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PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE2020 COMPREHENSIVE PLAN

Applicant: Houchens Industries

Owner: JR Food Stores, Inc.

Location: 5501 Lovers Lane and 5502 Billtown Road

Proposed Use: Grocery, fuel pumps, hardware store & 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 October 20, 2016 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 with fewer fuel pumps than at Houchens' first Crossroads IGA store in this market, which is at US 60 and Beckley Station Road; and there will be 4 pump locations with canopy at this site; and

WHEREAS, the site is already mostly zoned C-1 with a small sliver requiring C-1 zoning as well; without that small addition to the current C-1 zoning, the pre-"Plan Certain" site could be developed after a ministerial, not discretionary, review; and the only thing that would be lost would be the internal Ace Hardware component; the site is also surrounded by other C-1 and C-2 undeveloped pre-"Plan Certain" properties; and it is also the subject of a partial KTC acquisition for the Billtown Road widening, which includes a redesigned intersection of Lovers Lane and Billtown Road to provide for better turning movements and improved safety; and

GUIDELINE 1 – COMMUNITY FORM

WHEREAS, the application complies with the Suburban Neighborhood Form District description of an area characterized by *predominantly* residential uses but that also includes, at

appropriate locations, a mixture of uses, such as offices, retail shops, restaurants and services so long as these uses are at a scale appropriate for the nearby neighborhoods; 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 the land is already mostly zoned commercial as explained above and has utilities located nearby; it also is located where a small retail center can be developed in close proximity to residential communities, thus reducing commuting time and transportation-related air pollution; and with the diversity of goods and services in close proximity to residential housing, including a patio home community almost directly across Lovers Lane, this small grocery-anchored center adds to the vitality and sense of place among the mostly disconnected nearby neighborhoods, some of whose residents will be able to walk to this grocery; and

WHEREAS, as an “activity center”, it is appropriately located at the intersection of a collector and arterial street and is designed to be of intensity, density, size and mix of uses appropriate for a small neighborhood center; and everything within this small center is compact, and it includes four uses: a grocery, a hardware store, 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 neighborhood serving retail center; it will have the look and feel of the store already built at US 60 and Beckley Station Road; acceptable elevation renderings were shown at the Planning Commission hearing on this application; odors will be contained within the building, especially given that the type restaurant will be a small fast casual type; noise will not be a late evening/over night factor given that the store will 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 90 degree cut-off at property lines; transitions to adjoining properties on the south and west sides are to other already-zoned commercial properties; landscaping, screening and buffering on all sides will meet LDC requirements; 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, as set forth above, this property, like those to the south and west of it, are already commercially zoned as pre-“Plan Certain” sites; because of the small sliver of this site that requires rezoning, that puts this review into the discretionary category and, as a consequence thereof, essentially mandates that this applicant “up its game”, so to speak; that means that it will be a high quality, neighborhood compatible activity center designed; it is located close to fairly intense residential populations the length of Billtown Road from Jeffersontown to the Snyder Freeway and along collector-level streets connecting with Billtown

Road, such as Lovers Lane and Fairground Road; and absent this rezoning application, this already mostly commercially zoned site could be developed and reused without virtually any public review and opportunity to be heard; and

**GUIDELINE 7 AND 8 – CIRCULATION AND TRANSPORTATION FACILITY
DESIGN**

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 and Policies 1, 4, 5, 7, 9, 10 and 11 of Guideline 8 because, as mentioned above, Billtown Road is slated for near-term reconstruction to add a center turn lane; this will move traffic much more efficiently along this very busy, peak-hour heavy arterial roadway; that is because what slows traffic and creates congestion are left-hand turns, not from the center turn lane; also, the intersection of Billtown Road and Lovers Lane is expected to be a signalized one after Lovers Lane is straightened out utilizing land acquired from this property owner; furthermore, 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; the latter required a review of the detailed district development plan (DDDP) submitted with this application prior to time of LD&T and Planning Commission public reviews, or this application would not have been publicly heard; that review and preliminary stamp of approval assured that Transportation Planning and Public Works standards for corner clearances, access, connectivity, internal circulation and parking minimums were all satisfied; and additional right-of-way is under contract to purchase by KTC for purposes of the Lovers Lane/Billtown Road intersections improvements; and

GUIDELINE 9 - BICYCLE, PEDESTRIAN AND TRANSIT

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 3 and 4 of this Guideline because, bike racks and sidewalks will be provided as required; and

GUIDELINES 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, a detention basin is shown on the DDDP, in compliance with MSD's standards for storm water management; accordingly, post-development rates of runoff will not exceed pre-development conditions; and MSD reviewed the storm water management plan and gave its 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; and

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 neighborhood center in close proximity to a large residential support population, notably along an already busy arterial road at its intersection with a busy collector level road, not only will vehicle miles traveled be reduced, but also customers already driving these road systems will be able to pop in and pop out of this center without having to travel greater distances for the exact same services; 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; but as stated above, landscaping, screening and buffering will exceed LDC requirements, as promised neighbors at the neighborhood meeting; and

* * * * *

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books and 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 from Table 5.3.2 allow vehicle maneuvering to encroach into the 30 ft setback along the south eastern property line.

WHEREAS, this variance will not adversely affect the public health, safety or welfare because the applicant will install and 8 ft high vinyl privacy fence in this area with landscaping and take other mitigation measures so as not to adversely affect the adjoining property; and

WHEREAS, this variance will not alter the essential character of the general vicinity because this property is already almost entirely zoned for this use; it is a pre-“Plan Certain” site, meaning that it could be developed without a discretionary review in a less attractive, more impactful way but for the small amount of additional rezoning requested plus one waiver and one variance; and

WHEREAS, this variance will not cause a hazard or a nuisance to the public because the nuisance issues is addressed with screening and buffering; no hazard issue is involved with this request; and

WHEREAS, this variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because of the mitigation measures explained above, notably screening and buffering and high quality aesthetics; 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 because the applicant would likely lose its drive-thru of would have to eliminate part of the store; and

WHEREAS, the circumstances of this variance are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought but rather they are the result of the size, configuration and location of utilities and access of and on this lot; and

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

Waiver Findings of Fact

Waiver of Section 5.6.1.C.1 to allow less than 50% clear glazing on the Lovers Lane and Billtown Road 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; 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; and

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