

PLANNING COMMISSION MINUTES
January 21, 2021

PUBLIC HEARING

20-ZONE-0082

Request: Change in Zoning from R-4 to C-1 with Detailed District Development Plan and Binding Elements, with Waivers and Variance

Project Name: Circle K

Location: 404 and 406 Mt. Holly Road

Owner: Macs Convenience Stores LLC, Harold Smith Jr.

Applicant: Circle K

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 13 – Mark Fox

Case Manager: Dante St. Germain, AICP, Planner II

NOTE: COMMISSIONER BROWN LEFT AT 4:56

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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

03:43:48 Dante St. Germain provided an overview of the request and showed a PowerPoint presentation (see staff report and recording for detailed presentation). The applicant is requesting a change in zoning from R-4 to C-1 to demolish the existing structures and construct a new convenience store. Staff believes the design is not compliant with the neighborhood plan.

The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Jason Hall, Prism Engineering, 2309 Watterson Trail, Suite 200, Louisville, Ky. 40299

Chad Gardner, 5920 Timber Ridge Drive, Suite 101, Prospect, Ky. 40059

Jeff Donohue, 2101 Top Hill Road, Fairdale, Ky. 40118

Summary of testimony of those in favor:

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John Talbott, Bardenwerper Roberts & Talbott, spoke on behalf of the applicant and showed a PowerPoint presentation (see video for detailed presentation). Mr. Talbott reiterated there has been a gas station in this location for a number of years, and the change in zoning is only needed on a small portion that abuts the current gas station, which the new proposal will expand upon. Mr. Talbott believes the variances and waivers under consideration are warranted and he explained why in his presentation. The proposed layout is similar to the existing layout and is in character with other buildings in the area.

Jason Hall, Prism Engineering, spoke on behalf of the application. Mr. Hall provided an overview of the site plan and how it changed over time as a result of comments from the neighborhood plan, staff and agency comments, etc.

Commissioners Lewis, Seitz, Daniels and Sistrunk left the meeting at 6:00 p.m.

Chad Gardner spoke in support of the application. Mr. Gardner is an adjoining property owner and is affiliated with the adjoining fire department as well. The fire department does not want the sidewalk connection. Mr. Gardner believes the layout is appropriate and wants to see the property developed.

Jeff Donohue spoke in support of the application. Mr. Donohue thinks the gas station is a vital investment in the property and in the Fairdale community. His only request is to make sure the dumpster is properly screened.

The commissioners questioned those who spoke in support. Commissioner Mims asked how much outdoor display would be on the site and asked if banners and signs would cover the windows that are show in the renderings. He would like to see better connection to the street as a way to mitigate one of the waivers. Jason Hall addressed how the store and sidewalk area are designed to help accommodate things like ice machines, propane tank stations, etc. Commissioner Clare asked about another pedestrian connection to the street and whether the building could be pulled further forward. The maneuvering mechanics on the site do not allow an addition sidewalk nor the building to come forward any more than what is proposed.

Deliberation

The planning commissioners deliberated the case. The commissioners requested to verify the gas canopy was similar in style to the proposed building.

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.

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Zoning Change from R-4 to C-1

On a motion by Commissioner Peterson, seconded by Commissioner Mims, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the site is located in an existing activity center. The proposed zoning district change would not constitute a non-residential expansion into a residential area; the proposal would permit higher density and intensity uses. The site is located on a primary collector and in an existing activity center; the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC restrictions; the proposed zoning district would not permit uses with noxious odors, particulates and emissions; traffic to the site is routed via Mt. Holly Road, a primary collector at this location.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is located in an existing activity center at an intersection in the Village Center form; the site has appropriate access and connectivity; the proposed zoning district would permit commercial development. The site is located in an existing activity center in the Village Center form; the proposal would permit a more compact pattern of development in an activity center; the proposed zoning district would allow a mixture of compatible land uses in an activity center; the proposed zoning district would allow for mixed-use multi-story retail buildings; the proposed zoning district would allow for the new development of buildings that provide commercial, office and/or residential uses.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no natural features are evident on the site; no severe, steep or unstable slopes are evident on the site. Hydric soils are avoided by the development.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located in an existing activity center.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Mt. Holly Road, a primary collector at this location.

