

Louisville Metro Planning Commission Public Hearing – January 19, 2017  
Louisville Metro Land Development & Transportation Committee – December 8, 2016  
Neighborhood Charrettes - March 29, 2016 and April 28, 2016

## DOCKET NO. 16ZONE1019

**ZONE CHANGE FROM R-4 & PEC TO OR3, C-1 & C-2 WITH  
VARIANCES AND A WAIVER, GENERAL DISTRICT DEVELOPMENT  
PLAN (GDDP) CONSISTING OF APARTMENTS, SENIOR LIVING,  
OFFICES AND RETAIL/COMMERCIAL LOCATED AT 13508 FACTORY  
LANE AND 2520 TERRA CROSSING BLVD.**



Attorneys: Bardenwerper Talbott & Roberts, PLLC

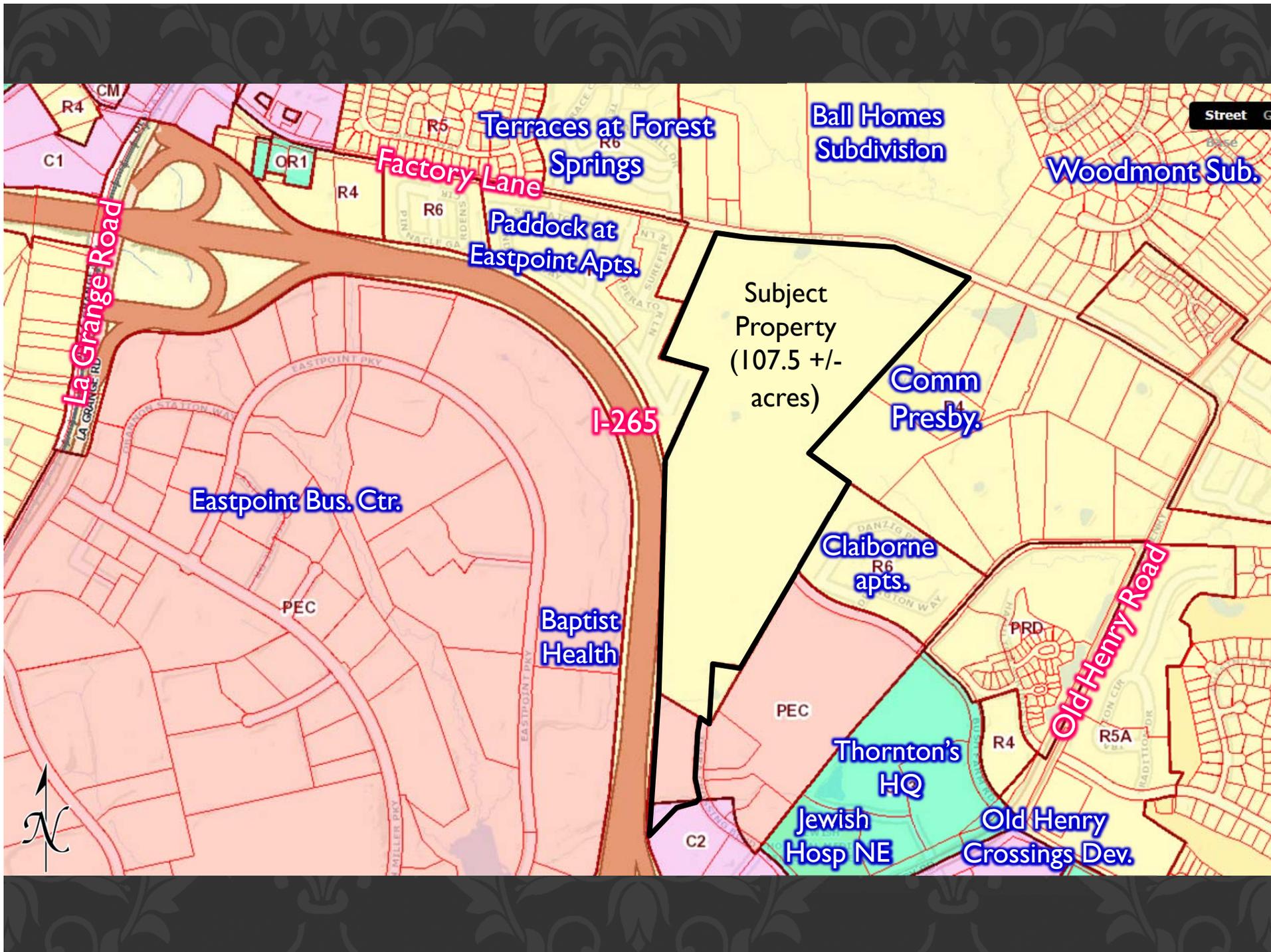
Land Planners, Landscape Architects & Engineers: Mindel Scott & Associates

Traffic Engineer: CDM Smith Traffic Engineering

# Index

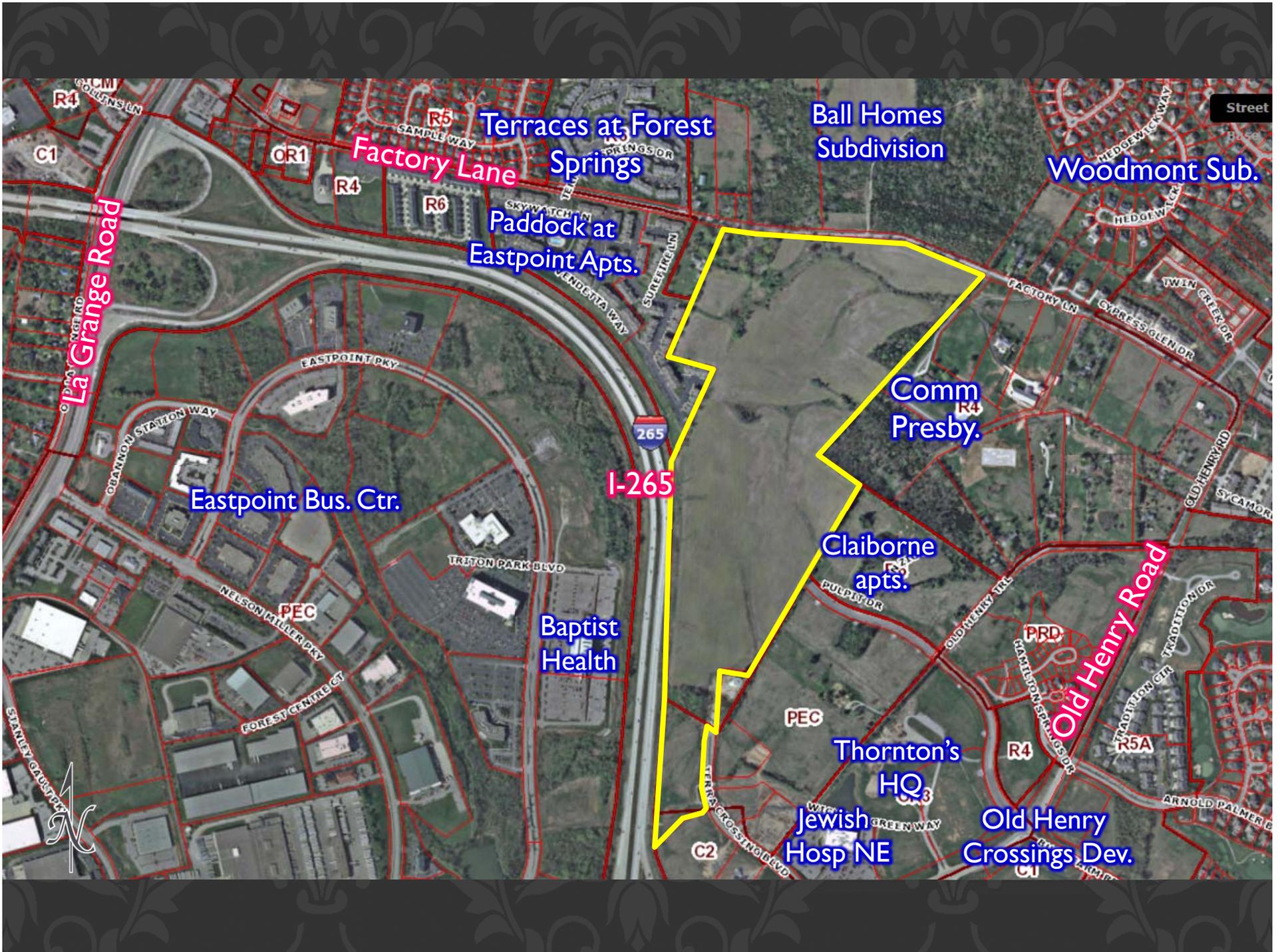
1. LOJIC Zoning Map
2. Aerial photographs of the site and surrounding area
3. Neighboring properties
4. 3/29/16 Charrette (when this was proposed as a PDD), and 4/28/16 Neighborhood Meeting notice list map, letters to neighbors inviting them to the meetings and summary of meetings
5. Development Plan
6. Amenity areas
7. Design Concepts
8. Roadway exhibit with timetable for improvements, Traffic Study and traffic signal warrant analysis
9. Proposed Additional Binding Elements
10. Statement of Compliance filed with the original zone change application with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan, Variance and Waiver Justifications
11. Proposed findings of fact pertaining to compliance with the Comprehensive Plan, Variance and Waiver criteria

Tab I  
LOJIC Zoning Map



Tab 2

Aerial photograph of the site and  
surrounding area



La Grange Road

Factory Lane

Terraces at Forest Springs

Ball Homes Subdivision

Woodmont Sub.

Paddock at Eastpoint Apts.

Comm Presby.

Eastpoint Bus. Ctr.

I-265

Claiborne apts.

Baptist Health

Old Henry Road

Thornton's HQ

Jewish Hosp NE

Old Henry Crossings Dev.



**Tab 3**

**Neighboring properties**



Adjoining Claiborne Crossings Apartment Community



Adjoining Claiborne Crossings Apartment Community



Nearby Jewish Hospital Northeast



Nearby Baptist Hospital Eastpoint



Nearby Paddock Apartment Community



Nearby Terraces at Forest Spring Apartment Community



Nearby Thornton's Headquarters on Old Henry Road

Ball Homes Subdivision  
to the north of the  
subject site.



