

Docket No. 14ZONE1060

Zone change from R-4 to R-6 to allow 13, 2-story
apartment buildings on property located at
9120 Blowing Tree Road

S P R I N G S
at bunsen parkway

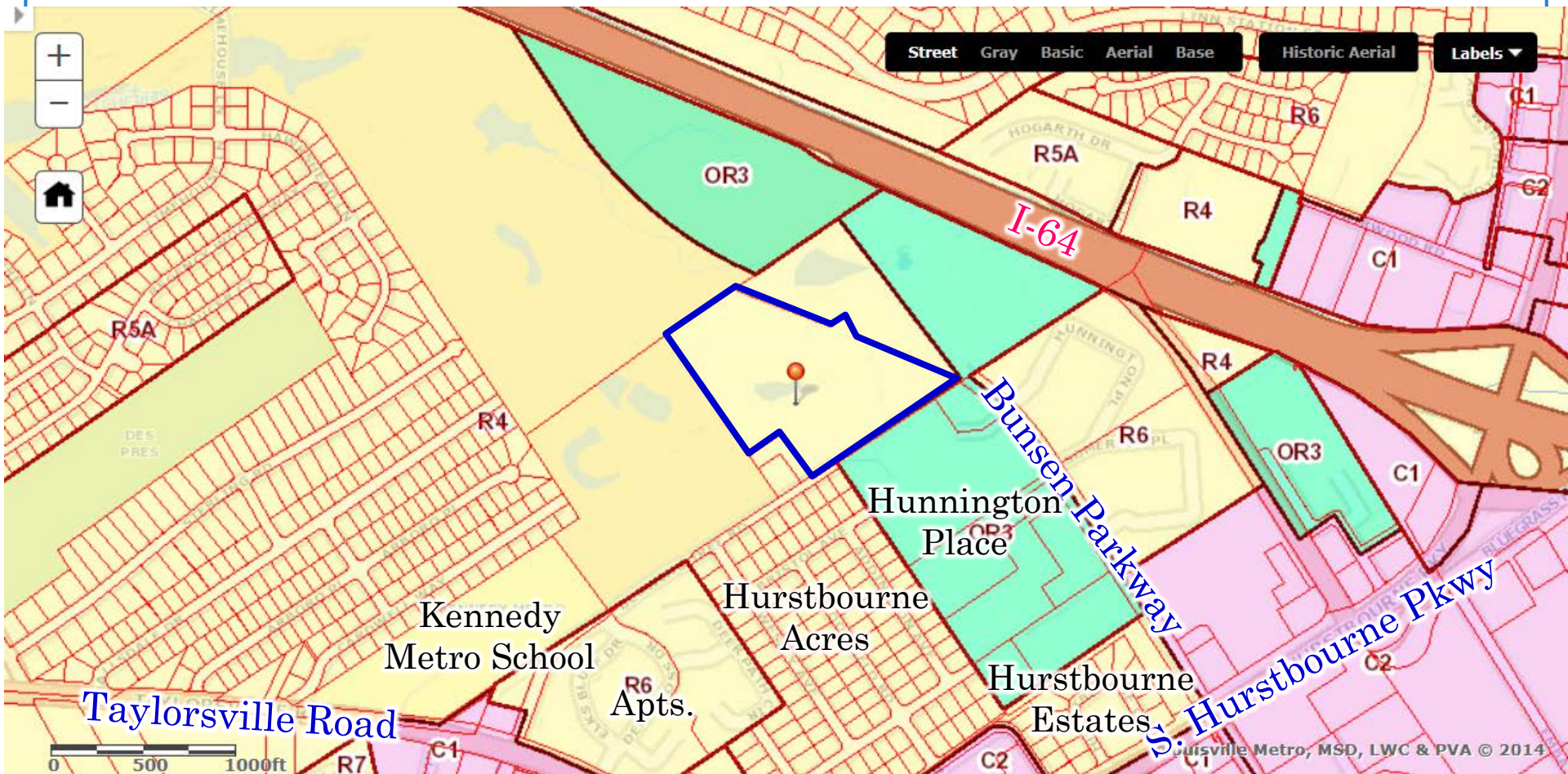


Attorneys: Bardenwerper Talbott & Roberts, PLLC
Land Planners, Landscape Architects & Engineers: Mindel Scott & Associates

