

Neighborhood Meetings - December 17, 2015 & March 8, 2016
Louisville Metro Land Development & Transportation Committee - April 14, 2016
Louisville Metro Planning Commission – May 24, 2016

Docket No. 15ZONE1070

Proposed change in zoning from R-4 to OR-3 with a change in Form District to Regional Center and detailed district development plan to allow a 249 unit, 3-5 story apartment building on property located at 4113, 4190, 4200 & 4206 Simcoe Lane



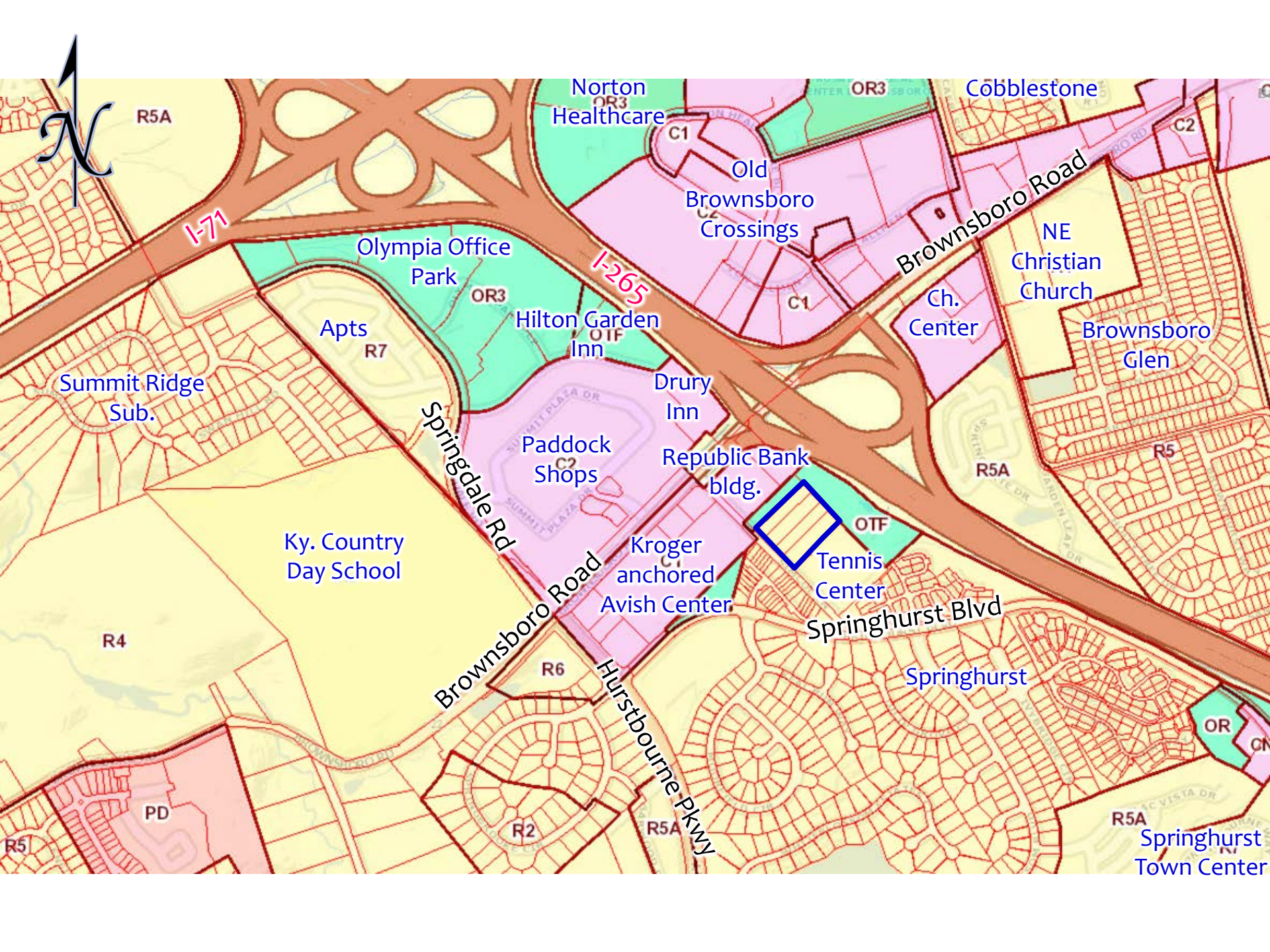
Attorneys: Bardenwerper Talbott & Roberts, PLLC
Land Planners, Landscape Architects & Engineers: Land Design & Development Inc.
Traffic Engineer: CDM Smith

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15. Proposed findings of fact pertaining to compliance with the Comprehensive Plan, variance and waiver criteria

Tab 1
LOJIC Zoning Map





R5A

I-71

Norton Healthcare

Cobblestone

Old Brownsboro Crossings

Olympia Office Park

Hilton Garden Inn

Brownsboro Road

NE Christian Church

Apts R7

Summit Ridge Sub.

Drury Inn

Paddock Shops

Republic Bank bldg.

Ch. Center

Brownsboro Glen

Ky. Country Day School

Springdale Rd

Kroger anchored Avish Center

Tennis Center

R4

Brownsboro Road

Hurstbourne Pkwy

Springhurst Blvd

Springhurst

PD

R2

R5A

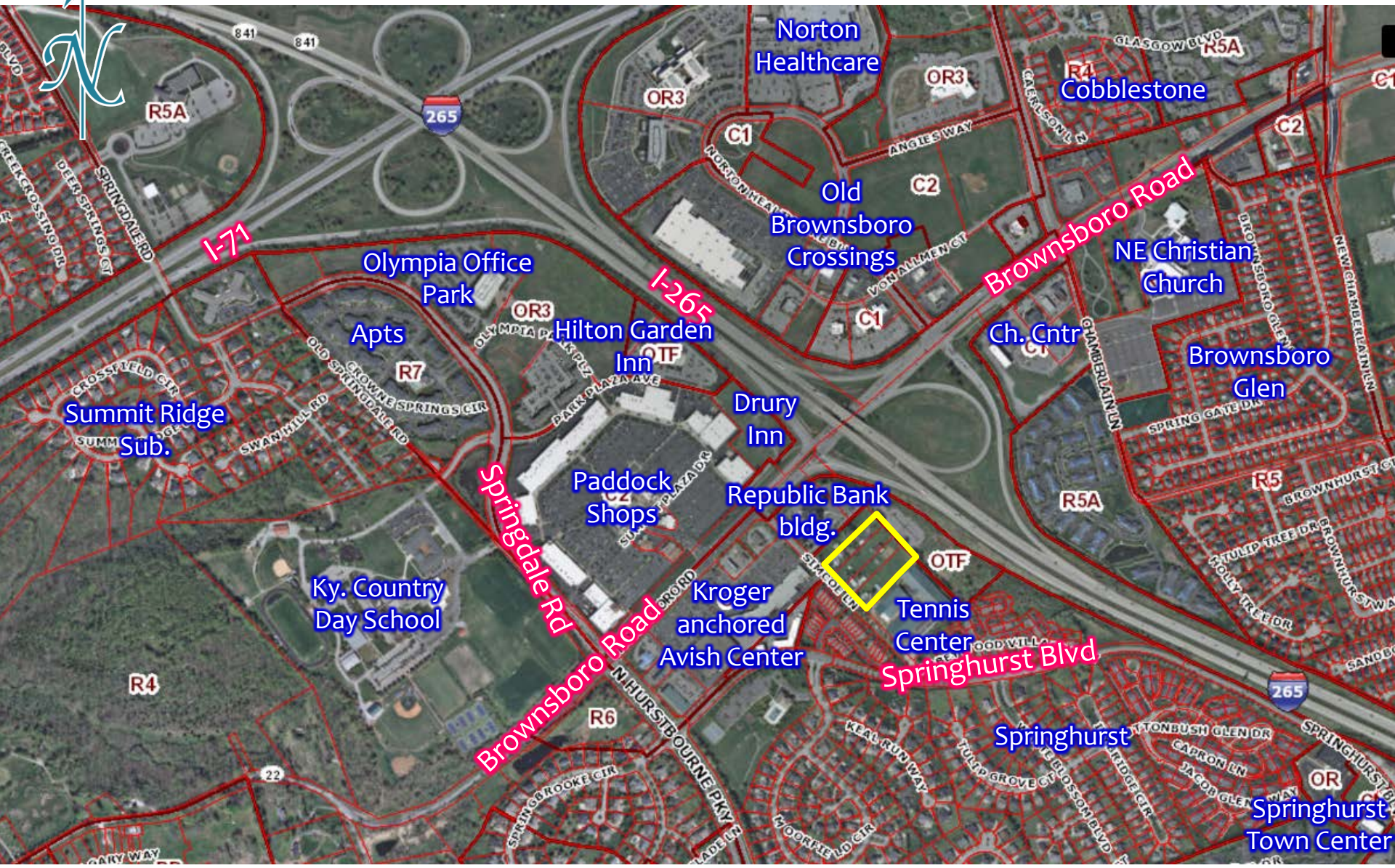
R5A

Springhurst Town Center

Tab 2

Aerial photograph of the site and surrounding area





841 841



R5A

Norton Healthcare

OR3

OR3

Cobblestone

R4

R5A

C1

C2

C2

I-71

Olympia Office Park

I-265

Old Brownsboro Crossings

NE Christian Church

Apts

Hilton Garden Inn

Ch. Cntr

Brownsboro Glen

Summit Ridge Sub.

Drury Inn

Ky. Country Day School

Paddock Shops

Republic Bank bldg.

R5A

R5

Springdale Rd

Kroger anchored Avish Center

Tennis Center

Springhurst Blvd

R4

R6

Springhurst



Springhurst Town Center

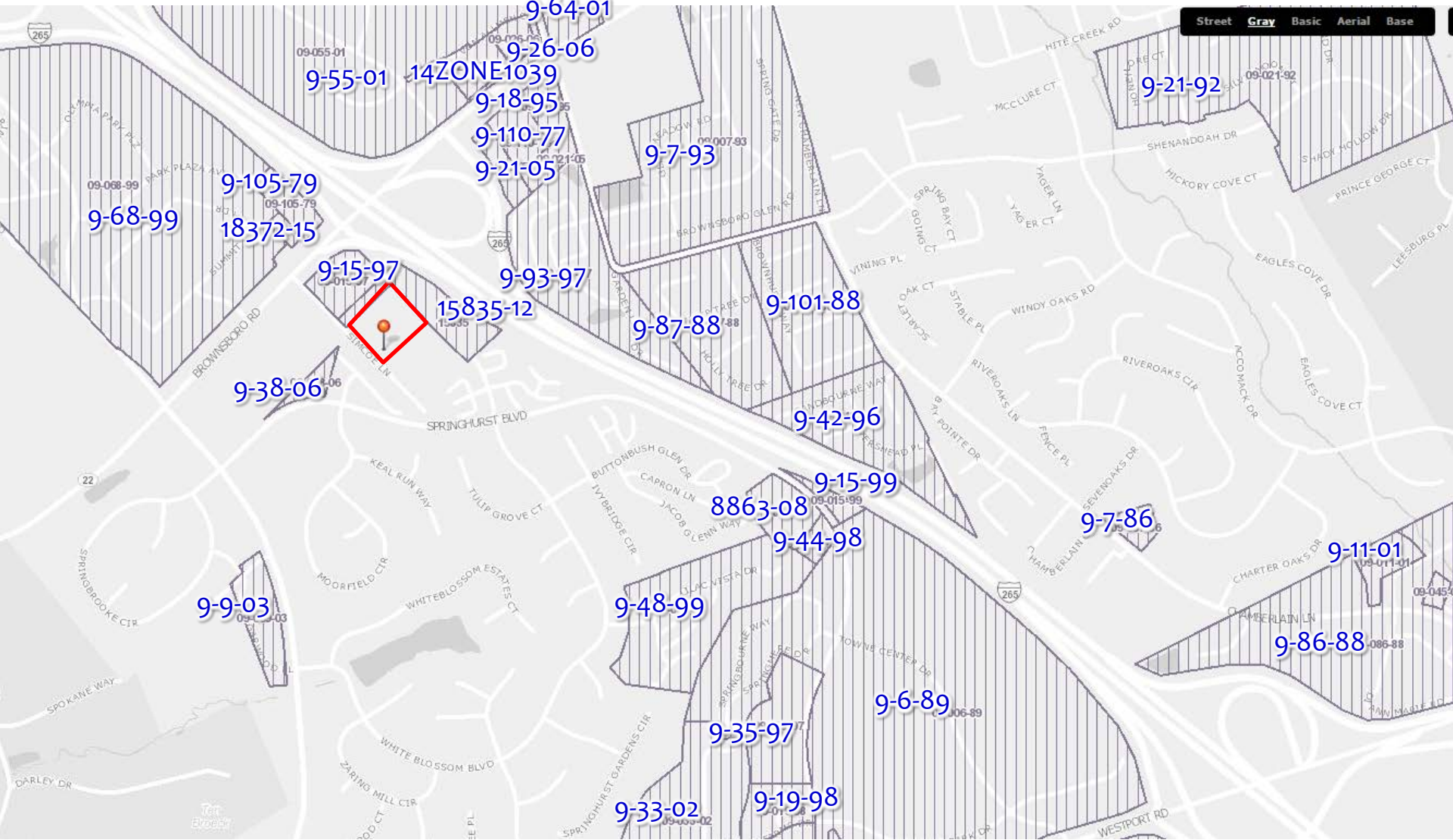
22

OR

Tab 3

Docket numbers of recent development cases
surrounding subject property





Street **Gray** Basic Aerial Base

9-64-01

9-26-06

9-55-01

14ZONE1039

9-18-95

9-110-77

9-21-05

9-7-93

9-21-92

09-02-92

9-68-99

9-105-79

18372-15

9-15-97

9-93-97

15835-12

9-87-88

9-101-88

9-38-06

9-42-96

9-15-99

8863-08

9-44-98

9-7-86

9-11-01

9-9-03

9-48-99

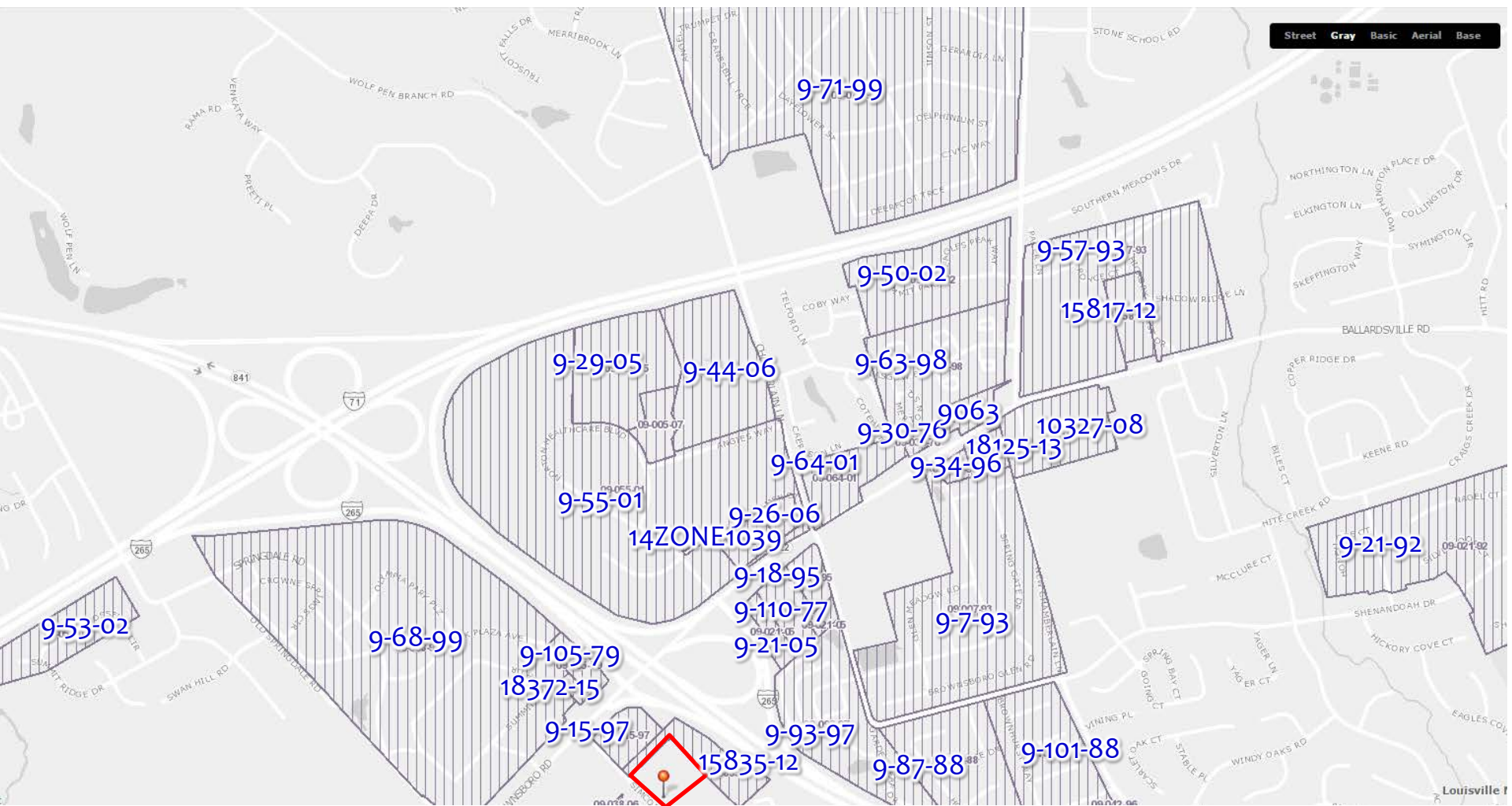
9-86-88

9-6-89

9-35-97

9-19-98

9-33-02



Tab 4

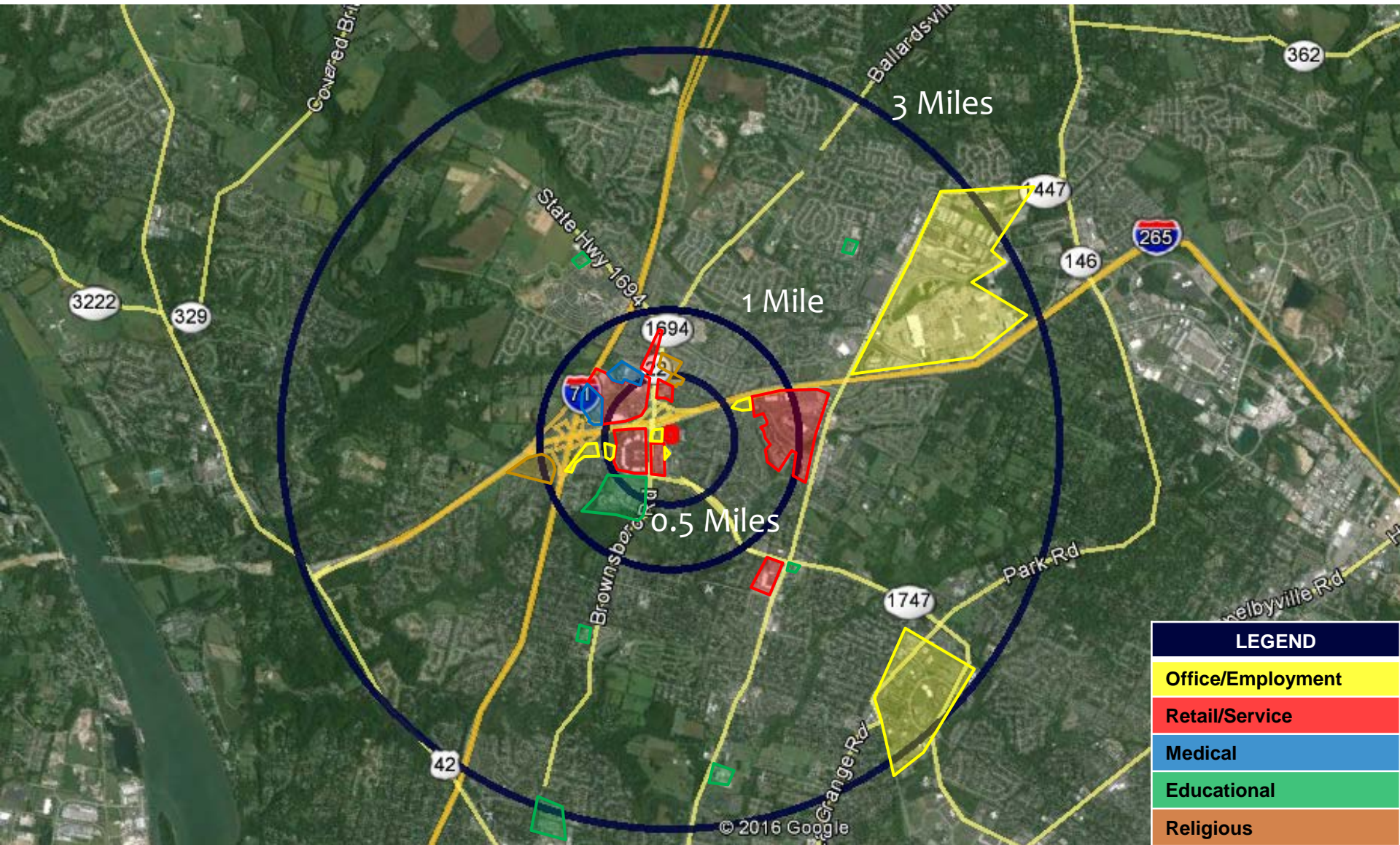
Aerial photographs showing multi-modal (walking and TARC) travel and distances to nearby amenities



