

## Docket No. 21-ZONE-0076

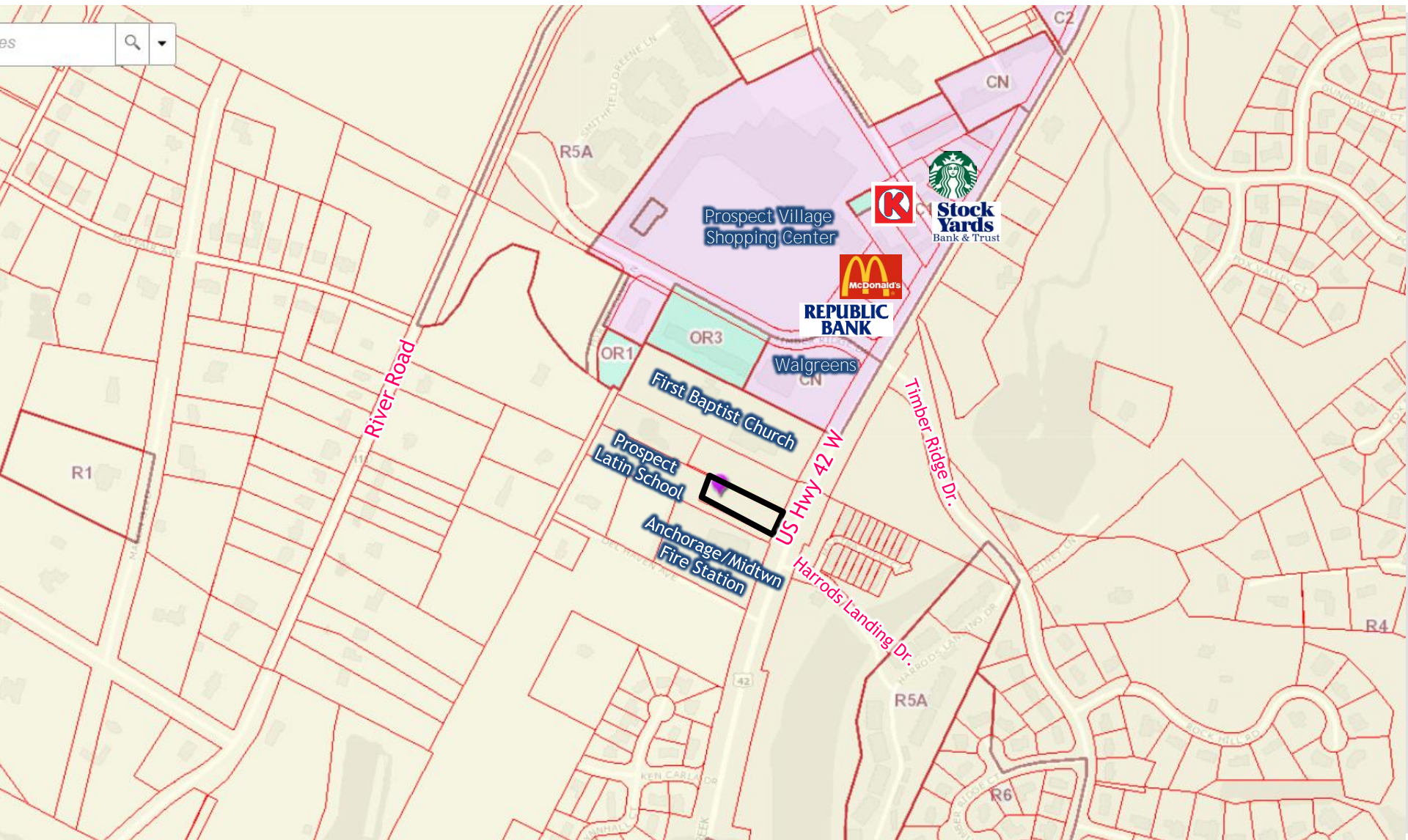
Zone change from R-4 to OR-3 to allow a 1-story, 5,000 sf office building on property located in front of the Prospect Latin School which is located at 8907 US Highway 42 W.  
(Site has no address per PVA & LOJIC)

### INDEX

1. LOJIC Zoning Map
2. Aerial photographs of the site and surrounding area
3. Ground level photographs of the site and surrounding area
4. Neighborhood Meeting notice list map, letter to neighbors inviting them to the meeting and summary of meeting
5. Development Plan
6. Building elevations
7. Statement of Compliance filed with the original zone change application with all applicable Goals of the 2040 Plan and Variance Justification
8. Proposed findings of fact pertaining to compliance with the 2040 Plan and Variance criteria



Tab 1  
LOJIC Zoning Map



es



R5A

Prospect Village Shopping Center



Stock Yards Bank & Trust



REPUBLIC BANK

Walgreens

OR1

OR3

First Baptist Church

Prospect Latin School

Anchorage/Midtown Fire Station

River Road

US Hwy 42 W

Timber Ridge Dr.

Harrods Landing Dr.

