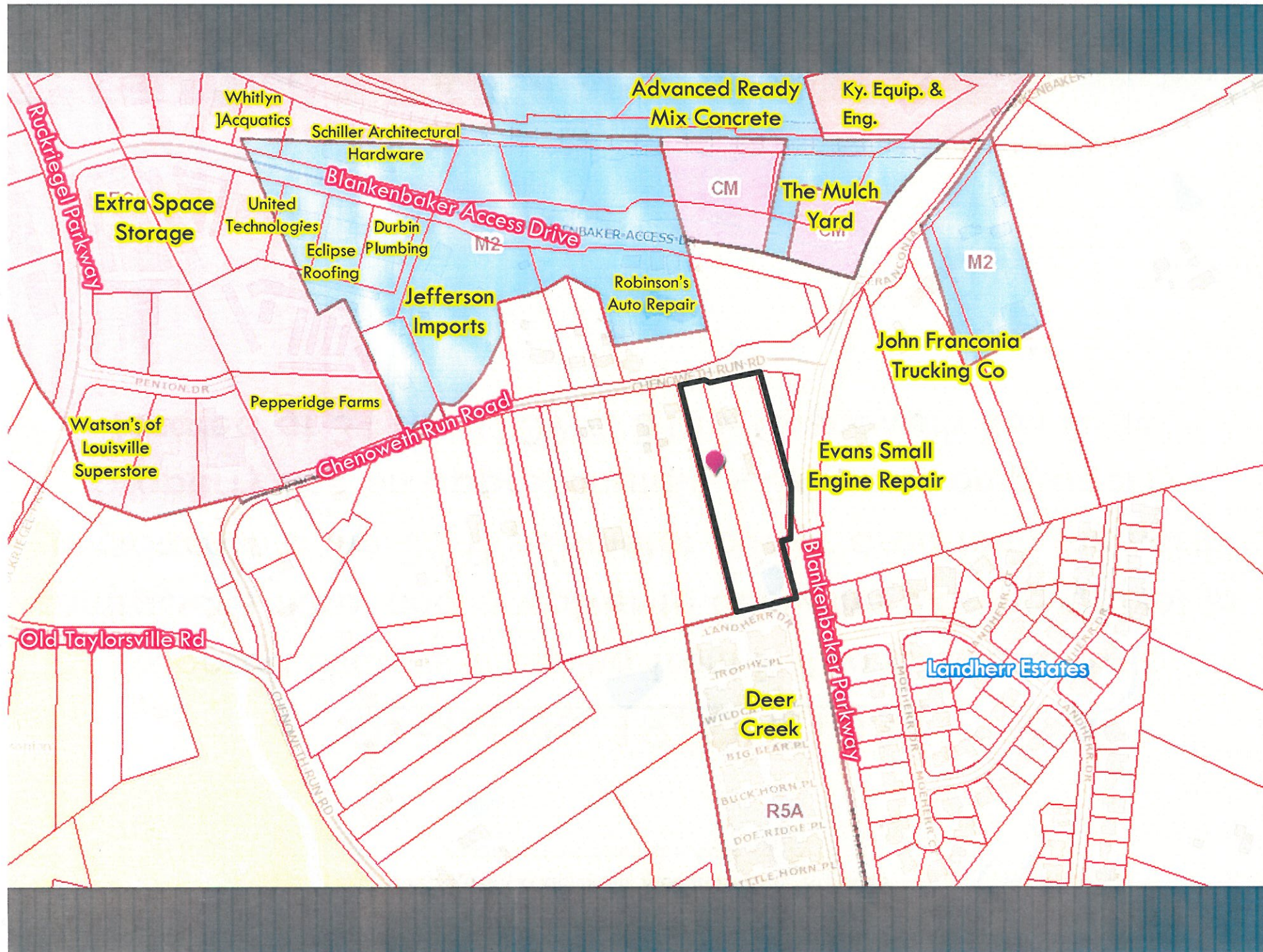
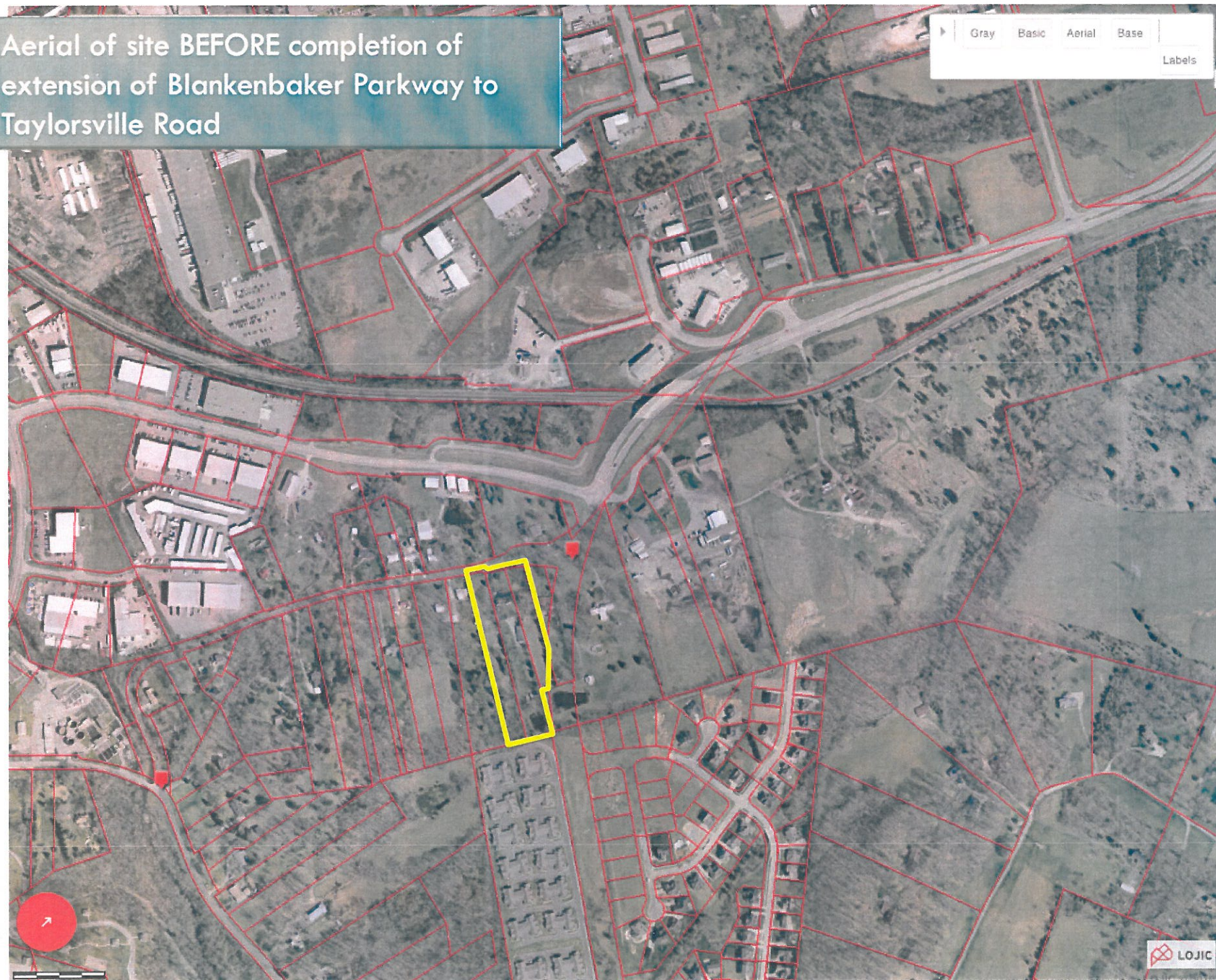


Docket No. 19ZONE1034

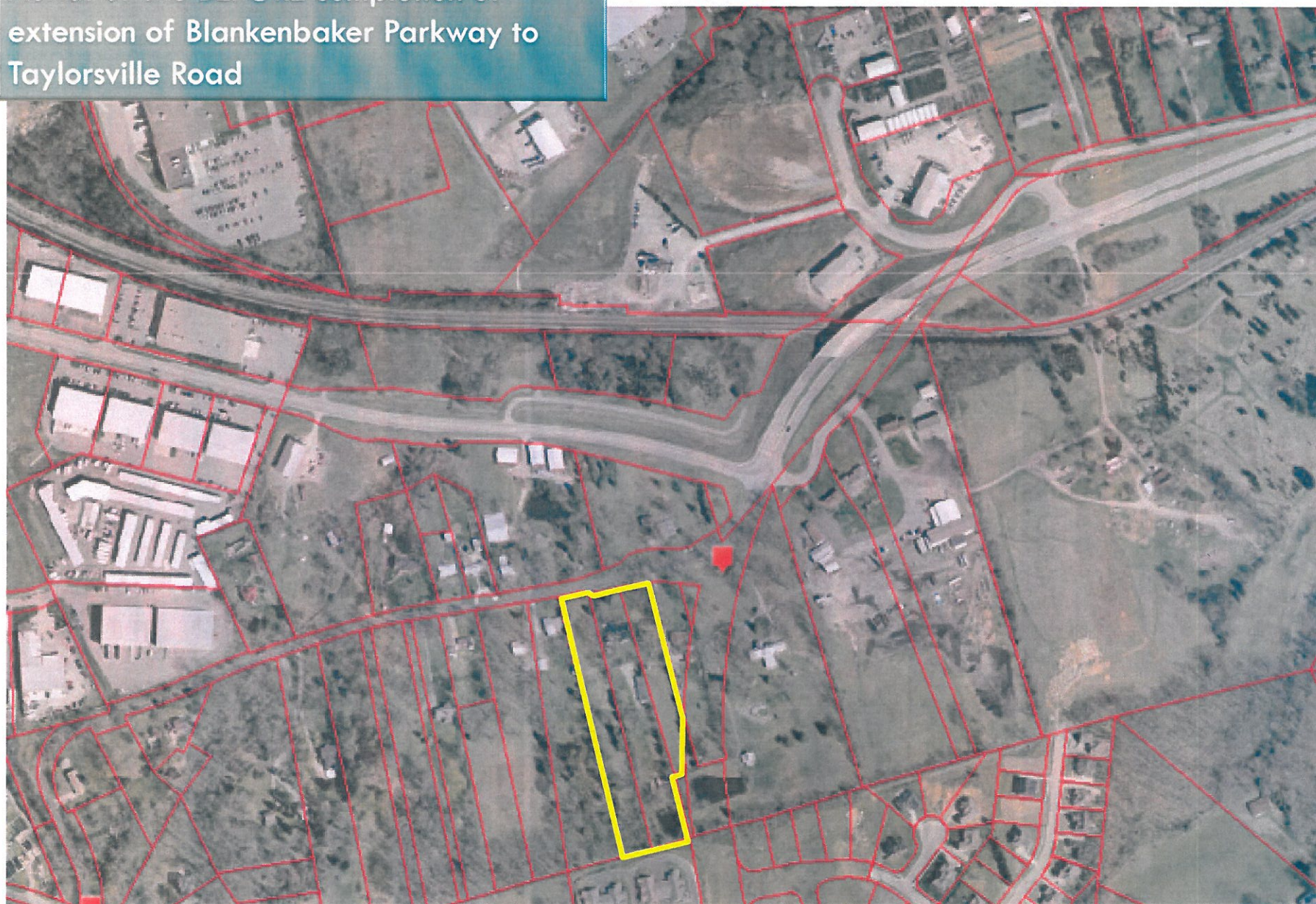
Proposed change in zoning from R-4 to C-2 to allow a contractor's shop, and a waiver to allow the existing gravel to encroach into the 25 ft perimeter buffer area long the north property line on approximately 4.34 acres on property located at 3115, 3109 & 3119 Chenoweth Run Road



Aerial of site BEFORE completion of extension of Blankenbaker Parkway to Taylorsville Road

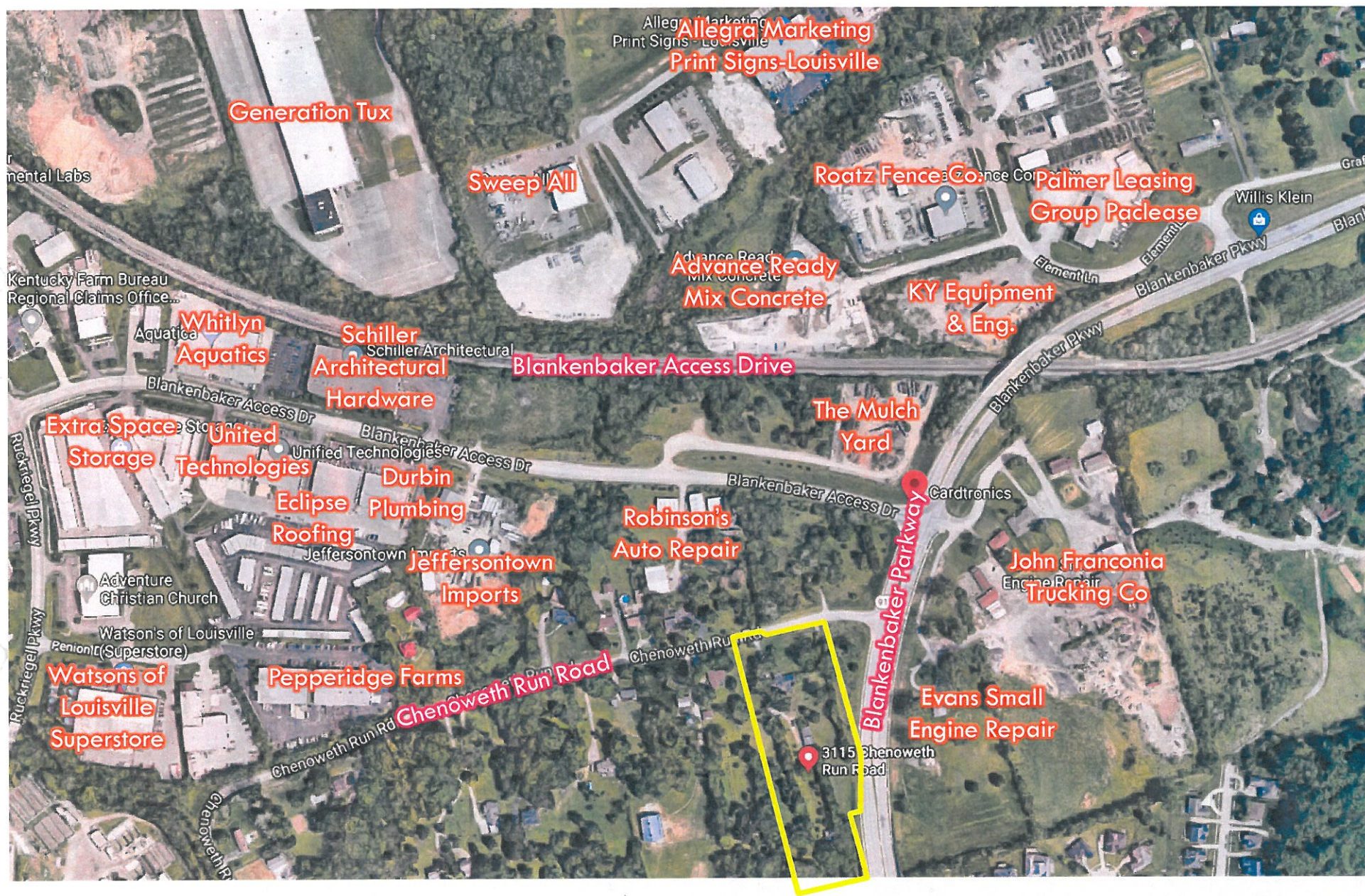


Aerial of site BEFORE completion of
extension of Blankenbaker Parkway to
Taylorsville Road



Aerial of site AFTER completion of
extension of Blankenbaker Parkway to
Taylorsville Road







Nearby industrial and commercial
uses





Nearby industrial and commercial
uses

Advance Ready
Mix Concrete

The Mulch Yard



Existing natural buffering
between site and Deer Creek







View of Blankenbaker Parkway, looking north. Chenoweth Run Road is to the left (west).



