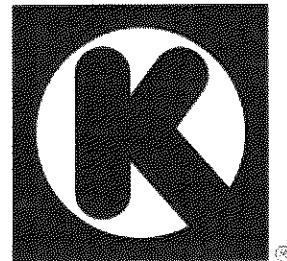


Louisville Metro Planning Commission Public Hearing - January 21, 2021  
Louisville Metro Land Development & Transportation Committee - December 10, 2020  
Neighborhood Meeting - August 24, 2020

Docket No. 20-ZONE-0082; 20-VARIANCE-0124 ; 20-  
Waiver-0090; 20-Waiver-0091; 20-WAIVER-0102

Proposed Detailed district development plan to allow a 5200 sf  
Marathon/Circle K gas and convenience store on property that  
is C-2 and R-4. Proposed zone change from R-4 to C-1 located  
at 404 and 406 Mt. Holly Road



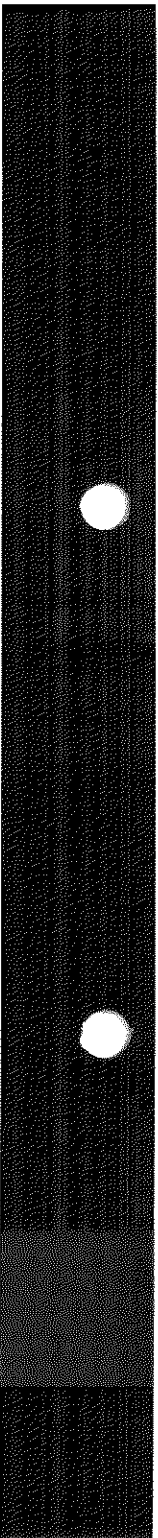
Attorneys: Bardenwerper Talbott & Roberts, PLLC

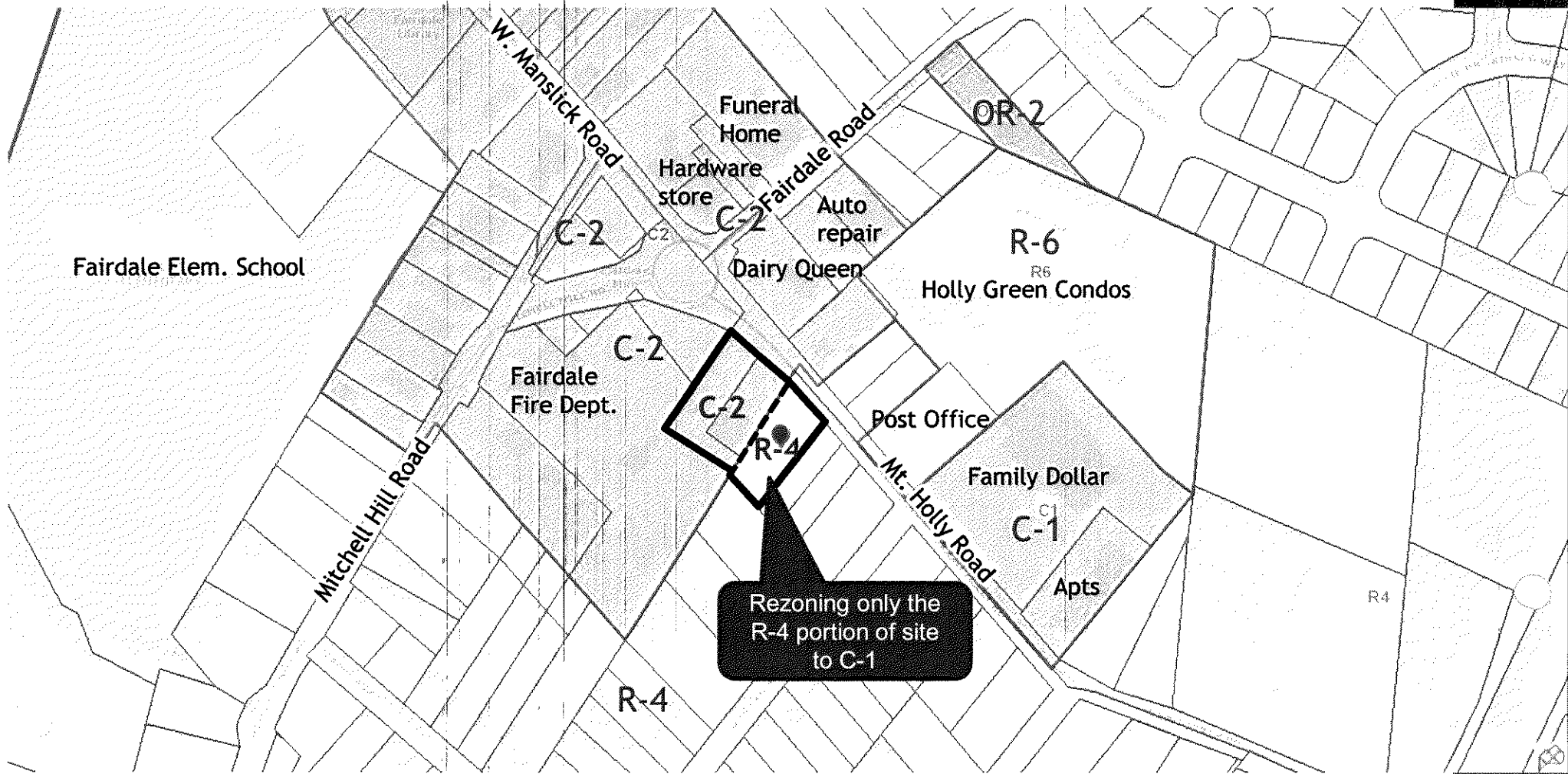
Land Planners, Landscape Architects & Engineers: Prism Engineering & Design Group, LLC

# Index

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

# Tab 1 LOJIC Zoning Map





Fairdale Elem. School

W. Manslick Road

Funeral Home  
Hardware store  
Auto repair  
Dairy Queen

OR-2

R-6  
R6  
Holly Green Condos

Mitchell Hill Road

Fairdale Fire Dept.  
C-2

C-2  
R-4

Post Office

Mt. Holly Road

Family Dollar  
C-1  
Apts

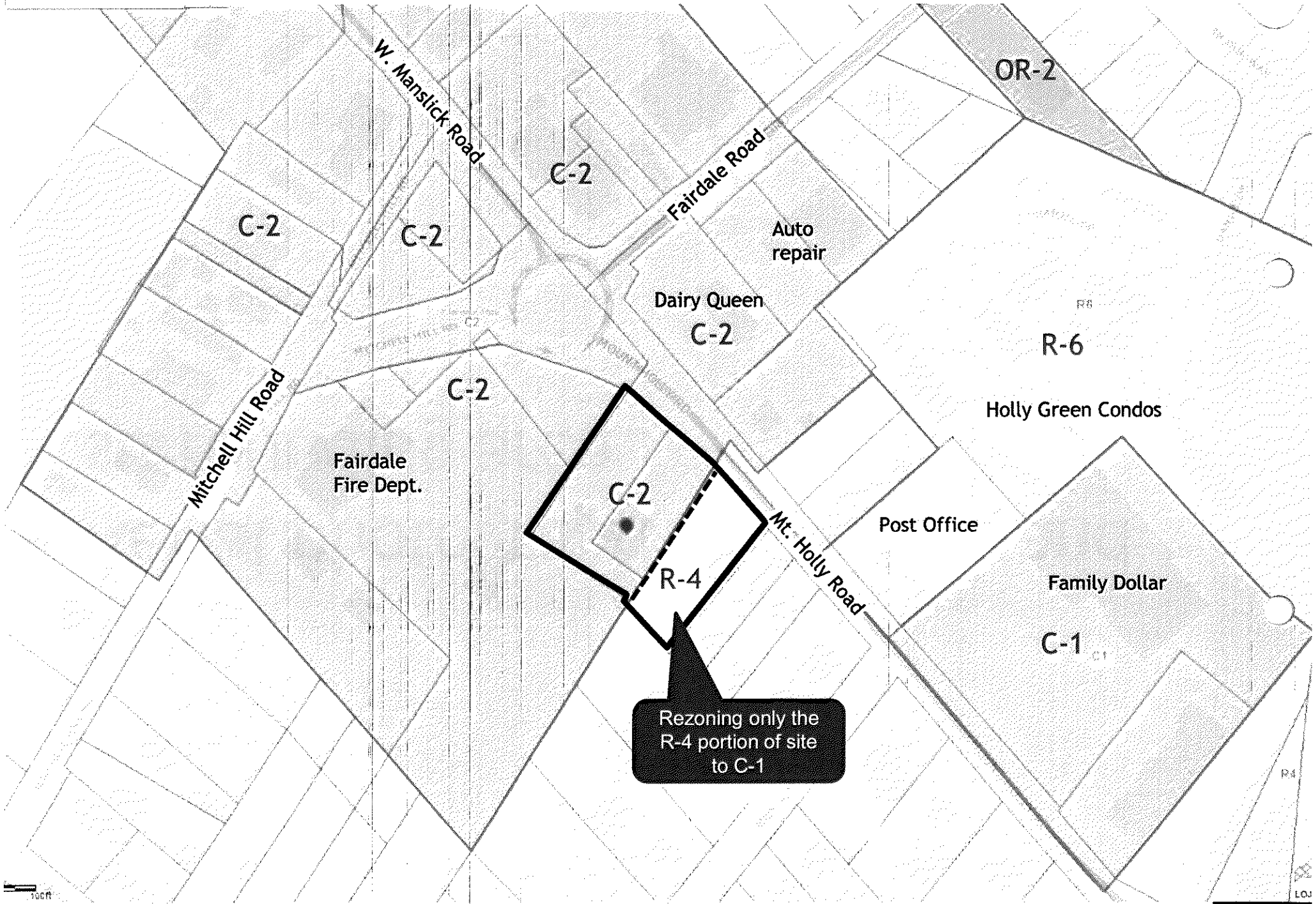
Rezoning only the R-4 portion of site to C-1

R-4

R4



# C-2 lots are pre-planned certain

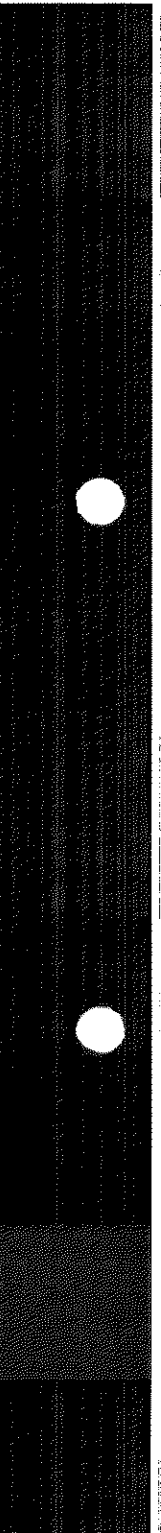


700ft

LOJ

Tab 2

Aerial photograph of the site and surrounding area





W. Manslick Road

Fairdale Road

Fairdale Elem. School

Hardware store

Dairy Queen

Holly Green Condos

Fairdale Fire Dept.

