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

Applicant: JR Food Stores, Inc.

Owner: Byron R., Michael B., William C. and Mary J. Pendleton

Location: 6201 Fegenbush Lane

Proposed Use: Neighborhood grocery, fuel pumps and restaurant

Engineers, Land Planners and Landscape Architects: Arnold Consulting Engineering Service, Inc.

Request: Zone Change from R-4 to C-1

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on March 29, 2018 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

SUMMARY STATEMENT

WHEREAS, Houchens is the largest employee-owned company in the United States; it owns and operates various enterprises, and included among them are several hundred grocery stores; the grocery concept proposed for this location is a relatively new one in that it will contain a small grocery with product (including fresh produce and meats) at grocery, not convenience, store prices along with an Ace Hardware store and combination fast casual restaurant with drive-thru; the store will be of an upscale design tailor-made for this particular neighborhood; and

GUIDELINE 1 – COMMUNITY FORM

WHEREAS, the application complies with the Suburban Workplace Form District as it is located at the intersection of major (Fern Valley Road/S. Hurstbourne Parkway) and minor (Fegenbush Lane) arterials; major industry is located catty-corner across Fegenbush Lane and Fern Valley Road, while properties located along Hurstbourne Parkway are zoned for high intensity retail and high density residential use; a catholic girls school is located a short distance in a northerly direction down Fegenbush Lane; and this is a high traffic location that will assure a lot of drive-by business going to and from nearby workplaces, other retail, schools and residential communities; and

GUIDELINE 2 – CENTERS

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 14 and 15 of this Guideline because this site was most recently used for a church; and with the addition of grocery and gas goods and services in close proximity to major workplaces, particularly the Ford assembly plant, and residential communities, this small grocery/gas station/restaurant, located at a busy intersection will accommodate the regular daily shopping and service needs of workers and residents in the area; and

WHEREAS, as an “activity center”, it is appropriately located at the intersection of a major and minor arterial street and is designed to be of intensity, density, size and mix of uses appropriate for a small neighborhood center; everything within this small center is compact, and it includes three uses: a grocery, a small restaurant and a fuel station; and they share parking and work off the same utility infrastructure; and

GUIDELINE 3 – COMPATIBILITY

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24 and 28 of this Guideline because as set forth above, this is a small workplace and residential serving center; it will have the look and feel of similar Crossroads IGA stores already built around Louisville and Oldham County; elevation renderings are included in the neighborhood meeting PowerPoint presentation accompanying this application, although changes have been requested by Councilman Peden that the applicant is attempting to address; odors will be contained within the building, especially given that the type restaurant will be a sandwich-type restaurant; noise will not be a late evening/over night factor given that this store, except for the fuel pumps, will likely be closed during those hours; lighting will follow restrictions of the Land Development Code (LDC) and thus be directed down and away from nearby residential properties, with a 90 degree cut-off at property lines; transitions to adjoining properties to the north and east will be well screened and buffered in accordance with LDC requirements and in consultation with adjoining property owners; parking will be shared; loading and delivery will be located and/or screened so as to minimize impacts on any nearby residentially occupied properties; and signage will be in conformance with the LDC; and

GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

WHEREAS, the application complies with the Intents and applicable Policies 2, 3, 5, 6 and 11 of this Guideline because this proposed combination of three compatible uses constitutes a high quality, workplace/neighborhood/high traffic arterial serving center; it is located in the midst of intense workplace and residential populations along the referenced arterial highways; and

GUIDELINES 7, 8 AND 9 – CIRCULATION; TRANSPORTATION FACILITY DESIGN; AND BICYCLE, PEDESTRIAN AND TRANSIT

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 4, 6, 9, 10, 11, 12, 13, 14, 15, 16 and 18 of Guideline 7; Policies 1, 4, 5, 7, 9, 10 and 11 of Guideline 8; and Policies 1, 2, 3 and 4 of Guideline 9 because the design of this small center, together with its points of access, take into account the standards promulgated by KTC and Metro Transportation

Planning and Public Works; and that LD&T and Planning Commission review, and preliminary stamp of approval process, assures that Transportation Planning and Public Works standards for corner clearances, access, connectivity, internal circulation and parking minimums are all satisfied; and