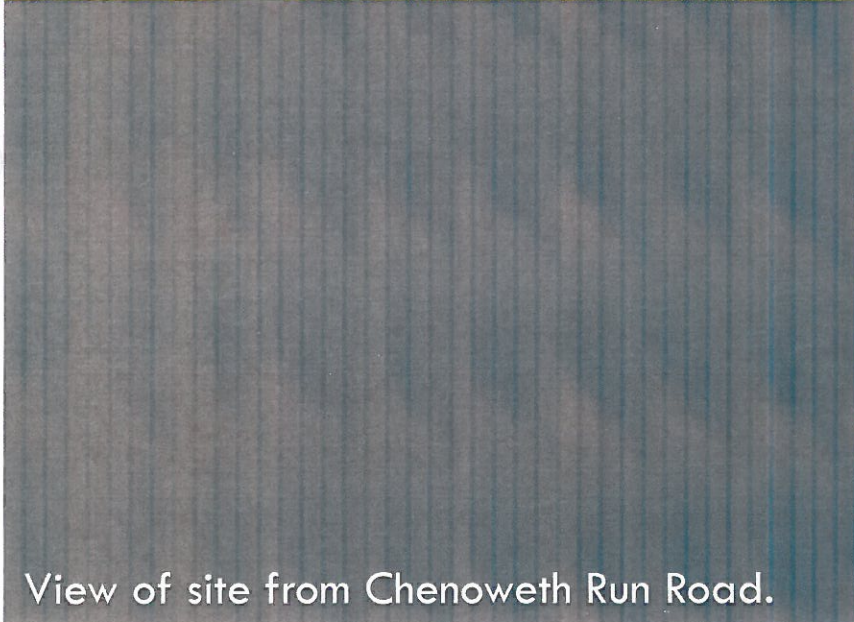
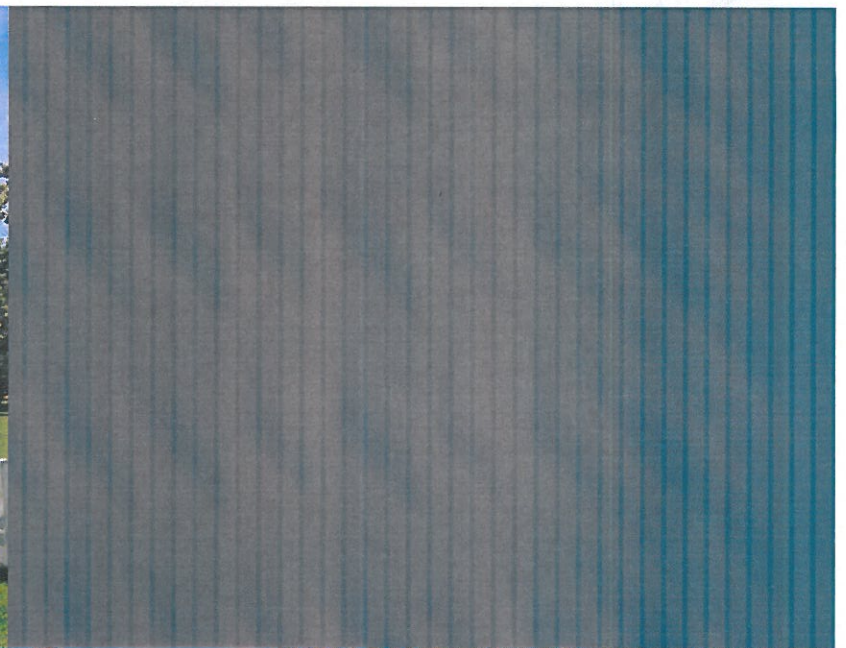
View of Blankenbaker Parkway, looking north. Chenoweth Run Road is to the left (west).



View of Chenoweth Run Road, looking west. Site is to the left.



View of site from Chenoweth Run Road.



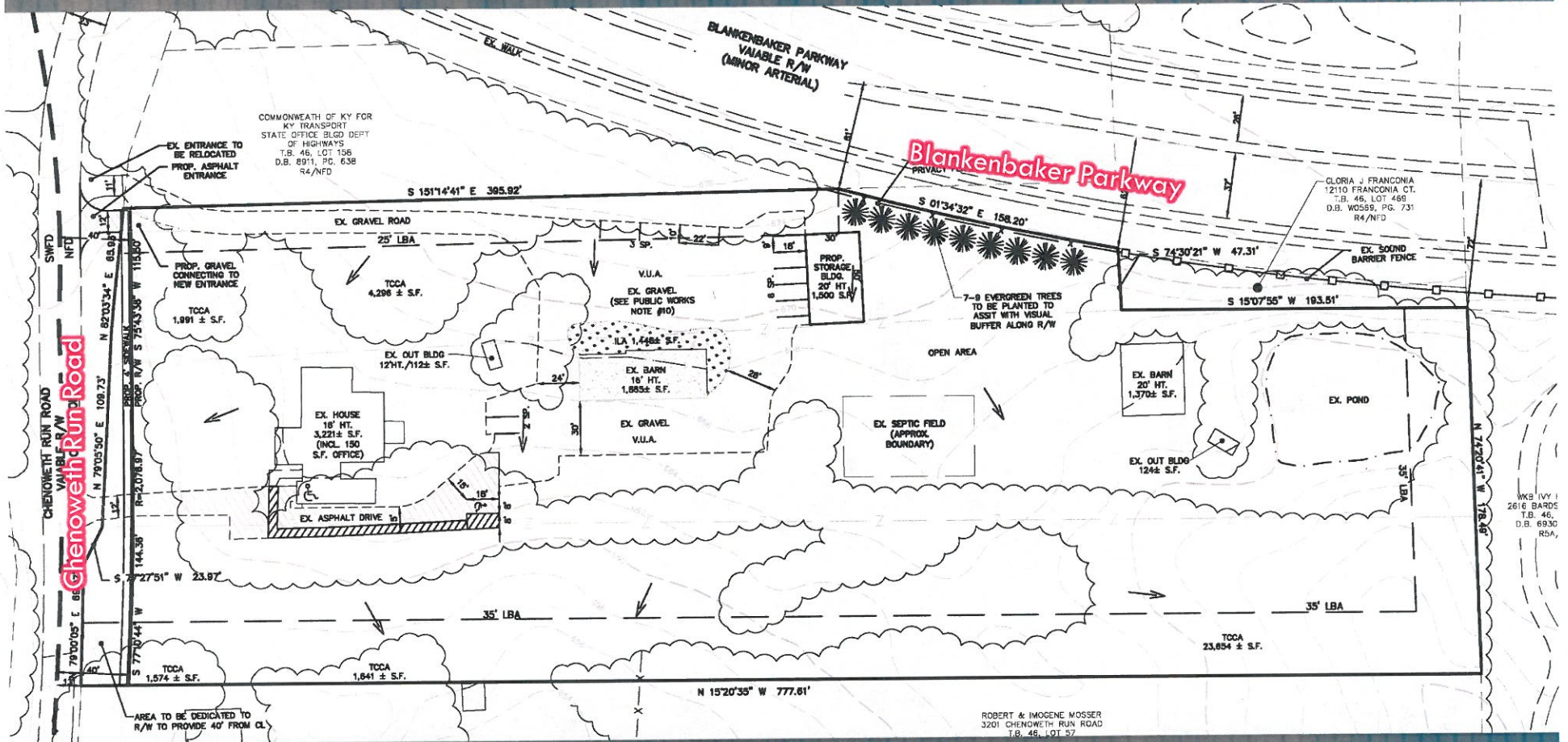
View of site from Chenoweth Run Road.



View of Chenoweth Run Road, looking east, towards Blankenbaker Parkway. Site is to the right.



View of entrance to Evans Small Engine Repair at Blankenbaker Pkwy. and Franconia Court.



Proposed Binding Elements



- ☐ No operation of machinery such as chainsaws and mulch grinders.
- ☐ No trucks exiting east on Chenoweth Run Road. All trucks must travel towards Blankenbaker Parkway.
- ☐ Realignment of eastern entrance no later than 12-months after final approval. (Applicant is attempting to purchase property from KTRC)

**STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GOALS, GUIDELINES
AND POLICIES OF THE CORNERSTONE 2040 COMPREHENSIVE PLAN**

Applicant/Owner: Rober Lopez Castellanos

Location: 3109, 3115, and 3119 Chenoweth Run Road

Proposed Use: Contractor's shop

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

Request: Zone Change from R-4 to C-2 to allow a
Contractor's Workshop.

INTRODUCTION

This property is adjacent to the relatively recent extension in the last ten years of Blankenbaker Pkwy., from Blankenbaker Access Road to Taylorsville road. The applicant's property is separated from the parkway only by a sliver of ground controlled by the Kentucky Department of Transportation left from the parkway expansion, effectively bordering the parkway. As a result of the parkway expansion, the entire area has undergone tremendous change. Three of the applicant's immediate neighbors' homes have been abandoned and demolished exhibiting the need to rezone and repurpose this site. Residential property that used to be quiet, country-like, and isolated, is now bordered by one of the most active commercial and travelled roads in Jefferson County.

The applicant's property straddles industrial sites on one side and residential sites on the others. Most of the property north of the applicant's property along Blankenbaker Parkway is used and zoned industrial and commercial. The properties south of the applicant's property is residential. When Blankenbaker Parkway was extended to Taylorsville Road, though, the parkway extension project erected large acoustic sound walls to protect and insulate the newer residential development to the south from the significant traffic, noise and lighting impacts generated by Blankenbaker Pkwy. The small stretch of the applicant's residential property on Chenoweth Run Road however was left completely unprotected without any buffer, barrier or insulation from the industrial land and new significant impacts from the expansion of the arterial.

As a result of the significant change with the construction and expansion of the five-lane divided parkway immediately adjacent to the applicant's unprotected residential property, the R-4 zoning classification is no longer appropriate. The applicant's property has experienced significant, objective economic, physical and social change as a result of the government's condemnation of land and development of Blankenbaker Parkway, all for the community's benefit and at the expense of the applicant's property. While the parkway project protected the

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residential development to the south, it left the applicant's property completely exposed to the marked change without any protective barrier.

The applicant has been using the property as his residence and as a staging area for his landscaping related businesses. Many residential properties along Chenoweth Run Road have been and are currently being used in this way (as a residence and small business location) in violation of zoning regulations without complaint. However, the applicant's business has experienced tremendous growth in the last three years resulting in neighbors' complaints and court citations. The applicant first hired a lawyer unknowledgeable of the Land Development Codes and regulations resulting in mistakes in addressing the legal issues, exacerbating complaints from neighbors.

These issues are currently being addressed in district court. In March of this year, the applicant hired undersigned counsel and immediately made significant changes to his operations to respond to neighbors' issues. The applicant completely ceased engaging in activities which were creating noise disturbances, such as ceasing the use of grinding and mulching type machinery at all times. He also restricted his hours of operation, effectively only using the site to park and store trucks during the evening, where they leave in the morning and return at the end of the day, again without operating any intensive machinery. He further restricted any trucks or business vehicles from travelling west on Chenoweth Run Road. Now all trucks go directly from applicant's property to Blankenbaker Parkway and do not travel past any of the residences on Chenoweth Run Road. It is intended that these voluntary restrictions would be incorporated in binding elements should the application be approved. The property also has natural vegetative buffers which will remain, shielding it from the condominiums to the south. The applicant has agreed to install all other buffers required of the Land Development Code for its neighbors and any other reasonable request from the neighbors (although at this point it appears the immediate neighbor does not want any wall or tree-line installed at all). It should be noted that the neighbor at 3201 Chenoweth Run Road, while still opposing the project, acknowledged that the voluntary changes in business operations had resulted in significant improvements to noise disturbances.

With the changes in the area because of the extension of the five-lane Blankenbaker Parkway, in what used to be a quiet residential area, the zoning change is appropriate and necessary. There is no question that the circumstances leading to this change have not been ideal and the applicant made mistakes leading to this zoning change. However, those mistakes are appropriately being addressed in other court proceedings and they do not alter the significant objective changes occurring with the parkway extension. Moreover, the applicant's operations with the voluntary restrictions provide the ideal transitional use for this transitional property, allowing it to be productively used in light of the roadway expansion, but at the same time blending compatibly with and creating a buffer between the competing uses.

COMMUNITY FORM

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

The proposed zone change complies with all of the applicable, Objectives and Policies 3.1.3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, 27 & 28 of Goal 1, for these reasons.

