

**Captioning Transcript of Planning and Zoning Committee Meeting -
September 13, 2022**

"Chair Flood"

Good afternoon and welcome to Planning and Zoning Committee. I'm Council Woman Madonna Flood chair of the committee.

I'm joined by my Vice Chair Councilman Scott Reed by Committee Members, Councilman Hollander Council Woman Nicole George Councilman Kevin Triplett has an excused absence Councilman Jecorey, Arthur and Councilman Robin Engel will be joining us momentarily they were held up at prior meetings and we're also joined by Council Woman Cindi Fowler.

So, our 1st, order of business is an ordinance relating to the zoning of property located at 969 Barrett Avenue, containing approximately 0.08 acres and being a little metro case number 20 zone. metro case number twenty zone 00373.

I could properly moved by Vice Chair Reed and 2nd by Committee Member Hollander, and before you start that, I wanted to say that this meeting is held pursuant to 61 806.806 and cancel rule 5 a.

Go ahead and proceed. Brian.

"Brian Davis"

Okay, good afternoon. Brian Davis Louisville metro planning and design. Thank you, uh, this is planning commission docket number 20 zone 37 for 969 Barrett Avenue properties located at 969, buried Avenue located metro Council district. 8. uh, this is an outline of the, uh, property here on the aerial photo.

It is an existing office, uh, in the, uh, proposed uses to remain in office. in the uh proposed uses to remain in office

Uh, here's the zoning map of the area. You can see the property is currently zoned, uh, as as much of the properties that are located on that side of bared Avenue.

That applicant is proposing to change the zoning to or 1 office residential. So the request before we had to change zoning from, uh, it is, uh.

State is currently used as an office, uh, and it's a non conforming used in the district. Uh, there's no change in the proposed use at this time. Uh, that happens.

Uh, they have been requesting to facilitate feature commercial uses, but, uh, throughout, um.

The review process, the planning process. They, they wound up coming back down to an request. Uh, they, if you look through the materials, you would have seen where they were previously requesting from a commercial zoning types. Uh, there are no proposed improvements to the structure. And then the parking areas will remain as they are in front of the building and along the, uh, bare Avenue.

So the property appears to have previously been commercial, but then it was, uh, re, zoned as part of the, um, some area wide rezoning that were associated with the original highlands neighborhood plan. That's how it got to.

This is just a Google Street View picture of the site. You can see looking from Barrett Avenue. The building sits off the, uh, the right a void off the road and you have parking in front of the building. These are some of the site photos of the surrounding areas you can see here to get an idea of what the character is of the surrounding properties.

In the evidence development plan again, no significant changes to the site access will continue to come off of bared avenue through an existing alley and then utilize the parking that is there in front of the building.

The, uh, neighborhood meeting was conducted on January 10th, 2020, the land development transportation committee meeting was on April 14 2022 and then the planning commission public hearing was on August, 18, 2022, we have 1 person speak in opposition to the request that that hearing but the planning commission motion was to recommend approval the change in zoning from, by a vote of 8 to 0. that's all that I have. Unless you have any questions for me.

that's all that i have unless you have any questions for me

"Chair Flood"

Checking all my devices to make sure I don't have anyone. That's the 1 in the queue. No.

Someone in chamber, so I think this is in Council Woman Cassie Chambers Armstrong's district, and I have not heard anything from her office. We do send out notification when there's a change in zoning to those council members and their legislative aides.

So, they're aware that there is something on the agenda, so we haven't heard anything. So I believe we're ready for a vote please.

And if you'll call the virtual.

Oh, did you Jecorey's here? Let the record show Jecorey Arthur.

"Committee Member Arthur"

Hello, Present

"Chair Flood"

He's he's just getting on, so I don't know if he's.

"Cheryl Woods"

Committee Member Arthur

"Chair Flood"

Committee Member Arthur do you wish to vote on the 1st item? Or did you just get on? Because we couldn't see the screen for a few minutes.

"Committee Member Arthur"

I just got on so I voted present.

"Chair Flood"

Oh, I see. Uh, that is your vote okay,

"Committee Member Arthur"

thank you.

