

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
August 31, 2023**

A regular meeting of the Louisville Metro Planning Commission was held on Thursday, August 31, 2023 at 1:00 p.m. at the Old Jail Auditorium, 517 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Marilyn Lewis, Chair
Michelle Pennix
Rich Carlson
Bill Fischer
Te'Andre Sistrunk
Jim Mims
Jennifer Kern
Patricia Clare

Commission members absent:

Suzanne Cheek
Lula Howard

Staff Members present:

Brian Davis, Assistant Director
Julia Williams, Planning Manager
Joel Dock, Planning Supervisor
Beth Stuber, Engineering Supervisor
Jay Lockett, Planner II
Dante St. Germain, Planner II
Laura Ferguson, Assistant County Attorney

Others Present:

The following matters were considered:

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APPROVAL OF MINUTES

AUGUST 17, 2023 PLANNING COMMISSION REGULAR MEETING MINUTES

00:04:20 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on August 17, 2023.

The vote was as follows:

YES: Commissioners Carlson, Clare, Kern, Mims, Fischer, Pennix, Sistrunk and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Howard and Cheek

ABSTAINING: Commissioner Clare

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BUSINESS SESSION

FEE SCHEDULE – AUGUST 2023

Request: Office of Planning Fee Schedule (Appendix 11B)
Case Manager: Emily Liu, FAICP, Director

Agency Testimony:

00:05:06 Brian Davis presented on behalf of Emily Liu. Davis stated the changes that the Planning Commission requested have been made, and staff is now recommending that if approved the new fee schedule should go into effect on November 1, 2023.

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.

00:07:50 On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the proposed Office of Planning Fee Schedule (Appendix 11B), which shall become effective on November 1, 2023.

The vote was as follows:

YES: Commissioners Sistrunk, Pennix, Fischer, Mims, Kern, Clare, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Howard and Cheek

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PUBLIC HEARING

CASE NO. 22-ZONE-0141

Request: Change in Zoning from R-4 Single Family and M-2 Industrial to PEC Planned Employment Center with a Detailed District Development Plan with Binding Elements and Waiver(s)

Project Name: 13110 Old Henry Road

Location: 13110 Old Henry Road

Owner: WSA Realty Properties, LLC

Applicant: WSA Realty Properties, LLC

Representative: Wyatt Tarrant & Combs

Jurisdiction: Louisville Metro

Council District: 17 – Markus Winkler

Case Manager: Jay Lockett, AICP, Planner II

Agency Testimony:

00:09:00 Jay Lockett stated the case needs to be continued to September 7, 2023 because of a sign posting issue. The sign has been posted on the site with the new date.

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.

00:09:33 On a motion by Commissioner Kern, seconded by Commissioner Carlson, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the September 7, 2023 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Sistrunk, Pennix, Fischer, Mims, Kern, Clare, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Howard and Cheek

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PUBLIC HEARING

CASE NO. 23-CELL-0001

Request: Proposed Cell Tower
Project Name: Proposed Cell Tower
Location: 6013 Cane Run Road
Owner: Construction Consulting Service, LLC
Applicant: Pyramid Network Services
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell
Case Manager: Molly Clark, Planner II

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

Agency Testimony:

00:10:25 Joel Dock presented the case and presented a PowerPoint presentation (see staff report and recording for detailed presentation). The proposed tower will be 199 feet tall and be equipped to have up to four carriers on it. There are some discrepancies with the size of the site, which the applicant will address during their presentation. The application appears to be complete and all required notices have been provided.

Commissioner Mims asked if the Riverport Authority had commented on the proposal. Dock read an email that expressed support for the project.

The following spoke in support of the proposal:

Jay Suriano, Pyramid Network Services, 6615 Towpath Road, Syracuse, New York, 13057

Summary of testimony of those in support:

00:18:53 Jay Suriano spoke in support of the application (see recording). The closest cell tower to this site is on Intermodal Drive and it is actually scheduled to be removed. The proposed tower will host the carriers that are located on the Intermodal Drive tower. The applicant is proposing an eight-foot tall security fence, and they do agree to consider doing a vinyl fence with landscaping on the outside. The applicant has secured a lease

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for 5,000 square feet, but are currently looking to renegotiate that lease to make the area 10,000 square feet.