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The proposed use complies with Goal 1 in several ways. First, this development will take an R-4 use that is completely out of place along a minor arterial next to industrial uses from a Suburban Workforce Form District and re-purpose the property with a commercial use, while at the same time blending compatibility with adjacent uses and creating transitions between the industrial uses on one side with the residential uses on the other. The binding elements, the natural buffers and the additional buffers will mitigate any negative impacts from its use. The restrictions to the uses and limited simply using the location as a “hub” for trucks and employees to leave in the morning and return in the afternoon will limit and mitigate any noise or other potential adverse impacts to the neighboring residential uses by having little to no noise or use during evening hours and even during the majority of the working day when the trucks and employees are in the field doing their work. This use will be not create or use any lighting typical of many commercial uses further mitigating potential adverse impacts to the neighbors. The location next to a minor arterial is appropriate for a non-residential use, particularly one adjacent to other industrial uses. It will be relatively noise free except when vehicles leave in the morning and return at the end of the day around peak traffic hours, which is compatible with residential adjacent uses and extremely low impact to residential uses. Further, this use will not result in any new buildings or improvements which are out of scale or inconsistent from a height standpoint with the residential developments. Although the Form District is “Neighborhood form District”, the use of staging trucks and operating small businesses is consistent with the uses traditionally utilized in this area, both before and after the Blankenbaker Parkway extension. The operation of a “contractor’s shop” with the very restrictive binding elements being offered will enhance this property and prevent it from becoming an otherwise wasted area as two of its other residential neighboring properties have become since the parkway extension was completed.

The applicant’s property with the zone change will further ensure new development and redevelopment that is compatible with the scale and site design of nearby existing development. It will allow a mixture of densities with the use of appropriate buffers. The office and contractor’s workshop will locate higher density and intensity near the minor arterial of Blankenbaker Parkway and place the employment uses near existing infrastructure and transportation. The potential adverse impacts, such as noise, lighting and traffic will be mitigated through the use of binding elements restricting operations and uses, existing and added vegetative buffers and compliance with the Land Development Code. Finally, the use of the contractor’s workshop promotes mixed-use development and utilization and density with an out of place residential lot responding to the distinctive physical, historic, and cultural qualities.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 4, 6, 7, 9, 12 13, 15, 16, & 17 of Goal 2, for these reasons.

The proposed use will encourage sustainable growth and density around mixed-use centers and corridors by placing density compatible with desired form and existing infrastructure. The design and density are appropriate with adjacent uses that will serve the needs of the surrounding community. The development will be compact along a minor arterial and corridor resulting in efficient land use and cost effective infrastructure investment. The mixture of compatible uses will reduce traffic, limit trips and provided buffers and transitions between competing uses. The development will rehabilitate the deteriorating property for a new use since it is no longer compatible for residential use without the acoustic sound barriers enjoyed by nearby residences

on Blankenbaker Parkway. The plan will provide neighborhood serving contractor workshop. The site will be easily accessible by pedestrian and bicycle traffic and preserve natural vegetative buffers from neighboring residences.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 2, 3, 6, 7, 8, 9, 10 & 12 of Goal 3, for these reasons.

The proposed development plan will enhance the surrounding neighborhoods by protecting the open space and natural resources by preserving the existing tree canopy and existing pond which serves to buffer the residential uses to the south of the property, thereby protecting natural resources. The preserving of the tree canopy and pond is compatible with the Form District in that it provides open space that can be visually enjoyed by the community and ensures transitions between the various surrounding properties. Respecting and preserving the natural features of the property will protect the health, safety and welfare of future uses of the development.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2 & 3 of Goal 4, for these reasons.

The development plan will promote and preserve the historic and archaeological resources that contribute to our authenticity by renovating, repurposing and preserving the residence with an adaptive reuse of the property and by preserving the natural tree canopy and pond currently and historically on the site.

MOBILITY

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 3, 4, 7 & 14 of Goal 1, for these reasons.

The development plan implements an accessible system of alternative transportation modes by providing sidewalks and walkway connections between the uses for bicycles and pedestrian traffic, in addition to vehicles. The site is close to public transportation. The office use is located close to the roadway to minimize distances of travel and encourages bicycle use in an activity center. The plan places higher density and intensity near existing corridors and along the minor arterial of Southside Drive and close to the major arterial of New Cut Road and the TARC service available there.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 4, 5, 6, 7, & 8 of Goal 2, for these reasons.

The development plan complies with the objectives and policies of Goal 2 by promoting a safe, accessible and efficient transportation system by not interfering with the pedestrian, bicycle and vehicular access along the adjacent Blankenbaker Parkway which provides efficient mobility and

access through the use of the roads and sidewalks. The site distances for the curb cut are adequate for the area and the circulation of pedestrian and vehicular traffic is appropriate with the surrounding walkway, access, parking, etc. The entrance is compatible with surrounding development and aesthetically pleasing to adjacent areas.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 3, 4, 5, 7, 10, 11, 12, 14, 18, 24, & 27 of Goal 3, for these reasons.

The development plan complies with the objectives and policies of Goal 3 by providing employment opportunities along a minor arterial and near residential areas, limiting car trips. The site further does not inhibit or detract from the transportation opportunities along Blankenbaker Parkway, allowing efficient vehicular, walking and bicycling opportunities and by providing complimentary neighborhood serving landscaping businesses, services and reducing miles travelled by car. The plan will not burden the transportation network, but will enhance it with developing the lot in a way that compliments the Neighborhood Form District by blending competing uses of the nearby industrial uses and the residential uses. The plan also encourages transportation patterns by situating the site next to a minor arterial that will divert peak hour traffic away from smaller roads and corridors, making the plan consistent with long-range transportation plans. The parking requirements of the site consider the density of the use and the character and pattern of the Form District in that it converts a residence to a contractor's workshop. The plan also satisfies the policy of infill development opportunities along arterials supporting vehicular, biking and pedestrian travel.

COMMUNITY FACILITIES

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 3 of Goal 2, for these reasons.

This development plan is not a community facilities plan, but it does locate development in areas currently served by existing infrastructure, it has adequate water supply so as to not burden existing or future community facilities.

ECONOMIC DEVELOPMENT

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

The proposed zone change complies with all of the applicable, Objectives and Policies 3, 7, & 9 of Goal 1, for these reasons.

This development plan complies with Goal 1 of Economic Development as it provides economic climate that improves growth, innovation, and investment opportunity for all by reusing and redeveloping a residential property that is no longer appropriate for its use adjacent to the minor arterial of Blankenbaker Parkway. It locates the contractor's shop in an area with existing infrastructure in an efficient manner increasing economic opportunities in the area, while at the same time blending and buffering competing uses. It will provide opportunities to underserved

small businesses in the area increasing economic opportunity to business owners and employment. While the development will not create high traffic, the traffic will be directed on a minor arterial.

Goal 2 – Cultivate a vibrant, unique city that attracts, retains, and develops a highly skilled workforce.

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 3, 4, 5, & 7 of Goal 2, for these reasons.

This development plan complies with Goal 2 of Economic Development as it enhances the quality of life in the area by reusing and readapting a current less desirable use, while at the same time protecting and improving the economic value of the surrounding areas and the residential properties. It satisfies the goal and policy of infill development to take advantage of the existing infrastructure. The design elements being used will limit the heat island effect by retaining much of the existing tree canopy and existing pond.

LIVABILITY

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

The proposed zone change complies with all of the applicable, Objectives and Policies 2, 4, 5, 6, 7, 10, 12, 15, 19, 21, 23, 25, 26, 27, 28, 31, 35, 36, 38 & 39 of Goal 1, for these reasons.

The development plan complies with the objectives and policies of Goal 1 of Livability element in that it protects the tree canopy and existing pond, preserving natural features that buffer the property, reduce heat island effects, and protect native species and groundwater resources. In addition to the preserved natural features, landscaping will be added to reduce the impacts of the site to nearby residences. The binding elements will further reduce noise and the use itself will not create any negative lighting impacts to neighbors.

Goal 2 – Ensure equitable health and safety outcomes for all.

The proposed zone change complies with all of the applicable, Objectives and Policy 8 of Goal 2, for these reasons.

The development plan complies with the objectives and policies of Goal 2 of Livability element by preventing the site from following the path of the other properties impacted by Blankenbaker Parkway extension from becoming blighted or unused, vacant sites, all of which will be a benefit to the residences and businesses in the immediate vicinity, particularly the adjacent properties.

Goal 3 – Ensure equitable access to land use planning and Policy-making resources.

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 4 of Goal 3, for these reasons.

The development plan complies with the objectives and policies of Goal 3 of Livability element providing equitable access to the land use planning and policy resources by providing the surrounding residents and property owners notice of the development, notice of all public

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meetings and by providing the neighborhood meeting, encouraging and providing an opportunity for area involvement in the plan design.

Goal 4 – Integrate sustainability and resilience in community planning processes.

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 8 of Goal 4, for these reasons.

The development plan complies with the objectives and policies of Goal 4 of Livability element by providing and enhancing choices for mobility choices, encouraging clean air by reducing miles driven by providing needed services to an underserved area. It also provides needed contractor services in and along high capacity transit corridor of Blankenbaker Parkway.

HOUSING

The proposed zone change and development plan complies with all of the applicable Objectives and Policies of Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities in an existing activity corridor near residential areas, thereby strengthening and supporting the housing in the area. This use will facilitate connected and mixed-use areas and ensure long-term affordability and living options for all in the community.

* * *

For all of these and other reasons set forth on the Detailed District Development Plan/preliminary subdivision plan accompanying this application and in accordance with evidence presented at Planning Commission public hearings, this application will comply with all other applicable Guidelines and Policies of the Cornerstone 2040 Comprehensive Plan.

Respectfully submitted,

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

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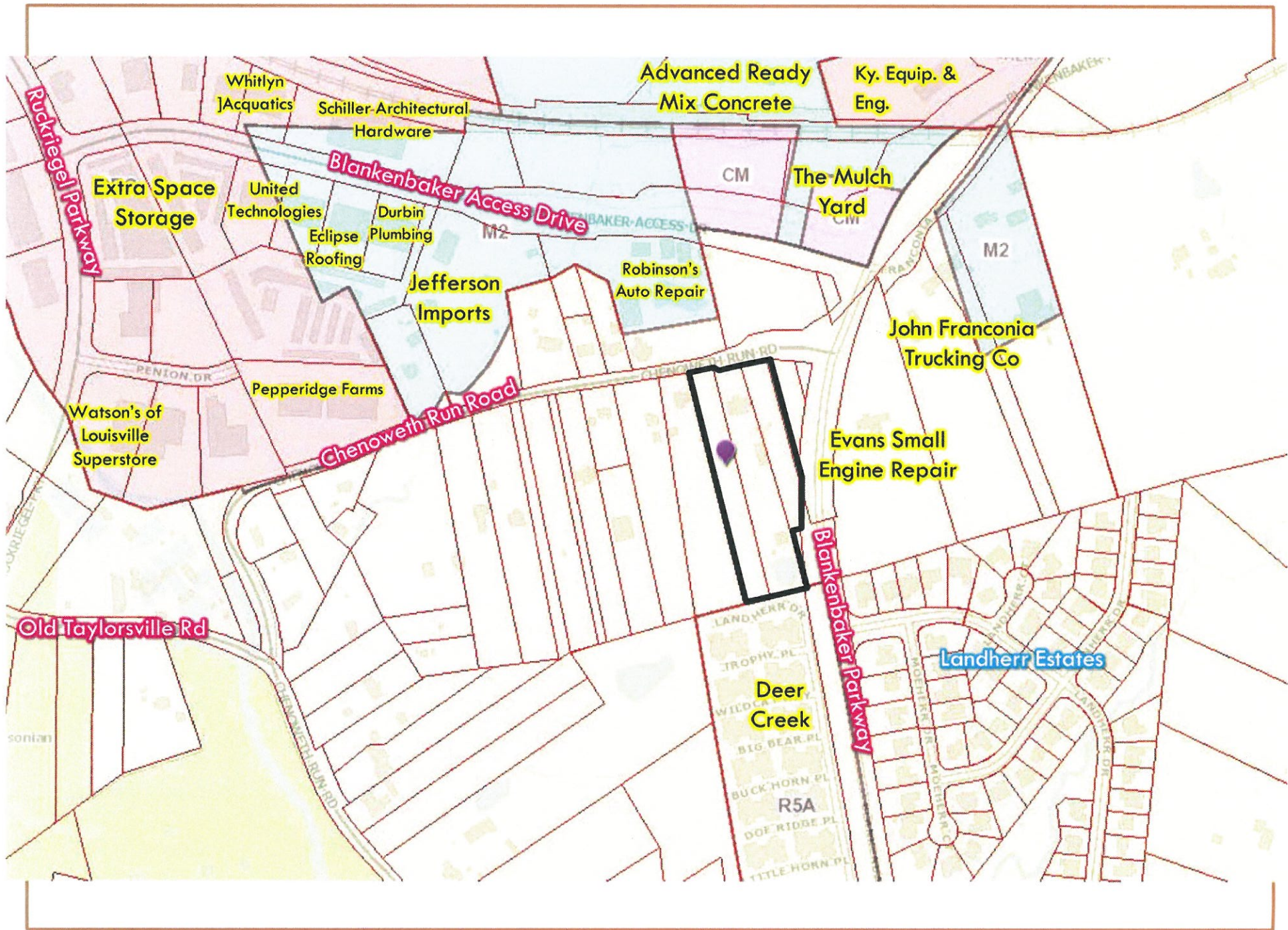
Louisville Metro Planning Commission – December 16, 2019
Louisville Metro Land Development & Transportation Committee – November 14, 2019
Deer Creek Condominium Meeting – May 21, 2019
Neighborhood Meeting – April 23, 2019