"Cheryl Woods"

Thank you also Committee Member Triplett Committee Member Engel

"Chair Flood"

Without objection body is causing there are 3 years votes, 1, present vote and 1 not voting and this will go to old business at our next council meeting

"Vice Chair Reed"

Madam chair. I did not vote.

"Chair Flood"

I'm sorry. I'm sorry.

Oh, here

"Cheryl Woods"

I'm sorry Vice Chair Reed?

"Vice Chair Reed"

Yes.

"Chair Flood"

I'm sorry about Councilman Reed. I got so entangled and.

Or, yes felt someone present vote and.

To not voting. Okay. And they'll go to old business and our next meeting.

Sorry about that. Apologize again Councilman Reed

Several items on our agenda will not be heard today 45 and 6 and we've just heard that item decided the item number.

3 will not be heard either. There's some question, and they'll be answered directly to the Council person from the County Attorney's office Brian on the next 1. I'm excuse me Travis on the next 1.

do you want us to discuss the proposed language? 1st, or go-ahead and.

"Travis Fiechter"

Uh, it might be easier just so we don't get confused about where we are to, to discuss the language. 1st.

"Chair Flood"

Okay.

"Travis Fiechter"

Um, so this case.

"Chair Flood"

Even though it's.

"Travis Fiechter"

Yeah, let's go ahead. Bring the item up. Okay just before the, uh, well, yeah.

"Chair Flood"

Okay, okay Thank you. Item number 2 and ordinance relating to the zoning informed district of properties located at 15009 and 15011dixiehow.

I parcel number 137, 00060000 and associated unnamed alleys, containing approximately 3.2 acres and being a little metro case number 22 zone. 0. 0 1 6.

associated unnamed alleys containing approximately three point two acres and being a little metro case number twenty two zone zero zero one six Secondary properly made by Councilman Hollander and seconded by Councilman Reed. So we were going to discuss some proposed language and I would turn it over to County Attorney Travis Fiechter.

"Travis Fiechter"

Thank you Madam chair Travis, assistant county attorney. So this case was heard in front of this committee 2 weeks ago.

Went on to counsel with the hope of attaching some binding elements. Um, but during those discussions.

There was some additional developments that I thought warranted and the Council Woman agreed this coming back to committee for a sort of broader discussion, rather than at the council level. Um.

I sent all the members of the committee I hope you've seen in your email, and I think Brian's going to pull up that language now.

Uh, whenever we can, um.

Some potential elements to the standard council binding element, uh, for those who might not have been with the council at the time. The standard council money element is relatively new. I want to say it's about 3 or 4 years old. Um, there were some concerns.

There were from previous versions and sort of pieces that floated around in previous cases, but we came up with this sort of comprehensive language.

A couple years back in the temp to sort of capture those standard concerns that council raised, um, it is related to the land development code section 11.7.5,

which is a portion of the that allows council to unilaterally choose to review certain types of development plans that they otherwise wouldn't have automatic authority over and so that's effectively what this binding element does is rather than going through the 175

process it flags the case on the front end and says, hey, if there are future changes. and says hey if there are future changes Here.

Of the kind described and the binding element then we would like to see this case again recently at the planning commission. There have been some concerns raised about that language. Uh, and those concerns really took 2 forms. The 1st was regarding the change of use provision, which is that 1st.

Uh, opening line, the primary concern was that that language was over broad and put a significant burden on properties. Um, especially ones that could change use, but effectively have no other change in the plan. So, um, part of it was an interpretation issue. Let's imagine that there was a fast food restaurant, uh, and.

It were close and the new fast food restaurant where to go in.

Well, does it change from a chicken place to a burger place? Contemplate a change of use? What? If it's from fast food to fast casual? What? If it's from fast food to coffee?

Um, if there are no changes to this building, and we are just changing, sort of what's being sold out if it does that really justify months of additional process and hearings that otherwise would not occur. Likewise.

If you have a mall on a strip center, and you, you know, go from a shoe store to a pet store to a clothing store, are those the kind of changes council really wants to capture what this binding element.

Really minor shifts. I'm not talking about.

Taking a restaurant to say, a, um, carwash facility, right? That would require a development plan change. There are lots of changes in use that need associated development plan changes.

