

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
July 17, 2014**

A meeting of the Louisville Metro Planning Commission was held on Thursday, July 17, 2014 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

David Proffitt, Vice Chair
Jeff Brown
David Tomes
Vince Jarboe
Chip White
Carrie Butler
Robert Peterson
Clifford Turner

Commission members absent:

Donnie Blake, Chair
Robert Kirchdorfer

Staff Members present:

Emily Liu, Director, Planning & Design Services
John G. Carroll, Legal Counsel
Jonathan Baker, Legal Counsel
Julia Williams, Planner II
Jessica Wethington, Planning Information Specialist
Christopher Brown, Planner II
Tammy Markert, Transportation Planning
Sharonda Duerson, Management Assistant (sign-ins)
Chris Cestaro, Management Assistant (minutes)

Others:

The following matters were considered:

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Approval of Minutes

July 2, 2014 – 1:00 p.m. Planning Commission Regular Meeting

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on July 2, 2014.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Turner, Tomes, and Peterson.

NO: No one.

NOT PRESENT: Commissioners Blake and Kirchdorfer.

ABSTAINING: Commissioners Jarboe, White, and Butler.

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Business Session

Case No.10-23-04

Request: Authorization to initiate bond forfeiture
Address: Beech Spring Farm, Sections 2 & 3
Developer: Steve Canfield

Case Manager: Jonathan Baker, County Attorney's Office

Agency Testimony:

01:24:00 Jonathan Baker presented the case. He added that no response has been received from the developer to any of the notices that have been sent.

01:28:00 In response to questions from Commissioners Proffitt and Tomes, Mr. Baker discussed the bond forfeiture procedures.

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.

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

RESOLVED, the Louisville Metro Planning Commission does hereby authorize the initiation of the bond forfeiture for Beech Spring Farm, Sections 2 & 3.

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.

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Case No. 14ZONE1014

***NOTE: Commissioner Peterson recused himself and did not hear or vote on this case.**

Project Name: American Hospital Directory
Location: 164 Thierman Lane

Owner/Applicant: Paul Shoemaker
Step 3 Properties, LLC
507 Club Lane
Louisville, KY 40207

Representative: Glenn Price
Frost Brown Todd, LLC
400 West Market Street 32nd Floor
Louisville, KY 40202

Engineer/Designer: Amy E. Cooksey, L.A.
Mindel Scott & Associates
5151 Jefferson Boulevard
Louisville, KY 40219

Jurisdiction: City of St. Matthews
Council District: 9 – Tina Ward Pugh

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

Request:

Change in zoning from R-7 to OR-3 with Waivers

Agency Testimony:

00:38:12 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:

Glenn Price, Frost Brown Todd, LLC, 400 West Market Street 32nd Floor,
Louisville, KY 40202

Amy E. Cooksey, L.A., Mindel Scott & Associates, 5151 Jefferson Boulevard,
Louisville, KY 40219

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Summary of testimony of those in favor:

00:44:56 Glenn Price Jr., the applicant's representative, presented the case and showed a Power Point presentation (see applicant's booklet, on file.) He also gave a brief history of the company, and the project.

00:48:22 Mr. Price discussed the paved MSD ditch and what the owners plan to do to mitigate erosion. He also discussed a paved area that will be removed and turned into grass/open space.

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

Deliberation

00:52:02 The Commissioners agreed that this seems to be an appropriate use of the land.

00:53:01 Commissioner Proffitt said it seemed that there was less landscaping proposed for this property than there is on an adjacent site, particularly the trees along the rear property line. Ms. Williams said that all required buffering will be provided along the property lines.