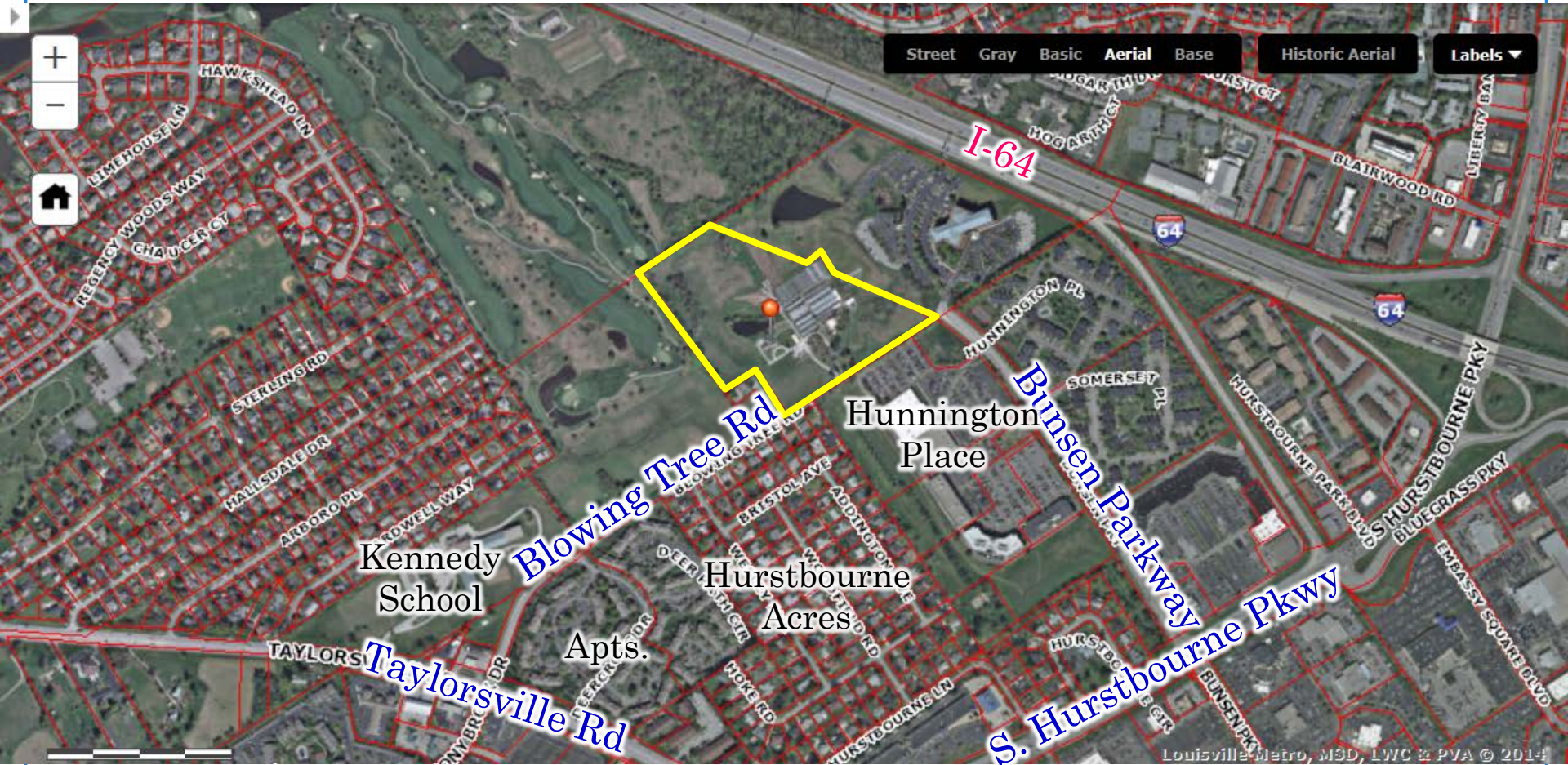
INDEX

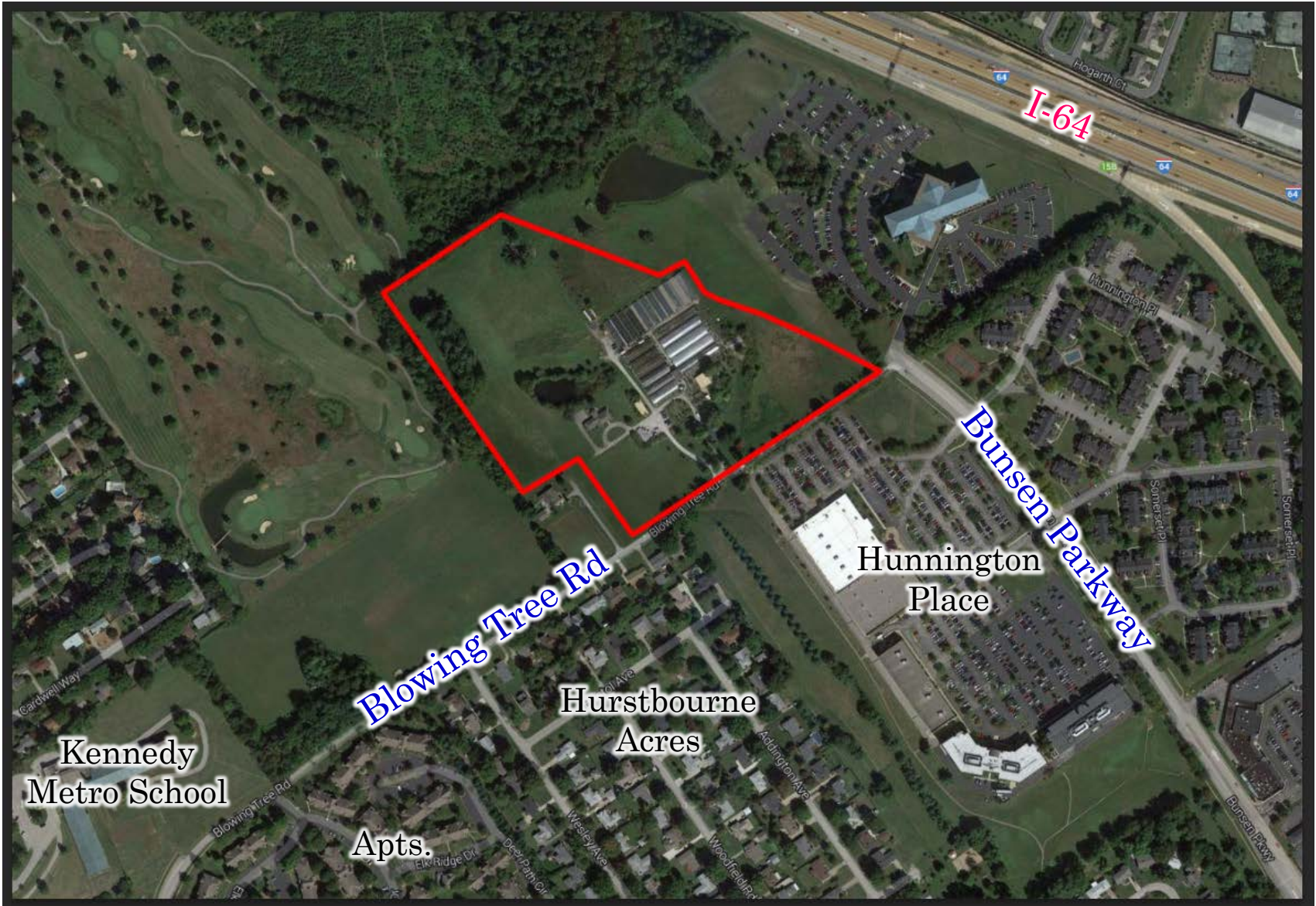
1. LOJIC Zoning Map
2. Aerial photographs of the site and surrounding area
3. Ground level photographs of the site
4. Color Development Plan
5. Roadway exhibit and Cross-Sections to be provided at Public Hearing
6. Building elevations
7. About the Developer
8. Statement of Compliance filed with the original zone change application with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan and Waiver Justification
9. Proposed findings of fact pertaining to compliance with the Comprehensive Plan and Waiver criteria

TAB 1 LOJIC ZONING MAP



TAB 2
AERIAL PHOTOGRAPH OF THE SITE AND
SURROUNDING AREA

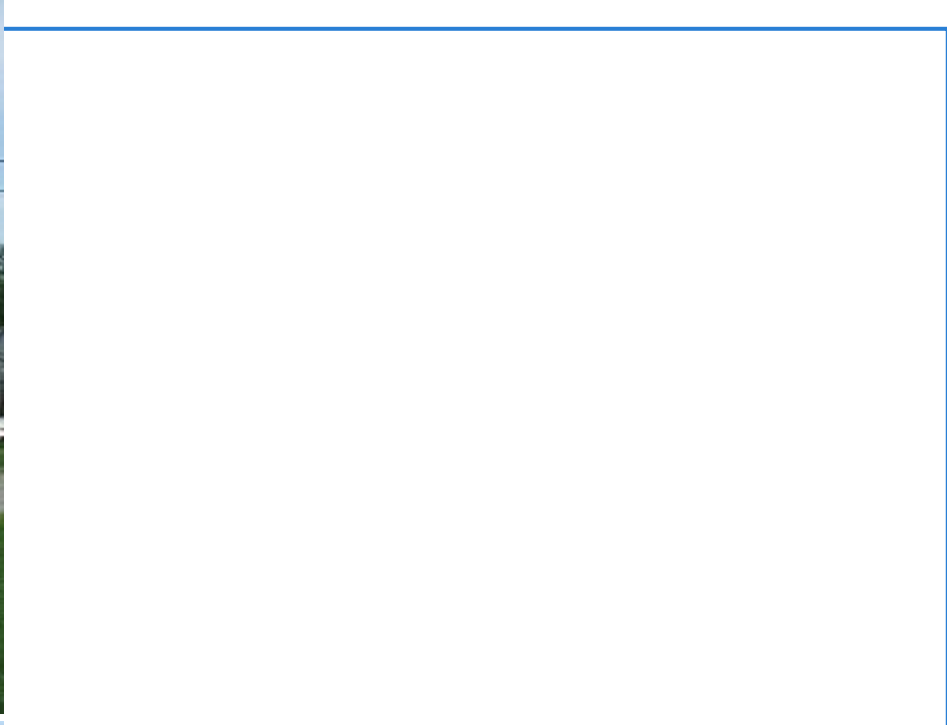




TAB 3

GROUND LEVEL PHOTOGRAPHS OF THE SITE







TAB 4 COLOR DEVELOPMENT PLAN





TAB 5
ROADWAY EXHIBIT AND CROSS-SECTIONS
TO BE PROVIDED AT PUBLIC HEARING

TAB 6

BUILDING ELEVATIONS



Clubhouse

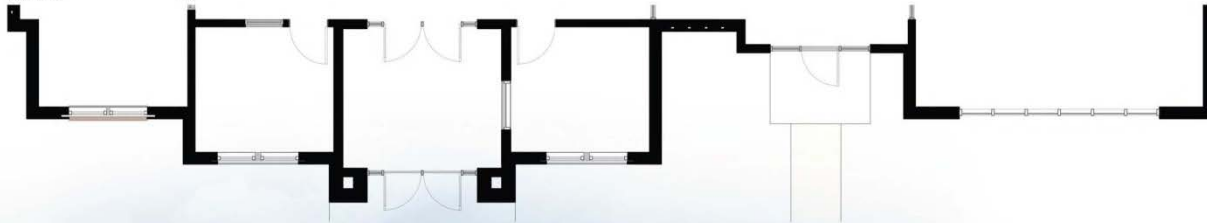
- Interior features include:
 - 24-hour fitness facility
 - Demonstration-style kitchen
 - Large gathering room for events
 - Click café with wi-fi throughout
- Resort-style pool with outdoor grilling area located at the rear of the club