Docket No. 19ZONE1034

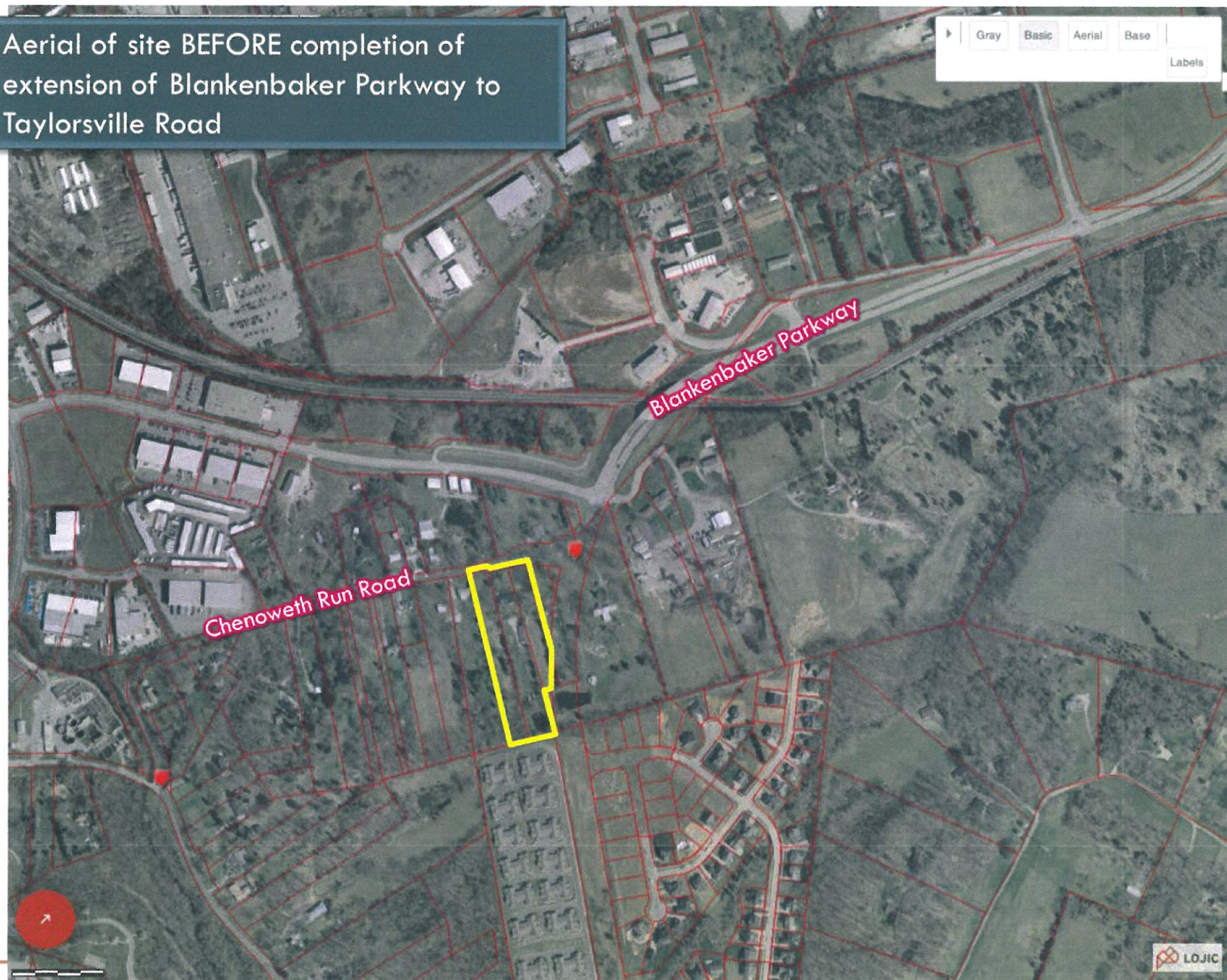
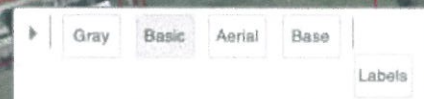
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INDEX:

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



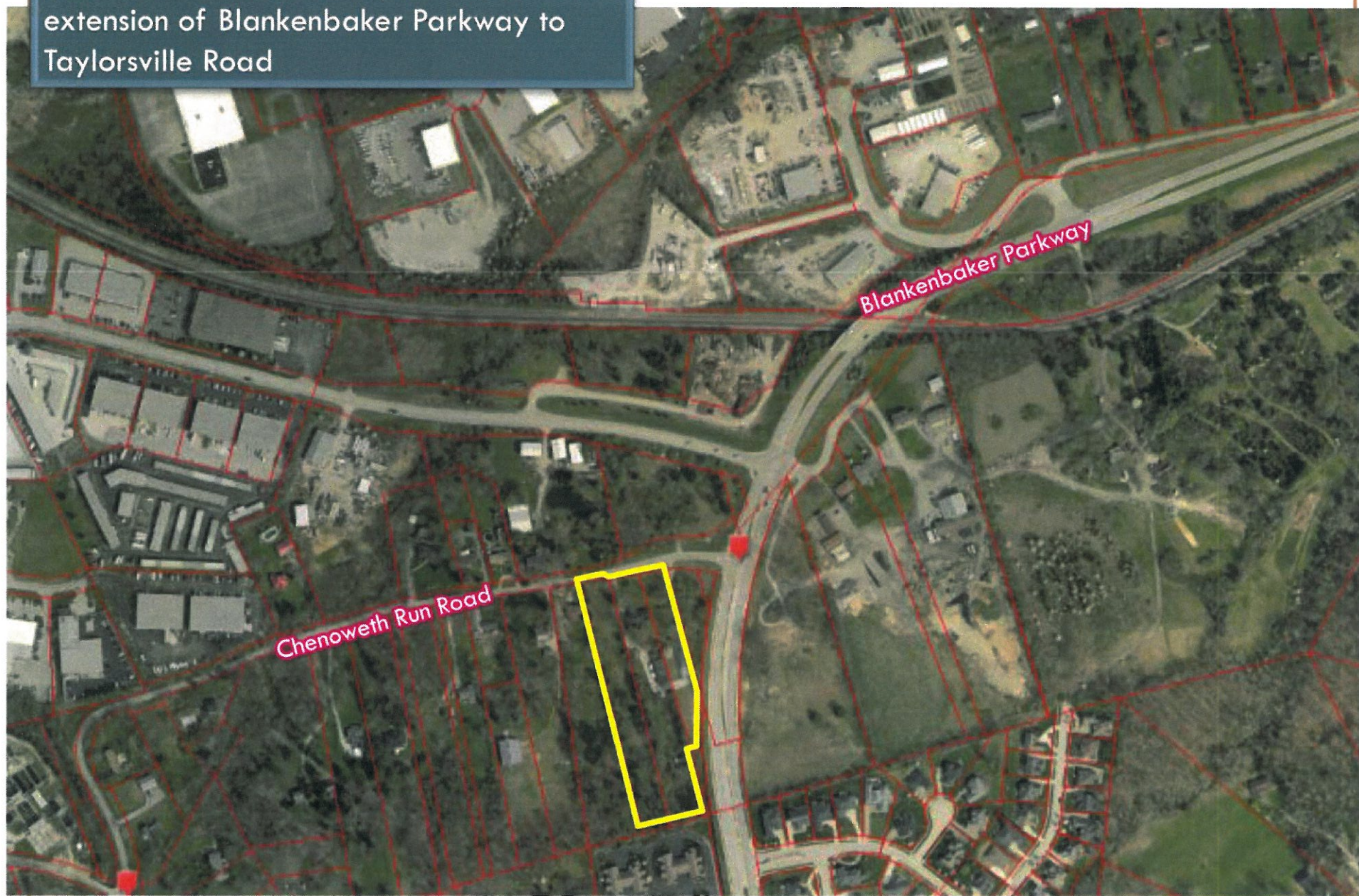
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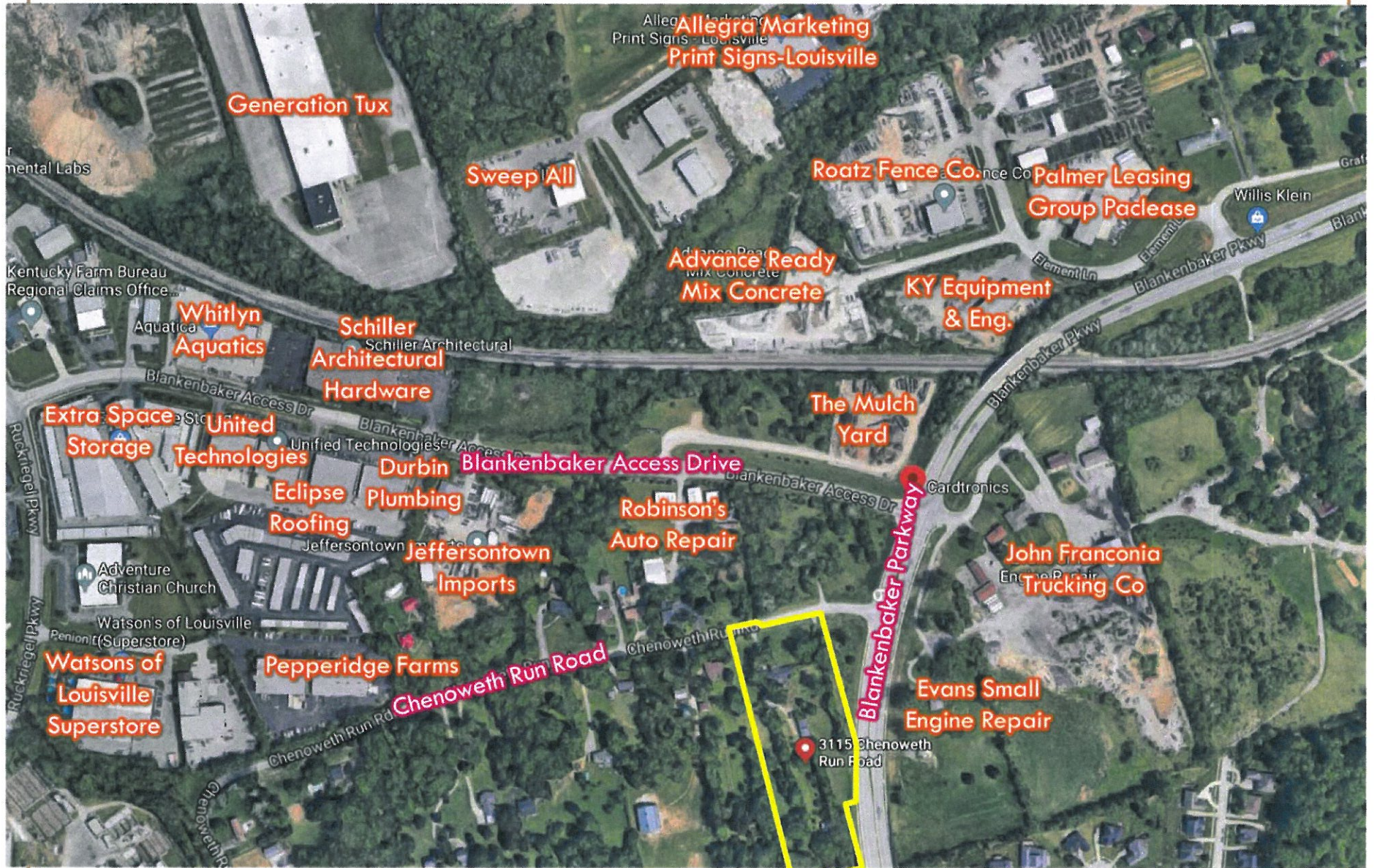