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form. The proposal conforms to Community Form Guideline 1 and all applicable Policies adopted thereunder, including Policy I.B.8 because the site is located in the Suburban Marketplace Corridor Form District. The Suburban Marketplace Corridor Form District is

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characterized by a mixture of medium to high intensity uses with accommodations for transit users, bicyclists and pedestrians. Thierman Lane is a transit route. There are sidewalks in the vicinity of the proposal and a sidewalk will be constructed on-site. Bicycle storage facilities will be located within the building; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility. The Proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policy 3.1, 3.2, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.12, 3.22, 3.23, 3.24 and 3.28. The size and scale of the proposal is compatible with adjacent land uses consisting of offices and multi-family uses. Building materials will be similar to those found at 166 Thierman Lane. This development will cause no odor or adverse air quality impact, no significant traffic or noise and no excessive lighting or adverse visual impact. The development will be accessible to people with disabilities consistent with all local, state and federal regulations. Appropriate buffers will be implemented. Parking impacts are minimized by location at the rear of the property. No free-standing signage is proposed; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5 - Natural Areas and Scenic and Historic Resources. The Proposal conforms to Natural Areas and Scenic and Historic Resources Guideline 5 and all applicable Policies adopted thereunder, including Policies 5.1, 5.3, 5.6 and 5.7. There are no historic, cultural or archaeological resources on site. There are no wet soils or steep slopes on site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 7 – Circulation. The Proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 7.3 and 7.10. Thierman Lane is a transit route. Adequate parking (12 parking spaces) is provided pursuant to the requirements of the Land Development Code; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 9 - Bicycle, Pedestrian and Transit. The Proposal conforms to Bicycle, Pedestrian and Transit Guideline 9 and all Policies adopted thereunder, including Policies 9.1, 9.2, and 9.4. Transit facilities ("Transit Authority of River City" or "TARC") are located along Thierman Lane in front of the site (i.e., TARC Route 25). Sidewalks are located in the vicinity and will be located on site. Bicycle storage will be permitted within the building; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 10 – Flooding and Stormwater. The Proposal conforms to Flooding

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and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 10.2, 10.3, 10.4, 10.7, 10.10 and 10.11. No portion of the site lies within a FEMA flood hazard area. It is anticipated that the Metropolitan Sewer District ("MSD") will approve the development. MSD's approval will indicate that the development has accommodated its drainage and upstream drainage, assuming a fully-developed watershed, and that all "through" drainage has been accommodated. Peak stormwater runoff rates or volumes after development will not exceed pre-existing rates; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 12 – Air Quality. The Proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 12.1, 12.3 and 12.8. The proposal will serve American Hospital Directory, an internet-based service provider having little, if any, customer traffic to the site. The site is located on Thierman Lane, which has transit service from TARC. TARC Route 25 serves Thierman Lane. Sidewalks will be located on site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character. The Proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 13.2, 13.4 and 13.5. All landscaping provided will be native species; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 14 – Infrastructure. The Proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 14.2, 14.3, 14.4, 14.6 and 14.7. The site is served by all existing utility services and has an existing supply of potable water and water for fire-fighting purposes from the Louisville Water Company. Sewage treatment will be accommodated by the Metropolitan Sewer District. Utilities will be located underground wherever possible and will be located pursuant to easements of the utility providers; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 15 – Community Facilities. The Proposal conforms to Community Facilities Guideline 15 and all Policies adopted thereunder, including Policy 15.9. The site will be served by the fire-fighting facilities of the St. Matthews Fire District; 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

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RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of the City of St. Matthews that the requested change in zoning from R-7 to OR-3 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioners Blake, Kirchdorfer, and Peterson.

ABSTAINING: No one.

Variance

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

WHEREAS, The Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare. The variance will not affect the public as it will allow for cross connectivity to the adjacent site; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity. The adjacent site is also an office site in which the two buildings will share parking. Parking is located at the rear of the buildings so the character of the area will not be affected; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public. The public will not be affected by the encroachment of parking into the setback as it will allow for cross connectivity to the adjacent site; and

WHEREAS, the Commission further finds that the variance is reasonable as it allows for shared parking and cross connectivity to the site to the north; and

WHEREAS, the Commission further finds that the variance request arises from the site wanting to share parking and provide cross connectivity which reduces the driveways along Theirman and allows for a more controlled ingress/egress from the two sites; and

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WHEREAS, the Commission further finds that the strict application of the code would require the site to provide its own driveway and not allow the parking for the site to be shared; and

WHEREAS, the Commission further finds that the variance is the result of the applicant wanting to reduce the access points to the site and provide shared parking and cross connectivity with a similar use adjacent to the site; 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 requested Variance from Article 5 Section 5.4.C.2.b to permit parking to encroach into the 5' side yard.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioners Blake, Kirchdorfer, and Peterson.