R-4

R-4

Factory Lane

## Tab 4

3/29/16 Charrette (when this was proposed as a PDD), and 4/28/16 Neighborhood Meeting notice list map, letters to neighbors inviting them to the meetings and summary of meetings



**JDG 1849 LLC**  
**320 Whittington Parkway, Suite 304**  
**Louisville, Kentucky 40222**

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March 14, 2016

**RE: Zone change from R-4, PEC & C-2 to a Planned Development District (“PDD”) development consisting of apartments, senior living, offices and retail/commercial on the southern “half” of the St. Joe’s orphanage property located on 107.5 +/- acres at 13508 Factory Lane and 2520 Terra Crossing Blvd.**

Dear Neighbor,

We are writing to invite you to what the PDD regulation, found in the Metro Land Development Code (“LDC”) at Chapter 2, Section 2.8.1 through 2.8.5, terms a “public charrette”, which must be held with at least 14 days prior written notice to owners of surrounding property within 200 feet of the proposed development site plus any persons, agencies or organizations that Metro Division of Planning and Design Services (“DPDS”) deems appropriate. Unlike all of our other neighborhood meetings, DPDS staff must be in attendance in order to help us explain this unique planning process.

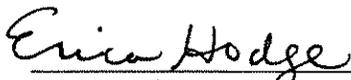
You are among the people and organizations invited to attend this charrette which has been scheduled for **Tuesday, March 29<sup>th</sup> at 7:00 p.m.** at the **Community Presbyterian Church** located at **13902 Factory Lane.**

We have filed a plan for pre-application review with DPDS that has been assigned case number 16ZONE1019 and case manager Julia Williams.

If you cannot attend the public charrette but have questions or concerns, please call our attorney Bill Bardenwerper at 426-6688, or our land planning and engineering firm representatives David Mindel and Kent Gootee at 485-1508.

We look forward to seeing you.

Sincerely,

  
Erica Hodge, Agent

Cc: Hon. Julie Denton, Metro Councilwoman, District 19  
Julia Williams, DPDS Case Manager  
Brian Davis, DPDS planning supervisor  
Kevin Cogan, Member Manager, JDG 1849 LLC, c/o Jefferson Development Group  
Bill Bardenwerper, attorney with Bardenwerper, Talbott & Roberts, PLLC  
David Mindel & Kent Gootee, land planners with Mindel Scott & Associates, Inc.

# 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

William B. Bardenwerper  
Direct dial: 426-0388, ext. 125  
Email: WBB@BARDLAW.NET

**April 14, 2016**

**RE: Zone change from R-4 and PEC to C-2 and OR3 to allow a development consisting of apartments, senior living, offices and retail/commercial on the southern “half” of the St. Joe’s orphanage property located on 107.5 +/- acres at 13508 Factory Lane and 2520 Terra Crossing Blvd.**

Dear Neighbor,

We are writing to invite you to a second neighborhood meeting to the one held on March 29<sup>th</sup>.

If you attended the March 29<sup>th</sup> get-together, you may have received an email from us of the PowerPoint presentation we showed that night. If you haven’t received or seen it, please email my paralegal Anna at [amc@bardlaw.net](mailto:amc@bardlaw.net) and ask her to email it to you.

We have scheduled this meeting for **Thursday, April 28<sup>th</sup> at 7:00 p.m.** at the **Community Presbyterian Church** located at **13902 Factory Lane**.

As previously explained, we have filed a plan for pre-application review with DPDS that has been assigned case number 16ZONE1019 and case manager Julia Williams.

If you cannot attend the meeting but have questions or concerns, please call me at 426-6688 or our client’s land planning and engineering firm representatives David Mindel or Kent Gootee at 485-1508.

We look forward to seeing you.

Sincerely,

William B. Bardenwerper

Cc:

Hon. Julie Denton, Metro Councilwoman, District 19  
Julia Williams, DPDS Case Manager  
Brian Davis, DPDS planning supervisor  
David Mindel & Kent Gootee, land planners with Mindel Scott & Associates, Inc.  
Erica Hodge, Agent for JDG 1849 LLC, c/o Jefferson Development Group

## Neighborhood Meeting Summary

There were two neighborhood meetings for this project: the first one on March 29, 2016 and the second one on April 29, 2016. Both meetings began at 7:00 pm.

The first one was intended to act as a charrette, instead of neighborhood meeting per se because the applicant initially intended to apply for Planned Development District (“PDD”) rezoning. But by the time of the second meeting, the applicant changed its application to the traditional form of rezoning (requesting OR3, C-1 and C-2 instead of PDD), so the meeting was a traditional neighborhood meeting instead of charrette.

But in both meetings, Bill Bardenwerper, counsel for the applicant, began the meeting with a PowerPoint presentation showing aerials of the area, existing road networks, existing zoning, nearby land uses and so on. He also showed photographs of some of the applicant’s current developments involving offices, retail and apartments. By the time of the second meeting, he showed more photographs of existing apartment communities, both that this developer has built or is building and also that he anticipates building in partnership with other large apartment developers. The retail users are mostly those that exist in his current local retail locations. The proposed automobile dealerships would be of the highest design, similar to the high-end auto dealership located on Bowling Blvd in St. Matthews. He showed photographs of that.

Mr. Bardenwerper was assisted at both of these meetings principally by MSA land planner Kent Gootee who showed his current land plans for these sites. By time of the second meeting, his land plans were more formalized. He and Mr. Bardenwerper explained that these are not the final development plans for these locations but that they are the ones currently anticipated. It is likely that by time of the final public hearing some of the plans will be in the form of Detailed District Development Plans (DDDPs) but that there will be an overall General District Development Plan (GDDP) for the entire site. There will be design themes, as evident on the photographs and renderings they showed on the PowerPoint presentations, they said.

Most of the discussion at both of the meetings involved traffic. Some folks present were still “reeling” from the recent Ball Homes development on the St. Joseph Orphanage property to the north of this, and so their criticisms of this proposed development was, to some extent, a hold-over from their complaints regarding any development of that site.

A lot of the discussion resulting from these complaints involve the concept of “sprawl”, which Mr. Bardenwerper defined as “leap-frog” development, meaning often times residential development moving to outlying areas before the land in-between is developed. He said that surely was the case with respect to the subdivision known as “Woodmont”, where some of the objectors at the first neighborhood meeting live. That is not to say, he said, that their traffic concerns were not legitimate. But rather he argued that the in-fill nature of this proposed project meant that traffic issues already exist, more so than will be caused by this development. Indeed, with the road completion project shown on the development accompanying the application and within this PowerPoint presentation, he said that many of the traffic concerns will be addressed. Significant additional traffic will be added, but Mr. Bardenwerper and Mr. Gootee also argued that there will be a certain amount of internal capture because of the mixed nature of this proposed development. Moreover, because there will be retail development within this mixed use project, residential property owners will be able to do some of their shopping and dining

closer to home than perhaps at present. And because of the office uses proposed, some nearby property owners may also be able to work closer to home. Road improvements proposed as a consequence of this development will also assist in their daily travels.

Mr. Bardenwerper and Mr. Gootee were assisted in their traffic and transportation discussions by Diane Zimmerman, traffic engineer.

Adjoining property owners specifically asked about heights of buildings, screening and buffering. Mr. Bardenwerper and Mr. Gootee explained that, because of the significant size of this property, the land development plan filed with this application should be able to assure that all perimeter setbacks, buffers and screenings will be provided without need for variances or waivers. However, Mr. Bardenwerper said that internal waivers and variances may be required because of the fact that this is a unified plan of development, not necessarily requiring all setbacks and landscaping at all points otherwise as required if these multiple land uses were not designed together.

Mr. Mindel was on hand to help answer any questions relative to storm water management. The applicant's representative, Erica Hodge, was present to also help explain what the applicant intends and the experience that it has in developments of these kinds.