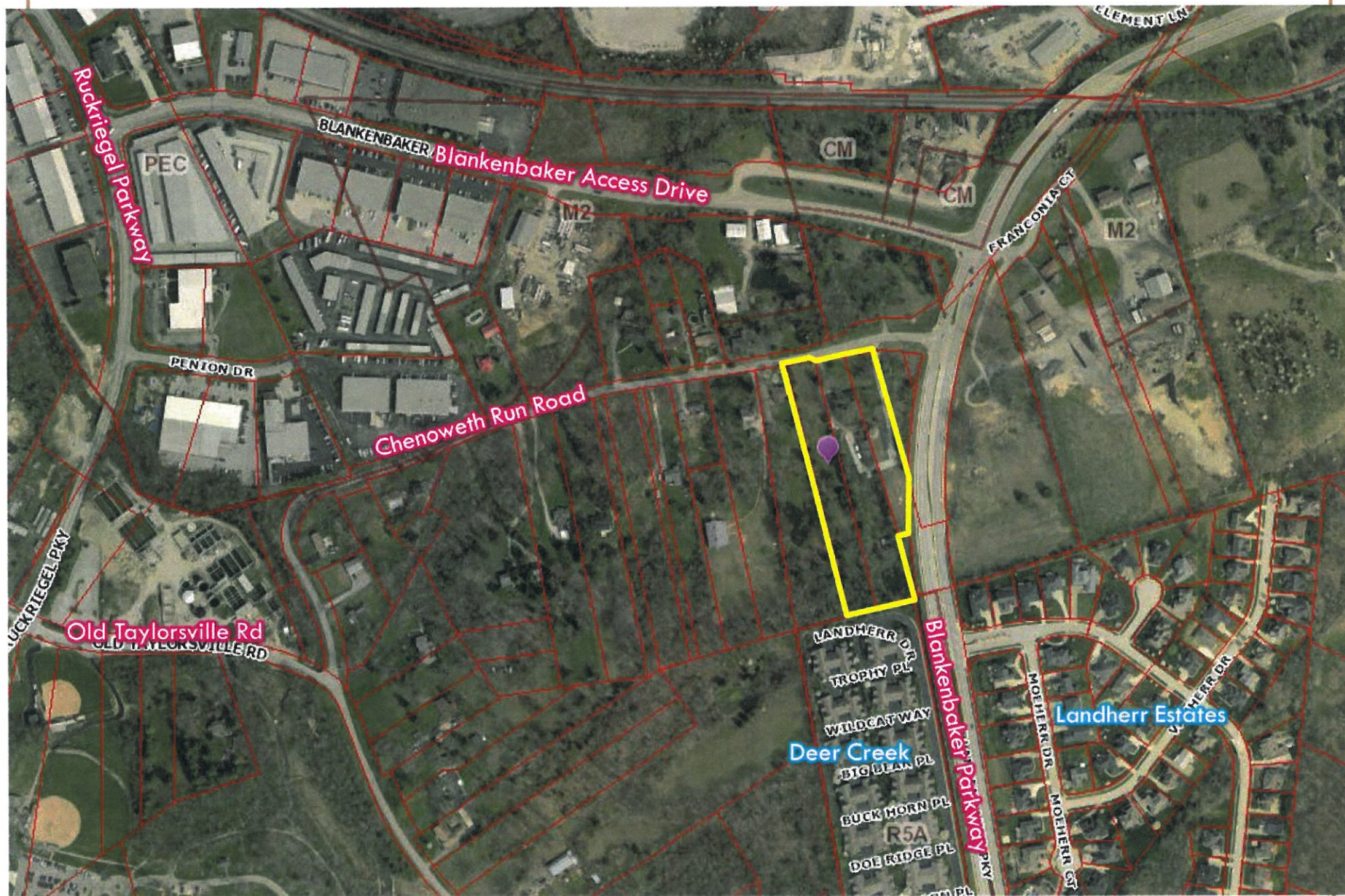
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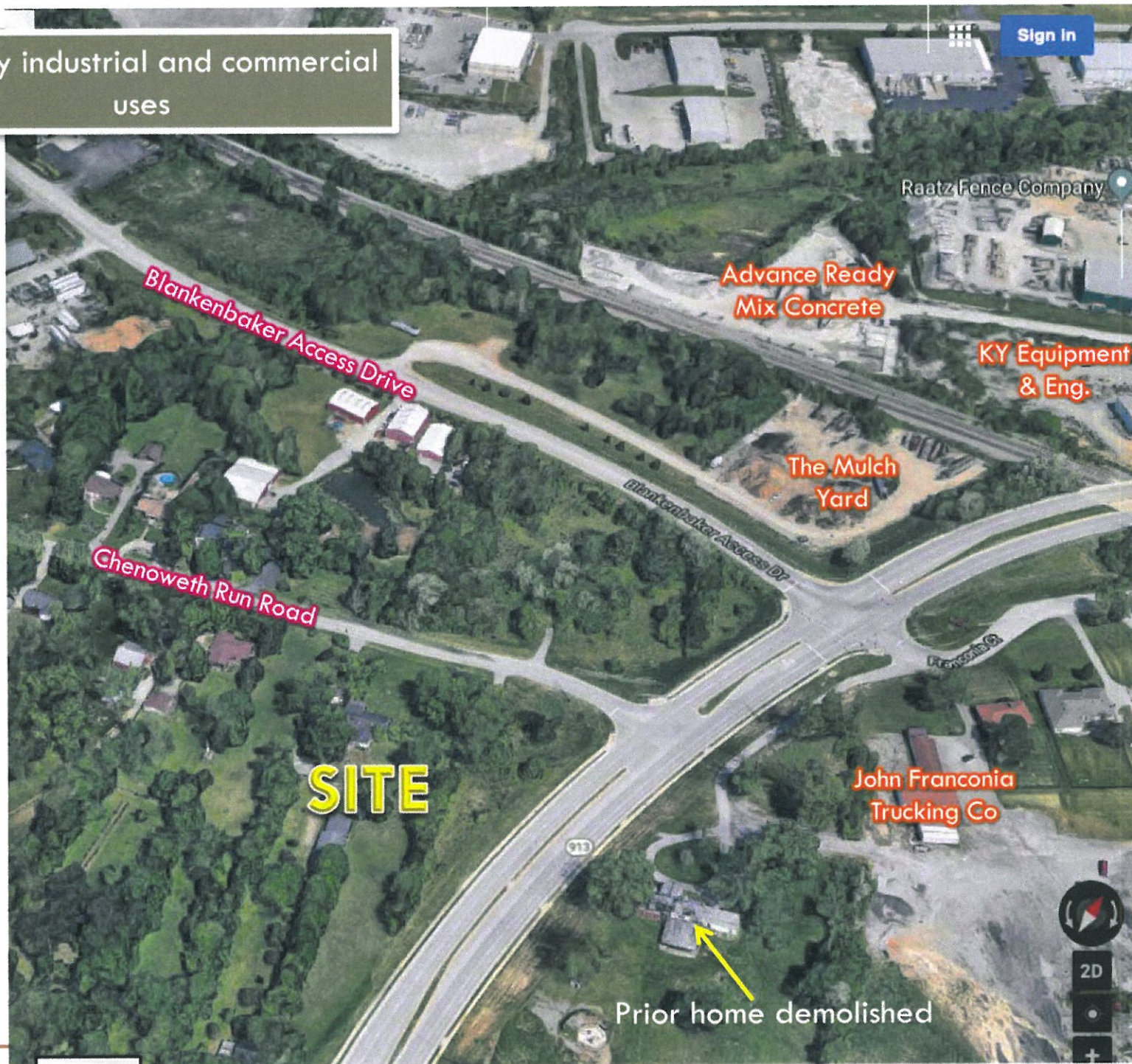
Aerial of site AFTER completion of
extension of Blankenbaker Parkway to
Taylorsville Road







Nearby industrial and commercial
uses







View of Blankenbaker Parkway, looking north. Chenoweth Run Road is to the left (west).



View of site from Chenoweth Run Road.





View of site from Chenoweth Run Road.





View of Site from Road, Looking East, Street View, June 6, 2014



View of Blankenbaker Parkway, looking north. Chenoweth Run Road is to the left (west).



View of Chenoweth Run Road, looking east, towards Blankenbaker Parkway. Site is to the right.



Nearby Commercial and Industrial uses

















HighNote

Sweep All

Palmer Leasing
Group-Paclease

Grafts Ct

Raatz Fence Company

Advance Ready
Mix Concrete Inc
11 min drive home

Element Ln

Blankenbaker Pkwy

Blankenbaker Pkwy

Land Clearing

The Mulch Yard

ed Technologies

sonstown Imports

Blankenbaker Access Dr

Evans Small
Engine Repair

913

Chenoweth Run Rd

Chenoweth Run Rd

SITE

eth Run Rd



The Mulch Yard

Advance Ready
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Kentucky Equipment & Engineering

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913

Chenoweth Run Rd

Chenoweth Run Rd

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eth Run Rd







View of entrance to Raatz Fence Company



Perry & Kaelin Landscaping

SITE















Existing natural buffering
between site and Deer Creek



SITE

Deer
Creek

Blankenbaker Parkway

Sound Walls Protecting Deer
Creek and Subdivision

Map

Google



View of Blankenbaker Parkway looking north towards Chenoweth Run Road. Site is to the left.



View of Blankenbaker Parkway looking south towards Taylorsville Road. Site is to the right.



View of site from Blankenbaker Parkway.



View of site from across Blankenbaker Parkway.



View of site from across Blankenbaker Parkway.



View of sound wall along Blankenbaker Parkway at Land Herr Estates.



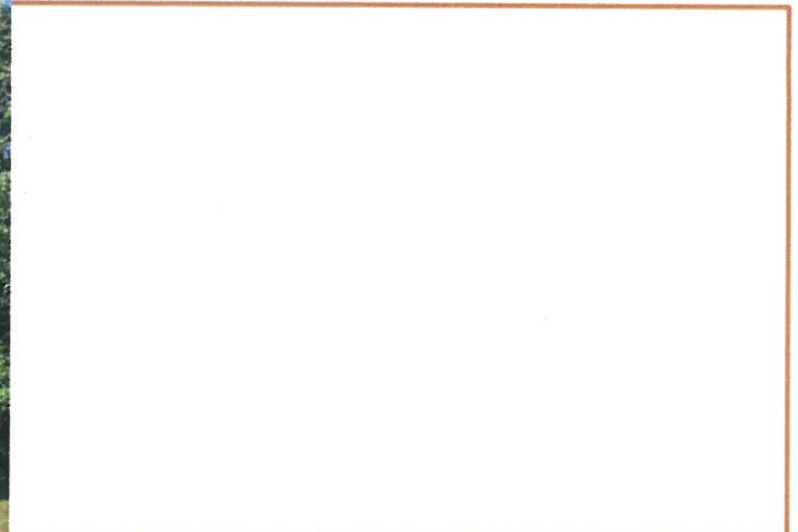
View of sound wall along Blankenbaker Parkway looking south towards Taylorsville Road.



View of entrance to Deer Creek.



View of sound wall from inside Deer Creek.



View of existing landscape buffer inside Deer Creek.



View of existing landscape buffer from Mr. Moser's property.



View of existing landscape buffer from Mr. Moser's property.



View of existing landscape buffer from Mr. Moser's property.



View of existing landscape buffer from Mr. Moser's property.

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BRUCE BORGMEIER PLUMBING CO

3115 Chenoweth Run Rd, Jeffersontown, KY 40299
[Map & Directions](#)

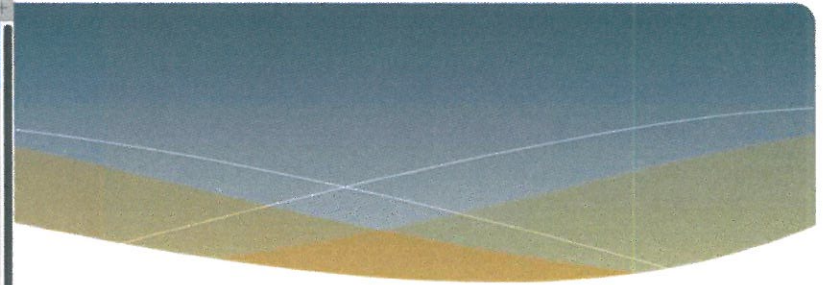
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Review

Additional Business Details

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Questions & Answers



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Bruce Borgmeier Plumbing CO

3115 Chenoweth Run Road
 Jeffersontown, KY 40299
 Phone: (502) 267-1252

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OPEN

Bruce Borgmeier Plumbing CO is a privately held company in Jeffersontown, KY .
 Categorized under Plumbers and Plumbing Contractors.
 Current estimates show this company has an annual revenue of less than \$500,000 and employs a staff of approximately 1 to 4.

Maupin Plumbing - Water heater install & repair

Maupin Plumbing

Factory authorized, large parts inventory,
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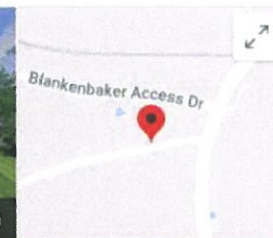
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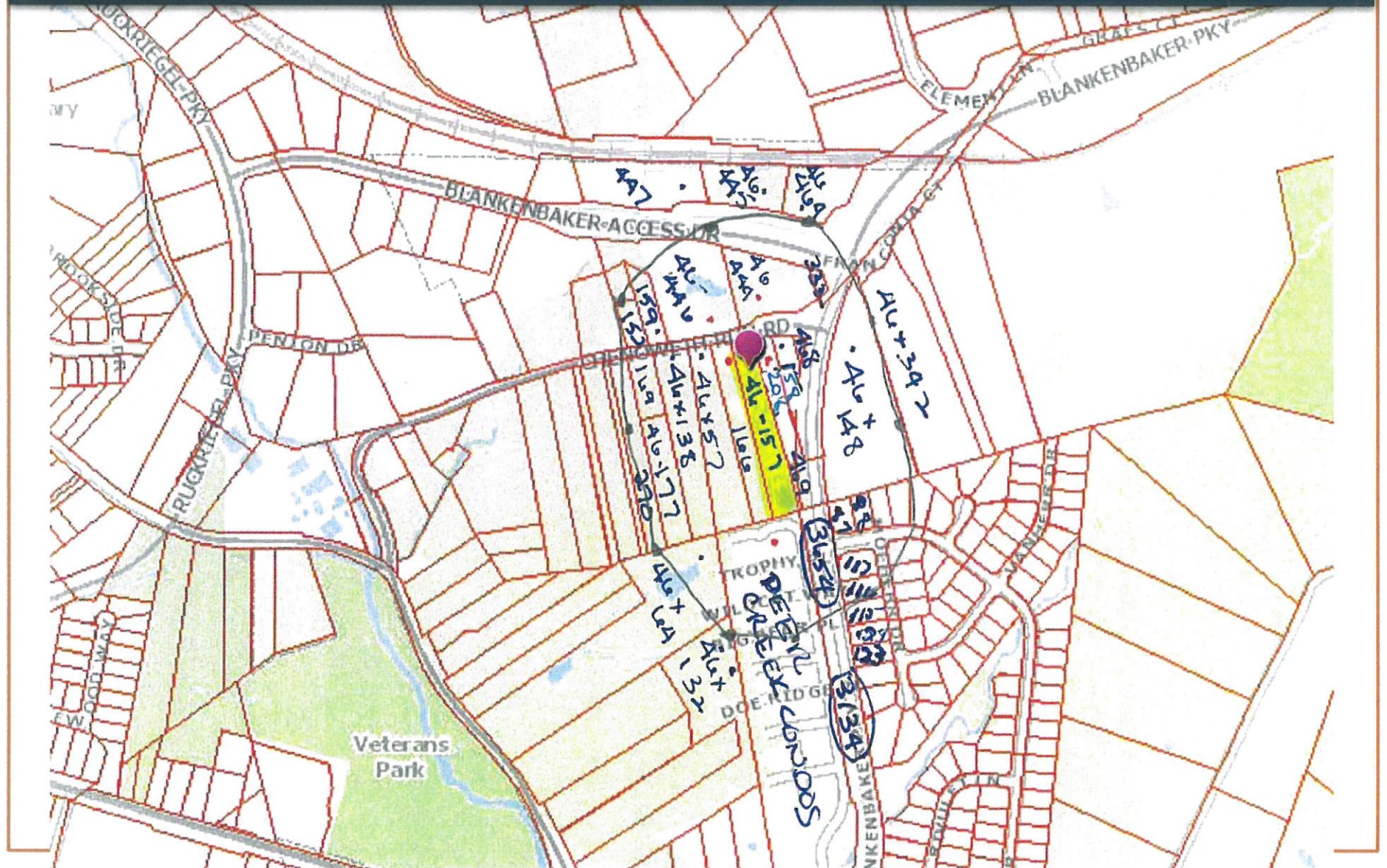
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Photos and Videos

Adjoining property owner notice list map wherein 72 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

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

John C. Talbott
Direct dial: 426-0388, ext. 133
Email: JOHN@BARDLAW.NET

April 9, 2019

Dear Neighbor,

RE: Proposed change in zoning from R-4 to C-2 to allow a contractor's shop on approximately 4.34 acres on property located at the southwest corner of the Chenoweth Run Road and Blankenbaker Pkwy intersection at 3115, 3109 & 3119 Chenoweth Run Road

We are writing to invite you to a meeting we have scheduled to present neighbors with our rezoning plan to allow a contractor's shop to be located as above.