ABSTAINING: No one.

Waiver

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

WHEREAS, the Louisville Metro Planning Commission finds that the reduction in LBA will not affect adjacent property owners because the landscape requirements will still be met; and

WHEREAS, the Commission further finds that the waiver will not violate the comprehensive plan because the existing building will be renovated to have more of a residential appearance with parking to the rear which is characteristic of the area. The buffer requirements will still be met within the 5' LBA; and

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WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. The waiver is necessary because much of the encroachment is due to the existing structure and existing parking area; and

WHEREAS, the Commission further finds that the applicant is removing pavement within the buffer to be able to provide the planting materials necessary for screening. Much of the encroachment is from the existing building and parking; 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 the City of St. Matthews that the requested Waiver from Article 12 D.1.A to permit encroachments into the 15' LBA be **APPROVED**.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioners Blake, Kirchdorfer, and Peterson.

ABSTAINING: No one.

District Development Plan

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is not located in an area where there are significant natural features. The ditch behind the property will be maintained; and

WHEREAS, the Commission further finds that the provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community have been met. A sidewalk is being provided as well as vehicular

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cross connectivity to the north. The site will share parking with the site to the north; and

WHEREAS, the Commission further finds that open space for the site is provided along the frontage which is consistent with the adjacent properties; and

WHEREAS, the Commission further finds that 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 has been met. An existing ditch is located on the adjacent site to the rear of the property; and

WHEREAS, the Commission further finds that the site will maintain a residential character similar to that of the site to the north. The adjacent R-7 site will be screened within a 5' minimum LBA; 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** approval of the requested District Development Plan to the City of St. Matthews, **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 and to the City of St. Matthews for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 3,235 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. The existing shared access point to Thierman Lane is to be closed and access to the site be made from the existing access easement on the 166 Thierman Lane property.

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5. 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.
6. 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 Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
7. If a certificate of occupancy (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 and the City of St. Matthews
8. 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 and the City of St. Matthews.
9. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible permitted on the site.

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10. A legal instrument providing for the long-term use of the (off-site parking spaces or joint-use parking spaces), as shown on the approved district development plan and in accordance with (Section 9.1.5 Off-Site Parking or Section 9.1.6 Joint Use Parking), shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
11. 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.
12. 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.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioners Blake, Kirchdorfer, and Peterson.

ABSTAINING: No one.

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Case No. 14ZONE1015

Project Name: Beckley Pointe

Location: 14000 Shelbyville Road

Owner/Applicant: Houchens Properties Inc.
700 Church Street
Bowling Green, KY 42101

Representative: William Bardenwerper
Bardenwerper, Talbott & Roberts
1000 North Hurstbourne Parkway Suite 200
Louisville, KY 40223

Engineer/Designer: John Addington
BTM Engineering, Inc.
3001 Taylor Springs Drive
Louisville, KY 40220

Jurisdiction: Louisville Metro

Council District: **20 – Stuart Benson**

Case Manager: **Christopher Brown, Planner II**

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.)

Request:

Change in zoning from R-4 to C-1; Variance to exceed maximum front yard setback; Landscape Waiver; Abandon Conditional Use Permit; and a Revised Detailed District Development Plan.

Agency Testimony:

00:09:19 Christopher Brown presented the case and showed a Power Point presentation (see staff report for detailed presentation.)

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The following spoke in favor of the proposal:

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

John Addington, BTM Engineering, Inc., 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

00:17:30 William Bardenwerper presented the case and showed a Power Point presentation [on file]. He also described the reasons for the Conditional Use Permit for off-street parking and why it was no longer needed.

00:26:35 John Addington, an applicant's representative, corrected Mr. Bardenwerper about the ILA on the Houchen's tract and how landscaping compared to previous plans. He said all of the landscaping was not counted in the median.

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

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.

Deliberation

00:30:50 Planning Commission deliberation. The Commissioners agreed that this was an appropriate use of the property.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you

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may contact the Customer Service staff to view the recording or to obtain a copy.

