

# BE Citation Appeal

Docket No. 17ZONE1042 & 19-AMEND-0004

Zoning Enforcement Case – ENF-ZON-21-000507

8102 Old Bardstown Road



Louisville Metro Planning Commission

Laura Ferguson, Assistant County Attorney

September 16, 2021

# Case History

- A rezoning from R-4 to C-1 was approved for the subject site per Case Number 17ZONE1042 by the Planning Commission on February 1, 2018.

## PLANNING COMMISSION MINUTES FEBRUARY 1, 2018

### PUBLIC HEARING

### CASE NUMBER 17ZONE1042

Request:	R-4 to C-1
Project Name:	Speedwash
Location:	9808, 9818, 9818R Hillock Drive & 8018 & 8102 Old Bardstown Rd
Owner:	Old Bardstown Investment Group, LLC
Applicant:	Speedwash Carwash
Representative:	Wyatt, Tarrant & Combs, LLP
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Laura Mattingly, AICP, Planner II

# Case History

- An Amendment to Binding Elements was approved for the subject site per Case Number 19-AMEND-0004 by the Planning Commission on March 5, 2020.

**PLANNING COMMISSION MINUTES**  
**March 5, 2020**

**PUBLIC HEARING**

**CASE NO. 19-AMEND-0004**

Request:	<b>CONTINUED from the 02/20/20 Planning Commission</b> Binding Element Amendment
Project Name:	Fern Creek Speedwash
Location:	8102 Old Bardstown Road
Owner:	Chris Harrison, Fern Creek Speedwash
Applicant:	Chris Harrison, Fern Creek Speedwash
Representative:	Kathy Linares – Mindel Scott & Associates
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
<b>Case Manager:</b>	<b>Lacey Gabbard, AICP, Planner I</b>

# Enforcement History

- A Binding Element Notice of Violation was issued on 6/7/2021 for BE #1.

**Zoning Enforcement Case: ENF-ZON-21-000507-1 Visit #1**

**BE\_001 Noncompliance with a Binding Element or Condition of Approval:**

- The terms of an approved development plan and Binding elements or conditions of Approval are not being met on The subject property. All construction must be conducted in accordance with The approved plan and Binding elements or conditions of approval.

**Inspector Comments:**

- Sidewalks were not installed as agreed to in case # 17ZONE1042.
- Contact the Office of Planning & Design Services at (502) 574-6230 and a copy of the approved plan can be provided via email.

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.

# Enforcement History

- A Binding Element Citation was issued on 8/11/2021 for BE #1.

**Zoning Enforcement Case: ENF-ZON-21-000507-2 Visit #2**

**BE\_001                      Noncompliance with a Binding Element or Condition of Approval:**

- The terms of an approved development plan and Binding elements or conditions of Approval are not being met on the subject property. All construction must be conducted in accordance with the approved plan and Binding elements or conditions of approval.

**Inspector Comments:**

- Binding element violation the front sidewalk needs to be installed as agreed to in case #17ZONE1042.

# Appeal Request

Comes now the Appellant, Fern Creek Speedwash, LLC (“Speedwash”), by counsel, and files this Appeal and Hearing Request to contest to the August 11, 2021, *Binding Element Violation Citation*. Speedwash disputes the citation, in part, based on the following:

1. In or around January 2018, Speedwash initiated the permitting process with Louisville Metro Office of Planning & Design Services’ (“Metro”) for the proposed development of a car wash (the “Project”) at 8102 Old Bardstown Road, Louisville, Kentucky 40291 (the “Property”).

2. Prior to beginning construction of the Project, Speedwash obtained the requisite approval of its development plan by certain entities, including Metro Transportation Planning, Louisville Metro Sewer District (“Louisville MSD”), Louisville Metro Planning Commission, and Louisville Public Works.

3. Throughout the early portion of the design process with Metro in 2018, Speedwash’s original proposed development plan to Metro Transportation Planning included layout of a sidewalk.

4. Metro Transportation Planning, through its agent, Jeremiah Shaw, requested that Speedwash’s engineer, Thad Lucas, remove the sidewalk on its proposed development plan and notified Speedwash that said sidewalk would be constructed in conjunction with the construction of a road anticipated to be built at or near the site. Jeremiah Shaw advised Speedwash that the entity responsible for the road construction would undertake construction of the sidewalk.

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AUG 15 2021

# Appeal Request - Continued

5. Additionally, Louisville MSD advised Speedwash that it had in place their own design for the road due to drainage challenges in the area at and surrounding the Property, and with its specific plan, hoped to avoid restriction of drainage flow with its piping.

6. Based on the direction of both Metro Transportation Planning and Louisville MSD, Speedwash removed the sidewalk from its development plan and received the necessary approval of the revised plan.

7. After receiving final approval for its proposed development of the Property, Speedwash completed construction in conformity with all represented conditions and requirements of Metro, obtained a Certificate of Occupancy, and has been operating its car wash establishment since December 2019.