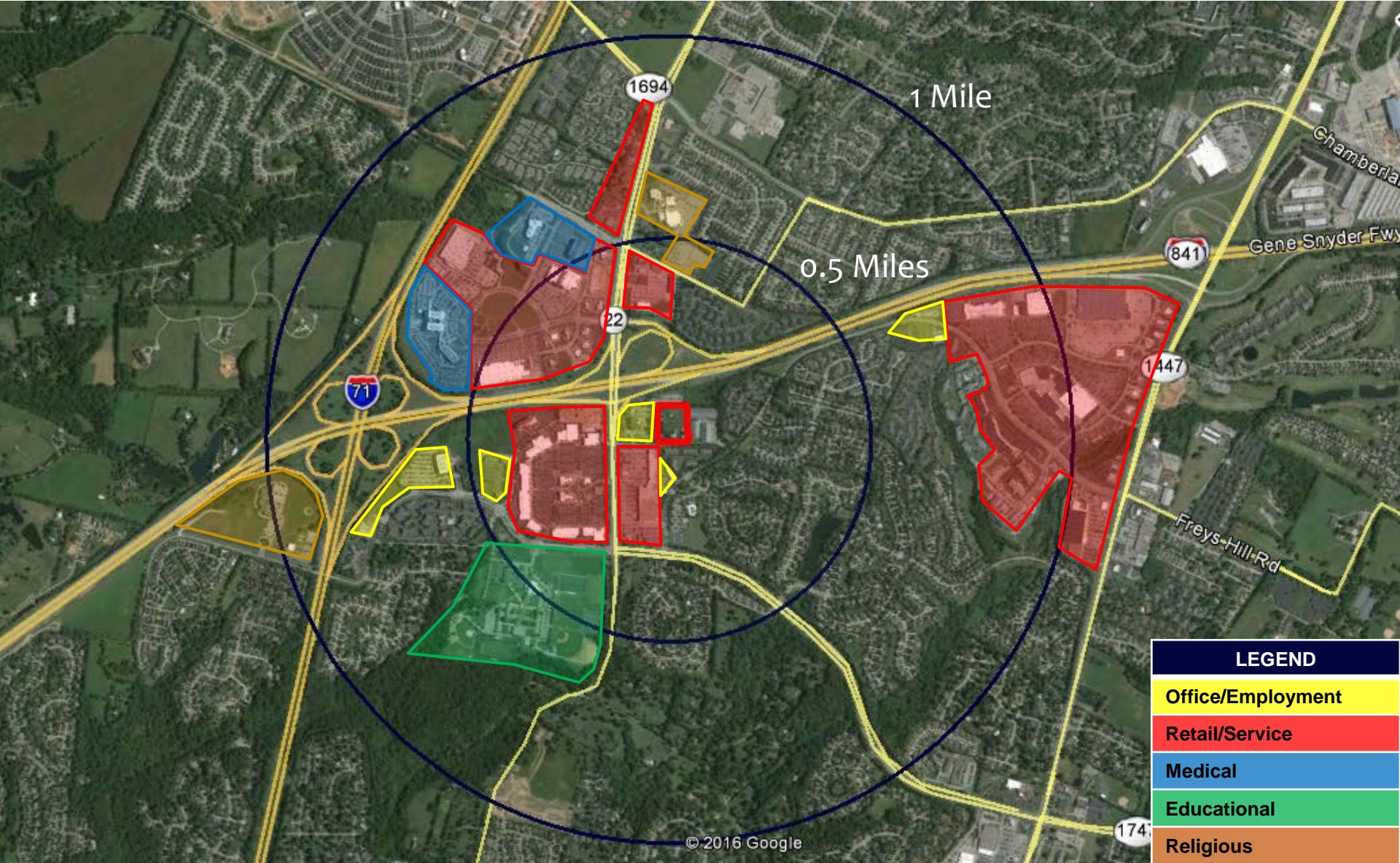
A Walkable Multi-Modal Suburban Location

- This development promotes the goals of Move Louisville by
 1. reducing vehicle miles traveled (VMT)
 2. providing residents with multiple choices for travel
 3. creating a land use that provides a better link to multi-modal transportation
- Short trips (3 miles or less – walking, biking, TARC) account for half of all trips and 28% are one mile or less. The development will allow and encourage a “car-lite” lifestyle by locating close to a transit stop, as well as within 1 mile of retail, service, employment, education and medical providers.
- Shorter trips place a lower burden on the transportation system and environment than longer trips. Land use policies should be designed to reward the development of housing and retail that is close to substantial job centers, which encourages alternative modes of travel.

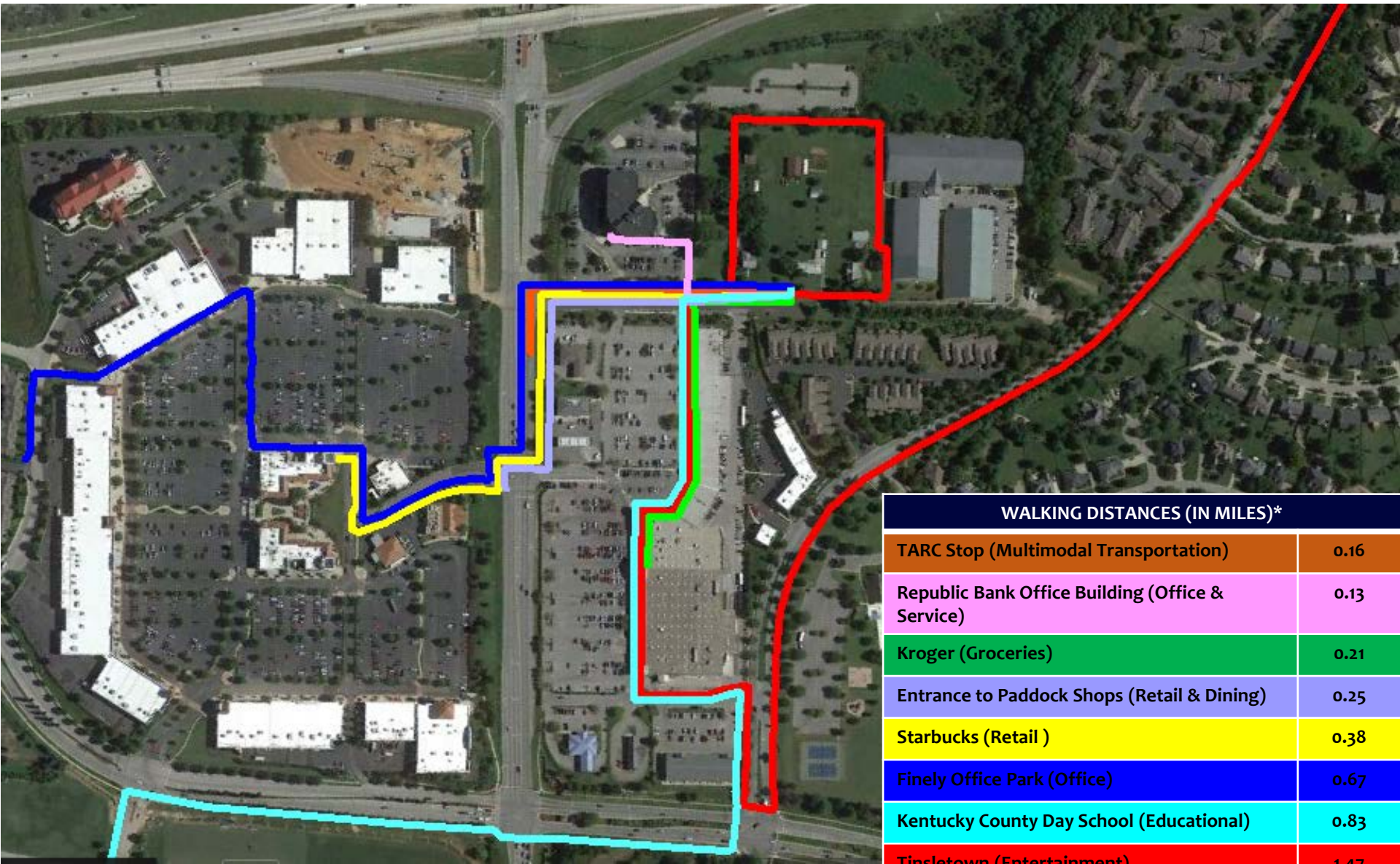
A Walkable Multi-Modal Suburban Location



A Walkable Multi-Modal Suburban Location

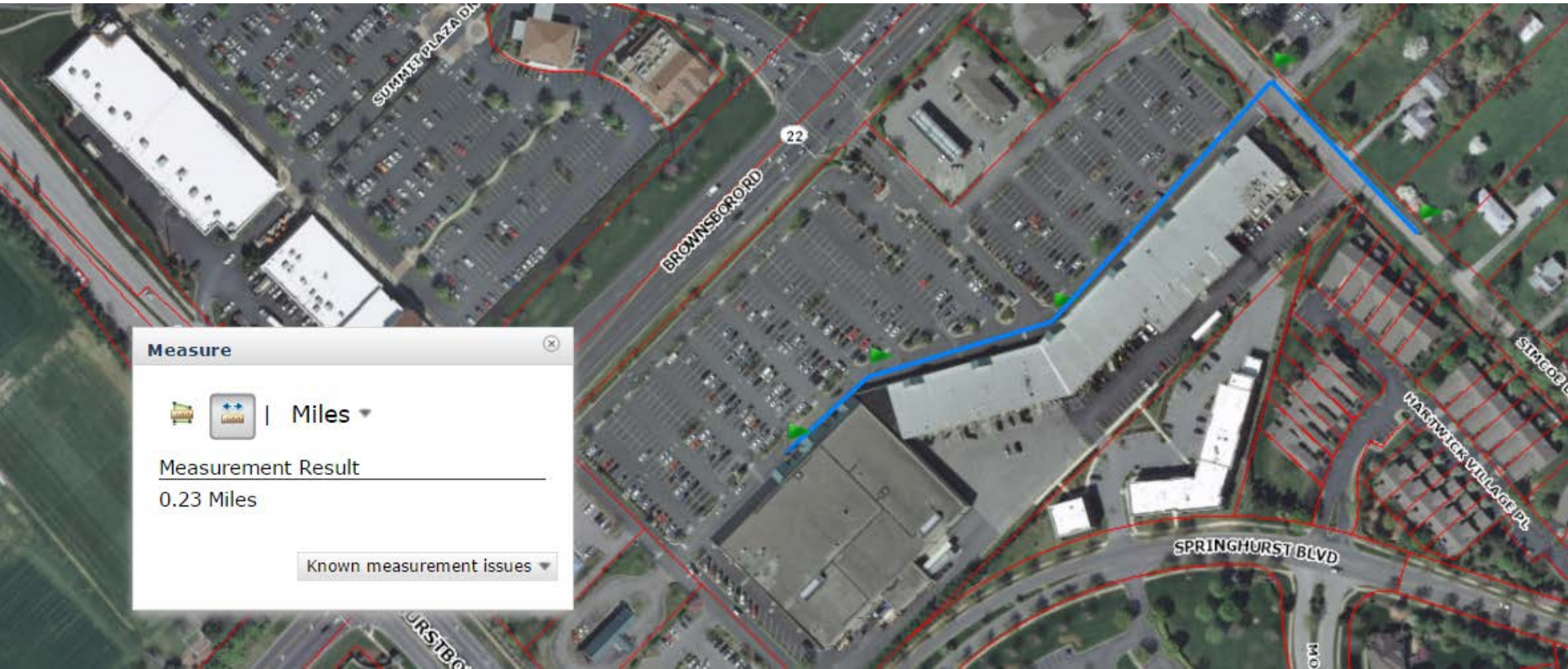


A Walkable Multi-Modal Suburban Location

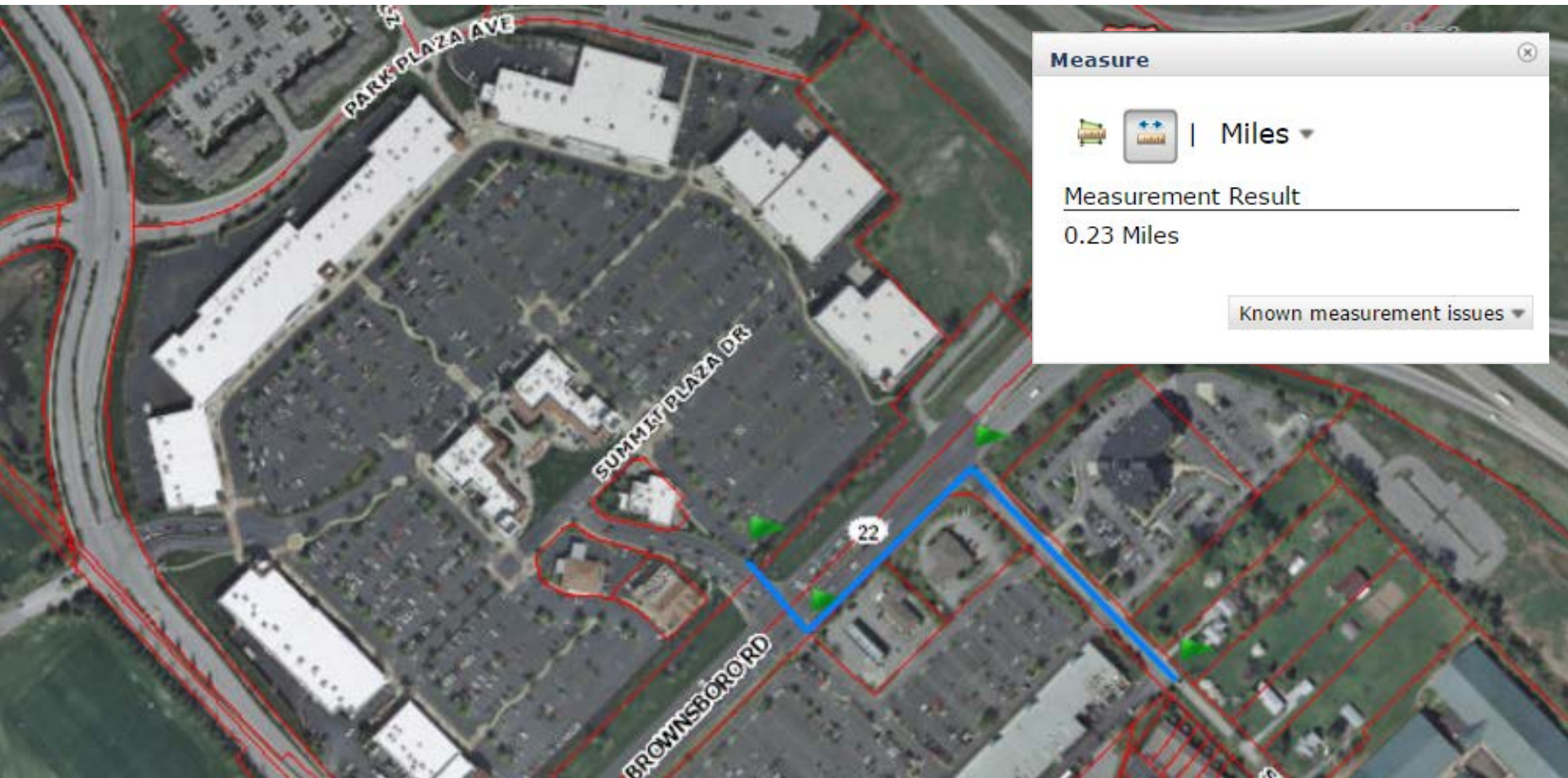


*Distances from Google Earth

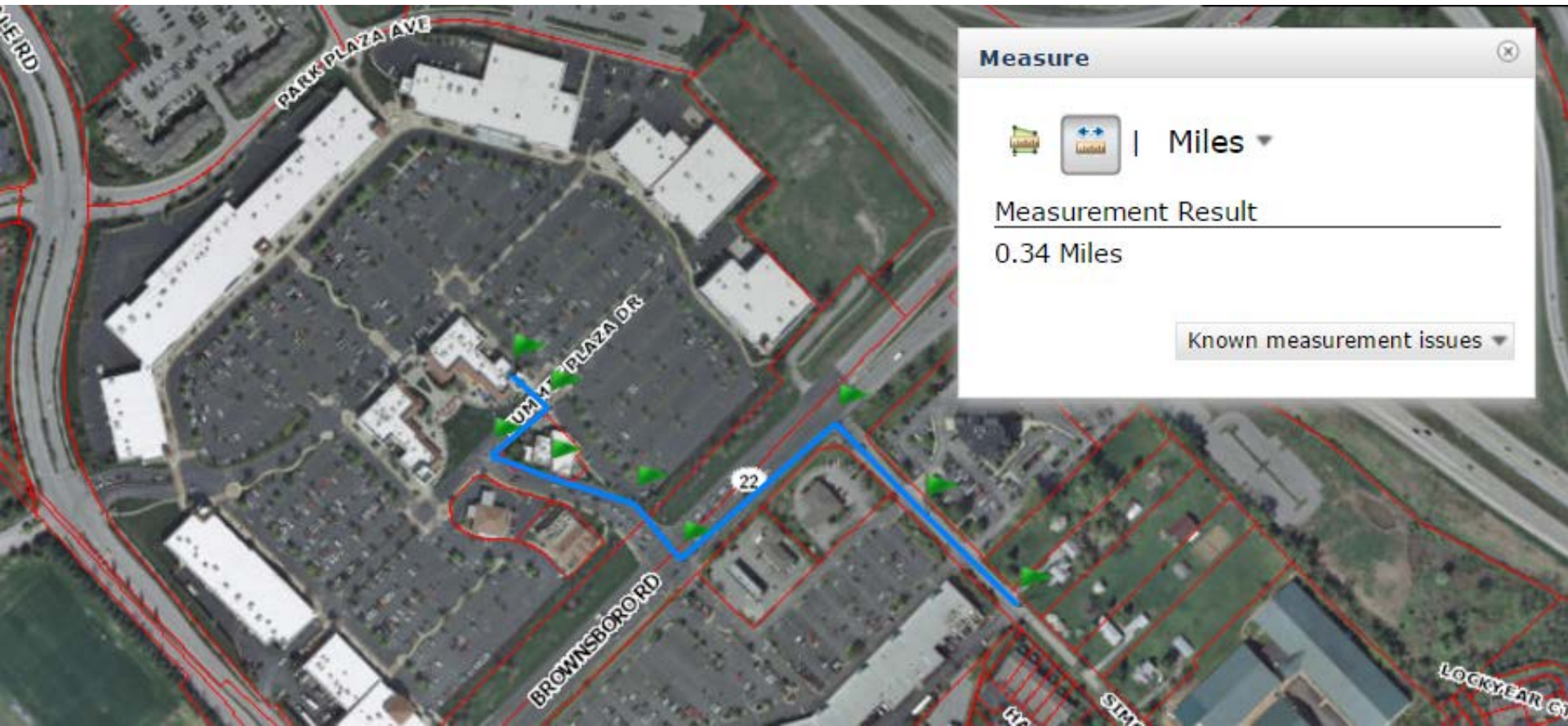
Walking distance from site to Kroger



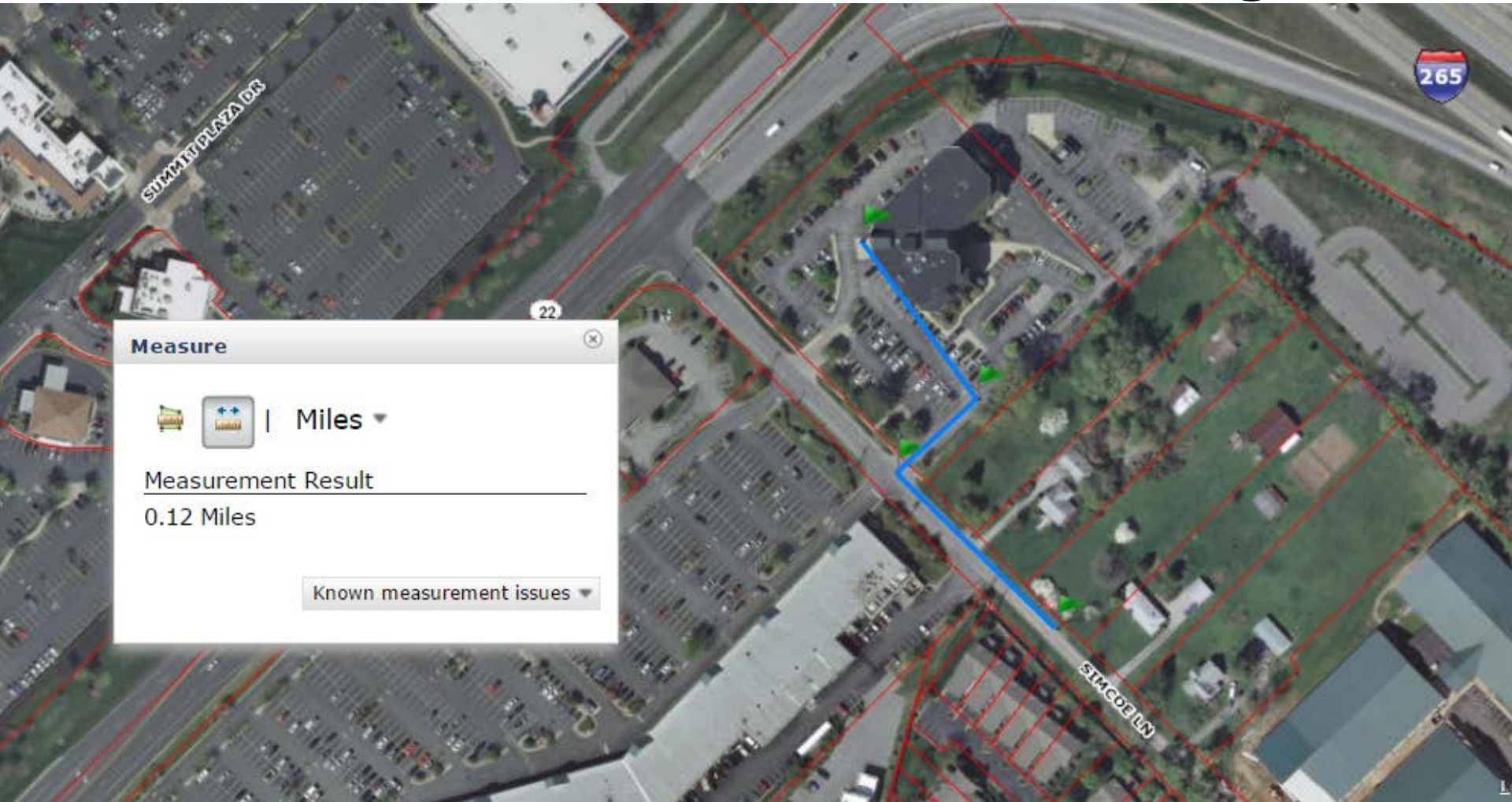
Walking distance from site to Paddock Shops entrance