Zoning

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form. The Form District for this property is Suburban Neighborhood, which is characterized by predominantly residential uses, yet may contain, at appropriate locations, neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services at a scale that is appropriate for nearby neighborhoods; and

WHEREAS, the Commission further finds that this rezoning and revised development plan proposal complies with Guideline 1 because this is a mixed use retail activity center, small in size, appropriate for a neighborhood; and

WHEREAS, the Commission further finds that this site is surrounded by a variety of residential neighborhoods, including English Station, Copperfield, Lake Forest, Beckley Woods and the larger community that is generally known as Landis Lakes and there is a significant residential population with all forms of housing – standard single-family, condominiums and apartments – located within the immediate vicinity that will support this retail center; and

WHEREAS, the Commission further finds that most of this corner location at Shelbyville and Beckley Station Roads is a pre-“Plan Certain” site, the majority of the site was long ago zoned to the C-1 zoning district and the portion that still remains R-4 is surrounded by other institutional and commercial uses; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers. The Intents of Guideline 2 are to promote an efficient use of land and investment in existing infrastructure, to lower utility costs by reducing the need for extensions; to reduce commuting time and transportation related air pollution; to provide an opportunity for neighborhood centers and marketplaces that includes a diversity of goods and services; to encourage vitality and a sense of place; and to restrict individual or isolated commercial uses from developing; the proposed retail center, modified slightly from the combination C-1/CUP plan previously approved, complies with all of these Intents of this Guideline for these, among other reasons; utilities already exist in the area and can be extended to

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this site without significant cost and effort; as stated above, lots of residential housing exists in the immediate vicinity, and these residents will be able to purchase goods and services, now banking as well as grocery related, that are not widely available east of the Snyder Freeway, in close proximity to their homes, thus reducing commuting time and transportation-related air pollution; this is a neighborhood center that includes, as described above, a diversity of goods and services; the design of this center, the majority of which is already zoned C-1 commercial, is one that has all of the attributes of a neighborhood center; the buildings are small and are located all over the site; the uses relate well one as to the other; although there is a lot of activity included within this six-acre site, parking and circulation have been designed to move traffic throughout the center safely and efficiently—actually under the proposed revised plan better than under the already approved plan with the same number of buildings; and

WHEREAS, the Commission further finds that Policies 1, 2, 3, 4 and 5 of this Guideline address the location of activity centers and the desirability that they be compact and include a mixture of uses; this proposed revised retail center plan complies with these Policies of this Guideline because this is a Suburban Neighborhood which, as explained above, expressly permits retail centers in locations of this kind; this is already an activity center by virtue of the facts that a grocery store already exists here and that other retail buildings were previously approved for this site as part of the prior approved Category 3 and CUP plans; and other retail exists in this area across Shelbyville Road west of this site all the way to the Snyder Freeway; and

WHEREAS, the Commission further finds that Policies 7, 8, 9 and 10 of this Guideline pertain to the types of uses in residential areas and how parking relates to those uses; the proposed revised retail center plan complies with these Policies of this Guideline because, as stated, all of the specified uses are desirable for a neighborhood; they will serve the day to day needs of nearby residents; this center is located at an intersection of a major arterial and significant collector level road (Shelbyville and South Beckley Station Roads); and the parking lots are designed to address all of the parking needs of the proposed uses, yet not result in too much parking or so little as to require a parking waiver; and

WHEREAS, the Commission further finds that Policies 11, 12, 13, 15 and 16 of this Guideline pertain to the design of centers, including shared parking and access and accommodation of alternative transportation modes; as shown on the revised detailed district development plan, parking is shared throughout the development by the various described uses; parking will be adequate under provisions of the LDC; the main focal point will be the corner of Beckley Station

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Road and US 60, which is where the main entrance to the grocery store is located and both the grocery store and proposed branch bank are all set back significant distances from Shelbyville Road, which will be nicely landscaped in accordance with the LDC; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility. The Intents of Guideline 3 are to allow a mixture of land uses near each other 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 or visual quality is significantly diminished; and to preserve the character of existing neighborhoods; this proposal complies with all of these Intents of this Guideline because, as stated, what is proposed, in addition to what exists here, are a mixture of neighborhood serving retail uses, all of which are designed in conformance with the LDC which itself addresses many of the nuisance and visual quality issues described in this Guideline; and for reasons described above and as shown on the revised detailed district development plan, this small center not only preserves, but also enhances, nearby neighborhoods; and