Commissioner Carlson asked for more details about the proposed plantings. Suriano responded there will be a mix of Norway spruce and winterberries. Commissioner Mims said the spruce trees will reach a width of about twenty feet each.

Commissioner Carlson asked why they chose this portion of the property for the site. Suriano gave some insight into the decision to place it in the proposed location, with accessibility and constructability both being major factors. Suriano stated they spoke with 21 other locations, but did not consider the LG&E station because its location would not provide service to this area.

Deliberation:

00:28:35 Commissioner deliberation.

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.

00:30:00 On a motion by Commissioner Carlson, seconded by Commissioner Sistunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Planning Commission finds the new cell tower agrees with Plan 2040 and the Land Development Code. No waivers or variances have been requested and the requirements of Land Development Code, Section 4.4.2 have been satisfied,

WHEREAS, the Planning Commission finds Plan 2040 calls for cellular towers to be designed to minimize impact on the character of the general area concerned; be sited (in order from most preferred to least preferred): 1. highway rights-of-way except designated parkways; 2. existing utility towers; 3. commercial centers; 4. government buildings; 5. high-rise office structures; 6. high-rise residential structures; Minimize the likely effects of the installation on nearby land uses and values; Be designed to address compatibility issues such as co-location, mass, scale, siting, abandonment and removal of antenna tower structure; Avoid environmentally sensitive lands, historic landmarks, and scenic byways, unless the applicant proves that no other reasonable site is available and the tower is designed to minimize impact, and

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WHEREAS, the Planning Commission finds the proposed new cell tower is in the EZ-1 zoning and Workplace form districts. It is compatible with the area, which is characterized by industrial and logistical land uses. Further, it is located on a developed site and does not negatively impact the natural or historic resources, parkways or scenic byways, and does not impede upon residential communities. The nearest residence is more than 1,000' from the proposed tower. The base of the tower will be screened and secured from the public, now; therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested cell tower **ON CONDITION** the applicant updates the lease to match the plan.

The vote was as follows:

YES: Commissioners Sistrunk, Pennix, Fischer, Mims, Kern, Clare, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Howard and Cheek

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CASE NO. 23-ZONE-0057

Request: Change in Zoning from R-6 to C-2, a Detailed District Development Plan with Binding Elements, Variance(s) and Waiver(s)
Project Name: Shelby Park Mixed Use Corner Store
Location: 541 E Ormsby Avenue
Owner/Applicant: 541 E Ormsby Avenue LLC
Jurisdiction: Louisville Metro
Council District: 6 – Phillip Baker
Case Manager: Jay Lockett, AICP, Planner II

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

Agency Testimony:

00:31:20 Jay Lockett presented the case and presented a PowerPoint presentation (see staff report and recording for detailed presentation). The applicant is proposing to renovate the existing building and are requesting to change the zoning to match the historical use and design of the building. The applicant agreed to some binding elements to restrict the uses that will be permitted on the site.

The following spoke in support of the proposal:

Doug Sharp, 306 Addison Avenue, Franklin, Tennessee, 37064

Summary of testimony of those in support:

00:36:24 Doug Sharp spoke in support of the application and presented a PowerPoint presentation discussing the request (see recording). Sharp stated they have worked closely with the Shelby Park Neighborhood Association to discuss the plan and create the proposed binding elements. The first floor will be used for office/commercial, and there will be residential units on the second floor.

Commissioner Clare asked how many residential units are proposed. Sharp stated there will be a maximum of six, with four proposed on the site at this time. The count could go to six units if the entire first floor is not leased to a commercial use.

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Commissioner Mims asked the applicant about the proposed binding elements that are binding out certain uses. Jay Luckett clarified the interpretation of “on site consumption of alcohol” to only mean no consumption in a liquor store, and that does not apply to a restaurant. Commissioner Mims asked if these would be short term or long term rental units. Sharp stated the intent is to do long term rental.

Deliberation:

00:50:45 Commissioner deliberation.

