

# **REVISED VARIANCE JUSTIFICATION STATEMENT**

## **LRZC Tract 1 Category 3 Development Plan**

**Case No. 20-CAT3-0019**

LDC Chapter 4.8.3.

Applicant/Developer: Louisville Renaissance Zone Corporation

The applicant, the Louisville Renaissance Zone Corporation (LRZC), intends to develop a 322,800 square foot warehouse/distribution facility. The subject property has approximately 1500-linear feet of frontage on Southern Ditch, classified as a perennial stream. Southern Ditch is a man-made stream providing stormwater conveyance and flood control within the Pond Creek Watershed. As such, it is a linear feature with permanent stormwater flow and steep side-slopes. The 100-year regulatory floodway is contained within the banks of Southern Ditch.

Outside the top-of-bank condition to the south, topographic relief is minimal and adjoining land is capable of supporting development activity without negative environmental consequences. A 66” sanitary sewer interceptor runs parallel to Southern Ditch on the south side of the stream, contained within a 40-ft wide MSD Sewer and Drainage Easement. In addition, a Marathon pipeline easement impacts the northwest corner of the subject property – with a 50-foot supplemental setback.



Street view of Southern Ditch looking west from Air Commerce Drive bridge.

Based on these conditions, the applicant is seeking to encroach a distance of 60 feet into the designated 100-foot stream buffer as required under Chapter 4.8.3 of the LDC. The encroachment is limited to impervious surfaces (parking area) and related drainage and utility improvements – no buildings will be located in the 100-ft stream buffer.

#### **LDC Chapter 11.5B.1-B. Considerations for Variances.**

The variance will not adversely affect the public health safety, or welfare of the public because no encroachment into the defined bed and bank conditions of the stream are proposed. There is no encroachment or impact to the 100-year regulatory floodway of the stream. Since the LRZC began development at the business park in 2006, a total of 650,000 cubic feet of floodplain storage has been provided in the stormwater compensation basin to the east of Air Commerce Drive and south of Southern Ditch. This compensation basin has greatly reduced flooding potential for property in the Minor Lane corridor.

The development of this site for the intended 322,800 sf warehouse/distribution facility is consistent with the established development pattern of the business park. The subject property is bordered by UPS Supply Chain Solutions to the west, a recently approved truck stop facility (Race Track) to the east, a Waste Management landfill facility to the north opposite Outer Loop Road, and a wetland conservation area and the UPS Centennial Hup facility to the south. Over 6 million square feet of space has been developed at the business park since 2005, consistent with the EZ-1 zoning and the Suburban Workplace Form District. In addition, the building will be setback approximately 230 feet from Outer Loop Road. Approval of the variance will therefore not alter the essential character of the general vicinity.

The variance will not cause a hazard or nuisance to the public, as the 100-year regulatory floodway and bed and bank condition of Southern Ditch will remain undisturbed. The encroachment is limited to impervious surfaces (parking area) and related drainage and utility improvements – no buildings will be located in the 100-ft stream buffer. As mitigation for encroachment into the 100-foot stream buffer, the applicant is proposing to mitigate increased runoff on the site at a 2:1 ratio at the Business Park's compensation basin east of Air Commerce Drive - double the amount of required by MSD (1:5 to 1) in the Pond Creek watershed.

The intent of the 100-ft stream buffer in the LDC was to preserve perennial streams in their natural setting and protect sensitive riparian features and floodplains associated with those streams. Southern Ditch is unique in that it is a man-made linear stream without the meandering characteristics of natural stream systems. As such, the granting of a variance is not an unreasonable circumvention of the requirements of the zoning requirements. All other design requirements of the zoning and form district are observed.

The defined stream bed and bank conditions and the 66' sanitary sewer interceptor directly south of Southern Ditch within the prescribed 100-ft buffer represent special circumstances which do not generally apply to perennial streams.

The strict application of requiring a 100-ft stream buffer from the top of bank of Southern Ditch across otherwise fully-developable land would deprive the LRZC from the ability to construct a viable warehouse/distribution facility on Tract 1, similar to other buildings and uses constructed at the park.

#### **LDC Chapter 4.8.4.B Variances of Buffer Area Boundaries – Additional Criteria.**

*a. The variance is necessary because the requirements of this section represent an extreme hardship such that minimal or no reasonable economic use of the land is available without reducing the width of the required Buffer Area.*

- When the property was originally rezoned in 2006, the airport authority was mandated by the FAA to convert the former Minors Lane Relocation Area, of which this site was a part of, to “airport-compatible” uses. As a result, over 6.5 million square feet of warehouse/distribution facilities has been constructed at the Renaissance South Business Park. The Park has become a hub for logistics operations seeking close proximity to the Muhammad Ali International Airport and UPS. These facilities typically require a large rectangular building footprint to be economically and functionally viable with associated truck loading and maneuvering space and visitor/employee parking. Without a reduction of the stream buffer requested, the site would be unlikely to be developed for the proposed use, representing an extreme hardship.

*b. The size, shape, or topography of the property, as of March 1, 2003, is such that it is not possible to construct a single family detached dwelling without encroaching into the required Buffer Area.*

- Not applicable – no residential housing is proposed.

*c. Encroachment into the required Buffer Area shall be limited to the minimum necessary to accommodate the proposed use.*

- The 60-foot encroachment is the minimum necessary to accommodate a viable building footprint with associated truck loading and maneuvering space and visitor/employee parking.

*d. The Applicant shall commit, to the satisfaction of the County, to mitigation measures that substantially offset any potential adverse impacts of the proposed encroachment during site preparation, construction, and post-construction.*

- In accordance with MSD and Kentucky Division of Water requirements, the applicant proposes to construct the following:
  - Two water quality units are proposed intended to capture and treat the first 0.6” stormwater runoff containing 80% of suspended solids and pollutants prior to discharge into Southern Ditch.
  - Appropriate erosion prevention control measures to be approved by MSD and maintained by the applicant by providing on-site resident inspection during construction.
  - Excess runoff mitigation will be mitigated at a 2:1 ratio – double MSD’s 1.5:1 ratio for the Pond Creek Watershed. Mitigation is to be provided at the existing compensation basin along Southern Ditch east of Air Commerce Drive.

*e. Approval of the variance will not result in a reduction in water quality.*

- As previously stated, the applicant proposes water quality measures and excess runoff mitigation to capture and treat storm water prior to discharge into Southern Ditch and provide on-site inspection during construction so as avoid a reduction in water quality.

Approval of the variance request will not violate other provisions of the LDC or the Comprehensive Plan.