Accordingly, we will soon be filing a plan for pre-application review with the Division of Planning and Design Services (DPDS) that will be assigned a case manager and case number. We would like to show and explain to neighbors this plan so that we might hear what thoughts, issues and perhaps even concerns you may have.

In that regard, a meeting will be held on **Tuesday, April 23rd at 7:00 p.m.** in the **Sanctuary** at the **Sojourn Church – Jtown** located at **11412 Taylorsville Road**.

If you cannot attend the meeting but have questions or concerns, please call me at 426-6688 or the land planning and engineering firm representative Kent Gootee at 485-1508.

We look forward to seeing you.

Sincerely,


John C. Talbott

cc: Hon. Kevin Kramer, Councilman, District 9
Brian Davis, Planning Supervisor with Metro Division of Planning & Design Services
Kent Gootee, engineer and land planners with Mindel, Scott & Associates, Inc.
Robert Lopez, Applicant

Neighborhood Meeting Summary

A neighborhood meeting was held on Tuesday, April 23rd at 7:00 p.m. in the Sanctuary at the Sojourn Church – Jtown located at 11412 Taylorsville Road. A second meeting was also voluntarily held, at the request of Deer Creek Condominiums on May 21 2019. Those in attendance included the applicant's representatives, John Talbott, attorney with Bardenwerper, Talbott & Roberts, and Nathan Wright (at the first meeting) and Kent Gootee (at the second meeting), land planners with Mindel Scott & Associates, as well as the applicants Rober Lopez-Costellanos.

The meeting began with John Talbott showing a PowerPoint presentation of the area, the history of the expansion of Blankenbaker Parkway and its impact to this site and nearby development. He did this so that everyone present was fully familiar with exactly the history of the area and the properties being considered and impacted. He described also the proposed initial site plan for this site, its perimeter buffers and setbacks, the retention of the tree canopy and existing pond, and location of parking and buildings which would not change from what currently exists.

Major issues raised by neighbors included noise, traffic and the applicant's violation of zoning currently being dealt with through the court process. It was apparent that the applicant had generated tremendous ire from the adjacent residents not to mention concern from other nearby residential residents because of the applicant's previous poor legal representation and resulting advice.

Nevertheless, at the time of the first Neighborhood Meeting, the applicant's changes in operations including no longer operating any machinery (such as mulching or grinding equipment), in addition to agreeing not to travel west on Chenoweth Run Road with its vehicles but rather to go straight to Blankenbaker Parkway, had made palpable positive improvements in disturbances. Although it was apparent that there was continued mistrust from the neighbors, the immediate adjacent (and most impacted) neighbor at 3201 Chenoweth Run Road, Mr. Robert Moser, publicly acknowledged that the change in operations had resulted in significant improvements to the noise problems previously experienced.

Mr. Talbott explained that the recent limitation in operations would continue and be agreed to in binding elements running with the land if the rezoning was approved. The property, going forward, would simply be used as a staging operation for the company vehicles to leave in the morning and to store equipment in the evening. It was explained that this use was virtually identical to the long existing business use directly across Blankenbaker Parkway by the Franconia Trucking. It was also explained that having the equipment on the site of the owner's residence was important to prevent theft of expensive machinery. The change in the operations would take advantage of the location on a minor arterial, but also virtually eliminate significant operations during the major part of the day that could negatively impact the surrounding

residences. Operations during the evening and very early morning hours were being completely eliminated. Mr. Talbott explained that this limited commercial use would equitably address the enormous change created by the Blankenbaker Parkway expansion, address the applicant's crucial needs to protect his property, and also nearly completely eliminate any unreasonable impacts to surrounding residences.

Some nearby owners complained that the rezoning would have a negative impact on their home values although it was pointed out that there were significant similar operations already nearby. It was also pointed out that while the majority of the residences nearby were protected and insulated from noise, light and traffic impacts created by the Blankenbaker Parkway expansion, the applicant's property was left completely exposed without any similar protection. It was also pointed out that the other lots on Chenoweth Run Road were effectively protected by the parkway impacts by the applicant's property which was completely exposed.

Issues such as drainage and buffers were also raised. It was explained that none of the significant existing tree canopy and natural vegetative buffers adjacent to the condominiums to the south would be removed. Regarding the impact to the immediate neighbors on Chenoweth Run Road, it was explained that the applicant would be open to any reasonable request made by such neighbors and that all reasonable consideration would be made to address them, even exceeding LDC requirements if necessary. At this point Mr. Moser indicated that he did not want any buffer erected, preferring the open sight lines instead of a wall or tree lines. Again, it was expressed that the applicant would craft any buffers along the west side of the property in line with the immediate neighbors' requests.

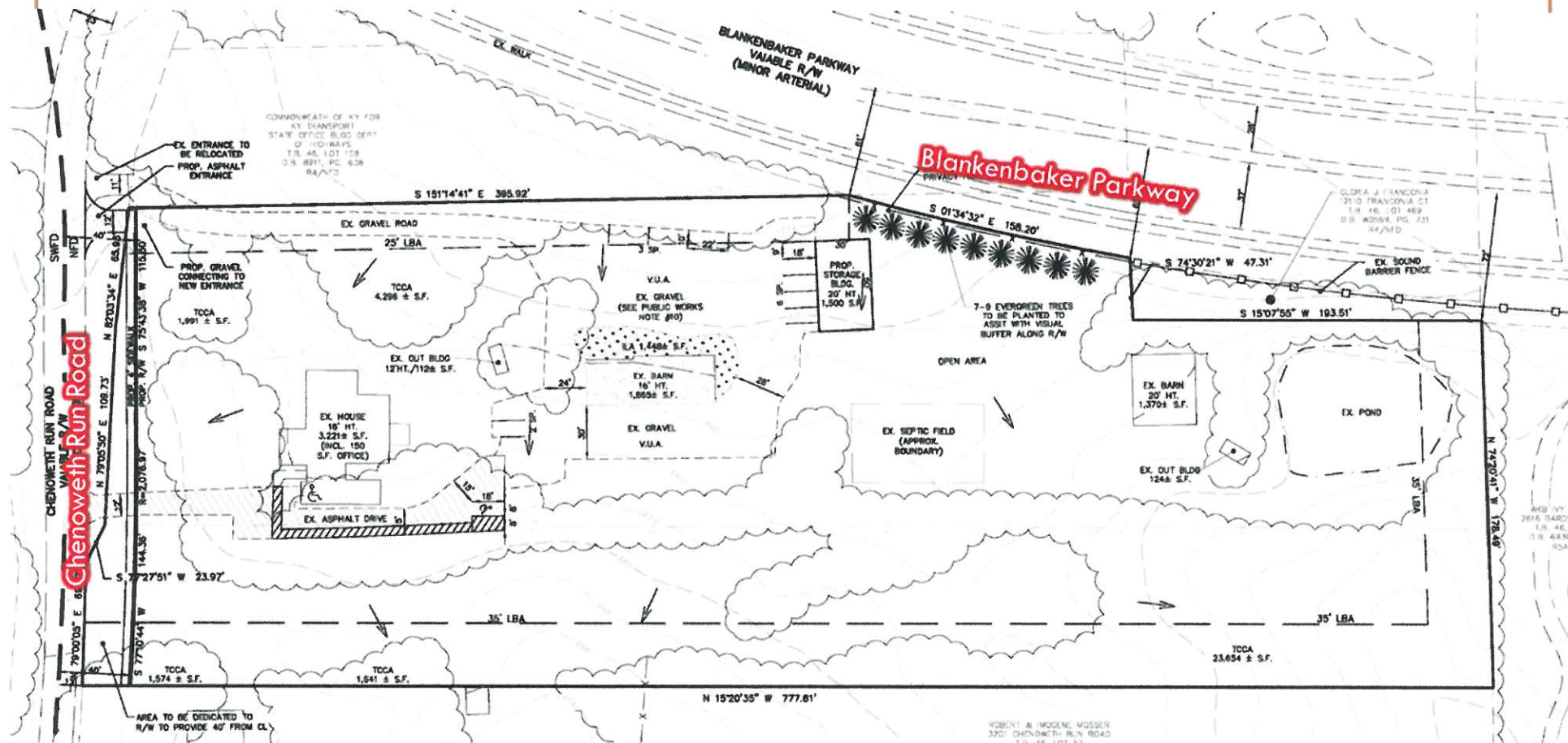
Mr. Wright and Mr. Gootee also explained how storm water is handled assuring that post-development peak rates of runoff will not exceed pre-development conditions.

The applicant's representatives also explained how the trucks would not use Chenoweth Run Road, except to travel directly to Blankenbaker Road. Several neighbors commented that the applicant was currently trespassing on the sliver of property owned by the Kentucky Department of Transportation (KDOT). Mr. Talbott advised them that KDOT had not ever issued any complaint of any such use, but that nevertheless, the applicant was researching the purchase of this small KDOT tract of land. Apparently the "trespass" was created because part of a driveway of one of the now demolished homes was being reused by the applicant.

Mr. Talbott also explained how the DPDS "Case Management Review Process" works, how agencies such as those mentioned above, will review the submitted DDDP and how those agencies' preliminary stamps of approval are required prior to this application being docketed for public meetings and hearings. He said that those attending this meeting, and who have received notice thus far, will receive official notice of those meetings so that they can appear to comment on the application finally filed. Several residences in the Deer Creek Condominium development complained that they did not receive notice of the first Neighborhood Meeting. It

was explained that all appropriate notices were sent to the Condominium Association (although it was later learned that the condominium association had not updated changes in its executive leadership with the Kentucky Secretary of State. As a result, a second meeting was held on May 21, 2019 solely for the entire condominium association at the Deer Creek Condominium site.

Mr. Talbott also provided those present with information relative to contacts at DPDS and Metro Transportation Planning.



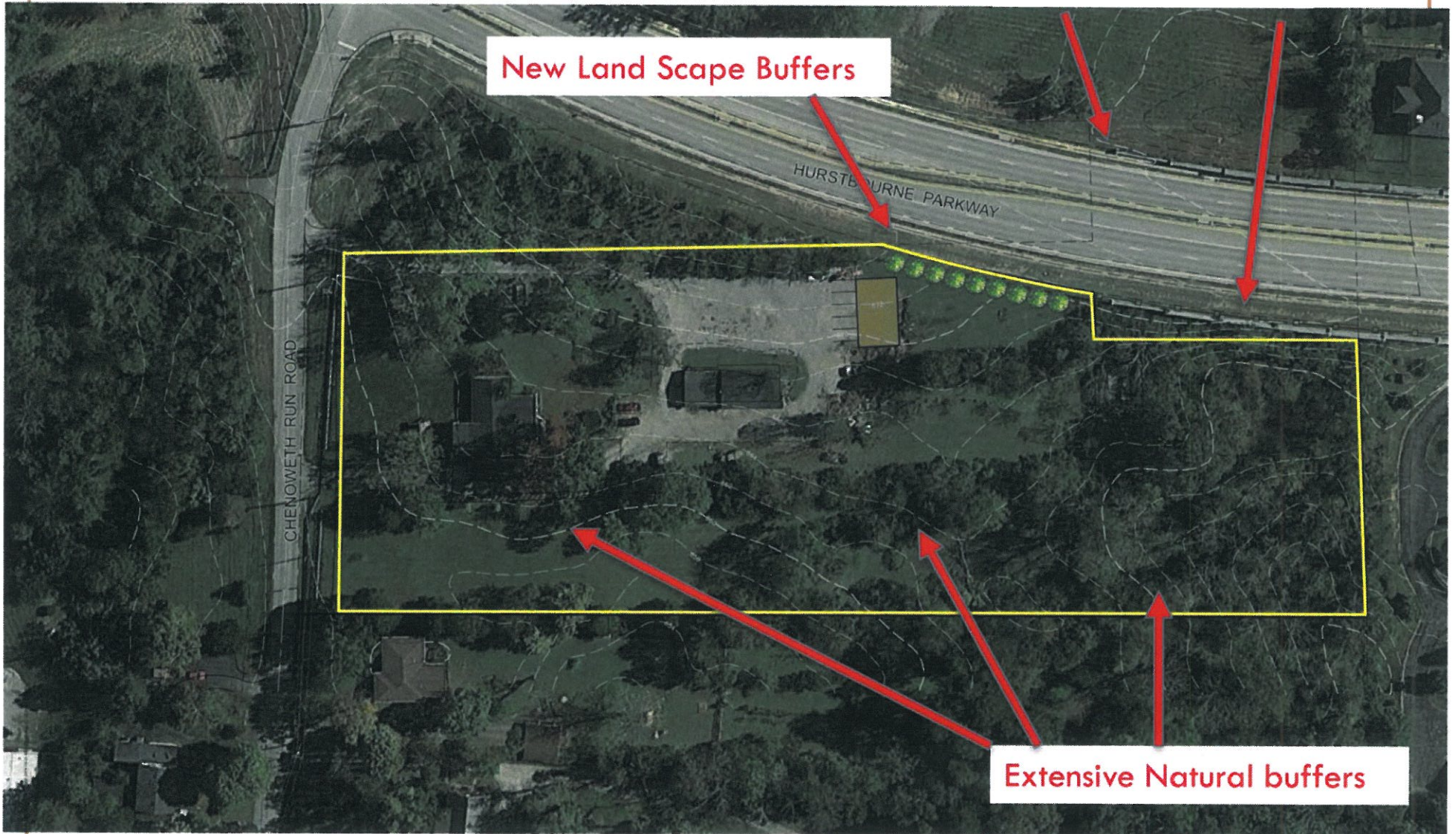
Sound Wall Buffers

New Land Scape Buffers

HURSTBOURNE PARKWAY

CHENOWETH RUN ROAD

Extensive Natural buffers



Proposed Binding Elements

- No operation of machinery such as chainsaws and mulch grinders.
- No trucks exiting east on Chenoweth Run Road. All trucks must travel towards Blankenbaker Parkway (excepting when work is performed on Chenoweth Run Road).
- Realignment of eastern entrance no later than 12-months after final approval. (Applicant is attempting to purchase property from KTRC)

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STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GOALS, GUIDELINES AND POLICIES OF THE CORNERSTONE 2040 COMPREHENSIVE PLAN

<u>Applicant/Owner:</u>	Rober Lopez Castellanos
<u>Location:</u>	3109, 3115, and 3119 Chenoweth Run Road
<u>Proposed Use:</u>	Contractor's shop
<u>Engineers, Land Planners and Landscape Architects:</u>	Mindel Scott & Associates, Inc.
<u>Request:</u>	Zone Change from R-4 to C-2 to allow a Contractor's Workshop.