Respectfully submitted,

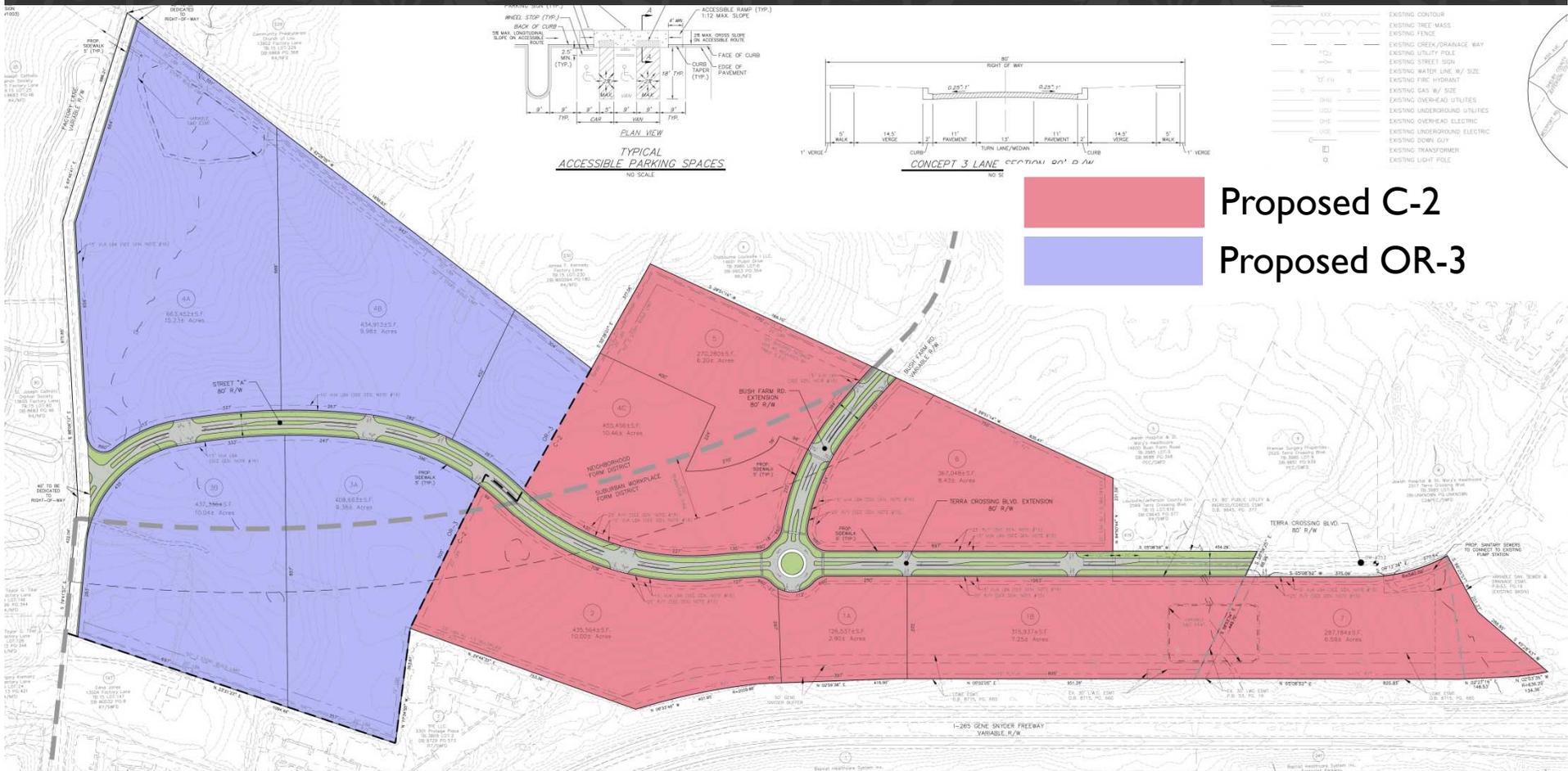
William B. Bardenwerper

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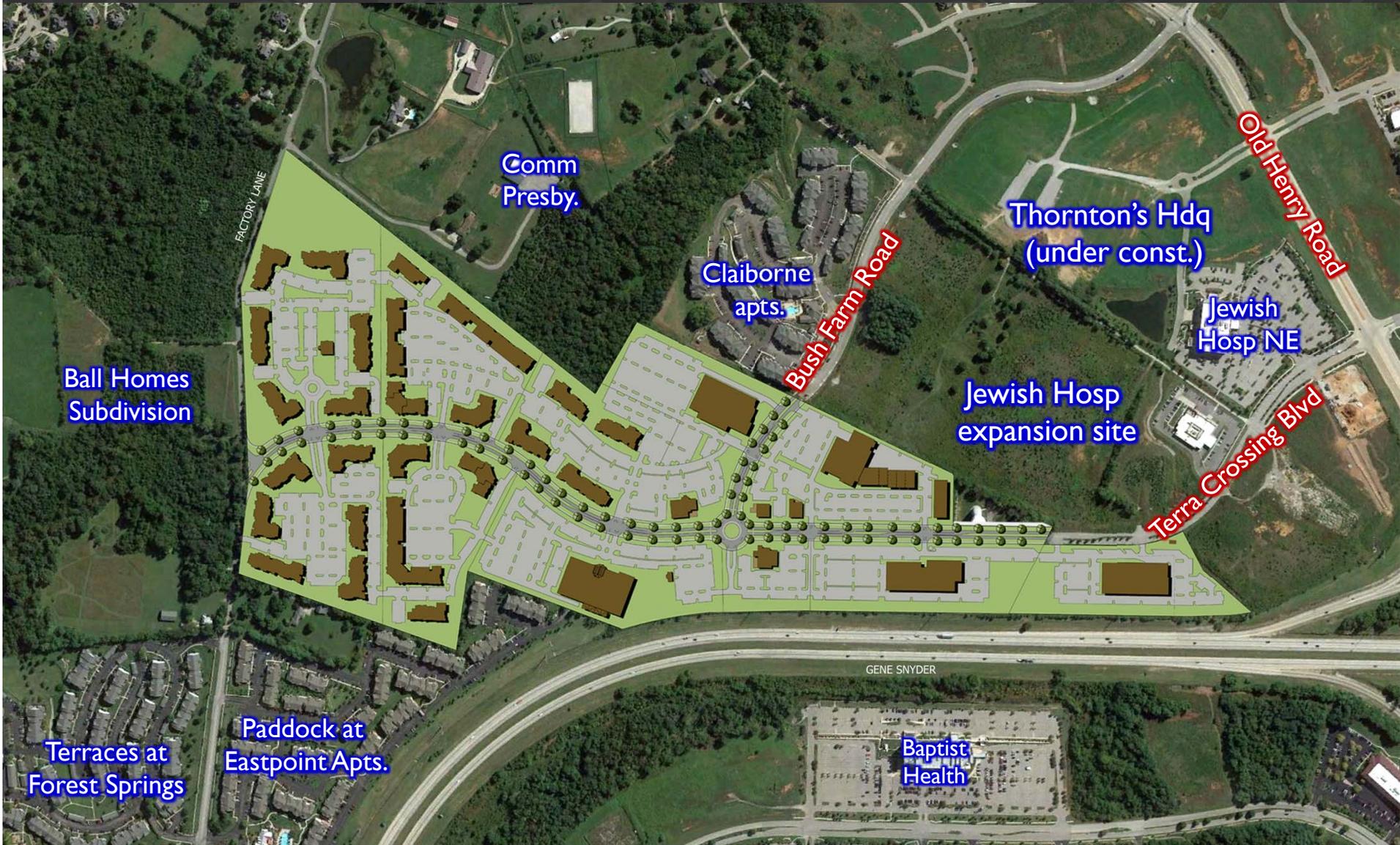
# Tab 5

## Development Plan





General District Development Plan under specific public hearing review



Detailed District Development Plan which served as the basis for the General Plan and TIS



Detailed District Development Plan which served as the basis for the General Plan and TIS



# Tab 6

## Amenity Areas





**Tab 7**

**Design Concepts (detailed building designs to be presented at times of Detailed District Development Plan submittals)**

