

Louisville Metro Planning Commission Public Hearing - October 5, 2023
Louisville Metro Land Development & Transportation Committee - August 24, 2023
Louisville Metro Land Development & Transportation Committee - August 10, 2023
Louisville Metro Planning Commission Public Hearing - March 2, 2023 (deferred)
Louisville Metro Land Development & Transportation Committee - January 26, 2023 and February 9, 2023
Neighborhood Meeting - July 14, 2022

Docket No. 22-ZONE-0105

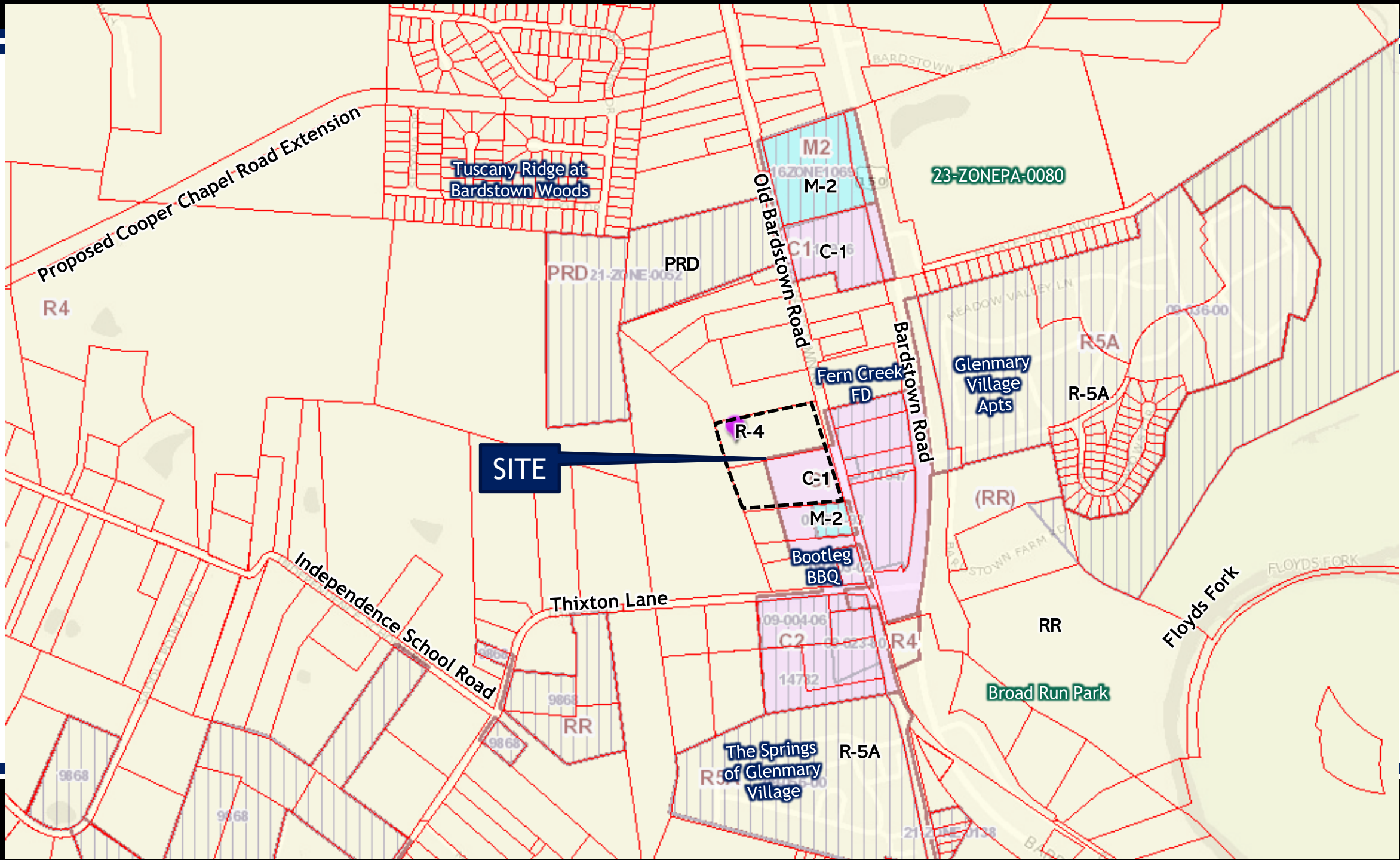
Zone change from R-4 and C-1 to R-6 to allow a 152-unit multi-family development on property located at 9408 & 9500 Old Bardstown Road



Index

1. LOJIC Zoning Map
 2. Aerial photographs of the site and surrounding area
 3. Left turn lane addition picture
 4. Previous development plan and Waiver request
 5. Current development plan
 6. Proposed elevations
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-

TAB 1
LOJIC ZONING MAP



Proposed Cooper Chapel Road Extension

Tuscany Ridge at Bardstown Woods

M2

M-2

23-ZONEPA-0080

R4

PRD

PRD 21-ZONE-0052

Old Bardstown Road

C1

C-15

MEADOW VALLEY LN

R5A

R-5A

Fern Creek FD

Glenmary Village Apts

SITE

R-4

C-1

M-2

Bootleg BBQ

(RR)

