

Proposed Findings of Fact for 18ZONE1095

Applicant **Silver Hawk Trucking**

Location **5102 E. Indian Trail**

Proposed Use Heavy Truck Parking

Request C-1 to M-2

The public hearing was held on April,4 2019

An ad ran in the Courier Journal on Wednesday March 20, 2019 advertising this public hearing per KRS Chapter 100.

Subsequent to discussion during business session, on a motion by _____, the following resolutions were adopted:

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone a parcel of land (.41 acres) at 5102 E. Indian Trail is appropriate because the site is adjacent to several M-1 uses and the suburban workplace district, the site is located on a primarily collector in an area where truck traffic comes and goes with the nearby warehouses, and because the use as a parking area does not represent a change from its past use.

WHEREAS, the Commission finds based on the testimony of the applicant that he made improvements to the property and did apply for a building permit to fence in the entire yard as a parking area in 2018 because as a new owner, he was experiencing trespassing and vagrancy issues on the property.

WHEREAS, the Commission finds based on the testimony of the applicant that he is willing to limit the site to a specific number of trucks and no nighttime activity and he is agreeing to binding elements on those issues to minimize any potential nuisances to residential uses in the area.

WHEREAS, the Commission recognizes that this site is location in the Enterprise zone and that the improvements done to the property are consistent with the policies of Guideline 6 because the proposal is an investment in an older neighborhood in need of revitalization and growth.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the area being immediate

adjacent to the suburban workplace activities where trucking operations are common makes the proposal consistent with the form district pattern as desired by Guideline 6, Policies 1, 3 and 5.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing, testimony and exhibits submitted that site is located on a primary collector-East Indian Trail with two minor arterial roads -Newburg Road and Shepherdsville within a block that the parcel is currently sitting in the Neighborhood Form District immediately adjacent to Suburban Workplace District which district extends south and east and contains several warehouse complexes and the GE complex a couple of blocks to the southeast ,that the request is for a small tract in a developed area to come into conformance with its historical land use as a commercial parking area and is consistent with a Suburban Workplace District and that the small size of the lot .41 acre will allow the site to serve as a truck parking area but not as a majority of the M2 uses because of its size; that a binding element limiting the site to use as a truck parking only will be proposed along with binding elements on the hours of operation and activities on the site; and that no one attended the neighborhood meeting or has expressed any issues or concerns with the rezoning to date and he has offered letters of support from 10 first and second tier landowners and thus these factor make the zoning change appropriate under Guideline 1, Policy A. 2 a, b, and c. and B 3 and 10.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application complies with the intent and the policies of Guideline 3 because this is the continuation of an existing commercial use which is compatible with the neighboring commercial and industrial uses and the fencing provides adequate buffering and screening for the area.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the proposal is of low impact to the neighborhood since the warehouse uses, truck traffic and parking lots are already present and thus traffic and noise should not change by this allowing of the parking use to continue and making the proposal meet Guideline 3, Policies 1, 6 and 7.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application that minimal security lighting is present and will comply with LDC requirements. The tree canopy requirements will be met, and the proposal meets the requirements of Guideline 3, Policies 8, 22 and 24.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application that proposal is not subject to Open Space requirements nor does the secured setting promote this need or use and that no natural area or scenic and historical research are present thus making conformance with Guidelines 4 and 5 unnecessary.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application complies with the intent and the policies of Guideline 7, 8 and 9 in that it is a small internal lot which does not stub connections.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application complies with the intent and the policies of Guidelines 10 and 11 because adequate provisions will be made for storm water management at the site and appropriate construction practices will be employed to protect water quality by the use of effective sediment and erosion practices in accordance with applicable regulations and best management practices.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application the proposal complies with the intent and the policies of Guideline 12 because this type project in a developed area will work to decrease vehicular miles traveled between home and trips to neighboring businesses. The proposal provides an employment location in a developed area. The site is also served by a TARC stop within 200 feet, thus encouraging the use of mass transit reducing vehicular miles traveled by employees or customers. Some sidewalks are available in this area but not in front of this site and sidewalks are proposed in the Site Plan.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application complies with this guideline to the extent possible with the constraints of the site in that the proposal including size and existing fencing and that landscape waivers are needed but tree canopy requirements will be met.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application complies with the intent and the policies of Guideline 14 because all necessary utilities are available nearby and will be connected via existing facilities.

BE IT FURTHER RESOLVED, that the Louisville Metro Planning Commission does hereby for these reasons that this proposal to rezone the parcel from C-1 to M-2 to allow for it to serve as parking area for trucks is appropriate because the existing form district/zoning classification is inappropriate based on the historical uses and location of the property and that this proposed M-2 use on a small site as presented is justified, not of concern to the neighboring properties, an investment in the community and appropriate under the applicable guidelines of the Cornerstone 2020 Comprehensive Plan and consistent with KRS Chapter 100 and therefore recommends to the Louisville Metro Council to approve the proposed ZONING change from C-1 to M-2 at 5102 E. Indian trail.

The vote was as follows:

YES:

NO:

NOT PRESENT FOR THIS CASE:

ABSTAINING:

DEVELOPMENT PLAN

On a motion by Commissioner _____, the following resolution was adopted:

WHEREAS, the Commission finds based on the Planning Commission Record, public hearing testimony and exhibits submitted in conjunction with this rezoning case from C-1 to M-2 that the Development Plan for 5012 E Indian Trail Road is approved.

BE IT FURTHER RESOLVED, that the Louisville Metro Planning Commission does hereby Approved the Development Plan and allow the site to be developed as proposed in the Site Plan.