R1

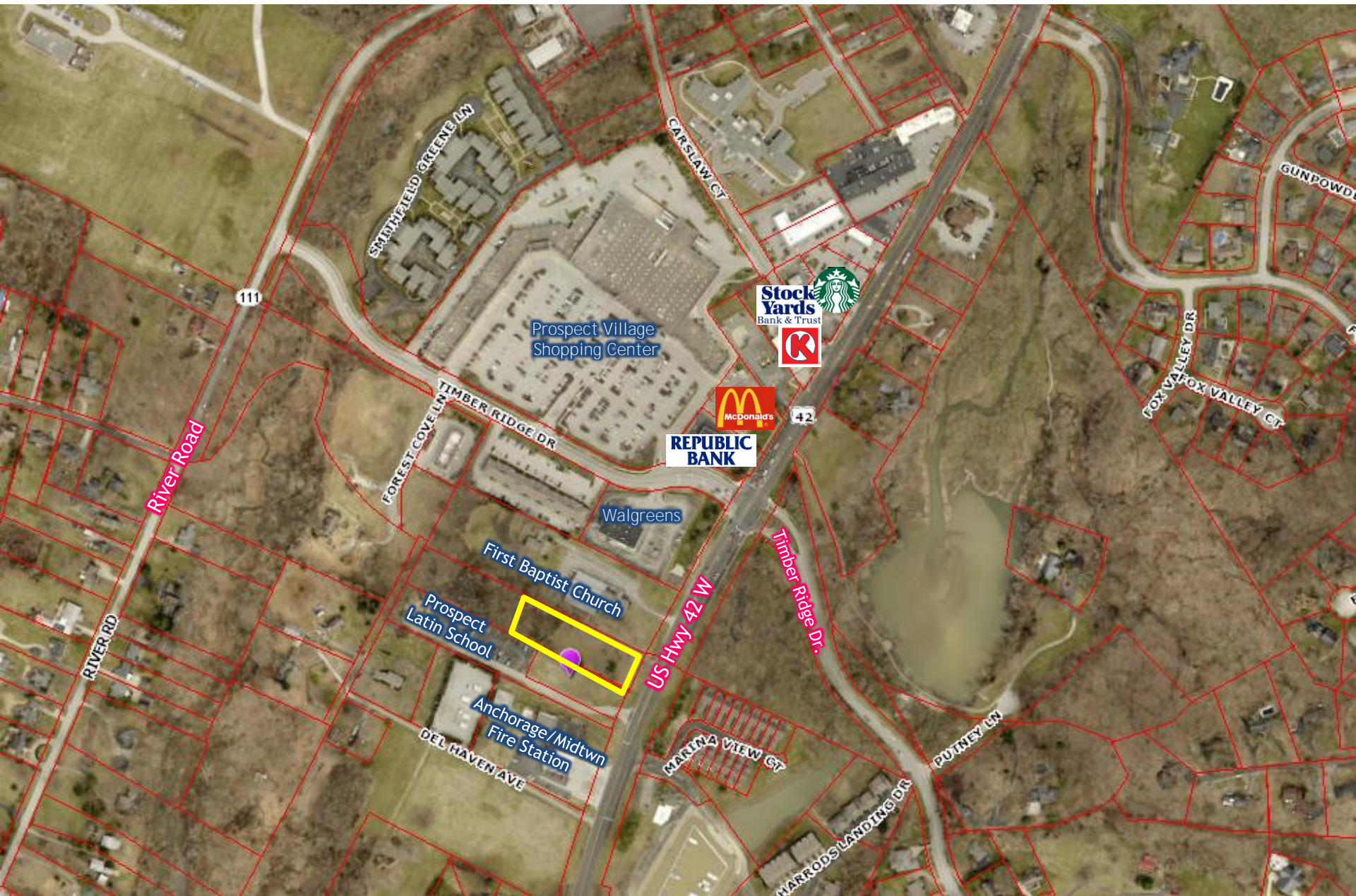
R4

R5A

R6

42

Tab 2  
Aerial photograph of  
the site and  
surrounding area



River Road

111

Prospect Village Shopping Center



REPUBLIC BANK

42

Walgreens

First Baptist Church

Prospect Latin School



Anchorage/Midtown Fire Station

Timber Ridge Dr.

US Hwy 42 W

RIVER RD

SMITFIELD GREENE LN

CARLAW CT

FOREST COVE LN

TIMBER RIDGE DR

FOX VALLEY DR

FOX VALLEY CT

GUNPOWDER

MARINA VIEW CT

PUTNEY LN

HARRODS LANDING DR



Tab 3  
Ground level  
photographs of the site  
and surrounding area



View of site from US 42



SITE

US-42

View of US 42 looking north. Site is to the left.





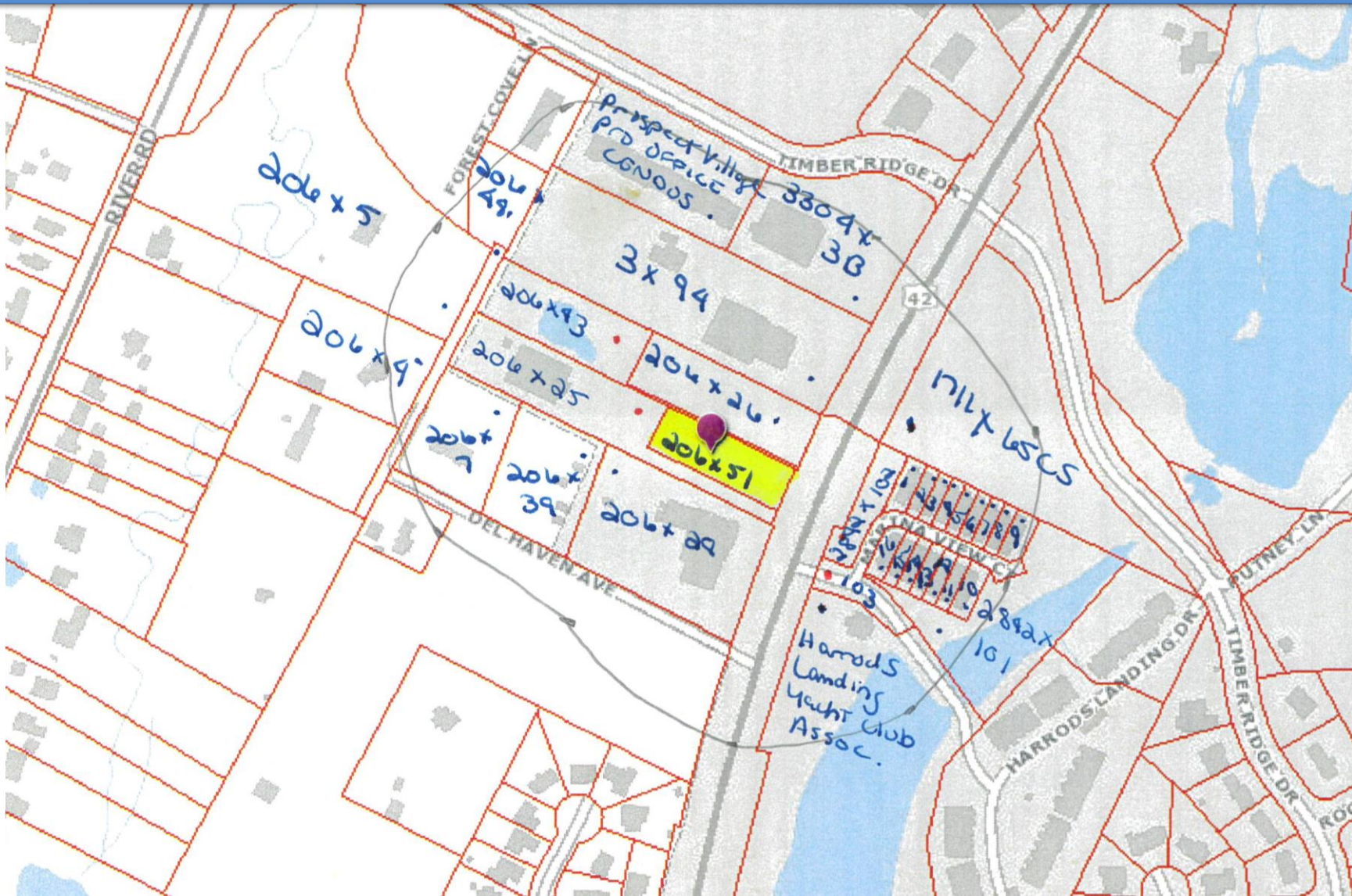
SITE

View of US 42 looking south. Site is to the right.

Tab 4

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

Adjoining property owner notice list map wherein 170 neighbors plus those on the DPDS “interested party list” were invited to the neighborhood meeting and subsequent LD&T and Planning Commission public hearing.



# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG • 1000 N. HURSTBOURNE PARKWAY • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223  
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Paul B. Whitty  
Email: [PAUL@BARDLAW.NET](mailto:PAUL@BARDLAW.NET)  
Mobile: (502) 459-2001

May 25, 2021

RE: Neighborhood meeting for a proposed zone change from R-4 to OR-3 to allow a 1-story, 5,000 sf office/commercial building on property located in front of the Prospect Latin School located at in front of 8907 US Highway 42 W. The site does not yet have an official address.

Dear Neighbor:

We are writing to notify you about an upcoming “neighborhood meeting” regarding the above referenced project. Because of the COVID-19 emergency orders requiring and/or recommending social distancing, the neighborhood meeting will be held virtually. The details are set forth in this letter and the supporting attachments. If you cannot obtain access to the virtual meeting, we may be able to assist you in that regard or otherwise assure a telephone or in-person conversation.

The Applicants, Jeff & Theresa Byrne, are seeking approval of a rezoning from R-4 to OR-3 on the property referenced above. The project is proposed to consist of a 5,000 sf single story professional/medical office building on 0.65 acres. As such, a plan was filed for pre-application review with Metro Planning and Design Services (PDS) that was assigned case number **21-ZONEPA-0055** and case manager **Joel Dock**.

The virtual meeting will be held on **Wednesday, June 9<sup>th</sup>, 2021** beginning at **6:00 p.m.**

Enclosed for your review are the following:

1. The development plan sheet
2. LOJIC site location zoning map sheet showing the location of the site
3. Detailed summary sheet of the project
4. Contact information sheet
5. Instruction sheet on how to join the virtual meeting.
6. Information sheet on how to obtain case information online from PDS’ online customer service portal.
7. PDS’ “After the Neighborhood Meeting” sheet

If you are unable to attend the virtual meeting, or have any questions or comments, please feel free to email or call me, or contact the PDS manager listed on the attached contact information sheet.

We look forward to our opportunity to visit virtually or by phone.

Sincerely,

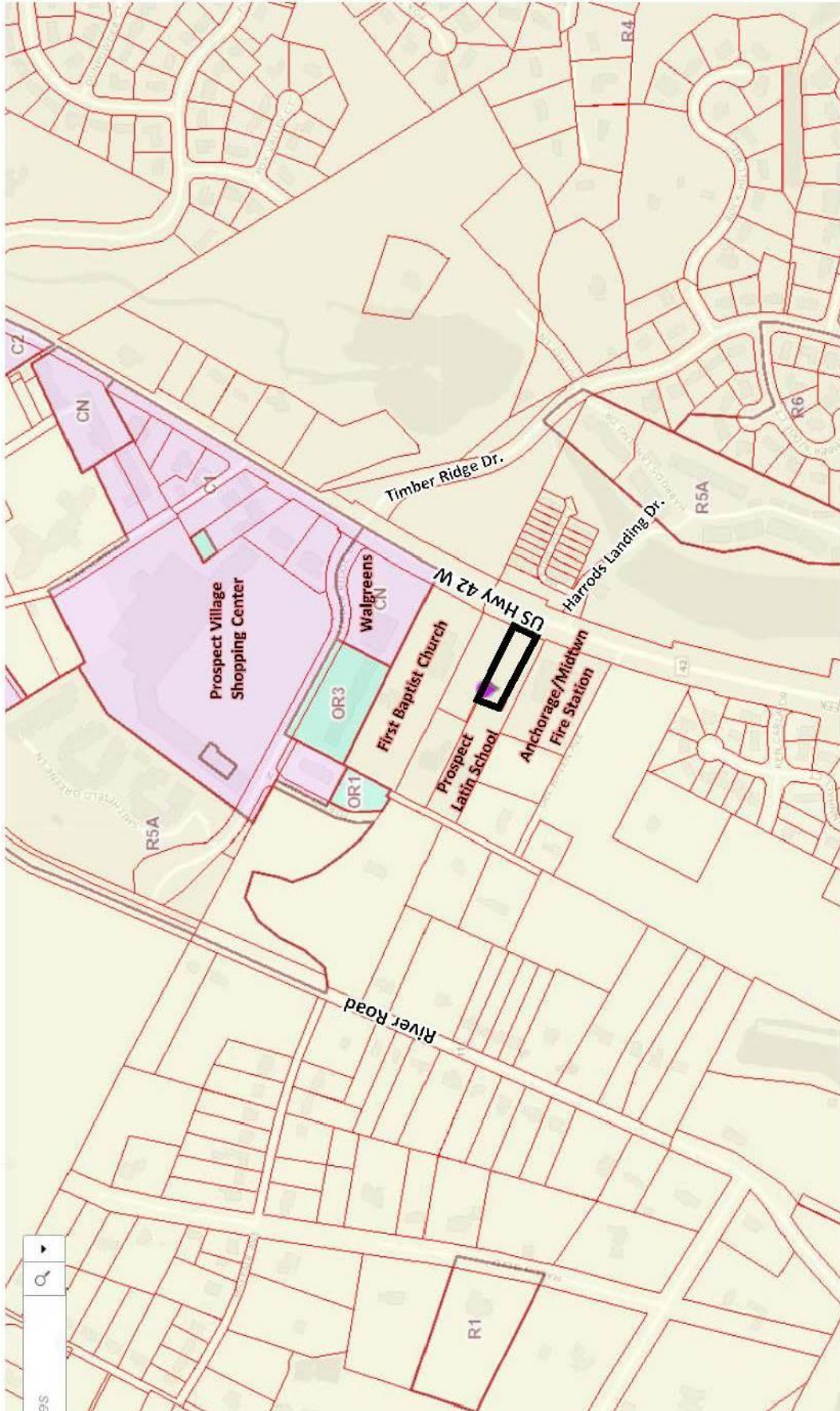


Paul B. Whitty

cc: Hon. John Evans, Mayor, City of Prospect  
Hon. Scott Reed, Councilman, District 16  
Joel Dock, Planning & Design Case Manager  
Chris Brown, land planner with BTM Engineering, Inc.  
Theresa Byrne, applicant



# LOJIC SITE LOCATION SHEET



## **DETAILED SUMMARY SHEET**

The Applicants, Jeff & Theresa Byrne, are seeking approval of a rezoning from R-4 to OR-3 on the property referenced above. The project is proposed to consist of a 5,000 sf single story medical office building on 0.65 acres. As such, a plan was filed for pre-application review with Metro Planning and Design Services (PDS) that was assigned case number **21-ZONEPA-0055** and case manager **Joel Dock**.

The property is located on the northwest side of US Hwy 42 W as shown on the attached “LOJIC Site Location” attachment.

The present zoning is R-4, the proposed zoning is OR-3 (Office Residential). The form district is Village Form District with no proposed change thereto.

There are no trees or vegetation on the site to preserve however, landscaping, screening and buffering will contain at least the minimum amount required by Chapter 10 of the Louisville Metro Land Development Code (LDC). Greater detail on this should be available at the time of the neighborhood meeting. Sanitary sewer service will be directed to the Hites Creek sanitary treatment plant. A monument style sign is proposed as located on the plan.