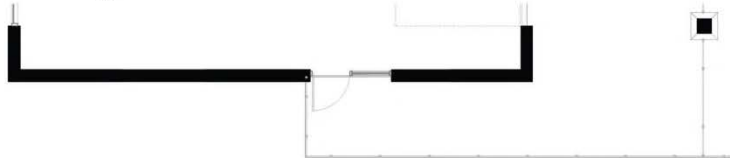
Front Elevation

SCALE: 1/4"=1'-0"



Right Side Elevation

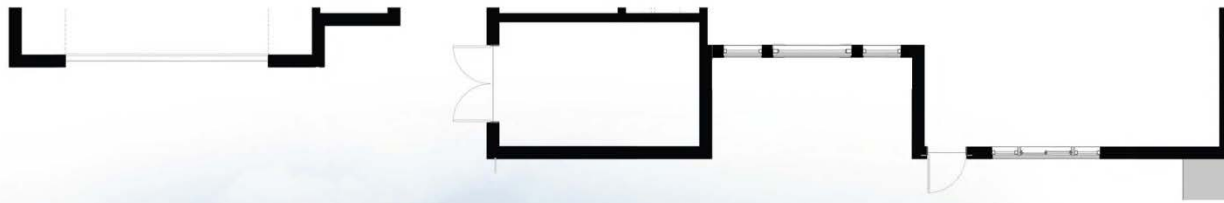
SCALE: 1/4"=1'-0"





Rear Elevation

SCALE: 1/4"=1'-0"



Left Side Elevation

SCALE: 1/4"=1'-0"



Interior Photographs



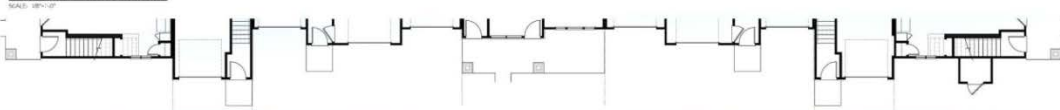
Apartments

- Two-story structures with private ground-level entries
- Quality upgraded exterior materials include durable lap siding, vertical board & batten siding, and brick masonry
- Articulation creates architectural interest
- Attached and detached garages available
- Ample green space provided; courtyards promote resident interaction

Apartments (w/ attached garage)



Front Elevation



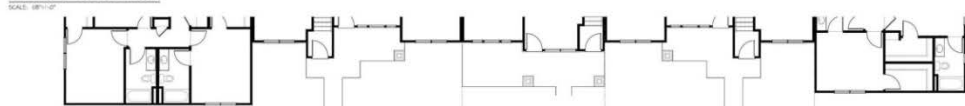
Left Elevation



Right Elevation



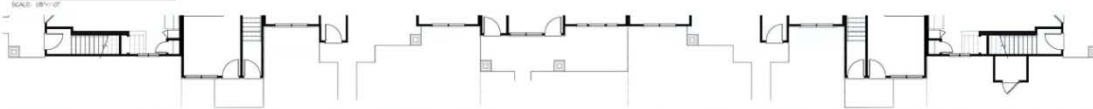
Rear Elevation



Apartments (w/ no garage)



Front Elevation



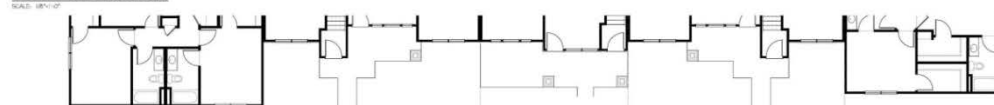
Left Elevation



Right Elevation



Rear Elevation



Interior Finishes

Standard Unit Finishes

- Black appliances
- Café colored cabinetry
- Large kitchen island with pendant lighting
- Washer and dryer
- Faux wood blinds
- Ceiling fans in living room and master bedroom



Upgraded Unit Finishes

- Stainless steel appliances
- Espresso colored cabinetry
- Granite countertops
- Upgraded lighting fixtures
- Ceiling fans in all bedrooms
- Soaking tub



Interior Photographs



Detached Garages



Front Elevation
Exterior Elevation
SCALE: 1/8"=1'-0"



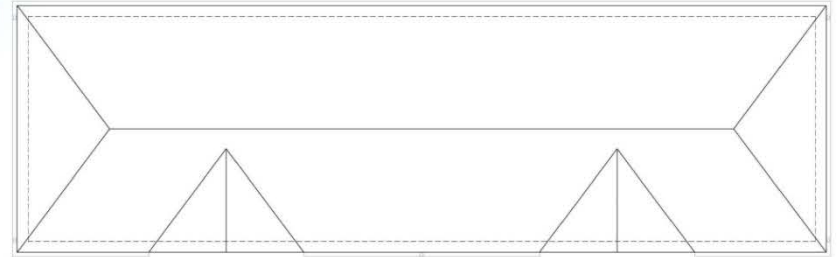
Left Elevation
Exterior Elevation
SCALE: 1/8"=1'-0"



Right Elevation
Exterior Elevation
SCALE: 1/8"=1'-0"



Rear Elevation
Exterior Elevation
SCALE: 1/8"=1'-0"



Roof Plan
SCALE: 1/8"=1'-0"



Garage Floor Plan
SCALE: 1/8"=1'-0"



Front Elevation
Exterior Elevation

SCALE: 1/4"=1'-0"



Left Elevation
Exterior Elevation

SCALE: 1/4"=1'-0"



Right Elevation
Exterior Elevation

SCALE: 1/4"=1'-0"



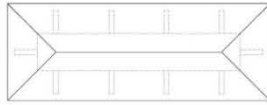
Rear Elevation
Exterior Elevation

SCALE: 1/4"=1'-0"

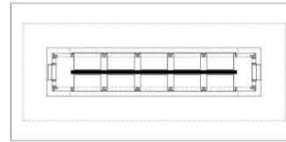


Front Elevation
Exterior Elevation
SCALE: 1/8"=1'-0"

Side Elevation
Exterior Elevation
SCALE: 1/8"=1'-0"



Roof Plan
SCALE: 1/8"=1'-0"



Floor Plan
SCALE: 1/8"=1'-0"



Left Side Elevation
Exterior Elevation
SCALE: 1/8"=1'-0"



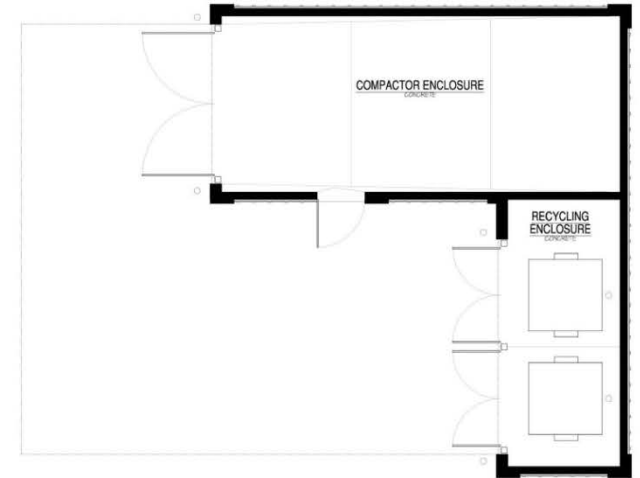
Rear Elevation
Exterior Elevation
SCALE: 1/8"=1'-0"