But there are lots that are relatively similar, um, and those relatively similar.

Difficult to object to I'm not sure what the objection would be from a restaurant to another restaurant or, you know, a type of store to another type of retail. Um, those type of uses were potentially getting captured. And so if there was concern on that front.

Um, the 2nd, concern was about amendments to, by the elements, this was kind of a unique, uh, concern raised, but it seems that there were fears that the planning commission adding additional binding elements to a case.

Would require a case to come back in front of council. I think Council's intent.

With the standard binding element language is to say, if you change existing binding elements.

Then we want to see what's going on, because Council approves a case with existing binding elements. The addition of new binding elements is inoffensive. Um, in all cases, binding elements or additional restrictions on property. So I can't imagine counsel objecting to the addition of new binding elements.

In a universal case, um, and yet we had some applicants resisting the addition of binding elements, because they didn't want to go through the additional month-long process of going through Council. Uh, and then so these changes are really meant to target those 2 concerns.

Um, 1, they are meant to allow the sort of simple changes of use that allow the existing building and plan to be used. It's merely a change in operator effectively, uh, to go through without automatic council review. Um, that's not to say that 175 could not still be used and if the changes require a hearing. require a hearing

For the planning commission, or they will still come to council it's just those very simple.

No additional changes to the plan needed, uh, kind of changes that would no longer automatically record review and additionally carve out a specific subset.

Of binding element changes that are not automatically reviewed and those are identified as 1, the addition of new binding elements 2 changes to binding elements that merely update the public hearing date.

So, occasionally we have a case come forward and it says, hey, you need to meet, um, you know, the designs as depicted on the January 5th, 2020. thousand and twenty

Planning commission here, um, and those get updated every time a case is heard.

And so point in case all the way back in front of council, just to update a date from a previous element, it seems.

Out of proportion, uh, and then sub 3 updating a previous version of this binding element. So.

As future as cases, come along that we've already heard, and we added the standard binding element too. They could update to this new language

without coming back in front of council. Assuming council is good with this new language. So, the goal is to bring everyone on to this new system that doesn't capture these.

Um, again, simple changes of use, uh, that don't require development plan changes, um, that don't discouraged somehow the planning commission from adding new binding elements. Um.

And between Laura, and myself, uh, we think with this is a pretty good spot. Uh, we don't think this is going to open up a great deal of room for.

People to sort of abuse and get around this language it's been as carefully crafted as we currently think we can. Um.

I'm happy to open up to any discussion in questions now, but that's sort of the, the process, um, in your email you should have an end on screen previously.

All 3 versions, the sort of existing version, a, a strike through an underlying version of the changes and then the new clean version. Um, again, this is meant to cover the same sorts of interests that were originally raised when this by the element was 1st crafted.

This is just meant to be a sort of streamlined version that doesn't hamper cases that are so simple. Um.

That it may be causing more problems than, uh, benefits.

"Chair Flood"

Uh, 1st question is Councilman Hollander

"Committee Member Hollander"

Thank you Madam chair. Thank you Travis.

Uh, I guess I got a couple of questions here.

As I understand it, or at least my recollection is that these have always been added at the council level.

And and frankly, that's always a little bit concerning to me, because.

Some of the binding elements, put it this way. We don't have the statutory authority that Lexington has, for example, to add binding elements at the, at the, at the council level.

We've talked about that before and so, I don't know whether that's kind of, um, binding element added at the council level, uh, is subject to challenge or not.

But my, I guess my question is that may be 1 question. The 2nd question is if if the planning commission is going to recommend changes to this. Can they just add these at the Planning Commission level so they don't have to get added at the Council level.

"Travis Fiechter"

Thank you so a couple of comments 1, it's that's correct Lexington and we'll do have different authority regarding the addition of, uh, and I should point out that technically, I don't think likes to use the term binding elements or if they do,

it's a little bit legally distinct this gets a bit complicated, but the binding element enforcement act specifically talks about consolidated local governments, which is us not Lexington. Anyway. Lexington does have some additional authority that we don't most notably around restrictions of use. Lexington can unilaterally bind out uses.