GUIDELINE 10 - FLOODING AND STORMWATER

WHEREAS, the application complies with the Intents and applicable Policies 1, 3, 4, 6, 7, 10 and 11 of this Guideline because small detention basins distributed at points on the DDDP, in compliance with MSD's standards for storm water management will assure post-development peak rates of runoff will not exceed pre-development conditions; and MSD will be required to review the storm water management plan and give its preliminary stamp of approval to the DDDP prior to docketing for LD&T and Planning Commission public reviews; and

GUIDELINE 11 – WATER QUALITY

WHEREAS, the application complies with the Intents and applicable Policies 3, 5 and 8 of this Guideline because MSD has promulgated both soil erosion/sedimentation control regulations and even newer ones with respect to water quality; and construction plans for this center will require compliance with these regulations prior to obtaining building permits.

GUIDELINE 12 – AIR QUALITY

WHEREAS, the application complies with the Intents and applicable Policies 2, 4, 7 and 8 of this Guideline because by locating this small workplace/neighborhood/high-traffic arterial serving center in close proximity to those uses and populations will reduced vehicle miles traveled; and

GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 4, 5 and 6 of this Guideline because Compliance with this Guideline is achieved by virtue of compliance with LDC requirements; and as stated above, landscaping, screening and buffering will exceed LDC requirements, as promised neighbors at the neighborhood meeting.

* * *

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

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

Variance Findings of Fact

Variance of Section 4.8.3 to allow the proposed drive and parking to encroach into the 25 ft outer zone of the stream buffer.

WHEREAS, the variance will not adversely affect the public health, safety or welfare because the encroachment is minor, the vast majority of the stream setback is observed, and some additional setback is provided in areas other than this encroachment; and

WHEREAS, the variance will not alter the essential character of the general vicinity for the reasons stated in #1 above; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because the stream is protected in other ways as well through compliance with MSD's soil erosion and sediment control plus water quality ordinances; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because only the absolute minimum amount of encroachment necessary to allow this development is requested; and

WHEREAS, the variance arises from special circumstances, which do not generally apply to land in the general vicinity because the site shape, elevation changes, and relationship of the stream to the site necessitate this variance if this site is to be reasonably developed as reasonably planned; and because the variance requested will encroach into the buffer area less than the current existing condition of the driveway currently existing; 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 building, few number of pumps and restaurant with drive-thru otherwise would not fit on this site; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are mostly the result of land conditions;

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

Waiver Findings Of Fact

Waiver of Section 5.9.2.A.1.b to omit the pedestrian connection to Fegenbush Lane.

WHEREAS, the waiver will not adversely affect adjacent property owners because few people look to access a gas station on foot, and there are natural vehicle-pedestrian conflicts that cannot be overcome; and further the waiver will not adversely affect adjacent property owners because a different design of access and circulation (which would result from moving of the canopy and convenience store structures) would cause hazards and nuisances to the traveling public and customers, thus negatively impacting adjacent property owners with bad transportation design; 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 rezoning application; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because, as stated above, this is the only layout that works, and, also as set forth above this plan results in greater LDC compliance than current conditions; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the site could not otherwise be developed;

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

Waiver Findings of Fact

Waiver of Section 5.6.1.C.1 to allow less than 50% clear glazing on the Fegenbush Lane and South Hurstbourne Parkway street facades

WHEREAS, the waiver will not adversely affect adjacent property owners because this a design issue that does not have to do with issues of impact on adjoining properties; and moreover, aesthetics of this site and building are also not negatively impacted by this waiver; 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

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the building otherwise remains aesthetically attractive, although this is a minor waiver for some building facades so as not to adversely impact internal store operations; and

WHEREAS, the 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 have to design its building in a manner that significantly affect internal store operations particularly as respects shelf space and display of merchandise;

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

Waiver Findings of Fact

Waiver of Section 5.8.1.B to omit the sidewalk

WHEREAS, the waiver will not adversely affect adjacent property owners because there aren't sidewalks along the frontages on either side of the subdivision to which this sidewalk for this site could connect; and the area of the requested waiver consists of considerably steep slopes going toward the bridge, which are conditions created by the land, not created by the development; 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

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this is the only place that the sidewalk waiver is being request; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because building a sidewalk in this location, considering the fact that the geography with steep slopes would make building this sidewalk almost impossible build, impossible to safely use, and certainly detrimental to the development;

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