Storm water treatment must assure that post-development rates of run-off do not exceed pre-development conditions. Detention will be compensated through regional facility fees. Final configuration of drainage pipes and channels shall be determined in the construction plan process. Drainage facilities must conform to MSD requirements.

**NOTICE OF POTENTIAL SUBDIVISION/DEVELOPMENT PLAN CHANGES.** Please be advised that this “Detailed Summary” is being provided early in the application process. As such, whereas every effort has been made to assure accuracy, changes may be made to the subdivision/development plan before the now scheduled neighborhood meeting and also after it based on public comments and those of various agencies and PDS staff review. Any changes will be available for public review on the PDS Online Customer Service Portal. Instructions on how to access this information is provided in the PDS’s online customer service portal information sheet. Additionally, those changes with the final plan would be presented at the time of the public hearing(s). You may also contact the PDS case manager if you have any questions, or contact any others listed on the Contact Information Sheet where contact information is provided.

## **CONTACT INFORMATION SHEET**

### **1. PRIMARY CONTACT**

*Bardenwerper, Talbott & Roberts, PLLC  
1000 N. Hurstbourne Pkwy., 2<sup>nd</sup> Floor  
Louisville, KY 40223  
Attn: Paul B. Whitty – (502) 459-2001  
[Paul@bardlaw.net](mailto:Paul@bardlaw.net)*

### **2. ENGINEERING FIRM**

*BTM Engineering, Inc.  
3001 Taylor Springs Drive  
Louisville, KY 40220  
Attn: Chris Brown – (502) 644-0182  
[cbrown@btmeng.com](mailto:cbrown@btmeng.com)*

### **3. APPLICANT**

*Theresa Byrne – (502) 500-6339  
[Theresabyrne2@gmail.com](mailto:Theresabyrne2@gmail.com)*

### **4. CASE MANAGER OR SUPERVISOR**

*Joel Dock, Planning & Design Case Manager  
Planning & Design Services  
444 South Fifth Street, Suite 300  
Louisville, KY 40202  
(502) 574-5860  
[Joel.Dock@louisvilleky.gov](mailto:Joel.Dock@louisvilleky.gov)*



# INSTRUCTION SHEET ON HOW TO JOIN THE VIRTUAL MEETING

You may join the meeting using a computer, tablet, smart phone, or standard telephone

Byrne/US Hwy 42 Neighbor Meeting  
Wed, Jun 9, 2021 6:00 PM - 7:30 PM (EDT)

**Please join my meeting from your computer, tablet or smartphone.**

<https://global.gotomeeting.com/join/271293669>

**You can also dial in using your phone.**

United States (Toll Free): [1 866 899 4679](tel:18668994679)

United States: [+1 \(571\) 317-3116](tel:+15713173116)

**Access Code:** 271-293-669

New to GoToMeeting? Get the app now and be ready when your first meeting starts:

<https://global.gotomeeting.com/install/271293669>

Note: If anyone would like the connection link emailed to them, or a set of the meeting slides, please email Anna Martinez at [anna@bardlaw.net](mailto:anna@bardlaw.net) or Nanci Dively at [nsd@bardlaw.net](mailto:nsd@bardlaw.net)

**IF YOU ARE UNABLE TO ATTEND THE VIRTUAL MEETING AND HAVE QUESTIONS, PLEASE FEEL FREE TO CONTACT ANY OF THE FOLLOWING:**

***Paul B. Whitty, Esq.*** – (502) 459-2001

[Paul@bardlaw.net](mailto:Paul@bardlaw.net)

*Bardenwerper, Talbott & Roberts, PLLC*

***Chris Brown*** – (502) 644-0182

[cbrown@btmeng.com](mailto:cbrown@btmeng.com)

*BTM Engineering, Inc.*

***Joel Dock, Planning & Design Case Manager***

(502) 574-5860

[Joel.Dock@louisvilleky.gov](mailto:Joel.Dock@louisvilleky.gov)

**PLANNING & DESIGN SERVICES (PDS's)  
ONLINE CUSTOMER SERVICE PORTAL INFORMATION SHEET**

To view details of the zone change online, use the link at:

<https://aca-louisville.accela.com/LJCMG/Welcome.aspx?TabName=Home&TabList=Home>

Click on the "Search" tab

Then "Planning Applications"

Enter case number in "Record Number" box

Click on "Record Info" tab

## AFTER THE NEIGHBORHOOD MEETING SHEET

### **After the Neighborhood Meeting**

This Neighborhood Meeting is an opportunity for the applicants and surrounding neighbors to discuss and develop an understanding of the proposal prior to a public hearing. At the conclusion of this neighborhood meeting, the applicant has 90 days to file a formal application with Planning & Design Services. If the formal application is not filed with 90 days, the applicant will be required to have another neighborhood meeting.

Once the formal application is filed, a public hearing will be scheduled to consider the application. This public meeting is your official opportunity to speak in support or opposition to the proposal. If you received a notice regarding this neighborhood meeting, or did not receive a notice but signed the sign in sheet, you will receive a notice of the public meeting. Please contact the case manager if you are interested in learning how to request a night hearing or hearing in the district of the project.

If you are interested in staying informed about this proposal, or have any questions about the formal review process, you may call the Planning & Design Services office at **(502) 574-6230**. Please refer to the case number in your inquiry. You may also go to **<https://louisvilleky.gov/government/planning-design>** to view meeting agendas, search case information, or obtain other Planning & Design Services information.

**NEIGHBORHOOD MEETING SUMMARY**  
**21-ZONE PA-0055**

The Neighborhood Meeting commenced at 6 p.m. June 9, 2021. In attendance were Paul Whitty, Counsel for Applicants, Chris Brown, Land Planner and Theresa and Jeff Byrne, Applicants. Two local residents attended.

Mr. Whitty gave a power point presentation explaining the proposal and the process, showing the site plan in context with surrounding uses, area photographs and building renderings.

The residents were concerned with the proposal's impact on traffic conditions on U.S. Highway 42. Mr. Whitty and Mr. Brown explained that this relatively small office use would not generate significant peak hour trips regardless of whether it would be a medical or general office. Additionally it was pointed out that the low trip generation as set forth in the International Traffic Engineers (ITE) Manual would also more likely be local residents already in the area.

The meeting concluded at 6:20 p.m.