Post Office

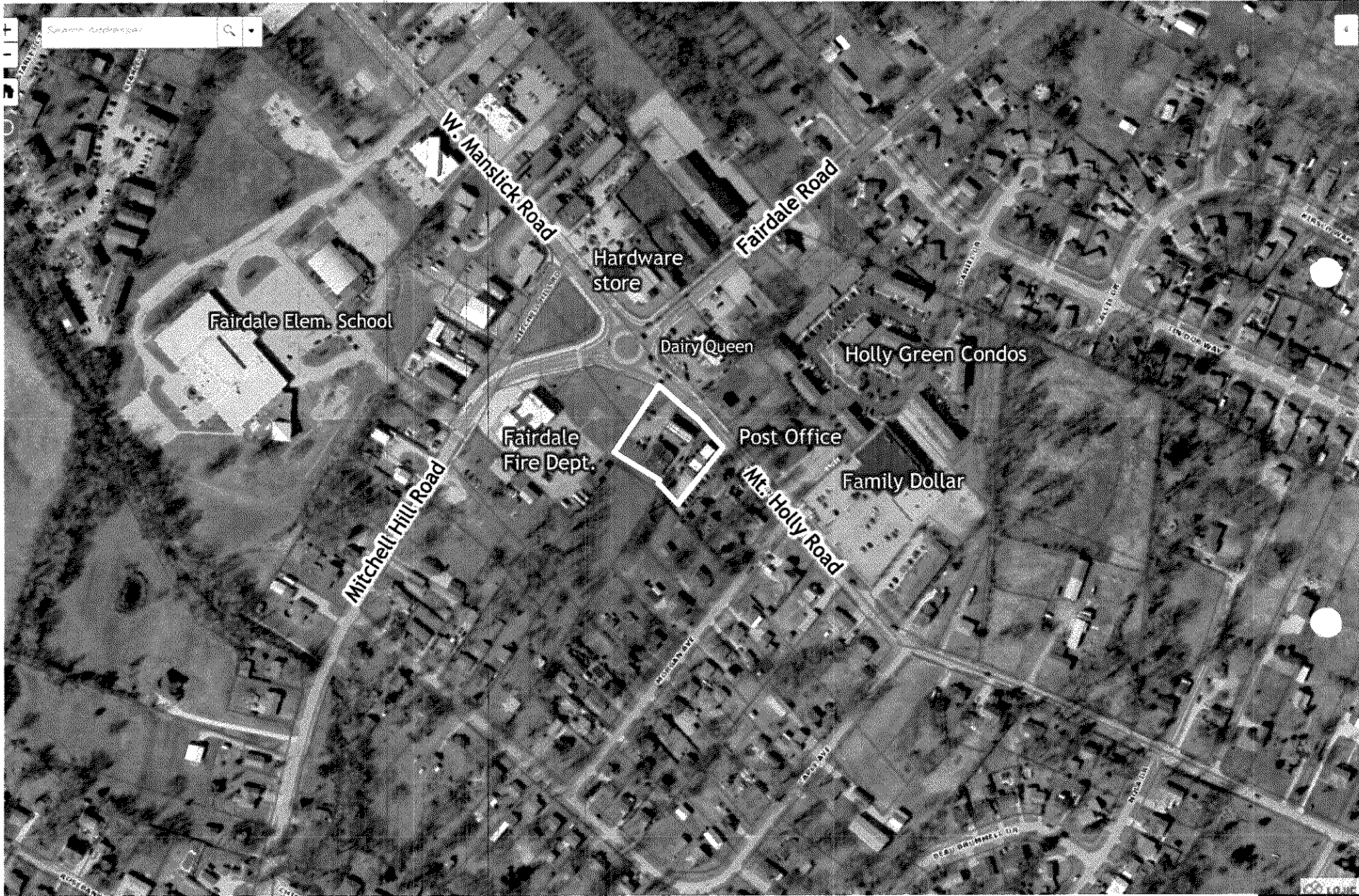
Family Dollar

Mitchell Hill Road

Mt. Holly Road







Search Address

?

Fairdale Elem. School

Hardware store

Dairy Queen

Holly Green Condos

Fairdale Fire Dept.

Post Office

Family Dollar

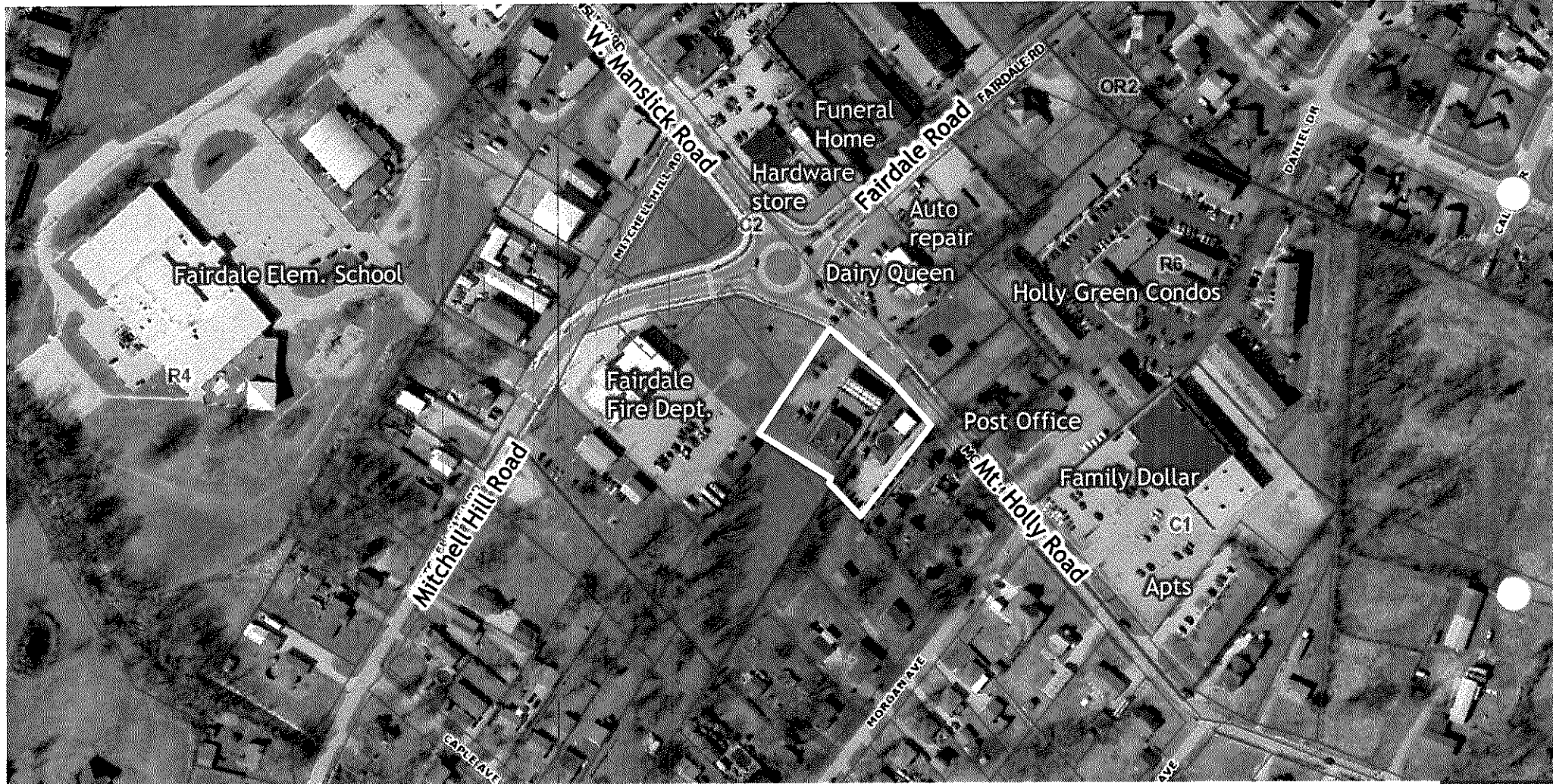
W. Manslick Road

Fairdale Road

Mitchell Hill Road

Mt. Holly Road





Tab 3

Ground level photographs of the  
site and surrounding area





View of Mt. Holly Road looking southeast. Site is to the right.





View of Mt. Holly Road looking northwest. Site is to the left.





View of site from Mt. Holly Road, which includes the “Shack in the Back” BBQ restaurant.



View of site from Mt. Holly Road



Louisville, Kentucky

Google

Street View



View of existing "Shack in the Back" BBQ restaurant.

Google  
Street View

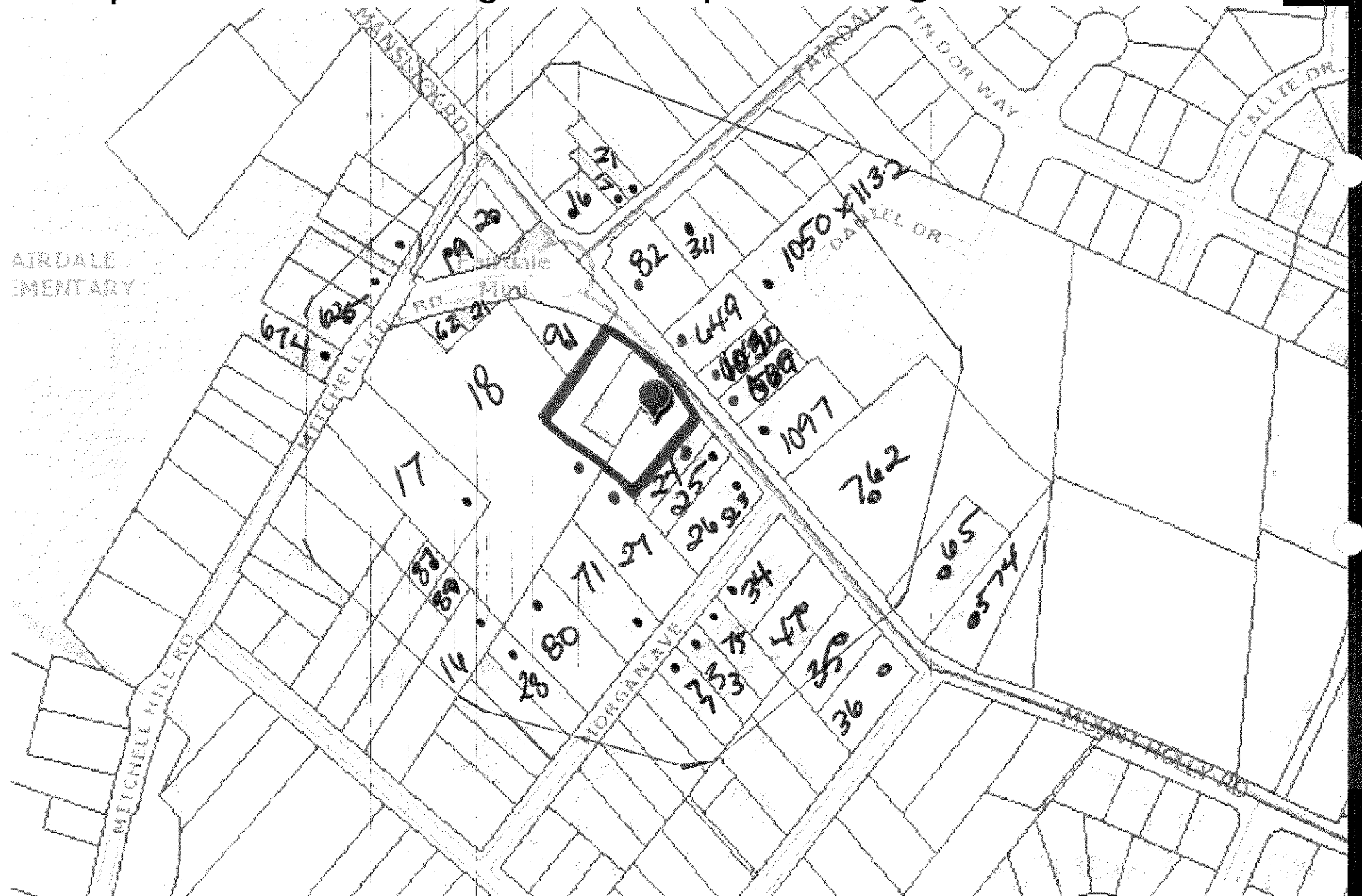


View of site from Mt. Holly Road

Tab 4

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

Adjoining property owner notice list map wherein 41 neighbors plus those on the DPDS “interested party list” were invited to the neighborhood meeting and subsequent LD&T and Planning Commission public hearing.





# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG • 1000 N. HURSTBOURNE PARKWAY • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223  
(502) 426-6688 • WWW.BARDLAW.NET

John C. Talbott  
Email: [JOHN@BARDLAW.NET](mailto:JOHN@BARDLAW.NET)  
Mobile: (502) 741-8783

August 10, 2020

RE: Neighborhood meeting for proposed change in zoning from R-4 to C-2 to allow a 5,200 sf Marathon/Circle K gas and convenience store on approximately 1.14 acres on property located at 404 and 406 Mt. Holly Road

Dear Neighbor:

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

Our client Dennis Greco with Macs Convenience Stores, LLC (Circle K) is seeking to rezone the R-4 portion of the property referenced above from R-4 to C-2. The applicant proposes to remove the existing Marathon/Circle K gas and convenience store and the existing Shack in the Back BBQ restaurant and build a new 5200 sf store, extend the fuel canopy and increase the number of gas pumps. The restaurant site is currently zoned R-4 and the applicant is requesting it to be rezoned to C-2 to be in compliance with the rest of the development. We have filed a plan for pre-application review with Planning and Design Services (PDS) that has been assigned case number 20-ZONEPA-0068, and the assigned case manager is Dante St. Germain.

The virtual meeting will be held on **Monday, August 24<sup>th</sup>** beginning at **6:30 p.m.**

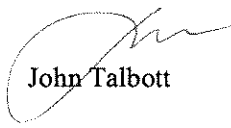
Enclosed for your review are the following:

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

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

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

Sincerely,

  
John Talbott

cc: Hon. Mark Fox, Councilman, District 13  
Dante St. Germain, Case Manager with Planning & Design Services  
Jason Hall, land planners with Prism Engineering  
Dennis Greco, applicant with Macs Convenience Stores, LLC

## Neighborhood Meeting Summary

A virtual neighborhood meeting was held on August 24, 2020, 6:30 pm. Those in attendance included the applicant's representatives, John C. Talbott, attorney with Bardenwerper, Talbott & Roberts, and Jason Hall, land planner and engineer with Prism Engineering, as well as the applicants representative Dennis Greco.

In advance thereof, a packet of information detailing the proposed project and explaining the process of this meeting and everything that follows it was mailed to the required distribution list of neighbors, interested parties and government officials.

At the beginning of the meeting, John Talbott, counsel for the applicant, explained the sent materials and all things important and relevant to the process and to assure public understanding of the law and the subject application and participation in the process involving review of it. The process was also explained.

After those introductions, Mr. Talbott showed and explained the LOGIC maps and aerial photographs of the site and general area, noting major land uses such as the large and expanding activity center around the Fairdale roundabout nearby to the Fairdale Elementary School and Fairdale Library. The point of showing these images, was to illustrate the extent of the commercial and public activity in the area, public roads and infrastructure which make this project a natural expansion of the current use and business.

Mr. Talbott and Jason Hall, with Prism Engineering, next explained the proposed detailed district development plan (DDDP). They said it includes approximately 5,200 square foot gas/convenience store. The perimeter of the subject property includes an 8 foot fence and 15-foot landscape buffer where it abuts residential housing. The colored-up site plan they showed includes new landscaping and the use of the 8 foot multi-use path, which is in excess of the 5 foot sidewalk requirement. It was explained that the multi-use path was being incorporated to help serve the planned Louisville Loop and Jefferson Memorial Forest users. It was also explained that the two current lots being used by Circle K were zoned C-2 and were pre-plan certain. The advantages of making all three lots plan certain, with a use that has been in existence for years was also explained, rather than having any number of less desirable C-2 uses that could easily come in with the pre-plan certain zoning. It was also explained that their lot was only being zoned to C-1, not to C-2 to match the other lots.

On site-detention is not included on the site plan, as the impervious surface is not increased. It was also explained that the gutter along the border of the site would help prevent any water from exiting to adjacent properties.

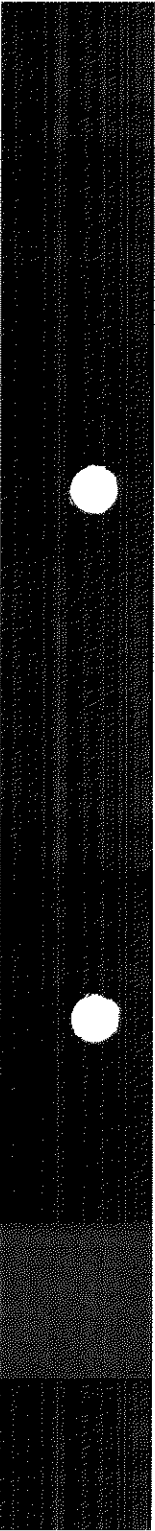
At this point questions and comments from those in virtual attendance were entertained.

The meeting was very lightly attended with only two adjacent property owners and a former Metro Councilwoman attending. The neighbor most impacted by the site immediately adjacent to the



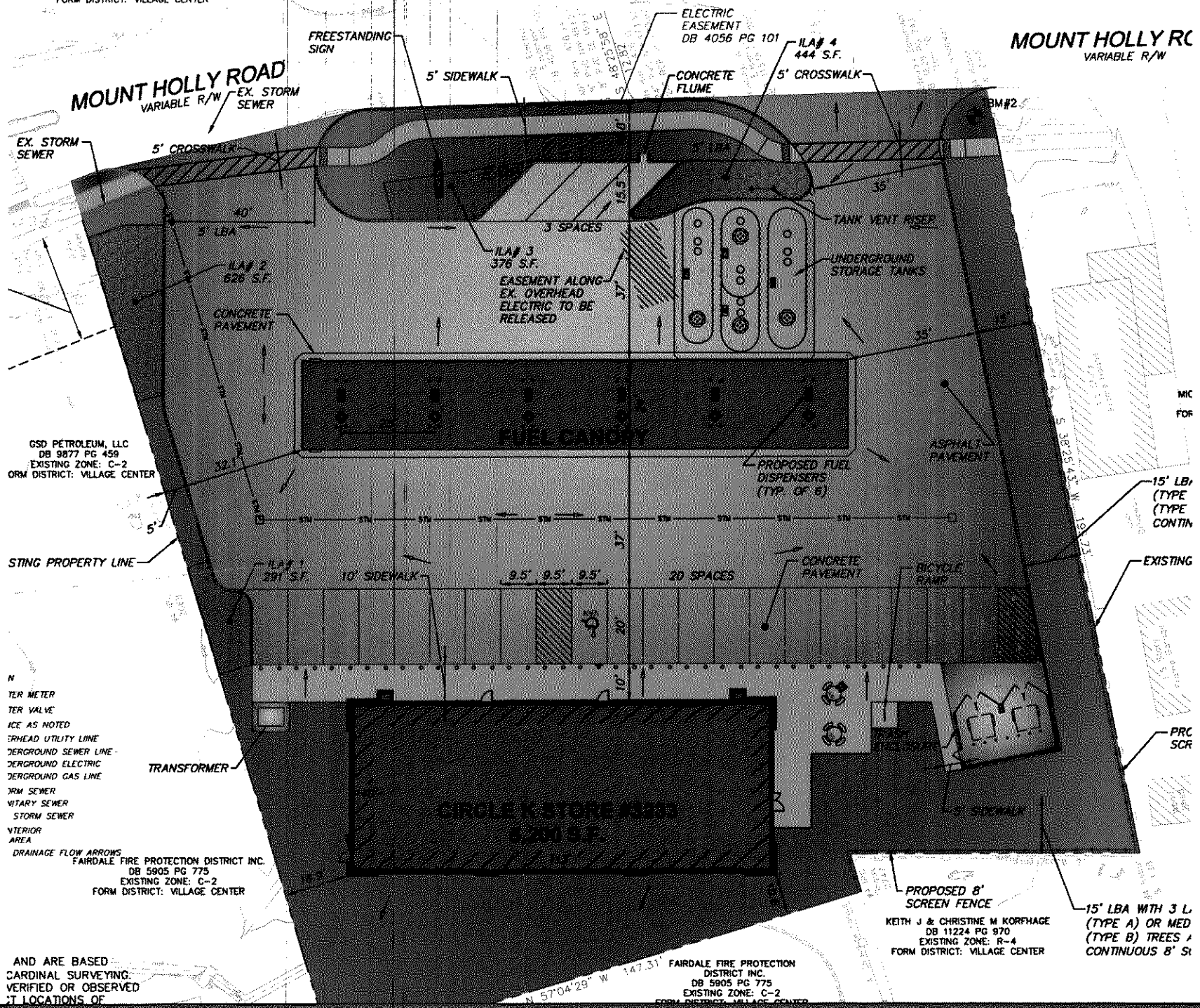
barbeque site lot stated that he thought all of the properties on Mt. Holly Road should be zoned commercial. He stated that he did not have any problem with the site, particularly when it was explained that the garbage containers were being moved away from his property. Other questions pertained to things such as whether Circle K had already purchased the third lot, which it has not. A neighbor asked if speed bumps would be installed on Mt. Holly, where it was explained as most likely not. Finally, one neighbor also commented that the barbeque restaurant building may be historic, which we commented we would look into but that we were presently unaware of any historical significance to it.