The vote was as follows:

YES:

NO:

NOT PRESENT FOR THIS CASE:

ABSTAINING:

VARIANCE

On a motion by Commissioner _____ the following resolution was adopted:

WHEREAS, the Commission further finds that the applicant has requested a landscape waiver to waive the requirements of LDC5.3.1.C.5 to allow parking and maneuvering in the minimum 10-foot front yard setback.

WHEREAS, the Commission further finds that the to allow parking and maneuvering in the front yard setback area will not adversely affect public health, safety or welfare issues because there is an existing 8 solid metal fence and all activities occur behind it, thus making the setback unnecessary to observe;

WHEREAS, the Commission further finds he lot has been a parking area for many years, so parking represents no changes to the area; that a new solid 8-foot metal fence was constructed near the front property line under a permit issued in 2018 and there is no existing uniform front yard setback on this side of E. Indian Trail;

WHEREAS, the Commission further finds no nuisance or hazard is caused by the proposed parking or maneuvering behind the fence because the fence is a safe distance from the existing street and a new sidewalk will be placed in front of it;

WHEREAS, the Commission further finds the variance will not allow for an unreasonable circumvention of the zoning regulations because the request is to accommodate an existing solid fence, the parking behind it will not show, and there are no residential uses on either side of this use or close by on this side of the street with a 10 ft setback; and

WHEREAS, the Commission further finds strict application would require the applicant to move a new fence or have a ten-foot green space behind it serving no purpose in that the 10-foot setback is not needed for this specific site and use and the lack of setback has no hazards or adverse impacts on the adjacent properties.

BE IT FURTHER RESOLVED, that the Louisville Metro Planning Commission does hereby **GRANT the VARIANCE of LDC5.3.1.C.5** to allow parking and maneuvering in the minimum 10-foot front yard setback.

The vote was as follows:

YES:

NO:

NOT PRESENT FOR THIS CASE:

ABSTAINING:

WAIVER 1

On a motion by Commissioner _____ the following resolution was adopted:

WHEREAS, the Commission further finds that the applicant has requested a landscape waiver to waive the requirements of LDC 10.2.10 of the required VUA/LBA plantings on the front property line.

WHEREAS, the Commission further finds that the waiver involving LDC Chapter 10 of the LDC will not adversely affect adjacent property owners and compliance is not practical with existing conditions which are a solid metal fence in good condition along the front property line that provide a visual screen and a new sidewalk will be built directly in front of with a ditch and utility poles which prevent safe placement of the new sidewalk in another location and the adjacent property owner to the west is car repair

shop and to the east is a liquor store have no uniform or existing VUA bushes on these two sites and the residences across the street will have a buffer from the truck parking from the screening provided by the existing new 8-foot solid metal fence

WHEREAS, the Commission further finds that the waiver involving LDC Chapter 10 of the LDC will not violate the intent of the Comprehensive Plan in the intent of the requirements for VUA buffers trees and scrubs are to provide visual screening and in this instance, the solid metal fence will do that and height of the fence makes landscaping unnecessary for visual screening if placed behind the fence.

WHEREAS, the Commission further finds that the waiver involving LDC Chapter 10 of the LDC is the minimum to afford relief to the applicant because the existing new fence which was constructed with approval of a permit from Metro Government makes the placement of VUA bushes and behind it serve no screening purpose.

WHEREAS, the Commission further strict application of this requirement LDC Chapter 10 of the LDC would be a hardship because it would not deny the applicant of the use of the existing new fence which is attractive, an effective screen and in good condition and to install green space and landscaping behind it which is not visible or practical in the situation..

BE IT FURTHER RESOLVED, that the Louisville Metro Planning Commission does hereby **GRANT the WAIVER of LDC 10.2.10** to waive the requirements of VUA/LBA plantings on the front property line

YES:

NO:

NOT PRESENT FOR THIS CASE:

ABSTAINING:

WAIVER 2

On a motion by Commissioner _____ the following resolution was adopted:

WHEREAS, the Commission further finds that the applicant has requested a landscape waiver to waive the requirements of LDC 10.2.4 for LBA plantings on the front property line

WHEREAS, the Commission further finds that the waiver involving LDC Chapter 10 of the LDC will not adversely affect adjacent property owner's in that the lot to the west is the rear wall of an auto repair business owned by the same entity and the would not provide a visual enhancement to the site, neighboring business, or the streetscape.

WHEREAS, the Commission further finds that the waiver involving LDC Chapter 10 of the LDC will not adversely affect adjacent property owner's in that the lot to the east is a liquor store with an existing 8-foot fence on the property line wherein landscaping would be on the inside of the fence which does not provide any visual enhancement or buffering function; and further finds on the east side, there is a proposed swale and drainage control features which will provide a green area but for functionally does not need bushes or trees there where no adjoining property owners will see.

WHEREAS, the Commission further finds that the waiver involving LDC Chapter 10 will not violate the intent of the Comprehensive Plan and the adjoining neighbors have sufficient buffering and existing and long-term conditions at the site make new buffering unnecessary.

WHEREAS, the Commission further finds that granting of this waiver involving LDC Chapter 10 is the minimum relief given the available space and the current location of the fence.

BE IT FURTHER RESOLVED, that the Louisville Metro Planning Commission does hereby **GRANT the WAIVER** of LDC 10.2.4 to omit the need for LBA plantings on the east and west side property lines

The vote was as follows:

YES:

NO:

NOT PRESENT FOR THIS CASE:

ABSTAINING: