

Louisville Metro Planning Commission

December 17, 2015

Docket No. 15ZONE1037

Proposed change in zoning from R-4 to C-2, detailed district development plan and street/alley closures on approximately 2.5 +/- acres located at 8120 Railroad Avenue



ATTORNEYS: BARDENWERPER TALBOTT & ROBERTS, PLLC

LAND PLANNERS, LANDSCAPE ARCHITECTS & ENGINEERS: LAND DESIGN & DEVELOPMENT, INC.

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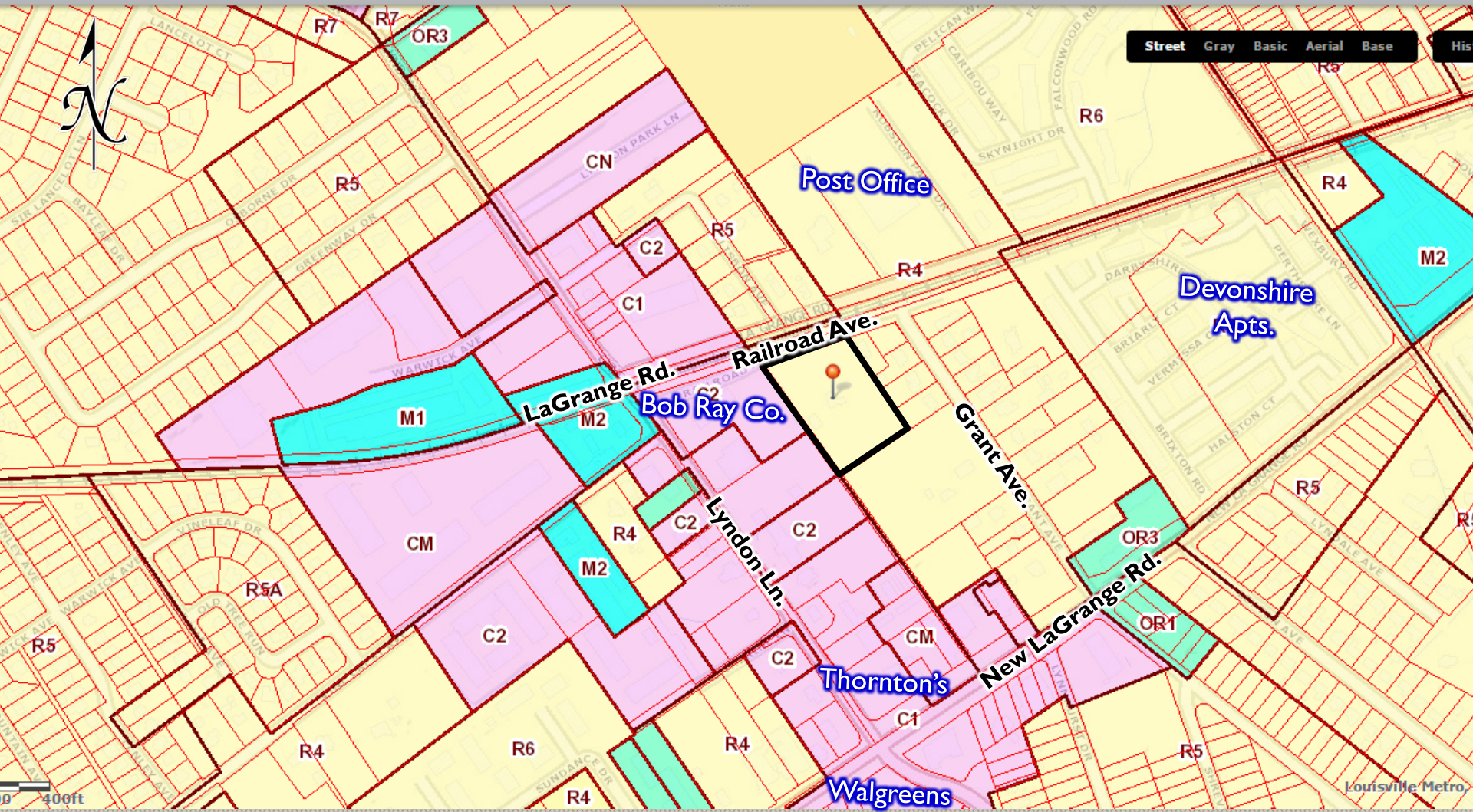


1. LOJIC Zoning Map
2. Aerial photographs of the site and surrounding area
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7. Proposed findings of fact pertaining to compliance with the Comprehensive Plan, Variance and Waiver criteria



Tab 1

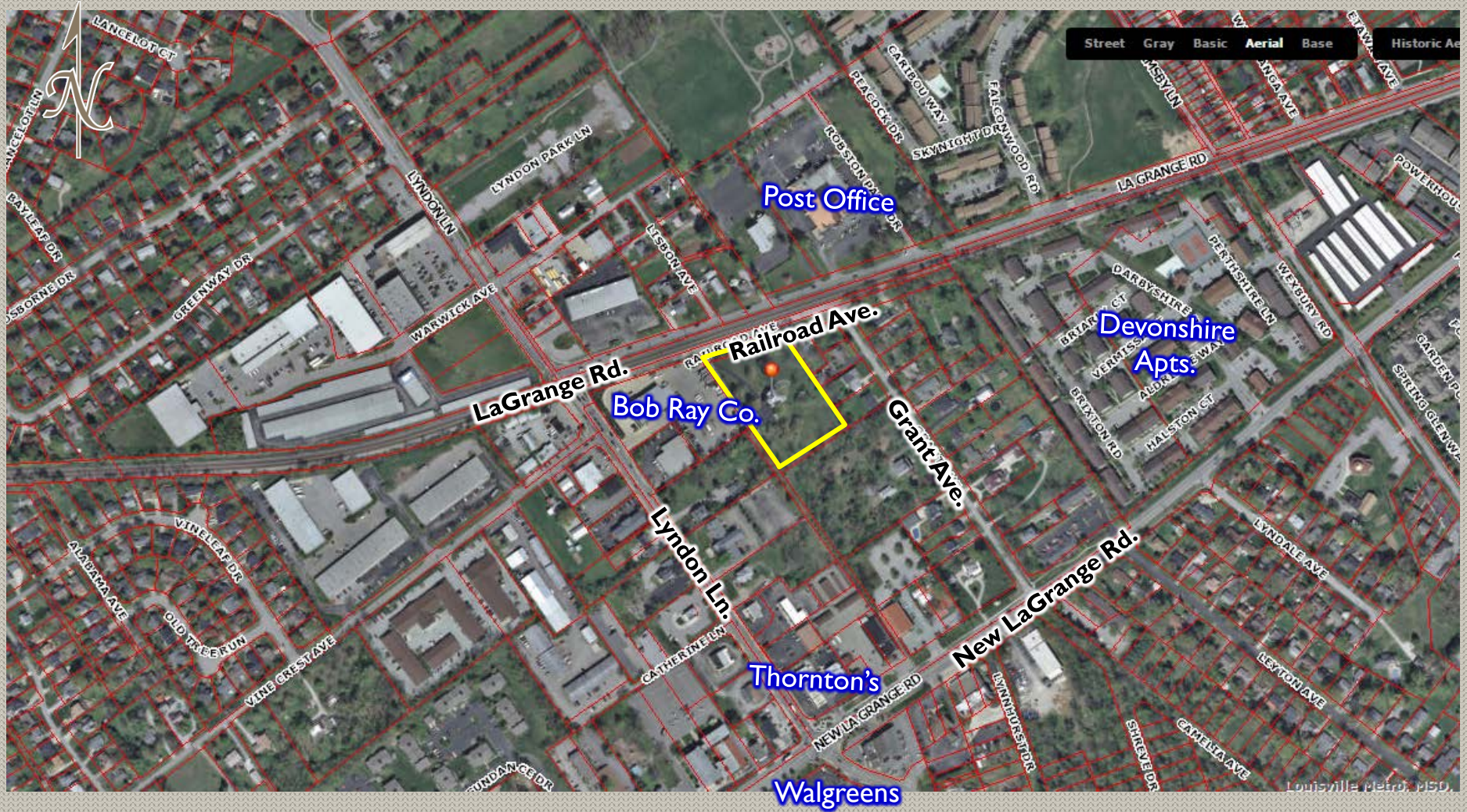
LOJIC Zoning Map

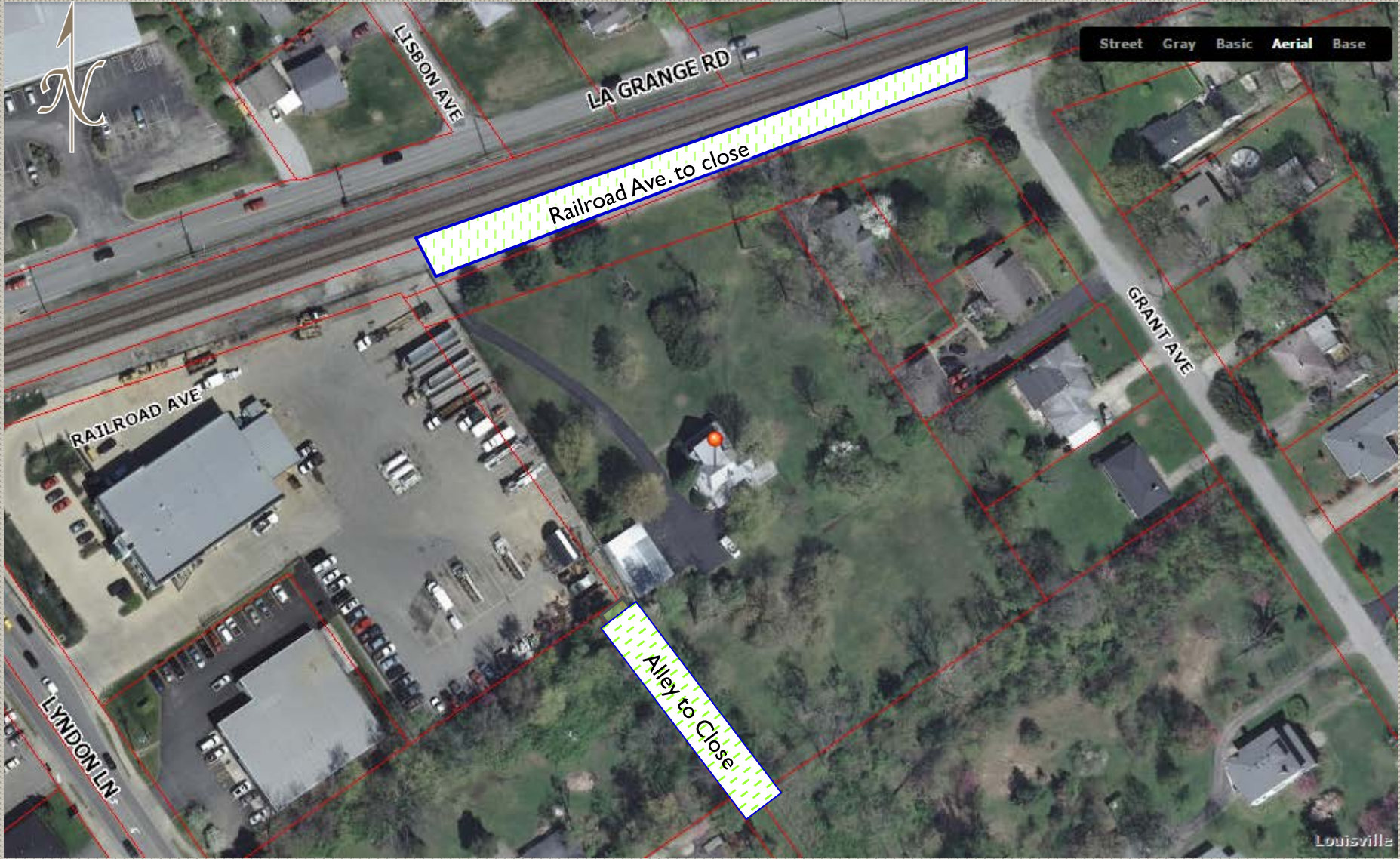




Tab 2

Aerial photograph of the site and
surrounding area







Tab 3

Ground level photographs of the site and surrounding area



View of Railroad Avenue looking east towards Grant Avenue. Site is to the right.



View of site from the corner of Railroad Avenue and Grant Avenue.



View of existing Bob Ray Co. building on Lyndon Lane.



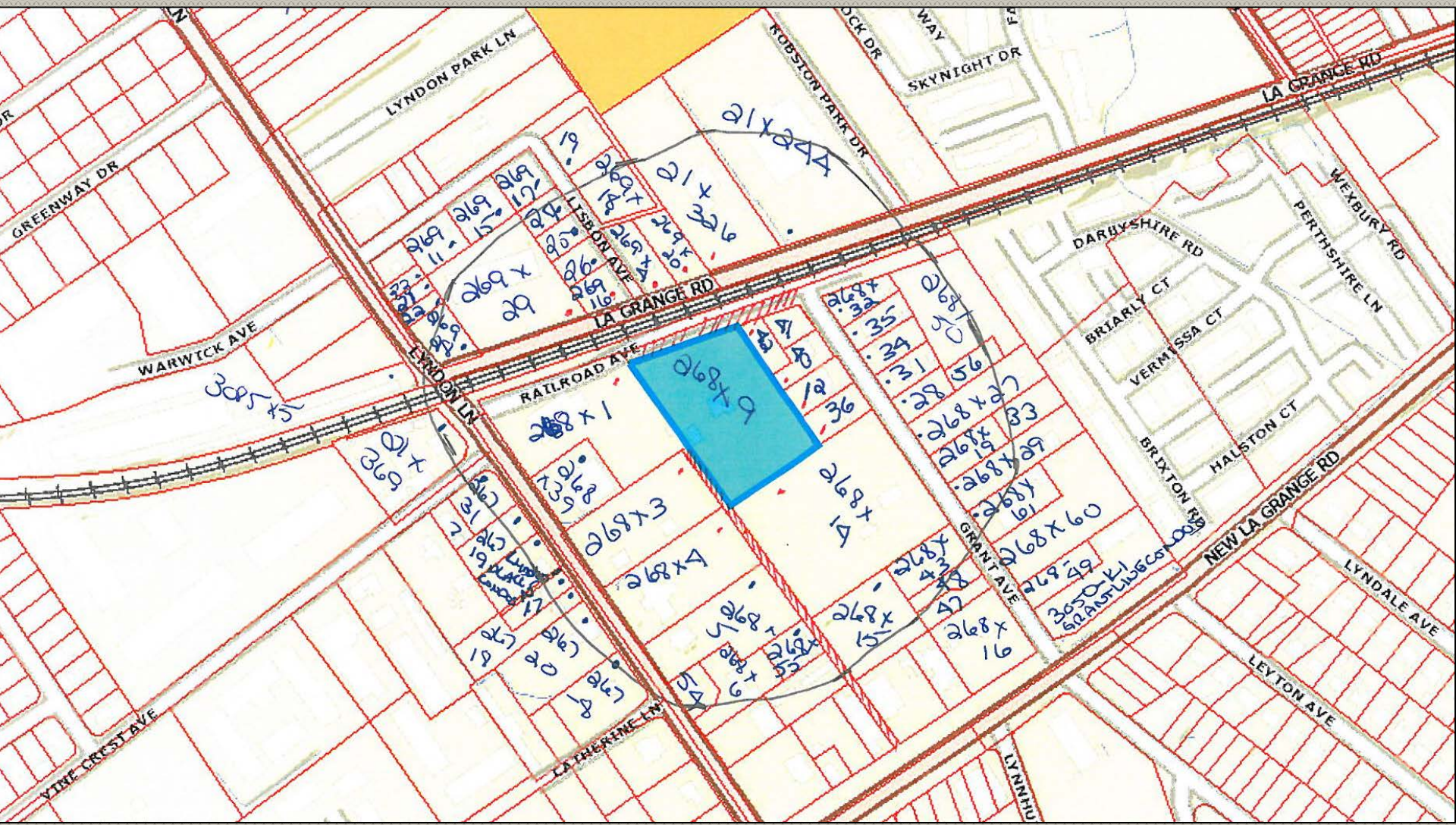
View of site from La Grange Road, across the railroad tracks.