An audio/visual recording of the Development Review Committee meeting 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 Change from R-6 to C-2

00:51:20 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the staff report, applicant testimony heard today and staff analysis, was adopted:

WHEREAS, the Planning Commission finds the proposal meets Plan 2040 Community Form: Goal 1 because the proposed district results in the re-establishment of a corner commercial use in a former corner commercial structure; thus, it does not encroach upon a residential area based on the historic and traditional context of the use and neighborhood. The proposal allows a variety of neighborhood serving commercial uses and housing options. The proposed district is two blocks in either direction from commercial corridors and transit service. The nearest transit route is one-block west along Jackson Street. No adverse impacts of traffic will result as the site is in a walkable urban neighborhood at a corner location between transit routes and arterial roadways,

WHEREAS, the proposal meets Community Form: Goal 2 because existing facilities will be repurposed. The proposed district allows for mixed residential use which would have been traditionally located on the 2nd level. The proposed district is supported by a sufficient population in the area that has convenient access to the site. The proposed district revitalizes an underused commercially viable structure in a walkable urban neighborhood that results in efficient land use and cost-effective infrastructure investment. The proposal allows for a corner commercial use to be located near the population it will serve and also within proximity to transit and other commercial services to support and enhance alternative modes of travel, and encourage vitality. The proposed zoning district permits mixed use. The proposal rehabilitates existing structures. The proposed

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district revitalizes an underused commercially viable structure in a walkable urban neighborhood which is at an appropriate scale due to its traditional context and design,

WHEREAS, the proposal meets Community Form: Goal 3 because the proposed district utilizes a previously developed site and does not impact natural features. The proposed district utilizes a previously developed site and does not impact wet or highly permeable soils, severe, steep or unstable slopes. The proposed district utilizes a previously developed site and does not impact flood-prone areas and other features vulnerable to natural disasters,

WHEREAS, the proposal meets Community Form: Goal 4 because the proposed district preserves existing structures that exhibit compatibility with the character of the area,

WHEREAS, the proposal meets Mobility: Goal 1 because the proposed district is appropriately located for its intensity and density at a corner location in a walkable urban neighborhood between transit and commercial corridors. Its location support transit-oriented development and an efficient public transportation system.

WHEREAS, the proposal meets Mobility: Goal 2 because access to the site is from public ways and the use does not present a scale that would create a nuisance on these roadways.

WHEREAS, the proposal meets Mobility: Goal 3 because proposed district increases the availability of neighborhood goods and services in a walkable urban neighborhood at a site of previous commercial activities. The proposed district does not negatively impact mobility or accessibility to transit, pedestrians and people with disabilities. It allows for commercial activities closer to the populations they serve. The proposed district increases the availability of neighborhood goods and services in a walkable urban neighborhood at a site of previous commercial activities to promote public transit and pedestrian use. Transportation planning has approved the preliminary development plan,

WHEREAS, the proposal meets Community Facilities: Goal 2 because the proposed district will be served by existing utilities. An adequate supply of potable water and water for fire-fighting purposes is available. Adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District is provided,

WHEREAS, the proposal meets Economic Development: Goal 1 because proposed district allows for neighborhood uses not intended to attract regionally. Its location will not create a nuisance from traffic,

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WHEREAS, the proposal meets Livability: Goal 1 because the proposed district utilizes a previously developed site and is not located within the floodplain,

WHEREAS, the proposal meets Housing: Goal 1 because the proposal allows for mixed use which may include housing for the elderly or disabled,

WHEREAS, the proposal meets Housing: Goal 2 because the proposal allows for mixed use. Traditionally residential would have been provided on the 2nd level of the structure. The proposal allows for a variety of housing options and types and is within close proximity to transit, services, amenities and employment opportunities, and

WHEREAS, the proposal meets Housing: Goal 3 because the proposal allows for a variety of housing options and types that can help provide additional affordable housing options; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** the Louisville Metro Council **APPROVE** the proposed zoning change from R-6 to C-2 on the property described in the legal description.

The vote was as follows:

YES: Commissioners Sistrunk, Pennix, Fischer, Mims, Kern, Clare, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Howard and Cheek

VARIANCE

00:52:16 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

WHEREAS, the Planning Commission finds the requested variance will not adversely affect public health safety or welfare as the site will be constructed according to all applicable building codes and safety requirements.

WHEREAS, the requested variance will not alter the essential character of the general vicinity. The proposed expansion will follow the existing line of the building on site,

WHEREAS, the requested variance will not cause a hazard or nuisance to the public since the building will be constructed according to the building code, including all safety and health related provisions,

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WHEREAS, requested variance will not allow an unreasonable circumvention of zoning regulations since it will allow for renovation of an existing site in a manner consistent with the development pattern of the area,

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the building already exists mostly at the proposed setback, and the addition is relatively minor

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought, as the applicant is requesting approval prior to construction, now; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance.