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district would permit neighborhood serving businesses and services; the proposed zoning district would permit a mixture of compatible land uses that are easily accessible by bicycle, car, pedestrians and people with disabilities. The site is not accessible by transit; Transportation Planning has approved the proposal.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site is not located on karst terrain; the site is not located in the regulatory floodplain.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would support aging in place by increasing the variety of neighborhood-serving goods and services in the neighborhood.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit inter-generational mixed-income and mixed-use development that is connected to the neighborhood and surrounding area; the proposal would permit amenities providing neighborhood goods and services in proximity to housing.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no existing residents will be displaced by the proposal; the proposal would permit innovative methods of housing.

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

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Peterson and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz, Sistrunk and Lewis

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Waivers

#1 from 10.2.4.B.3 to permit a utility easement to overlap more than 50% with a required LBA (20-WAIVER-0090)

On a motion by Commissioner Peterson, seconded by Commissioner Mims, the following resolution based on the Standard of Review and Staff Analysis, Applicant's Justification and testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as the required plantings will still be provided within the LBA; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The required buffering will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as there is no logical location on the property for the easement except where the applicant has proposed it, and the overlap occurs at a relatively small portion of the required LBA; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 required easement cannot be readily moved.

WHEREAS, the waiver will not adversely affect adjacent property owners because this particular Waiver is along the Mount Holly Road where no other residential, commercial or industrial users exist that might conceivably be adversely impacted. Furthermore, the design of the site and aesthetic protective screening provided in this area should be sufficient to mitigate any other possible impacts; and

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Comp Plan 2040 filed with the rezoning application; and

WHEREAS, the Louisville Metro Planning Commission further finds the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it will allow the configuration of improvements on the site without having to change the configuration/location of the main primary collector road to the north of this site; and

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WHEREAS, the Louisville Metro Planning Commission further finds strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because, as said above, it would likely otherwise have to change or adjust the location of the referenced collector road to the east of this site, the expense of which would make this project infeasible.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver from 10.2.4.B.3 to permit a utility easement to overlap more than 50% with a required LBA (20-WAIVER-0090).

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Peterson and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz, Sistrunk and Lewis

#2 from 5.5.1.A to allow a gas canopy to be located between the principal structure and the street, and to allow drive lanes to be located between the maximum setback line and the street, and to allow a refuse collection area to be visible from the public street (20- WAIVER-0091)

On a motion by Commissioner Peterson, seconded by Commissioner _____, the following resolution based on the Applicant's Justification and testimony heard today was adopted.

FAILED – LACK OF SECOND

On a motion by Commissioner Mims, seconded by Commissioner Peterson, the following resolution based on the Applicant's Justification and testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners because no new impacts are proposed, except that, to the extent that the new store slightly deeper into the site could conceivably affect residential buildings to the south although fencing and landscaping are added along adjoining property lines to mitigate adverse impacts, if any. Safety and security require that the canopy and pumps be visible at all times from the store as well as to permit sufficient maneuvering for the fuel trucks as mandated by federal regulations. Access to the abutting properties is not pursued as this would connect to a fire station or existing single-family development which would be unsafe

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and actually cause a hazard and nuisance to the public. Pedestrian access to the site is being provided by the 8- foot wide multi-use path along Mt. Holly Road; and

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Comp Plan 2040 filed with the rezoning application. As a re-build of an as-built location, the only new 2040 Plan Guidelines and Policies of consequence are those pertaining to building design, landscaping and screening, all of which are being improved; and

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver from 5.5.1.A to allow a gas canopy to be located between the principal structure and the street, and to allow drive lanes to be located between the maximum setback line and the street, and to allow a refuse collection area to be visible from the public street (20- WAIVER-0091), subject to the following **CONDITION OF APPROVAL**:

1. The landscape plan shall be approved by the Planning Commission or its designee prior to landscape plan approval. The applicant shall provide details to the right-of-way improvement to the utility easement in response to the Fairdale Plan. The details will be heard at the Development Review Committee meeting.

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Peterson and Howard

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NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz, Sistrunk and Lewis

#3 from 5.9.2.A.1.b.ii to omit vehicular and pedestrian connections between abutting non-residential uses (20-WAIVER-0091)

On a motion by Commissioner Peterson, seconded by Commissioner Mims, the following resolution based on the Applicant's Justification and testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners because of the proposed gas station/convenience store use and site layout make this requirement inappropriate; in this situation, providing a vehicular and pedestrian connection to the undeveloped property to the west is not practical due to the fact that the 0.29 acre tract owned by GSD Petroleum abutting Mt. Holly Road is a remnant created by the acquisition of right of way for the round-about which has no curb cut and has an existing sidewalk across the front of the site; so providing a vehicular connection would serve no purpose and the Mt. Holly sidewalk does provide a pedestrian connection between the two properties; a vehicular and pedestrian connection to the Fairdale Fire Protection District to the west would create a hazardous condition of commercial traffic potentially interfering with the ingress and egress of fire and emergency service operations; and a vehicular and pedestrian connection to the property to the east would actually have a potentially adverse effect to that property due to the fact that it is a property zoned and used as a single family residence in violation of Plan 2040 Mobility Goal 2, Policy 4; and