Right Side Elevation
Exterior Elevation
SCALE: 1/8"=1'-0"



Front Elevation
Exterior Elevation
SCALE: 1/8"=1'-0"



Compactor/Recycling Enclosure Floor Plan
SCALE: 1/8"=1'-0"



Front Elevation
Exterior Elevation

SCALE: 1/4"=1'-0"



Left Elevation
Exterior Elevation

SCALE: 1/4"=1'-0"



Right Elevation
Exterior Elevation

SCALE: 1/4"=1'-0"



Rear Elevation
Exterior Elevation

SCALE: 1/4"=1'-0"

TAB 7

ABOUT THE DEVELOPER

About Continental Properties

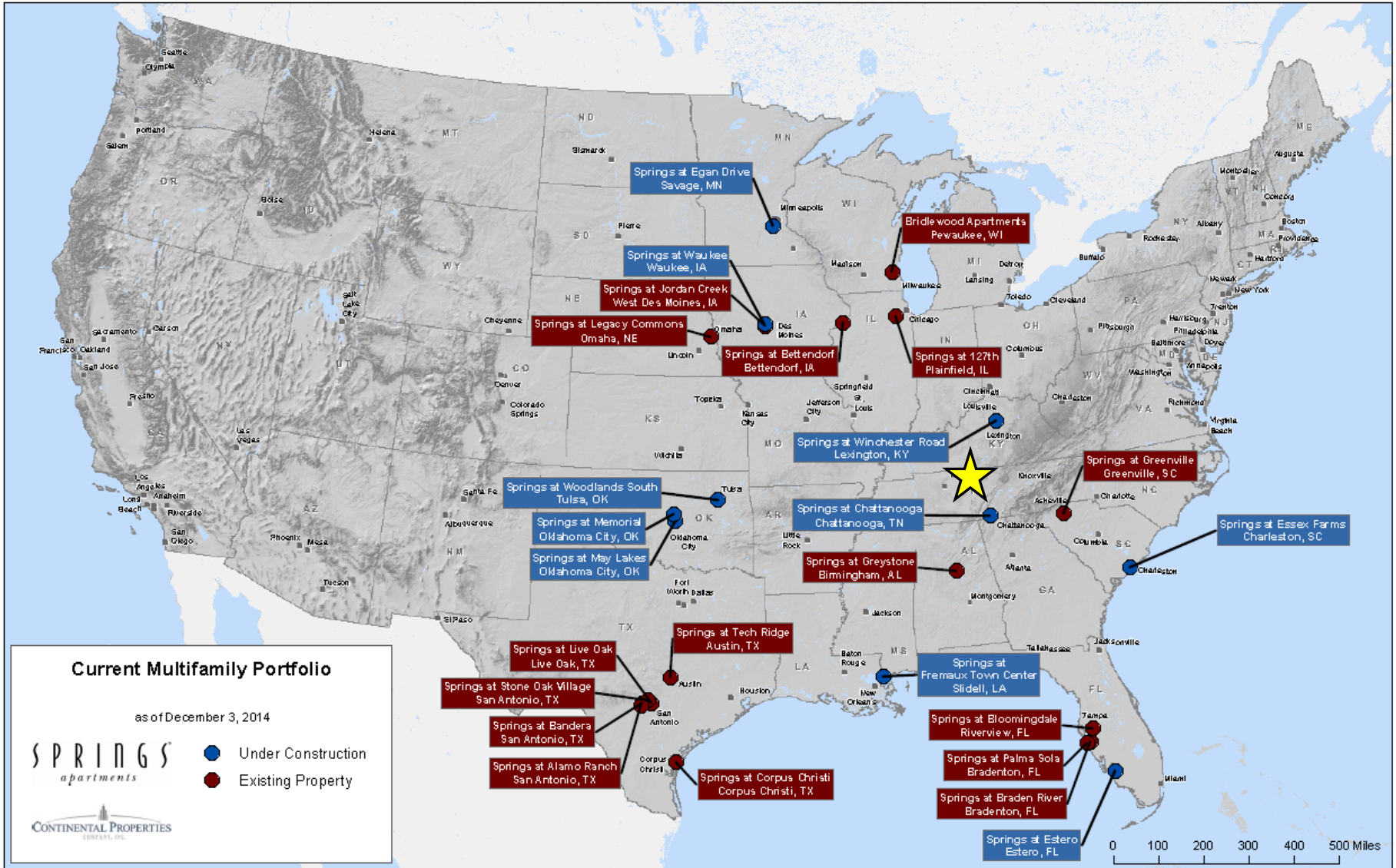
- Company founded in 1979
- National retail and multifamily developer
- Develops, owns, and manages all of its Springs® apartment communities
- No third-party management; Continental employees handle leasing activities and day-to-day management operations
- Full time maintenance personnel on site ensure communities are properly upheld



Residents



Current Markets



Tenant Screening

- Tenants are analyzed by income, payment history, criminal history, fraud alerts
- Property Management uses an outside screening company and verifies information separately
- Income/ Employment
 - Tenants must have a monthly income that's 300% of their rent, employment history is verified
- Payment history
 - No late payment history/ outstanding balances for 2 previous landlords
- Check writing history
 - No negative check writing history/ fraud alerts
- Criminal background
 - No felonies or misdemeanors accepted

Overview

- 284 units with a mix of (38) studio, (104) 1 bedroom, (116) 2 bedroom, and (26) 3 bedroom offerings
- Unit sizes range from 525 square feet to 1,340 square feet
- Site amenities include:
 - Fenced and gated community
 - Clubhouse with large gathering space
 - Click Café
 - Outdoor pool/ grilling area
 - 24-hour resident fitness center
 - Outdoor seating areas
 - Pet Playground/ Pet Spa
 - Car wash



Summary

- The Springs community will consist of 2 story apartment buildings with private, ground level, direct access entries to each unit giving a townhome feel.
- The development will be gated and fenced with one main access off Bunsen Parkway.
- Landscaping will be provided throughout the community with additional focus given to screening the parking that is visible from Blowing Tree Road/ adjacent properties.
- The layout of the project promotes a community feel with lots of green space, amenities for the residents and pedestrian connectivity within the community.
- Continental has a thorough screening process for potential residents which includes income/credit history, rental history and criminal background checks.
- Continental will own and manage this project. There will be no 3rd party management company.

TAB 8

STATEMENT OF COMPLIANCE FILED WITH THE ORIGINAL ZONE CHANGE APPLICATION WITH ALL APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN AND WAIVER JUSTIFICATION

BARDENWERPER, TALBOTT & ROBERTS PLLC

ATTORNEYS AT LAW

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

Applicant: Continental Properties, Inc.

Owner: Margaret Thieneman
Thieneman Family Limited Partnership

Location: 9120 Blowing Tree Road

Proposed Rezoning/Use: Rezoning from R-4 to R-6

Engineers, Land Planners and
Landscape Architects: Mindel Scott & Associates

INTRODUCTORY STATEMENT

This application is for a 284, two-story, apartment community on land that is at the terminus point of Bunsen Parkway, just north and south of other apartment communities and next door to the Kentucky Farm Bureau office building. Bunsen Parkway is the location of many other mixed uses, high intensity facilities, both office buildings and a large retail center. It is also the future extension of a road that will run across I-64 into the Oxmoor Farm property on the north side of I-64, continuing west across I-264 to the rear of the Mall St. Matthews property. Right now Bunsen Parkway is a City of Hurstbourne Acres street, but when it becomes the road as described, it will undoubtedly become a county through road.