WHEREAS, the Commission further finds that Policies 1 and 2 of this Guideline pertain to design compatibility, including a consideration of building materials; elevation renderings for the principal branch bank structure, like the already built Houchens IGA grocery store, are included with this application; and all of the buildings, as stated, will be LDC compliant; and

WHEREAS, the Commission further finds that Policies 4, 5, 6, 7, 8, 9 and 21 of this Guideline pertain to impacts and the means of mitigating any adverse consequences of those impacts; the LDC addresses most impacts nowadays, such as lighting which were never addressed prior to the new Cornerstone 2020 LDC; likewise, visual impacts are addressed by virtue of LDC design standards; parking lots are designed with interior and perimeter landscaping, all minimally in compliance with the LDC and this will be an attractive looking center, as evident in the largest tenant of this center, i.e., the already built Houchens IGA grocery store, and in the photographs of the River City Bank building; and

WHEREAS, the Commission further finds that Policies 21, 22, 23 and 24 of this Guideline pertain to issues of transition, buffers, screening, setbacks and impacts of parking, loading and delivery; this retail center complies with all of these Policies of this Guideline for all of the reasons set forth above, including the evident Parkway buffer setback along Shelbyville Road, new landscaping along a stretch of South Beckley Station Road, and internal landscaping included in all parking areas; the Oaklawn senior living facility and Copperfield neighborhood

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are the uses that are especially affected, and they will be protected by the screening, buffering and landscaping already planted and also described on the plan and set forth hereinabove; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6 – Economic Growth and Sustainability. The Intents of this Guideline 6 are to insure the availability of necessary usable land to facilitate commercial development and to reduce public and private costs for land development; this proposed revised retail center plan complies with these Intents of this Guideline because much of this land was long ago rezoned to the C-1 zoning district and thereby set aside as an appropriate location for a neighborhood retail center; the balance of the overall site now proposed for rezoning is adjoined on two sides by Shelbyville Road (a major arterial) and South Beckley Station Road (a significant collector level road) and on the other two sides by the existing Oaklawn senior living facility; and this is a good location for a neighborhood retail center, because infrastructure already exists at the site and a significant support population resides nearby; and

WHEREAS, the Commission further finds that Policies 2 and 6 of this Guideline pertain to the provision of adequate access between employment and population centers and the appropriate place to locate activity centers; as stated, this proposed revised retail center plan complies with these Policies of this Guideline because there are multiple points of access, including off Shelbyville Road and off the internal Shelby Station Drive, and this already mostly C-1 zoned property was long ago designated an activity center when the initial commercial rezoning occurred; additionally, as stated, this is the easternmost location of retail that starts at the Snyder Freeway and travels east to Beckley Station Road to serve a significant residential population in this growing east Metro Louisville area; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 7 and 8 - Circulation and transportation facility design. The intents of Guidelines 7 and 8 are to provide for safe and proper functioning street networks; to insure that new developments do not exceed the carrying capacity of streets; to insure that internal and external circulation of all new developments provide safe and efficient travel movements by all types of transportation; to address congestion and air quality issues; to insure that transportation facilities are compatible with the form district; to provide for the safe and convenient accommodation of the special mobility requirements of the elderly and physically challenged; to protect Parkways and streetscapes; and to provide safe and efficient accommodations for transit, pedestrians and bicyclists; and

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WHEREAS, the Commission further finds that this proposed revised retail center plan complies with the Intents of Guidelines 7 and 8 because the overall design of this center, and especially the new points of cross connection, have taken into account inputs from Metro Transportation Planning and the Kentucky Transportation Cabinet (KTC); BTM Engineering, the land planning, engineering and traffic consultant on this retail center, was previously engaged in traffic engineering studies in the Shelbyville Road corridor; BTM has consulted its own previous studies to assure that this proposed revised retail center plan, which will capture traffic already existing on the referenced street systems, does not exceed road capacities; also, as stated above, locating this retail center in close proximity to such a large support population will reduce commuter time and traffic-related air pollution; accommodations are made for the special mobility requirements of elderly and physically challenged populations; Shelbyville Road, a designated Parkway, has been respected in terms of setback and landscape design; and transit, bicyclists and pedestrians are accommodated with sidewalks, bike racks and the ability for transit to circulate in and out if it is ever made available in this area; and

