

**Land Development & Transportation
Staff Report**
February 22, 2018



Case No:	17ZONE1039
Project Name:	Crossroads IGA
Location:	6101 Fegenbush Lane
Owner(s):	Byron Pendleton
Applicant:	JR Food Stores, Inc
Representative(s):	Bardenwerper, Talbott & Roberts, PLLC
Project Area/Size:	3.86 acres
Jurisdiction:	Louisville Metro
Council District:	2 – Barbara Shanklin
Case Manager:	Joel P. Dock, Planner II

REQUEST(S)

- **Change-in-Zoning** from R-4, Single-Family Residential to C-1, Commercial
- **Variance** of Land Development Code (LDC), section 4.8.3 to encroach upon the 100' stream buffer
- **Waiver** of LDC, section 5.6.1.C to reduce the requirement to have 50% of wall surfaces at street level consist of clear windows and doors
- **Waiver** of LDC 5.8.1.B to not provide a sidewalk along the frontage south of the Fegenbush Lane Entrance
- **Detailed District Development Plan**

CASE SUMMARY

A change in zoning request is being made to allow for a convenience grocery store with drive-through restaurant and gasoline pump islands with canopy. The site is at the intersection of arterial roadways having non-residential zoning districts on all opposite corners and located in the Suburban Workplace form district; GE Appliance Park occupies the Northwest corner. The site is bounded at its Southeast by a perennial blue-line stream/protected waterway. Residential neighborhoods stretch from the subject property to Outer Loop along Fegenbush Lane.

STAFF FINDING

The application is in order and ready to be scheduled for the next available public hearing.

TECHNICAL REVIEW

To avoid the unintentional runoff of garbage matter and debris into the stream, the applicant should consider the relocation of the dumpster further north outside of the protected waterway buffer. Customer parking might be an acceptable exchange.

Historic preservation staff provided the following comments:

The demolition of the 1951 [home/structure] could have an adverse effect on a site potentially eligible for the National Register. Guideline #5 under Community Form/Land Use (Table #3) in the Cornerstone 2020 Comprehensive Plan stresses the protection of historic resources. Historic Preservation staff recommends adaptive re-use of the structure instead of demolition.

Any historic resources that are approved for demolition shall be documented by the developer by preparing an Individual Historic Resource Survey Form (available from the Kentucky Heritage Council, the State Preservation Office) which includes photographs of all elevations and significant architectural features. A list of qualified preservation professionals can be provided to the developer by Urban Design/Historic Preservation Staff. The documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. The documentation shall be submitted to Urban Design/Historic Preservation Staff upon completion.

STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

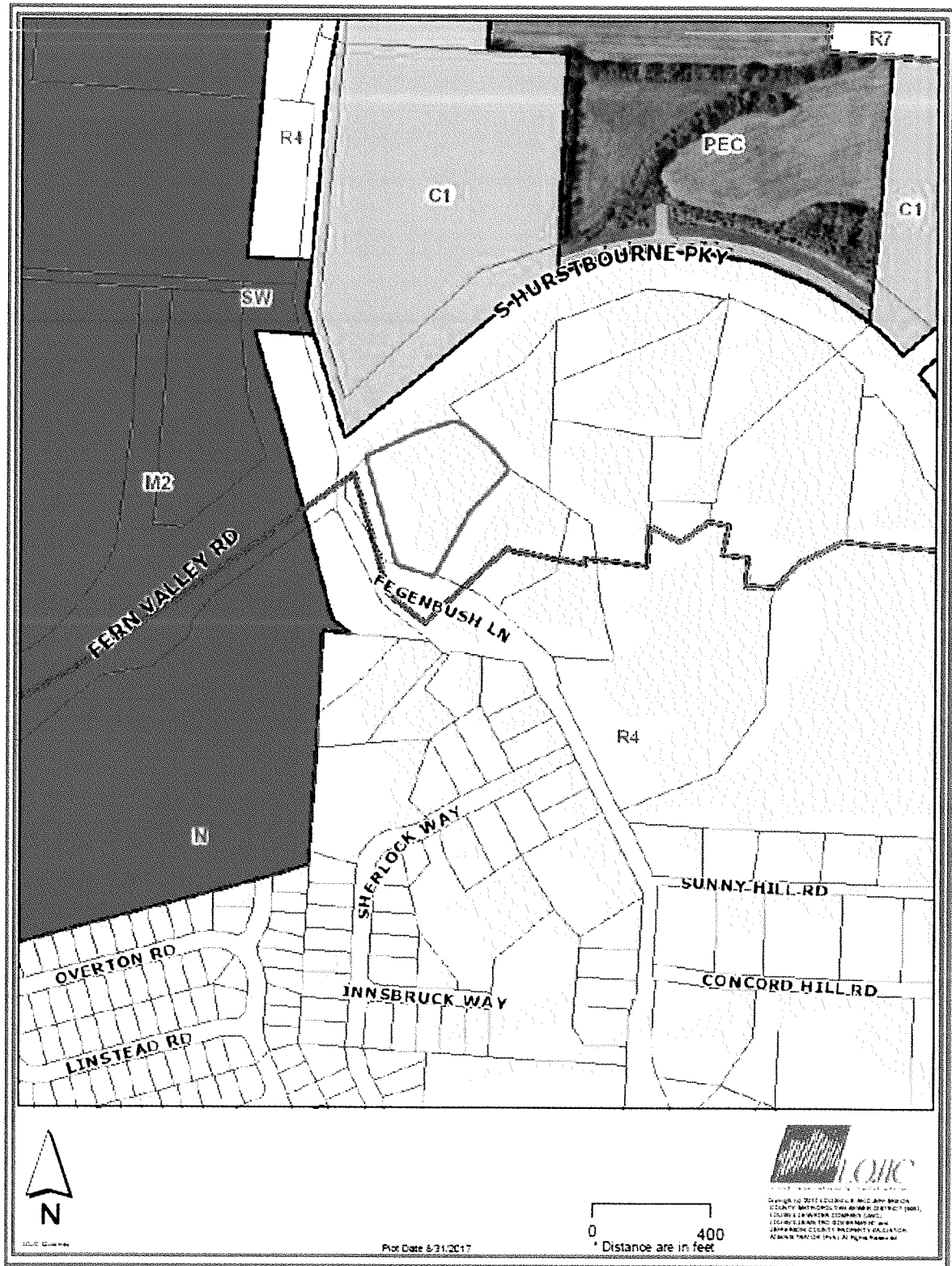
NOTIFICATION

Date	Purpose of Notice	Recipients
2/8/18	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 2
	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 2
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