Until that time, even though it dead ends short of I-64, it is a major collector road, exclusively serving a mix of intense uses. It does provide access to the subject property, which is the old Thieneman Nursery Farm, which raises plants for wholesale and retail sale. That is the property, nearly 20 acres, now subject to this application for rezoning.

A large neighborhood meeting was held, whereby, not just the typical two tiers of adjoining property owners were invited, but rather all of the residents of the City of Hurstbourne Acres. The applicant invited them all because of a decision that all residents are probably interested due to traffic concerns, even though very few residents will even see the proposed apartment community. The major issues, therefore, are traffic and transportation and aesthetics (i.e., compatible design), which will be addressed under the applicable Compatibility and Traffic and Transportation Facilities Guideline below.

One of the reasons that so many apartments are presently being planned in Louisville is because of the demand created by the financial meltdown and the change in lending practices which

limits both single-family home construction and the entry ability into single-family ownership by many people who have low credit scores or can't afford new mortgage requirements. Also, many people are choosing to rent by choice because of uncertainty in job markets and the fact that housing prices have not been rising, so serious debate exists about the value of home ownership as an investment.

Continental Properties has been one of the largest multi-family developers in this part of the country. Its communities are branded as "The Springs" and are well constructed from the beginning, using mostly brick, stone and "hardy plank" siding, which is more durable than wood and more of an upscale building material than vinyl siding. Its communities have also been very well maintained over the years, which reflects the responsibility one would expect of an owner-operator of many apartment communities. It takes great pride in its original construction and in the quality that it maintains over the years. Operating in a number of states, Continental owns and manages some 10,000 apartment units. It has a track record of following through on its commitments, making major investments which contribute mightily to the economic growth and well being of Metro Louisville, and it is known everywhere as a very positive developer/builder/corporate citizen.

GUIDELINE 1: COMMUNITY FORM

The Community Form that this property is located in is the Campus Form District, which is characterized by a mixture of uses that are clustered for a single or predominant function, often of regional importance, such as office development and corporate headquarters. The Campus Form encourages a mixture of uses, including residential, although the uses primarily should serve the people who work or live on the Campus. The form should be compact and walkable with multiple buildings, open space and so on.

This application complies with this Guideline because the immediate vicinity, as described in the Introductory Statement above, includes a mixture of mostly office but also significant commercial development. An addition of multi-family housing to this Campus Form District is a great compliment to, not just the immediate Campus properties, but the nearby workplaces that exist across Hurstbourne Parkway to the east in the large Bluegrass/Blankenbaker Crossings/Blankenbaker Station Business Parks, to the east and west along I-64 and to the north in the business parks located along North Hurstbourne Parkway. Multi-family housing in this area is and will be very accessible to the office and associated workplace developments. Also, this proposed apartment community will have open space within it, in the context of both the clubhouse and pool shown on the development plan filed with this application plus the multiple small gathering places shown throughout the community. Sidewalks will be provided within and to the outside of this apartment community.

GUIDELINE 2: ACTIVITY CENTERS

The Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15 and 16 of this Guideline all pertain to the notion of "centers", which is a Comprehensive Plan guideline which encourages mixed land uses organized around compact activity centers that are existing, proposed or planned in order to promote efficient uses of land, lower utility costs, reduce commuting time and transportation related air pollution, provide an opportunity for a mixture of residential development and housing types, and add to and encourage vitality and a sense of

place, with activity centers located at street intersections with at least one of the intersecting streets classified as collector or above.

This application complies with the Intents and applicable Policies of this Guideline as follows. An Activity Center, by definition, is appropriately located in the Campus Form District, which this is. Also, as noted above, the proposed apartment community adds to the mix of uses, which is what activity centers are all about. The Campus Form is a compact type, such as exists in this area and on this site, given that the proposed density is higher than standard single-family residential. Taken as a whole, the existing Campus Form District is compact with office buildings, retail and multi-family all located within close proximity one with other. The proposed apartment community adds to the mix of uses, and is a compatible one, both because of other multi-family communities existing next door, but also because it provides additional housing both for the Campus workplaces and for workplaces located nearby. As explained under Guideline 1 above, the Campus Form contemplates predominantly workplace uses, but not exclusively. Rental is encouraged, such as this apartment community. Within this apartment community, there is open space, which is the clubhouse and pool described above. Parking is scattered throughout the proposed apartment community. Utilities already exist close by, including sanitary sewer service which is available in close proximity, with adequate capacity to handle the proposed development. The same is true of Bunsen Parkway, which is wide enough and has adequate traffic carrying capacity.

GUIDELINE 3: COMPATIBILITY

The Intents and applicable Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 20, 21, 22, 23, 24, 28 and 29 of this Guideline all pertain to the issues of how to ensure that land uses and transportation facilities are located, designed and constructed so as to be compatible with nearby land uses and to minimize impacts to residential areas and sensitive features.

This application complies with the Intents and applicable Policies of this Guideline as follows. The buildings are comprised of partly brick and partly other maintenance free materials, notably cementitious siding, which is a very attractive alternative to brick and widely accepted within the larger community. The proposed architecture is highly attractive, as evident in the Power Point images included with this application which were shown at the neighborhood meeting. These designs, two-story in height, are compatible in scale both with nearby single-family residential homes and with existing apartments.

As to the Policies of this Guideline pertaining to particular impacts, there are no odors associated with apartments. Noise will be similar to that of any residential community. To the extent that the outdoor pool facility could cause some added noise, it is located at the center of the proposed apartment community, away from single-family homes. Lighting will be directed down and away with the required regulatory cutoff at property times. Visually, as evident in the referenced PowerPoint presentation, not just the buildings, but the layout and internal open spaces are aesthetically very pleasing. This housing type, multi-family, is encouraged to provide a greater variety of residential options than just single family. Higher density than single family is, of course, appropriate in Activity Center areas near workplaces. This community will be fully accessible to people with disabilities. It is designed with appropriate transitions, not requiring waivers or variances, in the forms of setbacks, landscape buffers and appropriate screening. In fact, the applicant has agreed with the City of Hurstbourne Acres to provide privacy fencing, in addition to private security fencing, where privacy type fencing may be preferred over security

fencing with landscaping. Parking is included at slightly higher than the minimum required ratio, so it will be adequate but not excessive. Some parking will be included within existing buildings or detached garages. The remainder of the parking will be in parking lots. Signs will be tasteful, attractive and in accordance with provisions of the Land Development Code.

GUIDELINES 4, 5, & 13: OPEN SPACE , HISTORIC RESOURCES & LANDSCAPE

The Intents and applicable Policies 1, 3, 5, 6 and 7 of Guideline 4, Policies 1, 2, and 4 of Guideline 5, and Policies 1, 2 4, 5 and 6 of Guideline 13 all pertain to the idea of ensuring well designed, permanently protected open spaces, preserving significant cultural resources and including good landscape throughout communities that protect and enhance the natural environment.

This application complies with the Intents and applicable Policies of this Guideline as follows. As noted herein and above, the apartment community itself includes not just small open spaces between the various buildings to provide seating and gathering areas for residents of the buildings that make up the particular communities within this development, but also a large gathering space in form of the clubhouse and community pool. Just outside this apartment community exists the large Oxmoor Golf Course, which is an open space that will continue for the foreseeable future, as best this applicant knows. This application does not affect significant natural features or historic resources. Rather the family home on the property, while old, is not so significant as to merit preservation. It is not reusable as part of this community. Indeed, requiring that it be salvaged would mean that the Thieneman family would not end up selling this property to this or probably anyone else. It has long sat alone on a large piece of property surrounded now on two to three sides by a new large office, apartment and retail building. It does not provide any enhancement to those uses. As to landscaping, the proposed apartment community will comply with the Land Development Code requiring tree canopy, perimeter and interior landscaping.