WHEREAS, the Commission further finds that Policies 1 and 2 of Guideline 7 pertain to the traffic impacts of new development; not only has BTM Engineering served as traffic consultant for many projects, including for KTC with respect to traffic up and down the Shelbyville Road corridor and within the Snyder Freeway interchange, BTM has also looked at this overall project in relationship to the other traffic consulting work that it has done for the larger area; it previously performed specific trip generation and distribution numbers for this particular proposed center when the current approved development plan was approved; and this rezoning application was not docketed for LD&T review until Metro Transportation Planning had given it and the revised detailed district development plan its preliminary stamp of approval; and

WHEREAS, the Commission further finds that Policy 9 of Guideline 7 pertains to right of way, which the detailed district development plan shows was previously added to Beckley Station Road, and there also exists adequate right of way along Shelbyville Road; and

WHEREAS, the Commission further finds that Policies 10, 11, 12, 13, 14, 15 and 16 of Guideline 7 pertain to the adequacy of parking, various access issues, turning movements, and connectivity; and Metro Transportation Planning has reviewed this revised plan which received the preliminary stamp of approval prior to docketing for LD&T review, this assuring that what BTM Engineering has included on this revised plan complies with all Metro Transportation Planning design standards as well as these particular Policies of this Guideline; and

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WHEREAS, the Commission further finds that Policy 6 pertains to Parkways and Shelbyville Road is a designated Parkway, and the setback and landscape requirements for Parkways have been satisfied; and

WHEREAS, the Commission further finds that Policies 8, 9, 10 and 11 of Guideline 8 all address many of the same Policies already mentioned in Guideline 7, notably stub access, site distances and internal circulation; the revised detailed district development plan filed with this application assures good connectivity to the Oaklawn senior living facility, better cross access from one retail use to the other and even safer internal access than originally approved, adequate site distances, again all in compliance with these Policies of this Guideline; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 9 - Bicycle, Pedestrian and Transit. The Intents and Policies of Guideline 9 all pertain to the accommodation of alternative modes of transportation; and as required by the LDC, sidewalks and bike racks are provided on the development plan submitted with this application; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 10 – Flooding and Stormwater. The Intents and Policies of this Guideline 10 applicable to this proposed retail center pertain to stormwater management; the proposed revised retail center plan complies with these Intents and Policies because detention will be provided within an existing basin located within the Oaklawn assisted living facility; and drainage will move into newly designed storm pipes and catch basins included in parking lots of this site, which will accept drainage which then flows via the new storm pipe system to the existing Oaklawn detention basin before it outlets from the overall larger site into the larger drainage system; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 11 – Water Quality. The Intent and Policies of Guideline 11 address the need to assure continued water quality; the Intents and Policies are addressed, as with all new projects, through construction plan review against MSD's Soil Erosion and Sedimentation Control Guidelines; and construction on this site will comply with those requirements; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 12 – Air Quality. The Intents and Policies of this Guideline pertain, as respects a development of this kind, to minimizing the transportation related negative impacts on air quality; that is accomplished, as stated above, by way of

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reducing vehicle miles traveled and commuting times and distances; and by locating a retail activity center such as this next to existing retail centers and in close proximity to a burgeoning residential population, transportation-related air quality is not made worse; rather, if anything, it might be made better because people residing in the area will not need to travel through the congested Snyder Freeway Interchange for as many goods and services as they must currently travel through that interchange to access; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character. The Intents and Policies of this Guideline 13 are to assure that adequate landscaping is provided throughout new developments; the LDC includes tree canopy protection requirements and landscaping requirements for both perimeter landscape areas and internal parking lot landscape areas; LDC requirements relating to these things are fully shown on the revised detailed district development plan; and interior landscape areas (ILAs) are provided in excess of LDC requirements; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 14 and 15 – Infrastructure and Community Facilities. The intents and Policies of Guidelines 14 and 15 are to assure that road systems, utilities and other public infrastructure and facilities are adequate to serve a given land use proposal; adequate roads already serve this site; at time of the original development plan approval, road improvements were required and subsequently made along Shelbyville and Beckley Station Roads; fire protection is available via the Eastwood Fire District and/or the Middletown Fire Department, as this site is located approximately equal distance of their fire stations on Shelbyville Road and at Urton Lane; new public schools have been built or expanded in this area and most notably, this area is especially served by an abundance of popular private schools: Christian Academy and St. Patrick Catholic parish school; 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 R-4 Single Family Residential, to C-1 Commercial 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.