INTRODUCTION

This property is adjacent to the relatively recent extension in the last ten years of Blankenbaker Pkwy., from Blankenbaker Access Road to Taylorsville road. The applicant's property is separated from the parkway only by a sliver of ground controlled by the Kentucky Department of Transportation left from the parkway expansion, effectively bordering the parkway. As a result of the parkway expansion, the entire area has undergone tremendous change. Three of the applicant's immediate neighbors' homes have been abandoned and demolished exhibiting the need to rezone and repurpose this site. Residential property that used to be quiet, country-like, and isolated, is now bordered by one of the most active commercial and travelled roads in Jefferson County.

The applicant's property straddles industrial sites on one side and residential sites on the others. Most of the property north of the applicant's property along Blankenbaker Parkway is used and zoned industrial and commercial. The properties south of the applicant's property is residential. When Blankenbaker Parkway was extended to Taylorsville Road, though, the parkway extension project erected large acoustic sound walls to protect and insulate the newer residential development to the south from the significant traffic, noise and lighting impacts generated by Blankenbaker Pkwy. The small stretch of the applicant's residential property on Chenoweth Run Road however was left completely unprotected without any buffer, barrier or insulation from the industrial land and new significant impacts from the expansion of the arterial.

As a result of the significant change with the construction and expansion of the five-lane divided parkway immediately adjacent to the applicant's unprotected residential property, the R-4 zoning classification is no longer appropriate. The applicant's property has experienced significant, objective economic, physical and social change as a result of the government's condemnation of land and development of Blankenbaker Parkway, all for the community's benefit and at the expense of the applicant's property. While the parkway project protected the

residential development to the south, it left the applicant's property completely exposed to the marked change without any protective barrier.

The applicant has been using the property as his residence and as a staging area for his landscaping related businesses. Many residential properties along Chenoweth Run Road have been and are currently being used in this way (as a residence and small business location) in violation of zoning regulations without complaint. However, the applicant's business has experienced tremendous growth in the last three years resulting in neighbors' complaints and court citations. The applicant first hired a lawyer unknowledgeable of the Land Development Codes and regulations resulting in mistakes in addressing the legal issues, exacerbating complaints from neighbors.

These issues are currently being addressed in district court. In March of this year, the applicant hired undersigned counsel and immediately made significant changes to his operations to respond to neighbors' issues. The applicant completely ceased engaging in activities which were creating noise disturbances, such as ceasing the use of grinding and mulching type machinery at all times. He also restricted his hours of operation, effectively only using the site to park and store trucks during the evening, where they leave in the morning and return at the end of the day, again without operating any intensive machinery. He further restricted any trucks or business vehicles from travelling west on Chenoweth Run Road. Now all trucks go directly from applicant's property to Blankenbaker Parkway and do not travel past any of the residences on Chenoweth Run Road. It is intended that these voluntary restrictions would be incorporated in binding elements should the application be approved. The property also has natural vegetative buffers which will remain, shielding it from the condominiums to the south. The applicant has agreed to install all other buffers required of the Land Development Code for its neighbors and any other reasonable request from the neighbors (although at this point it appears the immediate neighbor does not want any wall or tree-line installed at all). It should be noted that the neighbor at 3201 Chenoweth Run Road, while still opposing the project, acknowledged that the voluntary changes in business operations had resulted in significant improvements to noise disturbances.

With the changes in the area because of the extension of the five-lane Blankenbaker Parkway, in what used to be a quiet residential area, the zoning change is appropriate and necessary. There is no question that the circumstances leading to this change have not been ideal and the applicant made mistakes leading to this zoning change. However, those mistakes are appropriately being addressed in other court proceedings and they do not alter the significant objective changes occurring with the parkway extension. Moreover, the applicant's operations with the voluntary restrictions provide the ideal transitional use for this transitional property, allowing it to be productively used in light of the roadway expansion, but at the same time blending compatibly with and creating a buffer between the competing uses.

COMMUNITY FORM

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

The proposed zone change complies with all of the applicable, Objectives and Policies 3.1.3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, 27 & 28 of Goal 1, for these reasons.

The proposed use complies with Goal 1 in several ways. First, this development will take an R-4 use that is completely out of place along a minor arterial next to industrial uses from a Suburban Workforce Form District and re-purpose the property with a commercial use, while at the same time blending compatibility with adjacent uses and creating transitions between the industrial uses on one side with the residential uses on the other. The binding elements, the natural buffers and the additional buffers will mitigate any negative impacts from its use. The restrictions to the uses and limited simply using the location as a “hub” for trucks and employees to leave in the morning and return in the afternoon will limit and mitigate any noise or other potential adverse impacts to the neighboring residential uses by having little to no noise or use during evening hours and even during the majority of the working day when the trucks and employees are in the field doing their work. This use will be not create or use any lighting typical of many commercial uses further mitigating potential adverse impacts to the neighbors. The location next to a minor arterial is appropriate for a non-residential use, particularly one adjacent to other industrial uses. It will be relatively noise free except when vehicles leave in the morning and return at the end of the day around peak traffic hours, which is compatible with residential adjacent uses and extremely low impact to residential uses. Further, this use will not result in any new buildings or improvements which are out of scale or inconsistent from a height standpoint with the residential developments. Although the Form District is “Neighborhood form District”, the use of staging trucks and operating small businesses is consistent with the uses traditionally utilized in this area, both before and after the Blankenbaker Parkway extension. The operation of a “contractor’s shop” with the very restrictive binding elements being offered will enhance this property and prevent it from becoming an otherwise wasted area as two of its other residential neighboring properties have become since the parkway extension was completed.

The applicant’s property with the zone change will further ensure new development and redevelopment that is compatible with the scale and site design of nearby existing development. It will allow a mixture of densities with the use of appropriate buffers. The office and contractor’s workshop will locate higher density and intensity near the minor arterial of Blankenbaker Parkway and place the employment uses near existing infrastructure and transportation. The potential adverse impacts, such as noise, lighting and traffic will be mitigated through the use of binding elements restricting operations and uses, existing and added vegetative buffers and compliance with the Land Development Code. Finally, the use of the contractor’s workshop promotes mixed-use development and utilization and density with an out of place residential lot responding to the distinctive physical, historic, and cultural qualities.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 4, 6, 7, 9, 12 13, 15, 16, & 17 of Goal 2, for these reasons.

The proposed use will encourage sustainable growth and density around mixed-use centers and corridors by placing density compatible with desired form and existing infrastructure. The design and density are appropriate with adjacent uses that will serve the needs of the surrounding community. The development will be compact along a minor arterial and corridor resulting in efficient land use and cost effective infrastructure investment. The mixture of compatible uses will reduce traffic, limit trips and provided buffers and transitions between competing uses. The development will rehabilitate the deteriorating property for a new use since it is no longer compatible for residential use without the acoustic sound barriers enjoyed by nearby residences

on Blankenbaker Parkway. The plan will provide neighborhood serving contractor workshop. The site will be easily accessible by pedestrian and bicycle traffic and preserve natural vegetative buffers from neighboring residences.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 2, 3, 6, 7, 8, 9, 10 & 12 of Goal 3, for these reasons.

The proposed development plan will enhance the surrounding neighborhoods by protecting the open space and natural resources by preserving the existing tree canopy and existing pond which serves to buffer the residential uses to the south of the property, thereby protecting natural resources. The preserving of the tree canopy and pond is compatible with the Form District in that it provides open space that can be visually enjoyed by the community and ensures transitions between the various surrounding properties. Respecting and preserving the natural features of the property will protect the health, safety and welfare of future uses of the development.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2 & 3 of Goal 4, for these reasons.

The development plan will promote and preserve the historic and archaeological resources that contribute to our authenticity by renovating, repurposing and preserving the residence with an adaptive reuse of the property and by preserving the natural tree canopy and pond currently and historically on the site.

MOBILITY

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 3, 4, 7 & 14 of Goal 1, for these reasons.

The development plan implements an accessible system of alternative transportation modes by providing sidewalks and walkway connections between the uses for bicycles and pedestrian traffic, in addition to vehicles. The site is close to public transportation. The office use is located close to the roadway to minimize distances of travel and encourages bicycle use in an activity center. The plan places higher density and intensity near existing corridors and along the minor arterial of Southside Drive and close to the major arterial of New Cut Road and the TARC service available there.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 4, 5, 6, 7, & 8 of Goal 2, for these reasons.

The development plan complies with the objectives and policies of Goal 2 by promoting a safe, accessible and efficient transportation system by not interfering with the pedestrian, bicycle and vehicular access along the adjacent Blankenbaker Parkway which provides efficient mobility and

access through the use of the roads and sidewalks. The site distances for the curb cut are adequate for the area and the circulation of pedestrian and vehicular traffic is appropriate with the surrounding walkway, access, parking, etc. The entrance is compatible with surrounding development and aesthetically pleasing to adjacent areas.

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 3, 4, 5, 7, 10, 11, 12, 14, 18, 24, & 27 of Goal 3, for these reasons.

The development plan complies with the objectives and policies of Goal 3 by providing employment opportunities along a minor arterial and near residential areas, limiting car trips. The site further does not inhibit or detract from the transportation opportunities along Blankenbaker Parkway, allowing efficient vehicular, walking and bicycling opportunities and by providing complimentary neighborhood serving landscaping businesses, services and reducing miles travelled by car. The plan will not burden the transportation network, but will enhance it with developing the lot in a way that compliments the Neighborhood Form District by blending competing uses of the nearby industrial uses and the residential uses. The plan also encourages transportation patterns by situating the site next to a minor arterial that will divert peak hour traffic away from smaller roads and corridors, making the plan consistent with long-range transportation plans. The parking requirements of the site consider the density of the use and the character and pattern of the Form District in that it converts a residence to a contractor's workshop. The plan also satisfies the policy of infill development opportunities along arterials supporting vehicular, biking and pedestrian travel.

COMMUNITY FACILITIES

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

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 3 of Goal 2, for these reasons.

This development plan is not a community facilities plan, but it does locate development in areas currently served by existing infrastructure, it has adequate water supply so as to not burden existing or future community facilities.

ECONOMIC DEVELOPMENT

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

The proposed zone change complies with all of the applicable, Objectives and Policies 3, 7, & 9 of Goal 1, for these reasons.

This development plan complies with Goal 1 of Economic Development as it provides economic climate that improves growth, innovation, and investment opportunity for all by reusing and redeveloping a residential property that is no longer appropriate for its use adjacent to the minor arterial of Blankenbaker Parkway. It locates the contractor's shop in an area with existing infrastructure in an efficient manner increasing economic opportunities in the area, while at the same time blending and buffering competing uses. It will provide opportunities to underserved

small businesses in the area increasing economic opportunity to business owners and employment. While the development will not create high traffic, the traffic will be directed on a minor arterial.

Goal 2 – Cultivate a vibrant, unique city that attracts, retains, and develops a highly skilled workforce.

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 3, 4, 5, & 7 of Goal 2, for these reasons.

This development plan complies with Goal 2 of Economic Development as it enhances the quality of life in the area by reusing and readapting a current less desirable use, while at the same time protecting and improving the economic value of the surrounding areas and the residential properties. It satisfies the goal and policy of infill development to take advantage of the existing infrastructure. The design elements being used will limit the heat island effect by retaining much of the existing tree canopy and existing pond.

LIVABILITY

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

The proposed zone change complies with all of the applicable, Objectives and Policies 2, 4, 5, 6, 7, 10, 12, 15, 19, 21, 23, 25, 26, 27, 28, 31, 35, 36, 38 & 39 of Goal 1, for these reasons.

The development plan complies with the objectives and policies of Goal 1 of Livability element in that it protects the tree canopy and existing pond, preserving natural features that buffer the property, reduce heat island effects, and protect native species and groundwater resources. In addition to the preserved natural features, landscaping will be added to reduce the impacts of the site to nearby residences. The binding elements will further reduce noise and the use itself will not create any negative lighting impacts to neighbors.

Goal 2 – Ensure equitable health and safety outcomes for all.

The proposed zone change complies with all of the applicable, Objectives and Policy 8 of Goal 2, for these reasons.

The development plan complies with the objectives and policies of Goal 2 of Livability element by preventing the site from following the path of the other properties impacted by Blankenbaker Parkway extension from becoming blighted or unused, vacant sites, all of which will be a benefit to the residences and businesses in the immediate vicinity, particularly the adjacent properties.

Goal 3 – Ensure equitable access to land use planning and Policy-making resources.

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 4 of Goal 3, for these reasons.

The development plan complies with the objectives and policies of Goal 3 of Livability element providing equitable access to the land use planning and policy resources by providing the surrounding residents and property owners notice of the development, notice of all public

meetings and by providing the neighborhood meeting, encouraging and providing an opportunity for area involvement in the plan design.

Goal 4 – Integrate sustainability and resilience in community planning processes.

The proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 8 of Goal 4, for these reasons.

The development plan complies with the objectives and policies of Goal 4 of Livability element by providing and enhancing choices for mobility choices, encouraging clean air by reducing miles driven by providing needed services to an underserved area. It also provides needed contractor services in and along high capacity transit corridor of Blankenbaker Parkway.

HOUSING

The proposed zone change and development plan complies with all of the applicable Objectives and Policies of Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities in an existing activity corridor near residential areas, thereby strengthening and supporting the housing in the area. This use will facilitate connected and mixed-use areas and ensure long-term affordability and living options for all in the community.

* * *

For all of these and other reasons set forth on the Detailed District Development Plan/preliminary subdivision plan accompanying this application and in accordance with evidence presented at Planning Commission public hearings, this application will comply with all other applicable Guidelines and Policies of the Cornerstone 2040 Comprehensive Plan.

