

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG • 1000 N. HURSTBOURNE PARKWAY • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223  
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## STATEMENT OF COMPLIANCE WITH THE APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

Applicant/Owner: Settlers Point Business Park, LLC

Location: 6112, 6120, New Cut Road and 8901 Kessler Avenue

Proposed Form and Zoning Districts and Use: Form District Change from Regional Center to Suburban Workplace and rezoning from R-4, C-2 and M-2 to CM for use as large warehouse buildings

Engineers, Land Planners and Landscape Architects: Mindel Scott & Associates, Inc. (land planners and site engineers)  
BTM, Engineering (traffic engineers)

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### INTRODUCTORY STATEMENT

The proposed Form and Zoning District changes are consistent with the Suburban Workplace and CM uses and zoning located all up and down New Cut Road across from this site. This site is zoned R-4, C-2 and M-2 within the Regional Center Form District, basically a hodgepodge of zoning districts combined with a form district that do not comport with the current market demand for land in this area or even fully one with the other. The demand for large boxes for warehouses/distribution/light industrial in proximity to expressways and arterial highways is urgent and significant in Louisville Metro in large part due UPS and the proximity of sites like these to an international airport, I-65, I-64 and I-71. The urgency and significance is also due in part to the emergence of workplace sites in Southern Indiana due to its locational popularity resulting from abundant/affordable land with excellent interstate access to the new east end bridge. The existing C-2 zoning on this property would permit big boxes like Lowes, Home Depot and Wal-Mart but not warehouse/distribution/light industrial big boxes as proposed. Over the years that this property has been zoned C-2 commercial, no significant retail interest has emerged as respects this site. Thus, users such as those now proposed are naturally drawn to this property to expand what has become a very successful area for large box, warehouse/distribution/light industrial uses.

### GUIDELINE 1: COMMUNITY FORM

The community form district for this area is Regional Center which is characterized by major shopping and employment centers. But this large piece of vacant property, although surrounded by a variety of uses, is really more in keeping with the workplace uses on large tracts of land otherwise located at various Snyder Freeway interchanges and along the Outer Loop in this area

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west of I-65 and the airport. The Suburban Workplace Form District is a form characterized by predominately distribution, warehouse, industrial and office uses where buildings are set back from the street in a landscaped setting. Suburban Workplaces often contain one or several large scale uses, as proposed in the case of this application for large warehouse, distribution or light manufacturing buildings.

### **GUIDELINE 2: CENTERS**

The Intents of this Guideline of the Comprehensive Plan are to promote an 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, and to encourage commercial revitalization in developing areas.

This application complies with these Intents of this Guideline because New Cut Road is an arterial highway with adequate traffic-carrying capacity for the proposed warehouse buildings, as evidenced by the letter already submitted to DPDS by the District 5 Office of the Kentucky Transportation Cabinet (KTC). Utilities already exist to accommodate these warehouses. Whether the under-utilized or unutilized properties to the north of this one along New Cut Road are developed in a similar manner or commercially, development of this site will help assure those of site and utility access, including cross connectivity. Because this larger area is already developed intensively in a similar Workplace Form or with major retail uses (e.g., the nearby Walmart), the area attracts large numbers of employees. Because a variety of housing is also located nearby, commuting times can be reduced and transportation-related air pollution will not be exacerbated by this application. Those already traveling from distant locations to this area will find more employment opportunities as a consequence of the proposed development of this large vacant property, whereas those residing nearby will shorten their trips from home to work. This particular property was long underutilized as a par 3 golf course and recently has been vacant. Thus, a high quality, attractive new employment opportunity on this site makes more sense than leaving the property unproductive.

Applicable Policies 1, 2, 4, 5, 7, 9, 11, 14, 15 and 16 of this Guideline all pertain to where activity centers are located and how they are designed. This application complies with these applicable Policies of this Guideline given that another warehouse/distribution/light industrial facility in an area and along an interstate highway where like-kind use exist means that this location for these warehouses is site-appropriate. This application helps retain employment within an area where other workplace activities are located. Thus, if approved, this development will include new buildings that are Land Development Code (LDC) design-compliant, as shown in the PowerPoint presentation at the neighborhood meeting, which also accompanies this application.

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### **GUIDELINE 3: COMPATIBILITY**

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The Intents of this Guideline are to allow a mixture of land uses near each other 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 or similar nuisances might be violated and to preserve the character of existing neighborhoods.

This application complies with these Intents of this Guideline given that the site plan accompanying this application, as further explained in the PowerPoint presentation

accompanying this application as shown at the neighborhood meeting, shows an attractive design of this site, with new and attractive buildings, with landscaped setbacks with suitable buffering and LDC compliant tree canopy.