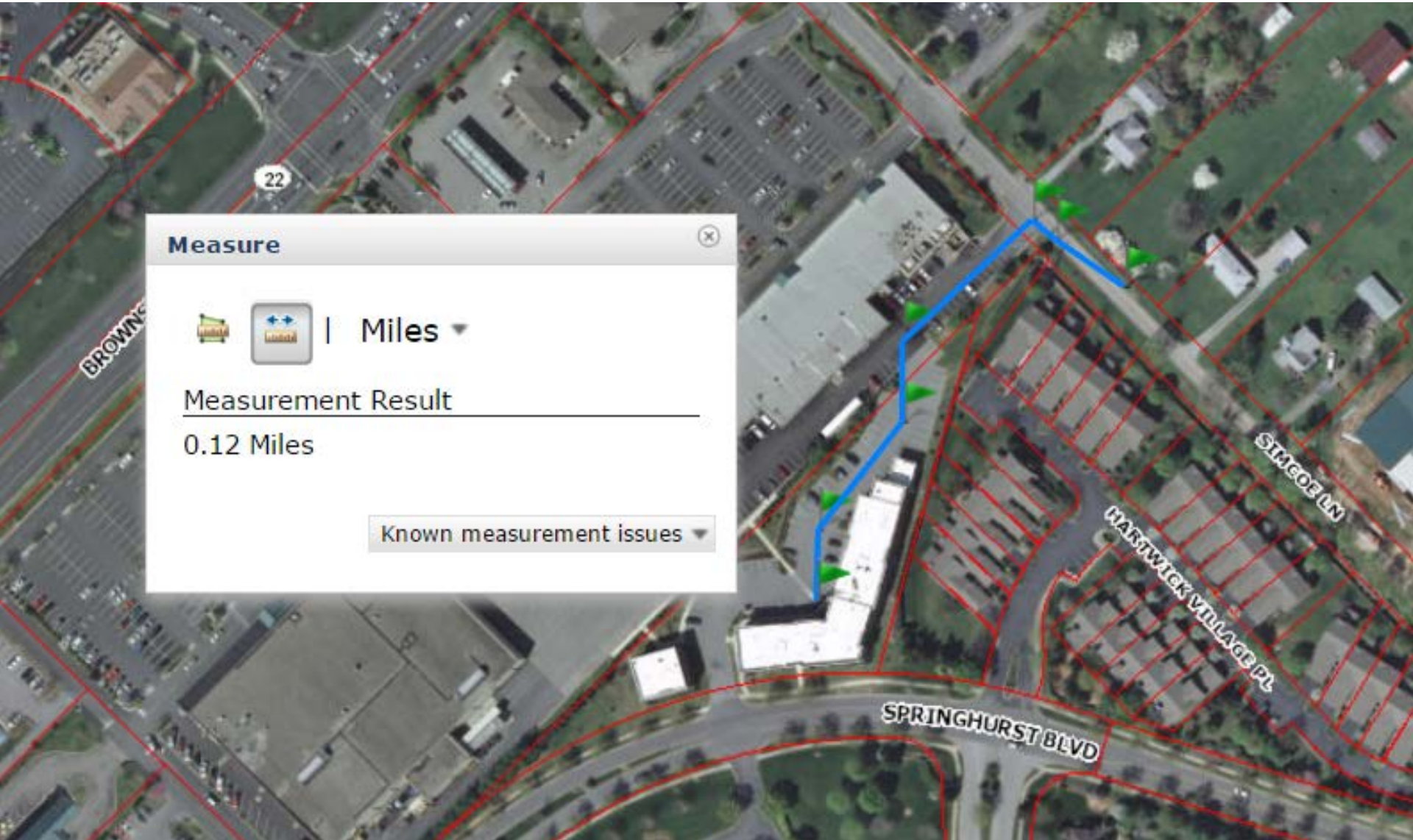
Walking distance from site to Starbucks in the Paddock Shops



Walking distance from site to Republic Bank Office Building



Walking distance from site to offices behind Kroger



Measure



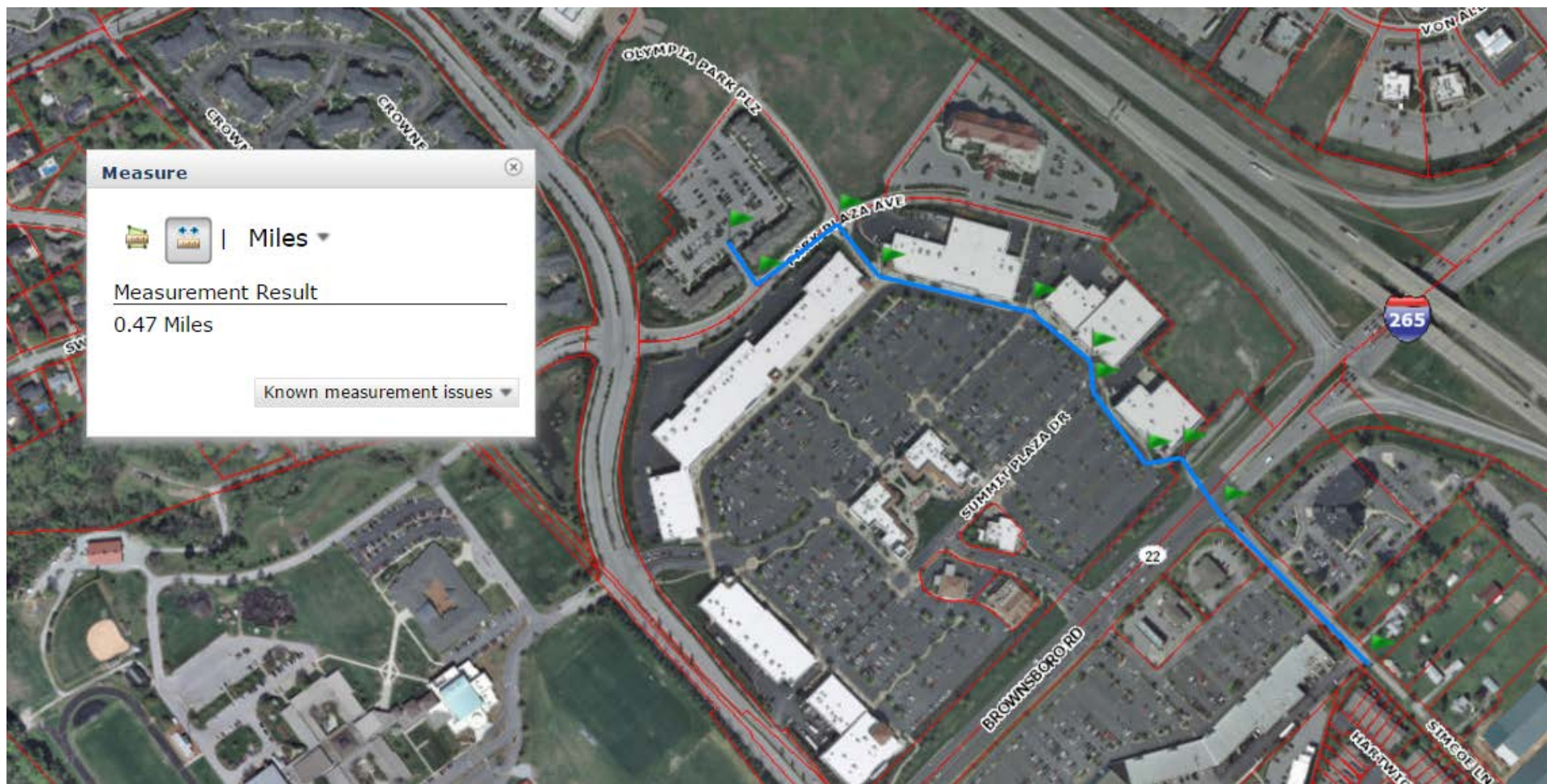
Miles

Measurement Result

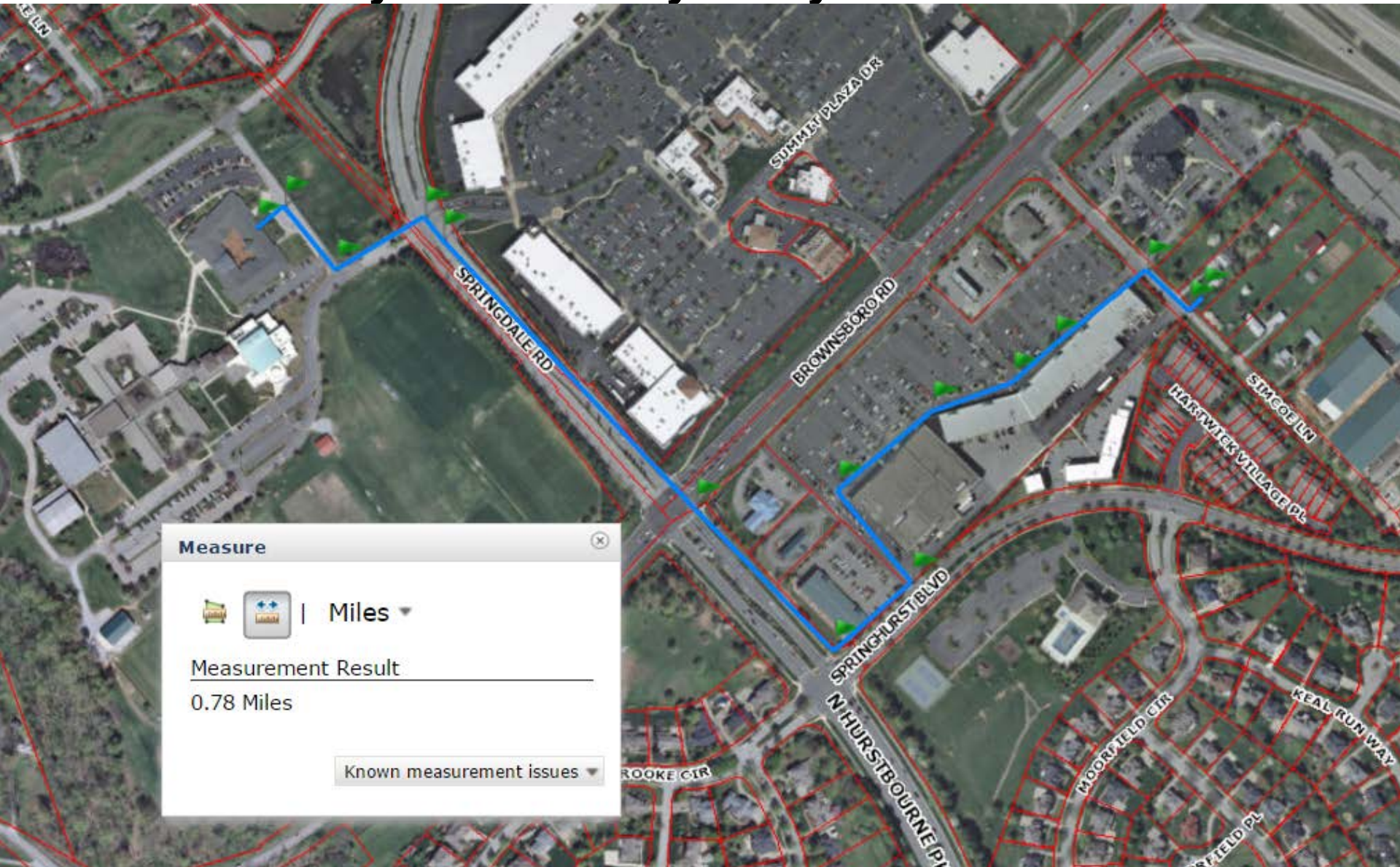
0.12 Miles

Known measurement issues



Walking distance from site to Olympia Office Park



Walking distance from site to Ky. Country Day School



Measure ✕

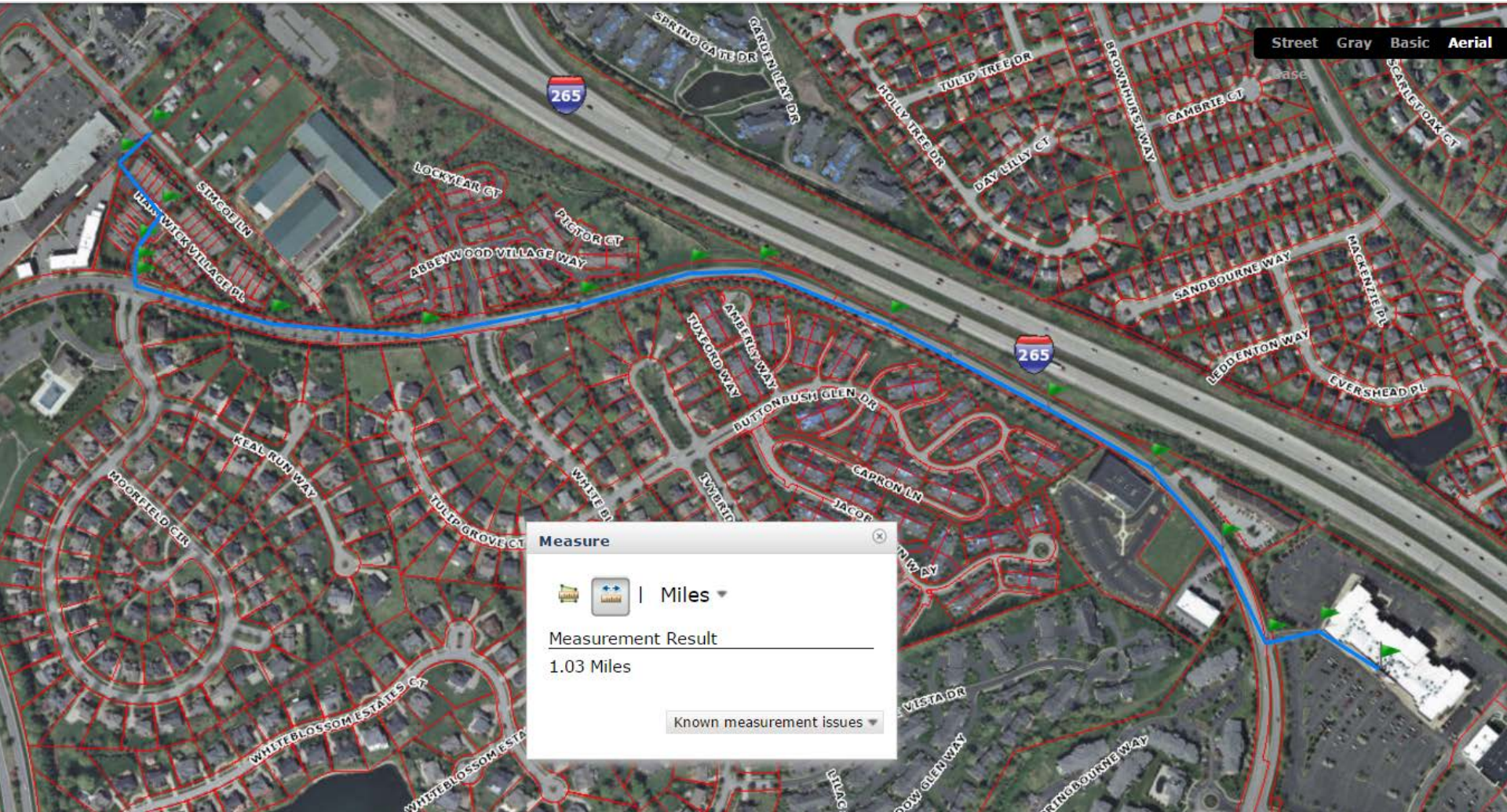
  | Miles ▾

Measurement Result

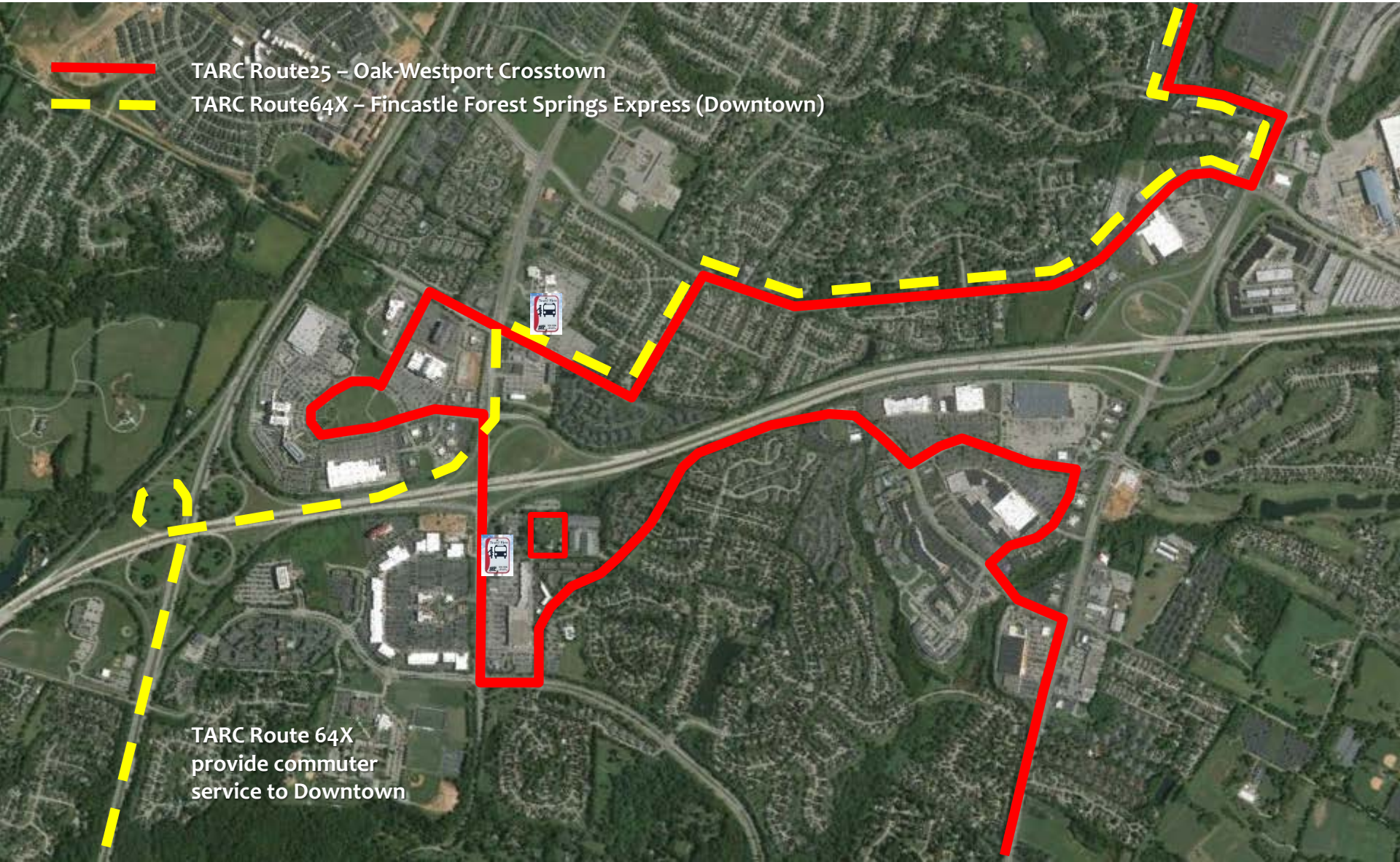
0.78 Miles

Known measurement issues ▾

Walking distance from site to Tinseltown



A Walkable Multi-Modal Suburban Location



-  TARC Route 25 – Oak-Westport Crosstown
-  TARC Route 64X – Fincastle Forest Springs Express (Downtown)