# APARTMENTS



Apartment Community Building Design Concept



Another Apartment Community Building Design Concept



Another Apartment Community Building Design Concept



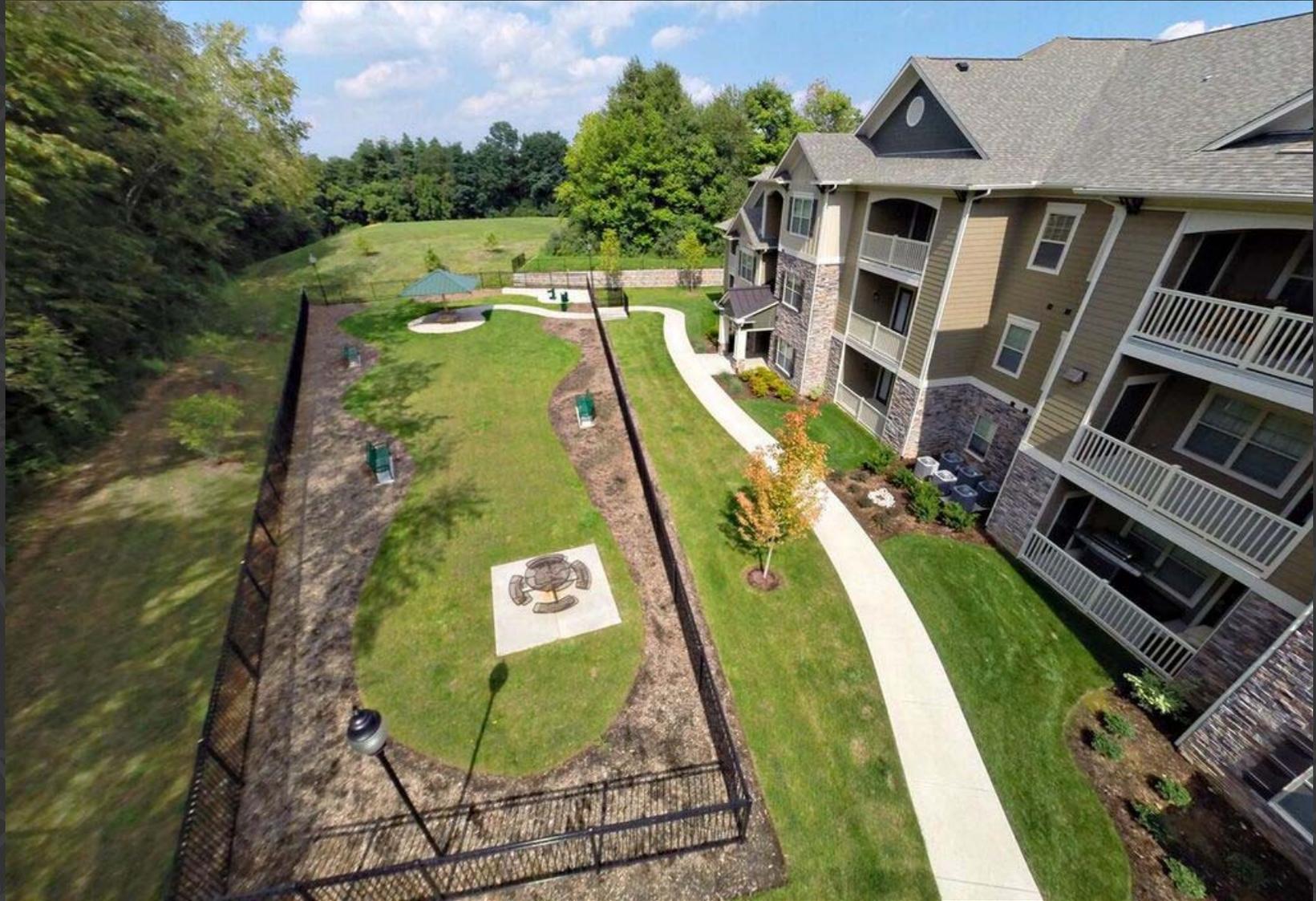
Clubhouse



Clubhouse



Pool



Dog park



Clubhouse interior



Clubhouse interior



Clubhouse interior



Unit interior



Unit interior

# OFFICES



CORNELL  
PLAZA

11300 CORNELL PARK DRIVE

**SPACE AVAILABLE**  
513.721.4200









**RETAIL**







# FITNESS CENTER



Fitness Center Design

MOVIE THEATER



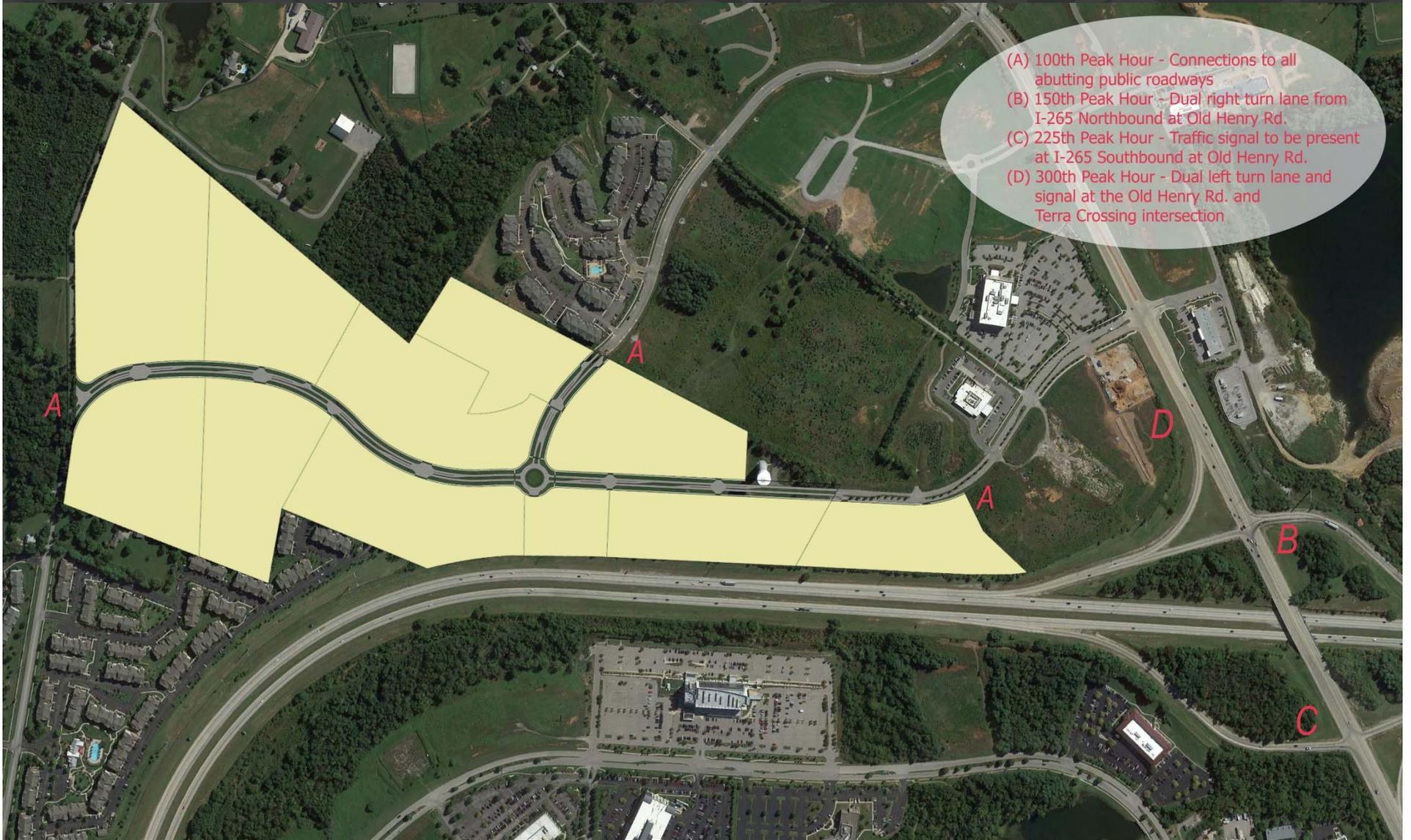
Movie Theater Design

# AUTO DEALERSHIPS



## Tab 8

Roadway exhibit with timetable for improvements, Traffic Study and traffic signal warrant analysis



- (A) 100th Peak Hour - Connections to all abutting public roadways
- (B) 150th Peak Hour - Dual right turn lane from I-265 Northbound at Old Henry Rd.
- (C) 225th Peak Hour - Traffic signal to be present at I-265 Southbound at Old Henry Rd.
- (D) 300th Peak Hour - Dual left turn lane and signal at the Old Henry Rd. and Terra Crossing intersection

General District Development Plan roadway exhibit with timetable for improvements



REPORT

**St. Joseph's Property**  
**2520 Terra Crossing Boulevard**  
**13508 Factory Lane**  
**Louisville, KY**

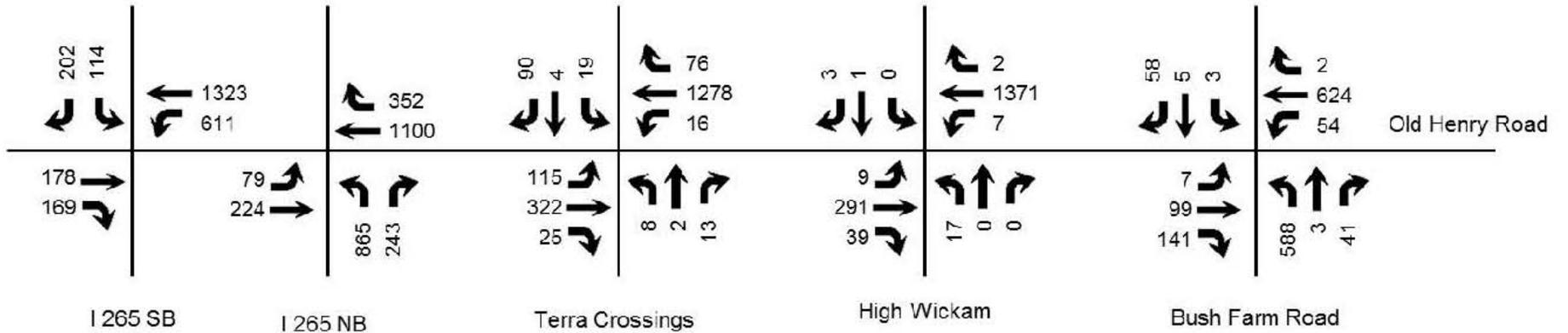
**Traffic Impact Study**

Louisville Metro Planning  
Commission

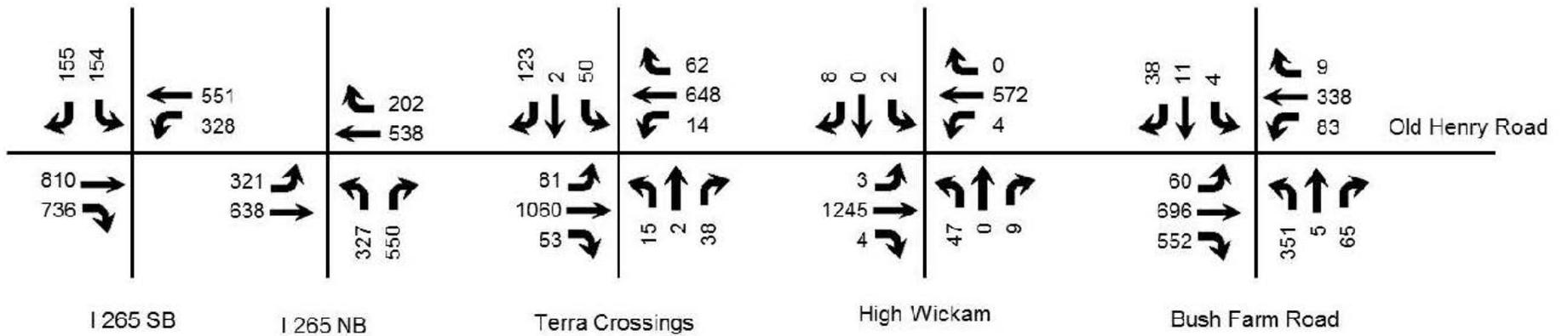
September 16, 2016  
*Revised October 24, 2016*

**CDM  
Smith**

AM



PM



**Figure 2**  
**2016 Peak Hour Counts**

**Table 1 – Trip Generation**

**AM Peak Hour**

Land use	ITE Code	Intensity	Rate/EQ	% IN	% Out	Total Trips			Internal Trips				External Trips			Pass-by Trips		New Trips		
						In	Out	Total	In	Out	Total	%	In	Out	Total	%	Volume	In	Out	Total
Apartments	220	1,450 units	$T = 0.49(X) + 3.73$	0.2	0.8	143	571	714	5	6	10	1.5%	138	565	704	0%	0	138	565	704
Shopping Center	820	128,590 sf	$\ln(T) = 0.61\ln(X) + 2.24$	0.62	0.38	113	69	182	6	5	10	5.8%	107	64	171	0%	0	107	64	171
Health Club	492	112,380 sf	$T = 1.41(X)$	0.5	0.5	79	79	158	0	0	0	0.0%	79	79	158	0%	0	79	79	158
Quality Restaurant	931	10,175 sf	$T = 0.81(X)$	0.5	0.5	5	4	8	0	0	0	0.0%	5	4	8	0%	0	5	4	8
Auto. Sales	841	88,992 sf	$T = 1.92(X)$	0.75	0.25	127	43	171	0	0	0	0.0%	127	43	171	0%	0	127	43	171
Movie Theatre	445	9 scn	$T = 0$	0.75	0.25	0	0	0	0	0	0	0.0%	0	0	0	0%	0	0	0	0
Total						467	766	1,234	10	10	21	1.7%	457	756	1,213	0.0%	0	457	756	1,213