Tab 5  
Development Plan

C-1 / VFD  
Karina Reyes Sanchez  
Gustavo Reyes Torres  
913 Artisan Parkway  
La Grange, KY 40031-6913  
Deed Book 12046 Page 723

R-4 / VFD  
Educational Properties LLC  
8907 US Highway 42  
Prospect, KY 40059-8837  
Deed Book 10520 Page 904

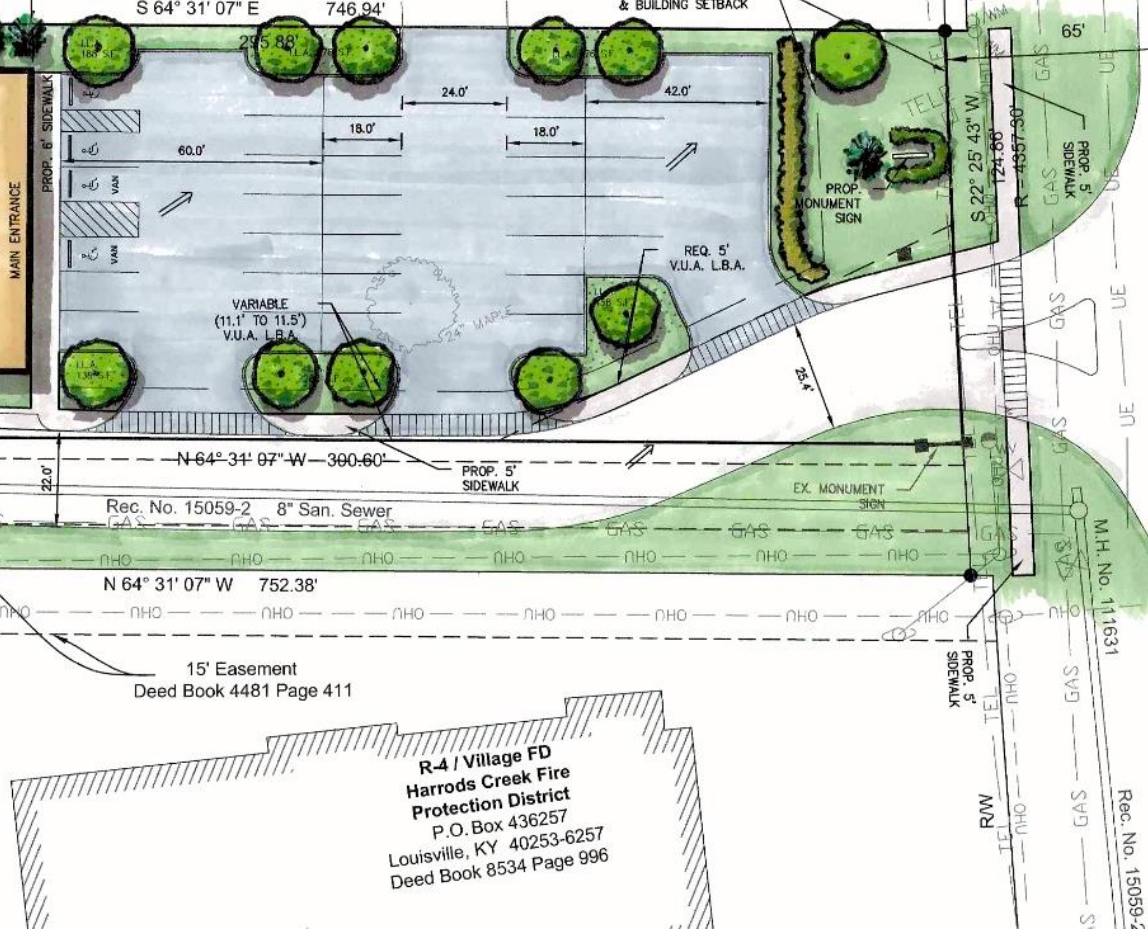
Sanitary Sewer &  
Easement  
look 10511 Page 112

Variable Public Utility,  
Sewer and Drainage &  
Private Access Easement  
D.B. 10520 Pg. 904

15' Easement  
Deed Book 4481 Page 411

R-4 / Village FD  
Harrods Creek Fire  
Protection District  
P.O. Box 436257  
Louisville, KY 40253-6257  
Deed Book 8534 Page 996

PROPOSED  
GENERAL/MEDICAL  
OFFICE BUILDING  
5,000 SQ.FT.  
1 STORY-25' HT.  
25' MAX. HT.