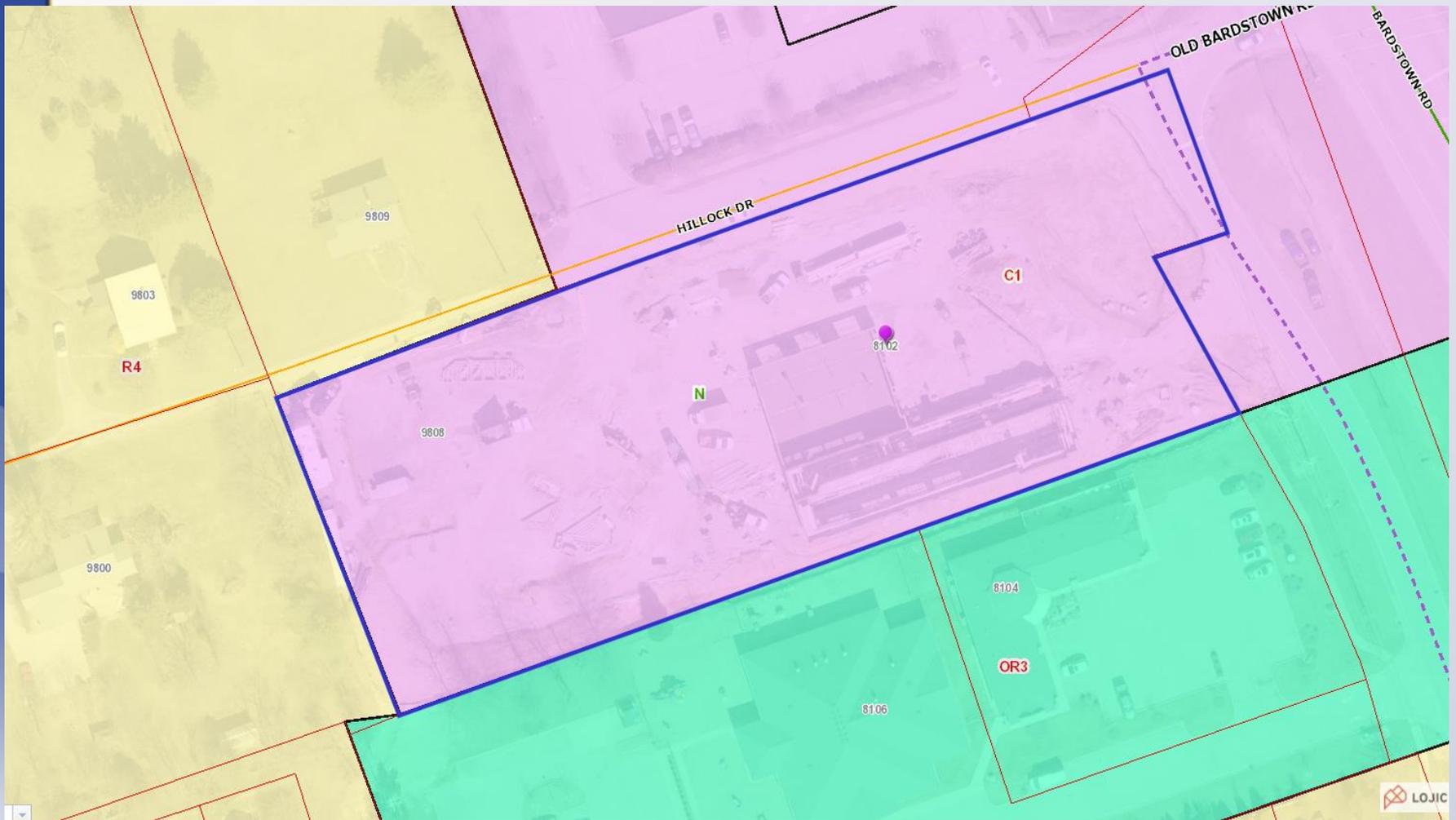
8. Speedwash's development plan absent the sidewalk was expressly approved, with the removal of such sidewalk done at the request of Metro Transportation Planning, and thus Speedwash completed construction of the Project in strict conformity with the approved plan.

9. Despite such specific affirmation by Metro Transportation Planning that Speedwash would not be required to construct said sidewalk, Metro has issued Speedwash a citation for noncompliance with a binding element.

For the foregoing reasons, Fern Creek Speedwash, LLC hereby appeals the citation at issue and request a hearing on this matter.



# Zoning/Form Districts



# Aerial Photo



# Site Inspection Photos 6/7/2021



# Site Inspection Photos 8/11/2021



# Site Inspection Photos 9/16/2021



# Required Actions

- The Planning Commission shall determine based on the evidence presented at this hearing, whether a violation of Binding Element #1 occurred.
- If the Commission determines that a violation occurred, the Commission shall issue an order upholding the citation and may order the offender to pay a civil fine in an amount up to \$1,000 per day of violation, or may issue a remedial order, or both.
- If the Commission determines that no violation occurred, an order dismissing the citation shall be entered.