through vehicular access, sidewalks for pedestrian traffic, and bicycle use, encouraging clean air by reducing miles driven by providing more residential density in a residential area near to the major arterial of Taylorsville Road, thus supporting premium traffic systems; and

The proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policies 1, 2, 3, 6, 7, & 9 of Goal 1 of the Housing Plan Element by providing a variety of housing types in the area, including zero-lot line homes where none exist presently, but still incorporating appropriate single buildings with design compatible and appropriate to the surrounding areas; the zero-lot line homes, with much of the maintenance burden taken by the HOA supports “aging in place” and housing for older, empty-nester adults, along with and busy

younger homeowners who chose to not have large yards; and the flexibility in design for the PRD subdivision will promote an adaptive use and infill development; and

The proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policies 1, 2, 5, 6, 7, & 9 of Goal 2 of the Housing Plan Element as this diverse housing plan promotes inter-generational, mixed income residents, including older “empty nesters”, younger “millennials”, and professionals and small families; the site is along near a major arterial providing proximity to multi-modal transportation; the design and plan provides housing which is in demand in the current residential marketplace with adequate access to employment centers with the nearby connection to Taylorsville Road; and it encourages new residential development in an older residential area, while at the same time not causing the residential development to expand into or near industrial type areas; and

The proposed rezoning and preliminary subdivision plan comply with all the applicable Objectives and Policies 1, 2, 3, 5, 6, 7, & 12 of Goal 3 of the Housing Plan Element as it reduces the lot size and lines, thereby increasing density over what currently exists on the property, creating more affordable housing choices than currently exist in this area; the development of the site, with lighting and higher density will eliminate the isolation of the current home, thereby likely reducing the likelihood of crime; and the PRD subdivision provides innovative methods for residential development; and

\* \* \*

**WHEREAS**, for all the reasons explained at LD&T and the Planning Commission public hearing and public hearing exhibit books, 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-4 to PRD and approves the Detailed District Development Plan.

## WAIVER FINDINGS OF FACT

Waiver of LDC Section 7.3.30.E to allow more than 15% of a required rear yard of a buildable lot to be encompassed by a drainage easement.

**WHEREAS**, the waiver will not adversely affect adjacent property owners because it is a typical occurrence for sewer and drainage easements to be located in the rear yard, since this does not reduce the depth of the yard and since the easement is needed to provide a space within it that will keep any increased runoff from this development from causing a negative impact to the adjacent properties; 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 the Plan 2040 Comprehensive Plan filed with the original rezoning application and since adequate drainage facilities will be provided to serve the development, since this will not affect the applicant's ability to preserve existing vegetation nor affect any other aspect of this developments compliance with either the Plan 2040 or the requirements of the Land Development Code; and

**WHEREAS**, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because in order to allow for the best design of the individual lots; it has been generally accepted that drainage easements be located in the rear yard either along the rear property line or offset from this area typically used to preserve existing vegetation; without the waiver the applicant would be required to locate the drainage way a minimum of 25' from the rear property line and therefore in close proximity to the homes; and it would reduce the usable area close to the homes that would otherwise be used by the homeowners as their private yard, an area typically reserved for outdoor dining, entertainment, relaxation and/or recreation; 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 locating the drainage easement in the rear yard has been the preferred and acceptable practice and now requiring it to be a minimum of 25 feet off the rear property line create an unnecessary hardship for the homeowner by reducing the usable area of the private yard with a ditch separating the area adjacent to the home from the rest of the rear yard;

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



## **WAIVER FINDINGS OF FACT**

Waiver of Section 5.3.1.D.1.b.vi to allow more than 4 contiguous units

**WHEREAS**, the waiver will not adversely affect adjacent property owners because this will be a separate development separate from the surrounding properties with adequate open space and buffering for the adjacent properties; as a result, from the neighboring properties it will not be evident whether there are 4 attached contiguous units as allowed, or whether there are 5 or 6 units as proposed; and this waiver will allow the area to increase its supply of diverse residential homes, satisfying the needs of a diverse marketplace of residential needs; 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 the 2040 Comprehensive Plan filed with the rezoning application; and

**WHEREAS**, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the waiver request is to allow the creation of the open space and buffering as shown on the development plan while still making the project financially feasible; if this were proposed instead as a rezoning to a zoning district allowing multifamily for a condominium regime no waiver would be necessary; in this case having the proposal as a PRD subdivision where the owners own their lot and home rather than the interior enclosed space, creates the waiver requirement; 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 not allow a layout providing the connectivity and buffering demonstrated on the current plan trading same for the removal of the last unit in certain buildings to keep same under 5 units;

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