# Tab 5 Development Plan



FORM DISTRICT: VILLAGE CENTER

MOUNT HOLLY RC  
VARIABLE R/W



GSD PETROLEUM, LLC  
DB 9877 PG 459  
EXISTING ZONE: C-2  
FORM DISTRICT: VILLAGE CENTER

N  
 TER METER  
 TER VALVE  
 ICE AS NOTED  
 ERHEAD UTILITY LINE  
 ERGROUND SEWER LINE  
 ERGROUND ELECTRIC  
 ERGROUND GAS LINE  
 RM SEWER  
 ITARY SEWER  
 STORM SEWER  
 TERIOR AREA  
 DRAINAGE FLOW ARROWS  
 FAIRDALE FIRE PROTECTION DISTRICT INC.  
 DB 5905 PG 775  
 EXISTING ZONE: C-2  
 FORM DISTRICT: VILLAGE CENTER

AND ARE BASED  
CARDINAL SURVEYING  
VERIFIED OR OBSERVED  
T LOCATIONS OF

Original plan shown at 8/24/20 neighbor meeting

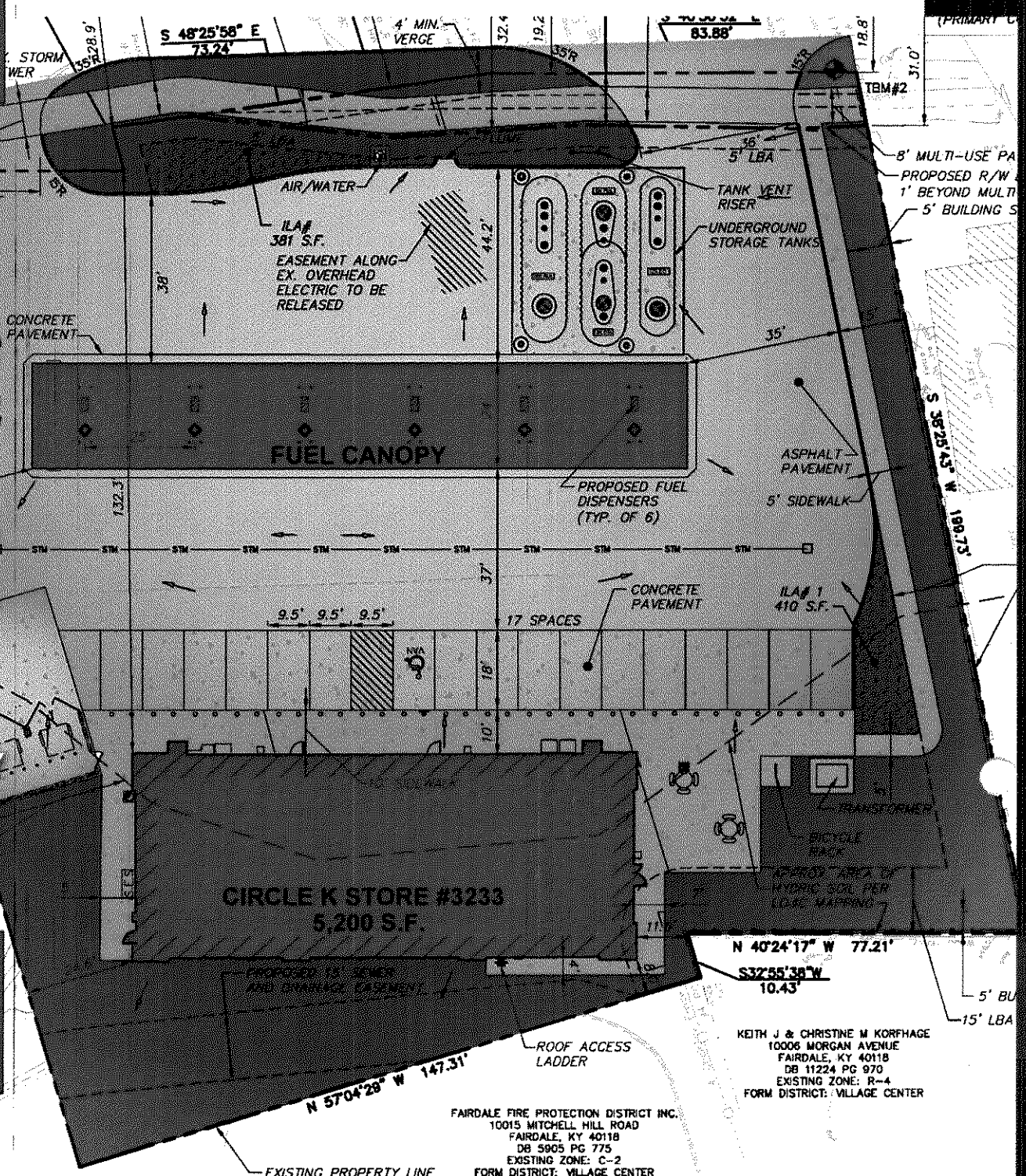
Changes made to Original Plan including (C-2 to C-1)

5 ft sidewalk increased to 8 ft multi-use path

Dumpster enclosure moved to west side away from residents

TER  
 LVE  
 NOTED  
 UTILITY LINE  
 AND SEWER LINE  
 AND ELECTRIC  
 AND GAS LINE  
 WER  
 SEWER  
 SEWER  
 APPR. AREA OF  
 AGE FLOW ARROWS HYD. SOIL PER  
 AREA MAPPING

SERVICE  
 R SHALL  
 -FREE  
 TO







Fairdale Road

Mt. Holly Road

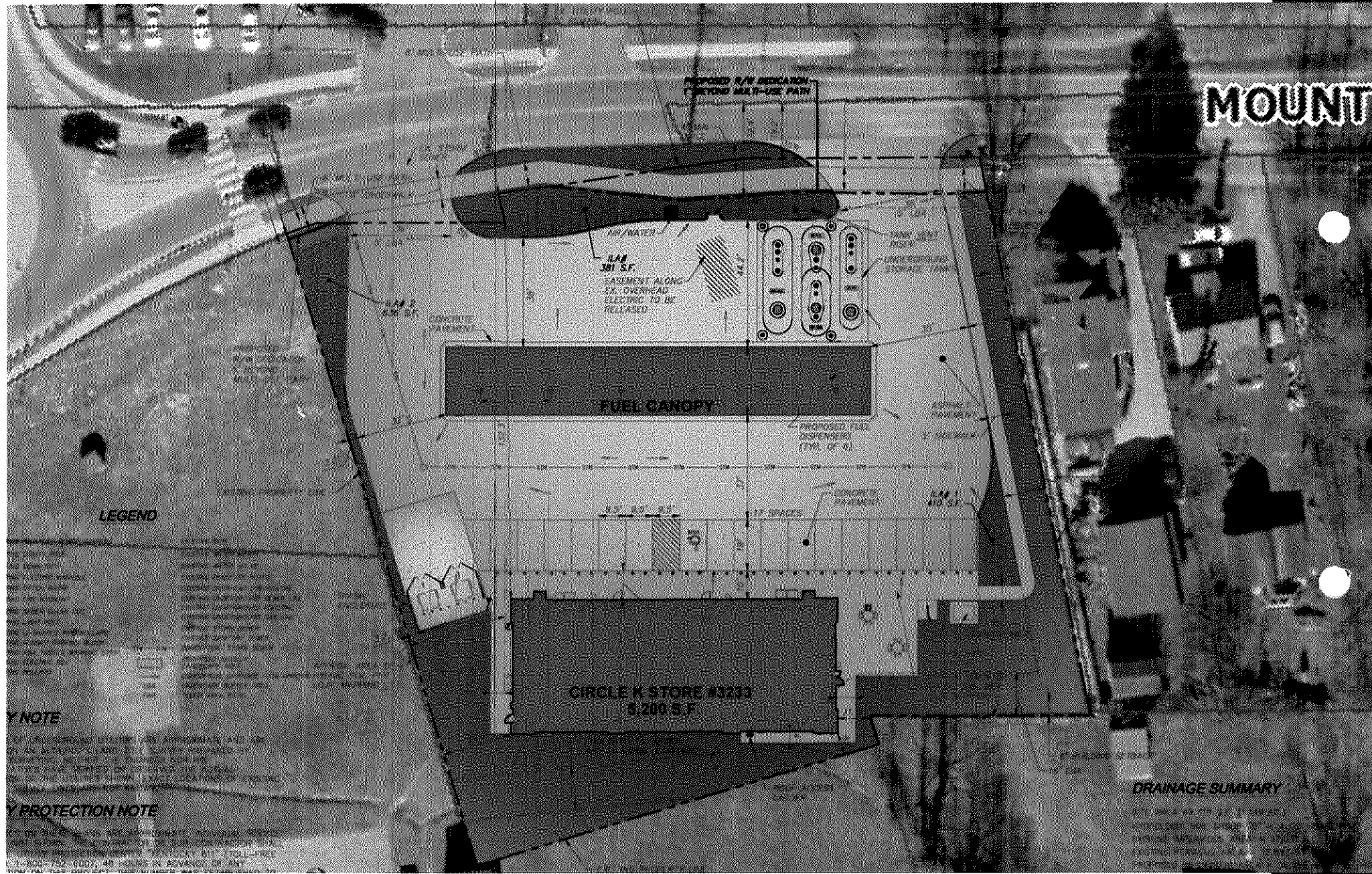
W. Manslick Road

Mitchell Hill Road

Google



**MOUNTAIN**



**LEGEND**

**CIRCLE K STORE #3233**  
5,200 S.F.

**DRAINAGE SUMMARY**

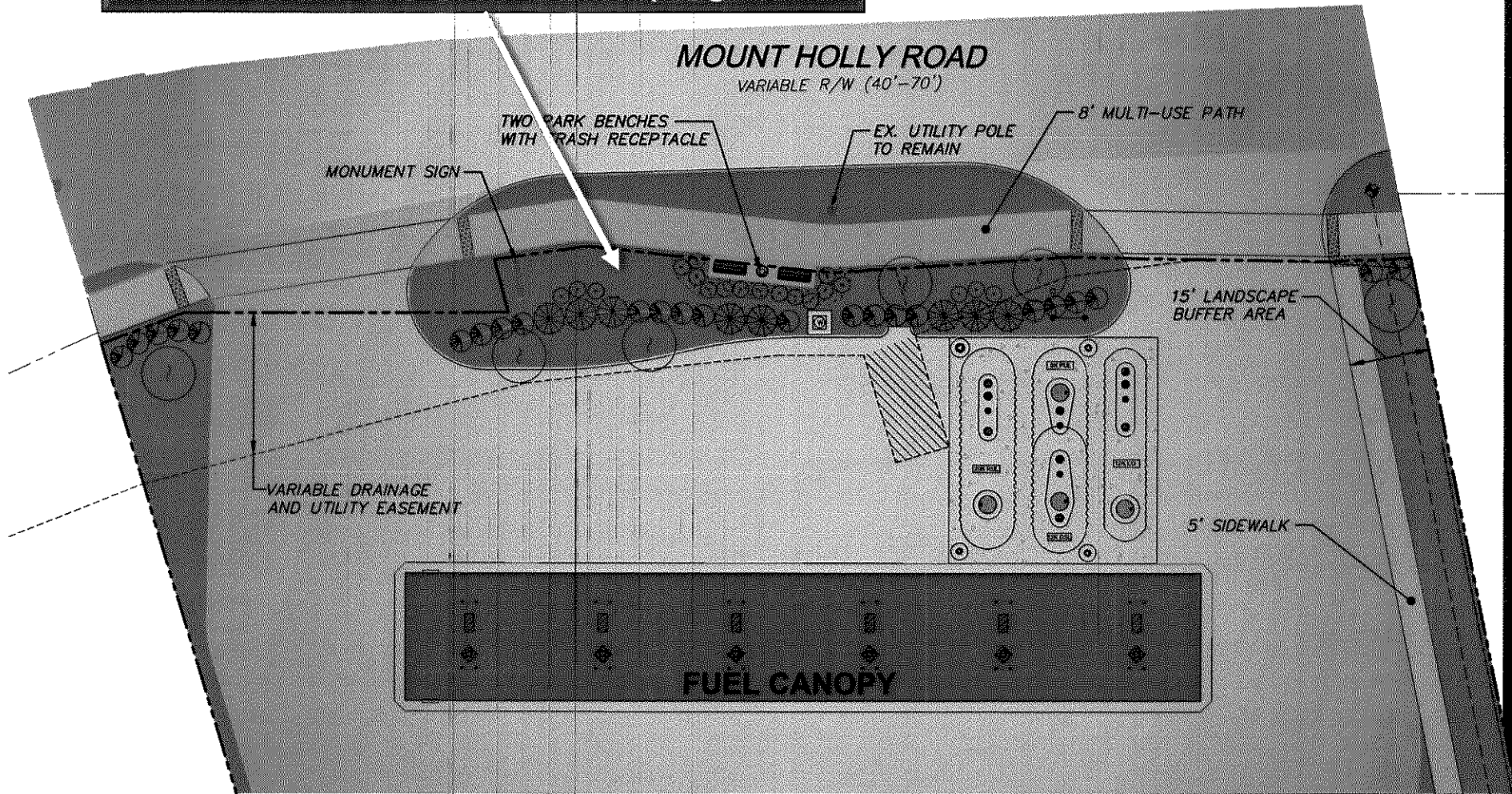
**NOTE**

**PROTECTION NOTE**





Shifted entire layout an additional 5 ft away from Mt. Holly Road adding 5 ft to the width of front landscaping island

