

**Planning Commission Minutes  
July 17, 2014**

**Public Hearing**

**Case No. 14ZONE1023**

**Project Name:** 3913 Accomack Drive

**Location:** 3913 Accomack Drive

**Owner:** Fireside Investment Pool LLC  
Michael J. Bailey, Representative  
90 Edwardsville Professional Park  
Edwardsville, IL 62025

**Applicant:** Fireside Financial LLC  
Michael J. Bailey, Representative  
90 Edwardsville Professional Park  
Edwardsville, IL 62025

**Representatives:** William B. Bardenwerper  
Bardenwerper, Talbott & Roberts  
1000 North Hurstbourne Parkway Suite 200  
Louisville, KY 40223

**Engineer/Designer:** Ann Richard  
Land Design & Development Inc.  
503 Washburn Avenue Suite 101  
Louisville, KY 40223

**Jurisdiction:** Louisville Metro

**Council District:** 17 – Glen Stuckel

**Case Manager:** **Julia Williams, AICP, Planner II**

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.)

**Request:**

Change in zoning from OTF to CM with Chapter 5 and Chapter 10 waivers.

**Agency Testimony:**

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00:58:36 Julia Williams presented the case and showed a Power Point presentation (see staff report for detailed presentation.)

**The following spoke in favor of the proposal:**

William B. Bardenwerper, Bardenwerper, Talbott & Roberts, 1000 North Hurstbourne Parkway Suite 200, Louisville, KY 40223

Kevin Young, Land Design & Development Inc., 503 Washburn Avenue Suite 101, Louisville, KY 40223

**Summary of testimony of those in favor:**

01:03:46 William Bardenwerper, the applicant's representative, presented the case and showed a Power Point presentation (see applicant's booklet, on file.) He gave a brief history of the site and the project.

01:10:22 Kevin Young, an applicant's representative, said part of the waiver requests is to have a 100% overlap of the MSD sewer/drainage easement with the landscaping and buffering. He discussed why the six-foot berm was not optimal for this site.

01:12:03 Commissioners Proffitt and Butler discussed the landscaping and plantings proposed for the site with Mr. Young. Mr. Bardenwerper said that a binding element could be added stating that the final landscaping plan would be in accordance with the concept plan being presented today.

01:14:32 Mr. Young discussed drainage flow (from this and adjacent properties) and the detention basin.

**The following spoke in opposition to the proposal:**

No one spoke.

**The following spoke neither for nor against the proposal:**

No one spoke.

**Deliberation**

01:17:35 Planning Commission deliberation. The Commissioners agreed that this was an appropriate use of the property.

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**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.**

**Zoning**

On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form. The community form for this area is Suburban Workplace which is characterized by a variety of uses mostly like this one or more intense; adjoining apartment uses, in accordance with this Form District, will be well screened and buffered; and apartment dwellers are some of the predominate users of mini-storage facilities like this one; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers. The Intents of this Guideline 2 are to promote an efficient use of land in existing infrastructure, to lower utility costs by reducing the need for extensions, to reduce commuting time and transportation related air pollution, to provide neighborhood centers and marketplaces that include a diversity of goods and services, to encourage vitality and sense of place, and to restrict individual or isolated commercial uses in noncommercial areas. The proposed mini-storage facility complies with all of these Intents of this Guideline because this property is ideal for this use given its location surrounded by the uses identified above on the edge of a large mixed use industrial, retail and apartment activity center; locating the mini-storage facility where there is a clear market demand in an area with a sizeable residential support population with multiple retail and industrial users as well as pass-by traffic, helps reduce commuting and transportation related air pollution because people don't have to drive long distances, as they often do, for their mini-storage needs; and the proposed min-storage facility also addresses the other Intent statements of this Guideline because it is a compact development that fits well, given its aesthetic appeal and full mitigation of adverse impacts, with nearby commercial and industrial uses and with nearby commercial, industrial and apartments predominantly existing in the area; and

**WHEREAS**, The Commission further finds that Policies 1 and 2 of this Guideline propose locating activity centers when a proposed use requires a special location in or near a specific land use or transportation facility; this proposed mini-storage