Tab 4

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

Neighborhood meeting notice list map wherein 61 adjoining neighbors where invited to the meeting to discuss the proposed development plan and zone change



BOB RAY CO., INC.

723 Lyndon Lane
Louisville, Kentucky 40222
(502) 425-7654

July 8, 2015

Dear Neighbor,

RE: Proposed change in zoning from R-4 to C-2, detailed district development plan and street/alley closures on approximately 2.5 +/- acres located at 8120 Railroad Avenue; DPDS Case No. 15ZONE1037

We are writing to invite you to a meeting we have scheduled to present neighbors with our rezoning, detailed district development plan and street/alley closures at the location above. I am the president of Bob Ray Co., Inc., located directly east of the subject property, which is owned and occupied by my mother. The property is currently zone R-4 and I am applying for a zone change to C-2 so that in the future, as my company needs to expand, we will have the property to do so.


Accordingly, we have filed a plan for pre-application review with the Department of Planning and Design Services (DPDS) that we would like to show and explain to neighbors so that we might hear what thoughts, issues and perhaps even concerns you may have. By the way, once this property is combined with my current business location, there will be no access to or from this property with Grant Avenue.

In that regard, a meeting will be held on **July 22nd at 7:00 p.m.** at **Lyndon Fire Station** located at **8126 New LaGrange Road, Louisville, KY 40222.**

If you cannot attend the meeting but have questions or concerns, please call me, my attorney Bill Bardenwerper at 426-6688, or my land planning and engineering firm representative Ann Richard at 426-9374.

We look forward to seeing you.

Sincerely,


Tee Ray

cc: Hon. Susan Barto, Mayor, City of Lyndon
Hon. Marilyn Parker, Councilwoman, District 18
Bill Bardenwerper, attorney with Bardenwerper, Talbott & Roberts, PLLC
Ann Richard, land planners with Land Design & Development, Inc.
David Wagner, Case Manager with Dept. of Planning & Design Services

Neighborhood Meeting Summary
T. Ray/Railroad Avenue
July 22, 2015 at 7:00 P.M.

A neighborhood meeting was held on July 22, 2015 at 7:00 PM at the Lyndon Fire Station. Bill Bardenwerper began meeting with a PowerPoint presentation of the site, the area and the proposed development plan. He was assisted in the presentation by business owner Tee Ray and by Ann Richard, land planner with Land Design & Development.

The principal issue was one of access to and from the nearest residential street to the property, which is Grant Avenue. The applicant and his representatives explained that, as part of this rezoning, the Grant Avenue access will be closed. They also discussed screening and buffering, especially along the property line common with the residential neighbors. Neighbors were assured that a fence and landscaping will be provided, as necessary to protect residential properties from views of this industrial type use.

This being the property owned by the same family as the owner of the adjoining Bob Ray Company business, and the proposed user being that business, no other issues were raised by neighbors.