GUIDELINE 6: ECONOMIC OPPORTUNITY AND SUSTAINABILITY

The Intents and applicable Policies 1, 3, 5 and 6 of this Guideline all pertain to the provision of a positive culture for attracting and sustaining a variety of land uses, in this case residential.

This application complies with the Intents and applicable Policies of this Guideline as follows. As this is a defined Activity Center, locating residents, particularly in it, in this workplace area helps reduce vehicle miles traveled and commuting distances, by providing a convenient location for workers within the immediate vicinity and outside. The site is essentially in-fill, because it is surrounded on all sides by other uses, mostly offices and commercial, but also by a semi-public golf course. It is hard to conceive of this property contributing more to economic growth and sustainability than in its present proposed form.

GUIDELINES 7, 8 & 9: TRAFFIC, TRANSPORTATION AND ALTERNATIVE TRANSPORTATION

The Intents and applicable Policies 1, 2, 3, 4, 5, 6, 9, 10, 11, 13, 14, 15, 16 and 17 of Guideline 7, plus Policies 4, 5, 7, 8, 9, 10 and 11 of Guideline 8, plus Policies 1, 2, 3, 4 and 5 of Guideline 9 all pertain to the issues of traffic impacts, adequacy of public road infrastructure and access to

and circulation through proposed developments and the provision of access by other means of transportation than simply the automobile.

The application complies with the Intents and applicable Policies of this Guideline as follows. First and foremost, the Detailed District Development Plan filed with this application, in order to be docketed for Land Development & Transportation (LD&T) Committee review and for Planning Commission public hearing, must receive the preliminary stamp of approval from the Metro Transportation Planning Section. That assures that the DDDP complies with all of the Metro Transportation Planning and Public Works design standards especially with respect to issues identified in these Guidelines pertaining to such things as adequacy of right-of-way, corner clearance, access, driveway design, median openings, adjoining street designs, provision and location of sidewalks and bicycle facilities and the accommodation of public transit. The DDDP was prepared and submitted, to the best ability thus far of the land planning and engineering firm associated with this project, Mindel Scott & Associates, to include provisions for all these.

As to the issue of traffic impact, a traffic impact study (TIS) will be conducted, at least on a limited basis. Right now the applicant anticipates determining the traffic generation from this apartment community and its distribution at Bunsen Parkway and Hurstbourne Parkway. At that intersection, it is anticipated that most of the a.m. peak hour traffic will continue east and north because virtually all of the major workplace centers are located east, as referenced above in the Bluegrass/Blankenbaker Crossings/Blankenbaker Station workplace areas, east and west of I-64 and north in the business parks off North Hurstbourne Parkway. Very little a.m. peak hour traffic would be anticipated to travel south because that is in the direction of limited workplace areas, rather other residential and shopping. P.M. peak hour traffic is anticipated to return from the same locations as it goes to in the a.m. peak hour. Yet the major areas of traffic impact concern to residents would not be in the east or north directions but south on Hurstbourne Parkway and west of Taylorsville Road. That is because that is where the access points are located to the City of Hurstbourne Acres. The main access point to most of the City of Hurstbourne Acres is actually off Taylorsville Road. Very little traffic is anticipated, after all of these other traffic movements, to head south on Hurstbourne Parkway and then west on Taylorsville Road.

As to the issue of Blowing Tree Road, the City of Hurstbourne Acres has made clear that the portion that is located within that City is controlled by that City and that it will not allow access to or from this proposed apartment community other than for emergency access purposes. Therefore, an emergency access gate is shown on the south side of the apartment community for those purposes. That will provide safe, quick service in the event that fire or EMS services are needed. Otherwise, it has been made clear to this applicant that Blowing Tree Road will never become a county through road, or for that matter a connector street other than in its basic current condition which is providing access to the single-family residential area of Hurstbourne Acres to and from Taylorsville Road.

As to sidewalks, they will be provided as required, though the applicant is still trying to work out with the City of Hurstbourne Acres specifically how, if at all, sidewalks will be permitted to interact with residential City streets. The City of Hurstbourne Acres will ultimately determine this. The applicant would like to have sidewalk access in some manner to and from the nearby elementary school, which it understands will become a neighborhood school. This will be an attractive amenity.

Bicycle facilities will be provided as required. To the extent that public transit is available, it will be accommodated.

GUIDELINE 10 AND 11: FLOODING AND STORM WATER PLUS WATER QUALITY

The Intents and applicable Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3, 5, and 8 of Guideline 11 pertain to the issues of effectively managing stormwater and preventing the degradation of water quality due to water pollution and soil erosion and sedimentation. The detention basin shown on the development plan accompanying this application is sized to fully address the detention requirements on site for this apartment community. It is anticipated to be a wet (permanent pool) basin. That means that it will remain wet, as an aesthetic amenity, yet will fill further during various rain events and then partly drain off at appropriate rates thereafter, assuring that post-development rates of runoff do not exceed pre-development rates of runoff, which is the standard that MSD always applies. To the extent that there is through drainage and issues relating thereto, this applicant will work with the City of Hurstbourne Acres and MSD to assure coordinated stormwater management and possible correction of existing problems, if any.

The applicant will be required, at time of construction, to fully comply with MSD soil erosion and sedimentation requirements. Along those lines, the retention basin proposed for stormwater management will initially serve as a siltation basin in order to help prevent sediment damage to streams from any erosion during construction. The basin will be converted to a permanent retention basin after construction.

Best management practices will be employed in accordance with MSD's new water quality regulations in order to capture the first flush of rain and to allow it to pass into the ground and to replenish the groundwater table.

GUIDELINE 12: AIR QUALITY

The Intents and applicable Policies 1, 2, 3, 4, 6, 7, 8 and 9 of this Guideline all pertain to encouraging developments with densities and mixtures of land uses that help reduce the impacts of pollution caused by vehicular traffic.

The application complies with the Intents and applicable Policies of this Guideline as follows. Locating an apartment community in close proximity to major workplace developments, as in this instance, reduces vehicle miles traveled, which contributes to improved air quality. The Air Pollution Control District (ACPD) has historically reviewed TISs in conjunction with project of this kind. No air quality impacts are anticipated.

GUIDELINES 14 AND 15: INFRASTRUCTURE AND COMMUNITY FACILITIES

The Intents and applicable Policies 2, 3, 4, 6 and 7 of Guideline 14 and applicable Policies 6, 9, 12, 13, 14, 15, 16 and 18 of Guideline 15 all pertain to the adequacy of water, sewer, utility and road infrastructure and the availability of such community facilities as fire, EMS and police services, parks, schools and healthcare facilities.

The application complies with the Intents and applicable Policies of these Guidelines as follows. Even through heavily trafficked, Hurstbourne Parkway has been recently improved and has

adequate traffic-carrying capacity. Bunsen Parkway is also wide, manages to serve numerous mixed uses and likewise has adequate traffic-carrying capacity. Sanitary sewer service is available by lateral extension and has been approved by MSD. Water, gas and electric services are available. The property adjoins a semi-public golf course, and other parks are located and relatively short driving distances. The McMahon Fire Department is located off Taylorsville Road. Healthcare facilities are located as close as the Breckenridge Lane/Dutchmans Parkway exit off I-64, a short distance from this location.

For these and other reasons set forth herein, as contained in the DPDS Staff Report, and for all other reasons explained at the LD&T meeting and public hearing, 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
1000 North Hurstbourne Parkway
Louisville, Kentucky 40223
(502) 426-6688
Counsel for Applicant/Property Owners

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 LDC 10.2.4.B(1) to allow parking spaces to partially encroach into the 15 ft LBA along a short distance of the east property line where the “reserved” right-of-way width increases from 45 to 55 ft and where a minor amount to one-half of about 15 parking spaces are affected.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because a portion of the LBA is still provided in this area, and the adjoining properties are another parking lot and MSD drainage easement.
2. The waiver will not violate the Comprehensive Plan because for all the set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the rezoning application.
3. The extent of waiver of the regulation the minimum necessary to afford relief to the applicant because only a small portion of the LBA is impacted and even then only a part of it.
4. Strict application of the provisions of the regulation will deprive the applicant of a reasonable use of the land or will create an unnecessary hardship on the applicant because the applicant would lose critical parking or require a major redesign of the entire site in order to adjust for this right-of-way line which varies at this point in width.

TAB 9

PROPOSED FINDINGS OF FACT PERTAINING TO COMPLIANCE WITH THE COMPREHENSIVE PLAN 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

Applicant: Continental Properties, Inc.

Owner: Margaret Thieneman
Thieneman Family Limited Partnership

Location: 9120 Blowing Tree Road

Proposed Rezoning/Use: Rezoning from R-4 to R-6

Engineers, Land Planners and
Landscape Architects: Mindel Scott & Associates

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on March 19, 2015 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

WHEREAS, this application is for a 284, two-story, apartment community on land that is at the terminus point of Bunsen Parkway, just north and south of other apartment communities and next door to the Kentucky Farm Bureau office building; Bunsen Parkway is the location of many other mixed uses, high intensity facilities, both office buildings and a large retail center; it is also the future extension of a road that will run across I-64 into the Oxmoor Farm property on the north side of I-64, continuing west across I-264 to the rear of the Mall St. Matthews property; and

WHEREAS, until that time, even though it dead ends short of I-64, it is a major collector road, exclusively serving a mix of intense uses; it provides access to the subject property, which is the old Thieneman Nursery Farm, which raises plants for wholesale and retail sale; and that is the property, nearly 20 acres, now subject to this application for rezoning; and

WHEREAS, a large neighborhood meeting was held, whereby all residents of the City of Hurstbourne Acres were invited to attend because of a decision that all residents were probably interested due to traffic issues, even though very few residents will even see the proposed apartment community; the major issues they raised were traffic and transportation and aesthetics (i.e., compatible design), which are addressed under the applicable Compatibility and Traffic and Transportation Facilities Guideline below; and

WHEREAS, Continental Properties is one of the largest multi-family developers in this part of the country; its communities are branded as "The Springs" and are well-constructed, using

mostly brick, stone and “hardy plank” siding; its communities have also been well-maintained over the years; and, operating in a number of states, Continental owns and manages some 10,000 apartment units; and

GUIDELINE 1: COMMUNITY FORM

WHEREAS, the Community Form that this property is located in is the Campus Form District, which is characterized by a mixture of uses that are clustered for a single or predominant function, often of regional importance, such as office development and corporate headquarters; the Campus Form encourages a mixture of uses, including residential, although the uses primarily should serve the people who work or live on the Campus; the form should be compact and walkable with multiple buildings, open space and so on; and

WHEREAS, this application complies with this Guideline because the immediate vicinity, as described above, includes a mixture of mostly office but also significant commercial development; an addition of multi-family housing to this Campus Form District is a great compliment to, not just the immediate Campus properties, but the nearby workplaces that exist across Hurstbourne Parkway to the east in the large Bluegrass/Blankenbaker Crossings/Blankenbaker Station Business Parks, to the east and west along I-64 and to the north in the business parks located along North Hurstbourne Parkway; multi-family housing in this area is and will be very accessible to the office and associated workplace developments; also, this proposed apartment community has open space within it, in the context of both the clubhouse and pool shown on the development plan approved with this rezoning plus the multiple small gathering places shown throughout the community; and sidewalks will be provided within and to the outside of this apartment community; and

GUIDELINE 2: ACTIVITY CENTERS

WHEREAS, the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15 and 16 of this Guideline all pertain to the notion of “centers”, which is a Comprehensive Plan guideline which encourages mixed land uses organized around compact activity centers that are existing, proposed or planned in order to promote efficient uses of land, lower utility costs, reduce commuting time and transportation related air pollution, provide an opportunity for a mixture of residential development and housing types, and add to and encourage vitality and a sense of place, with activity centers located at street intersections with at least one of the intersecting streets classified as collector or above; and

WHEREAS, this application complies with the Intents and applicable Policies of this Guideline as follows; an Activity Center, by definition, is appropriately located in the Campus Form District, which this is; also, as noted above, the proposed apartment community adds to the mix of uses, which is what activity centers are all about; the Campus Form is a compact type, such as exists in this area and on this site, given that the proposed density is higher than standard single-family residential; taken as a whole, the existing Campus Form District is compact with office buildings, retail and multi-family all located within close proximity one with other; the proposed apartment community adds to the mix of uses, and is a compatible one, both because of other multi-family communities existing next door, but also because it provides additional housing both for the Campus workplaces and for workplaces located nearby; as explained under Guideline 1 above, the Campus Form contemplates predominantly workplace uses, but not exclusively; rental is encouraged, such as this apartment community; within this apartment

community, there is open space, which is the clubhouse and pool described above; parking is scattered throughout the proposed apartment community; utilities already exist close by, including sanitary sewer service which is available in close proximity, with adequate capacity to handle the proposed development; and the same is true of Bunsen Parkway, which is wide enough and has adequate traffic carrying capacity; and

GUIDELINE 3: COMPATIBILITY

WHEREAS, the Intents and applicable Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 20, 21, 22, 23, 24, 28 and 29 of this Guideline all pertain to the issues of how to ensure that land uses and transportation facilities are located, designed and constructed so as to be compatible with nearby land uses and to minimize impacts to residential areas and sensitive features; and

WHEREAS, this application complies with the Intents and applicable Policies of this Guideline as follows; the buildings are comprised of partly brick and partly other maintenance free materials, notably cementacious siding, which is an attractive alternative to brick and widely accepted within the larger community; the proposed architecture is attractive, as evident in the Planning Commission exhibit books and PowerPoint presentation shown at the Public Hearing; and these designs, two-story in height, are compatible in scale both with nearby single-family residential homes and with existing apartments; and

WHEREAS, as to the Policies of this Guideline pertaining to particular impacts, there are no odors associated with apartments; noise will be similar to that of any residential community; to the extent that the outdoor pool facility could cause some added noise, it is located at the center of the proposed apartment community, away from single-family homes; lighting will be directed down and away with the required regulatory cutoff at property times; visually, as evident in the referenced exhibit books and PowerPoint presentation, not just the buildings, but the layout and internal open spaces are aesthetically very pleasing; this housing type, multi-family, is encouraged to provide a greater variety of residential options than just single family; higher density than single family is, of course, appropriate in Activity Center areas near workplaces; and

WHEREAS, this community will be fully accessible to people with disabilities; it is designed with appropriate transitions, not requiring variances, in the forms of setbacks, and provides landscape buffers and appropriate screening; the applicant has agreed with the City of Hurstbourne Acres to provide privacy fencing, in addition to private security fencing, where privacy type fencing may be preferred over security fencing with landscaping; parking is included at slightly higher than the minimum required ratio, so it will be adequate but not excessive; some parking will be included within existing buildings or detached garages; the remainder of the parking will be in parking lots; and signs will be tasteful, attractive and in accordance with provisions of the Land Development Code; and

GUIDELINES 4, 5, & 13: OPEN SPACE , HISTORIC RESOURCES & LANDSCAPE

WHEREAS, the Intents and applicable Policies 1, 3, 5, 6 and 7 of Guideline 4, Policies 1, 2, and 4 of Guideline 5, and Policies 1, 2 4, 5 and 6 of Guideline 13 all pertain to the idea of ensuring well designed, permanently protected open spaces, preserving significant cultural resources and including good landscape throughout communities that protect and enhance the natural environment; and

