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RANDALL S. STRAUSE, JR.
OF COUNSEL

August 25, 2021

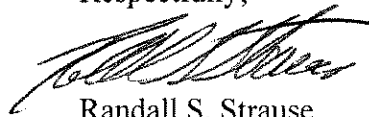
Via Hand Delivery to:
Louisville Metro Government
Develop Louisville
Office of Planning & Design Services
444 S. 5th Street
Louisville, KY 40202

RE: 8102 Old Bardstown Road
ENF-ZON-21-000507-2
Citation- Binding Element
Appeal and Hearing Request

Dear Commission Members:

My office is representing Fern Creek Speedwash, LLC regarding a Binding Element Violation Citation issued August 11, 2021. Please direct any future communications regarding this matter to my office. Attached is an Appeal and Request for Hearing regarding the citation at issue. If you have any further questions, please feel free to contact me.

Respectfully,



Randall S. Strause

enclosure

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Hearing Request

Property Address: 8102 Old Bardstown Road

Zoning Enforcement Case: ENF-ZON-21-000507-2

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

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

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

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

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

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

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

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

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

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

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

Respectfully submitted,



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Office of Planning & Design Services
444 S. 5th Street, Louisville, KY 40202

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08/11/2021
05:00 PM

Owner:

Fern Creek Speedwash LLC
855 Lovers Lane, STE 112
Bowling Green, KY 42103-7989

Registered Agent:

Darell R. Pierce
908 State Street 1st Floor
Bowling Green, KY 42101

Interested Party:

Speedwash Car Wash
8102 Old Bardstown Road
Louisville, KY 40291

Subject Property: 8102 Old Bardstown Road
Zoning Enforcement Case: ENF-ZON-21-000507-2 Visit #2
Inspection Date: 08/11/2021
Inspection Time: 01:02 PM
Civil Fine: \$1000.00

**ZONING ENFORCEMENT
CITATION – BINDING ELEMENT**

As observed during an inspection and/or discovered through subsequent investigation, a violation(s) exists that requires attention.

In accordance with Section 11.10.3 of the Land Development Code, Section 153.99 of Louisville Metro Code of Ordinances, and Sections 100.401 and 100.409 of Kentucky Revised Statutes (KRS), you are hereby subject to a civil fine of \$1000.00. You must immediately stop using this property in violation of the Binding Elements that have been approved as part of the land use development plan associated with the subject property. Please contact the Office of Planning & Design Services to determine what steps must be taken to remedy the violation(s). Failure to comply with this Citation will result in additional citations and fines. Each day of violation constitutes a separate offense.

If you disagree with this Citation, you may file an appeal to the Planning Commission. Appeals must be filed within 14 days of the date of this Citation by submittal to the Office of Planning & Design Services. Please contact the Office of Planning & Design Services for more information concerning this process.

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KRS Section 100.409

When a citation is issued, the person to whom the citation is issued shall respond to the citation within fourteen (14) days of the date the citation is issued by either paying the civil fine set forth in the citation or requesting, in writing, a hearing before the planning commission to contest the citation. If the person fails to respond to the citation within fourteen (14) days, the person shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be considered final. In this event, the planning commission shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

A zoning enforcement officer will re-inspect the property on or after 14 days from the date of this Citation to determine if you have complied with this Citation. Should you have any questions, please email or call me at the number below.

Fines must be made payable to Louisville Metro Finance and hand delivered, or sent by mail, to the Office of Management & Budget, 611 West Jefferson Street, Louisville, Kentucky 40202.

James Mullarkey
Inspector / Zoning Enforcement Officer
(502) 773-2069
James.Mullarkey@louisvilleky.gov

If you are not the owner of this property, you have been sent a copy of this Citation as an interested party.

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

BE_001 Noncompliance with a Binding Element or Condition of Approval:

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

Inspector Comments:

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

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Develop Louisville
Office of Planning & Design Services
444 S. 5th Street, Louisville, KY 40202

HEARING REQUEST

Property Address:

I hereby contest the *Binding Element Violation Citation* and request a hearing before the Planning Commission. I dispute the citation based on the following:

Name: _____

Address: _____

City, State & Zip: _____

Signature: _____

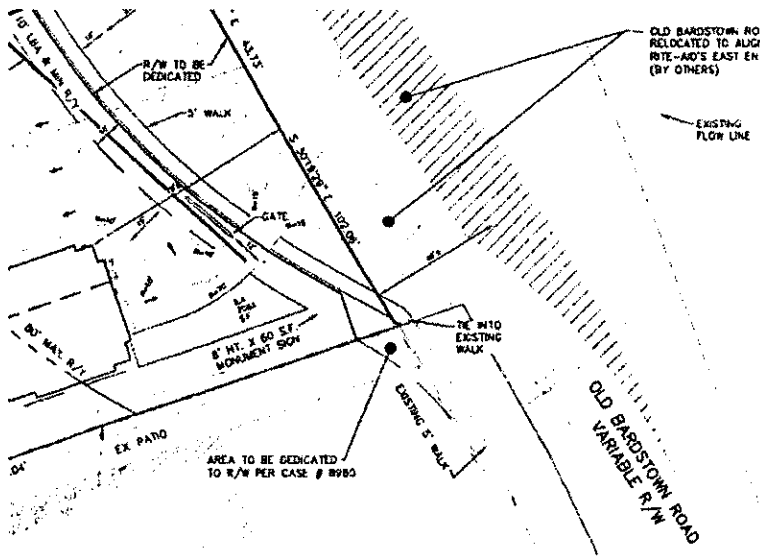
Date: _____

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Contact the Office of Planning & Design Services at (502) 574-6230 and a copy of the approved plan can be provided via email.

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning

Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.



Responsible:

- Owner

Subject violation needs to be in compliance to avoid further penalties and/or court action.

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