And we have to get the applicant's agreement for that sort of thing. Um, our position has been that, because counsel has the authority to review

development plan changes, um, that this binding element specifically doesn't need.

Um, explicit agreement from applicants, because we could just use 11, 75 on the back end to do it anyway. And there's nothing there was no process for them to raise an objection at that point. So this is just a proactive use of existing authority.

It's not any real additional modifications to the land itself. It's not requiring any additional expenditure of funds. funds

Et cetera. Um, so, so that's that question. Um,

"Committee Member Hollander"

would that be clear, though, if the, if the planning commission put this on before it even came here and are they willing to consider doing that?

"Travis Fiechter"

And so that's the 2nd point.

Uh, so this, this mining element is currently been used primarily on cases where counsel is interested in the property.

Uh, it's not applied in every case there are, for example, if you have a property and an industrial zone, uh, that is surrounded by industrial property and it's suddenly being rezoned, it's the 1 last piece of the puzzle kind of thing. That's been pretty unlikely.

If you have a property along a, you know, strip, and this is the last for whatever reason it was, C1 is getting up to them to see to. This is unlikely to be added council tends to add this on. on

Very large pieces of property or ones that were historically important, or are near residential, that sort of thing. So if we were to blank, it apply this to every property. It'd be more appropriate to change the land development code.

Over what cases are reviewed, then it would be to sort of apply this to literally every single case. And, in my opinion, um.

And then, of course, planning commission can't predict what cases Council will be interested in. And so that's why this gets added that the council level. Um, if it is part of additional binding element discussions, I, I, I'm and Laura bring it up.

If there are, you know, a slate of issues, this 1 is always mentioned, but occasionally we're here day of and the council person says, oh, hey. I'd like the standard by the element added, um, and we sort of do that on the fly without any additional conversation.

"Committee Member Hollander"

If I had 1 more question, if I came out of here, and I get that understand, it makes sense.

Except for, um, I, I mean.

Can the planning commission not try to make some predictions so that this case, it looks like 1 that is going to be added so that if we don't have to do that here, we don't potentially forget. I think that also. And maybe I'm wrong about this.

I think that also, um.

Makes it clear that, that there this already exists if that comes from the planning commission, as opposed to us adding a binding element here.

I'm talking about the statutory has already I mean, it, it has the planning commission ever discussed as part of it. Obviously they've talked about this binding element. Have they talked about.

"Travis Fiechter"

Should we put some of these on ourselves so it's definitely be able to say if there's been any sort of internal discussions on that piece. I think the other thing is planning commission is. Hesitant to sort of burden counsel with additional required hearings if they don't want to hear cases. Um, and that's exactly what this element does it forces things to go to council? Um, do you all have any additional comment, Brian or Joe?

"Joe Reverman"

Joe Reverman with planning and design services. I think the planning commission's position has always been that. We don't think the binding element in any form is really necessary because the land development code gives metro counsel. The ability to recall cases to the. Council level on any plane certain development case.

"Committee Member Hollander"

Okay, thank you.

"Chair Flood"

What, uh, what I feel that does it, we negate that step, because we have it in the binding element, and it should be when they pull it up to, to change something in the case, it's triggered that. Oh, Metro Council's interested in this.

It's a large, um.

Residential property, or is a large commercial property up against a residential property they decide they're gonna do something different than what was towed in front of the public hearing.

Then there's a recourse to hey, let's let's take another look at this because this is not what was presented.

Mm, hmm so it's just skipping a step, right?

"Committee Member Hollander"

11 of the comment and, uh, you know, I, I, we, we, we.

Present a list of things that we think the general assembly should look at changing.

I think giving us the same zoning authority that Lexington has is something that ought to be on that list. And I don't know that it ever makes that less. Frankly. I think this has been an issue for some time that binding elements that we add.

Are potentially subject to challenge where they're not in Lexington and, uh, that can be fixed by the general assembly.

"Chair Flood"

Thank you thank you. Councilman Reed.

"Vice Chair Reed"

Thank you Madam chair questions for Travis if.

Mm, hmm a property.

Piece of a property in any district is zoned. Let's say.

And is sold to somebody coming in.

