

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 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

Notice of this public hearing appeared in The Courier-Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

03:07:42 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Talbott, 1000 N Hurstbourne Pkwy., Louisville, KY 40223
Tim Rich, 700 Church Street, Bowling Green, KY 42102
Bernie Koetter, 360 Kingswood Drive, Taylorsville, KY 40071

Summary of testimony of those in favor:

03:12:41 John Talbott summarized the applicant's proposal and showed a presentation.

03:28:07 Tim Rich with Houchens IGA stated that the restaurant feature will be similar to that of a Subway restaurant.

03:28:45 Mr. Talbott responded to questions from the Commissioners.

03:33:30 Houchens IGA Louisville District Manager Bernie Koetter stated that diesel fuel will be offered to individuals only. Large trucks typically do not use their service for diesel due to their size.

03:34:50 Mr. Dock stated that the waiver of Land Development Code Section 5.9.2.A.1.b to omit the pedestrian connection to Fegenbush Lane was erroneously left out of the Staff

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1039

Report and should be considered by the Planning Commission. The findings of fact for this waiver can be found under Tab 8 of the applicant's booklet.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

03:36:17 Commissioner Carlson believes the proposal is justified; however, he is concerned for an unattended gas pump being near a protected waterway. He would prefer for the pump to be attended 24/7 or shut off when unattended.

03:42:52 Mr. Rich stated that the IGA at Shelbyville Road does offer fuel sales after hours. There are regulations that require a trench to be constructed around the gas pad to contain any leaks. This regulation is required by the state Fire Marshall.

03:43:55 Mr. Koetter stated that the trench leads to a separate tank that is buried in the ground. The tank is of substantial size.

03:44:21 Mr. Talbott pointed out that the proposal is compliant with all laws and state regulations. 24-hour gas stations are fairly common.

03:45:22 The other Commissioners concur that the proposal is justified.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Change in Zoning

03:54:20 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Cornerstone 2020 Checklist, the applicant's findings of fact, and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the building and parking areas are setback significantly from the street allowing for landscaped areas to meet and/or exceed planting standards. The subject site is opposite three corners of non-residential zoning districts; one containing Haier Appliance Park, another containing land zoned for commercial or employment uses, and the other zoned for industrial uses but may contain environmentally sensitive features. An activity center of build out employment and commercial uses is located three-tenths of one mile East along Fern Valley Road. Sidewalks and pedestrians connections have been provided to encourages access to public transportation, and provides for pedestrians, and

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1039

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because the proposed building materials increase the new development's compatibility. While the site is currently zoned for single-family residential use, it is located in a suburban workplace form district which is characterized by predominately industrial and office uses. A service station and grocery will allow for good and services to be provided to both employees and residents of the area. As with any service station, emissions will be present, but it would not appear that the proposal contains a large amount of gasoline pumps and its primary service will be grocery and food services. The site is appropriately located at the intersection of arterial roadways within close proximity to employment facilities. It would not appear that the site alone would attract new users/traffic, but rather attract those already in the area for employment. The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky. The site is appropriately located at the intersection of arterial roadways within close proximity to employment facilities. A protected waterway provides additional buffering to single family residential properties to the South. The residential lots to the sites immediate East is vacant and located in the SW form district intended for non-residential uses. Space is sufficient to provided landscaping to mitigate any adverse impacts. The site is appropriately located in the SW form district and future uses are intended to be non-residential. Setbacks, lot dimensions and building heights appear to compatible with non-residential uses within the area. Parking areas are located on the street side of the building away from residential areas, except for two small areas which are buffered by a protected waterway and a detention basin. Parking areas will be screened as the site has sufficient space to appropriately landscape impervious areas. Signs will be compatible with the form district pattern and contribute to the visual quality of their surroundings. The site contains multiple areas of green or vegetative space included in the protected waterway buffer areas and along the frontage, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because existing, healthy trees and vegetation within the Buffer Area will be preserved. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area, and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because existing, healthy trees and vegetation within the Buffer Area will be preserved. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area. Historic resource on-site will be documented. Existing, healthy trees and vegetation within the Buffer Area will be preserved. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area, and

WHEREAS, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because the proposed use will provide services and goods to the existing employment in the area, as well residents to the South. The proposal is at the intersection of arterial roadways, adjacent to an employment center, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1039

improvements to these facilities, contribution of money, or other means. The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation. Access road from Hurstbourne provides access to abutting property. The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development. Parking is sufficient to serve the development. Access road from Hurstbourne provides access to abutting property, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because access road from Hurstbourne provides access to abutting property. Subject site is adjacent to non-residential zoning districts with the exception of the Southeast boundary which is separated by a protected waterway. Traffic would not appear to be generated by this use alone, but rather generated by uses currently present in the area. Access road from Hurstbourne provides access to abutting property, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD, and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because the proposal has been reviewed by APCD and found to not have a negative impact on air quality, and

WHEREAS, the Commission further finds that the proposal meets the Landscape Character guideline because the protected waterway provides for a corridor and natural habitat area, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because the proposal is located in an area served by existing utilities or planned for utilities. The Highview Fire department and LWC have no objections to the proposal. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The proposal will have an adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams, and

WHEREAS, the Committee further finds that 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

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1039

WHEREAS, the Committee further finds that 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, the Committee further finds that 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

WHEREAS, the Committee further finds that 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/overnight 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

WHEREAS, the Committee further finds that 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