Independence School Road

Thixton Lane

09-004-06

C2

14732

R4

RR

Floyds Fork

Broad Run Park

The Springs of Glenmary Village

R-5A

9868

9868

9868

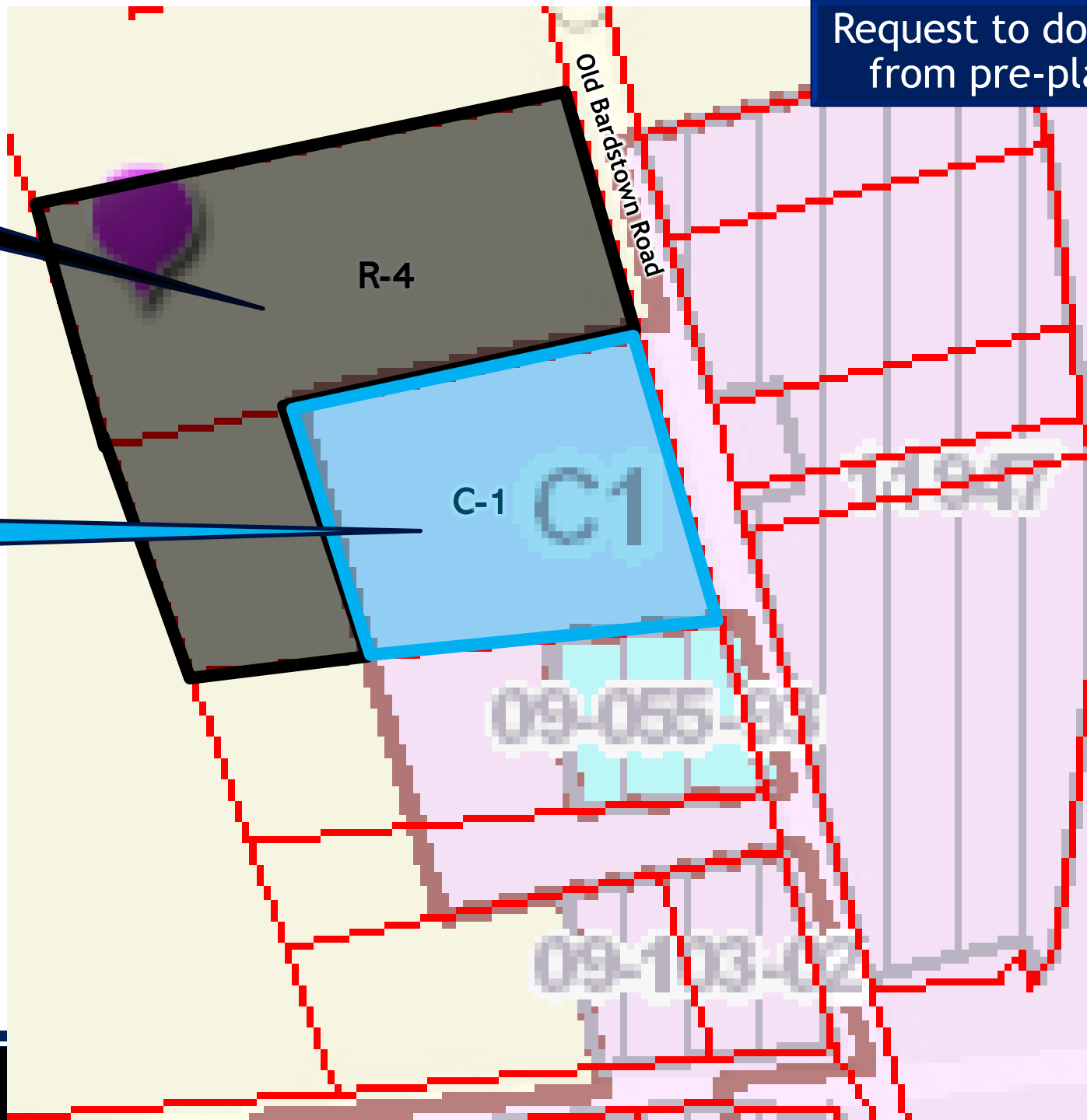
9868

21-ZONE-0138

Request to downzone portion of site from pre-plan certain C-1 to R-6

R-4 to R-6

C-1 to R-6



TAB 2
AERIAL PHOTOGRAPH OF
THE SITE AND
SURROUNDING AREA

Tuscany Ridge at Bardstown Rd

SITE

Thixton Lane

Old Bardstown Road

Fern Creek FD

McVey Plumbing

Bootleg BBQ

Bardstown Road

150

Glenmary Village Apts

Bardstown Farm Rd



TAB 3
LEFT TURN LANE
ADDITION PICTURE

Left Turn Lane Addition

Louisville, Kentucky
Google
Street View - Jul 2021



Looking north down Old Bardstown Road from the southern most point of site.

Applicant to construct left turn lane along frontage



9417 Old Bardstown Rd
Louisville, Kentucky
Google
Street View - Jul 2021

SITE



View of site looking west from Old Bardstown Road



Applicant to contribute \$___ to additional right turn lane on Thixton Ln.

View of Thixton Lane looking east towards Old Bardstown Road and Bardstown Road



Applicant to contribute \$___ to additional right turn lane on Thixton Ln.

View of Old Bardstown Road looking south towards Thixton Lane

TAB 4
**PREVIOUS DEVELOPMENT
PLAN AND WAIVER
REQUEST**

Development plan shown at
the 3/2/23 PC hearing
(110 townhome units)



Previous Waiver of LDC
5.9.2.A.1 requested to not
provide a stub connection to
the west