M.H. No. 111632

M.H. No. 111631

Rec. No. 15059-2



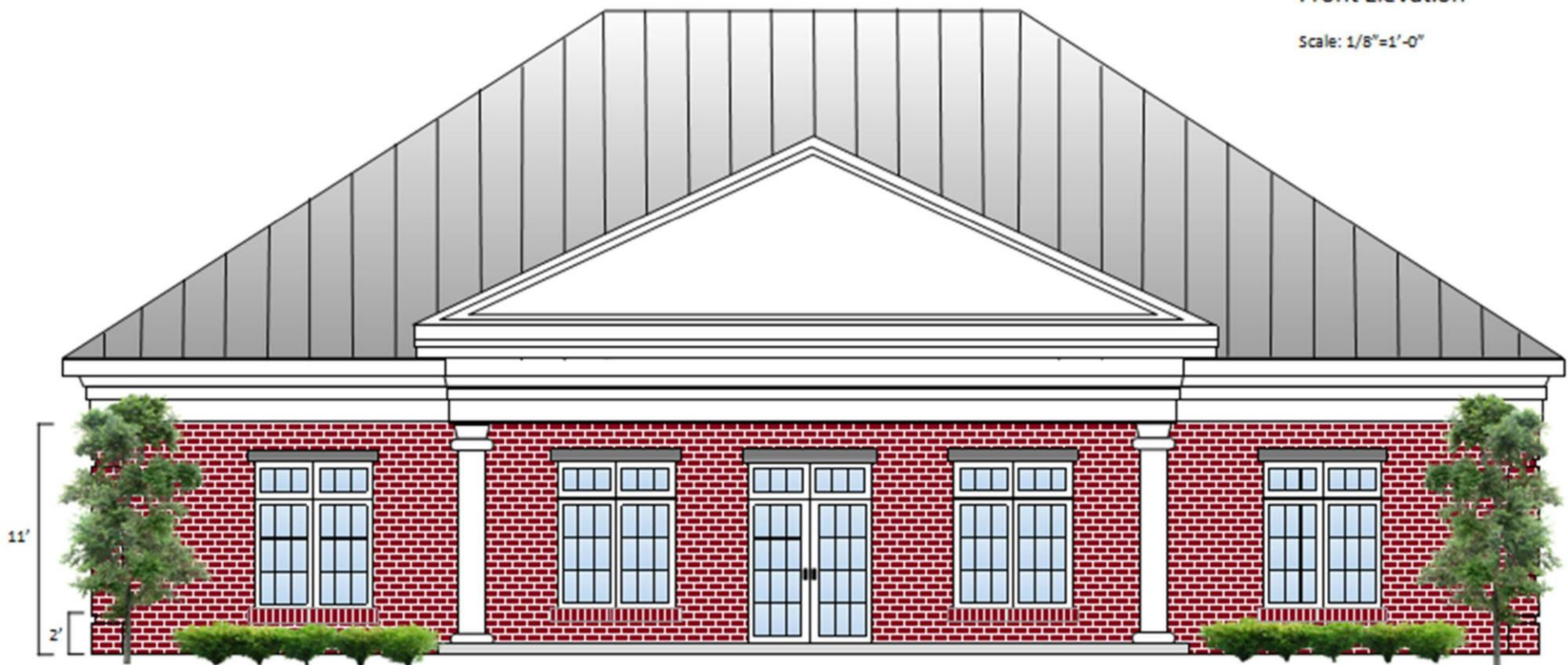


Tab 6  
Building Elevations



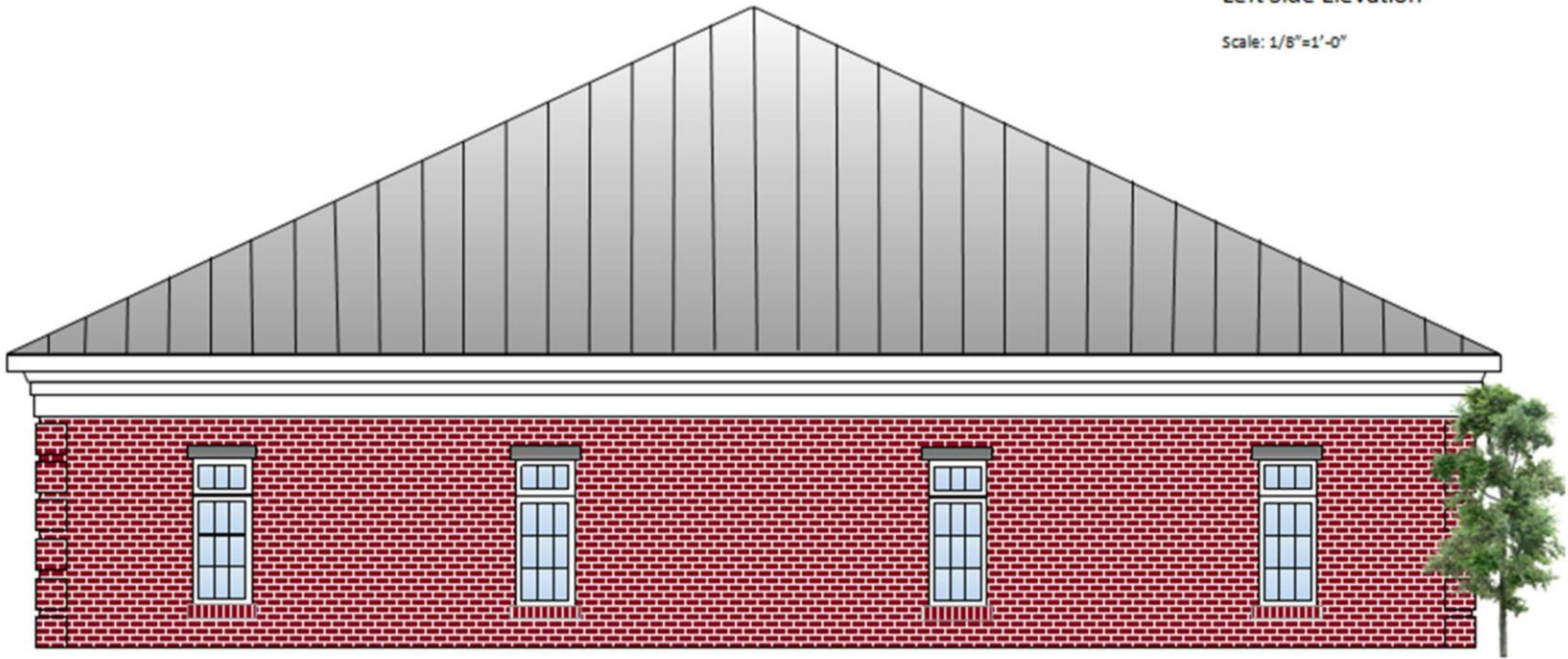
# Front Elevation

Scale: 1/8"=1'-0"



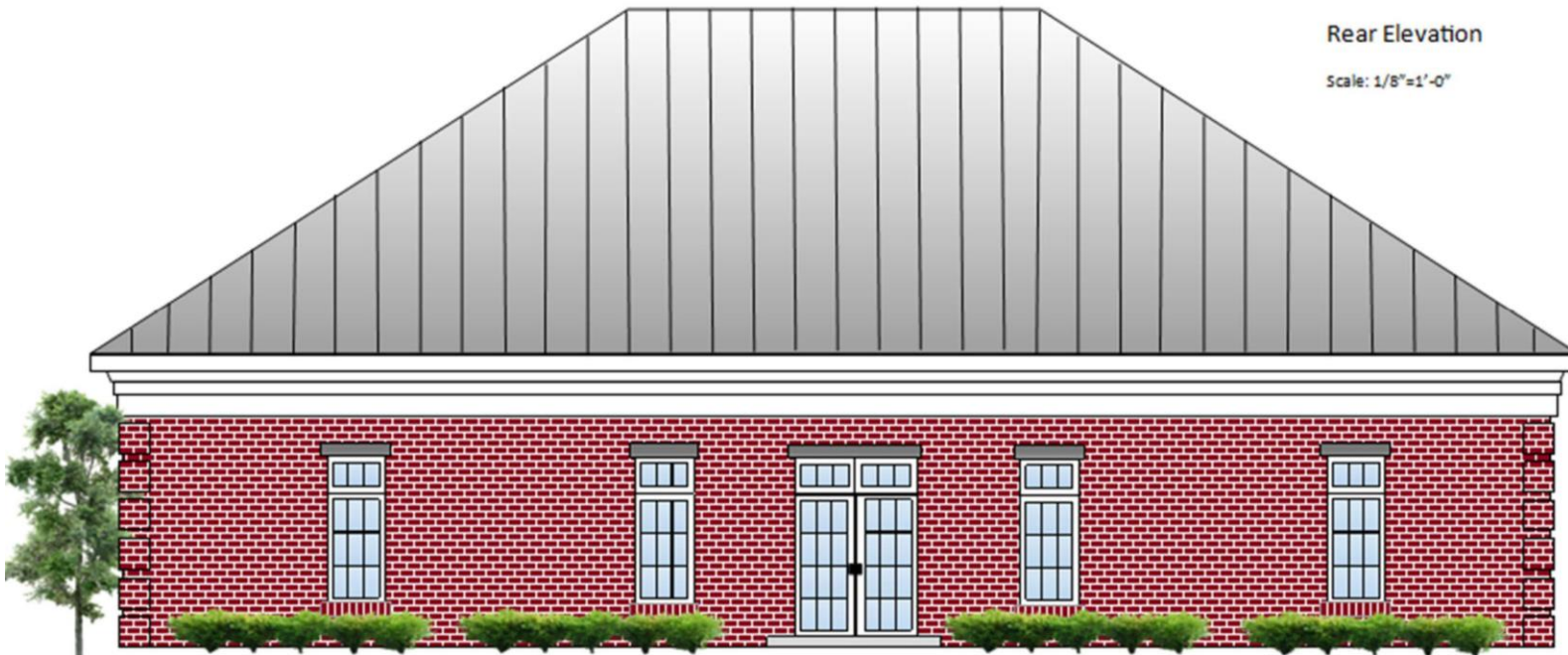
Left Side Elevation

Scale: 1/8"=1'-0"



