

Planning Commission

Staff Report

March 29, 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 change in zoning appears to be in conformance with the Comprehensive Plan as the site is appropriately located at the intersection of arterial roadways within close proximity to employment facilities. It is opposite three corners of non-residential zoning districts. A service station and grocery will allow for goods and services to be provided to both employees and residents of the area.

The variance, waivers, and detailed district development plan appear to be adequately justified based on the staff analysis contained in the standard of review.

TECHNICAL REVIEW

In addition to the applicable criteria for variances provided by statute, the following factors may be also be considered by the Planning Commission in reviewing a request related to a protected waterway:

- a. The variance is necessary because the requirements of this section represent an extreme hardship such that minimal or no reasonable economic use of the land is available without reducing the width of the required Buffer Area.
- b. The size, shape, or topography of the property, as of March 1, 2003, is such that it is not possible to construct a single family detached dwelling without encroaching into the required Buffer Area.
- c. Encroachment into the required Buffer Area shall be limited to the minimum necessary to accommodate the proposed use.
- d. The Applicant shall commit, to the satisfaction of the County, to mitigation measures that substantially offset any potential adverse impacts of the proposed encroachment during site preparation, construction, and post-construction.
- e. Approval of the variance will not result in a reduction in water quality.

The standard of review provided for the variance to encroach upon the protected waterway appears to address many of these items. Further, proposed binding elements 7 & 8 reinforce the standards for maintenance and protection of the waterway, bank, and vegetation.

Kentucky Transportation Cabinet provided the following comments which have been accounted for in Binding Element 4e:

- A traffic study is required for this development in accordance with KYTC policy.
- Proposed access to KY 864 may be restricted to right in/right out due to conflicts with southbound lane merge movements.
- KYTC is okay with the concept on the Zoning plan with the exception of the comments in this review. This is just a preliminary okay. KYTC will review again if or when construction plans are submitted, and reserve the right to change or qualify the approval when construction plans are submitted for review.

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.

STAFF ANALYSIS FOR CHANGE IN ZONING

The Following is a summary of staff's analysis of the proposed rezoning against the Guidelines and Policies of Cornerstone 2020:

The site is located in the Suburban Workplace Form District

A Suburban Workplace is a form characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district.

In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. Walkways to workplace-serving uses are encouraged for workplace employees. Development within suburban workplace form districts may need significant buffering from abutting uses.

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 subject site is opposite three corners of non-residential zoning districts; one containing GE 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 built-out employment and commercial uses is located three-tenths of one mile East along Fern Valley Road. 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 goods and services to be provided to both employees and residents of the area.

Setbacks, lot dimensions and building heights appears to be compatible with non-residential uses within the area. The site contains multiple areas of green or vegetative space included in the protected waterway buffer areas and along the frontage. 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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (a) **The requested variance will not adversely affect the public health, safety or welfare.**

STAFF: 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.

- (b) **The requested variance will not alter the essential character of the general vicinity.**

STAFF: 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.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: 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.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: 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.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: 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.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: 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

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: 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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: 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.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: 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.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: 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.

- (d) Either:
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The 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.

STAFF: 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, however.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: 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.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: 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.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: 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.

- (d) Either:
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The 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.

STAFF: 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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: 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.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: 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.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: 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.

- d. 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;

STAFF: 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.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: 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.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTION(S)

- **RECOMMEND** to the Louisville Metro Council that the Change-in-Zoning from R-4, Single-Family Residential to C-1, Commercial on property described in the attached legal description be **APPROVED or DENIED**
- **APPROVE or DENY** the **Variance** of Land Development Code (LDC), section 4.8.3 to allow an encroachment of vehicle use areas and parking as shown on the detailed district development into the outer zone of the 100' protected waterway buffer
- **APPROVE or DENY** 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
- **APPROVE or DENY** the **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**