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facility complies with these Policies of this Guideline because, as stated, a Suburban Workplace is appropriate for this kind of use, and further mini-storage requires special locations, notably on streets near significant residential, industrial and/or commercial support populations and businesses from where they draw their trade; and

**WHEREAS**, the Commission further finds that Policy 3 of this Guideline suggests location of commercial development in activity centers where it can be demonstrated that significant support population exists; and not only is there little competition for mini-storage facilities in this immediate area, but there is a support population in very short driving distances from the proposed mini-storage facility; and

**WHEREAS**, the Commission further finds that Policy 5 of this Guideline recommends a mixture of compatible uses in a Suburban Workplace; the way that the proposed mini-storage facility relates to other nearby multifamily residential and commercial uses in terms of design and use of building materials makes this mini-storage facility compatible with other uses; and compatibility is also assured because the exterior of the mini-storage facility acts as a masonry wall, which is what residential neighborhoods often prefer in terms of screening; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility. The Intents of this Guideline are to allow a mixture of land uses as long as they are designed to be compatible with each other, to prohibit the location of sensitive land uses in areas where accepted standards for noise, lighting, odors or similar nuisances are violated, and to preserve the character of the existing neighborhoods; the proposed mini-storage facility complies with these Intents of this Guideline because it is evident from the filed development plan and elevation renderings that the design is compatible given nearby uses and their designs using similar building materials; all sides, except at the driveway opening, will be faced with attractive, split-face block wall to protect against visual, noise and activity nuisances associated with a mini-storage facility; this use does not involve lighting, noise, odors or similar nuisances; per binding elements, lighting will be set below the roof lines so that lighting will not shine into adjoining residential buildings but will be contained within the confines of the building spaces themselves; the use is quiet and won't involve any kind of active participation of customers other than occasional delivering of items to, and removing them from, storage; and the split-face block masonry wall around the perimeter of the mini-storage facility helps preserve the character of the neighborhood; and

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**WHEREAS**, The Commission further finds that Policies 1 and 2 of this Guideline pertain specifically to the use of building materials and other design techniques to ensure compatibility with adjoining residential uses; as stated, the perimeter split-face block, color compatible walls of the mini-storage facility screen and buffer residences from activities on the inside of this facility; and the walls of the mini-storage facility will be further softened with landscaping along the perimeters; and

**WHEREAS**, the Commission further finds that Policies 5, 7, 8 and 9 of this Guideline all pertain, as stated above, to the nuisances of odors, noise, lighting and other visual impacts, which are often commonplace in commercial and industrial facilities; but a mini-storage facility doesn't involve typical nuisances that need to be mitigated because there are no odors associated with it, no noise is involved, lighting is held below the rooflines of the buildings, and the outside walls of the mini-storage facility shield unwanted adverse visual impacts; and the split-face block, masonry wall will be attractive enough, and its appearance is softened with landscaping; a; and

**WHEREAS**, the Commission further finds that Policy 6 of this Guideline pertains to traffic; it should be noted here, as in the discussion of traffic and transportation in Guidelines 7 and 8, that traffic generation from a mini-storage facility is as low as anything; and

**WHEREAS**, the Commission further finds that Policy 19 pertains to hazardous materials; and restrictions will be imposed by binding element so that hazardous materials cannot be stored on site; and

**WHEREAS**, the Commission further finds that Policies 21, 22 and 23 pertain to transitions, buffering and setbacks; the mini-storage facility itself is a good use for a large lot in a Suburban Workplace; and the proposed mini-storage facility has no nuisances associated with it, and the outside of it looks like a masonry wall which is what neighbors typically want for screening purposes; and

**WHEREAS**, the Commission further finds that Policies 24 and 25 of this Guideline pertain to the impacts of parking, loading and delivery; access to and from the mini-storage facility will be from Accomack Drive; those areas will be completely screened off from views of these facilities by the exterior wall of the mini-storage facility which will be as a split-face block masonry screening wall; and parking, because of the size of these proposed use, will be minimal; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 6 – Economic Growth and Sustainability. The Intents and Policies of this Guideline are to ensure the availability of necessary usable land to facilitate