WHEREAS, this application complies with the Intents and applicable Policies of this Guideline as follows; as noted herein and above, the apartment community itself includes not just small open spaces between the various buildings to provide seating and gathering areas for residents of the buildings that make up the particular communities within this development, but also a large gathering space in form of the clubhouse and community pool; just outside this apartment community exists the large Oxmoor Golf Course, which is an open space that will continue for the foreseeable future, as best this applicant knows; this development does not affect significant natural features or historic resources, but rather the family home on the property, while old, is not so significant as to merit preservation and it is not reusable as part of this community; requiring that it be salvaged would mean that the Thieneman family would not end up selling this property to this or probably anyone else as it has long sat alone on a large piece of property surrounded now on two to three sides by a new large office, apartment and retail building; it does not provide any enhancement to those uses and as to landscaping, the proposed apartment community complies with the Land Development Code requiring tree canopy, perimeter and interior landscaping; and

GUIDELINE 6: ECONOMIC OPPORTUNITY AND SUSTAINABILITY

WHEREAS, the Intents and applicable Policies 1, 3, 5 and 6 of this Guideline all pertain to the provision of a positive culture for attracting and sustaining a variety of land uses, in this case residential; and

WHEREAS, this application complies with the Intents and applicable Policies of this Guideline as follows; as this is a defined Activity Center, locating residents, particularly in it, in this workplace area helps reduce vehicle miles traveled and commuting distances, by providing a convenient location for workers within the immediate vicinity and outside; the site is essentially in-fill, because it is surrounded on all sides by other uses, mostly offices and commercial, but also by a semi-public golf course and it is hard to conceive of this property contributing more to economic growth and sustainability than in its present proposed form; and

GUIDELINES 7, 8 & 9: TRAFFIC, TRANSPORTATION AND ALTERNATIVE TRANSPORTATION

WHEREAS, the Intents and applicable Policies 1, 2, 3, 4, 5, 6, 9, 10, 11, 13, 14, 15, 16 and 17 of Guideline 7, plus Policies 4, 5, 7, 8, 9, 10 and 11 of Guideline 8, plus Policies 1, 2, 3, 4 and 5 of Guideline 9 all pertain to the issues of traffic impacts, adequacy of public road infrastructure and access to and circulation through proposed developments and the provision of access by other means of transportation than simply the automobile; and

WHEREAS, the application complies with the Intents and applicable Policies of this Guideline as follows; first and foremost, the Detailed District Development Plan filed with this application, received the preliminary stamp of approval from Metro Transportation Planning which assures that the DDDP complies with all of the Metro Transportation Planning and Public Works design standards especially with respect to issues identified in these Guidelines pertaining to such things as adequacy of right-of-way, corner clearance, access, driveway design, median openings, adjoining street designs, provision and location of sidewalks and bicycle facilities and the accommodation of public transit; and

WHEREAS, as to the issue of traffic impact, traffic generation from this apartment community and its distribution at Bunsen Parkway and Hurstbourne Parkway will not adversely impact that intersection; most of the a.m. peak hour traffic will continue east and north because virtually all of the major workplace centers are located east, as referenced above in the Bluegrass/Blankenbaker Crossings/Blankenbaker Station workplace areas, east and west of I-64 and north in the business parks off North Hurstbourne Parkway; very little a.m. peak hour traffic is anticipated to travel south because that is in the direction of limited workplace areas, rather other residential and shopping; and p.m. peak hour traffic is anticipated to return from the same locations as it goes to in the a.m. peak hour; and

WHEREAS, as to the issue of Blowing Tree Road and its future extension, the applicant, Metro Public Works and Transportation Planning and the City of Hurstbourne Acres have worked on a design that accommodates this future road extension and addresses the City of Hurstbourne Acres concerns about traffic impacts on its residential streets; and

WHEREAS, sidewalks and/or multi-use paths will be provided as required; bicycle facilities will be provided as required; and, to the extent that public transit is available, it will be accommodated; and

GUIDELINE 10 AND 11: FLOODING AND STORM WATER PLUS WATER QUALITY

WHEREAS, the Intents and applicable Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3, 5, and 8 of Guideline 11 pertain to the issues of effectively managing stormwater and preventing the degradation of water quality due to water pollution and soil erosion and sedimentation; the detention basin shown on the development plan accompanying this application is sized to fully address the detention requirements on site for this apartment community; it is anticipated to be a wet (permanent pool) basin which means that it will remain wet, as an aesthetic amenity, yet will fill further during various rain events and then partly drain off at appropriate rates thereafter, assuring that post-development rates of runoff do not exceed pre-development rates of runoff, which is the standard that MSD always applies; to the extent that there is through drainage and issues relating thereto, this applicant will work with the City of Hurstbourne Acres and MSD to assure coordinated stormwater management and possible correction of existing problems, if any; and

WHEREAS, the applicant will be required, at time of construction, to fully comply with MSD soil erosion and sedimentation requirements; along those lines, the retention basin proposed for stormwater management will initially serve as a siltation basin in order to help prevent sediment damage to streams from any erosion during construction; the basin will be converted to a permanent retention basin after construction; and

WHEREAS, best management practices will be employed in accordance with MSD's new water quality regulations in order to capture the first flush of rain and to allow it to pass into the ground and to replenish the groundwater table; and

GUIDELINE 12: AIR QUALITY

WHEREAS, the Intents and applicable Policies 1, 2, 3, 4, 6, 7, 8 and 9 of this Guideline all pertain to encouraging developments with densities and mixtures of land uses that help reduce the impacts of pollution caused by vehicular traffic; and

WHEREAS, the application complies with the Intents and applicable Policies of this Guideline as follows; locating an apartment community in close proximity to major workplace developments, as in this instance, reduces vehicle miles traveled, which contributes to improved air quality and the Air Pollution Control District (ACPD) has historically reviewed TISs in conjunction with project of this kind; and no air quality impacts are anticipated; and

GUIDELINES 14 AND 15: INFRASTRUCTURE AND COMMUNITY FACILITIES

WHEREAS, the Intents and applicable Policies 2, 3, 4, 6 and 7 of Guideline 14 and applicable Policies 6, 9, 12, 13, 14, 15, 16 and 18 of Guideline 15 all pertain to the adequacy of water, sewer, utility and road infrastructure and the availability of such community facilities as fire, EMS and police services, parks, schools and healthcare facilities; and

WHEREAS, the application complies with the Intents and applicable Policies of these Guidelines as follows; even through heavily trafficked, Hurstbourne Parkway has been recently improved and has adequate traffic-carrying capacity; Bunsen Parkway is also wide, manages to serve numerous mixed uses and likewise has adequate traffic-carrying capacity; sanitary sewer service is available by lateral extension and has been approved by MSD; water, gas and electric services are available; the property adjoins a semi-public golf course, and other parks are located and relatively short driving distances; the McMahan Fire Department is located off Taylorsville Road; and healthcare facilities are located as close as the Breckenridge Lane/Dutchmans Parkway exit off I-64, a short distance from this location; 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 R-6.

WAIVER FINDINGS OF FACT

Waiver of Section LDC 10.2.4.B(1) to allow parking spaces to partially encroach into the 15 ft LBA along a short distance of the east property line where the “reserved” right-of-way width increases from 45 to 55 ft and where a minor amount to one-half of about 15 parking spaces are affected.

WHEREAS, the waiver will not adversely affect adjacent property owners because a portion of the LBA is still provided in this area, and the adjoining properties are another parking lot and MSD drainage easement; and

WHEREAS, the waiver will not violate the Comprehensive Plan because for all the set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the rezoning application; and

WHEREAS, the extent of waiver of the regulation the minimum necessary to afford relief to the applicant because only a small portion of the LBA is impacted and even then only a part of it; and

WHEREAS, strict application of the provisions of the regulation will deprive the applicant of a reasonable use of the land or will create an unnecessary hardship on the applicant because the applicant would lose critical parking or require a major redesign of the entire site in order to adjust for this right-of-way line which varies at this point in width;

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