Where it does not have to be rezoned, but they are building something that is completely different than what has been there in the past.

And is close to a residential area. Is that something that counsel. They could come back to council, uh, to add binding elements.

"Travis Fiechter"

So, I think 1st, off, it's a little difficult to speak on any potential case. There are always sort of caveats and specifics. Generally speaking, that sounds like something that potentially could be.

If a property was rezoned to seed to had a certain development plan proposed and was then sold and now a new plan is proposed a 175 should be able to pull that in front of council. And likewise this binding element both in the previous form.

And the new proposed form would still capture that case. still capture that case

To bring it in front of council automatically.

"Vice Chair Reed"

Okay. Thank you.

"Chair Flood"

Travis, and that, I think you answered the question I had was on, uh, the, uh.

Sorry, I have to use my phone for so much so many things in this committee. Um, the small dot, small 3 eyes.

You answered that, because that specifically is just that our language. Doesn't have to be changed on everything that's come about.

"Travis Fiechter"

Yeah. And again, 2 of those weren't ones that had been specifically requested, or discussed the planning commission level just sort of natural flows from changing this by. Now.

We wanted to make sure we didn't have to come back and re them in this thing, or have a huge slate of cases where we have all these.

Existing old versions, coming in front of us asking to be amended to the new version. That seemed.

Time consuming and messy, so hopefully this, uh, clean that up.

"Chair Flood"

Council Woman Fowler

"Council Member Fowler"

thank you, Madam chair. Um, so I'm in agreement with this, except for the fact that.

On an, em, use.

There are so many different things that could be considered, um, for that.

Use or that zoning designation that it makes me nervous not to put something on there. Um.

Especially in an area that is close to residential, but it doesn't have a budding properties.

Um, so that that was my concern, uh, Travis and, and.

You know, wanting the old language on this particular case.

Um, but if you could maybe talk me out of that.

I'd appreciate it.

"Travis Fiechter"

Sure. So so I think.

I think what I understand your concern to be is that this might not, um. Capture some things which the old might and that is.

Correct but it's also intentional. Um.

In the zone, there are a number of users that could sort of fit behind the.

Here's a large warehouse, right? There are a number of uses that could occur in that warehouse.

Um, and so if let's say we have a hypothetical air, uh, you have a warehouse with.

And then 3 years down the road, they decided to transfer to use to be.

Hold on I would potentially drag that in front of council.

Maybe council doesn't like you to be.

But they've gotten a an approved warehouse that can be used in the zone.

So, counsel doesn't really have a good way to you can hear the case. Um,

but there's not gonna be really something to stand on to say. No, you

can't do USB because we don't have the ability to bind out uses.

Unilaterally as we previously discussed and so we're really just kind of.

We end up in this fetal action where council sees an existing development plan that's already been approved.

A change of use is proposed and we can.

Project it, or or do much for it. Now, if we're looking at a revised

plan, if it is a use that requires modifications, then they can talk

about additional buying elements, additional buffering all those sorts of

things that this new binding element would still capture. Um.

And that applies in the commercial district where we're talking about

restaurants that change hands for, um, you know, residential if you change from.

A bunch of individual homes to a condo regime or something. So this.

There are certain uses within land development code that just aren't

going to regularly require changes to the plan. And when that occurs.

Additional steps of oversight aren't aren't particularly fruitful. Um,

and they're mostly just time consuming and, and probably frustrating for

Council to See case and say, oh, I really don't like this use and for us

to then tell you. Well.

We can't really say no, uh, the time for that was when they got rezoned

the time for that is passed.

Does that make sense?

"Council Member Fowler"

Well, it does make sense to set from the fact that I'm still. Um, I'm talking about.

And say it's empty.

And, and not in particular, this certain parcel and case that we had

before us today. But I do have some, um.

Properties a little further north that I would not want to become, um.

Something that that was not a good fit for the area close to residential.

Um, so the, em, is what makes me nervous.

Because there, you know, when you go up, you you, you've got some uses that you may not want.

And so that that's my problem.

If that makes sense, I don't know if it makes sense or not, but.

In my mind, it's, it's problematic when you have.