**PM Peak Hour**

Land use	ITE Code	Intensity	Rate/EQ	% IN	% Out	Total Trips			Internal Trips				External Trips			Pass-by Trips		New Trips		
						In	Out	Total	In	Out	Total	%	In	Out	Total	%	Volume	In	Out	Total
Apartments	220	1,450 units	$T = 0.55(X) + 17.65$	0.65	0.35	530	285	815	44	68	112	13.8%	486	217	703	0%	0	486	217	703
Shopping Center	820	128,590 sf	$\ln(T) = 0.67\ln(X) + 3.31$	0.48	0.52	340	368	709	68	44	112	15.8%	272	324	597	34%	203	180	214	394
Health Club	492	112,380 sf	$\ln(T) = 0.95\ln(X) + 1.43$	0.57	0.43	211	160	371	0	0	0	0.0%	211	160	371	0%	0	211	160	371
Quality Restaurant	931	10,175 sf	$T = 7.49(X)$	0.67	0.33	51	25	76	0	0	0	0.0%	51	25	76	44%	34	29	14	43
Auto. Sales	841	88,992 sf	$T = 1.91(X) + 23.74$	0.4	0.6	77	116	194	0	0	0	0.0%	77	116	194	0%	0	77	116	194
Movie Theatre	445	9 scn	$T = 13.61(X)$	0.45	0.55	55	67	122	0	0	0	0.0%	55	67	122	0%	0	55	67	122
Total						1,264	1,021	2,288	112	112	224	9.8%	1,152	909	2,064	11.5%	236	1,037	788	1,827

**Table 2 - Level of Service Results**

	AM Peak Hour			PM Peak Hour		
	2016 Existing	2022 No Build	2022 Build	2016 Existing	2022 No Build	2022 Build
<b>Old Henry Road at I 265 SB</b>		<b>C</b> <b>27.1</b>	<b>D</b> <b>47.6</b>		<b>F</b> <b>97.1</b>	<b>F</b> <b>123.0</b>
Old Henry Road Eastbound	NA	C 29.2	D 39.1	NA	E 72.1	F 135.1
Old Henry Road Westbound	A 9.8	B 17.2	D 45.9	C 15.2	F 117.2	F 124.0
I 265 Southbound	F 476.0	E 62.9	E 61.3	F 93.3	E 72.1	F 98.4
<b>Old Henry Road at I 265 NB</b>	<b>F</b> <b>90.1</b>	<b>D</b> <b>40.3</b>	<b>D</b> <b>37.5</b>	<b>D</b> <b>41.9</b>	<b>F</b> <b>112.9</b>	<b>F</b> <b>120.4</b>
Old Henry Road Eastbound	C 31.7	D 44.7	D 42.2	C 21.0	F 91.4	E 73.5
Old Henry Road Westbound	F 110.8	C 33.9	C 24.8	D 36.6	D 41.4	F 150.2
I 265 Northbound	F 83.4	D 44.8	D 49.9	E 69.4	F 239.3	F 131.8
<b>Old Henry Road at Terra Crossings Blvd</b>		<b>B</b> <b>15.9</b>	<b>C</b> <b>28.8</b>		<b>C</b> <b>23.5</b>	<b>D</b> <b>44.2</b>
Old Henry Road Eastbound	C 15.1	A 6.4	C 21.9	A 9.3	B 15.1	C 29.5
Old Henry Road Westbound	A 8.1	B 14.3	C 22.1	B 11.4	B 16.9	D 36.6
Terra Crossings Northbound	C 21.3	E 67.7	E 55.9	C 22.1	E 61.5	F 112.5
Terra Crossings Southbound	C 21.7	D 48.5	D 51.8	C 18.5	C 28.8	D 40.7
<b>Old Henry Road at High Wickham Place</b>						
Old Henry Road Eastbound (left)	B 13.0	D 32.1	E 37.8	A 8.8	A 9.4	A 9.9
Old Henry Road Westbound (left)	A 8.0	B 10.5	B 10.8	B 12.1	C 15.2	C 17.0
High Wickham Northbound	C 22.8	B 12.4	B 12.7	E 41.4	C 19.6	E 36.7
High Wickham Southbound	E 35.1	F 121.7	F 283.0	C 22.0	B 14.2	C 21.6
<b>Old Henry Road at Bush Farm Road</b>	<b>C</b> <b>32.3</b>	<b>D</b> <b>37.9</b>	<b>E</b> <b>71.3</b>	<b>B</b> <b>15.3</b>	<b>D</b> <b>37.8</b>	<b>E</b> <b>72.8</b>
Old Henry Road Eastbound	B 15.3	D 37.8	D 42.6	B 13.7	C 33.9	E 64.1
Old Henry Road Westbound	C 20.1	D 40.2	D 50.5	B 13.5	C 25.2	C 33.2
Bush Farm Road Northbound	E 60.4	D 38.5	F 139.6	C 21.6	D 53.6	F 119.1
Bush Farm Road Southbound	B 12.8	B 12.1	B 17.2	B 15.2	E 57.6	E 71.0

*Note: Level of Service, delay in seconds*

## Conclusions

Based upon the volume of traffic generated by the development and the amount of traffic forecasted for the year 2022, there will be an impact to the existing highway network. An additional right turn lane will be constructed on the northbound exit ramp from I 265.

# No Build Signal Warrant Analysis

## TRAFFIC SIGNAL WARRANT ANALYSIS

COUNTY Jefferson DATE March 8, 2016 DAY OF WEEK Tues

CITY Louisville MILEPOST \_\_\_\_\_ NO. OF CORRECTIBLE CRASHES IN 12 MONTH PERIOD NA

MAJOR STREET NAME Old Henry Road NO. OF MAJOR STREET APPROACH LANES 2

MINOR STREET NAME Terra Crossing - 2022 No Build Volumes NO. OF MINOR STREET APPROACH LANES 1

POSTED SPEED LIMIT MAJOR SREET 35 MPH POPULATION < 10,000  YES  NO

POSTED SPEED LIMIT MINOR SREET 35 MPH REDUCED WARRANTS BASED UPON  SPEED  POPULATION

TIME	MAJOR STREET TWO WAY VOLUME	MINOR STREET HIGHEST VOLUME APPROACH	Warrant 1 Condition A		Warrant 1 Condition B		Warrant 7 - CRASH EXPERIENCE (Warrant 1 Condition A or B 80% Satisfied) AND (5 or More Correctible Crashes in 12 Month Period)			
			Minimum Vehicular Volume		Interruption of Continuous Traffic		Warrant 1 Condition A - 80%		Warrant 1 Condition B - 80%	
			MAJOR	MINOR	MAJOR	MINOR	MAJOR	MINOR	MAJOR	MINOR
			500 (1) 600 (2)	150 (1) 200 (2)	750 (1) 900 (2)	75 (1) 100 (2)	400 (1) 480 (2)	120 (1) 160 (2)	600 (1) 720 (2)	80 (2)
			REDUCED WARRANTS				REDUCED WARRANTS (56% Reduction)			
Are Side Street Rights Included?			350 (1) 420 (2)	105 (1) 140 (2)	525 (1) 630 (2)	53 (1) 70 (2)	280 (1) 336 (2)	84 (1) 112 (2)	420 (1) 504 (2)	42 (1) 56 (2)
			(1) = ONE LANE APPROACH				(2) = TWO LANE APPROACH			
7-8 am	1,961	191	X	X	X	X	X	X	X	X
8-9 am	1,895	191	X	X	X	X	X	X	X	X
9-10 am		0								
10-11 am		0								
11-12 am		0								
12-1 pm		0								
1-2 pm		0								
2-3 pm		0								
3-4 pm		0								
4-5 pm	1,997	420	X	X	X	X	X	X	X	X
5-6 pm	2,122	420	X	X	X	X	X	X	X	X
6-7 pm		0								
NUMBER OF HOURS			4		4		4		4	
COMPLIANCE			NO		NO		NO			

# Build Signal Warrant Analysis

## TRAFFIC SIGNAL WARRANT ANALYSIS

COUNTY Jefferson DATE March 8, 2016 DAY OF WEEK Tues

CITY Louisville MILEPOST \_\_\_\_\_ NO. OF CORRECTIBLE CRASHES IN 12 MONTH PERIOD NA

MAJOR STREET NAME Old Henry Road NO. OF MAJOR STREET APPROACH LANES 2

MINOR STREET NAME Terra Crossing - North Site Build Volumes NO. OF MINOR STREET APPROACH LANES 1

POSTED SPEED LIMIT MAJOR SREET 35 MPH POPULATION < 10,000  YES  NO

POSTED SPEED LIMIT MINOR SREET 35 MPH REDUCED WARRANTS BASED UPON  SPEED  POPULATION

TIME	MAJOR STREET TWO WAY VOLUME	MINOR STREET HIGHEST VOLUME APPROACH	Warrant 1 Condition A		Warrant 1 Condition B		Warrant 7 - CRASH EXPERIENCE (Warrant 1 Condition A or B 80% Satisfied) AND (5 or More Correctible Crashes in 12 Month Period)			
			Minimum Vehicular Volume		Interruption of Continuous Traffic		Warrant 1 Condition A - 80%		Warrant 1 Condition B - 80%	
			MAJOR	MINOR	MAJOR	MINOR	MAJOR	MINOR	MAJOR	MINOR
			500 (1) 600 (2)	150 (1) 200 (2)	750 (1) 900 (2)	75 (1) 100 (2)	400 (1) 480 (2)	120 (1) 160 (2)	600 (1) 720 (2)	80 (2)
		REDUCED WARRANTS		REDUCED WARRANTS		REDUCED WARRANTS (56% Reduction)				
		350 (1) 420 (2)	105 (1) 140 (2)	525 (1) 630 (2)	53 (1) 70 (2)	280 (1) 336 (2)	84 (1) 112 (2)	420 (1) 504 (2)	42 (1) 56 (2)	
				(1) = ONE LANE APPROACH		(2) = TWO LANE APPROACH				
7-8 am	1,961	76	X		X	X	X		X	X
8-9 am	1,895	76	X		X	X	X		X	X
9-10 am		0								
10-11 am		0								
11-12 am		0								
12-1 pm		0								
1-2 pm		0								
2-3 pm		0								
3-4 pm		0								
4-5 pm	1,997	104	X		X	X	X		X	X
5-6 pm	2,122	104	X		X	X	X		X	X
6-7 pm		0								
NUMBER OF HOURS			0		4		0		4	
COMPLIANCE			NO		NO		NO			

**Tab 9**

**Proposed Additional Binding Elements**

# Proposed Additional Binding Elements

- A Uniform signage plan in compliance with LDC 5.12.1 shall be submitted with or prior to approval of the first Detailed District Development Plan of this GDDP.
- Building designs shall be presented for review and approval with each Detailed District Development Plan submittal

# Proposed Additional Binding Elements

- Road improvements shall be made in accordance with the binding element agreed to with Metro Public Works and Transportation Planning (at time of this Public Hearing PowerPoint/exhibit book submittal still pending final wording).