The vote was as follows:

YES: Commissioners Sistrunk, Pennix, Fischer, Mims, Kern, Clare, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Howard and Cheek

Waiver of LDC Section 10.2.4

00:53:04 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

WHEREAS, the Planning Commission finds the waiver will not adversely affect adjacent property owners,

WHEREAS, Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved

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through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. The waiver will not violate the Comprehensive Plan, as all required screening will be provided around the subject site. A mix of residential uses near mixed use or corner commercial development is consistent with the general character of the Traditional Neighborhood form district,

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, and

WHEREAS, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land, as the buffer cannot be complied with due to the narrow site and existing structure to remain, now; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver.

The vote was as follows:

YES: Commissioners Sistrunk, Pennix, Fischer, Mims, Kern, Clare, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Howard and Cheek

Detailed District Development Plan

00:53:48 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

WHEREAS, the Planning Commission finds there are no significant natural or historic resources on the subject site,

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Transportation Planning has approved the preliminary development plan,

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WHEREAS, there are no open space requirements associated with this request,

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community,

WHEREAS, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate screening will be provided to screen adjacent properties and roadways, and

WHEREAS, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, except where relief is requested; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following 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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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.
3. 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. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to

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- requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- c. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff and shall be substantially similar to the elevations/renderings presented at the Planning Commission public hearing. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
4. 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 implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
5. 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.
6. The following uses, while ordinarily permitted within the C-1 zoning district shall not be permitted on the subject site:
- Automobile rental agencies with no more than 25 rental passenger vehicles stored on site, and no more than two service bays for cleaning or maintenance, and having no repair or storage/dispensing of fuel
 - Automobile parking areas, public and private
 - Automobile service stations with service bays for repair of no more than two vehicles
 - Car washes having prior approval by the agency responsible for transportation planning
 - On site dry cleaning, dyeing, pressing, and laundry
 - Funeral homes
 - Package liquor stores (no on-site alcohol consumption allowed)
 - Pawn Shop
 - Temporary buildings, the uses of which are incidental to construction operations being conducted on the same or adjoining lot or tract, and which shall be removed upon completion or abandonment of such construction, or upon the

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expiration of a period of two years from the time of erection of such temporary buildings, whichever is sooner

7. The following uses, while ordinarily permitted within the C-2 zoning district shall not be permitted on the subject site:

Automobile rental agencies
Automobile repair garages
Automobile sales agencies
Boat Sales and related storage
Building materials, storage and sales
Exposition building or center
Fraternities, sororities, clubs and lodges excluding those where the chief activity of which is a service customarily carried on as a business.
Laser Tag
Micro-breweries and micro-distilleries (where production activities occur indoors in a space 5,000 square feet or less)
Monument sales
Package liquor stores (no on-site alcohol consumption allowed)
Public transportation passenger terminals
Public utility buildings and facilities
Rubber stamp manufacturing, where products are sold on premises
Skating rinks (ice or roller)
Tavern, bar, saloon
Telephone exchanges
Used car sales areas

8. Any business with a by the drink liquor license shall not serve after 12:00 am. Outdoor music or entertainment shall not be permitted after 10:00 pm.

The vote was as follows:

YES: Commissioners Sistrunk, Pennix, Fischer, Mims, Kern, Clare, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Howard and Cheek

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CASE NO. 22-ZONE-0096

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

Project Name: Mini Warehouses

Location: 6212 & 6220 Shephersville Road, 5700 Janies Way, Parcel ID 063402420000

Owner/Applicant: AL CAT LLC

Representative: Wyatt Tarrant & Combs

Jurisdiction: Louisville Metro

Council District: 2 - Barbara Shanklin

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

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:

00:57:55 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). A portion of the site is already zoned C-M, so the applicant is proposing to rezone the rest of the site in order to do the proposed mini warehouse storage development.

Commissioner Carlson asked about the proposed access easement binding element. St. Germain said the applicant is in favor of using staff's proposed language.