Applicable Policies 1, 2 and 4 of this Guideline pertain to the assurance of compatibility through design. The elevation renderings accompanying this application demonstrate that the proposed buildings will be attractive as LDC design-compliant. And the colored-up site plan also accompanying this application shows how setback areas will be landscaped and new large open space will be retained where tree canopy will be provided.

Applicable Policies 5, 6, 7, 8 and 9 of this Guideline all pertain to the potential nuisances caused by odors, traffic, noise, lighting and aesthetics. These Policies can be further addressed through binding elements which will be considered as may be deemed appropriate during the public review process. But the LDC specifically addresses many of these issues, such as lighting by requiring that it be directed down and away from residential properties. The LDC also addresses aesthetics by requiring buildings, including ones of these kinds, be designed in ways to break up long expanses of non-descript facades. It is anticipated that no odors will be involved with the warehouse/distribution/light industrial activities that are expected in these buildings. All activities, except trucks coming and going (mostly during normal working hours) will occur within the proposed buildings.

Applicable Policies 17, 18 and 19 of this Guideline pertain to the location of industries near other industries and the handling of hazardous materials. This application complies with these applicable Policies of this Guideline because these proposed warehouse/distribution/light industrial buildings are located significant distances from nearby residential properties. Moreover, hazardous materials are not anticipated at this site.

Applicable Policies 21, 22, 23, 24 and 29 pertain to transitions, screening, bufferings, setback and impacts from parking, loading and delivery. The development plan accompanying this application, especially the colored site plan shown as part of the PowerPoint presentation accompanying this application, clearly demonstrate the LDC required setbacks that are provided, requiring no waivers or variances (apart from the proposed external, partial sidewalk waivers). Other facilities of this kind, which the principals of this applicant entity have developed and constructed elsewhere around Metro Louisville, exist and function in compatible, not disruptive ways with their neighbors.

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

The Intents of this Guideline are to assure the availability of necessary land to facilitate industrial development, to reduce public and private costs for land development, and to ensure that regional scale workplaces and industrial land uses have access to people, goods and services and appropriate locations to conduct their businesses.

This application complies with these Intents of this Guideline given that the Outer Loop west of I-65 and other Snyder Freeway interchanges are where facilities of this same kind proliferate. As evidenced by the above-referenced letter from KTC, New Cut Road has adequate traffic carrying capacity for these two warehouse buildings, which is also as recent, previous traffic studies relative to this site have determined.

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Applicable Policies 1, 2, 3, 4, 5, 8 and 10 of this Guideline all pertain to preserving workplaces, assuring good access to them, locating industries proximate to transportation facilities and the redevelopment of older industrial areas. This application complies with all of these applicable Policies of this Guideline given that this property has remained underutilized or vacant for years. As said, this site is a good one for the warehouse/distribution/light industrial buildings as proposed. This site's access off New Cut Road provides good access to the Snyder Freeway and thus to airport, I-65, I-64 and I-71. The principals involved with the entity associated with this application have developed, constructed and managed facilities of this kind all over Metro Louisville. This will be a new facility like the newest of the kind that it recently constructed.

**GUIDELINES 7, 8 AND 9: CIRCULATION,  
TRANSPORTATION FACILITY DESIGN, AND ALTERNATIVE FORMS OF  
TRANSPORTATION**

The Intents of these Guidelines are to assure the safe and proper functioning of street systems, to assure that roads such as New Cut Road do not exceed their carrying capacities, to ensure that internal and external circulations are safe, that transportation facilities have adequate carrying capacity and that alternative means of transportation are accommodated.

This application complies with these Intents of these Guidelines given all that is said above and given further that these proposed warehouse/distribution/light industrial buildings will be low-peak hour traffic generating uses. The New Cut Road access for these buildings have been approved by KTC as evidenced above. It is a wide enough arterial highway that leads from Outer Loop to the Snyder Freeway to the Watterson Expressway, providing easy access to I-65, I-64 and I-71 as well as to the airport. There are no current issues as respects to the proposed use of this property for two warehouse buildings.

Applicable Policies 1, 2, 3, 10, 11, 12, 13, 14, 16, 17 and 18 of Guideline 17; applicable Policies 7, 9, 10 and 11 of Guideline 8; and Policies 1, 2, 3 and 4 of Guideline 9 all pertain to the specific issues that Metro Public Works and Transportation Planning, in consultation with KTC District 5, require to be addressed on a detailed district development plan filed with any given application. Those agencies have their particular standards which elaborate more specifically as to these particular policies. This application complies with these applicable Policies of these Guidelines because Mindel Scott & Associates, Inc. and BTM Engineering have experience with the particular standards of these agencies, and accordingly MSA and BTM have designed the DDDP accompanying this application with particular attention to issues of access, internal circulation, adequacy of parking, adequacy of loading and maneuvering, site design and alternative means of transportation to the extent applicable. By the time of the LD&T meeting and Public Hearing, these agencies will have reviewed the DDDP in greater detail than they already have, and their preliminary stamp of approval will be required, thus assuring compliance with these applicable Policies of these Guidelines.