You know, industrial uses, that may not be a very, um.
Friendly to the environment environmentally friendly I mean, and and then
they could go ahead and do that.
Um, and we have no say, do you know follow up on saying.

"Travis Fiechter"

I I do, um, and I think the, I think the best way to address those
concerns, if on this case, or, in any case, any counsel person has a
concern about a specific use.
On a property, the best time to raise that and really the only time to
raise that under current law.
Is that this committee is that when we are considering a rezoning.
Um, and so if there is a specific, m, to use that, you're concerned
about, uh.
The best thing to do is to talk with the applicant and see if they want
to agree to find that out rather than.
Force a review down the road that again, depending on the circumstances,
we may not have the ability to outright reject.
Um, and so again, I don't know if that, I don't know if you have a
specific into concern on this case and that obviously that's something we
would need to discuss

"Council Member Fowler"

I have a lot of adult entertainment areas, businesses up and down Dixie.
And so on an, m, use, I just don't want a building to turn into the next
adult entertainment.

"Travis Fiechter"

And I believe that Staff correct me if I'm wrong but I believe adult
entertainment requires m3.

"Council Member Fowler"

Well, whether it's in 3 or 2, I mean, whatever.
So so on, then I say that I want to abandon element that we have no adult
entertainment.
Or, I mean, at at the zoning, we have been doing this since I've been on
council.
As far as putting this binding element that it comes back to the Council,
and I've used it most every time and it has been beneficial many times.
So, um, you know, I, and and it was mostly on the uses.
That were concerning to me, so I don't know.

"Travis Fiechter"

Thank you if you give me just a 2nd council 1 so I can double check.
On the, uh, adult entertainment uses, it's.
Can you clarify what those are available?

"Joe Reverman"

Yes, just a 2nd. I know it's and I think easy 1.
I don't think it's permitted with special standards double checking.

"Council Member Fowler"

And it's not just that use that's something that would not be so environmentally friendly as a previous use.
And then they would have a license to go ahead and do that.
Um, you know, I, I had 1 in particular that was going to use a warehouse that has now changed to an apartment complex, but they were going to use that warehouse to.
Um, to store, uh, buy products from and E.
Well, if I hadn't put that binding on and on there.
I mean, it it would have happened, so that's my concern.
I mean, it's not necessarily see to changing from a shoe store to a clothing store.
But the m uses, you know, are problematic in my mind.

"Chair Flood"

Joe is some, some of that is actually inside the adult entertainment ordinance.
In and of itself, besides just land development code, because I remember when, um.
Prior to us changing and, um.
Change in the adult entertainment ordinance and the district, or the zoning district, it could go into a lot of times.
We were putting the binding announcement on there that it cannot be in donor attainment but that was because it was allowed and.
Many different areas at the time.

"Joe Reverman"

There are some stuff though, where it's permitted is still in the land development code.
But it's permitted and M3 provided it meets a list of standards.

"Chair Flood"

Yeah, that's what I thought there was no other zoning code that was allowed because when they did the map, I don't know I can't remember.
I think deacons may have still been alive at the time that did the merger map if he was involved in it, or no, it wasn't. The gentleman that worked in your office. And I'm sorry, I can't remember his name who actually did the whole map of the entire county found that there was.
And absorb amount of M3 that would.
Meet the requirements that the Supreme Court had even passed down.
So, it only list,

"Council Member Fowler"

I mean, does anybody else think that that.
What I'm saying is make sense.
Scott, I mean, if it's an, or any, there's just other things that they could go to, that would maybe not be a great fit for the area.

"Chair Flood"

I guess you could not correct me, Travis and if I'm wrong, if I'm understanding this.
It's, it's not the time that I understand the time to bind out is at the beginning of the change in zoning when there's an agreement between the developer.

Um, in the planning commission, or or us, in the in the developer that we have, you do to bind out certain things.
But the, and I think I heard, Cindy's saying the intensity.
Not density, but the intensity.
Of the use, sometimes may be problematic.