The following spoke in favor of this request:

Jon Baker, Wyatt Tarrant & Combs, 400 W Market Street, Louisville, Kentucky 40202

Mike Hill, Land Design & Development, 503 Washburn Avenue, Louisville, Kentucky 40222

Summary of testimony of those in favor:

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01:06:42 Jon Baker spoke in support of the application and presented a PowerPoint presentation (see video for details). Baker said the ditch provides a natural buffer between the proposal and Poplar Level Road. The two new buildings will be three stories tall.

01:15:39 Mike Hill spoke in support of the application. Hill discussed the site layout, including the proposed detention area and explained the reason for requesting the landscape waivers.

Commissioner Mims asked for some clarification about Janies Way. Baker said they do not intend to use Janies Way at this time. Baker said there will not be any exterior garage type doors on the proposed buildings.

Deliberation

01:26:20 Planning Commission deliberation.

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 Change from R-4, C-1 and C-M to C-M

01:27:27 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution based on the staff report, applicant testimony heard today and staff analysis, was adopted:

WHEREAS, the Planning Commission finds the request meets Plan 2040 Community Form: Goal 1 because the site is located adjacent to existing commercial-manufacturing zoning and the proposed zoning district would permit new development in a similar intensity. The site is located near the intersection of Fern Valley Road, a major arterial, and Shepherdsville Road, a minor arterial. The site is located in the Suburban Workplace form district. No hazardous uses would be permitted under the proposed zoning district. Uses on the site with air, noise and light emissions must comply with LMCO and LDC restrictions. No noxious odors, particulates or emissions would be permitted by the proposed zoning district. Access to the site is via Shepherdsville Road, a minor arterial at this location. Adequate buffering can be provided to mitigate any adverse noise impacts. The proposed zoning district would not permit uses that handle hazardous or flammable materials, or permit junkyards, landfills, quarries or similar uses,

WHEREAS, the request meets Community Form: Goal 2 because the site is located in the Suburban Workplace form and the density and design permitted by the proposed

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zoning district would be compatible with the desired form, adjacent uses, and existing and planned infrastructure. The proposed zoning district would permit retail uses. The site is located in an existing activity center with commercial uses in place. The proposed zoning district would permit a more compact development pattern in an existing activity center. The proposed zoning district would allow for a mixture of compatible land uses in an existing activity center. The proposed zoning district would not permit single-family residential development. Multi-family development would be permitted. The proposed zoning district would permit commercial, office or multi-family residential uses,

WHEREAS, the request meets Community Form: Goal 3 because no natural features are evident on the site. Required tree canopy will be provided,

WHEREAS, the request meets Community Form: Goal 4 because No buildings, sites, districts or landscapes having historic or architectural value are evident on the site. No distinctive cultural features are evident on the site,

WHEREAS, the request meets Mobility: Goal 1 because the proposed zoning district would allow higher density and intensity uses in an existing activity center and employment center.

WHEREAS, the request meets Mobility: Goal 3 because the site is easily accessible by bicycle and car. Redevelopment of the site to a more intensive zoning district may attract transit. Redevelopment of the site would improve accessibility by pedestrians and people with disabilities. Transportation Planning has approved the proposal,

WHEREAS, the request meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal. Louisville Water Company has approved the proposal. MSD has approved the proposal,

WHEREAS, the request meets Economic Development: Goal 1 because the proposal is located in a workplace form district and the proposed zoning district would permit compatible uses that meet the needs of the workplace district. The site is located in an existing commercial and industrial activity center. The site is located on Fern Valley Road, a major arterial at this location,

WHEREAS, the request meets Livability: Goal 1 because no karst features are evident on the site,

WHEREAS, the request meets Housing: Goal 1 because the proposed zoning district would permit a variety of uses near housing which would support aging in place,

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WHEREAS, the request meets Housing: Goal 2 because the proposed zoning district would permit multi-family residential, and inter-generational mixed-income and mixed-use development. The proposed zoning district would permit multi-family housing. The site is located near transit along Shepherdsville Road, and

WHEREAS, the request meets Housing: Goal 3 because no existing residents will be displaced from their community by the proposed zoning district change. The proposed zoning district would permit innovative methods of housing; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from R-4, C-1 and C-M to C-M on property described in the legal description.