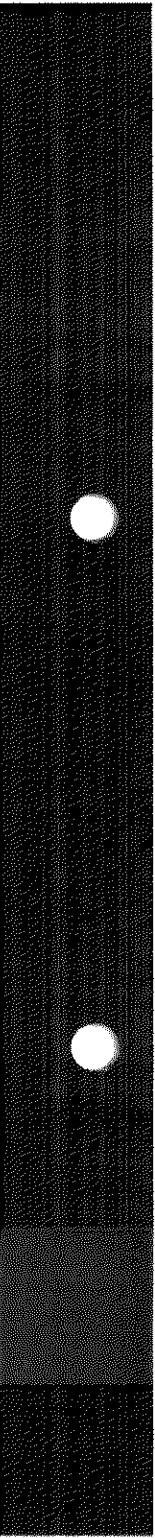


Added landscaping along multi-use path to enhance site connection to street and compliment "Fairdale Feel"



# Tab 6

# Building Elevations





Example of newly remodeled Circle K store



# LDC

## Chapter 8 Part 3 Permanent On-Premises Signs

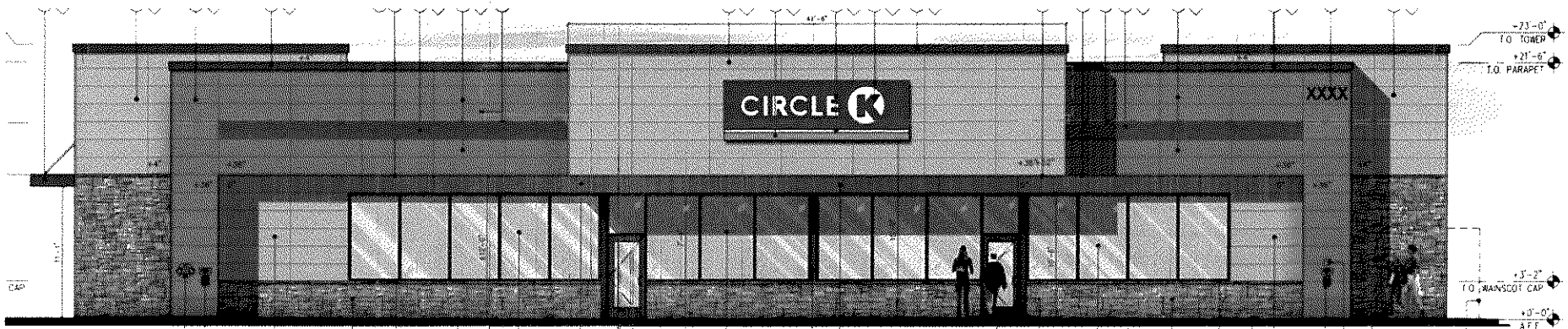
Table 8.3.2 Village

Table 8.3.2											
Form District	Land Use	Types of Signs Allowed	Attached Signs				Freestanding Signs				
			Façade Area	# per façade*	Sign Area	Mounting Height	Street Class	# per street**	Area/Height		
									1 Tenant	2-3 Tenants	4+ Tenants
Village (V or VC)	Institutional		NA	One (1)	5% of façade area not to exceed 60 S.F., 20% of façade	Below roof line or uppermost portion of parapet wall	Local	One (1)	24/4	48/6	64/8
			<500 S.F.	100 S.F. Plus 15% of façade area over 500 S.F.	32/6				56/8	72/10	
	Office, Commercial and Industrial	Attached and Freestanding	1,000 – 3,499 S.F.	Three (3)	5% of façade area over 1,000 S.F.	Arterial, 4 lanes or less	Arterial, 4 lanes or less	One (1)	48/6	72/8	88/10
			3,500 S.F. or greater	300 S.F.	300 S.F.				Arterial, more than 4 lanes	48/8	72/10

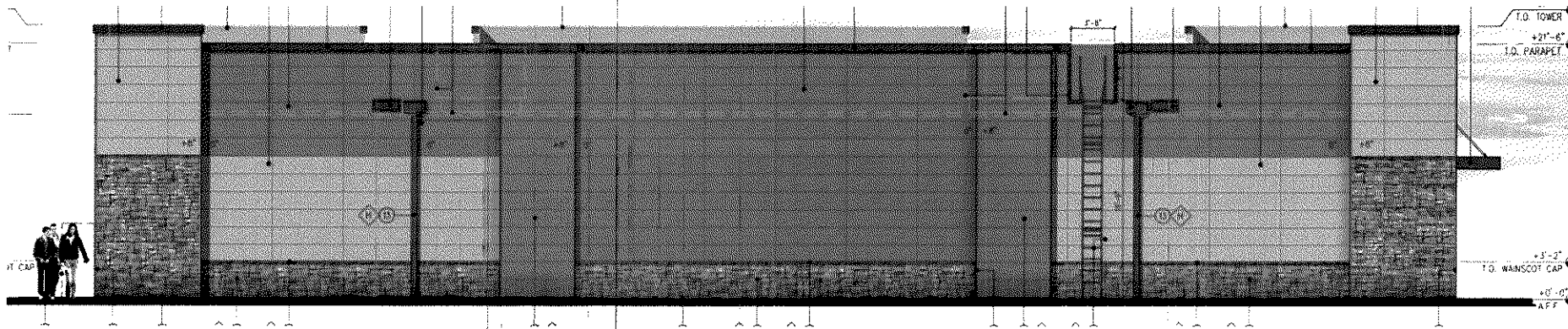
\*See Section 8.3.3 paragraph A.1 for discussion of number of attached signs for multi-tenant buildings.  
 \*\*See Section 8.3.3 paragraphs B.3 & 4 for multiple freestanding sign allowances.  
 Lanes refer to driving lanes, which include center turn lanes and medians; de-acceleration lanes are not included.