"Joe Reverman"

Yeah, and you can always add binding elements later on, in the process when you have other development plans. But that's why we're always advising the planning commission and Metro Council, and we have these rezoning that yes, you can look at the permit the use and the site plan that's proposed with that site.
But you, by and large need to be really considered of the zoning district that's being requested, because it's intended the zoning districts are intended to permit a wide swath of different types of uses and it's. You know, the light development code is mainly just dealing with the uses that are permitted and the, uh, how the site is developed.
But our rezoning is largely dealing with.
Use that's permitted

"Chair Flood"

and everything underneath of that.
All allow C1 and Diane, I think sometimes people forget that once you, you do a higher, a higher zoning classification, you allow everything underneath the lower classification to be permitted there. there
To some degree,

"Joe Reverman"

right And with all the development plans that come in in subsequent years amendment to binding elements, all of those subsequent requests by the applicant could theoretically be.
Uh, reviewed by Metro Council, using that chapter 11 process.

"Chair Flood"

Cindy, would you, or Council Woman Fowler would you be more, um, supportive of the old language on this case? Is that what I'm hearing you say

"Council Member Fowler"

this case doesn't bother me as much as future cases that may be, um. Of course, the, that that binding element is already on those cases. So. Um, you know, that would still be.
Like, the uses that were approved.
And had that language there that's still there. Right? Travis.
Is that is that language still in effect?

"Travis Fiechter"

Yes, in any cases that have already been approved that language is is now existing.

"Council Member Fowler"

"Okay.

Okay, I'm okay with this 1 for sure. And I just don't have to work watch very closely and work with the developer on, um, future. cases sorry I hold it up. I just. Uh, just, you know, I've, I've got developers out in this in the town who, um, don't think they have to follow the. The rules and and the land development code. So, um, anyway, I'm good with it.

"Travis Fiechter"

Thank you for this Council woman, and for what it's worth, we have not gotten a tremendous amount of. Push back with the previous language, or at least I haven't. Um, and until recently we've had some complaints raised and again, that's. That's sort of why this came forward, um, just recently to, to, you know, make sure we're staying on top of everything. not overly burdening relatively simple processes, but at the same time, uh, keeping the council eye on cases where, you know, you all want to make sure either yourself in the future, or whoever should replace you. Um. Take a look when,

"Council Member Fowler"

And I understand and it makes sense, you know, it it like I said, it's just. In particular in an industrial area that, um, it is. Going to be changed to an it just, um. Gives me pause.

"Travis Fiechter"

That's all I have Madam chair. Thank you. Sorry I didn't mean to interrupt.

"Council Member Fowler"

That's okay.

"Travis Fiechter"

Um, if anyone else has any additional questions, whether now wants to email me later, I'm happy to answer them. Um, our general recommendation is to try and utilize this language moving forward. Um. But again, if if there are some concerns about where weaknesses may be, or what have you please come to me I'm happy to discuss. But I think we've covered most of our bases here and I think we're in a better place than we were a couple of weeks ago. So.

"Chair Flood"

So, I'm moving, I guess, does anybody have any questions or comments anybody else on the committee? I don't have anybody registered for seeing no 1 in any of the queues. Um. We have the change in zoning and Council Woman Fowler's district that we do need to add some binding elements to, um, Travis could do you mind reading those into the record for me and I'll move them. I'm sorry.

"Travis Fiechter"

No, no problem at all. I'm happy to give me just a 2nd here to make sure I have my numbers. Right? So there isn't a proposed amendment to binding element number 6.

Um, the the existing sentence would stay and the following would be added in addition no overnight idling of trucks or overnight sleeping and trucks shall be permitted on site until such time as there are no residential uses. Abutting the property district councils. Info.

There are, uh, I think 2 residential zone properties, uh, that are adjacent to this property 1, of which is residentially used. Um, but most of them are owned or seeking to be purchased by either this company or another. Uh.

Industrial, uh, owner, uh, and so the thought is that sometime in likely the near future, there will be no adjoining residential and this will be a sort of surrounded by industrial but until that time, this protection will be in place.

And then a new binding element number 10, which would be the language of just went over. And I will read it, uh, any significant increases to their pro structures increases in building height, number of units, number of buildings, any increase in density on the property.

Any changes in use on the property, which directly, or indirectly require a public hearing before the planning commission or subcommittee thereof and, or any amendments to the binding elements other than 1 the addition to new binding elements. 2 changes to binding elements that merely update the public hearing date.