The vote was as follows:

YES: Commissioners Sistrunk, Pennix, Fischer, Mims, Kern, Clare, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Howard and Cheek

Waivers of LDC Section 10.2.4.A and 10.2.4.B.3

01:29:05 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

WHEREAS, the Planning Commission finds the waiver will not adversely affect adjacent property owners as the plantings will still be provided outside the required LBA,

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the detention basin already exists and would be infeasible to move,

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 because provision of the required plantings within the LBA is not possible with the high degree of overlap between the LBA and the detention basin easement,

WHEREAS, the waiver will not adversely affect adjacent property owners as necessary buffering between uses on the site and the adjacent residential uses will still be provided,

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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 adjacent property will be buffered with an extended area of open space occupied by a detention basin, and the plantings will still be provided,

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the detention basin already exists and would be infeasible to move, 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 because the detention basin exists and would be infeasible to move. The plantings will still be provided outside the required LBA, now; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waivers.

The vote was as follows:

YES: Commissioners Sistrunk, Pennix, Fischer, Mims, Kern, Clare, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Howard and Cheek

Detailed District Development Plan

01:30:20 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

WHEREAS, the Planning Commission finds no natural resources are evident on the site. Required tree canopy will be provided,

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan,

WHEREAS, no open space provisions are pertinent to the request,

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in

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order to prevent drainage problems from occurring on the subject site or within the community,

WHEREAS, the overall site design is in compliance with existing and planned future development in the area. The proposal is for mini-warehouses, which are generally low-traffic uses. Most of the site is adjacent to existing commercial development, while the multi-family development to the west will be buffered with an existing detention basin and plantings outside the required LBA, and

WHEREAS, the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waivers. The site plan complies with the policies and guidelines of the Comprehensive Plan. The proposal would provide low-intensity commercial/industrial development in a commercial and industrial corridor, now; therefore be it

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

21-ZONE-0072/22-DDP-0051 (to remain on Tract 2, to be replaced on Tract 1)

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. Except for the clearing, grading and construction necessary for the implementation and maintenance thereafter of improvements related to sanitary sewer, storm sewer, detention basin, and roadway connection infrastructure, as depicted on the approved district development plan, no development on Tract 2 shall occur, unless developed in accordance with the Land Development Code. Prior to development (includes clearing and grading for development unrelated to the aforementioned exceptions herein) of Tract 2, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each Plan shall be in adequate detail and subject to additional binding elements.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:

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- a. The development plan must receive full construction approval from Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, Bureau of Highways.
 - c. A minor plat shall be recorded creating the lots as shown on the approved development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - d. 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.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between tracts 1 and 2, and with the adjoining property owners and recorded.
4. 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 implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 5. 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.
 6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

9-130-85 General Plan Binding Elements (to remain on residual tract)

1. The development will be in accordance with the approved district development plan. No further development will occur.

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2. The development shall not exceed 89,000 square feet of gross floor area.
3. The signs shall not exceed 16 feet in height and 32 square feet in area as shown on the approved landscape and sign plan.
4. Before a building permit is issued:
 - a) The development plan must be reapproved by the Transportation Engineering, Water Management and Fire Safety Sections of the Jefferson County Public Works and Transportation Cabinet.
 - b) Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
5. A minor plat or other legal instrument shall be recorded consolidating the lots to be rezoned. The deed book and page number of the legal instrument shall be submitted to the Planning Commission.
6. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
7. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements must be implemented prior to requesting issuance of the certificate.
8. The above binding elements may be amended as provided for in the Zoning District Regulations.

Proposed Binding Elements (for Tract 1)

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

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Planning Commission or the Planning Commission's designee 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. 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.
 - 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.
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 31, 2023 Planning Commission 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 implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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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.
9. The applicant/developer/owner shall comply with any fire safety requirements from the Okolona Fire Protection District, or any other fire district having jurisdiction over the property, applicable to the construction and operation of the storage facility on the property.
10. In the event that Janies Way is reconstructed within the defined easement as shown on the development plan, or in the event the easement is relocated and reconstructed, the applicant/developer/owner shall connect to the pavement to complete the connection with Janies Way.

The vote was as follows:

YES: Commissioners Sistrunk, Pennix, Fischer, Mims, Kern, Clare, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Howard and Cheek

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CASE NO. 23-ZONE-0051

Request: Change in Zoning from M-2 Industrial to C-2 Commercial with Detailed District Development Plan and Binding Elements
Project Name: Dixie Highway Auto Sales
Location: 7791 Dixie Highway
Owner/Applicant: BGPH Properties LLC
Representative: Bowman Consulting Group
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell
Case Manager: Jay Lockett, AICP, Planner II

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:

01:31:20 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The applicant is proposing to reuse the existing structure for the proposed auto sales use.