## Tab 10

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

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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

Project: Office/Retail/Residential

Applicant: JDG 1849, LLC

Location: 13508 Factory Ln. & 2520 Terra Crossing Blvd.

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

Traffic Engineer: Diane B. Zimmerman Traffic Engineering

Request: Change in zoning to OR-3 and C-2 with  
General and Detailed District Development  
Plans

### **Introductory Statement**

This proposed project is located on approximately 110 acres of land that has been part of a nearly double sized property on both sides of Factory Lane mostly owned by the St. Joseph Catholic Orphans Society. As properties developed over decades all around it, this property remained vacant, although there has been significant speculation over the years about how and when this property might, or should, develop. Among other development scenarios contemplated over the years were the following: expansion of an Eastpoint Business Center type business park across the Snyder Freeway onto this site, various forms of single-family development, office park, and as the site for the much-discussed new Veterans Hospital. In the end, the north tract of approximately equal size was placed under contract with Ball Homes to purchase and develop as a single family subdivision. That subdivision was approved about the time that this property was put under contract to this applicant for a mixed-use development, taking into account all of the various uses, many of them as or more intense than this one, surrounding it. Often times when we think of “in-fill” development we think of small parcels in an intensely developed area, usually very urban. However, this is as much an in-fill site as those, given that so much, virtually everything, around this large property has been developed or has been approved for development and is proceeding expeditiously with that development, some, like the Eastpoint Business Center, nearing completion.

A few neighbors at the first neighborhood meeting associated with this project called this development “sprawl” when, in point of fact, the single family subdivisions that many of those people live in near this site are actually real examples of sprawl because of the fact that they leap-frogged over large undeveloped parcels like this, becoming development sites for single family subdivision before more in-lying sites like this one were developed. Woodmont, a very nice subdivision to the northeast of this property, is a good example of that sort of leap-frog development, whereby a residential developer found a large tract of land in a very outlying area, at the time, and developed it with purchasers of those lots not thinking about what would be developed between that

outlying subdivision and more fully developed in-lying areas. As a consequence, some of the road infrastructure issues that people complain about today are a result of that leap-frog development. In other words, infrastructure did not progressively occur in the course of ordinary planned, progressive development. Therefore, tough infrastructure decisions are often left, as in this case, for the last developer to resolve, even though the infrastructure capacity issues are more a consequence of the leap-frog development that occurred in prior times than as a consequence of the development that occurs now, such as proposed in this particular case.

### **Guideline 1: Community Form**

Because this is a large mixed-use development, it would be appropriate under any number of form districts. The predominant form district existing in this area is the Suburban Neighborhood form, which is characterized by predominantly residential uses which can include high density residential uses and a mixture of uses such as office, retail shops, restaurants and services. The proposed development includes exactly this: high density residential and a mixture of office buildings, retail shops and restaurants, and retail services, including a proposed high-end car lot at the southern end of the proposed site. The Suburban Neighborhood Form commends the inclusion of connected streets with uses easily accessible, one to the other, with lots of sidewalks and good access for bicycle usage. All of that sort of good community planning is included in this proposed project and the development plan accompanying this application.

### **Guideline 2: Centers**

The Intents of this Guideline are fully addressed in that this development plan, as an intensively designed in-fill site surrounded by a diversity of other uses, promotes a very efficient use of land with an extraordinary investment in improving an existing infrastructure, including roads leading to the Snyder Freeway interchange at both Old Henry and LaGrange Roads. Bush Farm Road will be extended through this development. Improvements as necessary will be made at Old Henry Road and Factory Lane. Farther, by developing an infill site like this, where utilities are already available, this lowers the costs of utilities that otherwise would have to be extended further to a remote location. Also, by including within this development a mix of uses, that helps reduce commuting times and transportation-related air pollution because residents within this development and nearby will be able to work, shop and dine at this location. As noted on the development plan and as explained herein, this mixed-use development will include a diversity of goods and services, including workplaces, retail and restaurant establishments. Designing a total community, not doing it piecemeal, this development will have a decided sense of place, which will be enhanced by landscaping and good sidewalk and bicycle connectivity and access.

This application specifically complies with applicable Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 & 16 of this Guideline as follows.

For all intents and purposes this is already an activity center because of the large Eastpoint Business Center located directly across the Snyder Freeway, with access by Old Henry Road and Factory Lane, to this site. Also Kentucky One Health (formerly Jewish Hospital) owns and operates the healthcare facility adjoining this property to the south. There are also large apartment communities adjoining this site, known as Claiborne Crossings and The Paddock, immediately to the southeast and northwest. As a mixed use development designed as shown on the development plan and PowerPoint presentation accompanying this application and as explained herein, locating retail in close proximity to intense residential, both multi and single family, is a good idea. People require and desire retail services, which are always best located proximate to where they live so as to reduce travel times and distances. And as further noted on the development plan and PowerPoint presentation accompanying this application and as explained herein, the proposed development is compact and includes a mixture of very compatible, desirable uses. Multi-family is more appropriate

for this large in-fill site than single family because there is a preponderance of single family development for miles in all directions. The design of this center, as shown on the development plan and PowerPoint accompanying this application includes shared parking, focal points within the individual developments, lots of cross-access, and a provision of multi-modal forms of transportation access, notably by car, bicycle and pedestrians, and ultimately if transit comes to the area, by transit as well.

### **Guideline 3: Compatibility**

This application complies with the Intents of this Guideline because the project, as shown on the development plan and PowerPoint accompanying this application, includes a mixture of land uses and densities very near one another, and because design is compatible internally and externally and does not involve nuisances such as noises, lighting, or aesthetics out of the ordinary.

This application further complies with applicable Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 20, 21, 22, 23, 24, 25, 28 and 29 as follows.

As generally explained above and as more specifically set forth on the development plan and in the PowerPoint accompanying this application, the designs of these buildings will be high quality using top grade building materials. Heights will be higher than would be anticipated right next to a single family subdivision, but then this proposed development adjoins the Snyder Freeway, Factory Lane and where it does adjoin undeveloped single family residential properties, there will be adequate setbacks and efforts to address height disparities. Because this is being designed as a predominately residential community, lighting, noise, odors and visual impacts that could be negative to residents of the proposed apartment communities will be minimized or eliminated. After all, residents of this very development will be the ones most adversely affected by any negative impacts. So they will be avoided. High density apartment usage will predominate this site because of the fact that it is surrounded by plenty of standard single family residential for miles in all directions and because this is an in-fill site with easy access to the Snyder Freeway and to several large workplaces, most notably the Eastpoint Business Center. Moreover, right now apartments are in high demand, and developing at a rate right now in Metro Louisville equal to the single family housing development. So as long as this demand continues, there need to be sites available for them, and no better site than this one for that. If the demand for multi-family housing subsides, the OR-3 zoning district will allow for office use as a substitute. As the apartment communities that are planned are of a variety of styles and designs, they will be appropriate for people of different incomes and ages. As respects, the land plan, because this is a large site, external setbacks can be respected. Internal setbacks may need to be waived or varied, which is often typical in a mixed-use development where everything is designed to be compatible with each other from the onset. There may be some parking garages incorporated into some of the apartment designs. This will help minimize the impact of parking, because in those circumstances usually the residential surrounds the parking. Signage will be tasteful, compliant with the Land Development Code and relatively common in theme from one development to the other within this large mixed-use development.

### **Guideline 4, 5 & 13: Open Space, Natural Areas and Landscape Character**

This application complies with Intents of these three Guidelines because everything shown on the development plan and in the PowerPoint accompanying this application and as generally explained above the design of this mixed-use development is to create a high quality living, working and shopping destination. To the extent that natural areas or historic resources, presently unknown, exist on site, they will be protected. Landscaping will be evident throughout at a very high level, likely surpassing requirements of the Land Development Code.

This application specifically complies with applicable Policies 1, 2, 3, 4, 5, 6 and 7 of Guideline 4, applicable Policies 1, 2 and 6 of Guideline 5 and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 as follows.

Again, as generally shown on the development plan and within the PowerPoint presentation accompanying this application and as explained above, perimeter buffers will be designed to mitigate impacts on adjoining properties that are still low density single-family residential. But internal to the site, there will be a common landscape plan that assures significant tree canopy, lots of usable open space by the people who live, shop and work here, and a high level of landscape character that gives this new plan community a very rich aesthetic look.

### **Guideline 6: Economic Growth and Sustainability**

This application addresses all the Intents of this Guideline because of the fact that, as a large mixed-use development, it helps supply the demand for multi-family housing, ensures a plan for retail and commercial uses in an area where there is a lot of residential development and new growth, and provides land for future office demand.

This application also specifically complies with applicable Policies 1, 2 and 6 as follows.

As set forth above, because new office land is provided in this application, as the demand for office uses continues to grow in Louisville Metro, this is a good location because of good access to the Snyder Freeway and two major interchanges. Because of these interchanges and the significant investment of infrastructure along LaGrange Road and Factory Lane plus Old Henry Road and Bush Farm Road, some to be made by this developer, this site also has good, and will have even better, access once developed. As noted at Guideline 2, it is an activity center.