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of Plan 2040 filed with the rezoning application; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because any connection to either property (the western properties or the eastern property) would result in the potential of cut through commercial traffic or the mixing of passenger vehicles and emergency service vehicular traffic; pedestrian connectivity is available long the Mt. Holly sidewalk; and therefore, a complete waiver request is the minimum that is practical; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant given that the connection would not serve the purpose intended by the regulation and are undesired by the adjoining property owners; and provision of such access to the west would also require the elimination of interior landscaping and parking spaces.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver from 5.9.2.A.1.b.ii to omit vehicular and pedestrian connections between abutting non-residential uses (20-WAIVER-0091).

The vote was as follows:

YES: Commissioners Clare, Mims, Peterson and Howard

No: Commissioner Carlson

NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz, Sistrunk and Lewis

#4 from 10.2.4 to permit a proposed structure to encroach into the required property perimeter Landscape Buffer Area (LBA) (20-WAIVER-0102)

On a motion by Commissioner Peterson, seconded by Commissioner Mims, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as the encroachment is to the rear of the property where no adjacent property owners will be affected; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 recommends appropriate transitions between adjacent uses which are significantly different in density or intensity. A reduced LBA will be provided and the required plantings will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the building must be set far back under the current orientation of the site in order to provide maneuvering area for vehicles; and

WHEREAS, the Louisville Metro Planning Commission further finds the applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to the waived, and strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the site is relatively large and the building could re-oriented on the site to eliminate the need for the waiver.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver of 10.2.4 to permit a proposed structure to encroach into the required property perimeter Landscape Buffer Area (LBA) (20-WAIVER-0102)

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Peterson and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz, Sistrunk and Lewis

Variance from 5.1.12.A.2 to allow a building to be set further back from the street than permitted by infill standards

On a motion by Commissioner Peterson, seconded by Commissioner Mims, the following resolution based on the Applicant's Justification and testimony heard today was adopted.

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

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

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

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

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

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance from 5.1.12.A.2 to allow a building to be set further back from the street than permitted by infill standards subject to the following **CONDITION OF APPROVAL**:

1. The landscape plan shall be approved by the Planning Commission or its designee prior to landscape plan approval. The applicant shall provide details to the right-of-way improvement to the utility easement in response to the Fairdale Plan. The details will be heard at the Development Review Committee meeting.

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Peterson and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz, Sistrunk and Lewis

Development Plan and Binding Elements

On a motion by Commissioner Peterson, seconded by Commissioner Mims, the following resolution based on the Applicant's Justification and testimony heard today was adopted.

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

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

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

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

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

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

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

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

~~**WHEREAS**, the proposal complies with Community Form Goal 4 and Policies 1 and 2 because there are no historic assets or distinctive cultural features evident on the site, with the possible exception of a former structure underneath the existing barbecue restaurant; and the structure has been modified and comprised such that it no longer has any historical value; notice of its demolition was provided in compliance with LMCO 150.110; and~~

WHEREAS, the Fairdale Village Center Plan notes in its "Existing Conditions" that there are limited bike path connections (p. 13), this proposal complies with Mobility Goal 1 and Policies 1, 3 and 4 as the site will provide not just an 5-foot sidewalk, but will provide an 8-foot multi-use trail along Mt. Holly Road to facilitate connections through the Village Center, connecting for the planned "Louisville Loop" and the Jefferson

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Memorial Forest which addresses Big Idea #4 (p. 39); and a bicycle rack will be provided on site which is located in an existing activity center; and

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

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

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

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

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

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

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

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

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following Binding Elements and Condition of Approval:

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

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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.
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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - 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 certificate of occupancy. 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 10, 2020 Land Development and Transportation Committee meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. 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

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implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

Condition of Approval

1. The landscape plan shall be approved by the Planning Commission or its designee prior to landscape plan approval. The applicant shall provide details to the right-of-way improvement to the utility easement in response to the Fairdale Plan. The details will be heard at the Development Review Committee meeting.

The vote was as follows:

YES: Commissioners Clare, Mims, Peterson and Howard

NO: Commissioner Carlson

**NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz,
Sistrunk and Lewis**