Fern Creek
Fire Department

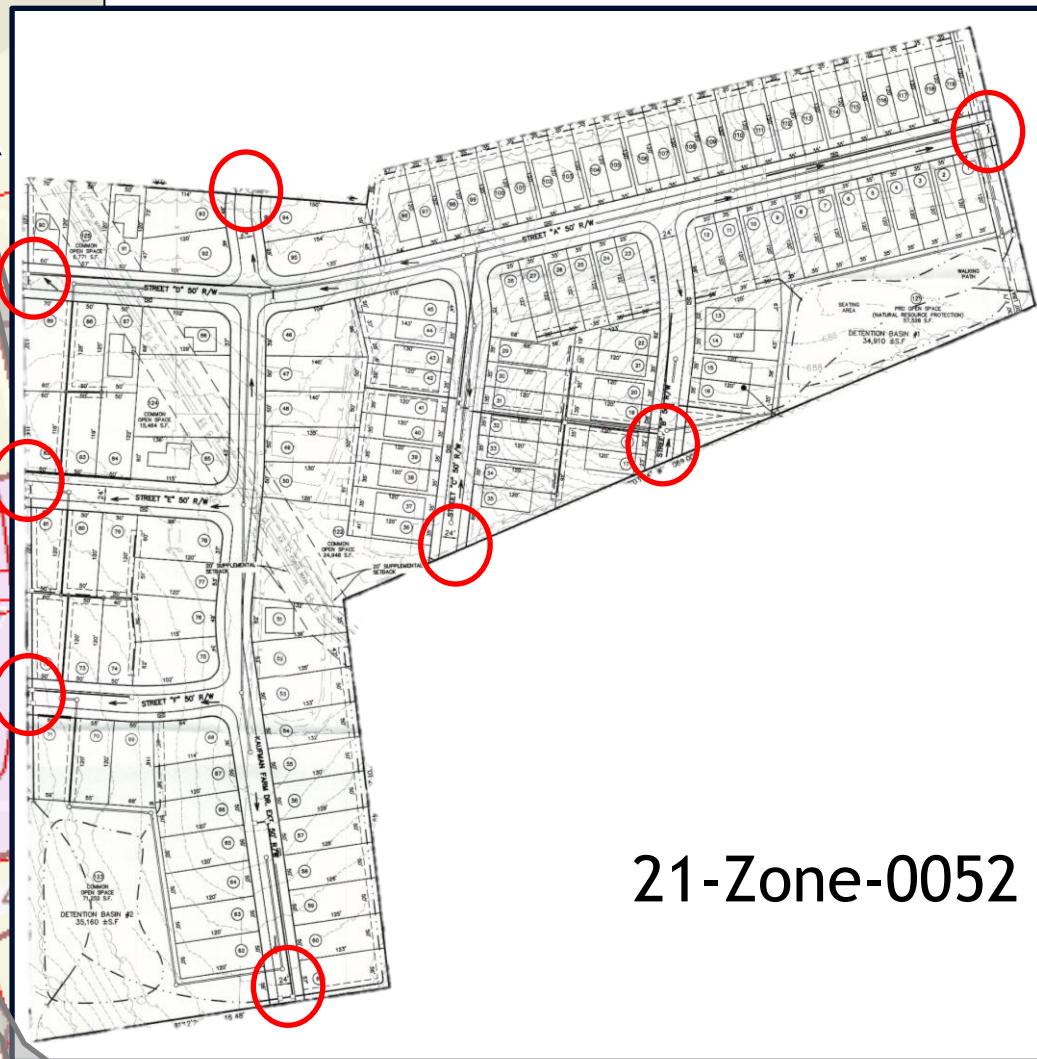
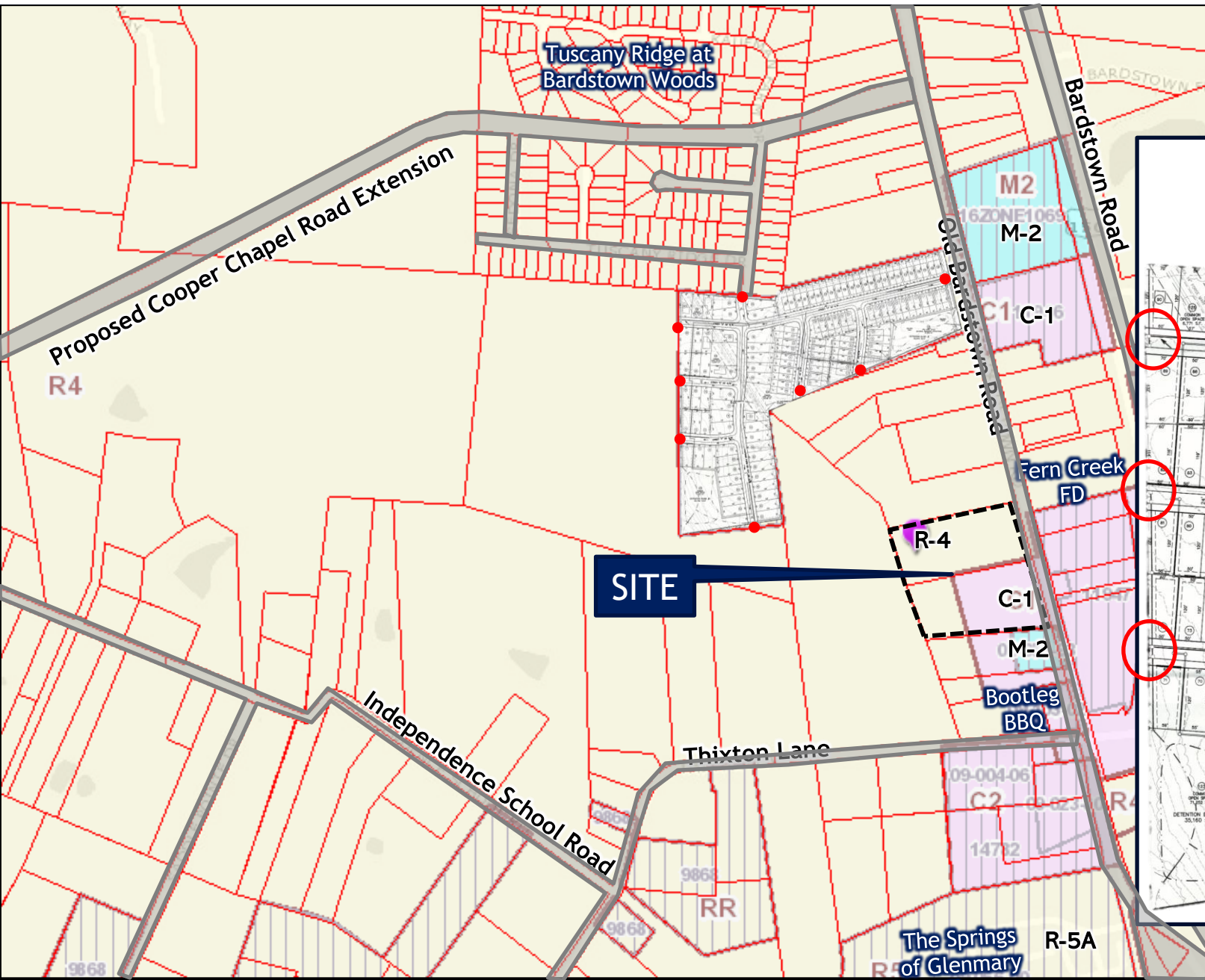
Glenmary
Village
Apartments

BARDSTOWM RD

OLD BARDSTOWM RD

McVey
Plumbing

Bootleg
BBQ



21-Zone-0052

Restrictive Aerial Easement Agreement for properties to the west

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

RESTRICTIVE AERIAL EASEMENT AGREEMENT

Lease No: DTFAEN- 17- L - 00030
Geographical Location: Louisville, Kentucky
Facility: VORTAC/CZ

THIS RESTRICTIVE AERIAL EASEMENT AGREEMENT is made by and between Leroy Williams (hereinafter referred to as the "Grantor(s)") whose address is 10313 Thixton Lane, Louisville, Kentucky, 40291 and the Federal Aviation Administration, an agency of the United States of America (hereinafter referred to as "the Government").

WITNESSETH:

The Parties hereto, and for the consideration hereinafter mentioned, agree as follows:

Grantor owns a certain 19.004 acre tract of land located at 10313 Thixton Lane, in the City of Louisville, County of Jefferson, and State of Kentucky ("Grantor's Property").

Grantor desires to grant to the Government a restrictive aerial Easement over a portion of Grantor's Property, that being a certain 19.004 acre tract more particularly described below.

Grantor and the Government acknowledge that the proposed aerial Easement will benefit the Grantor while helping to advance the Government's mission.

1. Easement Property: A 19.004 acre tract of land located at 10313 Thixton Lane Louisville, Jefferson County, Kentucky, and being more particularly shown on the attached drawing identified as "Exhibit A" and further described as follows:

Beginning at a point, said point being a common corner with Harold and Zelda Yancey of Record in Deed Book 5004, Page 336 and James and Anna Brotzege of record in Deed Book 3527, Page 285 in the office of the Jefferson County, Kentucky Court Clerk; thence; leaving the common corner with said Brotzege and following the common line with said Yancey, N 01°30'45" E, 951.48 feet to a point in the 1000-foot radius of the VORTAC antenna site across the lands of Leroy Williams of Record in Deed Book 5687, Page 602; thence; continuing with said 1000-foot radius with a curve turning to the right having an arc length of 1698.29 feet, with a radius of 1000.00 feet, and a chord bearing of S 39°57'02" E, having a chord of length of 1501.43 feet, to a point being a common corner with Victor and Cynthia Huff of Record in Deed Book 7175, Page 610; thence leaving said corner of Huff and the 1000-foot radius and following the common line of said Brotzege, N 79°02'34" W, 1007.29 feet to the POINT OF BEGINNING, having as area of 827789.23 square feet or 19.003 acres. The property is further illustrated on Plat Survey by Westerman & Associates, dated September 25, 2007, attached and hereby made a part of this agreement.

1.3.16 Restrictive Aerial Easement Template

Revised July 2012

OMB Control No. 2120-0595

Pg. 1

2. Easement Purpose: An aerial Easement to restrict Grantor's use of the Easement Property for the purpose of the continued operation of the Government's facility.

3. Grant of Easement: Grantor hereby confirms, establishes, grants, and conveys to the Government and its successors and assigns an exclusive aerial Easement in, on, over, and across the Easement Property. The Easement includes the right to prohibit all obstructions above ground surface and the right to trim, cut, fell, and remove trees, underbrush, obstructions and other obstacles (e.g., vegetation structures) or obstacles that abridge the rights hereby granted. The Easement herein granted does not convey any right or interest in the Easement Property, except as stated herein, nor prevent Grantor from the use of the Easement Property provided such use does not interfere with the operation of the Government's facility and with prior concurrence by the Government.

4. Term: To have and to hold, for the term commencing on 10/01/2017 and continuing through 09/30/2027 inclusive, PROVIDED that adequate appropriations are available from year to year for the payment of consideration herein.

5. Consideration: The Government shall pay the Grantor for use of the premises the amount of TWENTY NINE THOUSAND AND NO/100 DOLLARS (\$29,000.00) per annum. Payments of (\$2,416.67) shall be made in arrears at the end of each month without the submission of invoices or vouchers. The payments shall be made to: Leroy Williams and sent to: 10313 Thixton LN, Louisville, KY 40291 or directly deposited by electronic fund transfer. Payments shall be considered paid when an electronic funds transfer is made.

5. Legal Authority: This agreement is entered into under the authority of 49 U.S.C. § 106(l) and (n), which authorizes the Administrator of the FAA to enter into and perform such acquisitions of interests in real property, agreements, and other transactions on such terms and conditions as the Administrator determines necessary.

6. Scope of Easement: The Easements, covenants, and restrictions contained herein are appurtenant to, run with, and inure to the benefit of all or any portion of the Grantor's Property, whether or not the Easement is referenced or described in any conveyance of all or such portion of Grantor's Property. This Easement is exclusive to the Government.

7. Binding Effect: The provisions of this Easement shall run with the land, and be binding upon, and for the benefit of, the parties and their successors and assigns. In the event of any sale or transfer of ownership of the Easement Property or any portion thereof, the Government will be deemed to have attorned to any purchaser, successor, assign, or transferee. The succeeding owner will be deemed to have assumed all rights and obligations of the Grantor under this agreement establishing direct privity of estate and contract between the Government and said succeeding owner, with the same force, effect, and relative priority in time and right as if the agreement had initially been entered into between such succeeding owner and the Government.

1.3.16 Restrictive Aerial Easement Template

Revised July 2012

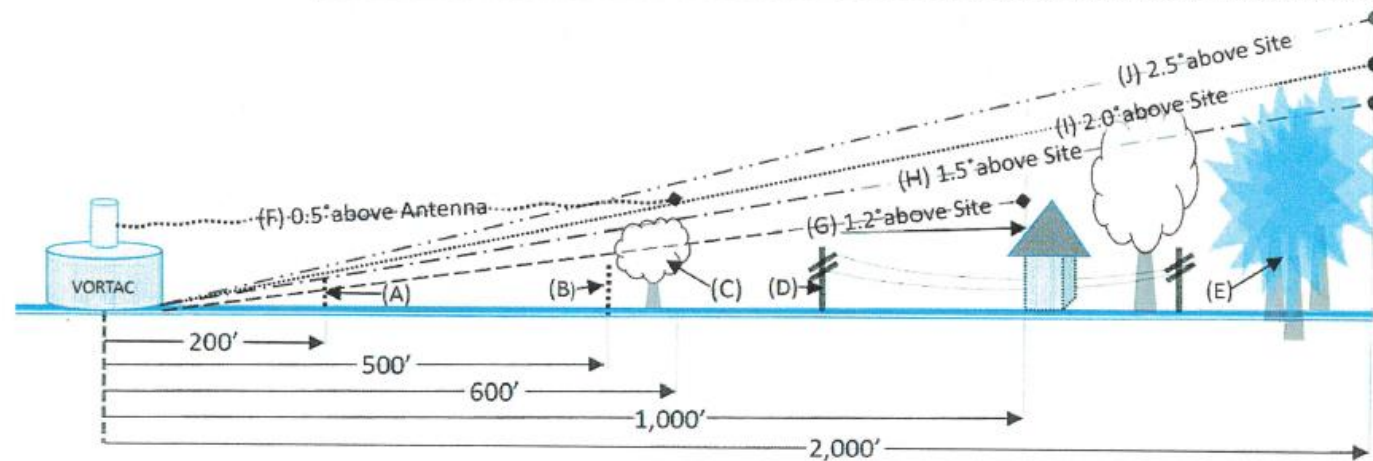
OMB Control No. 2120-0595

Pg. 2

Restrictive Aerial Easement Agreement for properties to the west

VOR AERIAL EASEMENT/ CLEAR-ZONE CRITERIA

All aerial clear zones are 1,000 linear feet from the center of the VORTAC unless otherwise stated in the lease.



- A. Within 200 feet, no farm-type wire fences 4 feet or more in height.
- B. Within 500 feet, no chain type fence 6 feet or more in height.
- “A” and “B” restrictions may be relaxed for fences essentially on a ray (a/k/a radial) to the antenna.
- C. No trees allowed within 500 feet. Single trees of moderate height (up to 30 feet) may be tolerated beyond 500 feet.
- D. All overhead power and control lines should be essentially radial to the antenna for a minimum distance of 1,200 feet.
- E. No group of trees within 1,000 feet of the site.
- No obstructions within the designated easement area. Operations of crop raising and grazing are allowed with exception of a mountaintop facility where the antennas are only 4 feet above grade.
 - Farming equipment is tolerated while in use within the easement area, however, no parked or stationary vehicles, farm implements or other mobile objects are allowed within the easement area.
 - Any planned construction within 2,000 feet of the facility must be evaluated through the Obstruction Evaluation website at <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>
- F. No fence, power lines or telephone lines should extend more than 0.5 degrees above the antenna.
- G. All structures that are partly or entirely metallic shall subtend vertical angles of less than 1.2 degrees above the surface.
- H. No other lines or supporting structures should subtend a vertical angle of more than 1.5 degrees above the site.
- I. No trees should subtend a vertical angle of more than 2.0 degrees above the site.
- J. Wooden structures with negligible metallic content may be tolerated below 2.5 degrees.

TAB 5
CURRENT DEVELOPMENT
PLAN

Current Development Plan

Fern Creek
Fire Department

Glenmary
Village
Apartments

BARDSTOWN RD

OLD BARDSTOWN RD

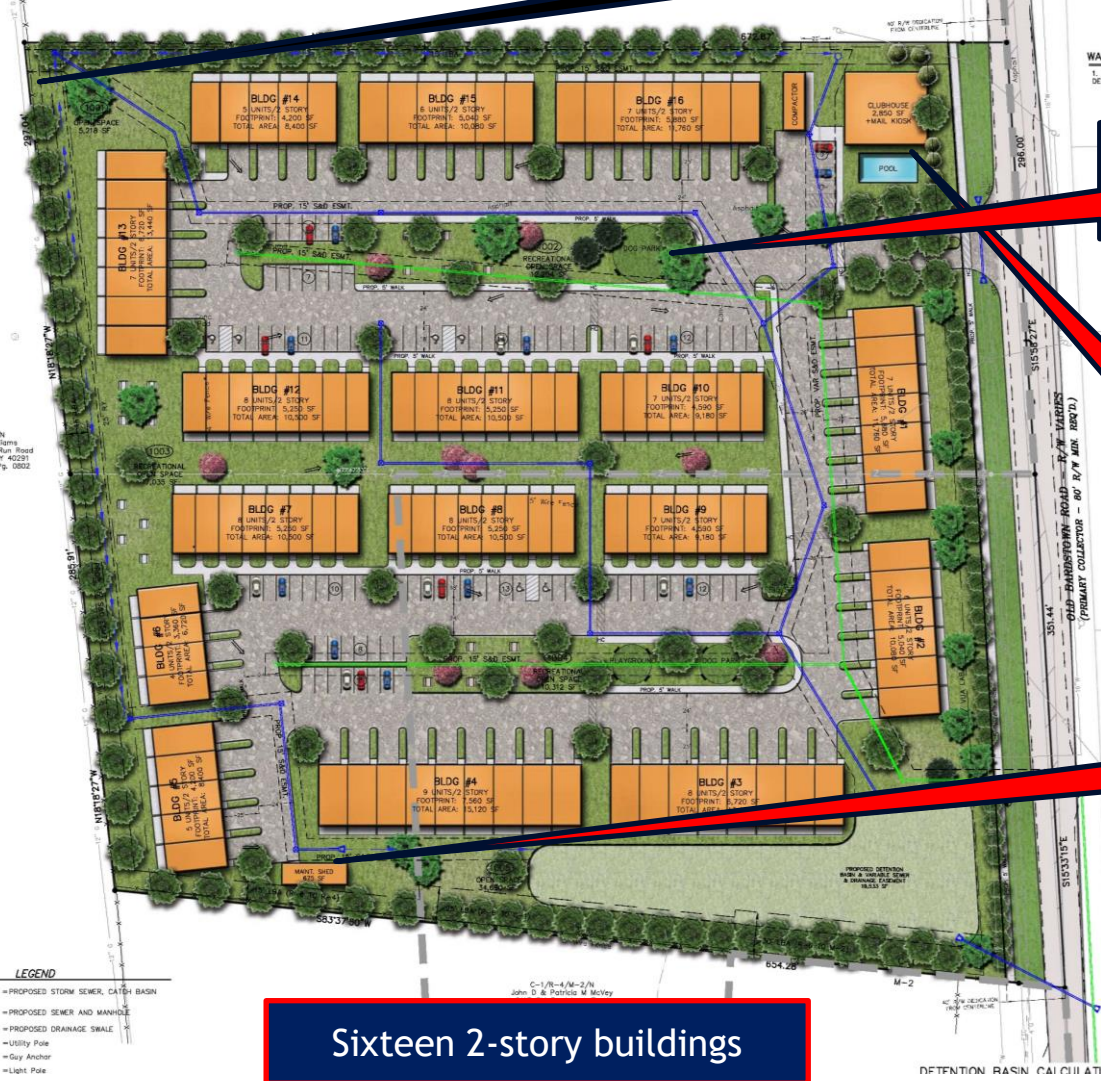
Stub connection provided -
Waiver of LDC 5.9.2.A.1
eliminated

Per LD&T comments, the
pavement constructed to
property line for future
potential connection

3/2/23 Development Plan

Stub Connection added

Current Development Plan

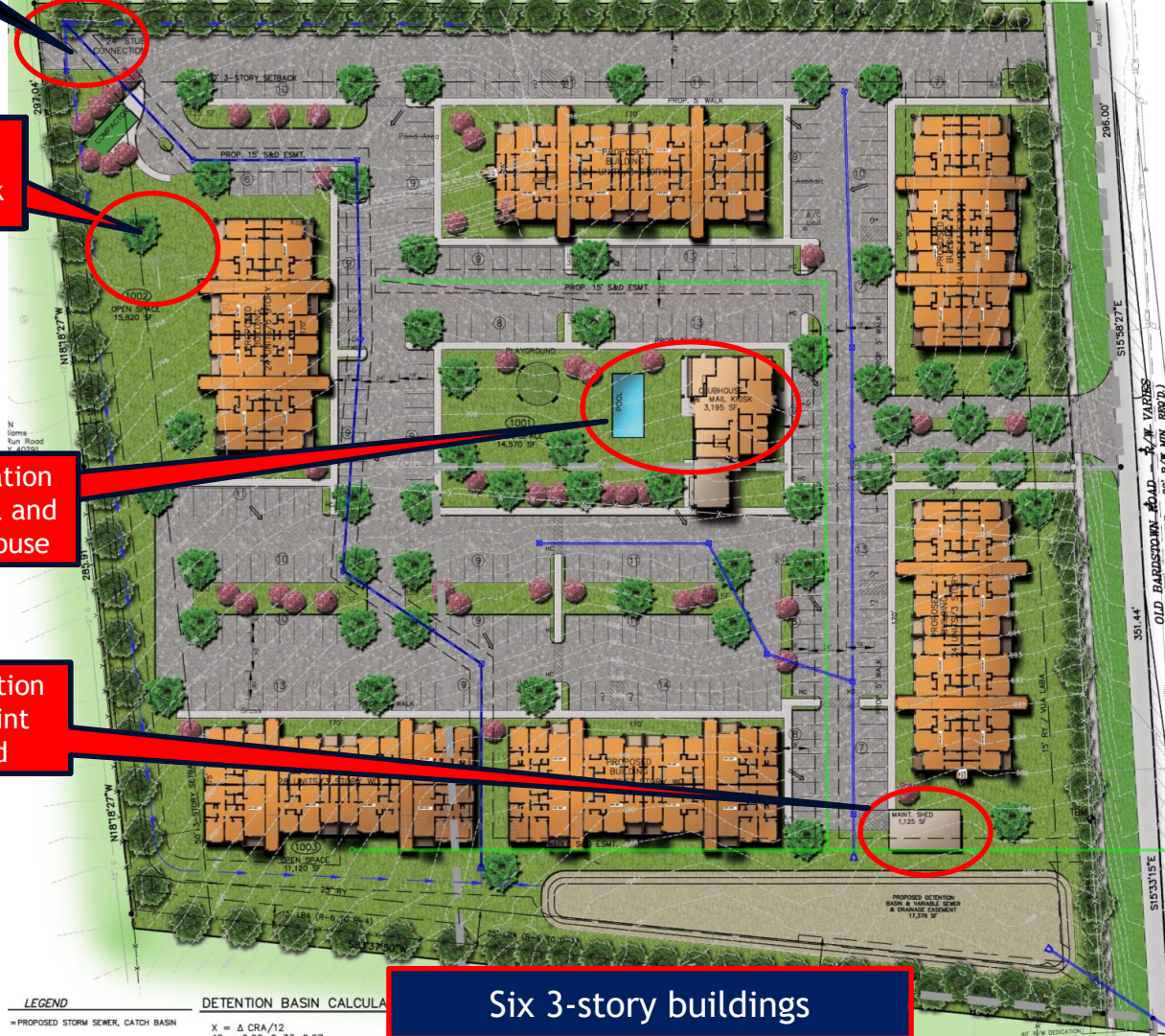


Sixteen 2-story buildings

Relocation of Dog Park

Relocation of Pool and Clubhouse

Relocation of Maint Shed



Six 3-story buildings

LEGEND
 - PROPOSED STORM SEWER, CATCH BASIN
 - PROPOSED SEWER AND MANHOLE
 - PROPOSED DRAINAGE SWALE
 - Utility Pole
 - Guy Anchor
 - Light Pole

DETECTION BASIN CALCULATION
 $X = \Delta CRA/12$
 $AD = 0.60 - 0.33 = 0.27$
 $A = 9.8 \text{ ACRES}$
 $R = 2.8 \text{ INCHES}$
 $X = (0.27(9.8)(2.8))/12 = 0.62 \text{ AC.-FT}$
 REQUIRED $X = 27,007 \text{ CU.FT.}$

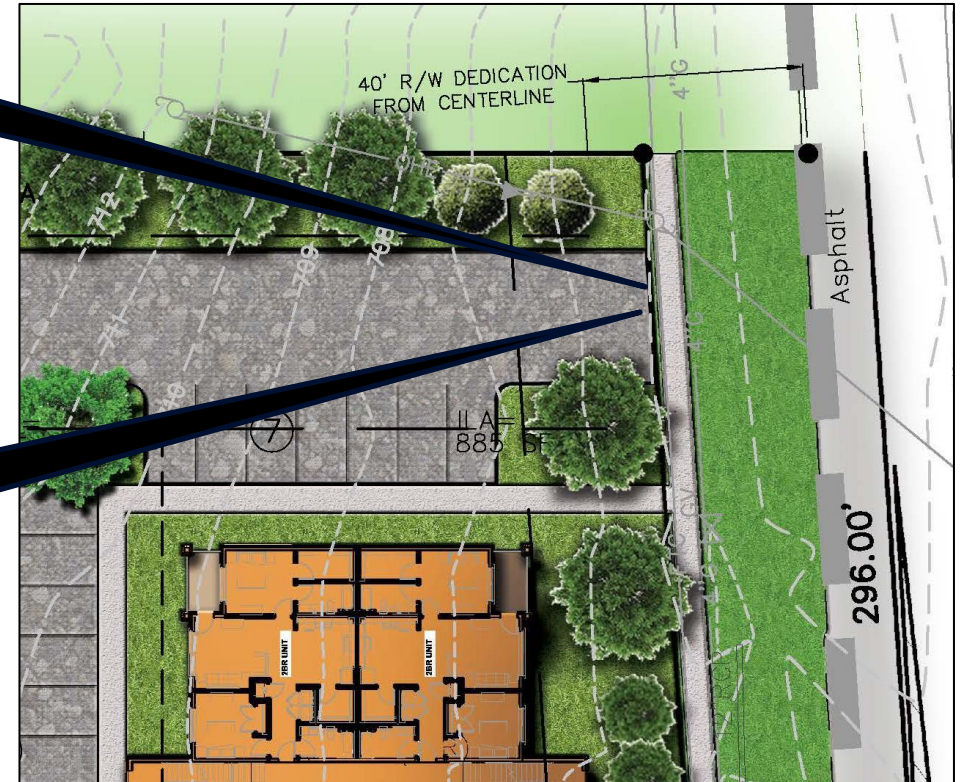
8/24/23 Development Plan



Pavement constructed to property line

Traffic improvement concession triggers a technical waiver

Current Development Plan



WAIVER REQUESTED

1. A Landscape Waiver is requested from section 10.2.10 of the Louisville Metro Land Development Code to allow a vehicular use area to encroach into the required 15' Vehicular Use Area Landscape Buffer along Old Bardstown Road..

Current Development Plan



**Fern Creek
Fire Department**

OLD BARDS

BARDSTOWN RD

TAB 6
PROPOSED ELEVATIONS

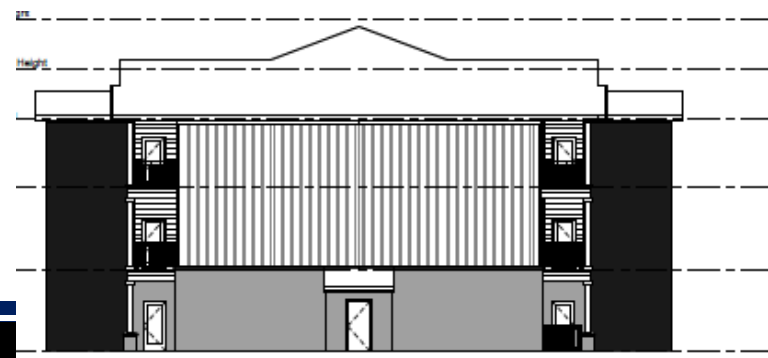


Elevation-Type A - Front

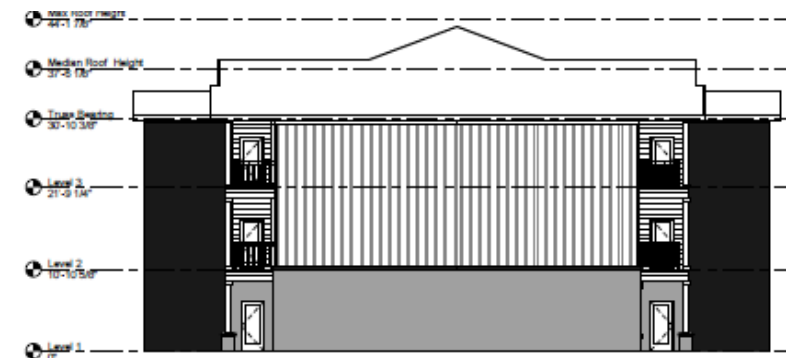


Elevation-Type A - Rear

Elevations



Elevation-Type A - Left



Elevation-Type A - Right

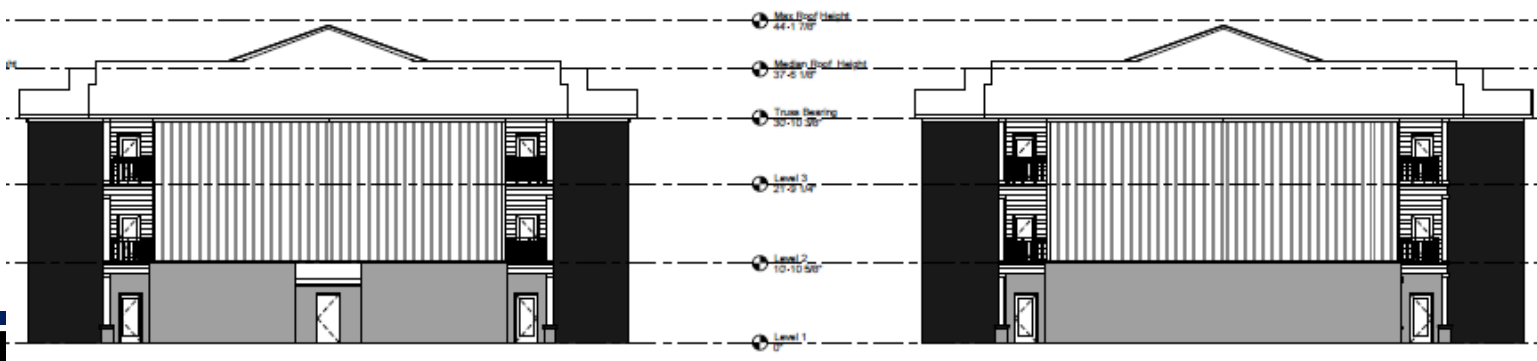


Elevation-Type B - Front



Elevation-Type B - Rear

Elevations



Elevation-Type B - Left

Elevation-Type B - Right



Elevation-Type C - Front



Elevation-Type C - Rear



n - Type C - Left

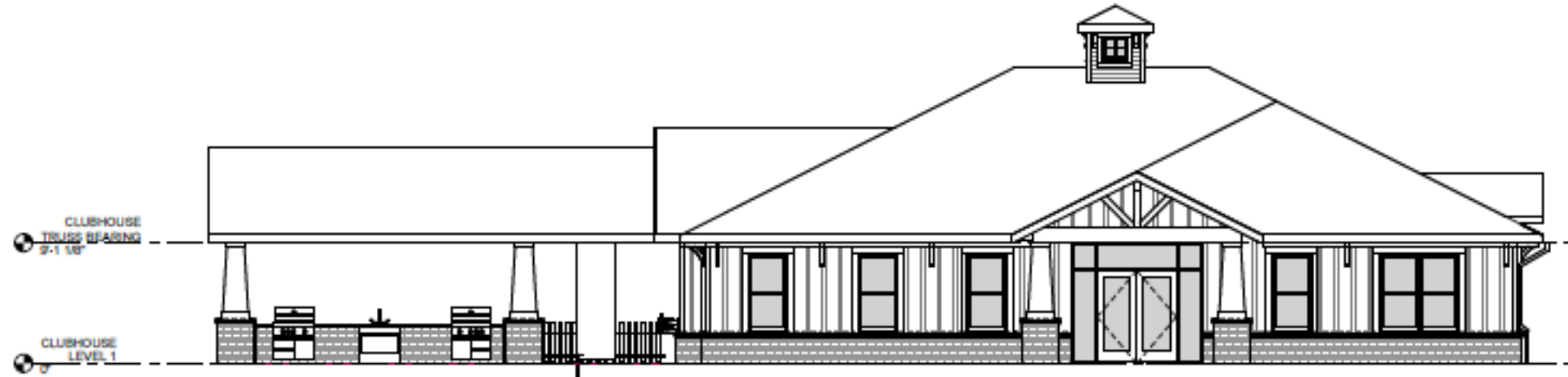
Elevation-Type C - Left



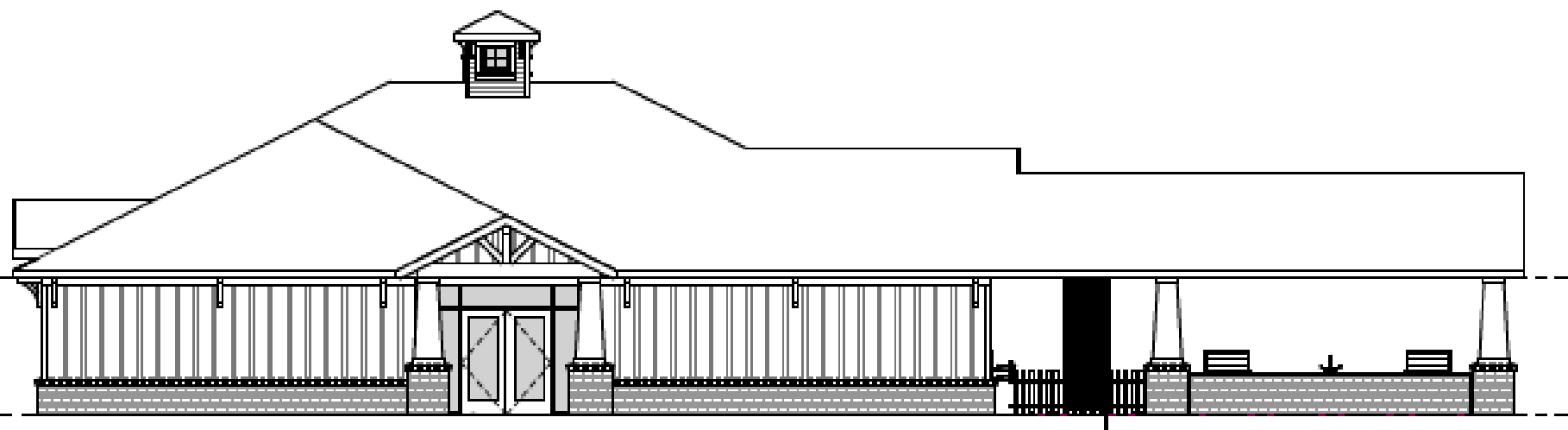
4 Elevation - Type C - Right
A203 1/8" = 1'-0"

Elevation-Type C - Right

Elevations



Clubhouse - Front



Clubhouse - Rear

Elevations



Clubhouse - Left

TAB 7
FINDINGS OF FACT

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

1000 N. HURSTBOURNE PARKWAY • BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG. • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
(502) 426-6688 • (502) 425-0561 (FAX) • WWW.BARDLAW.NET

PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GOALS, OBJECTIVES AND POLICIES OF THE 2040 PLAN

Applicant: Friess Property Company; Heritage Peak Partners

Owner: : Roger Dale Perkins Estate; Michael and Laura Schnell

Project Name/Location: : Old Bardstown Road Townhomes

Proposed Use: Multifamily Residential

Request: Zone change from R-4 and C-1 to R-6

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

INTRODUCTION

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearings held on March 2, 2023, and October 5, 2023 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

PLAN ELEMENT 4.1: COMMUNITY FORM

WHEREAS, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 1 of the Community Form Plan Element, and specifically with Policies 2, 2.1, 3.1.3, 4, 5, 6, 7, 9 10, 11, 12, 14, 16, 17, 18, 19, 20 and 23, as the site is located in the Neighborhood Form District which encourages high density uses and a range of housing opportunities, notably including multi-family dwellings which can be rental apartments, which this plan proposes; the design, square footages and rental rates of the proposed apartments provide an additional housing option for the area as contemplated by these Policies as appropriate for this Form District and specific neighborhood; Land Development Code required setbacks, height restrictions, both interior and perimeter landscaping, minimum parking and maximum lighting and signage will all be met without variances or waivers thereof (with the only LBA waiver resulting from a concession made by the applicant to provide for a potential future access point); located as this proposed apartment community is near to a small commercial activity center and both existing and planned restaurant and major retail shopping opportunities north on Bardstown Road, travel distances for these purposes are severely reduced; this helps contribute to improved air quality; the proposed apartment buildings are also design and density compatible with similar developments in the area; landscaping, screening, and buffering beyond the bare minimums also helps assure appropriateness for the neighborhood and compatibility with adjoining residential uses; the proposed development is consistent with the Fern Creek Small Area Plan originally adopted in 2001 ("FCSAP"); it is north of a potential activity center at Thixton Lane and Bardstown Road; and the FCSAP states in

pertinent part that this area “should be developed in medium density residential uses... that are in-scale and compatible with the existing residential uses in the area.” (pp. 36 and 85) which is what is proposed here; and

WHEREAS, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 2, and specifically with Policies 1, 2, 3, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16 and 17, because the proposed apartment community is located in a Neighborhood Form District and provides a new residential use; and

WHEREAS, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 3 and specifically with Policies 1, 2, 3, 6, 9, 10 and 13, because the detailed district development plan (DDDP) for this proposed apartment community includes a community clubhouse, pool and 63,605 square feet of well distributed communal open space for use by residents which is substantially more than double the open space required by the LDC; these open spaces will be maintained in perpetuity by the owner of the apartment community; and the site does not contain severe, steep, or unstable slopes nor any wet or highly permeable soils; and

WHEREAS, the proposal complies with all of the applicable Objectives and Policies of Goal 4 as this is not a historic site with historic buildings or distinctive cultural features but does contain a barn over 50 years old which will be demolished in compliance with the Wrecking Ordinance Section 150.110; and

PLAN ELEMENT 4.2: MOBILITY

WHEREAS, this proposed zone change complies with Plan Element 4.2, its 3 Goals and their Objectives plus the following Policies; as to Goal 1, Policies 1, 2, 3, 4 and 6; Goal 2, Policies 1, 2, 3, 4, 5, 6, 7 and 8; and Goal 3, Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 18, 19, 20 and 21, it complies because this proposed apartment community is 2.5 miles south of Regional Center and Town Center form districts located at Bardstown Road and the Gene Snyder Freeway and within an existing activity center that provides a mix of zoning and uses centered on Old Bardstown Road, Thixton Lane and Bardstown Road (located as it is within an existing and growing activity center, with good access and thereby well connected as it is proposed to be near schools, restaurants, retail shopping and other residential developments and communities) is clearly part and parcel of good pedestrian, bicycle and road networks; locating their development along and with access to and from those networks, the aforementioned developers will at their cost construct a sidewalk along Old Bardstown Road, a collector roadway and widen Old Bardstown Road for a left turn lane; in doing so, they will prepare construction plans that will assure safe access with good site distances and turning radii for the private access directly to Old Bardstown Road; the applicant will provide a stub connection to the property to the west for future connection when that property develops and will construct pavement to the northeastern property line for a future connection to Old Bardstown Road; the applicant will also contribute funds to Louisville Metro Public Works for construction of a right-hand turn lane on Thixton Lane between Old Bardstown Road and Bardstown Road as presented at the public hearing; bike racks and handicapped parking spots will be installed as and where required near buildings; 300 parking spaces (including twelve handicapped spaces) are provide as shown on the development plan; all drive lanes, parking spaces will be designed in accordance with Metro Public Works and Transportation Planning (MPW&TP) requirements; these are preliminarily depicted on the DDDP filed with this application; TARC

service is not currently available outside the Gene Snyder Freeway; there is no direct residential access to high-speed roadways; all necessary utilities are located proximate to this site and accessible by it via public right of way or easements; and page 42 of the FCSAP notes that this area is designated as a shared access bikeway and bike racks will be provided on site to take advantage of this feature; and

PLAN ELEMENT 4.3: COMMUNITY FACILITIES

WHEREAS, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 2, and specifically with Policies 1, 2, and 3, because schools are in reasonable proximity, including Fern Creek High School (4.3 miles), Fern Creek Elementary School (4.4 miles), Ramsey Middle School (5.6 miles), and Bates Elementary School (2.7 miles); adequate sewage treatment and disposal is provided which do not threaten water quality; and the site is served by the Louisville Metro Police Department Seventh Division, Beat 2, and the Fern Creek Fire Department, Station 2, 9409 Bardstown Road; and

PLAN ELEMENT 4.4: ECONOMIC DEVELOPMENT

WHEREAS, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 2, and specifically with Policies 1, and 3 because as Louisville Metro's population continues to grow, so does demand for housing of all types; this proposed apartment community is part of a developer response to that demand providing rental apartments in an underserved area, and as such both stabilizes and offers increased opportunities for employment in the building trades and associated industries and it also increases the tax base essential to the provision of government services; and

PLAN ELEMENT 4.5: LIVEABILITY

WHEREAS, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 1, specifically with Policies 5, 7, 8, 10, 11, 12, 13, 15, 16, 21, 23, 26, 27, 28, 29, 30, 31, 32, 33 and 35; and of Goal 4, specifically with Policies 1 and 2, as the DDDP filed with this application shows how storm water is proposed to be addressed, including where a 17,378 square foot detention basin is located at the southeast corner of the site such that post development rates of run-off will not exceed pre-development conditions; sanitary sewer service is available at the Cedar Creek regional wastewater treatment plant; it can be accessed via lateral extension to and from an existing nearby manhole; the site is not in a regulatory floodplain; there are no regulated streams or other protected waterways that are directly impacted by this proposed development, although measures will be taken to assure that erosion and sediment impacts are fully controlled and/or mitigated; the LDC tree canopy requirement (35% of site) will be provided with 132,488 square feet of canopy; as mentioned above, given the location of this proposed apartment community in an existing and expanding activity center, air quality impacts will be minimized because vehicle miles travelled are reduced; and a karst survey performed on June 23, 2022, by Ted Bernstein, RLA and no karst features were found on the site; and

PLAN ELEMENT 4.6: HOUSING

WHEREAS, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 1, and specifically with Policies 1, 2 and 3; Goal 2, Policies 1, 2 and 3; and Goal 3, Policies 1, 3 and 4, because designed as it is as an apartment community with the unit amenities expected at the rental rates contemplated, this apartment community fits the category of “workforce” housing, meaning primarily individuals and families currently in the workplace; because of the number of bedrooms, it is indeed possible that some residents, particularly staff and teachers will take advantage of proximity to the nearby schools, will have children; this plan supports mixed income and intergenerational development by proposing additional housing types in an area with access to a variety of commercial services, amenities, and employment opportunities; the location on Old Bardstown Road provides ready access to a transportation network with safe and convenient access to employment, services, and amenities; and this proposal supports fair and affordable housing and does not displace current residents; 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 Goals of the 2040 Plan;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby recommends to the Louisville Metro Council that it rezone the subject property from R-4 and C-1 to R-6 and approves the Detailed District Development Plan.

Current Development Plan