TARC Route 64X
provide commuter
service to Downtown

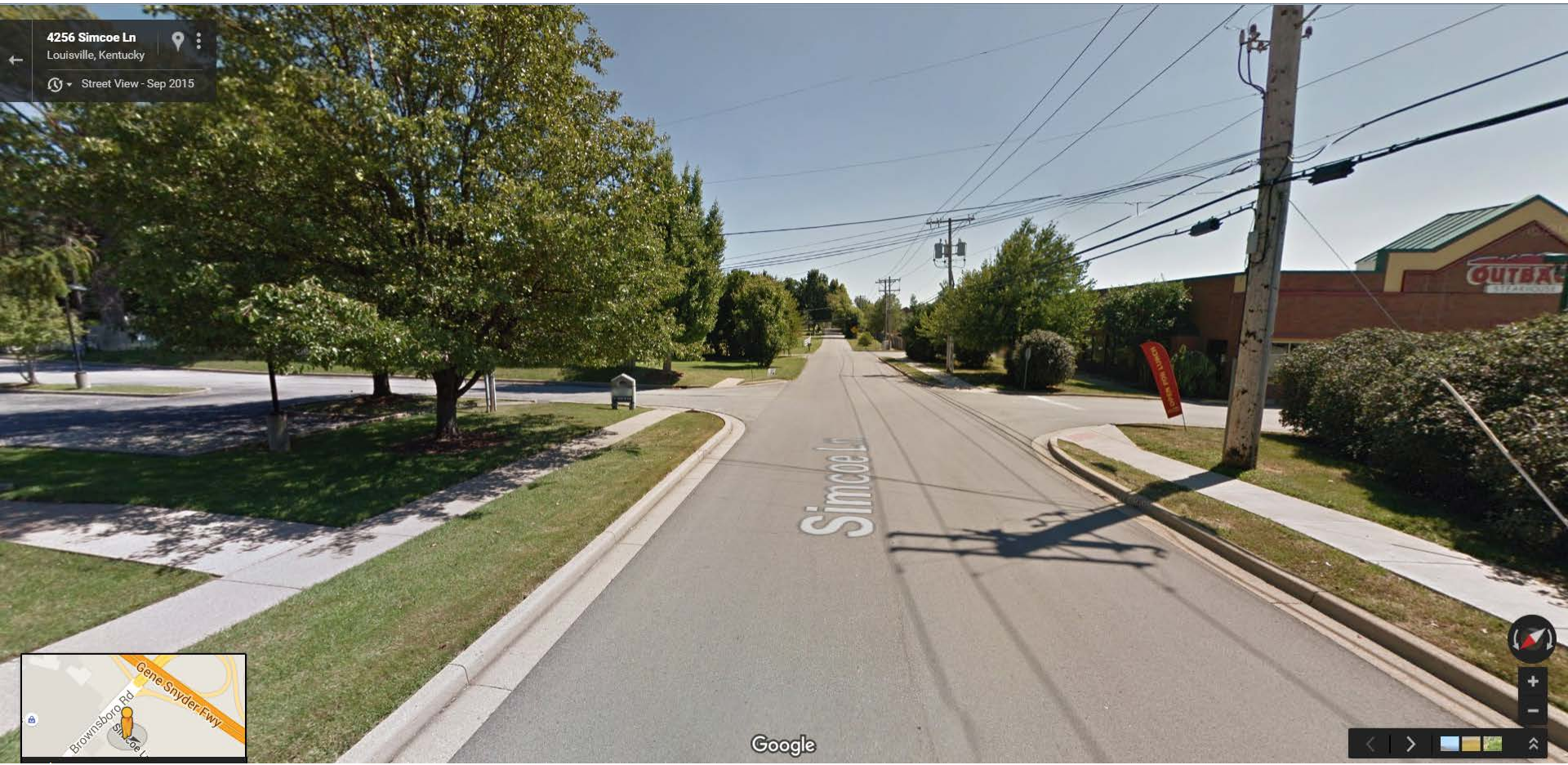
A Walkable Multi-Modal Suburban Location



Tab 5

Ground level photographs of the site and surrounding area





4256 Simcoe Ln
Louisville, Kentucky
Street View - Sep 2015

Google

Looking southeast down Simcoe Ln.



First house after Republic Bank sites



Second house after Republic Bank sites



Third house after Republic Bank sites



Springhurst Tennis Center after third house



Village of Hardwick across from subject property. Per agreement with Village of Hardwick Association, this fence will be replaced and enhanced in this area with landscaping.

Village of Hartwick

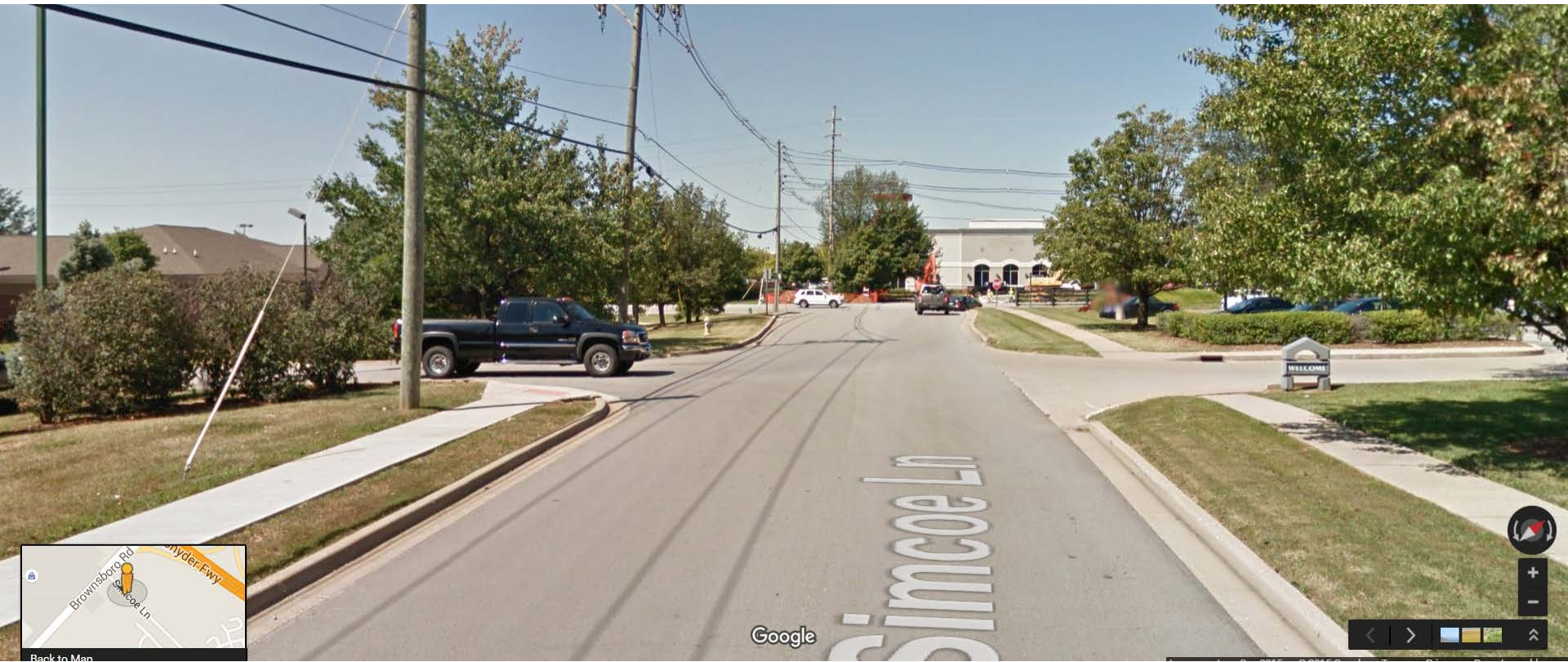




Simcoe Lane at subject property/Avish Center rear access intersection



Simcoe Lane at Republic Bank/Avish Center middle access intersection

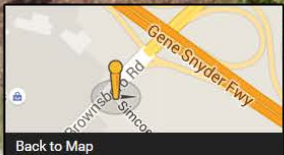


Simcoe Lane at Republic Bank/Avish Center northwestern-most access intersection

4292 Simcoe Ln
Louisville, Kentucky



Street View - Sep 2015



Back to Map

Google

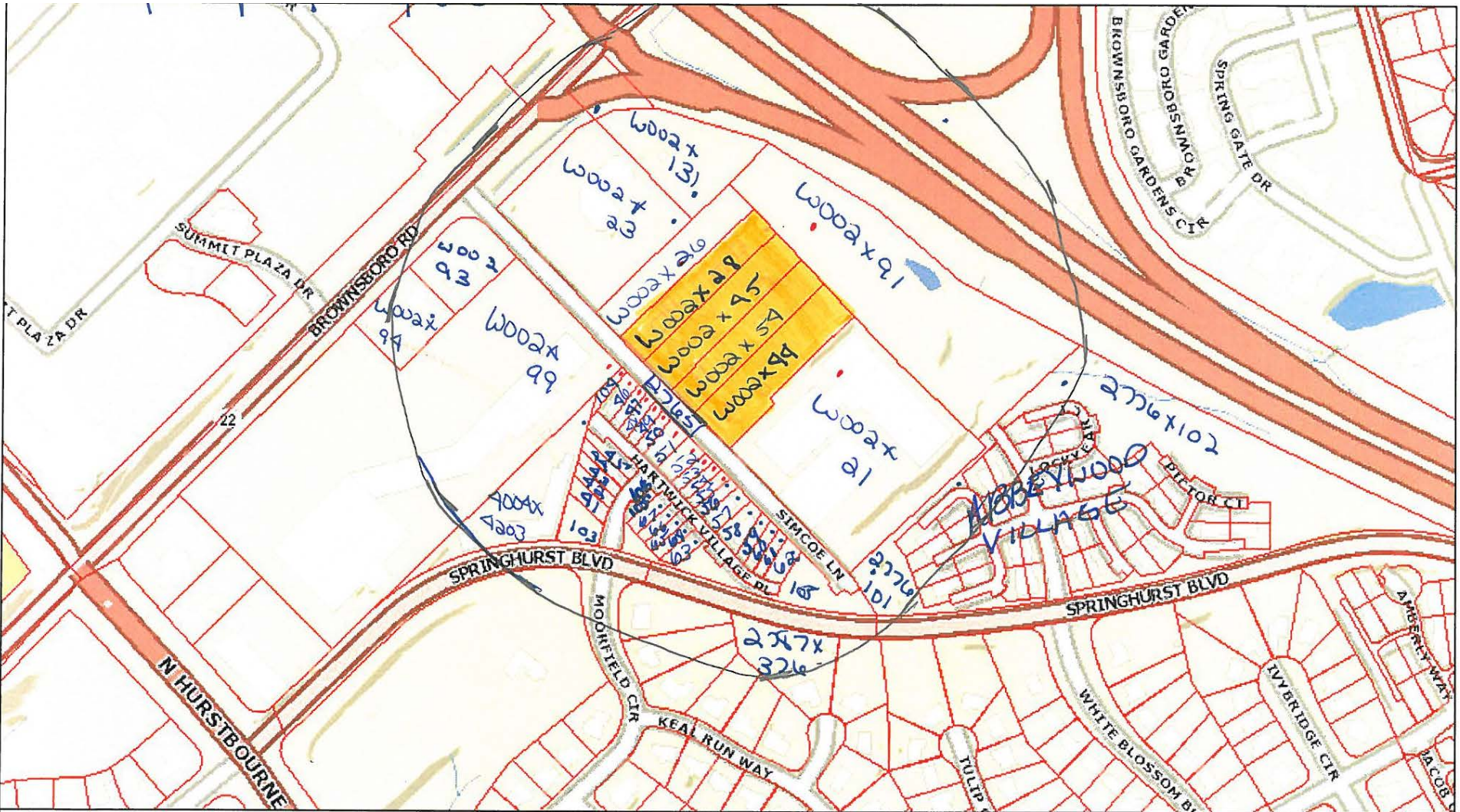


Tab 6

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



Neighborhood meeting notice list map wherein 71 adjoining property owners were invited to attend the multiple neighborhood meetings



CITYSCAPE RESIDENTIAL, LLC

8335 Keystone Crossing, Suite 105

Indianapolis, IN 46240

Phone: (317) 912-3504

December 3, 2015

Dear Neighbor,

RE: Proposed change in zoning from R-4 to OTF and detailed district development plan to allow a 251 unit apartment building on approximately 4.5 +/- acres located between the Republic Bank and Springhurst Tennis Center on the eastern side of Simcoe Lane at 4113, 4190, 4200 & 4206 Simcoe Lane

We are writing to invite you to a meeting we have scheduled to present neighbors with our rezoning and detailed district development plan to allow a 251 unit apartment building next to the Republic Bank building.


Accordingly, we will file a plan for pre-application review on Monday, December 7th with the Division 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.

Once the pre-application plan is filed, a case number and case manager will be assigned, and we will let you know what and who that is. We will have that information at the neighbor meeting. In that regard, a meeting will be held on **Thursday, December 17th at 7:00 p.m. at The Courtyard by Marriott – Louisville Northeast** located behind the Home Depot and Panera Bread in Springhurst at **10200 Champion Farms Drive**.

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 representatives Kevin Young or Ann Richard at 426-9374.

We look forward to seeing you.

Sincerely,



Kelli Lawrence, Partner

cc: Hon. Glen Stuckel, Councilman, District 17
Brian Evans, PE, Associate, Development & Construction, Cityscape Residential
Brian Davis, supervisor with Division of Planning & Design Services
Bill Bardenwerper, attorney with Bardenwerper, Talbott & Roberts, PLLC
Kevin Young & Ann Richard, land planners with Land Design & Development, Inc.

NEIGHBORHOOD MEETING SUMMARY

The meeting was called to order by Bill Bardenwerper at 7 PM on December 17 at the Marriott Courtyard on Champion Farms Drive off Springhurst Boulevard, not very far from the subject property. He showed a PowerPoint presentation of the site and surrounding area with photographs near-in and farther-out, plus map showing all of the development that has occurred in the area plus photographs of nearby properties, both those of residential properties and of 5-story buildings nearby, like this one that have been or are being built, plus Simcoe Lane and Kentucky 22 Road connections and conditions. He then showed the prior proposed restaurant and hotel plan for this site and explained that situation and what became of it.

Kevin Young with Land Design and Development next explained the new site plan, its proposed access points, circulation, perimeter landscaping, screening and buffering, and added landscape within interior courtyards.

Kelli Lawrence and Brian Evans representatives of the applicant, Cityscape Residential, next explained Cityscape and its proposed development here plus those it has constructed elsewhere, plus one recently opened in Louisville and another under construction in Louisville. They showed photographs of both the present plan for the exterior of this building, photographs of existing locations and existing interiors. They answered questions about unit sizes and rental price points.

Diane Zimmerman, traffic engineer with CDM Smith, next discussed traffic explaining that she has just begun our traffic analysis with new zones, comparing those two existing accounts at peak our situations. As most questions had to do with traffic and transportation facilities, she and Mr. Bardenwerper, explained some concepts that were important to understand. First is the concept of internal capture within the Simcoe Lane area, meaning that many of these residents will utilize facilities nearby, such as the Kroger store that is so close it can be walk to, even though nearby elderly residents might not want to do that themselves. They explained that one of the advantages of an apartment community at a location like this is that, in addition to the fact that many residents today work out of their homes/apartments and thus have no need to enter the peak hour traffic conditions, once those who work outside the home return from work, many at this proposed apartment community can visit restaurants and shopping by walking or biking there, because of the intense development around this apartment project.

But these kinds of explanations were good enough to allay all traffic concerns, as many people were determined that left-turns would not be possible onto KY 22 from Simcoe Lane and that KY 22 and that the overall interchange of it with the Snyder Freeway and Hurstbourne Parkway are too congested to handle any more traffic. Mr. Bardenwerper, and Ms. Zimmerman tried best they could to explain everything including the fact that left turns are sometimes not possible, they won't be made and that many of those movements would travel through the Avish Gardens center parking lot, which is the kind of connectivity that is permitted and indeed encouraged by planners as a consequence of all the

connectivity among different types of developments that are regulatorily part of every development plan nowadays.

In fact, the owner of the Avish Gardens Center, Dan Huneke, was present and said that he had no problem with the cut-through traffic, as other people in the area are already doing so themselves. After much discussion among residents present involving this, with him and with the applicant's representatives, one of the possibilities Ms. Zimmerman laid out there was that improvements to signal timing might be a solution to part of the KY 22 peak-hour traffic congestion.

There were also questions about mass and scale of the proposed apartment building, with some people asking why it couldn't be made smaller. The applicant explained that design will be outstanding and that a center parking garage will not be seen from surrounding properties, which it has been viewed as an aesthetic improvement over a surface parking lot.

There was much discussion about drainage, apparently there being some overflow drainage alongside the nearby townhomes. Mr. Young agreed to look further into this, after explaining exactly how the drainage would from this site will be handled vault detention.

Residents of the adjoining townhome community asked for enhanced landscaping along their side of Simcoe Lane and also excellent landscaping on the proposed apartment side as well. They also were concerned that, if Simcoe Lane is widened, dedication takes place on the apartment side of that road, not their side, which would diminish their buffer.

CITYSCAPE RESIDENTIAL, LLC

8335 Keystone Crossing, Suite 220

Indianapolis, IN 46240

Phone: (317) 912-3504

February 22, 2016

Dear Neighbor,

RE: Follow-up neighbor meeting regarding our proposed change in zoning from R-4 to OTF and detailed district development plan (DDDP) to allow a 261-unit apartment building on approximately 4.5 +/- acres located between the Republic Bank and Springhurst Tennis Center on the eastern side of Simcoe Lane at 4113, 4190, 4200 & 4206 Simcoe Lane; case #15ZONE1070

We are writing to invite you to a follow-up meeting to again present neighbors with our updated building elevations and current traffic analysis with respect to the rezoning and detailed district development plan we last discussed with neighbors on December 17th.

Plans still call for a 261-unit apartment building next to the Republic Bank building.

We previously filed a plan for pre-application review on Monday December 7th with the Division of Planning and Design Services (DPDS). That plan has advanced to the point of near-term docketing for review by the Land Development & Transportation (LD&T) Committee of the Planning Commission. But first we'd like to show and explain to neighbors our latest plans and traffic study so that we might hear what added thoughts, issues and perhaps even continuing concerns you may have.

The meeting will be held on **Tuesday, March 8th at 7:00 p.m. at The Courtyard by Marriott – Louisville Northeast** located behind the Home Depot and Panera Bread in Springhurst at **10200 Champion Farms Drive**.

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

We look forward to seeing you.

Sincerely,



Kelli Lawrence, Partner

cc: Hon. Glen Stuckel, Councilman, District 17
Chris Brown, case manager with Division of Planning & Design Services
Bill Bardenwerper, attorney with Bardenwerper, Talbott & Roberts, PLLC
Kevin Young & Ann Richard, land planners with Land Design & Development, Inc.

Second Neighborhood Meeting Summary

This, the second, neighborhood meeting on this project, was called to order by Bill Bardenwerper at 7 PM on March 8, 2016 at the Courtyard by Marriott – Louisville Northeast hotel at 10200 Champion Farms Drive. Once again he showed a PowerPoint presentation which included lots of information about the area, the subject project, its proximity to the Snyder Freeway and KY 22, its proximity to and connectivity with Simcoe Lane at KY 22 and to and access through the adjoining Avish Gardens retail center, etc. He did this through LOJIC maps, aerials and ground level photographs. Once again he was also assisted by land planner Kevin Young with Land Design and Development, traffic engineer Diane Zimmerman from CDM Smith engineering, plus Kelli Lawrence and Brian Evans from the applicant CityScapes.

Mr. Young and Mr. Evans explained how the latest version of the site plan had been modified to lower the front portion of the building's height to push the taller portion of the building farther away from the Village of Hardwick patio homes across Simcoe Lane. They showed this on both the new site plan and on new building elevations. They also showed how the fire lane surrounding the building had been largely revised to make it as much pervious, probably grass, surface as possible instead of impervious. The new plans also showed a much higher level of landscape detail than previously shown.

Also, Diane Zimmerman explained in considerable detail, with help from Mr. Bardenwerper, her traffic impact study (TIS), showing passing grades for levels of service. She also explained how another office building at this location would cause a worse traffic impact than this proposed apartment building because the office building would mirror the inflow and outflow of KY 22 traffic as the existing Republic Bank Building and the other ones approved, but not yet built, next to it. Having apartment traffic move at peak hours in an opposite direction to these office buildings assures an improved in traffic impacts, they said.

Of course neighbors had lots of questions about traffic, and people present at this meeting, as opposed to the last one, included a wider array of people, not just adjoining this Simcoe Lane site like those at the Village of Hardwick.

Representatives and residents of the Village of Hardwick focused their specific attention on issues of improved screening and buffering, including their recommendations to this developer to rebuild and extend the fence between them and Simcoe Lane and to enhance landscaping along it. CityScapes representatives agreed to consider this if the HOA agreed to support this development. Each side agreed to think about that. CityScapes unilaterally agreed, in any event, to fix a part of the fence and to include partial landscaping along its frontage on the opposite side of Simcoe lane.

Sidewalks and a connection along the property toward KY 22, not part of this site, were also discussed. Cityscapes representatives said they would like to have good connectivity to Avish Gardens, Republic Bank and the Paddock Shops plus the Olympia Park offices behind it. Mr. Bardenwerper, showed illustrations of walking distances to these facilities as well as to Tinseltown, all of which are relatively close by, very much in walking distance, which is a large part of what the Comp. Plan, he said, is all about: providing for walkable communities and reducing driving travel distances and times.

Most of the evening dwelled on lots of speeches and questions about traffic and transportation facilities with some people drilling down on non-peak hour traffic numbers which Mr. Bardenwerper and Ms. Zimmerman explained are not particularly relevant issued involved as is. Both Ms. Zimmerman and Mr. Bardenwerper, repeatedly explained how and when the traffic numbers were collected, how they are real and relevant, and why TISs focus on the worst case scenarios, which are the morning and evening peak hours as opposed to average daily trips.

Mr. Bardenwerper agreed to send everyone who left him an email address the entire PowerPoint presentation, together with the TIS, so they can review same (which he subsequently did). He also again discussed the Metro Case Management Review process and timing, plus again gave them the case number and DPDS case manager's name so that people present can contact them if they prefer to instead of continuing to communicate with Mr. Bardenwerper, Mr. Young, Ms. Zimmerman and the CityScapes representatives who were present.

Respectfully submitted,

Bill Bardenwerper

e:\client folder\city scape\simcoe lane\neighbor meeting\second neighborhood meeting summary.doc

Tab 7

Plans shown at the neighborhood meetings



Plan presented at the December 17, 2015 neighborhood meeting

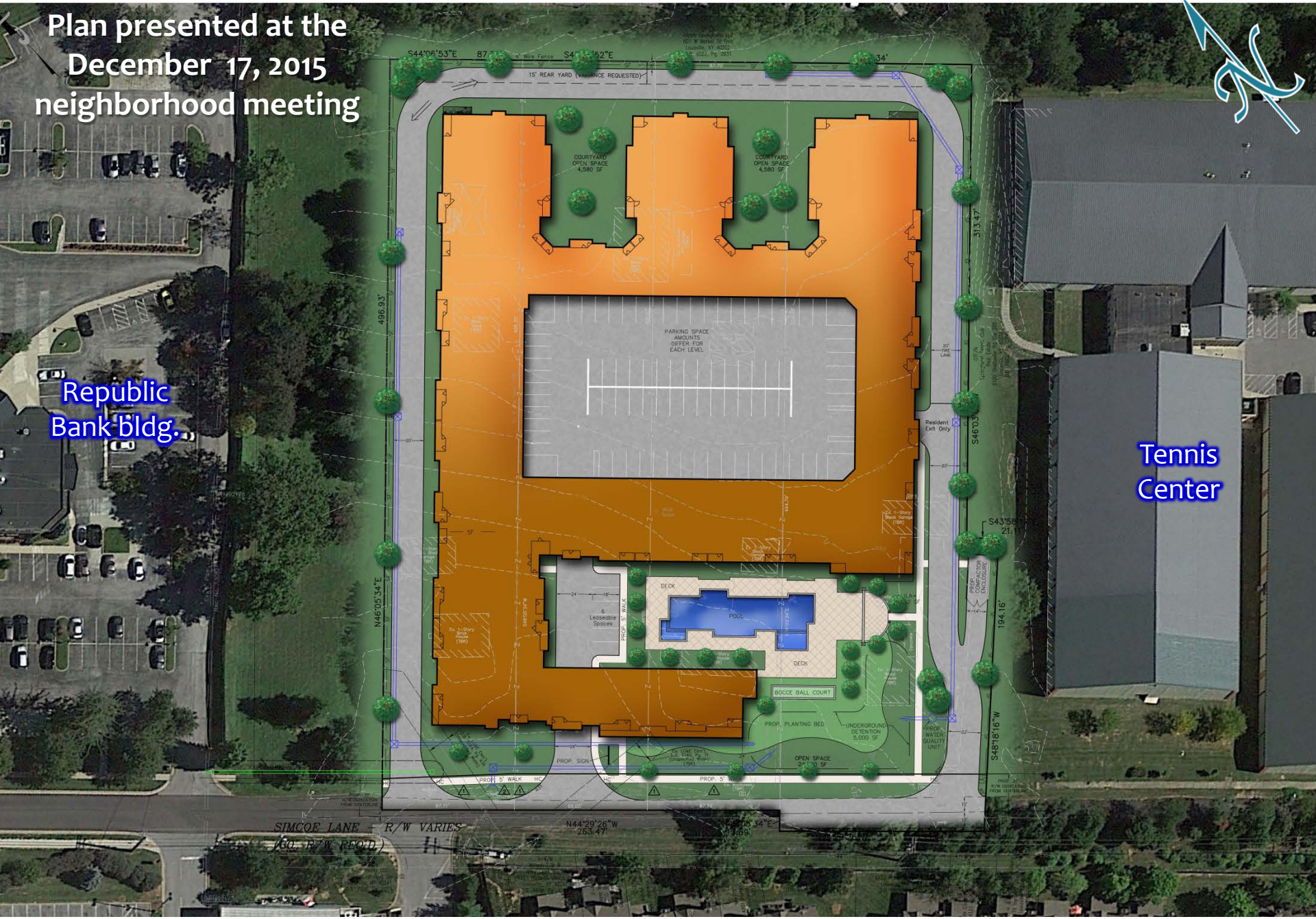


Plan presented at the
December 17, 2015
neighborhood meeting

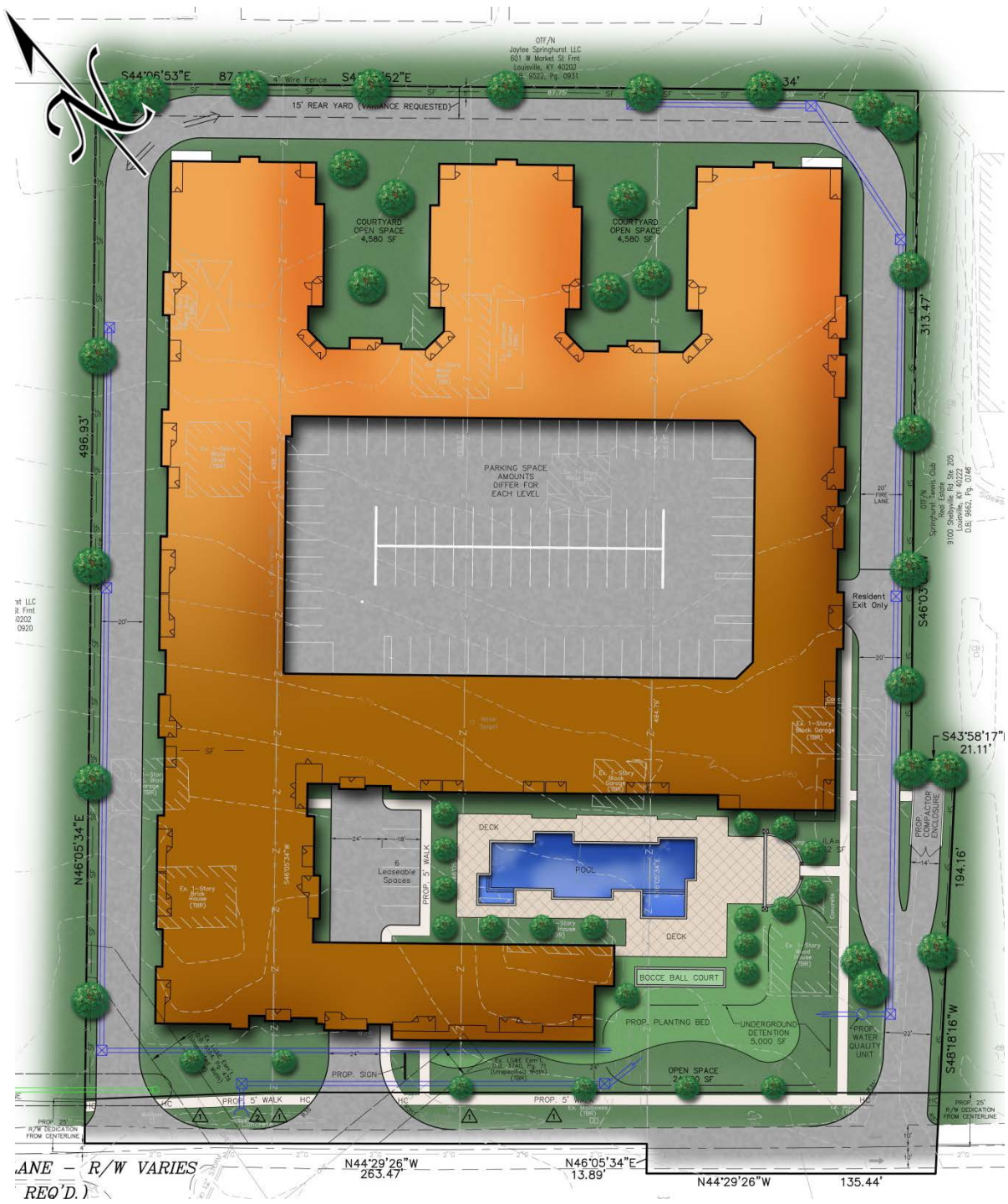


Republic
Bank Bldg.

Tennis
Center



Plan presented at the December 17, 2015 neighborhood meeting





Current plan with shorter office building, as shown at March 8, 2016 neighborhood meeting.

Tab 8

Current development plan, plus setback, screening
& buffering issues addressed



Screening & Buffering

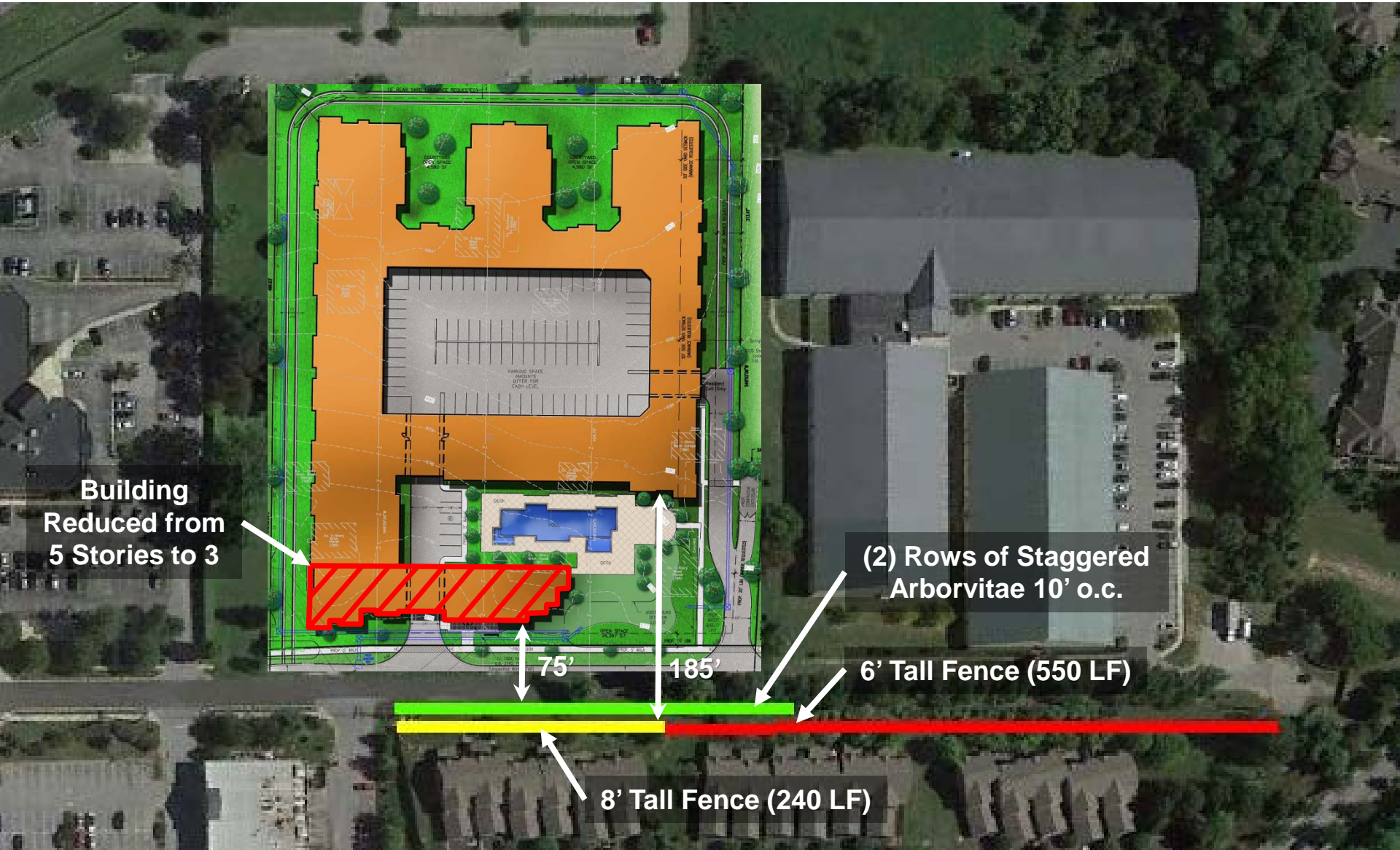


(2) Rows of Staggered
Arborvitae 10' o.c.

6' Tall Fence (550 LF)

8' Tall Fence (240 LF)

Screening & Buffering



Fence to be replaced along opposite side of Simcoe Ln.



Tab 9
Building Elevations



Simcoe Ln front elevation presented at the December 17, 2015 neighborhood meeting



SW/Simcoe Lane Elevation

Simcoe Ln front current proposed elevation



SW/Simcoe Lane Elevation

Simcoe Ln front 3-story street view



Massing Study, Simcoe Lane Elevation

Bank side elevation presented at the December 17, 2015 neighborhood meeting



NW/Bank Elevation

Bank side current proposed elevation



NW/Commercial Elevation

Tennis center side current proposed elevation, same as 12/17/15 neighbor mtg.



SE/Tennis Center Elevation

Interstate current proposed elevations, same as 12/17/15 neighbor mtg.



NE/Interstate Elevation

Tab 10

Examples of other CityScape apartment communities











Sample interiors









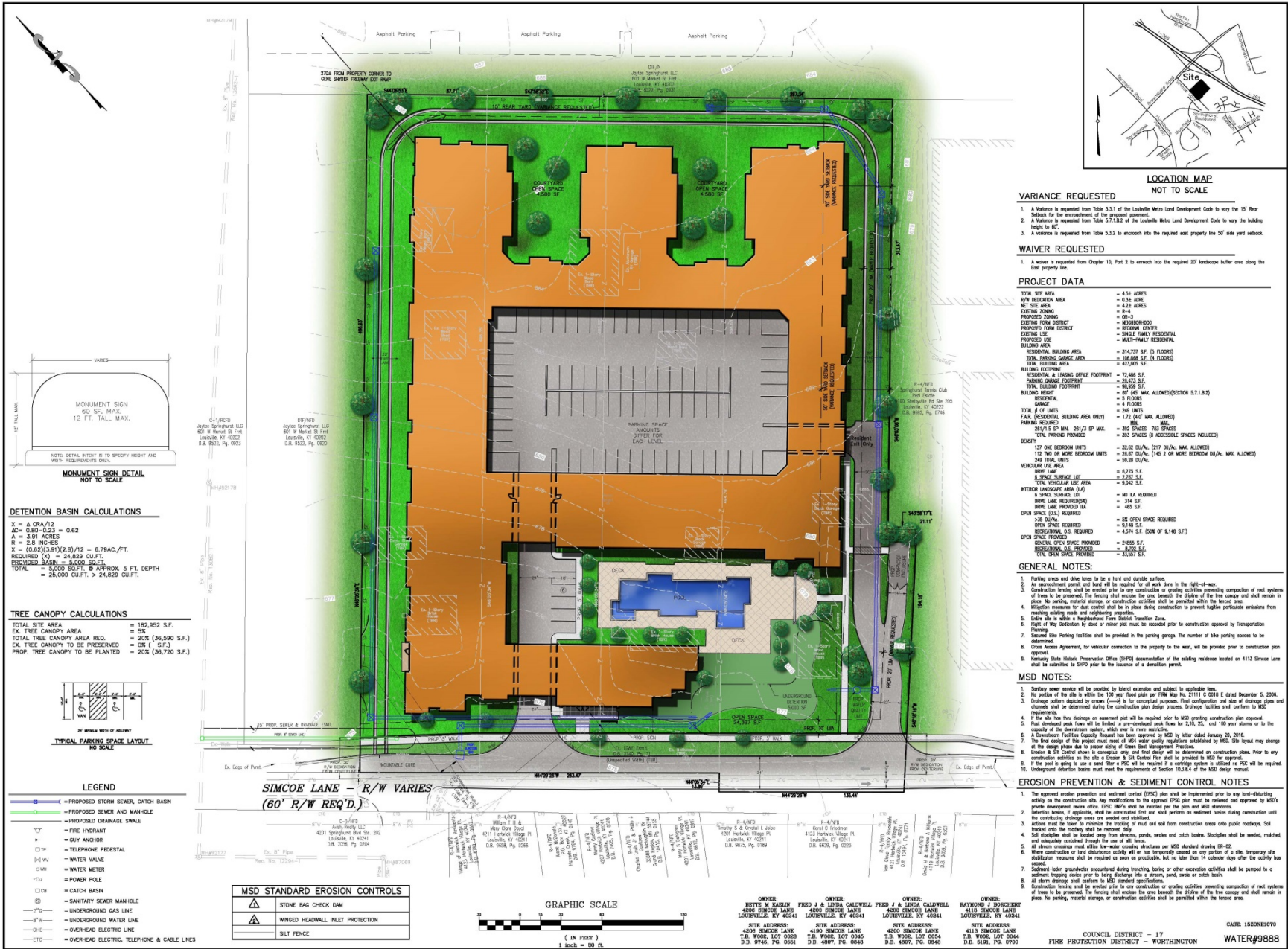


Tab 11

Development plan and variances/waivers



Development Plan



VARIANCE REQUESTED

- A Variance is requested from Table 5.3.1 of the Louisville Metro Land Development Code to vary the 15' floor setback for the attachment of the proposed pavilion.
- A Variance is requested from Table 5.3.1.2 of the Louisville Metro Land Development Code to vary the building height to 87'.
- A variance is requested from Table 5.3.2.2 to encroach into the required set property line 30' side yard setback.

WAIVER REQUESTED

- A waiver is requested from Chapter 13, Part 2 to encroach into the required 20' landscape buffer area along the East property line.

PROJECT DATA

TOTAL SITE AREA	= 4.54 ACRES
R/W DEDICATION AREA	= 0.51 ACRES
NET AREA	= 4.03 ACRES
EXISTING ZONING	= R-4
PROPOSED ZONING	= R-4
EXISTING FPM DISTRICT	= NEIGHBORHOOD
PROPOSED FPM DISTRICT	= NEIGHBORHOOD
EXISTING USE	= SINGLE FAMILY RESIDENTIAL
PROPOSED USE	= 3-4 FAMILY RESIDENTIAL
BUILDING AREA	= 314,727 S.F. (9 FLOORS)
TOTAL BUILDING AREA	= 1,085,668 S.F. (4 FLOORS)
TOTAL BEARING AREA	= 433,908 S.F.
BUILDING FOOTPRINT	= 72,486 S.F.
RESIDENTIAL & LEASING OFFICE FOOTPRINT	= 24,472 S.F.
PARKING GARAGE DOCK	= 2,048 S.F.
TOTAL BEARING FOOTPRINT	= 72,486 S.F.
BUILDING HEIGHT	= 87' (AT MAX ALLOWED) SECTION 5.71.8.2
RESIDENTIAL	= 4 FLOORS
OFFICE	= 2 FLOORS
DRIVE	= 1.72' (46' MAX ALLOWED)
F.A.R. (RESIDENTIAL BUILDING AREA ONLY)	= 1.72 (46' MAX ALLOWED)
PARKING REQUIRED	= 392 SPACES 763 SPACES
TOTAL PARKING PROVIDED	= 303 SPACES (9 ACCESSIBLE SPACES REQUIRED)
DEADEND	= 157 ONE BEDROOM UNITS = 32,62 (D/U/A; 127 (R/A; MAX ALLOWED)
	= 143 TWO OR MORE BEDROOM UNITS = 28,81 (D/U/A; 143 OR MORE BEDROOM (D/U/A; MAX ALLOWED)
	= 169 TOTAL UNITS
VEHICULAR USE AREA	= 6,123 S.F.
BI-SPACED PARKING LOT	= 2,182 S.F.
TOTAL VEHICULAR USE AREA	= 8,305 S.F.
INTERIOR LANDSCAPE AREA (L.A.)	= NO L.A. REQUIRED
3" SPACED SERVICE LOT	= 314 S.F.
DRIVE LANE REQUIREMENTS	= 493 S.F.
OPEN SPACE (S.) REQUIRED	= 58 SPACES REQUIRED
OPEN SPACE PROVIDED	= 6,123 S.F. (206' OF 4,146 S.F.)
RESIDENTIAL U.S. REQUIRED	= 2,962 S.F.
OPEN SPACE PROVIDED	= 6,123 S.F.
RESIDENTIAL U.S. PROVIDED	= 8,305 S.F.
TOTAL OPEN SPACE PROVIDED	= 11,337 S.F.

GENERAL NOTES:

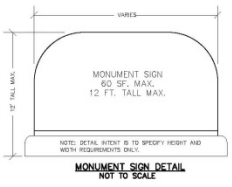
- Paving areas and other notes to be a hard and durable surface.
- An encroachment permit and bond will be required for all work done to the right-of-way.
- Construction activities shall be completed prior to the end of the construction period to the extent of the construction contract to ensure that the site is in compliance with the applicable codes and standards in force at the time of construction, or construction activities shall be permitted within the fenced area.
- Mitigation measures for dust control shall be in place during construction to prevent fugitive particulate emissions from existing roads and neighboring properties.
- Earth shall be within a Neighborhood Form District Boundary Zone.
- Height of any foundation by itself or other wall must be recorded prior to construction approval by Transportation Planning.
- Second-Stage Parking facilities shall be provided in the parking garage. The number of bike parking spaces to be determined.
- Crime Access Agreement, for vehicular connection to the property to be, will be provided prior to construction plan approval.
- Architectural State Historic Preservation Office (SHPO) documentation of the existing building located on 4113 Simcoe Lane shall be submitted to SHPO prior to the issuance of a demolition permit.

MSD NOTES:

- Sanitary sewer service will be provided by lateral extension and subject to appropriate fees.
- No portion of the site is within the 100-year flood plain per FEMA Map No. 21111-C-0218-E dated December 5, 2008.
- Drainage pattern depicted by arrows (→) is for conceptual purposes. Final configuration and size of drainage pipes and channels will be determined during the construction plan design process. Storage facilities shall conform to MSD requirements.
- If the site has two (2) drainage an easement plot will be required prior to MSD grading construction plan approval.
- Final proposed peak flows will be provided by lateral extension and subject to appropriate fees.
- Construction activities shall be completed prior to the end of the construction period to the extent of the construction contract to ensure that the site is in compliance with the applicable codes and standards in force at the time of construction, or construction activities shall be permitted within the fenced area.
- The final design of this project must meet all applicable water quality regulations established by MSD. This report may change the design of the project due to project approval.
- Excavate & Fill Control shall be completed only and final design will be determined at construction plans. Prior to any construction activities on the site the owner shall provide to MSD for approval.
- If the pool is going to be used prior to a PSC will be required if a carriage sign is utilized as PSC will be required.
- Final design shall be submitted to the appropriate department of Section 153.3.A of the MSD design manual.

EROSION PREVENTION & SEDIMENT CONTROL NOTES

- The approved erosion prevention and sediment control plan shall be implemented prior to any land-disturbing activity on the construction site. Any modifications to the approved EOP plan must be reviewed and approved by MSD's Environmental Services Division. EOP plan shall be installed prior to any land-disturbing activity.
- Retention basins if constructed shall be constructed first and shall perform an sediment basins during construction until construction is completed.
- Actions shall be taken to minimize the tracking of mud and soil from construction areas onto public roadways. Silt shall be removed from the site by silt traps, silt fences, and other erosion control devices. Silt traps shall be installed, matched, and maintained continuously during construction.
- Silt interceptors shall be installed deep from drainage, ponds, swales and catch basins. Silt traps shall be installed, matched, and maintained continuously during construction.
- All stream crossings must utilize low water crossing structures per MSD standards drawing 89-02.
- Stream construction shall be completed as soon as practicable but not later than 14 calendar days after the utility has ceased.
- Sediment-laden groundwaters encountered during trenching, boring or other excavation activities shall be pumped to a treatment lagging basin prior to being discharged into a stream, pond, creek or other water.
- All storm drainage shall conform to MSD standards specifications.
- Construction activities shall be restricted to construction or grading activities preventing construction of most systems of trees to be retained. The fencing shall include the area beneath the drip line of the tree canopy and shall remain in place. In planting, retaining stone, or construction activities shall be permitted within the fenced area.



DETENTION BASIN CALCULATIONS

X = Δ CRA/12
 ΔC = 0.80-1.23 = 0.62
 A = 3.91 ACRES
 R = 2.6 INCHES
 X = (0.62)(3.91)(2.6)/12 = 6.79 AC./FT.
 REQUIRED (C) = 24.228 CU.FT.
 PROVIDED MAJOR = 25,000 S.F.
 TOTAL = 5,000 CU.FT. APPROX. 3 FT. DEPTH
 TOTAL = 25,000 CU.FT. = 24,689 CU.FT.

TREE CANOPY CALCULATIONS

NET SITE AREA = 182,852 S.F.
 EX. TREE CANOPY AREA = 5%
 TOTAL TREE CANOPY AREA REQ. = 20% (36,590 S.F.)
 EX. TREE CANOPY TO BE PRESERVED = 0% (S.F.)
 PROP. TREE CANOPY TO BE PLANTED = 20% (36,720 S.F.)

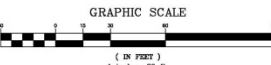


LEGEND

- PROPOSED STORM SEWER, CATCH BASIN
- SANITARY SEWER MANHOLE
- PROPOSED SEWER AND MANHOLE
- PROPOSED DRAINAGE SWALE
- FIRE HYDRANT
- GUY ANCHOR
- TELEPHONE PEDISTAL
- WATER VALVE
- WATER METER
- POWER POLE
- CATCH BASIN
- SANITARY SEWER MANHOLE
- UNDERGROUND GAS LINE
- UNDERGROUND WATER LINE
- OVERHEAD ELECTRIC LINE
- OVERHEAD ELECTRIC, TELEPHONE & CABLE LINES

MSD STANDARD EROSION CONTROLS

(Symbol)	STONE BAG CHECK DAM
(Symbol)	WINGED HEADWALL INLET PROTECTION
(Symbol)	SILT FENCE



OWNER: BETTE W. KARBIN, FRED J. & LINDA CALDWELL
 4200 SIMCOE LANE, LOUISVILLE, KY 40241

OWNER: FRED J. & LINDA CALDWELL
 4200 SIMCOE LANE, LOUISVILLE, KY 40241

OWNER: FRED J. & LINDA CALDWELL
 4200 SIMCOE LANE, LOUISVILLE, KY 40241

OWNER: RAYMOND J. BONSCHERT
 4113 SIMCOE LANE, LOUISVILLE, KY 40241

REVISIONS

NO.	DATE	DESCRIPTION	BY
-----	------	-------------	----

PROJECT DATA

FILE NAME: 15099.DWG
 DATE: 3-11-18
 SCALE: AS SHOWN
 COUNCIL DIST: 17
 FPD: 17-089

ENGINEER'S SEAL
 SURVEYOR'S SEAL

DETAILED DISTRICT DEVELOPMENT PLAN

CITYSCAPE LANE
SIMCOE LANE
 CITYSCAPE RESIDENTIAL
 8335 KEYSTONE CROSSING, SITE 106
 INDIANAPOLIS, IN 46240

L&D&D
LAND DESIGN & DEVELOPMENT, INC.
 65 PHARMACY SQUARE, SUITE 200 - LAMARLE, INDIANAPOLIS, IN 46202
 TEL: 317.508.1212 FAX: 317.508.1215
 WWW.LDANDD.COM

APP NO. 15099

SHEET 1 OF 1

COUNCIL DISTRICT - 17
 FIRE PROTECTION DISTRICT - WORTHINGTON
 CASE: 15030N/FPD
 WATER#9888

15' Rear Yard Setback Variance



Only encroachment into the yard will be the fire access lane

50' Side Yard Setback Variance



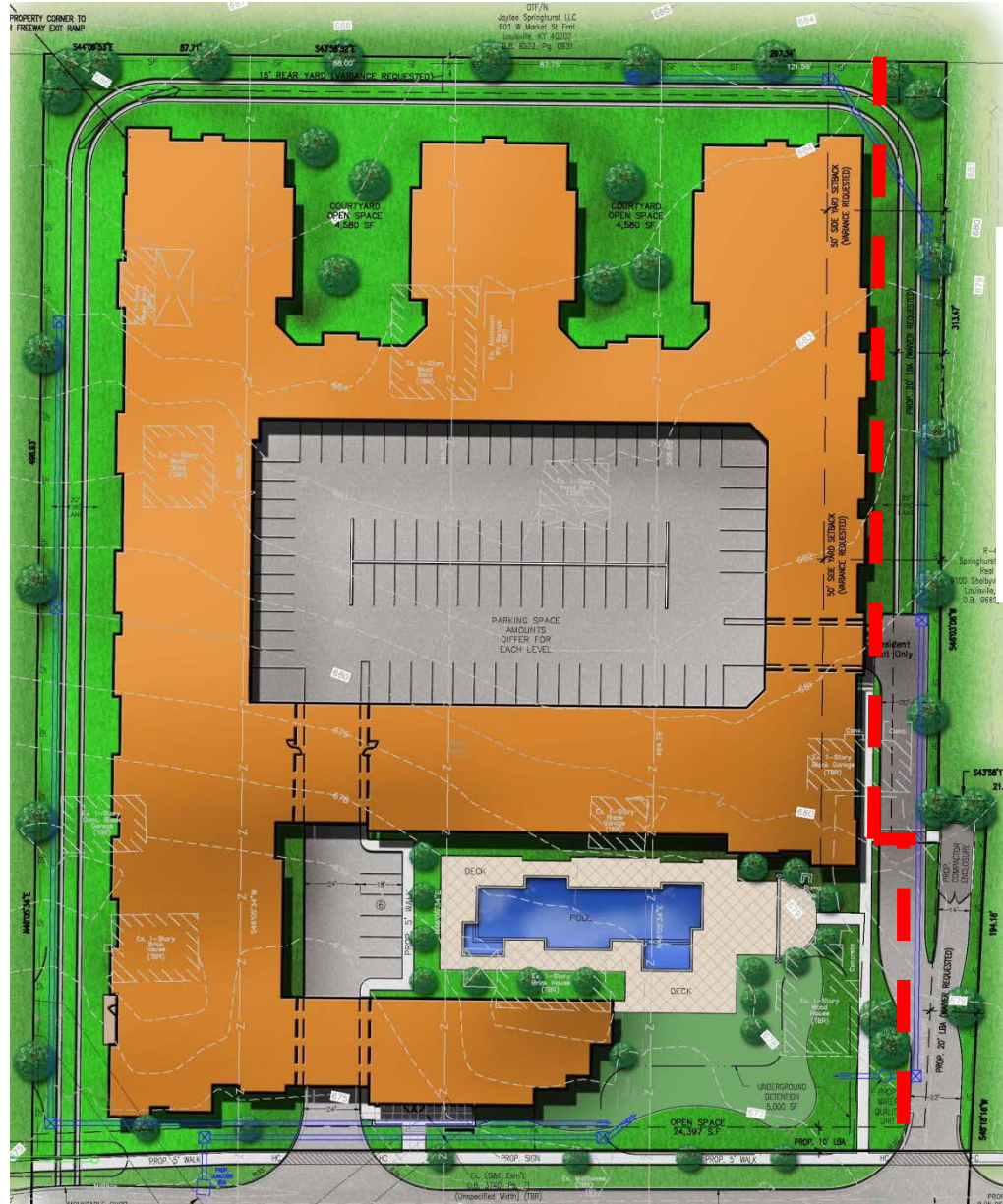
50' setback due to the R-4 zoning of the adjacent property to the east, even though it is not a R-4 use

Height Variance



Variance to allow the building to be up to 60' tall

20' Landscape Buffer Waiver



20' landscape buffer area due to the R-4 zoning of the adjacent property to the east, even though it is not a R-4 use. Landscaping will be provided

Tab 12

Binding Element Agreement between CityScapes
and Village of Hardwick HOA Board of Directors



From: Jack Kelly <jaxxkelly@yahoo.com>

Date: April 12, 2016 at 1:34:01 PM EDT

To: Julia Williams Metro Zoning <Julia.Williams@louisvilleky.gov>, Brian Evans <bevans@cityscaperesidential.com>

Subject: Support of Zoning change Case 15ZONE1070

This email is to acknowledge the discussion and agreement of Binding Elements for building of an apartment complex by Cityscape Residential @ 4113 Simcoe Ln in the matter of case 15ZONE1070. We understand the agreed upon Binding Agreement was previously submitted to you and will be included in the project. Cityscape Residential agreed to the binding elements and to also comply with all other LDC and planning requirements. We understand the binding elements will be a permanent record of case 15ZONE1070 and included as part of the case approval and survivable to any owners, current or future, of the property known as Simcoe Ln Apartments as stated in case 15ZONE1070.

We want to acknowledge the spirit of cooperation and the willingness of Cityscape Residential to work with the Springhurst Area Citizens Committee on Simcoe Ln Re-zoning and the Village of Hartwick HOA. In exchange, Village of Hartwick HOA Board of Directors are unanimous in support of the re-zoning request.

--

Jack Kelly, Vice President

Village of Hartwick HOA

Chairman, Springhurst Area Citizens Committee on Simcoe Ln Re-zoning

Binding Elements for Case 15ZONE1070
Dated April 2, 2016

This document is to acknowledge the discussion and agreement of Binding Elements for building of an apartment complex by Cityscape Residential @ 4113 Simcoe Ln in the matter of case 15ZONE1070. We acknowledge the spirit of cooperation and the willingness of Cityscape Residential to work with the Springhurst Area Citizens Committee on Simcoe Ln Re-zoning.

1. Fence for privacy and noise abatement

- a) Developer will replace the current 6' cedar plank fence with a new solid double sided cedar plank fence. An 8' fence will run from the corner starting behind 4211 Hartwick Village Pl and continue for approximately 240 feet running south behind 4201 Hartwick Village Pl (red line). At this location (starting at north edge of 4123 Hartwick Village Pl the fence will transition over an 8' span to 6' in height (blue line) and continue running south for approximately 550 feet to the current corner in front of the tennis center parking lot. See attached diagram for location of fence. The entire length of the fence including that portion in front of the tennis center is included to ensure consistent appearance for all homes backing up to Simcoe Ln. Fence construction will be completed within 30 days of start of initial site clearing and preparation for construction.
- b) The 8' fence will be a solid double sided privacy fence on 6x6 treated posts with 4 2x4 stringers per section. The 6' fence will be a solid double sided solid privacy fence on 4x4 treated posts with 3 2x4 stringers per section.



2. Landscaping for privacy and additional noise abatement and beautification.
 - a) The area behind the Hartwick Village fence and in the Simcoe Ln Right of Way starting at east edge of Simcoe Ln. and extending for approximately 12' to the utilities easement will be planted with 2 rows 7-8' Arborvitae or other Evergreens. These plantings will run continually to a point on the opposite side of Simcoe Ln that marks the end of subject development property. Each row will have trees on 10' centers with the 2nd row staggered and 5' behind the first row.
 - b) All plantings will be maintained and if a tree dies it will be replaced by the owner of Simcoe Apartments no later than next growing season.
 - c) The owner of Simcoe Ln Apartments will also mow and maintain the grassy area between the fence and edge of Simcoe Ln for the length of the subject development property.
 - d) The trees will be planted within 60 days after the completion of the curb and gutter upgrade on the west side of Simcoe Ln. or the next growing season.
3. Lighting
 - a) All outdoor lighting will be positioned in such a matter that no lights will shine directly onto the residential property of Hartwick Village.
 - b) Where needed to prevent lights from shining in the direction of Hartwick Village, shades and/or defectors will be installed around the light fixture to prevent direct beams of light shining toward Hartwick Village.
 - c) Exterior lighting to be low level landscaping type lighting or architectural highlighting shining only on building.
4. Water run off and storm sewer control
 - a) Developer will install curb and gutter on both sides of Simcoe Lane the length of the subject development property.
5. Building Design and layout
 - a) In consideration that the LDC limits building height to 45' and that a variance has been requested to allow a building height of 60' (5 stories), Developer agrees to limit the height of the front wing of the building facing Simcoe Ln to 48' with no more than three stories above grade. The final plans for this will be filed and approved prior to the start of any construction or clearing of property.

6. No outdoor advertising or free standing signs will be allowed except for those specifically approved and in compliance with LDC. No pennants, balloons or banners shall be permitted on the site except for a 60 day period immediately following first day of opening or apartment showings.

7. Construction hours will be limited to the hours from 7am to 7pm Mon-Sat.

8. No construction staging or parking will take place on Simcoe Ln. All trucks will use an entrance to the construction site that has been prepared (graded and with adequate rock base) for construction trucks and equipment.

9. If construction requires the use of explosives or pile drivers, the homeowners of Hartwick Village and Abbeywood will be notified at least 24 hours in advance with notices provide to designated Home Owner Association Representatives. The use of explosives will be limited to 2 scheduled times a day between the hours of 9am – 4pm Mon-Sat. Pile driving will be limited to the hours between 9am-4pm Mon-Sat.

10. If explosives or pile-driving is used in the construction of Simcoe Apartments, Developer agrees that any sub-contractors or contractors performing such work will be fully qualified, licensed and fully insured and capable of paying full repair cost to the property owners in Hartwick Village and Abbeywood for any damages to the property that may be caused by those activities.

11. Developer agrees to control dust during construction periods and to take appropriate actions to mitigate dust as necessary.

Cityscape Residential agrees to the above binding element and to also comply with all other LDC and planning requirements. In exchange Village of Hartwick HOA not to oppose the rezoning request. These binding elements will be a permanent record of case 15ZONE1070 and included as part of the case approval and survivable to any owners, current or future, of the property known as Simcoe Ln Apartments as stated in case 15ZONE1070.