### **Guidelines 7, 8 and 9: Circulation; Transportation Facility Design; and Alternate Transportation Modes**

This application addresses the Intents of these three Guidelines by assuring transportation facilities that provide for safe and proper functioning of existing and improved street networks, by assuring that the carrying-capacity of named streets is improved, by providing as shown on the development plan and discussed herein improved transportation facilities, and by addressing the issues of traffic congestion and air quality through bicycles and sidewalk facilities.

This application specifically complies with applicable Policies 1, 2, 3, 6, 9, 10, 11, 13, 14 and 16 of Guideline 7, applicable Policies 4, 5, 7, 8, 9, 10 and 11 of Guideline 8 and applicable Policies 1, 2, 3 and 4 of Guideline 9 as follows.

As shown on the development plan and in the PowerPoint presentation accompanying this application, sidewalks and bicycle facilities are provided throughout this development. The same is true as respects lots of good internal connectivity so that one apartment community to the other and all the retail facilities serving them, as well as the office buildings to be mixed among them, are well connected, especially so that people living, working and shopping within this large mixed use development can do so by foot, bicycle as well as automobile. As shown on the development plan and in the PowerPoint accompanying this application, lots of internal roads will be developed as part of this project, including the extension of Bush Farm Road and Terra Crossing Blvd. such that they come together and connect Old Henry Road with Factory Lane. As required, improvements may also be made at Old Henry Road and Factory Lane. Specifically as to Factory Lane, this developer will work with Ball Homes to try to make sure that Factory Lane moving west to east probably transitions smoothly into the extension of Bush Farm Road such that traffic is more likely to move through this

development than along the old section of Factory Lane east of this location yet to be improved beyond its present condition as an 18 foot wide “rural” road. To the extent that transit ever comes to this area, it will be accommodated.

**Guidelines 10 and 11: Stormwater; Water Quality**

The Intents of these Guidelines are to assure that the stormwater is managed so as not to negatively impact nearby properties or downstream conditions. And water quality is one of the newest environmental issues requiring specific development measures.

This application specifically complies with these Intents and applicable Policies 1, 3, 5, 6, 7, 10 and 11 of Guideline 10 and applicable Policies 1, 3, 4, 5, and 9 of Guideline 11 as follows.

Post development rates of runoff will not exceed predevelopment rates of flow. Detention basins will be provided. Any existing blue line and other regulated streams will be protected. MSD’s new water quality standards will be addressed during the development stage of this project. MSD’s soil erosion and sedimentation control policies will also be complied with.

**Guideline 12: Air Quality**

The applicable Intents and Policies 1, 2, 4, 6, 7, 8 and 9 of this Guideline are complied with as follows.

Because this is a mixed-use development, there will be lots of opportunities for people nearby to shop and work closer to home. And people who choose to live in these apartment communities will have the opportunity to also work and shop within this development. Also, the apartment dwellers will have the opportunity to live close to large workplaces such as Eastpoint Business Center. That will reduce travel times and contribute to better air quality.

\* \* \* \*

For all the above reasons and more and as further shown on the development plan accompanying this application, this application complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,

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### **Variance Justification:**

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

Variance of: Section 5.7.1.B.1 to exceed the 45 ft. maximum building height allowed in a transition zone.

1. The variance will not adversely affect the public health, safety or welfare because this is a mixed use development involving a unified plan with uses and design that relate well one as to the other and to adjoining uses on at least 3 sides, including Claibourne Crossings to the east.

2. The variance will not alter the essential character of the general vicinity because this is a large mixed use development clearly compatible on at least 3 sides with adjoining land uses. Moreover, the small height variance involved in this application can be mitigated with landscaping and design.

3. The variance will not cause a hazard or a nuisance to the public for all the reasons set forth above.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations for all the reasons set forth above.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity for all the reasons set for above.

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant would lose critical parking or would have to collapse ceiling heights or space between floors which

would not result in a practical design.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation again for all the reasons set for above.

### **Variance Justification:**

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

Variance of: Section 5.3.4.D.4 to exceed the 50 ft. maximum building height without increasing the minimum building setbacks.

1. The variance will not adversely affect the public health, safety or welfare because the variance is just for 2 ft, and a change to another form district (which could make perfect sense) would appear to allow the increased height without this variance.

2. The variance will not alter the essential character of the general vicinity because this is a large mixed use development clearly compatible on at least 3 sides with adjoining land uses. Moreover, the small height variance involved in this application can be mitigated with landscaping and design and, in any event, apparently would not even be necessitated if the form district were also changed.

3. The variance will not cause a hazard or a nuisance to the public for all the reasons set forth above.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations for all the reasons set forth above.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity for all the reasons set for above.

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant would

lose critical parking or would have to collapse ceiling heights or space between floors which would not result in a practical design.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation again for all the reasons set for above.

**General Waiver Justification:**

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

Waiver of: Section 10.2.4 to omit the 20 ft LBA required within Lot 4C between the OR-3 and the C-2 zoning districts

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because this is a master plan for a mixed use development, and setbacks landscaping between uses are internal uses that are address in the context of the overall plan.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it is not significant in size, and as set forth on the plan and in the discussion above, mitigation measures are implicit in and over all designed plan.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would otherwise be providing added landscape in an area where it is just as well provided elsewhere, given the master planned nature of this development.

## Tab II

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

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

Project: Office/Retail/Residential

Applicant: JDG 1849, LLC

Location: 13508 Factory Ln. & 2520 Terra Crossing Blvd.

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

Traffic Engineer: Diane B. Zimmerman Traffic Engineering

Request: Change in zoning to OR-3 and C-2 with General Development Plan

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on January 19, 2017 and having reviewed evidence presented by the applicant and the staff's analysis of the application, makes the following findings:

### Introductory Statement

**WHEREAS**, this proposed project is located on approximately 110 acres of land that has been part of a nearly double sized property on both sides of Factory Lane mostly owned by the St. Joseph Catholic Orphans Society; as properties developed over decades all around it, this property remained vacant, although there has been significant speculation over the years about how and when this property might, or should, develop; among other development scenarios contemplated over the years were the following: expansion of an Eastpoint Business Center type business park across the Snyder Freeway onto this site, various forms of single-family development, office park, and as the site for the much-discussed new Veterans Hospital; in the end, the north tract of approximately equal size was placed under contract with Ball Homes to purchase and develop as a single family subdivision; that subdivision was approved about the time that this property was put under contract to this applicant for a mixed-use development, taking into account all of the various uses, many of them as or more intense than this one, surrounding it; this is a large in-fill site given that so much, virtually everything, around this large property has been developed or has been approved for development and is proceeding expeditiously with that development, some, like the Eastpoint Business Center, nearing completion; and

**WHEREAS**, some of the road infrastructure issues that people complain about today are a result of that leap-frog development (such as the Woodmont Subdivision) that occurred in the area in a non-sequential manner, meaning that development began to occur before all of the ultimately necessary road infrastructure was in place or funded; and

### **Guideline 1: Community Form**

**WHEREAS**, because this is a large mixed-use development, it would be appropriate under any number of form districts; the predominant form district existing in this area is the Suburban Neighborhood form, which is characterized by predominantly residential uses which can include high density residential uses and a mixture of uses such as office, retail shops, restaurants and services; the proposed development includes exactly this: high density residential and a mixture of office buildings, retail shops and restaurants, and retail services, including a proposed high-end car lot at the southern end of the proposed site; the Suburban Neighborhood Form commends the inclusion of connected streets with uses easily accessible, one to the other, with lots of sidewalks and good access for bicycle usage; and all of that sort of good community planning is included in this proposed project and the development plan accompanying this application; and

### **Guideline 2: Centers**

**WHEREAS**, the Intents of this Guideline are fully addressed in that this development plan, as an intensively designed in-fill site surrounded by a diversity of other uses, promotes a efficient use of land with significant investment in improving existing infrastructure, including roads leading to the Snyder Freeway interchange at both Old Henry and LaGrange Roads; Bush Farm Road will be extended through this development; improvements as necessary will be made at Old Henry Road and Factory Lane; further, by developing an infill site like this, where utilities are already available, this lowers the costs of utilities that otherwise would have to be extended further to a remote location; also, by including within this development a mix of uses, that helps reduce commuting times and transportation-related air pollution because residents within this development and nearby will be able to work, shop and dine at this location; as noted on the development plan and as explained herein, this mixed-use development will include a diversity of goods and services, including workplaces, retail and restaurant establishments; and designing a total community, not doing it piecemeal, this development will have a decided sense of place, which will be enhanced by landscaping and good sidewalk and bicycle connectivity and access; and

**WHEREAS**, this application specifically complies with applicable Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 & 16 of this Guideline because for all intents and purposes this is already an activity center because of the large Eastpoint Business Center located directly across the Snyder Freeway, with access by Old Henry Road and Factory Lane, to this site; also Jewish Hospital owns and operates the healthcare facility adjoining this property to the south; there are also large apartment communities adjoining this site, known as Claiborne Crossings and The Paddock, immediately to the southeast and northwest; as a mixed use development designed as shown on the development plan and PowerPoint presentation shown at the Planning Commission Public Hearing, locating retail in close proximity to intense residential, both multi and single family, is a good idea; people require and desire retail services, which are always best located proximate to where they live so as to reduce travel times and distances; and as further noted on the development plan and PowerPoint presentation shown at the Planning Commission Public Hearing, the proposed development is compact and includes a mixture of very compatible, desirable uses; multi-family is more appropriate for this large in-fill site than single family because there is a preponderance of single family development for miles in all directions; the design of this center includes shared parking, focal points within the individual developments, lots of cross-access, and a provision of multi-modal forms of transportation access, notably by auto, bicycle and pedestrians, and ultimately if transit comes to the area, by transit as well; and

### **Guideline 3: Compatibility**

**WHEREAS**, this application complies with the Intents of this Guideline because the project, as shown on the development plan and PowerPoint shown at the Planning Commission Public Hearing,

includes a mixture of land uses and densities very near one another, and because design is compatible internally and externally and does not involve nuisances such as noises, lighting, or aesthetics out of the ordinary; and