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commercial development, to reduce public and private costs for land development, and to assure that commercial development is located in activity centers; as stated above, there is a demand for mini-storage facilities in this area, and the Suburban Workplace is a perfectly appropriate place for this use, given all the described impact mitigation; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 7 and 8 – Circulation and Transportation Facility Design. The Intents and Policies of these Guidelines are to provide for safe and proper functioning of the street network, to ensure that a development does not exceed the carrying capacity of adjoining streets, to ensure good internal and external circulation, to address congestion and air quality issues, to protect streetscapes and transit corridors, and to provide efficient, safe and attractive roadways, transit routes and sidewalks; and

**WHEREAS**, the Commission further finds that the proposed mini-storage facility complies with these Intents of these Guidelines because, as stated above, this is a low intensity use that does not negatively impact the transportation network; mini-storage contributes virtually no traffic, and mostly accommodates nearby residential and commercial traffic; and there is an access point off Accomack Drive which can handle this small volume of traffic; and

**WHEREAS**, the Commission further finds that Policies 1, 2, 8 and 9 of Guideline 7 pertain to impacts of developments, impact mitigation measures, where necessary, appropriate levels of service for the adjoining roadways, and, as necessary, dedication of additional right-of-way; the development plan filed with this application and the low traffic volumes associated with this use demonstrate that this proposed project will not negatively impact Accomack Drive; and

**WHEREAS**, the Commission further finds that Policies 10, 11, 12 13, 14 and 16 of this Guideline all pertain to development plan requirements, such as adequate parking, corner clearances, median openings, access design and so forth; prior to LD&T, the development plan received a preliminary stamp of approval from Metro Transportation Planning, assuring compliance with all of these particular design standards; and

**WHEREAS**, the Commission further finds that Policies 5, 9, 10 and 11 of Guideline 8 similarly address issues of site design, notably with respect to access, site distances and internal circulation; all of these issues are addressed on the development plan and were reviewed and approved by the Metro Transportation Planning prior to docketing for LD&T; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 9 – Bicycle, Pedestrian and Transit. The Intents and Policies of this Guideline all deal with assuring that provisions for pedestrian, bicycle and transit usage and access are assured for uses that rely on them; only sidewalks are relevant in this case, and they will be provided along the property frontage; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 10, 11, and 12 – Stormwater, Water Quality, and Air Quality. The Intents and Policies of these Guidelines pertain to the environmental issues; as to stormwater management, area drainage issues have been examined by MSD together with engineers and land planners at Land Design and Development, and the site plan has been preliminarily approved by MSD prior to docketing for LD&T based further that the fact that site design assures that post-development rates of runoff will not exceed pre-development conditions and there are no blue line streams involved on this property that will be adversely affected; and

**WHEREAS**, the Commission further finds that the typical way that water quality is addressed is through construction standards addressing soil erosion and sediment control, which will be addressed at construction stage; and

**WHEREAS**, the Commission further finds that, regarding air quality, as stated above, this is a very low traffic-generating use; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character. This Guideline and its Policies require adequate landscaping along the perimeters of properties and within interior parking areas; and as the development plan filed with this application shows, landscaping, as required by the Land Development Code, is provided along the perimeter and within the interior parking areas; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of Louisville Metro Government that the requested Change in zoning from OTF to CM on property described in the attached legal description be **APPROVED**.

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**The vote was as follows:**

**YES: Commissioners Proffitt, Brown, Tomes, Jarboe, White, Butler, Peterson, and Turner.**

**NO: No one.**

**NOT PRESENT: Commissioners Blake and Kirchdorfer.**

**ABSTAINING: No one.**

**Waiver #1**

On a motion by Commissioner Tomes, seconded by Commissioner Butler, the following resolution was adopted:

**WHEREAS**, the Louisville Planning Commission finds that the waiver to not provide vehicular and pedestrian connectivity will not affect adjacent property owners as the use requires security making vehicular connectivity not possible. Pedestrian connectivity is provided via the proposed sidewalk; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan as there is one controlled entrance/exit to the site. The use requires the site to be secure and providing cross access would compromise the security of the site; and

**WHEREAS**, the Commission further finds that the waiver is necessary for the use to have controlled access points so as not to compromise the security of the site; and

**WHEREAS**, the Commission further finds that the strict application of the provisions would be a hardship on the applicant as the use would not be able to operate securely with open access points; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the proposed Waiver from Chapter 5.9.2.A.1.b.ii, to not provide a vehicle and pedestrian connection to the adjacent non-residential properties.