Rear Elevation

Scale: 1/8"=1'-0"



Tab 9

Statement of Compliance  
filed with the original  
zone change application  
with all applicable Goals  
of the 2040 Plan, and  
Variance Justification

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

1000 N. HURSTBOURNE PARKWAY • BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG. • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223  
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## **STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GOALS, GUIDELINES AND POLICIES OF THE CORNERSTONE 2040 COMPREHENSIVE PLAN**

Applicant/Owner: Plainview Pre Primary School PRO

Project Name/Location: Prospect Offices/8906 US Hwy 42

Proposed Use: Offices

Request: Zone change from R-4 to OR-3

Engineers, Land Planners and  
Landscape Architects: BTM Engineering

### **INTRODUCTION**

The Applicant is proposing a 5,000 square foot office building on a 0.6 acre vacant site at 8907 US Hwy 42 accessible by a joint access with the Prospect Latin School to the rear of the site. The site is located in the Village Outlying Form District. It is anticipated that this building will be occupied by small medical, professional and general office uses serving the local community.

### **COMMUNITY FORM**

Goal 1 – Guide the form and design of development to respond to distinctive physical, historic and cultural qualities.

This proposal complies with Community Form Goal 1 and Policies 6, 7, 17 and 18 thereunder because the proposed offices do not abut any residentially used properties (site abuts Harrods Creek Fire Station zoned R-4). It provides a transition from the higher intensity activity center to lower intensity districts to the west and does not constitute an expansion into a residential district. It is located in close proximity to the activity center to the east with shopping centers, restaurants and civic uses providing a demand for this office use with available infrastructure and transit service. This use will not generate traffic volumes that would have a negative impact on area development. These offices will have no noise impact that would cause any impacts to the adjacent community facility and commercial uses.

Goal 2 – Encourage sustainable growth and density around mixed-use centers and corridors.

This proposal complies with Community Form Goal 2 and Policies 1, 4, 6, 7 and 11 thereunder because this site is in a transitional area from the Prospect Village Center and is adjacent to compatible nonresidential uses and provides pedestrian connectivity to the activity center to which it contributes offices to the mix of the concentration of activity center uses.

Goal 3 – Enhance neighborhood by protecting and integrating open space, watershed and other natural resources.

This proposal complies with Community Form Goal 2 and Policies 9, 10 and 12 thereunder because the site does not contain any sensitive natural features with no substantial changes to the topography being proposed with no environmental degradation. The site contains no wet or highly permeable soils or steep slopes and is not located in a floodplain or sinkhole area.

Goal 4 – Promote and preserve the historic and archaeological resources that contribute to our authenticity.

This proposal complies with Community Form Goal 4 and Policies 1 and 2 thereunder because the site is vacant and does not contain historic resources or distinctive cultural features, such as landscapes, natural elements or built features.

### **MOBILITY**

Goal 1 – Implement an accessible system of alternative transportation modes.

This proposal complies with Mobility Goal 1 and Policy 4 hereunder because the site is within an existing marketplace corridor and is not adjacent to residential uses. A bike rack and sidewalks are provided which links the site to the Village Center.

Goal 2 – Plan, build and maintain a safe, accessible and efficient transportation system.

This proposal complies with Mobility Goal 2 and Policy 4 thereunder because the site has its access from an arterial roadway (US Hwy 42) shared with the Prospect Latin School which will not have any impact upon lower intensity uses.

Goal 3 – Encourage land use and transportation patterns that connect Louisville Metro and support future growth.

This proposal complies with Mobility Goal 3 and Policies 1, 2, 3, 4, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 5, 6 and 9 thereunder because it provides a neighborhood serving use (professional, medical and general offices) adjacent to the Prospect Village Center which will generate fewer vehicle miles traffic for nearby population centers with available infrastructure. Adequate parking, sidewalks and a bicycle rack will be provided to allow multiple forms of transportation to link with the adjacent activity center.

### **COMMUNITY FACILITIES**

Goal 2 – Plan for community facilities to improve quality of life and meet anticipated growth.

This proposal complies with Community Facilities Goal 2 and Policies 1, 2 and 3 thereunder because all utilities are available to the site with an adequate supply of potable water as well as water for fire fighting purposes, and MSD has provided preliminary plan approval ensuring sewage disposal and treatment to protect public health and water quality.

## **ECONOMIC DEVELOPMENT**

Goal 1 – Provide an economic climate that improves growth, innovation, investment and opportunity for all.

This proposal complies with Economic Development Goal 1 and Policy 3 thereunder because the proposed office building is located adjacent to an arterial roadway where it will not cause nuisances that would adversely affect adjacent areas. This small office development enhances the adjacent Village Center with a low impact use that will provide services to a growing area.

## **LIVABILITY**

Goal 1 – Protect and enhance the natural environment and integrate it with the built environment as development occurs.

This proposal complies with Livability Goal 1 and Policies 17 and 21 thereunder because the site is not located in a floodplain and does not contain any vulnerable environmental conditions.

\* \* \*

For all of the above-stated reasons and the information provided on the Detailed District Development Plan this proposal complies with all the applicable Goals and Policies of the Plan 2040 Comprehensive Plan.

Respectfully submitted,

---

Paul B. Whitty  
**BARDENWERPER, TALBOTT & ROBERTS, PLLC**  
Bardenwerper Talbott & Roberts, PLLC  
1000 N. Hurstbourne Parkway, Second Floor  
Louisville, KY 40223  
(502) 426-6688

## **Variance Justification:**

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

Variance of LDC 5.3.1.C.5 Table 5.3.2 as adopted by the City of Prospect to allow the 80' proposed building to exceed the maximum setback.

1. The variance will not adversely affect the public health, safety or welfare because this is an aesthetic code requirement. There is no evidence that the extra setback at this location will cause any traffic or other safety problems. In fact the setback allows a connection to the adjacent site as required under its approved development plan.
2. The variance will not alter the essential character of the general vicinity this is an aesthetic code requirement. Landscaping will be provided along US 42 as shown on the Development Plan. Also, the proposed building is set to the extent possible given the desire to provide connectivity.
3. The variance will not cause a hazard or a nuisance to the public because this is an aesthetic code requirement. Because of the reasons set forth above, notably the fact that the existing points of access and circulation will provide connectivity and circulation with safe pedestrian access ensuring there will not be a hazard or nuisance to the public.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this is an aesthetic code requirement, and because this setback is necessitated by the provision of cross access and/connectivity with the property adjacent to the east.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because the subject site is only just under .7 acres and cannot accommodate the required connection without moving the building back to the rear of the lot. Moving the building forward is not an option due to the location of the US 42 access.
2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this is an aesthetic code requirement, and because there is no viable alternative if connectivity is to be provided.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are a result of a constrained site based on size and location and is an existing condition due to the approved development plan on the adjacent site which requires that connectivity be provided.