Variance

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

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare since it allows the required parking and parkway buffering to be provided along Shelbyville Road; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since it follows the setback pattern of the existing structure on Tract 1; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since it allows the parkway buffer and associated parking/access to the site to be provided along Shelbyville Road; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since it follows the established setback pattern along Shelbyville Road while accommodating the required parking, access drive and parkway buffer; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since a parkway buffer as well as cross access are required on the lot; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by not allowing sufficient spacing for vehicular access as well as the parkway buffer; and

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WHEREAS, the Commission further finds that 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 since Tract 1 had been built at the established setback line prior to the current proposal; 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 Variance from Chapter 5.3.1.C.5 of the Land Development Code to allow a proposed building to exceed the required 80' maximum front yard setback on Tract 3.

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

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

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the landscaping is interior to the development; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. The full tree canopy required for the site is being provided while also accommodating adequate parking; and

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WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow adequate parking to be provided on the tract; and

WHEREAS, the Commission further finds that the 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 since the additional interior landscaping would further reduce the parking to be provided on the tract; 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 Landscape Waiver from Chapter 10.2.12 of the Land Development Code to allow less than the required 7.5% interior landscape area.

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.

Abandon Conditional Use Permit for off-street parking

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

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 **GRANT** the abandonment of a Conditional Use Permit originally granted under Case #16515 to allow off-street parking, since it is no longer needed.

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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.

Revised Detailed District Development Plan and Binding Elements

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

WHEREAS, the Louisville Metro Planning Commission finds that the conservation of natural resources on the property proposed for development will be met through the incorporation of preservation of tree canopy masses; and

WHEREAS, the Commission further finds that the provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community are met with shared access and parking for the development with full pedestrian connectivity; and

WHEREAS, the Commission further finds that open space is not required for the development; and

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks with the exception of Tract 3 which follows the established pattern of the existing building on Tract 1; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code with the exception of the requested waiver and variance which follow the guidelines of Cornerstone 2020; and

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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 Revised 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 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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and

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- Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- d. The appropriate variance shall be obtained to allow the development as shown on the approved district development plan.
 - e. 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.
 - f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. 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.
 6. 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.
 7. The landscape plan shall be the essentially similar to the concept plan that was shown at the **July 17, 2014** Planning Commission public 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.

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ABSTAINING: No one.

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Case No. 14ZONE1017

***NOTE: The applicant's representative has requested that this case be CONTINUED to the August 21, 2014 Planning Commission public hearing.**

Project Name: Old Hickory Inn

Location: 1036/1038 Lydia Street

Owner/Applicant: Ralph Stengel
1038 Lydia LLC
2101 Eastern Parkway
Louisville, KY 40204

Representatives: Stephen Rusie, AICP
Dunaway Engineering Inc.
3404 Stony Spring Circle
Louisville, KY 40220

Jurisdiction: Louisville Metro

Council District: 10 – Jim King

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

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.)

Request:

Change in zoning from R-5 to C-2 with a Chapter 10 waiver and a parking waiver.

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.

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Case No. 14ZONE1017

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

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** Case No. 14ZONE1017 to the **August 21, 2014** Planning Commission public 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.

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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.

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**Case No. 13816 BE
Binding Element Violation Appeal**

Project Name: Appeal of Binding Element Violation Citation

Location: Sharp Edge Lawn Care
11012 Cedar Creek Road
Louisville, KY 40229

Appellant: Christopher Thompson
11114 Periwinkle Lane
Louisville, KY 40291

Case Manager: **Jonathan Baker, County Attorney's Office**

The information 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 available in the County Attorney's Office.)

Agency Testimony:

01:29:58 Jonathan Baker, County Attorney's Office, presented the case and showed a Power Point presentation.

01:47:59 Mr. Baker explained why binding elements #6 and #12 should be dropped from the alleged violations, since the appellant was not given enough time to remedy the alleged violations of those two binding elements.