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**The vote was as follows:**

**YES: Commissioners Proffitt, Brown, Tomes, Jarboe, White, Butler, Peterson, and Turner.**

**NO: No one.**

**NOT PRESENT: Commissioners Blake and Kirchdorfer.**

**ABSTAINING: No one.**

**Waiver #2**

On a motion by Commissioner Tomes, seconded by Commissioner Turner, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not affect adjacent properties because the landscape requirements will still be met within the provided buffers; and

**WHEREAS**, the Commission further finds that the Comprehensive Plan will not be violated because all the buffering and screening materials will be provided within the buffer; and

**WHEREAS**, the Commission further finds that the waiver is necessary to provide relief to the applicant so that additional land isn't unnecessarily used to provide an extended buffer for which all the landscape materials will still be provided within a buffer that is shared within an easement; and

**WHEREAS**, the Commission further finds that the strict applicant is unreasonable when the applicant can sufficiently provide the landscape materials within the shared buffer and easement; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the proposed Waiver from Chapter 10.2.4.B, to permit over 50% overlap of easements into required LBAs.

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**The vote was as follows:**

**YES: Commissioners Proffitt, Brown, Tomes, Jarboe, White, Butler, Peterson, and Turner.**

**NO: No one.**

**NOT PRESENT: Commissioners Blake and Kirchdorfer.**

**ABSTAINING: No one.**

**Waiver #3**

On a motion by Commissioner Tomes, seconded by Commissioner White, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not affect adjacent property owners as the screening and landscape materials will still be provided within a proposed 25' LBA; and

**WHEREAS**, the Commission further finds that the Comprehensive Plan will not be violated because all the buffering and screening materials will be provided within the buffer; and

**WHEREAS**, the Commission further finds that the waiver is the minimum necessary for relief to the applicant as the planting requirements can still be met within a smaller buffer. The reduced buffer allows for further use of the site that is geared toward providing a service to the adjacent multi-family that is located in the area; and

**WHEREAS**, the Commission further finds that, because the planting and screening requirements can still be met within the reduced buffer providing the entire 50' buffer for a use that compliments the surrounding multi-family would create an unnecessary hardship; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the proposed Waiver from Chapter 5.5.4.B.1, to reduce the required 50' LBA to 25' and to not provide the 6' berm.

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**The vote was as follows:**

**YES: Commissioners Proffitt, Brown, Tomes, Jarboe, White, Butler, Peterson, and Turner.**

**NO: No one.**

**NOT PRESENT: Commissioners Blake and Kirchdorfer.**

**ABSTAINING: No one.**

**District Development Plan and Binding Elements**

On a motion by Commissioner Tomes, seconded by Commissioner White, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the applicant is not preserving any existing trees on the site but is replanting trees around the perimeter to coordinate with the adjacent properties landscaping and open space; and

**WHEREAS**, the Commission further finds that a sidewalk is proposed along the frontage with a connection to the office building. Vehicular connectivity is not being provided because the use requires the site to be secure; and

**WHEREAS**, the Commission further finds that open space is being provided on the site in the form of a detention basin, setbacks, and buffer areas. These areas make the site compatible with the adjacent open spaces; and

**WHEREAS**, the Commission further finds that MSD has preliminarily approved the proposal; and

**WHEREAS**, the Commission further finds that the site design focuses the buildings internally but provides landscaping along the perimeters to ensure compatibility and buffering. The proposed use is complimentary to the adjacent multi-family developments; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan, **SUBJECT** to the following binding elements:

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1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 50,426 square feet of gross floor area.
3. No pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
9. 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.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 17, 2014 Planning Commission meeting.
11. The landscaping shall be substantially similar to the landscaping shown on the concept plan presented at the July 17, 2014 Planning Commission hearing.

**The vote was as follows:**

**YES: Commissioners Proffitt, Brown, Tomes, Jarboe, White, Butler, Peterson, and Turner.**

**NO: No one.**

**NOT PRESENT: Commissioners Blake and Kirchdorfer.**

**ABSTAINING: No one.**