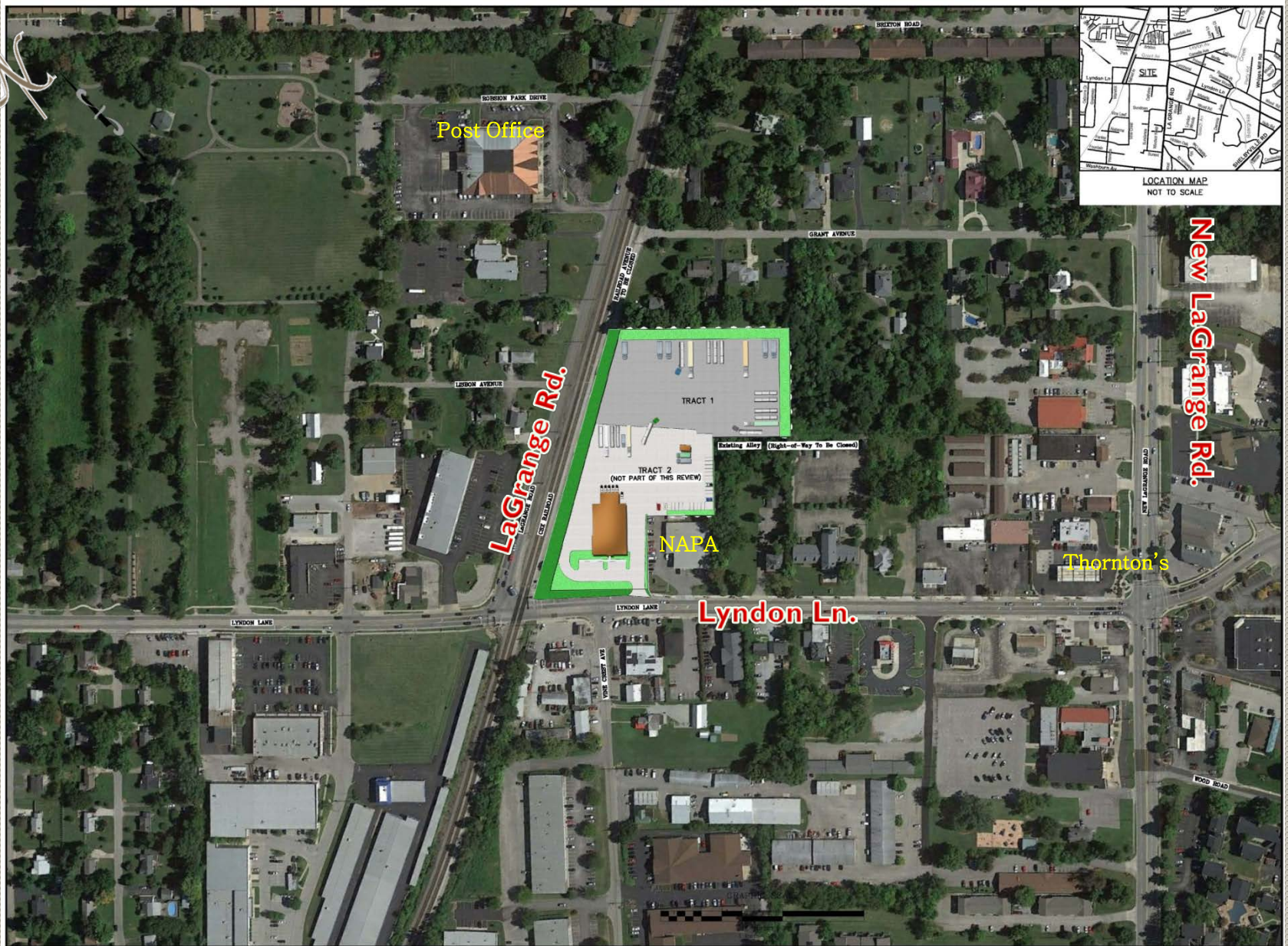
Respectfully submitted,

William B. Bardenwerper
Bardenwerper, Talbott & Roberts, PLLC
Building Industry Association of Greater Louisville Building
1000 North Hurstbourne Parkway, Second Floor
Louisville, KY 40223
(502) 426-6688

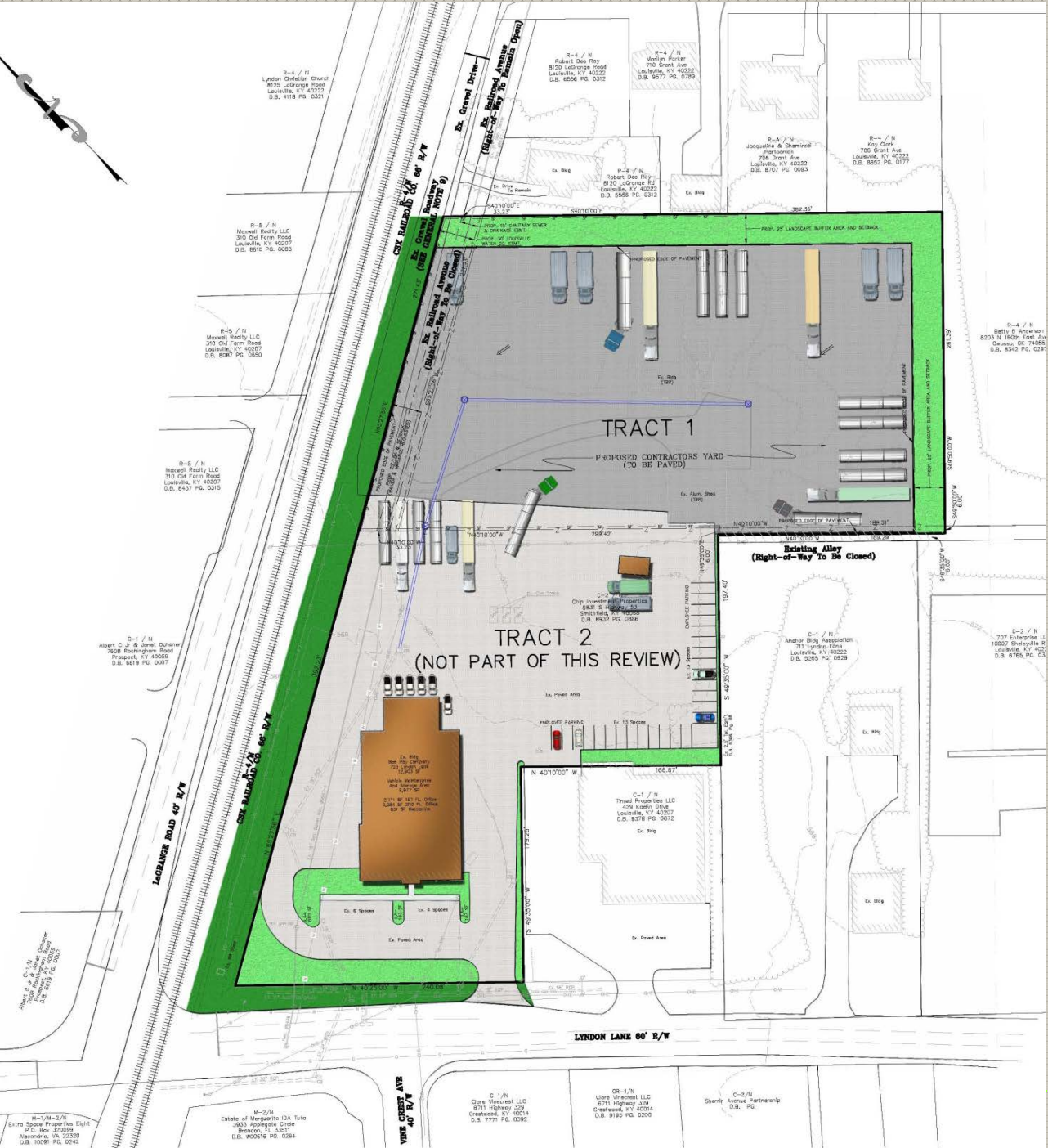


Tab 5

Color Development Plan









Tab 6

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

BARDENWERPER, TALBOTT & ROBERTS, PLLC

Attorneys at law

BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG • 1000 N. HURSTBOURNE PARKWAY • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
(502) 426-6688 • WWW.BARDLAW.NET