Tab 10  
Proposed findings of  
fact pertaining to  
compliance with the  
2040 Plan, and  
Variance criteria



# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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## **PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GOALS OF THE 2040 PLAN**

<u>Applicant/Owner:</u>	Plainview Pre Primary School PRO
<u>Project Name/Location:</u>	Prospect Offices/8906 US Hwy 42
<u>Proposed Use:</u>	Offices
<u>Request:</u>	Zone change from R-4 to OR-3
<u>Engineers, Land Planners and Landscape Architects:</u>	BTM Engineering

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on November 4, 2021 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

### **INTRODUCTION**

**WHEREAS**, the Applicant is proposing a 5,000 square foot office building on a 0.6 acre vacant site at 8907 US Hwy 42 accessible by a joint access with the Prospect Latin School to the rear of the site; the site is located in the Village Outlying Form District; and it is anticipated that this building will be occupied by small medical, professional and general office uses serving the local community; and

### **COMMUNITY FORM**

Goal 1 – Guide the form and design of development to respond to distinctive physical, historic and cultural qualities.

**WHEREAS**, this proposal complies with Community Form Goal 1 and Policies 6, 7, 17 and 18 thereunder because the proposed offices do not abut any residentially used properties (site abuts Harrods Creek Fire Station zoned R-4); it provides a transition from the higher intensity activity center to lower intensity districts to the west and does not constitute an expansion into a residential district; it is located in close proximity to the activity center to the east with shopping centers, restaurants and civic uses providing a demand for this office use with available infrastructure and transit service; this use will not generate traffic volumes that would have a negative impact on area development; and these offices will have no noise impact that would cause any impacts to the adjacent community facility and commercial uses; and

Goal 2 – Encourage sustainable growth and density around mixed-use centers and corridors.

**WHEREAS**, this proposal complies with Community Form Goal 2 and Policies 1, 4, 6, 7 and 11 thereunder because this site is in a transitional area from the Prospect Village Center and is adjacent to compatible nonresidential uses and provides pedestrian connectivity to the activity center to which it contributes offices to the mix of the concentration of activity center uses; and

Goal 3 – Enhance neighborhood by protecting and integrating open space, watershed and other natural resources.

**WHEREAS**, this proposal complies with Community Form Goal 2 and Policies 9, 10 and 12 thereunder because the site does not contain any sensitive natural features with no substantial changes to the topography being proposed with no environmental degradation; and the site contains no wet or highly permeable soils or steep slopes and is not located in a floodplain or sinkhole area; and

Goal 4 – Promote and preserve the historic and archaeological resources that contribute to our authenticity.

**WHEREAS**, this proposal complies with Community Form Goal 4 and Policies 1 and 2 thereunder because the site is vacant and does not contain historic resources or distinctive cultural features, such as landscapes, natural elements or built features; and

### **MOBILITY**

Goal 1 – Implement an accessible system of alternative transportation modes.

**WHEREAS**, this proposal complies with Mobility Goal 1 and Policy 4 hereunder because the site is within an existing marketplace corridor and is not adjacent to residential uses; and a bike rack and sidewalks are provided which links the site to the Village Center; and

Goal 2 – Plan, build and maintain a safe, accessible and efficient transportation system.

**WHEREAS**, this proposal complies with Mobility Goal 2 and Policy 4 thereunder because the site has its access from an arterial roadway (US Hwy 42) shared with the Prospect Latin School which will not have any impact upon lower intensity uses; and

Goal 3 – Encourage land use and transportation patterns that connect Louisville Metro and support future growth.

**WHEREAS**, this proposal complies with Mobility Goal 3 and Policies 1, 2, 3, 4, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 5, 6 and 9 thereunder because it provides a neighborhood serving use (professional, medical and general offices) adjacent to the Prospect Village Center which will generate fewer vehicle miles traffic for nearby population centers with available infrastructure; and adequate parking, sidewalks and a bicycle rack will be provided to allow multiple forms of transportation to link with the adjacent activity center; and

## **COMMUNITY FACILITIES**

Goal 2 – Plan for community facilities to improve quality of life and meet anticipated growth.

**WHEREAS**, this proposal complies with Community Facilities Goal 2 and Policies 1, 2 and 3 thereunder because all utilities are available to the site with an adequate supply of potable water as well as water for fire fighting purposes, and MSD has provided preliminary plan approval ensuring sewage disposal and treatment to protect public health and water quality; and

## **ECONOMIC DEVELOPMENT**

Goal 1 – Provide an economic climate that improves growth, innovation, investment and opportunity for all.

**WHEREAS**, this proposal complies with Economic Development Goal 1 and Policy 3 thereunder because the proposed office building is located adjacent to an arterial roadway where it will not cause nuisances that would adversely affect adjacent areas; this small office development enhances the adjacent Village Center with a low impact use that will provide services to a growing area; and

## **LIVABILITY**

Goal 1 – Protect and enhance the natural environment and integrate it with the built environment as development occurs.

**WHEREAS**, this proposal complies with Livability Goal 1 and Policies 17 and 21 thereunder because the site is not located in a floodplain and does not contain any vulnerable environmental conditions; 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 to OR-3 and approves the Detailed District Development Plan.

### **Variance Justification Findings of Fact**

Variance of LDC 5.3.1.C.5 Table 5.3.2 as adopted by the City of Prospect to allow the 80' proposed building to exceed the maximum setback.

**WHEREAS**, the variance will not adversely affect the public health, safety or welfare because this is an aesthetic code requirement; there is no evidence that the extra setback at this location will cause any traffic or other safety problems; and the setback allows a connection to the adjacent site as required under its approved development plan; and

**WHEREAS**, the variance will not alter the essential character of the general vicinity this is an aesthetic code requirement; landscaping will be provided along US 42 as shown on the Development Plan; and the proposed building is set to the extent possible given the desire to provide connectivity; and

**WHEREAS**, the variance will not cause a hazard or a nuisance to the public because this is an aesthetic code requirement; because of the reasons set forth above, notably the fact that the existing points of access and circulation will provide connectivity and circulation with safe pedestrian access ensuring there will not be a hazard or nuisance to the public; and

**WHEREAS**, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this is an aesthetic code requirement, and because this setback is necessitated by the provision of cross access and/connectivity with the property adjacent to the east; and

**WHEREAS**, the variance arises from special circumstances, which do not generally apply to land in the general vicinity because the subject site is only just under 0.7 acres and cannot accommodate the required connection without moving the building back to the rear of the lot; and moving the building forward is not an option due to the location of the US 42 access; and

**WHEREAS**, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this is an aesthetic code requirement, and because there is no viable alternative if connectivity is to be provided; and

**WHEREAS**, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are a result of a constrained site based on size and location and is an existing condition due to the approved development plan on the adjacent site which requires that connectivity be provided;

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