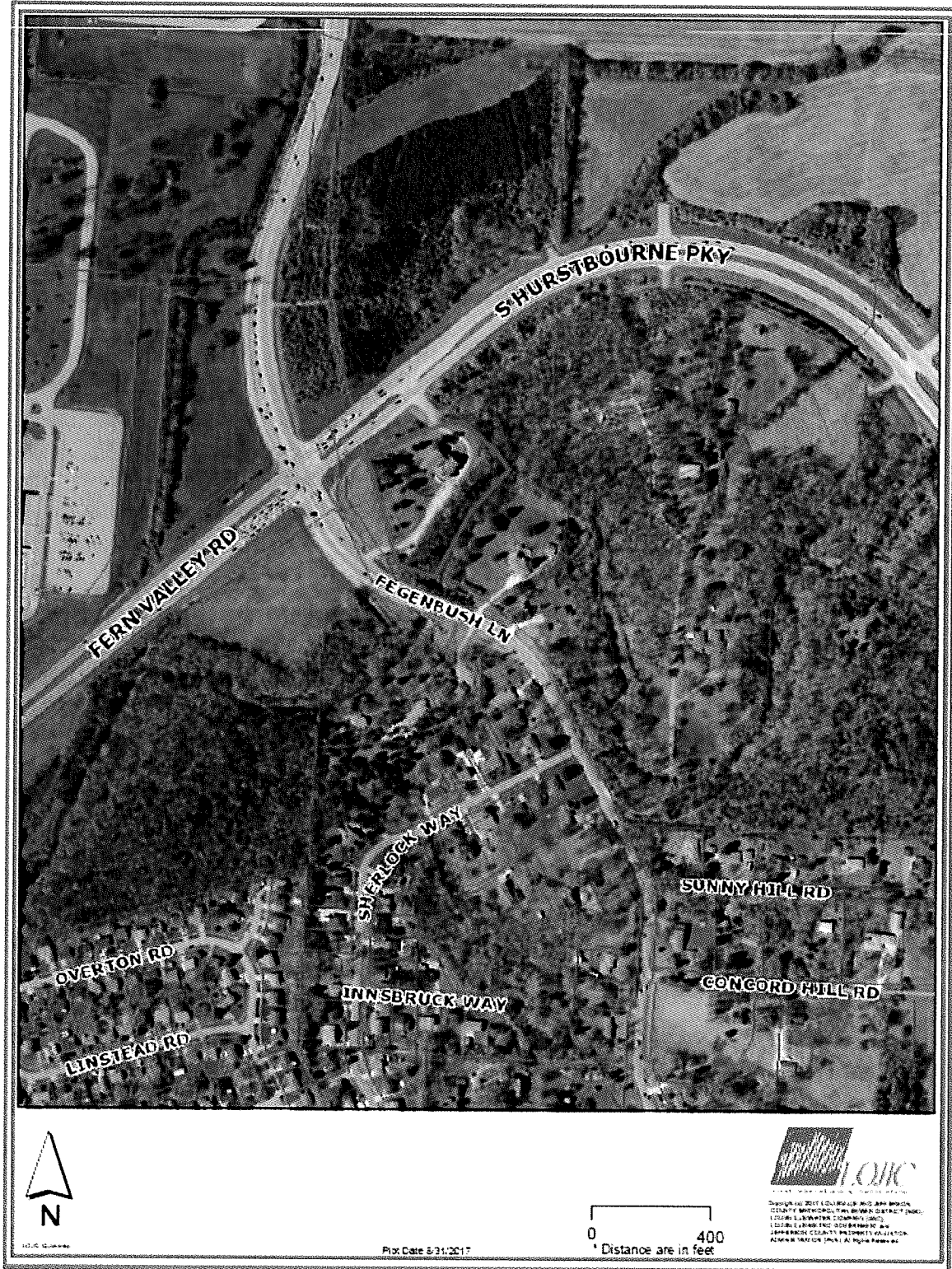
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Proposed Binding Elements

1. **Zoning Map**



2. **Aerial Photograph**



3. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area. Construction Fencing shall also be provided along the Limits of Disturbance as shown on the approved district development plan.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for any work within the state right-of-way.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. No overnight idling or idling of trucks while loading or unloading equipment shall be permitted on-site.
7. At the time of development, the following restoration standards shall be met:
 - A. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area. Where a bank is denuded of its vegetation due to erosion, slope failure or similar occurrence, appropriate vegetation shall be planted to quickly establish a vegetative cover, and then replanted with riparian vegetation to ensure the long-term stabilization of the bank. Restoration plantings shall be selected from the MSD native species restoration specifications.

- B. Where stream bank erosion has occurred as a result of on-site development activities, riparian vegetation shall be planted to stabilize the stream bank unless MSD determines such vegetation would be inadequate to re-stabilize the bank. In instances where the MSD determines that planting of riparian vegetation is inadequate to stabilize the stream bank alternate methods of stabilization, approved by the MSD shall be utilized.
 - C. Stream, stream bank, and vegetation restoration projects are allowed where the goal is to restore the protected waterway, wetlands, or Buffer Area to an ecologically healthy state, as approved by MSD.
8. Tree and Vegetation Removal.
- A. Existing, healthy trees and vegetation within the Buffer Area shall be preserved, except for those areas designated by the Limits of Disturbance on the approved district development plan. Trees and vegetation shall be restored in accordance with Binding Element #7 for all areas within the buffer that lie between impervious surfaces and the Limits of Disturbance.
 - B. This provision shall not prohibit any of the following: Removal of dead or diseased trees/vegetation (provided a live root system stays intact); removal of noxious weeds; Removal of non-native trees/vegetation that threaten native species growth or reintroduction; removal of fallen trees, tree limbs, brush and similar debris that accumulate naturally in river/stream beds and that impede river/stream flow, or removal of any other tree/vegetation that is a threat to the public health or safety; Removal of trees as part of an approved plan for stream side recreation or access (e.g. pedestrian trail) or as part of an approved utility or road construction project.
9. The materials and design of proposed structures shall be substantially the same as depicted in the renderings at the _____ Planning Commission public hearing of the Louisville Metro Planning Commission.