Tab 13
Traffic Impact Study





REPORT

Cityscape
Simcoe Lane
Louisville, KY

Traffic Impact Study

Louisville Metro

Revised March 17, 2016

**CDM
Smith**

Traffic Study Key Assumptions

- Counts taken on February 17th (Wednesday) and February 25th (Thursday)
- AM trips counted from 7 am to 9 am
- PM trips counted from 4 pm to 6 pm
- 2% Annual Growth Rate
- Includes traffic from proposed Jaytee Properties office development (40,800 SF)



Level of Service

LEVEL OF SERVICE RESULTS

	AM Peak Hour			PM Peak Hour		
	2016 Existing	2019 No Build	2019 Build	2016 Existing	2019 No Build	2019 Build
KY 22 at Simcoe Lane						
KY 22 Westbound	B 10.1	B 11.3	B 11.7	B 11.9	B 13.5	C 16.4
Simcoe Lane Northbound	B 10.0	B 10.12	B 11.4	C 21.0	D 25.8	D 30.4
Drury Inn Southbound Right Only	C 18.7	C 19.5	C 19.6	B 13.5	B 13.5	B 13.5
KY 22 at Avish Gardens/Paddock Shops	B 14.0	B 14.6	B 15.6	C 34.5	D 36.8	D 37.9
KY 22 Eastbound	B 10.8	B 10.3	B 10.5	C 29.6	C 31.7	C 32.7
KY 22 Westbound	B 11.4	B 12.2	B 12.3	C 22.7	C 23.9	C 24.4
Avish Gardens Northbound	D 49.0	E 56.9	E 61.8	E 60.8	E 66.0	E 67.8
Paddock Shops Southbound	D 53.3	E 62.3	E 62.8	E 76.8	F 82.0	F 83.9

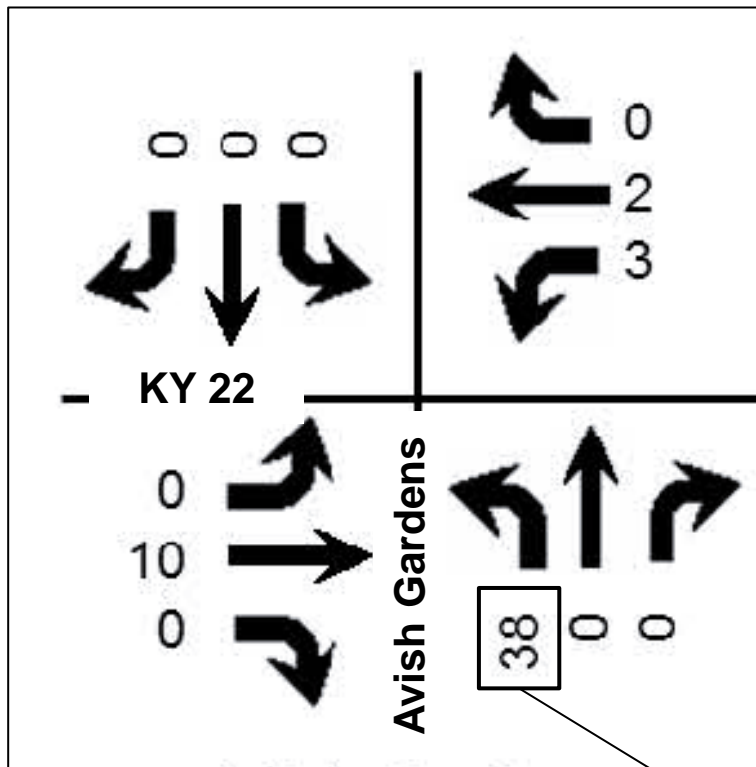
Level of Service Does not change from 2019 No Build vs. Build



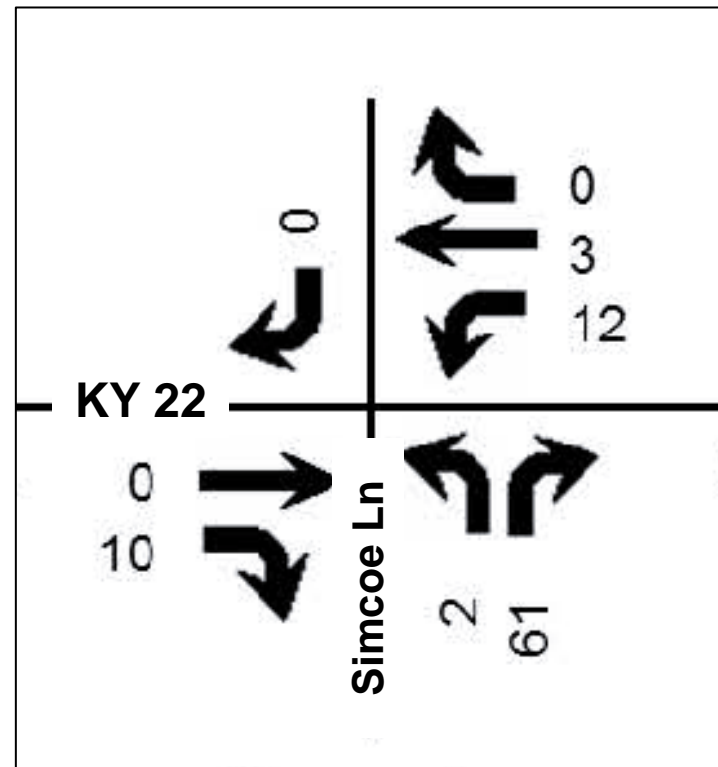
Traffic – AM trips

AM PEAK HOUR TRIPS		
Total	Enter	Exit
126	25	101

Avish Gardens/KY 22 Intersection



Simcoe Ln/KY 22 Intersection

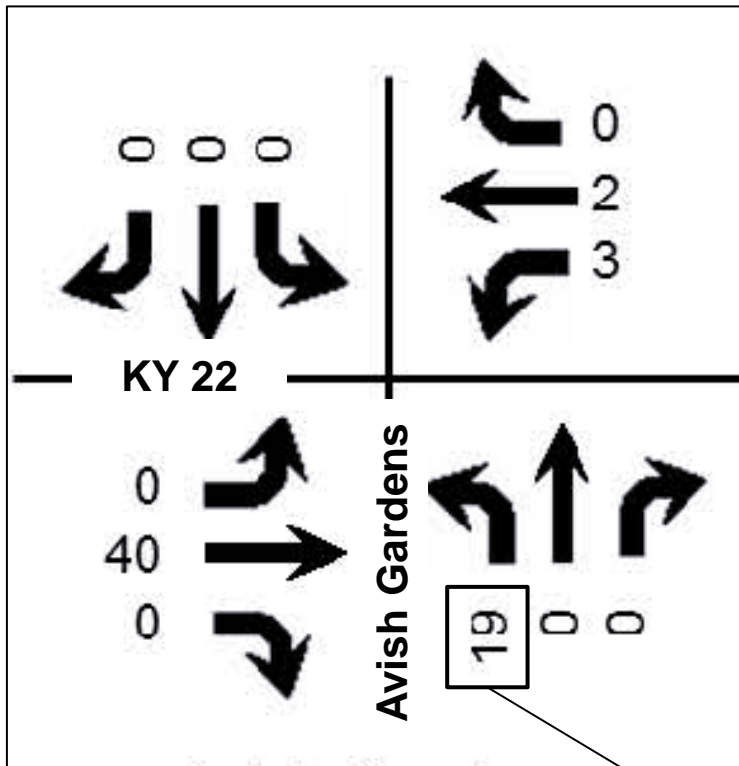


38 Trips Thru Avish Gardens
(1 Car Every 95 Seconds)

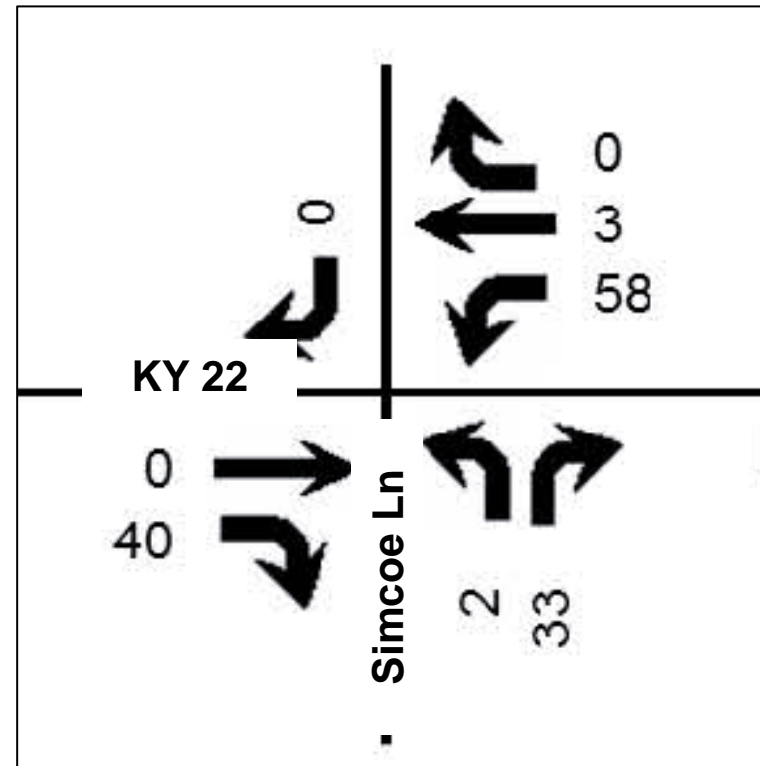
Traffic – PM Trips

PM PEAK HOUR TRIPS		
Total	Enter	Exit
155	101	54

Avish Gardens/KY 22 Intersection

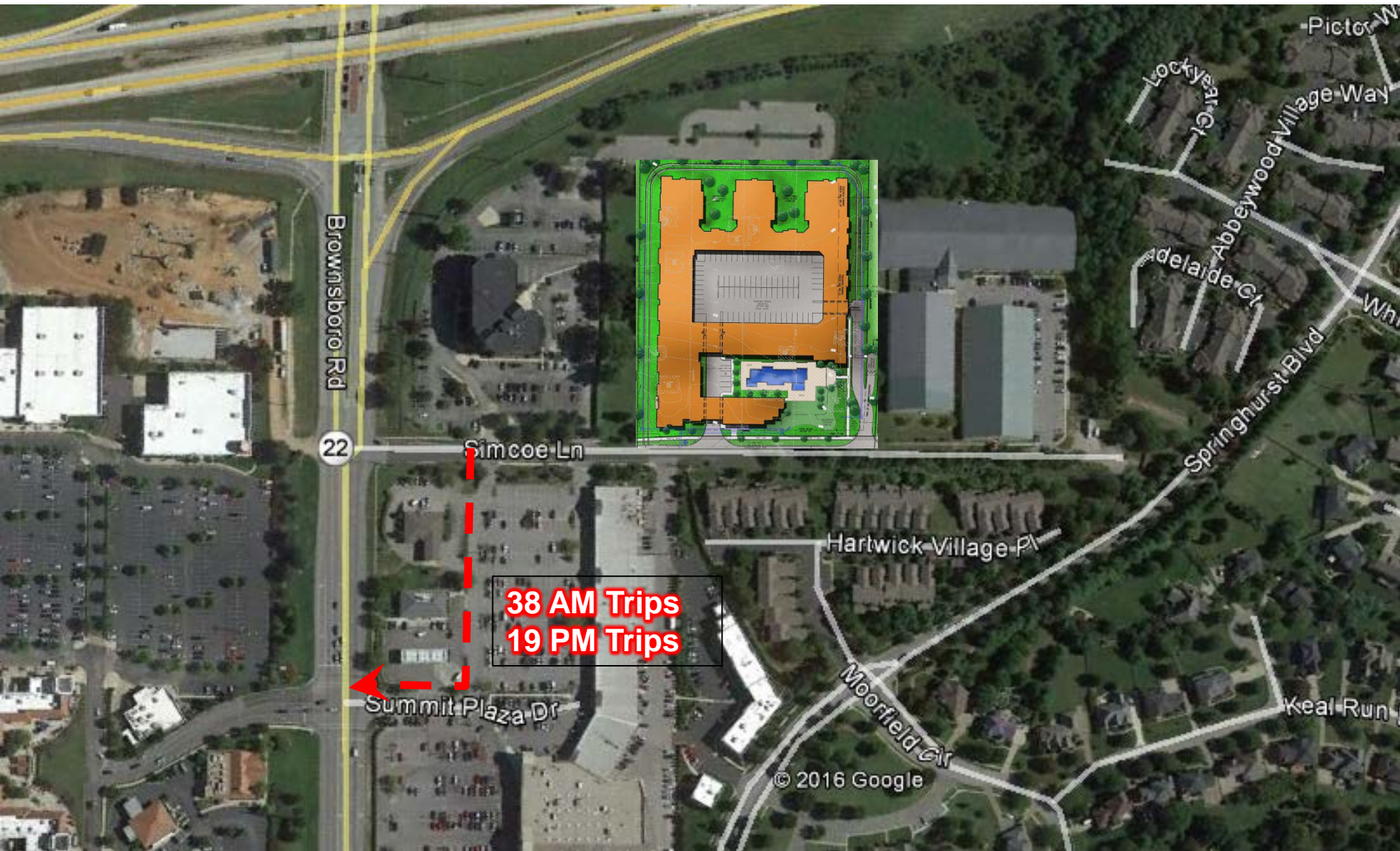


Simcoe Ln/KY 22 Intersection



19 Trips Thru Avish Gardens (1 Car Every 189 Seconds)

Location



Trip Generation Notes

The ITE traffic manual likely overstates trips generated from this development due to it's location and clientele:

- 850 feet from a TARC stop, which promotes multi-modal transportation
- 4 minute walk to Kroger
- 7 minute walk to Starbucks at The Paddock Shops
- Multiple office developments within easy walking/biking distance
- Many residents in similar communities work from home and do not make typical peak hour commuting trips
- Bike parking areas located in secured parking garage will promote alternative modes of transportation



Trip Generation Comparison

Proposed Apartments – 249 Units

	Total	Enter	Exit
AM	126	25	101
PM	155	101	54

Development Plan as Proposed

Hotel (120 rooms) 7,580 SF Restaurant

	Total	Enter	Exit
AM	146	82	64
PM	179	103	76

Alternate Development Scenario 1: Previously Proposed Development Plan under Case #11000

131,250 SF Office

	Total	Enter	Exit
AM	238	209	29
PM	225	38	187

Alternate Development Scenario 2: Replace Apartments with Office



Tab 14

Statement of Compliance filed with the original zone change application with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan plus variance and waiver Justifications



BARDENWERPER, TALBOTT & ROBERTS, PLLC

Attorneys at law

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

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

Applicant: Cityscape Residential, LLC

Owner: Raymond J. Borchert, Fred & Linda
Caldwell, Bette Kaelin

Location: 4113, 4190, 4200 and 4206 Simcoe Lane;
Block W002, Lot 44; Block W002, Lots 45,
54, 58

Existing Uses: Single Family Residential

Proposed Use: Apartment Community

Engineering Firm: Land Design & Development, Inc.

Request: Change in Zoning from R-4 to OR-3 and
Form District Change from Suburban
Neighborhood to Regional Center

SUMMARY STATEMENT

This application involves the use of four in-fill parcels that remain as islands of single-family use in a sea of otherwise intensively utilized properties in this highly commercialized KY Highway 22/Snyder Freeway interchange. The site adjoins or is located very near an on-ramp to the Snyder Freeway and an equally tall corporate bank building, with shopping centers next door and across KY 22, and two 5-story hotels also across KY 22. As a consequence, this property, located at the current terminus of the Regional Center Form District adjoining or near the properties as it is, is perfect for a similarly intensive use, yet one that will add residents, instead of more transients, to the area.

GUIDELINE 1 – COMMUNITY FORM

The property is located right next to (and proposed for sidewalk connection with) a still developing, relatively new, highly popular and active Regional Center Form District, which includes a variety of large scale retail, office and hotel uses. The use, size and scale of the proposed form and zoning district changes are thus in conformance with the Regional Center Form and all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan relating to same. Yet, the proposed plan and use also comply with the current Suburban Neighborhood Form District in that this is a proposed residential use across Simcoe Lane from another one. It is just that the Regional Center Form designation seems more appropriate to this

applicant, its land planner and attorney, given the strong tie and symbiotic relationship of this apartment community to all the nearby various uses in that Center.

GUIDELINE 2 – CENTERS

The Intents of this Guideline of the Comprehensive Plan seek to assure that activities are confined to areas where their impacts will be muted because activities are congregated together with symbiotic uses, rather than located haphazardly where they do not support or relate to one another. The proposed apartment community comports with the above described nearby land uses both at an interstate interchange and at the multiple corporate office buildings and two large shopping centers (notably containing restaurants and two groceries) nearby, all of which relate well, especially with the new sidewalk connections, one with the other, which this use will serve especially well.

Policy 1 of this Guideline says that activity centers should be located, for example, within a Regional Center Form District. Again, as set forth above, this site is at the edge of the existing Regional Form District and should be added to it because it otherwise remains as an island of which density residential use in a sea of intense interstate highway interchange businesses near a busy arterial, KY 22, which is proposed for this infill site because its residents will use those shopping centers and corporate office buildings, often walking to them.

Policies 3, 4 and 5 of this Guideline refer to much the same things, notably locating facilities of these kinds exactly where this one is located, in the midst of an existing activity center, making sure that the activity is as compact as possible, which the current land patterns and new and existing sidewalks in this area assure because everything else, but this site, is nearly already fully built out with uses that rely on one another.

Policy 6 of this Guideline says that residential development should be located in designated activity centers in order for residents to have immediate access to a variety of close by activities, including jobs, dining and shopping. Located as this infill site is, next door to corporate offices and shopping, and near even more of the same, this proposed apartment community is perfectly situated.

GUIDELINE 3 - COMPATIBILITY

The Intents of this Guideline seek to ensure that land uses and transportation facilities are located, designed and constructed to be compatible with nearby land uses and to minimize impacts to residential areas, schools and other sensitive areas in the community. Compatibility was determined years ago when this larger area was designated under the Cornerstone 2020 Comprehensive Plan as a Regional Center Form District. This site was left out of that form district only because it remained as the last four single-family lots along a street accessing a tall office building, and, at the time the forms were mapped, the next door was nonexistent, no sidewalks connected these properties to the nearby shopping centers, and there probably was the thought that Simcoe Lane might ultimately be connected to Springhurst Blvd. and the Springhurst residential neighborhood next to it. But that connection is impossible to make because of a “spite strip” that permanently disconnects these lots, thus suitable for apartment

development, from the suburban neighborhood and because of the over-arching Comprehensive Plan desire to locate intense residential next to or in the intensity of an existing activity center.

Policies 1, 2, 3, 5, 6, 7, 8, 9, 19, 1, 12, 13, 14, 15, 20, 21, 22, 23, 24, 25, 28 and 29 of this Guideline are all part and parcel of the overall intent of this Guideline, which is to assure use and design compatibility. These Policies specify that that can be accomplished by placement of uses, such as buildings and parking, the selection of building materials, the types of screening and buffering, the extent of existing and proposed new vegetation, the control of traffic, the control of noise, the control of lighting, contributions to visual/aesthetic impacts, and the kinds of transitions and buffers to assure that nearby uses are not adversely impacted. The only use of this site that would have less negative impact on the area, considering the sea of commercial and interstate and arterial activities surrounding it, would be no change in use at all, which makes no sense considering the island of single-family that this site otherwise constitutes. That is because this is a proposed use of similar height, located near or next to offices, shopping, restaurants and an interstate highway system off a major arterial highway. Lighting will, of course, be directed down and away from adjoining properties as required by the Land Development Code (LDC). Noises will be confined to the interior of the site. Odors are not involved in a residential use like this. The look of the property is as shown on the architectural images preliminarily available as part of the PowerPoint presentation shown at the neighbor meeting accompanying this application. These images demonstrate a high level of attractive design detail, and they will be updated near-term, surely before Planning Commission LD&T Committee review. Parking is totally screened by the apartment building which surrounds the parking garage.

GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

The Intents of this Guideline are to provide a positive culture for attracting and sustaining businesses within Metro Louisville. This application surely complies with this Guideline because it gives people opportunities to reside proximate to offices, dining and shopping in one of Metro Louisville’s newest and most successful activity centers at an interstate interchange location. What better place to locate residents than where many of them can walk instead of drive?

Policies 1, 4, 5 and 6 of this Guideline pertain to preserving workplaces and locating business in and around activity centers. What Cityscape proposes is to take a presently way-underutilized in-fill site, rezone it, and convert this site to a productive, positive, symbiotic use which makes all the existing office and commercial uses nearby even better/more successful because workers and shoppers can live close by. There is a large Regional Center Form District surrounding the site. Therefore, and for all the reasons set forth above, especially given the symbiotic uses nearby, this use fits well at this location. Access works, especially with connectivity through the Avish Gardens Center to a traffic signal, and the KY 22/Snyder Freeway interchange already handles large volumes of traffic, to which this use will contribute additional traffic volumes only to the extent residents don’t avoid the interchange, by walking and driving very short distances to offices, shopping and dining close by.

GUIDELINES 7 and 8 – CIRCULATION and TRANSPORTATION FACILITY DESIGN

The Intents of these Guidelines seek to ensure the safe and proper functioning of street networks, to ensure that new developments do not exceed the carrying capacity of streets, to address congestion and air quality issues and to provide an efficient, safe and attractive system of roadways, transit routes, sidewalks and so forth.

The proposed addition of an apartment community to the interstate interchange accomplishes all of these things, because the proposed site plan does not really involve any change in access, traffic patterns, circulation or parking. Any new traffic to the existing KY 22 street system and referenced interstate interchange will be modest compared to what already exists here, which admittedly constitutes a lot of traffic. But this is a use that can utilize existing office, shopping and dining facilities via walking, biking and short drives, which should be encouraged wherever possible. This apartment community here has better nearby walking, biking and short driving access to offices and shopping than perhaps any other apartment community outside the urban core. And it also has easy access through Avish Gardens Shopping Center to a KY 22 traffic signal and crosswalk to the Paddock Shoppes.

Policies 1, 2, 6, 9, 10, 11, 13 and 14 of Guideline 7 all provide further detail of the requirements for traffic impact mitigation. The circulation within this site, access to it, parking lot design and appropriate turning radiuses are all shown on the detailed district development plan (DDDP) submitted with this application. This application will receive a thorough review by the Traffic Planning Section of the Department of Codes and Regulations and by the Metro Works Department, and the DDDP accompanying this application cannot be officially docketed for Planning Commission public review until those agencies are completely satisfied that all standard requirements for traffic and transportation impacts on overall interior and exterior site design, with inputs from KTC, has been addressed. Much of this site design, however, perhaps all of it, already contemplates the comments of traffic and transportation agencies because connectivity, circulation and access are key components of the design of this apartment community which contains a large internal parking structure. A traffic study has been undertaken by Diane Zimmerman, PE, who has already identified KTC-planning improvements to ramp access to the Snyder Freeway.

GUIDELINE 9 – BICYCLE, PEDESTRIAN AND TRANSIT

The Intents of this Guideline seek to assure that transit and non-motorized methods of travel are accommodated. Specifically, Policies 1, 2, 3, 4 and 5 require, where possible, the provision of sidewalk connections, bicycle facilities and transit accommodations. This site, located near an existing transit route where sidewalks will be added along Simcoe Lane to what is largely already provided elsewhere within the existing Regional Center, attempts to accommodate applicable alternative transportation modes. Bike storage will be included with the apartment community's design.