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

<u>Owners & Applicant:</u>	Bob Ray Co., Inc., c/o Marshall T. Ray
<u>Location:</u>	8120 Railroad Avenue
<u>Proposed Use:</u>	Contractor/storage yard
<u>Engineers, Land Planners and Landscape Architects:</u>	Land Design & Development, Inc.
<u>Requests:</u>	Change in Zoning from R-4 to C-2, with Street/Alley Closures

INTRODUCTION

The Bob Ray Tree Company has operated on the adjoining property for over 100 years. Prior to 1943, there was no zoning in Jefferson County outside of incorporated Louisville, so for the first forty years or so of its existence, it existed legally without restrictions. The existing Bob Ray Co., Inc. at 723 Lyndon Lane, because of expansion, reuse and redevelopment, finally was rezoned to C-2 in 2006. The proposed rezoning is to allow for expansion on Bob Ray Company family property located directly east of the referenced site.

GUIDELINE – 1 COMMUNITY FORM

The subject property is currently zoned R-4 and is located within the Neighborhood Form District along Railroad Avenue directly to the south of the CSX rail line and Old LaGrange Road. As noted above, the adjoining existing Bob Ray Co., Inc. property has been used for over 100 years by the same family. The subject site is surrounded by properties zoned R-4, C-1 and C-2. Properties directly to the southwest are a NAPA Auto Parts store and a contractor's office. The property directly to the north is the CSX rail line, and across the rail line on Old LaGrange Road is a strip shopping center. The applicant has met with adjoining property owners and has received a positive response because of the foregoing and the attractive look of this building and the way the owner has maintained his site.

In addition to this application, Railroad Avenue is proposed to be closed where it adjoins the subject property at Grant Avenue. Likewise, a portion of the alley along the west property line will also be closed. These street and alley closings will help assure that the remaining neighborhood is wholly separated from this business site.

GUIDELINE – 2 CENTERS

The proposed business expansion conforms with the overall Intents of and specifically with Policies 1, 2, 4, 5, 11, 13, 14 and 15 of Guideline 2 for all the reasons listed above, and because the proposed

development site will be combined with an existing business located on Lyndon Lane, which is a minor arterial. The proposed development constitutes an expansion of the existing Bob Ray Co., which has operated on Lyndon Lane for over 100 years—compatibly with all its nearby neighbors

GUIDELINE – 3 COMPATIBILITY

The proposed development conforms with the overall Intents of and specifically with Policies 1, 3, 4, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24 and 28 of Guideline 3 for all the reasons described above. As the use of the subject property will be the same as that of the existing Bob Ray Co. property, the proposed development will be no different than that which was rezoned on the adjoining property in 2006 and that has existed there for 100 years. It will have none of the detrimental impacts raised by these Policies for the same reasons today as in 2006.

Traffic will minimally increase, and the point of access at Lyndon Lane will remain the same, while the back access to Grant Avenue via Railroad Avenue will be closed. Lighting will remain the same on this site as on the existing Bob Ray Co. property and will conform with the Land Development Code (LDC) standards. Screening and buffering along adjoining residential property lines will be sufficient to mitigate potentially adverse noise and visual effects.

GUIDELINE –5 HISTORIC RESOURCES

The proposed development conforms with the overall Intents of and specifically with Policies 2 and 4 of Guideline 5 for all the reasons described above and because no part of the site has been declared an historic site or local landmark. To the extent that the old house, owned by the same family as the adjoining Bob Ray Co. site, needs to be photographically inventoried, appropriate pictures will be taken and submitted to Metro Historic Preservation and Archives.

GUIDELINE – 6 MARKETPLACE

The proposed development conforms with the overall Intents of and specifically with Policies 1, 2, 3, 4, 5 and 6 of Guideline 6 because the proposed development will provide for the continuing existence and allow for modest expansion of the Bob Ray Tree Co. in its existing location.

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

The proposed development conforms with the overall Intents and applicable Policies of Guidelines 7, 8 and 9 because the applicant has provided a connection from the adjacent existing Bob Ray Co. on Lyndon Lane to the new parking area which will safely and easily direct and control the flow of traffic to and from the site. Lyndon Lane is adequate to accommodate the small amount of added traffic that will be generated by this expanded site. Furthermore, the detailed district development plan submitted with this application must receive the preliminary stamp of approval from Metro Transportation Planning prior to docketing of this case for Planning Commission review. That stamp will evidence full compliance with all applicable Metro Transportation Planning and Public Works standards regarding access, sight distances, corner clearances, connectivity and alternate modes of transportation.

GUIDELINES – 10 FLOODING AND STORMWATER, 11 and 12 – WATER QUALITY AND AIR QUALITY

The proposed development conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 because no portion of the site lies within the 100-year flood zone, and post development drainage and all other stormwater facilities will be provided for in accordance with MSD requirements. Furthermore, the detailed district development plan will require the preliminary stamp of approval from MSD prior to docketing for Planning Commission review. That stamp will evidence compliance with all MSD requirements regarding stormwater management and water quality. Air quality will remain unaffected because the proposed access point will remain where presently located, and the small amount of added traffic will not cause traffic congestion or delays associated with air quality concerns.