01:50:58 In response to a question from Commissioner Proffitt, Mr. Baker clarified binding element #1 (see Tab 3, County Attorney's information packet.)

01:52:53 In response to a question from Commissioner Butler, Mr. Baker explained why certain binding elements and restrictions were put on this site at the time of its rezoning.

01:54:45 April Robbins and Ron Miller, both of Louisville Metro Code Enforcement, presented citation evidence and noted that the property owner has resolved some complaints/violations. In response to a question from Commissioner Brown, Ms. Robbins added that the violations appear to be operational in nature.

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The following spoke in opposition to the appeal:

David Lance, 11108 Cedar Creek Road, Louisville, KY 40229

Councilman James Peden, 601 West Jefferson Street, Louisville, KY 40202

Summary of testimony of those in opposition to the appeal:

02:03:33 David Lance, an adjacent resident, described issues on the site. He said there are too many vehicles, employees, idling vehicles, noise, air pollution, loud employee radios, commercial power washers, and soccer games on the property. He said activity on the site happens well after sunset. He entered his photographs of activities on the site into the record. He said there is no fence out front to block headlights, noise, trash or soccer balls.

02:17:28 Mr. Baker entered letters from other neighbors into the record (the Foremans, and Virginia Brown.)

02:19:40 Councilman James Peden said he had personally witnessed soccer games, salt storage, and after-hours work being done on the property. He also requested that pavement **not** be removed, because a wide paved area is safer when maneuvering vehicles/trailers than a narrow driveway. He added that he had not spoken with the owner about violations.

The following spoke in favor of the appeal:

Chris Thompson, 11012 Cedar Creek Road, Louisville, KY 40229

Summary of testimony of those in favor:

02:28:42 Christopher Thompson, the property owner, discussed the violations and ways in which he has tried to remedy them. He said there is no salt kept on-site.

02:34:33 In response to a question from Commissioner Proffitt, Mr. Thompson discussed truck deliveries. He said the only deliveries they receive are from a uniform company. He said he has never seen a soccer game on his property.

02:39:11 Mr. Thompson discussed ways to remedy the issues. He said snow removal equipment and salt are stored on another site. He added that he has purchased a four-acre property in Mount Washington and intends to move his business there within 4-6 months.

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02:44:54 Commissioner Jarboe and Mr. Thompson discussed parking and other activities on the site.

02:50:22 In response to a question from Commissioner Turner, Mr. Thompson described his meetings with Ms. Robbins and Ms. Robbins also testified.

The following spoke neither for nor against the proposal:

No one spoke.

Discussion:

03:01:03 Mr. Baker said that alleged violations of binding elements #6 and #12 should be dismissed, since the applicant was not given enough time between the issuance of the citation and today's hearing to remedy the issues.

03:04:21 In response to some questions from Commissioner Tomes, Mr. Thompson discussed salt storage, and stated that no salt has been stored on this property since 2010.

03:07:06 In response to a question from Commissioner White, Mr. Baker explained the term "remedial order".

03:14:57 The Commissioners discussed the violations, fines, and procedures.

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.

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

RESOLVED, the Louisville Metro Planning Commission does hereby find, based on evidence and testimony presented, that binding elements #1 and #10 were

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Binding Element Violation Appeal**

violated; that violations of binding elements #6 and #8 were not sufficiently proven; that there was no violation of binding element #11; that binding element #12 may have been violated, however, due to noticing issues, the Commission cannot find the appellant in violation.

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.

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

RESOLVED, the Louisville Metro Planning Commission does hereby impose a \$2,000 fine for violations incurred. The applicant shall have 30 days from the time of the signing of the final order to pay the fine and remediate the violations, including addressing issues with employees, and to take appropriate actions to ensure that the violations do not occur again, based on testimony and conversations presented at today's public hearing.

The vote was as follows:

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

NO: Commissioner Tomes.

NOT PRESENT: Commissioners Blake and Kirchdorfer.

ABSTAINING: No one.

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Legal Review Committee

No report given.

Planning Committee

No report given.

Policy and Procedures Committee

No report given

Site Inspection Committee

No report given.

ADJOURNMENT

The meeting adjourned at approximately 4:53 p.m.



Chairman



Division Director