GUIDELINES 10 and 12 –STORMWATER MANAGEMENT AND AIR QUALITY

The Intents of these environmental Guidelines seek to protect areas from the adverse consequences of stormwater runoff and air quality degradation.

Policies 1, 3, 6, 7, 10, 11 and 12 of Guideline 10 all pertain to stormwater management. Drainage patterns are depicted by arrows on the accompanying development plan for conceptual stormwater runoff purposes, and detention will be provided, assuring that post-development rates of peak runoff do not exceed pre-development conditions. The development plan will require the preliminary stamp of approval from MSD in this regard prior to official docketing for Planning Commission review. Also, prior to that, the developer's land planning and engineering firm agreed to work with nearby "patio homes" neighbors who claim existing damage problems. The land planning and engineering firm will share that information with MSD in an attempt to address those issues.

Policies 1, 2, 3, 4, 6, 7, 8 and 9 and Guideline 12 all further identify measures necessary to protect air quality. The best way to do that is to assure minimal added impacts of vehicles to the local roadway system. Reducing vehicle miles traveled is one of the major objectives of the Cornerstone 2020 Comprehensive Plan. By allowing a new apartment community to be located in a busy shopping and office areas, these Policies are addressed by reducing the need for driving.

GUIDELINE 13 – LANDSCAPE CHARACTER

The Intents of this Guideline are to protect and enhance landscape character, specifically Policies 1, 2, 4, 5 and 6 thereof. New landscaping will be accommodated to the extent possible, and landscaping will be enhanced where waivers have been applied for. Additionally, the applicant-developer has agreed to work with DPDS landscape staff and neighbors of the adjoining "patio home" community to enhance landscaping and screening along Simcoe Lane.

* * *

For all the reasons set forth hereinabove, on the DDDP and in testimony and other evidence presented at LD&T, this application complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan

Respectfully submitted,

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

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: Table 5.7.1.B.2 to allow the apartment building to exceed the maximum building height.

1. The variance will not adversely affect the public health, safety or welfare because the Republic Bank building and the nearby Hilton Garden Inn and Drury Inn hotels are of similar height, so this one is not out of character with the area. Moreover, this is an aesthetic, not a public health, safety and welfare issue.
2. The variance will not alter the essential character of the general vicinity because the Republic Bank building and the nearby Hilton Garden Inn and Drury Inn hotels are of similar height, so this one is not out of character with the area.
3. The variance will not cause a hazard or a nuisance to the public because the height of this building is an aesthetic issue, not one that causes any kind of hazard. And the only possible nuisance is an aesthetic one, yet this is a highly attractive, well-designed building that shields views of residents across Simcoe Lane from the less aesthetic view of an interstate highway.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because, as mentioned hereinabove, the Republic Bank building and two nearby hotels are of similar heights.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity given that there are at least 3 identified nearby buildings of similar heights as this one, all of which are located up against an interstate highway.
2. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create unnecessary hardship because this applicant would be treated differently than the owners of the Republic Bank building next door and the two nearby hotels, thereby depriving it of the same economic considerations as those property owners.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of the similar uses of land with similar height buildings next door and nearby, as identified hereinabove.

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: Table 5.3.2 allow the building to encroach into the 50 ft. side yard setback

1. The variance will not adversely affect the public health, safety or welfare because the setback requirement is partly an aesthetic one and partly one to protect adjoining properties from negative impacts of proximity. In this instance, situating the proposed apartment building closer to the northeast property line than the regulatory setback standard does not diminish aesthetics or cause a negative impact of some discernable kind to the adjoining tennis center. After all, the tennis center is basically a large windowless building, and so users of that building will not be adversely impacted, or really impacted in any way, by the proximity of the apartment building to the tennis centers southwest building façade.
2. The variance will not alter the essential character of the general vicinity because the adjoining user to the northeast is a large windowless tennis center, and so added separation between the proposed apartment building and tennis center accomplishes nothing aesthetically or in terms of impact mitigation. In fact, widening the gap between the two buildings, if anything, eliminates some of the noise barrier purpose that the apartment and tennis center buildings serve.
3. The variance will not cause a hazard or a nuisance to the public for reasons set forth above, given that this is not a health, safety or welfare issue, which is only the building separation requirement included in the building code, which is an entirely different matter.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations for the reasons set forth above. Were the adjoining property utilized, for example, for another single family or perhaps even office purpose, the regulatory setback might serve the purpose of protecting viewsheds perhaps desired from windows in the adjoining property's building.

Additional consideration:

1. The variance arises from special circumstances, which do not generally apply to land in the general vicinity because of the fact that the adjoining land use is a large mostly windowless tennis center that is not benefitted by the added distance separation between the two buildings.

2. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create unnecessary hardship because the applicant would have to shrink the size of its building to accommodate this added setback that serves no discernable purpose in this particular case.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of the fact that the adjoining building is a large, mostly windowless tennis center which, as explained above, is not benefitted from any discernable way by the greater setback than shown on the submitted development plan.

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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 10.2.4 to waive the 20' LBA along the southeast property line adjoining the large tennis facility

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because it is a large tennis facility with no windows or other amenities that will be impacted in any way, shape or form by the closer proximity of this development to that one.
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 other more important setbacks and landscape buffers along other property lines, especially along Simcoe Lane, are being met. The fire driving lane circling the apartment building is what partly causes this encroachment.
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 have to reduce the size of its building, suffering the economic consequences thereof, while in no way benefitting the adjoining tennis club property for reason explained hereinabove.

Tab 15

Proposed findings of fact pertaining to compliance with the Comprehensive Plan plus 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 CORNERSTONE2020 COMPREHENSIVE PLAN

<u>Applicant:</u>	Cityscape Residential, LLC
<u>Owner:</u>	Raymond J. Borchert, Fred & Linda Caldwell, Bette Kaelin
<u>Location:</u>	4113, 4190, 4200 and 4206 Simcoe Lane; Block W002, Lot 44; Block W002, Lots 45, 54, 58
<u>Existing Uses:</u>	Single Family Residential
<u>Proposed Use:</u>	Apartment Community
<u>Engineering Firm:</u>	Land Design & Development, Inc.
<u>Request:</u>	Change in Zoning from R-4 to OR-3 and Form District Change from Suburban Neighborhood to Regional Center

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on May 24, 2016 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

SUMMARY STATEMENT

WHEREAS, this application involves the use of four in-fill parcels that remain as islands of single-family use in a sea of otherwise intensively utilized properties in this highly commercialized KY Highway 22/Snyder Freeway interchange; the site adjoins or is located very near an on-ramp to the Snyder Freeway and an equally tall corporate bank building, with shopping centers next door and across KY 22, and two 5-story hotels also across KY 22; and as a consequence, this property, located at the current terminus of the Regional Center Form District adjoining or near the properties as it is, is perfect for a similarly intensive use, yet one that will add residents, instead of more transients, to the area and that, perhaps most importantly, as an apartment community will have less traffic impact than more office development at this location given that remaining as single family residential is not a serious option; and

GUIDELINE 1 – COMMUNITY FORM

WHEREAS, the property is located right next to (and proposed for sidewalk connection with) a still developing, relatively new, highly popular and active Regional Center Form District, which

includes a variety of large scale retail, office and hotel uses; the use, size and scale of the proposed form and zoning district changes are thus in conformance with the Regional Center Form and all applicable Guidelines and Policies of the Comprehensive Plan relating to same; yet, the proposed plan and use also comply with the current Suburban Neighborhood Form District in that this is a proposed residential use across Simcoe Lane from another one; and yet the Regional Center Form designation seems more appropriate to this applicant, its land planner and attorney, given the strong tie and symbiotic relationship of this apartment community to all the nearby various uses in that Center; and

GUIDELINE 2 – CENTERS

WHEREAS, the Intents of this Guideline of the Comprehensive Plan seek to assure that activities are confined to areas where their impacts will be muted because activities are congregated together with symbiotic uses, rather than located haphazardly where they do not support or relate to one another; the proposed apartment community comports with the above described nearby land uses both at an interstate interchange and at the multiple corporate office buildings and two large shopping centers (notably containing multiple restaurants, a grocery and diverse retail opportunities) nearby, all of which relate well, especially with the new sidewalk connections, one with the other, which this use will serve especially well; and

WHEREAS, applicable Policy 1 of this Guideline says that activity centers should be located, for example, within a Regional Center Form District; as set forth above, this site is at the edge of the existing Regional Form District and probably should be added to it because it otherwise remains as an island of low density residential use in a sea of intense interstate highway interchange businesses near a busy arterial, KY 22; and further new residents proposed for this infill site will use those shopping centers and corporate office buildings, often walking to them; and

WHEREAS, applicable Policies 3, 4 and 5 of this Guideline refer to much the same things, notably locating facilities of these kinds exactly where this one is located, in the midst of an existing activity center, making sure that the activity is as compact as possible, which the current land patterns and new and existing sidewalks in this area assure because everything else, but this site, is nearly already fully built out with uses that rely on one another; and

WHEREAS, applicable Policy 6 of this Guideline says that residential development should be located in designated activity centers in order for residents to have immediate access to a variety of close by activities, including jobs, dining and shopping; and located as this infill site is, next door to corporate offices and shopping, and near even more of the same, this proposed apartment community is perfectly situated; and

GUIDELINE 3 - COMPATIBILITY

WHEREAS, the Intents of this Guideline seek to ensure that land uses and transportation facilities are located, designed and constructed to be compatible with nearby land uses and to minimize impacts to residential areas, schools and other sensitive areas in the community; compatibility was determined years ago when this larger area was designated under the

Cornerstone 2020 Comprehensive Plan as a Regional Center Form District; this site was left out of that form district only because it remained as the last four single-family lots along a street accessing a tall office building, and further, at the time the forms were mapped, the next door tennis center was nonexistent, no sidewalks connected these properties to the nearby shopping centers, and there probably was the thought that Simcoe Lane might ultimately be connected to Springhurst Blvd and the Springhurst residential neighborhood next to it; that connection is impossible to make because of a “spite strip” that permanently disconnects these lots, thus suitable for apartment development, from the suburban neighborhood and because of the over-arching Comprehensive Plan desire to locate an intense residential use next to or in the vicinity of an existing activity center; and

WHEREAS, applicable Policies 1, 2, 3, 5, 6, 7, 8, 9, 19, 1, 12, 13, 14, 15, 20, 21, 22, 23, 24, 25, 28 and 29 of this Guideline are all part and parcel of the overall intent of this Guideline, which is to assure use and design compatibility; these Policies specify that that can be accomplished by placement of uses, such as buildings and parking, the selection of building materials, the types of screening and buffering, the extent of existing and proposed new vegetation, the control of traffic, the control of noise, the control of lighting, contributions to visual/aesthetic impacts, and the kinds of transitions and buffers to assure that nearby uses are not adversely impacted; the only use of this site that would have less negative impact on the area, considering the sea of commercial and interstate and arterial activities surrounding it, would be no change in use at all, which makes no sense considering the island of single-family that this site otherwise constitutes; that is because this is a proposed use of similar height, located near or next to offices, shopping, restaurants and an interstate highway system off a major arterial highway; lighting will, of course, be directed down and away from adjoining properties as required by the Land Development Code (LDC); noises will be confined to the interior of the site; odors are not involved in a residential use like this; the look of the property is as shown on the architectural images shown at the public hearing; these images demonstrate a high level of attractive design detail; and parking is totally screened by the apartment building which surrounds the proposed parking garage; and

GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

WHEREAS, the Intents of this Guideline are to provide a positive culture for attracting and sustaining businesses within Metro Louisville; and this application surely complies with this Guideline because it gives people opportunities to reside proximate to offices, dining and shopping in one of Metro Louisville’s newest and most successful activity centers at an interstate interchange location; and

WHEREAS, applicable Policies 1, 4, 5 and 6 of this Guideline pertain to preserving workplaces and locating business in and around activity centers; Cityscape proposes to take a presently way-underutilized in-fill site, rezone it, and convert this site to a productive, positive, symbiotic use which makes all the existing office and commercial uses nearby even better/more successful because workers and shoppers can live close by; there is a large Regional Center Form District surrounding the site; therefore, and for all the reasons set forth above, especially given the symbiotic uses nearby, this use fits well at this location; access works, in part because of the occasional use of the Avish Gardens Center traffic signal, and also because the KY 22/Snyder Freeway interchange already handles large volumes of traffic, to which this use will contribute

additional traffic volumes only to the extent residents don't avoid the interchange, by walking and driving very short distances to offices, shopping and dining close by; and

GUIDELINES 7 and 8 – CIRCULATION and TRANSPORTATION FACILITY DESIGN

WHEREAS, the Intents of these Guidelines seek to ensure the safe and proper functioning of street networks, to ensure that new developments do not exceed the carrying capacity of streets, to address congestion and air quality issues and to provide an efficient, safe and attractive system of roadways, transit routes, sidewalks and so forth; and

WHEREAS, the proposed addition of an apartment community to the interstate interchange accomplishes all of these things, because the proposed site plan does not really involve any change in access, traffic patterns, circulation or parking; any new traffic to the existing KY 22 street system and referenced interstate interchange will be modest compared to what already exists here, which admittedly constitutes a lot of traffic; this is a use that can utilize existing office, shopping and dining facilities via walking, biking and short drives, which should be encouraged wherever possible; this apartment community here has better nearby walking, biking and short driving access to offices and shopping than perhaps any other apartment community outside the urban core; and it also has easy access through Avish Gardens Shopping Center to a KY 22 traffic signal and crosswalk to the Paddock Shoppes; and

WHEREAS, applicable Policies 1, 2, 6, 9, 10, 11, 13 and 14 of Guideline 7 all provide further detail of the requirements for traffic impact mitigation; the circulation within this site, access to it, parking lot design and appropriate turning radiuses are all shown on the detailed district development plan (DDDP) submitted with this application; this application received a thorough review by Metro Transportation Planning and Public Works Department, and the DDDP accompanying this application received preliminary approval from those agencies which are satisfied that the plan has met standard requirements for traffic and transportation impacts on overall interior and exterior site design, with inputs from KTC; good connectivity, circulation and access, as shown on the DDDP, are key components of the design of this apartment community which contains a large internal parking structure; and a traffic study undertaken by CDM Smith has been scrutinized and approved by Metro Transportation Planning & Public Works; and

GUIDELINE 9 – BICYCLE, PEDESTRIAN AND TRANSIT

WHEREAS, the Intents of this Guideline seek to assure that transit and non-motorized methods of travel are accommodated; applicable Policies 1, 2, 3, 4 and 5 require, where possible, the provision of sidewalk connections, bicycle facilities and transit accommodations; this site is located near existing transit routes, and sidewalks will be added along Simcoe Lane to connect with what is largely already provided elsewhere within the existing Regional Center; and bike storage will be included within the apartment community's design; and

GUIDELINES 10 and 12 –STORMWATER MANAGEMENT AND AIR QUALITY

WHEREAS, the Intents of these environmental Guidelines seek to protect areas from the adverse consequences of stormwater runoff and air quality degradation; and

WHEREAS, applicable Policies 1, 3, 6, 7, 10, 11 and 12 of Guideline 10 all pertain to stormwater management; drainage patterns are depicted by arrows on the accompanying development plan for conceptual stormwater runoff purposes, and detention will be provided, assuring that post-development rates of peak runoff do not exceed pre-development conditions; the development plan received the preliminary stamp of approval from MSD in this regard prior to Planning Commission review; the developer’s land planning and engineering firm agreed to work with nearby “patio homes” neighbors who claim existing drainage problems exist, and it shared that information with MSD in an attempt to address those issues; and

WHEREAS, applicable Policies 1, 2, 3, 4, 6, 7, 8 and 9 and Guideline 12 all further identify measures necessary to protect air quality; the best way to do that is to assure minimal added impacts of vehicles to the local roadway system; reducing vehicle miles traveled is one of the major objectives of the Comprehensive Plan; and by allowing a new apartment community to be located in a busy shopping and office area, these Policies are addressed by reducing the need for driving; and

GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, the Intents of this Guideline are to protect and enhance landscape character, specifically applicable Policies 1, 2, 4, 5 and 6 thereof; and new landscaping, screening and buffering will be added through agreement with the Village of Hardwick Association along Simcoe Lane; landscaping will be enhanced elsewhere waivers have been applied for; and

* * * * *

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books and on the approved DDDP, 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 OR-3 and approves the Detailed District Development Plan.

Variance Findings of Fact

Variance of: Table 5.3.2 allow the building to encroach into the 50 ft. side yard setback

WHEREAS, the variance will not adversely affect the public health, safety or welfare because the setback requirement is partly an aesthetic one and partly one to protect adjoining properties from negative impacts of proximity; situating the proposed apartment building closer to the northeast property line than the regulatory setback standard does not diminish aesthetics or cause a negative impact of some discernable kind to the adjoining tennis center; the tennis center is basically a large windowless building, and so users of that building will not be adversely impacted, or really impacted in any way, by the proximity of the apartment building to the tennis centers southwest building façade; and

WHEREAS, the variance will not alter the essential character of the general vicinity because the adjoining user to the northeast is a large windowless tennis center, and so added separation between the proposed apartment building and tennis center accomplishes nothing aesthetically or in terms of impact mitigation; and, widening the gap between the two buildings, if anything, eliminates some of the noise barrier purpose that the apartment and tennis center buildings serve; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public for reasons set forth above, given that this is not a health, safety or welfare issue, which is only the building separation requirement included in the building code, which is an entirely different matter; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations for the reasons set forth above; were the adjoining property utilized, for example, for another single family or perhaps even office purpose, the regulatory setback might serve the purpose of protecting viewsheds perhaps desired from windows in the adjoining property's building; and

WHEREAS, the variance arises from special circumstances which do not generally apply to land in the general vicinity because of the fact that the adjoining land use is a large mostly windowless tennis center that is not benefitted by the added distance separation between the two buildings; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create unnecessary hardship because the applicant would have to shrink the size of its building to accommodate this added setback that serves no discernable purpose in this particular case; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of the fact that the adjoining building is a large, mostly windowless tennis center which, as explained above, is not benefitted in any discernable way by the greater setback than shown on the submitted development plan; and

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

Variance Findings of Fact:

Variance of: Table 5.3.1 to vary the 15 ft rear setback due to an encroachment of pavement required by the local volunteer fire district as respects fire truck circulation of the proposed apartment building.

WHEREAS, the variance will not adversely affect the public health, safety or welfare because the pavement is a result of a road around the apartment building required by the fire department; and the variance actually appears to positively affect the public health and safety; and

WHEREAS, the variance will not alter the essential character of the general vicinity because opposite the rear property line is a paved parking lot, which surely is not adversely impacted by this fire truck driving aisle; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public for reasons set forth above, notably the fire safety benefit of the road circling the apartment building; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the applicant would prefer to avoid the paved road circling the apartment building and will do so if the fire department changes its view of the situation; and

WHEREAS, the variance arises from special circumstances, which do not generally apply to land in the general vicinity because of the unique request of the fire department to include a circular access road around this apartment building; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create unnecessary hardship because the applicant would have to shrink the size of its building to accommodate this unusual request, which would create financial challenges to this project while adding nothing in terms of aesthetic value given that the pavement encroachment is in an area adjoining another parking lot; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of this unusual fire safety requirement; and

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

Variance Findings of Fact:

Variance of: Table 5.7.1.B.2 to allow the apartment building to exceed the maximum building height.

WHEREAS, the variance will not adversely affect the public health, safety or welfare because the Republic Bank building and the nearby Hilton Garden Inn and Drury Inn hotels are of similar height, so this one is not out of character with the area; and this is an aesthetic, not a public health, safety and welfare issue; and

WHEREAS, the variance will not alter the essential character of the general vicinity because the Republic Bank building and the nearby Hilton Garden Inn and Drury Inn hotels are of similar height, so this one is not out of character with the area; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because the height of this building is an aesthetic issue, not one that causes any kind of hazard; the only possible nuisance is an aesthetic one, yet this is a highly attractive, well-designed building that shields views of residents across Simcoe Lane from the less aesthetic view of an interstate highway; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because, as mentioned hereinabove, the Republic Bank building and two nearby hotels are of similar heights; and

WHEREAS, the variance arises from special circumstances, which do not generally apply to land in the general vicinity given that there are at least 3 identified nearby buildings of similar heights as this one, all of which are located up against an interstate highway; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create unnecessary hardship because this applicant would be treated differently than the owners of the Republic Bank building next door and the two nearby hotels, thereby depriving it of the same economic considerations as those property owners; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of the similar uses of land with similar height buildings next door and nearby, as identified hereinabove; and

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

Waiver Findings of Fact:

Waiver of: Section 10.2.4 to waive the 20' LBA along the southeast property line adjoining the large tennis facility

WHEREAS, the waiver will not adversely affect adjacent property owners because it is a large tennis facility with no windows or other amenities that will be impacted in any way, shape or form by the closer proximity of this development to that one; 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 other more important setbacks and landscape buffers along other property lines, especially along Simcoe Lane, are being met; and the fire driving lane circling the apartment building is what partly causes this encroachment; 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 the applicant would have to reduce the size of its building, suffering the economic consequences thereof, while in no way benefitting the adjoining tennis club property for reason explained hereinabove; and

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