GUIDELINE 13 – LANDSCAPE CHARACTER

The proposed development conforms with the overall Intents and applicable Policies of Guideline 13 for all the reasons described above and because the proposed project will include adequate screening with additional trees planted elsewhere where needed in Lyndon.

The application complies with all other relevant and applicable guidelines of the new Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,

William B. Bardenwerper
Bardenwerper Talbott & Roberts, PLLC
1000 N. Hurstbourne Parkway, Second Floor
Louisville, KY 40223
(502) 426-6688

Variance Justification:

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

Variance of: Section 5.3.2 to allow storage area and maneuvering within the required 25 ft setback along the north property line adjacent to the railroad.

1. The variance will not adversely affect the public health, safety or welfare because the setback will not affect the free and unobstructed passage of train engines and cars by the location of this added parking and storage area. Rather, the setback is intended to mitigate adverse impacts associated with incompatible uses. These two uses are similar in intensity.
2. The variance will not alter the essential character of the general vicinity because this business is already located along the railroad track and has been for 100 years.
3. The variance will not cause a hazard or a nuisance to the public because the location of the proposed additional parking and storage area will not affect the free and unobstructed passage of train engines and cars. The proposed expansion of the Bob Ray Company business affects the railroad no differently than the existing Bob Ray Company business.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations for all the reasons set forth above.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because the Bob Ray Company is an existing business, similarly situated on its existing property as it is proposed to be situated on the expansion site.

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the expansion property could not be fully utilized, and the setback would result in land that would serve no other beneficial purpose.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because the applicant is proposing to plant trees elsewhere in Lyndon where they serve a more beneficial use than in this setback area along the railroad track, where we have heavy commercial/industrial use (the Bob Ray Company) adjoining another heavy industrial use (the railroad tracks).

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 10.2.4 to waive the 25 ft LBA and required landscaping adjacent to the R-4 CSX Railroad Co. ROW

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the proposed use is a heavy commercial/industrial expansion located next to an existing heavy industrial use (i.e., the railroad track). Trees in this area are proposed to be planted elsewhere in Lyndon where they will serve a more beneficial use than to separate one heavy commercial/industrial use from another.
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 enough separation between the railroad tracks and the Bob Ray Company parking and storage area will remain for safety purposes, with the setback area reserved for LBA eliminated in favor of landscaping elsewhere in Lyndon as described 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 it would be unable to use an area for parking and storage that would be reserved for landscaping that serves no public beneficial purpose, when that landscaping can be put to a higher public purpose at alternate sites in Lyndon.



Tab 7

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

BARDENWERPER, TALBOTT & ROBERTS, PLLC

Attorneys at law

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

Owners & Applicant: Bob Ray Co., Inc., c/o Marshall T. Ray

Location: 8120 Railroad Avenue

Proposed Use: Contractor/storage yard

Engineers, Land Planners and Landscape Architects: Land Design & Development, Inc.

Requests: Change in Zoning from R-4 to C-2, with Street/Alley Closures

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on December 17, 2015 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

INTRODUCTORY STATEMENT

WHEREAS, the Bob Ray Tree Company has operated on the adjoining property for over 100 years; prior to 1943, there was no zoning in Jefferson County outside of incorporated Louisville, so for the first 40 years or so of its existence, it existed legally without restrictions; the existing Bob Ray Co., Inc. at 723 Lyndon Lane, because of expansion, reuse and redevelopment, finally was rezoned to C-2 in 2006; and this proposed rezoning is to allow for expansion on Bob Ray Company family owned property located directly east of the referenced site; and

GUIDELINE 1 - COMMUNITY FORM

WHEREAS, the subject property is currently zoned R-4 and is located within the Neighborhood Form District along Railroad Avenue directly to the south of the CSX rail line and Old LaGrange Road; as noted above, the adjoining existing Bob Ray Co., Inc. property has been used for over 100 years by the same family that owns the property subject of this rezoning application; the subject site adjoins properties C-1 and C-2; properties directly to the southwest are a NAPA Auto Parts store and a contractor's office; the property directly to the north is the CSX rail line; across the rail line on Old LaGrange Road is a strip shopping center; and the applicant has met with adjoining property owners, receiving a positive response because of the foregoing and the attractive look of this building and the way the owner has maintained his site; and

WHEREAS, in addition to this application, Railroad Avenue is proposed to be closed where it adjoins the subject property at Grant Avenue; likewise, a portion of the alley along the west property line will also be closed; and these street and alley closings will help assure that the remaining neighborhood is wholly separated from this business site; and

GUIDELINE 2 - CENTERS

WHEREAS, the proposed business expansion conforms with the overall Intents of and specifically with Policies 1, 2, 4, 5, 11, 13, 14 and 15 of Guideline 2 for all the reasons listed above, and because the proposed development site will be combined with an existing business located on Lyndon Lane, which is a minor arterial; and the proposed development constitutes an expansion of the existing Bob Ray Co., which has operated on Lyndon Lane for over 100 years—compatibly as neighbors can vouch with nearby neighbors; and