Anticipated style monument sign

# Front elevation (south)

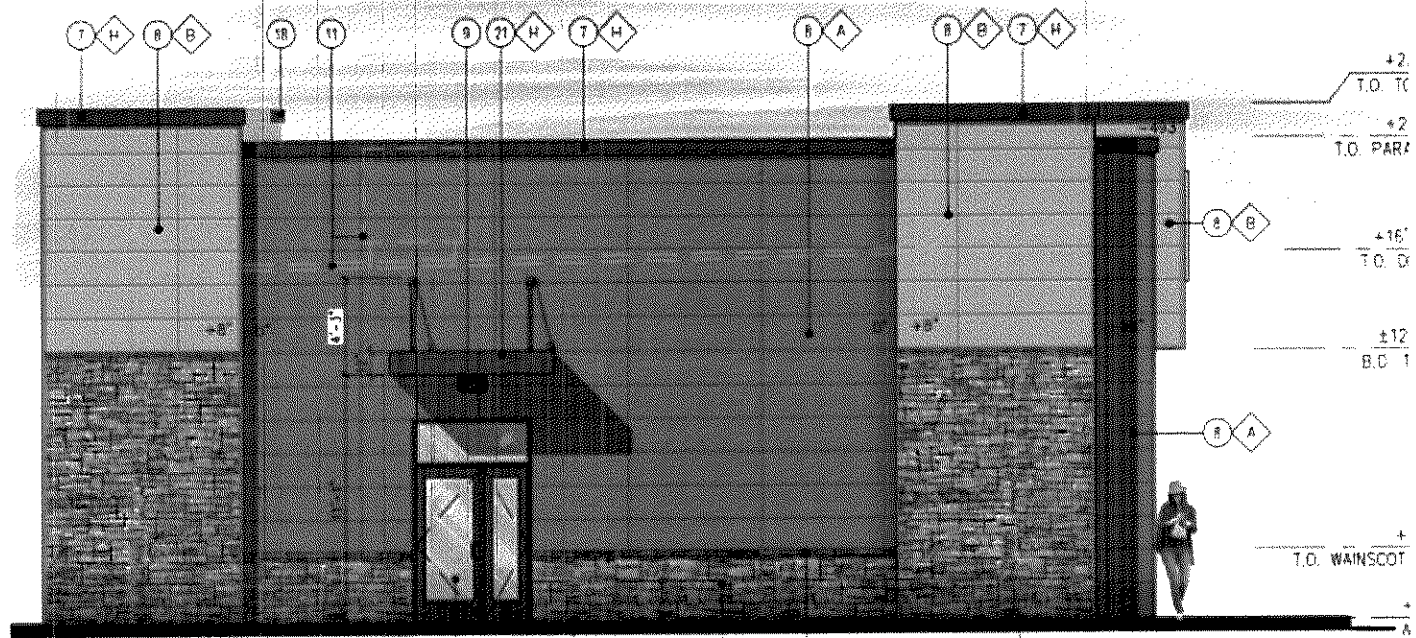


# Back elevation (north)

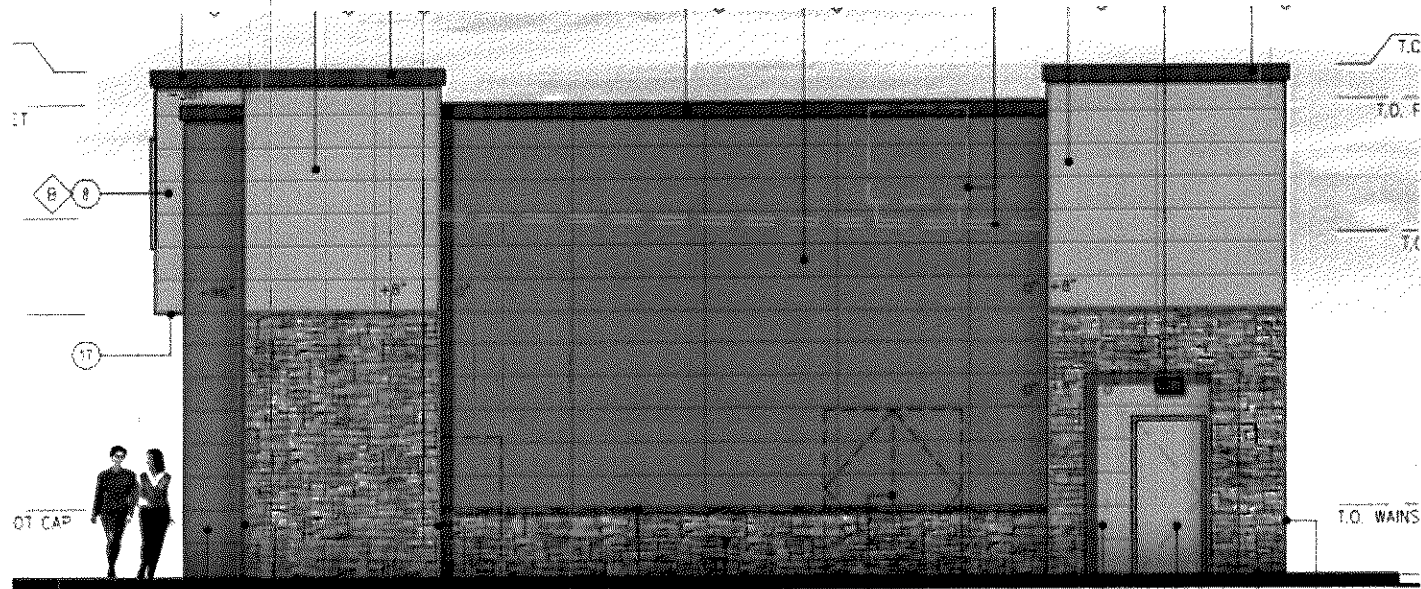




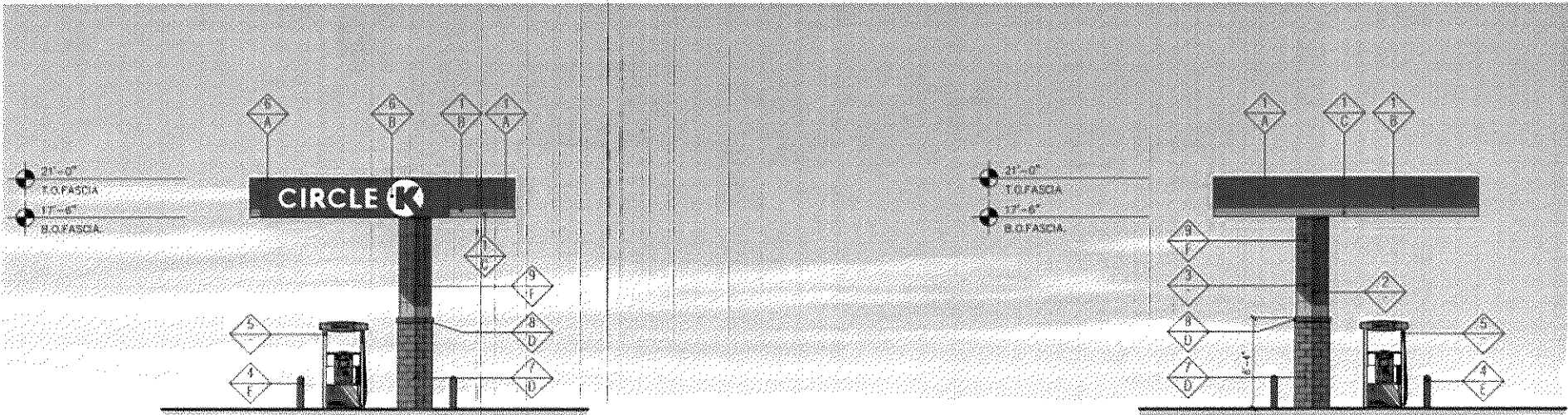
# Side elevation (west)



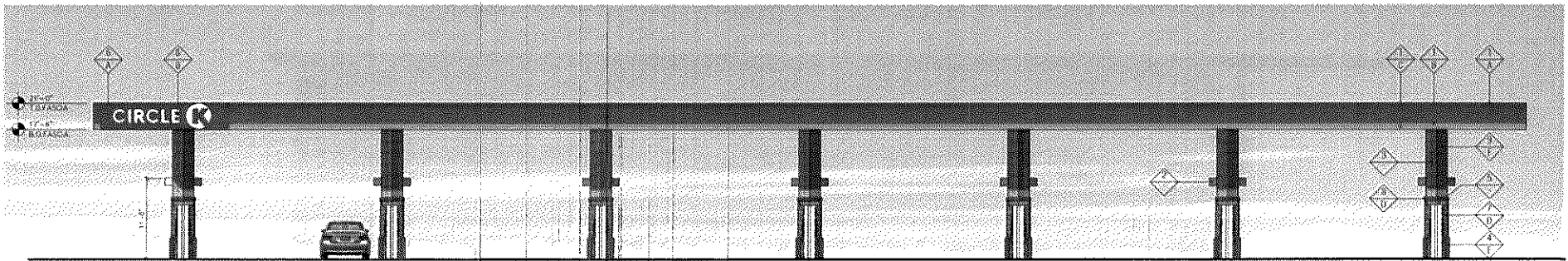
# Side elevation (east)



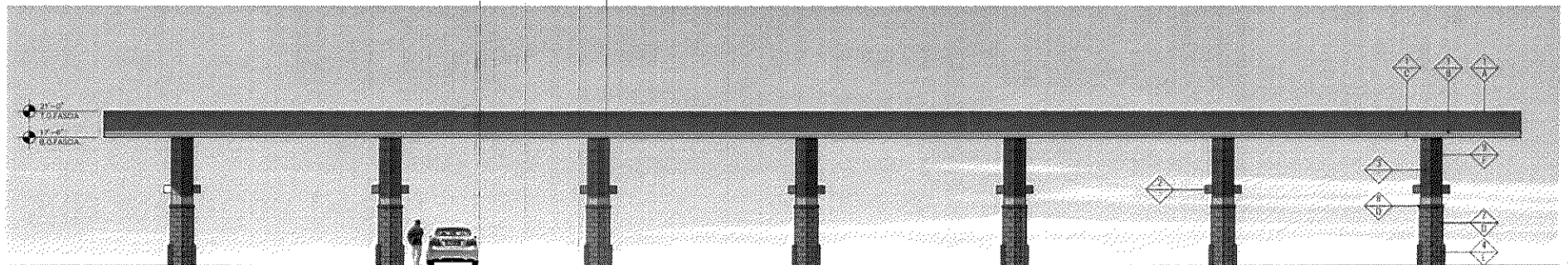
# Canopy Elevations - East/West



# Canopy Elevations - Front (south)



# Canopy Elevations - Rear (north)







Interior photograph of similar Circle K convenience store



Interior photographs of similar Circle K convenience store



Tab 7

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

# 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

## STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICES OF THE PLAN 2040 COMPREHENSIVE PLAN

Applicant/Owner: Mac's Convenience Stores, LLC

Location: 404/406 Mt. Holly Road

Proposed Use: Circle K Gas and Convenience Store

Engineers, Land Planners and  
Landscape Architects: Prism Engineering

Request: Change in Zoning from R-4 to C-1

### INTRODUCTION

This is a proposal to consolidate three lots and rezone one of the lots from R-4 to C-1 to allow the continued, but expanded use of the Circle K gas station/convenience store. Circle K has been operating at the site on two of the three lots for years, but it wants to invest in upgrading the facility to a modern store with better landscaping, materials, amenities, and quality of use more in keeping to the public investment in this area for the Fairdale Village Center roundabout intersection of Mt. Holly Road and Fairdale Road. The two existing lots Circle K currently uses are zoned C-2 and are pre-plan certain. The other lot, again which is currently used as a non-conforming barbeque restaurant, is zoned R-4 and is being sought to rezone it C-1. All three lots are in the Village Center Form District. The nonconforming barbecue restaurant which will be removed to allow the construction of a new and larger (5200 SF) Circle K gas station and convenience store on the combined 1.41 acre tract.

### COMMUNITY FORM

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

This proposal complies with Policies 2.1, 3.1.4, 4.1, 7, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20 and 23 for the following reasons. This is an investment in upgrading neighborhood serving uses (gas and convenience store) in the mix of uses appropriate for a small scale village center and encourages pedestrian and bicycle use that is compatible with the mix, scale and intensity of surrounding development. There is no displacement of residential uses and the building and dumpsters are located away (buffered and transitioned) from existing residential uses and has adequate infrastructure as it is located on a primary collector road. There will be no hazardous use, and noise and light emissions will comply with LMCO and LDC restrictions. Noise impacts in particular will be mitigated by locating the proposed dumpster adjacent to the fire station and away from residences to the south as well as the p.a. system will not be audible beyond the property line. In further support of the Community Form Policies, the Fairdale Village Center

plan states that *“Additional small businesses offering goods or services...would be excellent additions to the community.”* (p. 19). With respect to economic development, it also states *“Existing businesses provide neighborhood level services at present. AS THE POPULATION GROWS THESE BUSINESSES WILL EXPAND.”* (p. 23). This plan accounts for an expansion of a long term use of the Circle K gas/convenience store, and it also provides neighborhood level services, acting much like a corner grocery store to the area offering needed goods and services.

Land Development Code required height restrictions, interior and perimeter landscaping, minimum parking, maximum lighting and signage and most required setbacks (with only minimal variances or waivers) will also be met.

Also, as this proposed commercially zoned site is just a short drive the growing commercial activity center nearby to the round-a-bout, and a very short distance from the Fairdale Elementary School and Fairdale Library, travel distances for purposes of shopping are reduced, with a centrally placed gas/convenience store for the drivers utilizing the area, reducing miles driven and contributing to improved air quality.

The quality siding components, more muted color scheme, and style and design of this new store assures compatibility with and improvement on the general quality of construction in the area. Plus landscaping, screening, buffering and multi-use path beyond the bare minimums help assure appropriateness for the Fairdale area and compatibility with adjoining commercial and residential uses.

Additionally, converting these three sites to “plan certain” will provide assurances to the area that the centrally located site does not result in a brand new, and much less desirable use and design permitted in the C-2 district, particularly since the entire three lots will be utilizing only a C-1 use.

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

The proposal complies with Policies 1, 2, 3, 4, 5, 6, 7, 8, 9 and 13 for the reasons set forth below. The site is an expansion of an existing use in an existing activity center providing neighborhood goods and services with a sufficient support population and appropriate access and connectivity with a compact pattern of development. The placement and design of the building is appropriate considering the traditional and ubiquitous design of gas/convenience stores. The Fairdale Village Center Plan, Big Idea #9 Design Standards recommends that buildings be close and oriented to the street and parking located to the rear. The Plan’s illustrations and examples all relate to retail shops and offices along the street side sidewalk. This orientation is wholly impractical for the proposed gas station use and such a design for one cannot be found anywhere in Metro Louisville. Such an unusual site configuration would compromise the safety and security of the operations because it would require two public entrances (at the front facing Mt. Holly Road and in the rear facing the parking field). The safety and maneuverability of the fuel delivery trucks would be compromised, constrained and likely unable to navigate at all, certainly not safely.

Goal 3: Encourage neighborhoods by protecting and integrating open space, watersheds and other natural resources.



This proposal complies with Policies 5, 8, 9, 10 and 12 because there are no natural features, karst terrain, slopes, flood prone areas or hydric soils on the site.

Goal 4: Promote and preserve the historic and archeological resources that contribute to our authenticity.

The proposal complies with Policies 1 and 2 because there are no historic assets or distinctive cultural features evident on the site, with the possible exception of a former structure underneath the existing barbecue restaurant. The structure has been modified and comprised such that it no longer has any historical value.

### **MOBILITY**

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

This proposal complies with Policies 1, 3 and 4 as the site will provide not just an 5-foot sidewalk, but will provide an 8-foot multi-use trail along Mt. Holly Road to facilitate connections through the Village Center, connecting for the planned "Louisville Loop" and to another major attraction in the area, i.e., Jefferson Memorial Forest. A bicycle rack will be provided on site which is located in an existing activity center.

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

This proposal complies with Policies 2 and 4 because the plan provides an 8-foot multi-use path along Mt. Holly Road, a primary collector. There are no current or proposed TARC routes accessible to the site.

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

This proposal complies with Policies 5, 6 and 9 to the extent it is within its power to do so. Transportation Planning is still reviewing the proposal. There are currently no TARC routes along Mt. Holly Road. The plan does provide a multi-use path along its frontage of a collector level roadway. There are no new roadway improvements proposed or required.

### **COMMUNITY FACILITIES**

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

This proposal complies with Policies 1, 2 and 3 because existing utilities are and have long been available to the site, including potable water and water for sewer services. Fairdale Elementary School is located a short distance away. A fire station is located next to the property and a Public library and park are located in the heart of Fairdale.

### **ECONOMIC DEVELOPMENT**

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

The only applicable Policy is Policy 3 which recommends locating commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, OR AT A LOCATION WITH ADEQUATE ACCESS TO A MAJOR ARTERIAL AND LOCATIONS WHERE NUISANCES AND ACTIVITIES OF THE PROPOSED USE WILL NOT ADVERSELY AFFECT ADJACENT AREAS. (Emphasis added.) Although the site is located at the intersection of two primary collectors, it is an expansion of a pre-existing use that has operated without negative impacts, nuisances or complaints for many years. The nearest arterial is at National Turnpike, a minor arterial, which directly connected to Fairdale Road and East Manslick Road (another primary collector) directly connecting to the only major arterial in Fairdale, the Gene Snyder Freeway. As Louisville Metro's population continues to grow, so does demand for all types of services such as is provided in this plan. This proposed improvement and expansion of a current use is part of a developer/owner response to that demand, and as such both stabilizes and offers increased opportunities for employment and tax base for the City.

### LIVABILITY

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

This proposal complies with Policies 4, 5, 17, 21 and 24 because the site is not proposed for industrial zoning and is not located near the Ohio River or the airport and does not contain karst terrain or a regulatory floodplain.

### HOUSING

Goal 1: Expand and ensure a diverse range of housing choices.

This proposal complies with Policy 1 because it supports aging in place by increasing the variety of neighborhood-serving goods and services in the immediate area. The expanded convenience store will provide a wider variety and choice of groceries, household goods and services.

Goal 2: Facilitate the development of connected mixed-use neighborhoods.

This proposal complies with Policies 1 and 2 because it permits inter-generational, mixed-income and mixed use development connected to the surrounding area and provides amenities in the provision of goods and services in proximity to housing. Two of the three subject parcels are currently zoned C-2. The third R-4 parcel is proposed to allow the same use with C-1 zoning. It has been used commercially for years and is not appropriate for single family development.

Goal 3: Ensure long-term affordability and livable options in all neighborhoods.

This proposal complies with Policies 2 and 3 because no existing residents will be displaced since the R-4 tract has been used commercially for many years and provides goods and services in close proximity to residential development surrounding this existing activity center.

\* \* \*

For all of these and other reasons set forth on the Detailed District Development 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 Plan 2040 Comprehensive Plan.

Respectfully submitted,

---

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

Client/Circle K/Mt. Holly/Application – Comp Statement Plan 2040  
JTR Rev. 8/25/2020 2:53 PM



## Tab 8

Proposed findings of fact pertaining to compliance with the 2040 Plan and Waiver criteria

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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

Applicant/Owner: Mac's Convenience Stores, LLC

Location: 404/406 Mt. Holly Road

Proposed Use: Circle K Gas and Convenience Store

Engineers, Land Planners and  
Landscape Architects: Prism Engineering

Request: Change in Zoning 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 January 7, 2021 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

**WHEREAS**, this is a proposal to consolidate three lots and rezone one of the lots from R-4 to C-1 to allow the continued, but expanded use of the Circle K gas station/convenience store; Circle K has been operating at the site on two of the three lots for years, but wants to invest in upgrading the facility to a modern store with better landscaping, materials, amenities, and quality of use more in keeping to the public investment in this area for the Fairdale Village Center roundabout intersection of Mt. Holly Road and Fairdale Road; the two existing lots Circle K currently uses are zoned C-2 and are pre-plan certain; the other lot, currently used as a non-conforming barbecue restaurant, is zoned R-4 and is being sought to rezone it C-1; all three lots are in the Village Center Form District; and the non-conforming barbecue restaurant will be removed to allow the construction of a new and larger (5200 SF) Circle K gas station and convenience store on the combined 1.41 acre tract; and

**WHEREAS**, this proposal complies with Community Form Goal 1 and Policies 2.1, 3.1.4, 4.1, 7, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20 and 23 for the following reasons: this is an investment to upgrade neighborhood serving uses (gas and convenience store) in the mix of uses appropriate for a small scale village center which encourages pedestrian and bicycle uses compatible with the mix, scale and intensity of surrounding development; there is no displacement of residential uses and the building and dumpsters are located away (buffered and transitioned) from existing residential uses and has adequate infrastructure as it is located on a primary collector road; there will be no hazardous use, and noise and light emissions will comply with LMCO and LDC restrictions; noise impacts in particular will be mitigated by locating the proposed dumpster adjacent to the fire station and away from residences to the south as well as the p.a. system will not be audible beyond the property line; in further support of the Community Form Policies, the Fairdale Village Center plan states that "Additional small businesses offering goods or services...would be excellent additions to the community." (p. 19); with respect to economic development, it also states

*“Existing businesses provide neighborhood level services at present. AS THE POPULATION GROWS THESE BUSINESSES WILL EXPAND.”* (p. 23); this plan accounts for an expansion of a long term use of the Circle K gas/convenience store, and also provides neighborhood level services, acting much like a “corner grocery store” to the area offering needed goods and services; and

**WHEREAS**, Land Development Code required height restrictions, interior and perimeter landscaping, minimum parking, maximum lighting and signage and most required setbacks (with only minimal variances or waivers) will also be met; and

**WHEREAS**, also, as this proposed commercially zoned site is just a short distance from the growing commercial activity center nearby to the round-a-bout, and very close to the Fairdale Elementary School and Fairdale Library, thus travel distances for purposes of shopping are reduced, with a centrally placed gas/convenience store, reducing vehicle miles traveled and contributing to improved air quality; and

**WHEREAS**, the quality siding components, more muted color scheme, and style and design of this new store assures compatibility with and improvement to the general quality of construction in the area; plus landscaping, screening, buffering and multi-use path exceeding the bare minimums which assures appropriateness for the Fairdale area and compatibility with adjoining commercial and residential uses; and

**WHEREAS**, converting these three tracts to “plan certain” will ensure that this site does not result in a new, much less desirable uses and design otherwise permitted in the C-2 district, particularly since the entire three tracts will be utilizing only a C-1 use; and

**WHEREAS**, the proposal complies with Community Form Goal 2 and Policies 1, 2, 3, 4, 5, 6, 7, 8, 9 and 13 for the reasons set forth below; the site is an expansion of an existing use in an existing activity center providing neighborhood goods and services with a sufficient support population and appropriate access and connectivity with a compact pattern of development; the placement and design of the building is appropriate considering the traditional and ubiquitous design of gas/convenience stores; the Fairdale Village Center Plan, Big Idea #9 Design Standards recommends that buildings be close and oriented to the street and parking located to the rear; the Plan’s illustrations and examples all relate to retail shops and offices along the street side sidewalk; this orientation is wholly impractical for the proposed gas station use and such a design cannot be found anywhere in Metro Louisville; such an unusual site configuration would compromise the safety and security of the operations because it would require two public entrances (at the front facing Mt. Holly Road and in the rear facing the parking field); the safety and maneuverability of the fuel delivery trucks would be compromised, constrained and unable to safely navigate the site; and

**WHEREAS**, this proposal complies with Community Form Goal 3 and Policies 5, 8, 9, 10 and 12 because there are no natural features, karst terrain, slopes, flood prone areas or hydric soils on the site; and

**WHEREAS**, the proposal complies with Community Form Goal 4 and Policies 1 and 2 because there are no historic assets or distinctive cultural features evident on the site, with the possible exception of a former structure underneath the existing barbecue restaurant; and the structure has



been modified and comprised such that it no longer has any historical value; notice of its demolition was provided in compliance with LMCO 150.110; and

**WHEREAS**, the Fairdale Village Center Plan notes in its “Existing Conditions” that there are limited bike path connections (p. 13), this proposal complies with Mobility Goal 1 and Policies 1, 3 and 4 as the site will provide not just an 5-foot sidewalk, but will provide an 8-foot multi-use trail along Mt. Holly Road to facilitate connections through the Village Center, connecting for the planned “Louisville Loop” and the Jefferson Memorial Forest which addresses Big Idea #4 (p. 39); and a bicycle rack will be provided on site which is located in an existing activity center; and

**WHEREAS**, the Fairdale Village Center Plan Big Idea #1 state that “The first priority for improving the streetscape is to complete this sidewalk network” and this proposal complies with Mobility Goal 2 and Policies 2 and 4 because the plan includes an 8-foot wide multi-use path along Mt. Holly Road, a primary collector; and there are no current or proposed TARC routes accessible to the site; and

**WHEREAS**, this proposal complies with Mobility Goal 3 and Policies 5, 6 and 9 to the extent it is within its power to do so; Transportation Planning has preliminarily approved the proposal; there are currently no TARC routes along Mt. Holly Road; the plan does provide a multi-use path along its frontage on a collector level roadway; and there are no new roadway improvements proposed or required; and

**WHEREAS**, this proposal complies with Community Facilities Goal 2 and Policies 1, 2 and 3 because existing utilities are and have long been available to the site, including potable water and water for sewer services; Fairdale Elementary School is located a short distance away; and a fire station is adjacent to the property, and a Public library and park are located in the heart of Fairdale; and additionally addresses the Fairdale Village Center Plan Big Idea #6 in providing landscaping, benches and a multi-use path, which improvements will be maintained by the developer rather than Metro or KYTC (p. 47); and

**WHEREAS**, with respect to Economic Development Goal 1, the only applicable Policy is Policy 3 which recommends locating commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, OR AT A LOCATION WITH ADEQUATE ACCESS TO A MAJOR ARTERIAL AND LOCATIONS WHERE NUISANCES AND ACTIVITIES OF THE PROPOSED USE WILL NOT ADVERSELY AFFECT ADJACENT AREAS (Emphasis added); although the site is located at the intersection of two primary collectors, it is an expansion of a pre-existing use that has operated without negative impacts, nuisances or complaints for many years; the nearest arterial is at National Turnpike, a minor arterial, which directly connects to Fairdale Road and East Manslick Road (another primary collector) directly connecting to the only major arterial in Fairdale, the Gene Snyder Freeway; as Louisville Metro’s population continues to grow, so does demand for all types of services such as is provided in this plan; and this proposed improvement and expansion of a current use is part of a developer/owner response to that demand, and as such both stabilizes and offers increased opportunities for employment and tax revenue for Metro Louisville; and

**WHEREAS**, this proposal complies with Livability Goal 1 and Policies 4, 5, 17, 21 and 24 because the site is not proposed for industrial zoning and is not located near the Ohio River or the airport and does not contain karst terrain or a regulatory floodplain; and

**WHEREAS**, the proposed plan satisfies the Fairdale Village Center Plan Big Idea #10 Civic Campus (p. 63) as it provides its specific elements, including safe pedestrian connections, landscaped parking lot and upgraded signage; and

**WHEREAS**, this proposal complies with Housing Goal 1 and Policy 1 because it supports aging in place by increasing the variety of neighborhood-serving goods and services in the immediate area; the expanded convenience store will provide a wider variety and choice of groceries, household goods and services; and

**WHEREAS**, this proposal complies with Housing Goal 2 and Policies 1 and 2 because it permits inter-generational, mixed-income and mixed use development connected to the surrounding area and offers amenities in the provision of goods and services in proximity to housing; two of the three subject parcels are currently zoned C-2; the third R-4 parcel is proposed to allow the same use with C-1 zoning; and it has been used commercially for years and is not appropriate or feasible for single family development; and

**WHEREAS**, this proposal complies with Housing Goal 3 and Policies 2 and 3 because no existing residents will be displaced since the R-4 tract has been used commercially for many years and the plan provides goods and services in close proximity to residential development surrounding this existing activity center;

\* \* \*

**WHEREAS**, for all the reasons explained at LD&T and the Planning Commission public hearing, the public hearing exhibit books and the approved detailed district development plan, this application also complies with all other applicable Goals of the 2040 Plan;

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

### **Variance Findings of Fact**

Variance of Section 5.1.12 to allow the proposed building to be setback beyond the setback allowed by infill standards, and allow the proposed building height to exceed the height allowed by infill standards.

**WHEREAS**, the variance will not adversely affect the public health, safety or welfare because this is an aesthetic code requirement; there is no evidence that the extra setback at this location will cause any traffic or other safety problems; indeed the opposite would occur if safe and convenient access and internal circulation were not provided; and in addition, the proposed replacement building is in basically the same orientation but approximately 40 ft back on the lot as the original building where it has been without any adverse effects on neighbors; and

**WHEREAS**, the variance will not alter the essential character of the general vicinity this is an aesthetic code requirement; also, the existing building is outdated, which is proposed to be replaced with a new and improved building with the design aimed to be compatible with the Fairdale Village Center Plan to the extent possible given the nature of fuel stations and their specific needs for safe maneuvering on the site; and landscaping along Mt. Holly Road will mitigate the lack of a storefront adjacent to the roadway; and

**WHEREAS**, the variance will not cause a hazard or a nuisance to the public because this is an aesthetic code requirement and the proposed building location is similar to existing conditions; because of the reasons set forth above, notably the fact that the existing points of access and circulation shall remain with an added improvement to internal circulation with safe pedestrian access ensures there will not be a hazard or nuisance to the public; and compliance with which will make the investment in the property infeasible; and

**WHEREAS**, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this is an aesthetic code requirement, and because this design will result in an improvement of the existing building and current parking layout; and

**WHEREAS**, the Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this is an aesthetic code requirement that should not apply to this type of use; and there is no fueling station in Metro Louisville that complies with this requirement; and

**WHEREAS**, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this is an aesthetic code requirement, and because the expanded gas station and convenience store simply could not be accommodated on this site without these variances; and

**WHEREAS**, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are a result of a constrained site based on size and location and is an existing condition; and

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



### **Variance Findings of Fact**

Variance of Section 5.1.12 to allow the proposed building height to exceed the height allowed by infill standards.

**WHEREAS**, the variance will not adversely affect the public health, safety or welfare because this is an aesthetic code requirement; there is no evidence that the extra setback at this location will cause any traffic or other safety problems; indeed the opposite would occur if safe and convenient access and internal circulation were not provided; in addition, the proposed replacement building is in basically the same orientation but approximately 40 ft back on the lot as the original building where it has been without any adverse effects on neighbors; and

**WHEREAS**, the variance will not alter the essential character of the general vicinity this is an aesthetic code requirement; also, the existing building is outdated, which is proposed to be replaced with a new and improved building with the design aimed to be compatible with the Fairdale Village Center Plan to the extent possible given the nature of fuel stations and their specific needs for safe maneuvering on the site; and landscaping along Mt. Holly Road will mitigate the lack of a storefront adjacent to the roadway; and

**WHEREAS**, the variance will not cause a hazard or a nuisance to the public because this is an aesthetic code requirement and the proposed building location is similar to existing conditions; because of the reasons set forth above, notably the fact that the existing points of access and circulation shall remain with an added improvement to internal circulation with safe pedestrian access ensures there will not be a hazard or nuisance to the public; and compliance with which will make the investment in the property infeasible; and

**WHEREAS**, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this is an aesthetic code requirement, and because this design will result in an improvement of the existing building and current parking layout; and

**WHEREAS**, the Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this is an aesthetic code requirement that should not apply to this type of use; and there is no fueling station in Metro Louisville that complies with this requirement; and

**WHEREAS**, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this is an aesthetic code requirement, and because the expanded gas station and convenience store simply could not be accommodated on this site without these variances; and

**WHEREAS**, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are a result of a constrained site based on size and location and is an existing condition;

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

### **Waiver Findings of Fact**

Waiver of Section 10.2.4 to allow the proposed building to encroach into the required property perimeter buffer at the southeast corner of the building.

**WHEREAS**, the waiver will not adversely affect adjacent property owners because the property use to the rear of the building is the Fairdale Fire Protection District facility whose operations would in no way be affected by this waiver; the single family residential use to the east of the site is a deep lot (202.6') which fronts on Morgan Avenue and the rear of the residence is 80.29' from the small area (10.43') that abuts the shared property line; and the building had to be shifted in order to relocate the proposed dumpsters away from the residential use which mitigates their location from adversely affecting that property; 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 Plan 2040 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 this encroachment into the LBA is the minimum required for the new gas and convenience store to locate on the property to provide the required parking, dumpster location, and site constraints which provides an updated modern facility to serve this area of Fairdale; 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 without the waiver, the existing gas station and convenience store could not be updated and rebuilt;

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

**Waiver Findings of Fact**

Waiver of Section 10.2.4.B.3 to allow the existing utility easement along Mt. Holly Road to encroach into the required Landscape Buffer Area more than 50%.

**WHEREAS**, the waiver will not adversely affect adjacent property owners because this particular Waiver is along the Mount Holly Road where no other residential, commercial or industrial users exist that might conceivably be adversely impacted; furthermore, the design of the site and aesthetic protective screening provided in this area should be sufficient to mitigate any other possible impacts; 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 Comp Plan 2040 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 it will allow the configuration of improvements on the site without having to change the configuration/location of the main primary collector road to the north of this site; 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, as said above, it would likely otherwise have to change or adjust the location of the referenced collector road to the east of this site, the expense of which would make this project infeasible;

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



### **Waiver Findings of Fact**

Waiver of Section 5.9.2.A.1.b.ii to omit the vehicular and pedestrian circulation required between abutting non-residential uses between their sites, through parking lot or alley connection, hard surface walkways and similar measures.

**WHEREAS**, the waiver will not adversely affect adjacent property owners because of the proposed gas station/convenience store use and site layout make this requirement inappropriate; in this situation, providing a vehicular and pedestrian connection to the undeveloped property to the west is not practical due to the fact that the 0.29 acre tract owned by GSD Petroleum abutting Mt. Holly Road is a remnant created by the acquisition of right of way for the round-about which has no curb cut and has an existing sidewalk across the front of the site; so providing a vehicular connection would serve no purpose and the Mt. Holly sidewalk does provide a pedestrian connection between the two properties; a vehicular and pedestrian connection to the Fairdale Fire Protection District to the west would create a hazardous condition of commercial traffic potentially interfering with the ingress and egress of fire and emergency service operations; and a vehicular and pedestrian connection to the property to the east would actually have a potentially adverse effect to that property due to the fact that it is a property zoned and used as a single family residence in violation of Plan 2040 Mobility Goal 2, Policy 4; 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 Plan 2040 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 any connection to either property (the western properties or the eastern property) would result in the potential of cut through commercial traffic or the mixing of passenger vehicles and emergency service vehicular traffic; pedestrian connectivity is available long the Mt. Holly sidewalk; and therefore, a complete waiver request is the minimum that is practical; 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 given that the connection would not serve the purpose intended by the regulation and are undesired by the adjoining property owners; and provision of such access to the west would also require the elimination of interior landscaping and parking spaces; and

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

### **Waiver Findings of Fact**

Waiver of Section 5.5.1.A.5 to allow the proposed fuel canopy to be located between the principal structure and the public street, and to allow drive lanes between the maximum setback line and building; to allow refuse collection area to be visible from the street, and to waive the requirements for vehicular and pedestrian connections to abutting development.

**WHEREAS**, the waiver will not adversely affect adjacent property owners because no new impacts are proposed, except that, to the extent that the new store slightly deeper into the site could conceivably affect residential buildings to the south although fencing and landscaping are added along adjoining property lines to mitigate adverse impacts, if any; safety and security require that the canopy and pumps be visible at all times from the store as well as to permit sufficient maneuvering for the fuel trucks as mandated by federal regulations; access to the abutting properties is not pursued as this would connect to a fire station or existing single-family development which would be unsafe and actually cause a hazard and nuisance to the public; and pedestrian access to the site is being provided by the 8 foot wide multi-use path along Mt. Holly Road; 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 Comp Plan 2040 filed with the rezoning application; and as a re-build of an as-built location, the only new 2040 Plan Guidelines and Policies of consequence are those pertaining to building design, landscaping and screening, all of which are being improved; and

**WHEREAS**, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because as stated, this is an as-built condition that is being improved with a new building, some designated parking spaces and added screening and landscaping; therefore, retaining the rest of the site in its mostly current condition is not adding to non-compliance with the Land Development Code, but rather, if anything, the partial re-build and site improvements bring the plan into better compliance with the Land Development Code and the Plan 2040 Comprehensive Plan; and

**WHEREAS**, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would not demolish everything that presently exists, such as the pump and canopy locations; if this waiver and the related waiver and variance applications were denied, the applicant would devote its limited financial resources to improving stores elsewhere, not here, because a complete re-do of the entire site would make these improvements to the site financially infeasible;

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