**GUIDELINE 10: STORMWATER MANAGEMENT**

The Intents and applicable Policies 1, 2, 3, 4, 5, 6, 7, 10, 11 and 12 of this Guideline pertain to the issues of assuring that the hydraulic capacity of natural systems is accommodated, so to ensure that drainage systems designs minimize damage to streams and nearby properties and also that floodplains not be adversely affected so as to increase area flooding.

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This application complies with these Intents and applicable Policies of this Guideline given that the DDDP has been designed to assure that drainage is captured by internal catch basins and delivered to side-saddle detention areas along the existing stream. Post development rates of runoff cannot exceed predevelopment conditions, which is the purpose of detention included within this DDDP. Floodplain filling and compensation will occur with this development, but in the Pond Creek watershed that requires compensation for fill for a 1.5 to 1.0 ratio. Further, MSD must assure the adequacy of the stormwater management system and floodplain compensation, such that by the time of the LD&T Committee meeting, it will need to stamp the DDDP as preliminarily approved, thus demonstrating compliance with these applicable Policies of this Guideline.

**GUIDELINES 11 AND 12: WATER AND AIR QUALITY**

The Intents and applicable Policies of these Guidelines seek to assure that water and air quality are protected. This application complies with the Intents and applicable Policies of these Guidelines given that regulations promulgated by MSD and the Air Pollution Control District (APCD) as to water and air quality will be fully addressed if not on the submitted DDDP then pursuant to construction plans filed post approval. For example, this application must assure eventual compliance with MSD's soil erosion and sedimentation control plus water quality ordinances. Further, a large wetlands mitigation area is provided, which will be in compliance with MSD's Floodplain Management Ordinance. And as to air quality, locating this facility in close proximity to workforce housing as well as to commercial activities as well as facilities of a like-kind assures minimizing vehicle miles traveled, thus reducing impacts on air quality.

**GUIDELINE 13: LANDSCAPE CHARACTER**

The Intents and applicable Policies 1, 2, 4 and 6 of this Guideline seek to assure that facilities of this or any kind provide adequate screening, buffering and landscaping to protect adjoining uses. This application complies with these Intents and applicable Policies as demonstrated on the color site plan accompanying this application and given that a large open green space will be retained where tree canopy will be preserved and/or provided.

\* \* \* \* \*

For these and other reasons to be explained at the LD&T Committee and Planning Commission public hearing, this application complies with all other applicable Intents, Policies and Guidelines of the Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,

\_\_\_\_\_  
William B. Bardenwerper  
Bardenwerper Talbott & Roberts, PLLC  
Building Industry Association of Greater Louisville Bldg.  
1000 N. Hurstbourne Parkway, Second Floor  
Louisville, KY 40223

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# Sidewalk Waiver Application

Louisville Metro Planning & Design Services

Case No.: 15ZONE1029 Intake Staff: LM

Date: 7/13/15 Fee: 215

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5<sup>th</sup> Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

### Project Information:

**Explanation**

of Waiver: Waiver of Section 10.3.7 to not provide a sidewalk along Outer Loop and New Cut Rd

Primary Project Address: 6112 New Cut Road

Additional Address(es): 6120 New Cut Road, 8901 Kessler Avenue

Primary Parcel ID: Block 1050, Lot 1203

Additional Parcel ID(s): Block 1050, Lots 1204, 1205

Proposed Use: Warehouse Existing Use: Fmr. Golf Course/Vacant

Existing Zoning District: R-4, C-2, M-2 Existing Form District: Regional Center

Deed Book(s) / Page Numbers<sup>2</sup>: Deed Book 8789, Page 882

The subject property contains 99.2 acres. Number of Adjoining Property Owners: 43

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*<sup>1</sup>  Yes  No

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If yes, please list the docket/case numbers:

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Docket/Case #: 15ZONE1029

Docket/Case #: \_\_\_\_\_

Docket/Case #: 9-71-96

Docket/Case #: \_\_\_\_\_

**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 10.3.7 to not provide a sidewalk along the property's Outer Loop frontage and along a portion of New Cut Road between the site entrance and the I-265 ramp.

Explanation of Waiver:

1. The waiver of these two sidewalks, one along Outer Loop and one along New Cut will not adversely affect adjacent property owners because (a) the one along the Outer Loop would not provide any access to the subject property because of a deep and wide drainage ditch that cannot be crossed without a flood plain variance which is almost impossible to obtain, and (b) the one along New Cut between the sites point of access and the Snyder Freeway would lead nowhere but to a dangerous freeway interchange which cannot be safely navigated.

2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.