GUIDELINE 3 - COMPATIBILITY

WHEREAS, the proposed business expansion with the overall Intents of and specifically with Policies 1, 3, 4, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24 and 28 of Guideline 3 for all the reasons described above plus the fact that the use of the subject property will be the same as that of the existing Bob Ray Co. property, which will be no different than that which was rezoned on the adjoining property in 2006 and that has existed there for 100 years; and it will have none of the detrimental impacts raised by these Policies for the same reasons today as in 2006; and

WHEREAS, traffic will minimally increase, and the point of access at Lyndon Lane will remain the same, while the back access to Grant Avenue via Railroad Avenue will be closed; lighting will remain the same on this site as on the existing Bob Ray Co. property and will conform with the Land Development Code (LDC) standards; and screening and buffering along adjoining residential property lines will be sufficient to mitigate potentially adverse noise and visual effects; and

GUIDELINE 5 - HISTORIC RESOURCES

WHEREAS, the proposed business expansion conforms with the overall Intents of and specifically with Policies 2 and 4 of Guideline 5 for all the reasons described above and because no part of the site has been declared an historic site or local landmark; and to the extent that the old house, owned by the same family as the adjoining Bob Ray Co. site, needs to be photographically inventoried, appropriate pictures will be taken and submitted to Metro Historic Preservation and Archives; and

GUIDELINE 6 - MARKETPLACE

WHEREAS, the proposed business expansion conforms with the overall Intents of and specifically with Policies 1, 2, 3, 4, 5 and 6 of Guideline 6 because the it will provide for the continuing existence and modest expansion of the Bob Ray Tree Co. in its existing location; and

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

WHEREAS, the business expansion conforms with the overall Intents and applicable Policies of Guidelines 7, 8 and 9 because the applicant has provided a connection from the adjacent existing Bob Ray Co. on Lyndon Lane to the new parking area which will safely and easily direct and control the flow of traffic to and from the site; Lyndon Lane is adequate to accommodate the small amount of added traffic that will be generated by this expanded site; the detailed district development plan submitted with this application received the preliminary stamp of approval from Metro Transportation Planning prior to docketing for Planning Commission review; and that stamp is evidence of full compliance with all applicable Metro Transportation Planning and Public Works

standards regarding access, sight distances, corner clearances, connectivity and alternate modes of transportation; and

GUIDELINES 10, 11 & 12 - FLOODING AND STORMWATER, WATER QUALITY AND AIR QUALITY

WHEREAS, the proposed business expansion conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 because no portion of the site lies within the 100-year flood zone, and post development drainage and all other stormwater facilities will be provided for in accordance with MSD requirements; the detailed district development plan received the preliminary stamp of approval from MSD prior to docketing for Planning Commission review; that stamp is evidence of compliance with all MSD requirements regarding stormwater management and water quality; air quality will remain unaffected because the proposed access point will remain where presently located, and the small amount of added traffic will not cause traffic congestion or delays associated with air quality concerns; and

GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, the proposed development conforms with the overall Intents and applicable Policies of Guideline 13 for all the reasons described above and because the proposed project will include adequate screening with additional trees planted elsewhere where needed in Lyndon; and

* * * * *

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

NOW, THEREFORE, the Louisville Metro Planning Commission hereby recommends to the Louisville Metro Council that it rezone the subject property from R-4 to C-2 and close the street and alley as proposed.

PROPOSED FINDINGS FOR THE VARIANCE

Variance of Section 5.3.2 to allow storage area and maneuvering within the required 25 ft setback along the north property line adjacent to the railroad.

WHEREAS, the variance will not adversely affect the public health, safety or welfare because the setback will not affect the free and unobstructed passage of train engines and cars by the location of this added parking and storage area; and the setback is intended to mitigate adverse impacts associated with incompatible uses as these two uses are similar in intensity; and

WHEREAS, the variance will not alter the essential character of the general vicinity because this business is already located along the railroad track and has been for 100 years; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because the location of the proposed additional parking and storage area will not affect the free and unobstructed passage of train engines and cars; and the proposed expansion of the Bob Ray Company business affects the railroad no differently than the existing Bob Ray Company business; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations for all the reasons set forth above; and

WHEREAS, the variance arises from special circumstances, which do not generally apply to land in the general vicinity because the Bob Ray Company is an existing business, similarly situated on its existing property as it is proposed to be situated on the expansion site; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the expansion property could not be fully utilized, and the setback would result in land that would serve no other beneficial purpose; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because the applicant is proposing to plant trees elsewhere in Lyndon where they serve a more beneficial use than in this setback area along the railroad track, where we have heavy commercial/industrial use (the Bob Ray Company) adjoining another heavy industrial use (the railroad tracks); and

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

PROPOSED FINDINGS FOR THE WAIVER

Waiver of Section 10.2.4 to waive the 25 ft LBA and required landscaping adjacent to the R-4 CSX Railroad Co. ROW

WHEREAS, the waiver will not adversely affect adjacent property owners because the proposed use is a heavy commercial/industrial expansion located next to an existing heavy industrial use (i.e., the railroad track); and trees in this area a proposed to be planted elsewhere in Lyndon where they will serve a more beneficial use than to separate one heavy commercial/industrial use from another; 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 Cornerstone 2020 Comprehensive Plan filed with the original rezoning application; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because enough separation between the railroad tracks and the Bob Ray Company parking and storage area will remain for safety purposes, with the setback area reserved for LBA eliminated in favor of landscaping elsewhere in Lyndon as described above; 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 be unable to use an area for parking and storage that would be reserved for landscaping that serves no public beneficial purpose, when that landscaping can be put to a higher public purpose at alternate sites in Lyndon; and

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