**WHEREAS**, this application further complies with applicable Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 20, 21, 22, 23, 24, 25, 28 and 29 because as generally explained above and as more specifically set forth on the development plan and in the PowerPoint shown at the Planning Commission Public Hearing, the designs of these buildings will be high quality using top grade building materials; heights will be higher than would be anticipated right next to a single family subdivision, but then this proposed development adjoins the Snyder Freeway, Factory Lane and where it does adjoin undeveloped single family residential properties, there will be adequate setbacks and efforts to address height disparities; because this is being designed as a predominately residential community, lighting, noise, odors and visual impacts that could be negative to residents of the proposed apartment communities will be minimized or eliminated; after all, residents of this very development will be the ones most adversely affected by any negative impacts, so they will be avoided; high density apartment usage will predominate this site because of the fact that it is surrounded by plenty of standard single family residential for miles in all directions and because this is an in-fill site with easy access to the Snyder Freeway and to several large workplaces, most notably the Eastpoint Business Center; moreover, right now apartments are in high demand, and developing at a rate right now in Metro Louisville equal to the single family housing development; so as long as this demand continues, there need to be sites available for them, and no better site than this one for that; if the demand for multi-family housing subsides, the OR-3 zoning district will allow for office use as a substitute; as the apartment communities that are planned are of a variety of styles and designs, they will be appropriate for people of different incomes and ages; as respects, the land plan, because this is a large site, external setbacks can be respected; internal setbacks may need to be waived or varied, which is often typical in a mixed-use development where everything is designed to be compatible with each other from the onset; there may be some parking garages incorporated into some of the apartment designs; this will help minimize the impact of parking, because in those circumstances usually the residential surrounds the parking; and signage will be tasteful, compliant with the Land Development Code and relatively common in theme from one development to the other within this large mixed-use development; and

**Guideline 4, 5 & 13: Open Space, Natural Areas and Landscape Character**

**WHEREAS**, this application complies with Intents of these three Guidelines because everything shown on the development plan and in the PowerPoint shown at the Planning Commission Public Hearing and as generally explained above the design of this mixed-use development is to create a high quality living, working and shopping destination; to the extent that natural areas or historic resources, presently unknown, exist on site, they will be protected; and landscaping will be evident throughout at a very high level, likely surpassing requirements of the Land Development Code; and

**WHEREAS**, this application specifically complies with applicable Policies 1, 2, 3, 4, 5, 6 and 7 of Guideline 4, applicable Policies 1, 2 and 6 of Guideline 5 and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 because as generally shown on the development plan and within the PowerPoint presentation shown at the Planning Commission Public Hearing, perimeter buffers will be designed to mitigate impacts on adjoining properties that are still low density single-family residential; but internal to the site, there will be a common landscape plan that assures significant tree canopy, lots of usable open space by the people who live, shop and work here, and a high level of landscape character that gives this new plan community a very rich aesthetic look; and

## **Guideline 6: Economic Growth and Sustainability**

**WHEREAS**, this application addresses all the Intents of this Guideline because of the fact that, as a large mixed-use development, it helps supply the demand for multi-family housing, ensures a plan for retail and commercial uses in an area where there is a lot of residential development and new growth, and provides land to address possible future office demand; and

**WHEREAS**, this application also specifically complies with applicable Policies 1, 2 and 6 because, as set forth above, as the demand for office uses continues to grow in Louisville Metro, this is a good location given good access to the Snyder Freeway and two major interchanges; and because of these interchanges and the significant investment of infrastructure along LaGrange Road and Factory Lane plus Old Henry Road and Bush Farm Road, some to be made by this developer, this site also has good, and will have even better, access once developed; and

## **Guidelines 7, 8 and 9: Circulation; Transportation Facility Design; and Alternate Transportation Modes**

**WHEREAS**, this application addresses the Intents of these three Guidelines by assuring transportation facilities that provide for safe and proper functioning of existing and improved street networks, by assuring that the carrying-capacity of named streets is improved, by providing as shown on the development plan and discussed herein improved transportation facilities, and by addressing the issues of traffic congestion and air quality through bicycles and sidewalk facilities; and

**WHEREAS**, this application specifically complies with applicable Policies 1, 2, 3, 6, 9, 10, 11, 13, 14 and 16 of Guideline 7, applicable Policies 4, 5, 7, 8, 9, 10 and 11 of Guideline 8 and applicable Policies 1, 2, 3 and 4 of Guideline 9 because as shown on the development plan and in the PowerPoint presentation shown at the Planning Commission Public Hearing, sidewalks and bicycle facilities are provided throughout this development; the same is true as respects lots of good internal connectivity so that one apartment community to the other and all the retail facilities serving them, as well as any possible office buildings to be mixed among them, are well connected, especially so that people living, working and shopping within this large mixed use development can do so by foot, bicycle as well as automobile; as shown on the development plan and in the PowerPoint shown at the Planning Commission Public Hearing, lots of internal roads will be developed as part of this project, including the extension of Bush Farm Road and Terra Crossing Blvd such that they come together and connect Old Henry Road with Factory Lane; specifically as to Factory Lane, this developer will work with Ball Homes to try to make sure that Factory Lane moving west to east probably transitions smoothly into the extension of Bush Farm Road such that traffic is more likely to move through this development than along the old section of Factory Lane east of this location yet to be improved beyond its present condition as an 18 foot wide “rural” road; and to the extent that transit ever comes to this area, it will be accommodated; and

**WHEREAS**, a traffic impact study (TIS) was prepared, reviewed by Metro Public Works and Transportation Planning and multiple times revised in accordance with those agencies’ requirements; and the TIS and agency reviews resulted in agreement to a preliminary roadway improvement plan and timetable as presented at the Planning Commission Public Hearing; and

## **Guidelines 10 and 11: Stormwater; Water Quality**

**WHEREAS**, the Intents of these Guidelines are to assure that the stormwater is managed so as not to negatively impact nearby properties or downstream conditions; and water quality is one of the newest environmental issues requiring specific development measures; and

**WHEREAS**, this application specifically complies with these Intents and applicable Policies 1, 3, 5, 6, 7, 10 and 11 of Guideline 10 and applicable Policies 1, 3, 4, 5, and 9 of Guideline 11 because post-development rates of runoff will not exceed predevelopment rates of flow; detention basins will be provided; any existing blue line and other regulated streams will be protected; MSD's new water quality standards will be addressed during the construction stage of this project; and MSD's soil erosion and sedimentation control policies will also be complied with during construction stage of this project; and

**Guideline 12: Air Quality**

**WHEREAS**, the applicable Intents and Polices 1 2, 4, 6, 7, 8 and 9 of this Guideline are complied with because this is a mixed-use development, there will be lots of opportunities for people nearby to shop and work closer to home; and people who choose to live in these apartment communities will have the opportunity to also work and shop within this development; also, the apartment dwellers will have the opportunity to live close to large workplaces such as found within this proposed development, at nearby Baptist and Jewish Hospitals, at the nearby new Thornton's corporate headquarters, at Eastpoint Business Center; and that will reduce travel times and contribute to better air quality; and

\* \* \* \* \*

**WHEREAS**, for all the reasons explained at LD&T and the Planning Commission public hearing and also in PowerPoint shown at the public hearing and on the approved General 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 and PEC to OR-3 and C-2 and approves the General District Development Plan.

**Variance Findings of Fact**

Variance of Section 5.7.1.B.1 to exceed the 45 ft. maximum building height allowed in a transition zone.

**WHEREAS**, this variance will not adversely affect the public health, safety or welfare because this is a mixed use development involving a unified plan with uses and design that relate well one as to the other and to adjoining uses on at least 3 sides, including Claiborne Crossings to the east; and

**WHEREAS**, this variance will not alter the essential character of the general vicinity because this is a large mixed use development clearly compatible on at least 3 sides with adjoining land uses; and moreover, the small height variance involved in this application can be mitigated with landscaping and design; and

**WHEREAS**, this variance will not cause a hazard or a nuisance to the public because this added height presents an aesthetic/compatibility issues, not hazard or nuisance one; and

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

**WHEREAS**, this Variance arises from special circumstances, which do not generally apply to land in the general vicinity for all the reasons set for above; and

**WHEREAS**, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant would lose critical parking, would have to reduce roof pitches, or would have to collapse ceiling heights or space between floors, which would not result in a practical design; and

**WHEREAS**, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation again for all the reasons set for above and because this is a large mixed-use development where theoretical impacts are internal;

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

**Variance Findings of Fact:**

Variance of Section 5.3.4.D.4 to exceed the 50 ft. maximum building height without increasing the minimum building setbacks.

**WHEREAS**, this variance will not adversely affect the public health, safety or welfare because the variance is just for 2 ft, and a change to another form district (which could make perfect sense) would appear to allow the increased height without this variance; and

**WHEREAS**, this variance will not alter the essential character of the general vicinity because this is a large mixed use development clearly compatible on at least 3 sides with adjoining land uses; and moreover, the small height variance involved in this application can be mitigated with landscaping and design and, in any event, apparently would not even be necessitated if the form district were also changed; and

**WHEREAS**, this variance will not cause a hazard or a nuisance to the public because this added height presents an aesthetic/compatibility issues, not hazard or nuisance one; and

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

**WHEREAS**, this variance arises from special circumstances, which do not generally apply to land in the general vicinity for all the reasons set for above; and

**WHEREAS**, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant would lose critical parking, would have to reduce roof pitches, or would have to collapse ceiling heights or space between floors which would not result in a practical design; and

**WHEREAS**, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation again for all the reasons set for above and because this is a large mixed-use development where theoretical impacts are internal;

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

**Waiver Findings of Fact**

Waiver of Section 10.2.4 to omit the 20 ft LBA required within Lot 4C between the OR-3 and the C-2 zoning districts

**WHEREAS**, the waiver will not adversely affect adjacent property owners because this is a master plan for a mixed use development, and setback landscaping between uses are internal uses that are address in the context of the overall plan; and

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

**WHEREAS**, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it is not significant in size, and as set forth on the plan and in the discussion above, mitigation measures are implicit in and over all designed plan; and

**WHEREAS**, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would otherwise be providing added landscape in an area where it is just as well provided elsewhere, given the master planned nature of this development;

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