Respectfully submitted,

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

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

Explanation of Waiver: Waiver to allow the existing gravel pavement to encroach the 25' perimeter buffer along north property line.

1. The waiver will not adversely affect adjacent property owners because it is adjacent to a residual undeveloped triangle piece of property owned by the Kentucky Department of Transportation bounded by Blankenbaker Parkway and Chenoweth Run Road, a minor arterial and a primary collector roadway respectively. There is no use to be buffered.
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. See Compliance Statement.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it will allow the continued use of an existing curb cut approved by Metro Works Department. There is existing vegetation currently screening the adjacent vacant property.
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 driveway is located at a location reviewed and approved by Metro Public Works and in its existing location.

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>	Rober Lopez Castellanos
<u>Location:</u>	3109, 3115, and 3119 Chenoweth Run Road
<u>Proposed Use:</u>	Contractor's shop
<u>Engineers, Land Planners and Landscape Architects:</u>	Mindel Scott & Associates, Inc.
<u>Request:</u>	Zone Change from R-4 to C-2 to allow a Contractor's Workshop

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on December 16, 2019 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

INTRODUCTION

WHEREAS, this property is adjacent to the relatively recent extension in the last ten years of Blankenbaker Pkwy., from Blankenbaker Access Road to Taylorsville Road; the applicant's property is separated from the parkway only by a sliver of ground controlled by the Kentucky Department of Transportation left from the parkway expansion, effectively bordering the parkway; as a result of the parkway expansion, the entire area has undergone tremendous change; the applicant's immediate neighbors' homes have been abandoned and demolished exhibiting the need to rezone and repurpose this site; and residential property that used to be quiet, country-like, and isolated, is now bordered by one of the most active commercial and travelled roads in Jefferson County; and

WHEREAS, the applicant's property straddles industrial sites on one side and residential sites on the others; most of the property north of the applicant's property along Blankenbaker Parkway is used and zoned industrial and commercial; the properties south of the applicant's property is residential; when Blankenbaker Parkway was extended to Taylorsville Road, though, the parkway extension project erected large acoustic sound walls to protect and insulate the newer residential development to the south from the significant traffic, noise and lighting impacts generated by Blankenbaker Pkwy; the small stretch of the applicant's residential property on Chenoweth Run Road however was left completely unprotected without any buffer, barrier or insulation from the industrial land and new significant impacts from the expansion of the arterial; and

WHEREAS, as a result of the significant change with the construction and expansion of the five-lane divided parkway immediately adjacent to the applicant's unprotected residential property, the R-4 zoning classification is no longer appropriate; the applicant's property has experienced significant, objective economic, physical and social change as a result of the government's condemnation of land and development of Blankenbaker Parkway, all for the community's benefit and at the expense of the applicant's property; and while the parkway project protected the newer residential development to the south, it left the applicant's property, and other long established residential properties completely exposed to the marked change to the area without any protective barrier; and

WHEREAS, the applicant has been using the property as his residence and as a staging area for his landscaping related businesses, unaware he was operating in violation of local regulations because the prior owner was also using the property for his plumbing business; many residential properties along Chenoweth Run Road have been and are currently being used in this way (as a residence and small business location) in violation of zoning regulations without complaint; however, the applicant's business has experienced tremendous growth in the last three years resulting in neighbors' complaints and court citations; the applicant first hired a lawyer unknowledgeable of the Land Development Codes and regulations resulting in mistakes in addressing the legal issues, exacerbating complaints from neighbors; and

WHEREAS, these issues are currently being addressed in district court; in March of this year, the applicant hired undersigned counsel and immediately made significant changes to his operations to respond to neighbors' issues and to comply with the District Court Order; the applicant completely ceased engaging in activities which were creating noise disturbances, such as ceasing the use of grinding and mulching type machinery at all times; he also restricted his hours of operation, effectively only using the site to park and store trucks during the evening, where they leave in the morning and return at the end of the day, again without operating any intensive machinery; he further restricted any trucks or business vehicles from travelling west on Chenoweth Run Road, except to reach some clients on Chenoweth Run Road; now effectively all trucks go directly from applicant's property to Blankenbaker Parkway and do not travel past any of the residences on Chenoweth Run Road; these voluntary restrictions are incorporated in binding elements; the property also has natural vegetative buffers which will remain, shielding it from the condominiums to the south; the applicant has agreed to install all other buffers required of the Land Development Code for its neighbors and additional landscape buffers along Blankenbaker Parkway; the applicant's immediate neighbor at 3201 Chenoweth Run Road acknowledged that the voluntary changes in business operations had resulted in significant improvements to noise disturbances; and

WHEREAS, with the changes in the area because of the extension of the five-lane Blankenbaker Parkway, in what used to be a quiet residential area, the zoning change is appropriate and necessary; although the applicant made mistakes leading to this zoning change, those mistakes are appropriately being addressed in the binding elements and they do not alter the significant objective changes occurring with the parkway extension; moreover, the applicant's operations with the voluntary restrictions provide the ideal transitional use for this transitional property, allowing it to be productively used in light of the roadway expansion, but at the same time blending compatibly with and creating a buffer between the competing uses; and

COMMUNITY FORM

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

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 3.1.3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, 27 & 28 of Goal 1, because this development will take an R-4 use that is completely out of place along a minor arterial next to industrial uses from a Suburban Workforce Form District and re-purpose the property with a commercial use, while at the same time blending compatibility with adjacent uses and creating transitions between the industrial uses on one side with the residential uses on the other; the binding elements, the natural buffers and the additional added buffers will mitigate any negative impacts from its use; the restrictions to the uses and limitation to simply using the location as a “hub” for trucks and employees to leave in the morning and return in the afternoon will limit and mitigate noise or other potential adverse impacts to the neighboring residential uses by having little to no noise or use during evening hours and even during the majority of the working day when the trucks and employees are in the field doing their work; this use will not create or use any lighting typical of many commercial uses further mitigating potential adverse impacts to the neighbors; the location next to a minor arterial is appropriate for a non-residential use, particularly one adjacent to other industrial uses; it will be relatively noise free except when vehicles leave in the morning and return at the end of the day around peak traffic hours, which is compatible with residential adjacent uses and extremely low impact to residential uses; further, this use will not result in any new buildings or improvements which are out of scale or inconsistent from a height standpoint with the residential developments; although the Form District is “Neighborhood Form District”, the use of staging trucks and operating small businesses is consistent with the uses traditionally utilized in this area, both before and after the Blankenbaker Parkway extension; the operation of a “contractor’s shop” with the very restrictive binding elements being offered will enhance this property and prevent it from becoming an otherwise wasted area as two of its other residential neighboring properties have become since the parkway extension was completed; and

WHEREAS, the applicant’s property with the zone change will further ensure new development and redevelopment that is compatible with the scale and site design of nearby existing development; it will allow a mixture of densities with the use of appropriate buffers; the office and contractor’s workshop will locate higher density and intensity near the minor arterial of Blankenbaker Parkway and place the employment uses near existing infrastructure and transportation; the potential adverse impacts, such as noise, lighting and traffic will be mitigated through the use of binding elements restricting operations and uses, existing and added vegetative buffers and compliance with the Land Development Code; and the use of the contractor’s workshop promotes mixed-use development and utilization and density with an out of place residential lot responding to the distinctive physical, historic, and cultural qualities; and

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

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 4, 6, 7, 9, 12 13, 15, 16, & 17 of Goal 2, because the proposed use will encourage sustainable growth and density around mixed-use centers and corridors by placing density compatible with desired form and existing infrastructure; the design and density are appropriate with adjacent uses that will serve the needs of the surrounding community; the development will

be compact along a minor arterial and corridor resulting in efficient land use and cost effective infrastructure investment; the mixture of compatible uses will reduce traffic, limit trips and provided buffers and transitions between competing uses; the development will help rehabilitate the property for the commercial use since it is no longer compatible for residential use without the acoustic sound barriers enjoyed by nearby residences on Blankenbaker Parkway; the plan will provide neighborhood serving contractor workshop; and the site will be easily accessible by pedestrian and bicycle traffic and preserve natural vegetative buffers from neighboring residences; and

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

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 2, 3, 6, 7, 8, 9, 10 & 12 of Goal 3, because the proposed development plan will enhance the surrounding neighborhoods by protecting the open space and natural resources by preserving the existing tree canopy and existing pond which serves to buffer the residential uses to the south of the property, thereby protecting natural resources; the preserving of the tree canopy and pond is compatible with the Form District in that it provides open space that can be visually enjoyed by the community and ensures transitions between the various surrounding properties; and respecting and preserving the natural features of the property will protect the health, safety and welfare of future uses of the development; and

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

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2 & 3 of Goal 4, because the development plan will promote and preserve the historic and archaeological resources that contribute to our authenticity by renovating, repurposing and preserving the residence with an adaptive reuse of the property and by preserving the natural tree canopy and pond currently and historically on the site; and

MOBILITY

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

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 3, 4, 7 & 14 of Goal 1, because the development plan does not limit or otherwise change or impede any alternative transportation modes and the site is served by sidewalks along Blankenbaker Parkway; the site is close to public transportation; and the plan places higher density and intensity near existing corridors and along the minor arterial of Blankenbaker Parkway and the primary collector of Chenoweth Run Road, and close to the major arterial of Taylorsville Road and the TARC service available there; and

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

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 4, 5, 6, 7, & 8 of Goal 2, because the development plan complies with the objectives and policies of Goal 2 by promoting a safe, accessible and efficient transportation

system by not interfering with the pedestrian, bicycle and vehicular access along the adjacent Blankenbaker Parkway which provides efficient mobility and access through the use of the roads and sidewalks; the site distances for the curb cut are adequate for the area and the circulation of pedestrian and vehicular traffic is appropriate with the surrounding walkway, access, parking, etc.; and the entrance is compatible with surrounding development and aesthetically pleasing to adjacent areas; and

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

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 3, 4, 5, 7, 10, 11, 12, 14, 18, 24, & 27 of Goal 3, because the development plan complies with the objectives and policies of Goal 3 by providing employment opportunities along a minor arterial and near residential areas, limiting car trips; the site further does not inhibit or detract from the transportation opportunities along Blankenbaker Parkway, allowing efficient vehicular, walking and bicycling opportunities and by providing complimentary neighborhood serving landscaping businesses, services and reducing miles travelled by car; the plan will not burden the transportation network, but will enhance it with developing the lot in a way that compliments the Neighborhood Form District by blending competing uses of the nearby industrial uses and the residential uses; the plan also encourages transportation patterns by situating the site next to a minor arterial that will divert peak hour traffic away from smaller roads and corridors, making the plan consistent with long-range transportation plans; the parking requirements of the site consider the density of the use and the character and pattern of the Form District in that it converts a residence to a contractor's workshop; and the plan also satisfies the policy of infill development opportunities along arterials supporting vehicular, biking and pedestrian travel; and

COMMUNITY FACILITIES

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

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 3 of Goal 2, because this development plan is not a community facilities plan, but it does locate development in areas currently served by existing infrastructure, it has adequate water supply so as to not burden existing or future community facilities; and

ECONOMIC DEVELOPMENT

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

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 3, 7, & 9 of Goal 1, because this development plan complies with Goal 1 of Economic Development as it provides economic climate that improves growth, innovation, and investment opportunity for all by reusing and redeveloping a residential property that is no longer appropriate for its use adjacent to the minor arterial of Blankenbaker Parkway; it locates the contractor's shop in an area with existing infrastructure in an efficient manner increasing economic opportunities in the area, while at the same time blending and buffering competing

uses; it will provide opportunities to underserved small businesses in the area increasing economic opportunity to business owners and employment; and while the development will not create high traffic, the traffic will be directed on a minor arterial; and

Goal 2 – Cultivate a vibrant, unique city that attracts, retains, and develops a highly skilled workforce.

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 3, 4, 5, & 7 of Goal 2, because this development plan complies with Goal 2 of Economic Development as it enhances the quality of life in the area by reusing and readapting a current less desirable use, while at the same time protecting and improving the economic value of the surrounding areas and the residential properties; it satisfies the goal and policy of infill development to take advantage of the existing infrastructure; and the design elements being used will limit the heat island effect by retaining much of the existing tree canopy and existing pond; and

LIVABILITY

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

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 2, 4, 5, 6, 7, 10, 12, 15, 19, 21, 23, 25, 26, 27, 28, 31, 35, 36, 38 & 39 of Goal 1, because the development plan protects the tree canopy and existing pond, preserving natural features that buffer the property, reduce heat island effects, and protect native species and groundwater resources; in addition to the preserved natural features, landscaping will be added to reduce the impacts of the site to nearby residences; and the binding elements will further reduce noise and the use itself will not create any negative lighting impacts to neighbors; and

Goal 2 – Ensure equitable health and safety outcomes for all.

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policy 8 of Goal 2, because the development plan complies with the objectives and policies of Goal 2 of Livability element by preventing the site from following the path of the other properties impacted by Blankenbaker Parkway extension from becoming blighted or unused, vacant sites, all of which will be a benefit to the residences and businesses in the immediate vicinity, particularly the adjacent properties; and

Goal 3 – Ensure equitable access to land use planning and Policy-making resources.

WHEREAS, the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 4 of Goal 3, because the development plan complies with the objectives and policies of Goal 3 of Livability element providing equitable access to the land use planning and policy resources by providing the surrounding residents and property owners notice of the development, notice of all public meetings and by providing the neighborhood meeting, encouraging and providing an opportunity for area involvement in the plan design; and

Goal 4 – Integrate sustainability and resilience in community planning processes.

Waiver Findings of Fact

Waiver of Section 10.2.4 to allow the existing gravel pavement to encroach the 25' perimeter buffer along north property line.

WHEREAS, the waiver will not adversely affect adjacent property owners because it is adjacent to a residual undeveloped triangle piece of property owned by the Kentucky Department of Transportation bounded by Blankenbaker Parkway and Chenoweth Run Road, a minor arterial and a primary collector roadway respectively; and there is no use to be buffered; 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 2040 Plan filed with the original rezoning application; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it will allow the continued use of an existing curb cut approved by Metro Works Department; and there is existing vegetation currently screening the adjacent vacant property; 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 driveway is located at a location reviewed and approved by Metro Public Works and in its existing location;

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