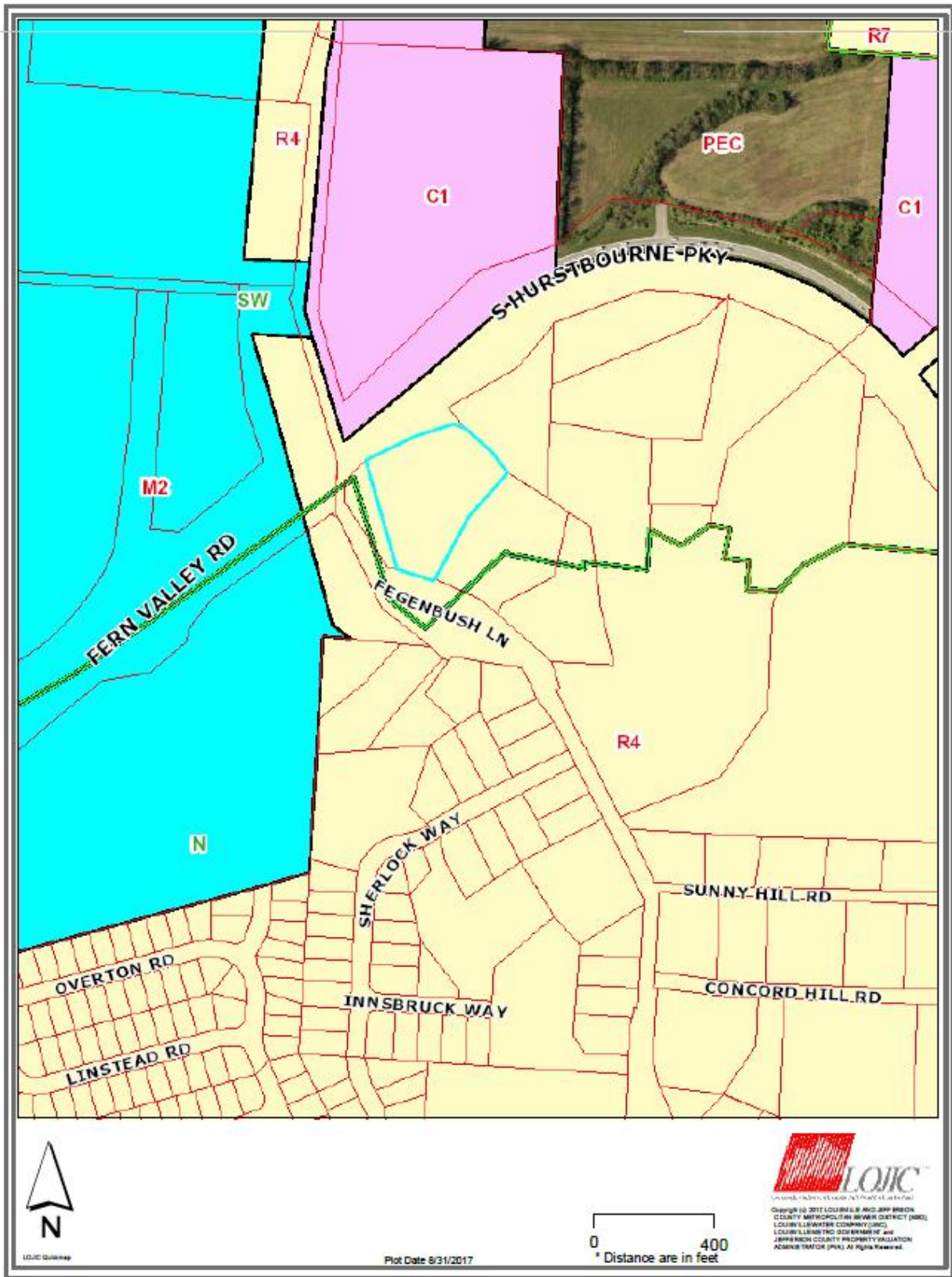
NOTIFICATION

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
3/9/18	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
3/15/18	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Proposed Binding Elements

1. **Zoning Map**



2. Aerial Photograph



3. Cornerstone 2020 Staff Checklist

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

Suburban Workplace: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal integrates into the pattern of development, which features buildings set back from the street in a landscaped setting.	✓	The building and parking areas are setback significantly from the street allowing for landscaped areas to meet and/or exceed planting standards
2	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal integrates into a planned development that features a mixture of related uses, and that may contain either a single major use or a cluster of uses.	✓	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.
3	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal incorporates connected roads, encourages access to public transportation, and provides for pedestrians.	✓	Sidewalks and pedestrians connections have been provided to encourages access to public transportation, and provides for pedestrians
4	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	The proposed building materials increase the new development's compatibility
5	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	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.
6	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	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.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
7	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	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.
8	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.
9	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	✓	The site is appropriately located at the intersection of arterial roadways within close proximity to employment facilities
10	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	✓	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.
11	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	✓	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
12	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	Setbacks, lot dimensions and building heights appear to compatible with non-residential uses within the area
13	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	✓	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

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
14	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	✓	Parking areas will be screened as the site has sufficient space to appropriately landscape impervious areas
15	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	No parking garages are proposed
16	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Signs will be compatible with the form district pattern and contribute to the visual quality of their surroundings.
17	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	✓	The site contains multiple areas of green or vegetative space included in the protected waterway buffer areas and along the frontage
18	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA	SW form district
19	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	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.
20	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	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.
21	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	✓	Historic resource on-site will be documented.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
22	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	✓	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.
23	Marketplace Guideline 6: Economic Growth and Sustainability	A.1: Limit land uses in workplace districts to those land uses necessary to meet the needs of the industrial subdivision or workplace district and their employees.	✓	The proposed use will provide services and goods to the existing employment in the area, as well residents to the South
24	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	Not Downtown
25	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	Not an industrial use
26	Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	✓	The proposal is at the intersection of arterial roadways, adjacent to an employment center
27	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	Not an industrial use
28	Mobility/Transportation Guideline 7: Circulation	A.1/2: 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 improvements to these facilities, contribution of money, or other means.	✓	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 improvements to these facilities, contribution of money, or other means

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
29	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation
30	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	✓	Access road from Hurstbourne provides access to abutting property
31	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	✓	The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.
32	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	Parking is sufficient to serve the development
33	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	✓	Access road from Hurstbourne provides access to abutting property
34	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	✓	Access road from Hurstbourne provides access to abutting property
35	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	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.
36	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	✓	Access road from Hurstbourne provides access to abutting property

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
37	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: 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.	✓	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.
38	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	The proposal's drainage plans have been approved by MSD
39	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.
40	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	✓	The protected waterway provides for a corridor and natural habitat area
41	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The proposal is located in an area served by existing utilities or planned for utilities
42	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	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
43	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	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.

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.
 - 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, restricted access to KY 864.
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 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.