Or 3 updating a previous version of this binding element to reflect current language shall be reviewed before the planning commission with final action to be determined to Metro Council.

"Chair Flood"

And I move those amendments 2nd.Hollander

And Cindy, you have a vote on all of this, too, all those in favor of the amendment signify by saying, aye bye. Bye.

That was opposed by likes on hearing none, the amendment passes.

We now have the amended version in front of us. Any discussion.

Saying that no, 1 is in it either. The queues. Um, we're ready for vote. If you'll call the virtual, please

"Cheryl Woods"

Committee Member Arthur

"Committee Member Arthur"

Yes,

"Cheryl Woods"

Committee Member Triplet Chair Reed

"Vice Chair Reed"

Yes

"Chair Flood"

Without objection voting is closing, there are 6 yet.

"Council Member Fowler"

Do I get a vote

"Chair Flood"

Yep. Sorry.

"Council Member Fowler"

Yes, please, thank you.

"Chair Flood"

So the total is 70 s votes and 1 not voting in this ago. The old business at the next meeting. Sorry Council Woman Fowler

"Council Member Fowler"

Okay. Thank you.

"Chair Flood"

Um, see, we have no other, um.

Projects in front of us today and so without objection we will stand adjourn into.

Oh, yes. Councilman Hollander

"Committee Member Hollander"

It's just going to comment briefly about item. Um, 6, 0.

Sorry item, I guess the number.

Item 5, that's an ordinance that's been a pending for some time.

"Chair Flood"

Is it yours?

"Committee Member Hollander"

It expires,

"Chair Flood"

okay.

"Committee Member Hollander"

End of this month and I'm just, uh, I'm going to let it expire.

"Chair Flood"

Okay.

"Committee Member Hollander"

I continue to think, uh, that.

This is an important subject and and this is this is would have introduced the same sort of language that existed in Jefferson County prior to merger.

I think if you ask council members, you'll find that they treat.

These kind of cases very differently from district district. Uh, and I think there's great confusion as to what can be done in terms of contact. This really was an effort to try to get some uniformity about this, but quite frankly, there's not a consensus about this and I also don't have time to pursue it. So.

I'm not going to reintroduce and it will expire and not be on the agenda at the next meeting.
Thank you.

"Chair Flood"

So I understand what you're saying councilman Hollander, because. Depends on which side of the. Which side of the line, the attorney sits on ours are an applicant there, they're their decisions change and we've had those who have come and gone from both sides of they are and their, their information to us or their opinion to us changes with what side of the streets are sitting on, uh, on those cases so. It is very confusing. I'd stick to the old guns that no expert that communication means that you don't talk to either side. So you don't jeopardize someone calling you to lose your vote, which has happened on this committee before where council members have been asked to recuse themselves from a vote.

"Committee Member Hollander"

And I think that that the confusion. And and this is not ascribing any bad motives to anybody. I think I think members also think that that changes the different parts of the process. There are members who think that once a case comes over here, you can talk to anybody that you want to talk to and get all the information you want because it's no longer a planning case. It's like every other piece of legislation. I think that's wrong. And I don't know how you make decisions based on the record if you're doing that. Uh, but there's just really no consensus right now about the way council members. Handle these cases and and I think that's unfortunate.

"Chair Flood"

Well, I think the truth is in the pudding and you look at how many cases once they've been challenged in circuit court, how many when in favor of metro government versus an applicant. Because of what is said. Between people and parties, and even on the floor

"Travis Fiechter"

and if I might very, very briefly, uh, we do have, um, some standard guidance out there, the land use handbook for any council person who might be confused in the process. You're welcome to contact me as well. And I believe we're gonna have some trainings with the new council members. Um, you know, once elections and such occur, whoever they may be. So, um, if you'd like to tune in to those as well great, we'll be going over everything as though you were brand new to the process. Thank you,

"Chair Flood"

thank you. County Attorney's office always does a great job for us. So I have no qualms with county attorney. So, once you leave, once they leave the season. Okay. We have nothing else them before. So, without objection, we are adjourned.