3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because sidewalks will continue to be provided internal to this site and from the sites access point north along its New Cut Road frontage, which are areas where sidewalks make sense and might be utilized as a opposed to those for which waivers are requested which will not be utilized because of the conditions explained above.

4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because building these sidewalks would result in an unnecessary expenditure of funds to build sidewalks in two locations where they provide no access to the site or anywhere past the site that is likely to be developed or that is safe for pedestrians to travel.

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# General Waiver Application

Louisville Metro Planning & Design Services

Case No.: 15ZONE1029 Intake Staff: Kinc

Date: 8/10/15 Fee: \_\_\_\_\_

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5<sup>th</sup> Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

### Project Information:

Application is hereby made for one or more of the following waivers of the Land Development Code:

- Landscape Waiver of Chapter 10, Part 2
- Other: Waiver of Section \_\_\_\_\_

*A General Waiver Application is not required for Sidewalk or Tree Canopy Waivers. If applicable, please submit a "Sidewalk Waiver Application" or "Tree Canopy Waiver Application" instead.*

Explanation of Waiver: Section 5.12.2 to provide amenity space equal to 10% of the office sq ft

Primary Project Address: 6112 New Cut Road

Additional Address(es): 6120 New Cut Road, 8901 Kessler Avenue

Primary Parcel ID: Block 1050, Lot 1203

Additional Parcel ID(s): Block 1050, Lots 1204, 1205

Proposed Use: warehouse Existing Use: vacant

Existing Zoning District: R-4, C-2, C-M Existing Form District: Regional Center

Deed Book(s) / Page Numbers<sup>2</sup>: Deed Book 8789, Page 882

The subject property contains 99.2 acres. Number of Adjoining Property Owners: 43

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*<sup>1</sup>  Yes  No

If yes, please list the docket/case numbers:

Docket/Case #: 15ZONE1029 Docket/Case #: \_\_\_\_\_

Docket/Case #: 9-71-96 Docket/Case #: \_\_\_\_\_

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**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 5.12.2 to provide an amenity space equal to 10% of the office sq. ft.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the amenity area is intended to serve as an outdoor gathering area for facility workers, and for a facility this size and area equivalent to a large subdivision clubhouse is surely enough of a gathering area for the number of workers anticipated inside this facility, especially since most of them will be located in the office area.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant, and not more, because, as stated above, the amenity area provided is sufficient and not less than necessary to serve the likely number of employees to work in this building.
4. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because by requiring additional amenity area beyond the amount requested would necessitate use of an excessive amount of the non-building area of the lot for unused amenity space which is more importantly allocated for delivery vehicles, loading and unloading and employee and customer parking.

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# General Waiver Application

Louisville Metro Planning & Design Services

Case No.: 15ZONE1029 Intake Staff: KINC

Date: 8/10/15 Fee: \_\_\_\_\_

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### Project Information:

Application is hereby made for one or more of the following waivers of the Land Development Code:

- Landscape Waiver of Chapter 10, Part 2
- Other: Waiver of Section \_\_\_\_\_

*A General Waiver Application is not required for Sidewalk or Tree Canopy Waivers. If applicable, please submit a "Sidewalk Waiver Application" or "Tree Canopy Waiver Application" instead.*

Explanation of Waiver: Section 10.2.10 to omit the VUA LBA between the parking lot and the private access easement on Lot 2

Primary Project Address: 6112 New Cut Road

Additional Address(es): 6120 New Cut Road, 8901 Kessler Avenue

Primary Parcel ID: Block 1050, Lot 1203

Additional Parcel ID(s): Block 1050, Lots 1204, 1205

Proposed Use: warehouse Existing Use: vacant

Existing Zoning District: R-4, C-2, C-M Existing Form District: Regional Center

Deed Book(s) / Page Numbers<sup>2</sup>: Deed Book 8789, Page 882

The subject property contains 99.2 acres. Number of Adjoining Property Owners: 43

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*<sup>1</sup>  Yes  No

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If yes, please list the docket/case numbers;

Docket/Case #: 15ZONE1029 Docket/Case #: \_\_\_\_\_

Docket/Case #: 9-71-96 Docket/Case #: \_\_\_\_\_

**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 10.2.10 to omit the VUA landscape buffer between the parking lot and the private access easement on Lot 2.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the requested LBA waiver along the parking lot side of the access easement which would not affect adjoining property owners. And given the overall sizeable amount of LBA and greenspace that will be provided and/or be retained, LBA and greenspace is not totally lost, but just a short strip of LBA in this one area where parking, maneuvering and even an unlikely to be use sidewalk are provided.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it is only in this small area, relative to the overall significant-sized site, where this particular LBA waiver is being requested.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would lose parking or needed building space to provide this LBA, especially given the significant amount of landscaping and greenspace otherwise provided and/or retained on this overall site.

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