The following spoke in favor of this request:

John Addington, Bowman Consulting Group, 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

01:35:10 John Addington spoke in support of the application and presented a PowerPoint presentation (see video for details). Addington said this is a downzoning because the area is primarily zoned M-2. Addington stated they are agreeable to the proposed binding element about wrecked vehicles not being stored on the site.

Commissioner Mims asked if the property would be fenced or gated. Addington said there will not be a fence or gate.

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Deliberation

01:39:10 Planning Commission deliberation.

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 Change from M-2 to C-2

01:39:32 On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted:

WHEREAS, the Planning Commission finds the proposal meets Plan 2040 Community Form: Goal 1 because the proposal does not represent an expansion of non-residential uses into residential areas, as the subject site is already zoned for non-residential uses. All adjacent sites are zoned C-2 and contain a variety of commercial uses. The proposed district is appropriately located adjacent to like zones and uses. Dixie Highway is a Major Arterial roadway with transit service available. It provides ready access to major employment centers and commercial activity areas. No disadvantaged populations are likely to be impacted. The site is adjacent to other commercial zoned and used sites. The use is unlikely to contribute significant additional traffic beyond what is already created by the existing commercial development in the area. The proposed use is unlikely to generate additional noise impacts in the area,

WHEREAS, the proposal meets Community Form: Goal 2 because the development is within an existing commercial activity center. The development is within an existing commercial activity center. Adequate population exists in the vicinity to support commercial uses on the site. The development is within an existing commercial activity center and follows the prevailing development pattern of the area. The development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses. The proposed zoning district would permit a variety of office, commercial and residential development including mixed-use development. The proposed zoning district would permit a variety of office, commercial and residential development including mixed-use development. The proposal is not an outlot in a larger commercial development,

WHEREAS, the proposal meets Community Form: Goal 3 because there are no natural features on the subject site,

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WHEREAS, the proposal meets Mobility: Goal 1 because the development is within an existing marketplace corridor. The zoning district allows a wide variety of compatible land uses that support transit oriented development,

WHEREAS, the proposal meets Mobility: Goal 3 because the development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses. The development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses. Transportation planning has reviewed the preliminary development plan,

WHEREAS, the proposal meets Community Facilities: Goal 2 because utility service will be coordinated with utility agencies. Water service will be coordinated with the Louisville Water Company. MSD has approved the preliminary development plan,

WHEREAS, the proposal meets Economic Development: Goal 1 because the subject site is within an established commercial activity center along the Major Arterial roadway Dixie Highway,

WHEREAS, the proposal meets Housing: Goal 1 because the proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support aging in place,

WHEREAS, the proposal meets Housing: Goal 2 because the proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support mixed-use and mixed-income development, and

WHEREAS, the proposal meets Housing: Goal 3 because no residents would be displaced by the current proposal. The proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support mixed-use and could allow for the provision of fair and affordable housing; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from M-2 to C-2 on property described in the legal description.

The vote was as follows:

YES: Commissioners Sistrunk, Fischer, Mims, Kern, Clare, Carlson and Lewis
NOT PRESENT FOR THIS CASE: Commissioners Pennix, Howard and Cheek

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Detailed District Development Plan

01:40:25 On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

WHEREAS, the Planning Commission finds there are no significant natural or historic resources on the subject site,

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Transportation Planning has approved the preliminary development plan,

WHEREAS, there are no open space requirements associated with this request,

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community,

WHEREAS, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate screening will be provided to screen adjacent properties and roadways, and

WHEREAS, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, except where relief is requested, now; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following 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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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

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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.

3. 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. 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.
4. 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 implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
5. 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.
6. No junked or inoperable vehicles shall be stored on the subject site.

The vote was as follows:

YES: Commissioners Sistrunk, Fischer, Mims, Kern, Clare, Carlson and Lewis
NOT PRESENT FOR THIS CASE: Commissioners Pennix, Howard and Cheek

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ADJOURNMENT

The meeting adjourned at approximately 2:42 p.m.

Chair

Planning Director