WHEREAS, the Committee further finds that 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

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1039

WHEREAS, the Committee further finds that 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

WHEREAS, the Committee further finds that 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

WHEREAS, the Committee further finds that 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

WHEREAS, the Committee further finds that 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, and

WHEREAS, the Committee further finds that 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 be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4 Single-Family Residential to C-1 Commercial on 3.86 acres of property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Brown, Howard, Tomes, Jarboe, and Ferguson

NO: Carlson

NOT PRESENT: Lindsey, Peterson, Smith, and Lewis

Variance and Waivers

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1039

03:55:15 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's findings of fact, and testimony heard today, was adopted:

Variance of Land Development Code (LDC), section 4.8.3 to encroach upon the 100' stream buffer

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health, safety, or welfare as the proposed pavement will control and reduce the existing impervious areas. Existing, healthy trees and vegetation within the Buffer Area will be preserved. Riparian vegetation will be planted, as necessary, to stabilize the banks of the waterway as prescribed in LDC Chapter 4, Part 8, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the protected waterway increases the compatibility of the subject site with surrounding residential areas through the preservation of a buffer between non-residential and residential uses, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as existing informal impervious surface will be improved and controlled for a minimal amount of surface parking and the owner will be responsible for the restoration of portions of the waterway which fall within or are impacted by the proposed development in accordance with Chapter 4, part 8 and the binding elements of the approved district development plan, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the applicant has made a conscious effort to reduce impact in the buffer areas provided the needs of the use and demands of the environment on site, and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as protected waterways do not commonly impact development, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as minimal encroachments have been made and the owner will be responsible for the restoration of portions of the waterway which fall within or are impacted by the proposed development in accordance with Chapter 4, part 8 and the binding elements of the approved district development plan, and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought, and

WHEREAS, the Commission further finds that the variance will not adversely affect the public health, safety or welfare because the encroachment is minor, the vast majority of the stream

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1039

setback is observed, and some additional setback is provided in areas other than this encroachment, and

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

WHEREAS, the Commission further finds that 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 Commission further finds that 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 Commission further finds that 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, the Commission further finds that 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 Commission further finds that 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, and

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

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as the development is setback a considerably distance from pedestrian facilities and the use is predominately auto-centric, and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 as Guideline 3, Policy 2 calls for compatible building materials to increase the new development's compatibility. The new building is setback to a distance where its visual impact on the road and the need to attract pedestrians through window displays is negligible, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as windows can be provided with little impact on the overall development, and

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1039

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as windows could be provided with little impact on the overall development. Their provision in this auto-centric development may have no net-beneficial impact, and

WHEREAS, the Commission further finds that 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 Commission further finds that 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 Commission further finds that 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 Commission further finds that 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

Waiver of LDC 5.8.1.B to not provide a sidewalk along the frontage south of the Fegenbush Lane Entrance

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners because there aren't sidewalks along the frontages on either side of this subdivision for this sidewalk to connect. Moreover, 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 Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 as adequate pedestrian mobility and connection has been accounted for in all others areas of the development, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant this is the only place that the sidewalk waiver is being requested, and

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1039

WHEREAS, the Commission further finds that 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 to safely build and certainly detrimental to the development, and

WHEREAS, the Commission further finds that 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 Commission further finds that 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 Commission further finds that 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, the Commission further finds that 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, and

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

WHEREAS, the Commission further finds that 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 Commission further finds that 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 Commission further finds that 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

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1039

WHEREAS, the Commission further finds that 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 be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the Variance of Land Development Code (LDC), section 4.8.3 to encroach upon the 100' stream Buffer, **(2)** the 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, **(3)** the waiver of LDC 5.8.1.B to not provide a sidewalk along the frontage south of the Fegenbush Lane Entrance, and **(4)** the waiver of LDC Section 5.9.2.A.1.b to omit the pedestrian connection to Fegenbush Lane.

The vote was as follows:

YES: Brown, Howard, Carlson, Tomes, Jarboe, and Ferguson

NOT PRESENT: Lindsey, Peterson, Smith, and Lewis

Detailed District Development Plan

03:56:36 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that existing, healthy trees and vegetation within the Buffer Area will be preserved. Riparian vegetation will be planted, as necessary, to stabilize the banks of the waterway as prescribed in LDC Chapter 4, Part 8. Historic resources will be documented prior to development, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as sidewalks and connections have been provided, and

WHEREAS, the Commission further finds that the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development is being provided as Existing, healthy trees and vegetation within the Buffer Area will be preserved. Riparian vegetation will be planted, as necessary, to stabilize the banks of the waterway as prescribed in LDC Chapter 4, Part 8. Historic resources will be documented prior to development, and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community, and

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1039

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks, and

WHEREAS, the Commission further finds that The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the detailed district development plan, **SUBJECT** to the following 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

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1039

- 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.
 - e. A traffic study shall be submitted to Public works and KYTC for review and incorporation into the record. Any recommendations of the traffic study shall be accounted for in construction plans, including, but not limited to, access to KY 864 as permitted by KYTC.
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

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1039

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 3/29/18 Planning Commission public hearing of the Louisville Metro Planning Commission.

10. An Individual Historic Resource Survey Form shall be completed for any historic resources on the subject site. 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.

The vote was as follows:

YES: Brown, Howard, Tomes, Jarboe, and Ferguson

NO: Carlson

NOT PRESENT: Lindsey, Peterson, Smith, and Lewis