

PLANNING COMMISSION MINUTES
October 15, 2020

PUBLIC HEARING

CASE NO. 20-ZONE-0063

Request: Change in zoning from R-6 and C-1 to C-2, commercial with detailed district development plan
Project Name: Longtail Building
Location: 2528-2532 S. 4th Street
Owner: Longtail Ventures, LLC
Applicant: Longtail Ventures, LLC
Representative: Wyatt, Tarrant, & Combs, LLP
Jurisdiction: Louisville Metro
Council District: 6 - David James

Case Manager: Joel P. Dock, AICP, Planner II

Notice of this public hearing appeared in The Courier-Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

03:19:07 Julia Williams, Planning Supervisor with Planning & Design Services, presented the case on behalf of Joel Dock and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in support of this request:

Jon Baker, Wyatt Tarrant & Combs, 400 West Market Street Suite 2000, Louisville, KY 40202

Josh and Melanie Rosenthal, 2325 South Sixth Street, Louisville, KY 40208

Alex Rosenberg, engineer (did not speak)

Summary of testimony of those in support:

03:24:45 Jon Baker, the applicant's representative, presented the applicant's case and began showing a Power Point presentation (see recording for detailed presentation.)

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03:27:05 Josh Rosenthal, the applicant, presented his case and showed a Power Point presentation (see recording for detailed presentation.)

03:33:12 Mr. Baker resumed and concluded the presentation. He also read a letter from Patrick Piuma into the record (see recording.)

The following spoke in opposition to this request:

No one spoke.

03:51:16 Commissioners' deliberation.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Zoning

03:55:12 On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution, based on the applicant's justification and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Plan Element 1 – Community Form because the Community Form plan element guides the shape, scale and character of development in ways intended to promote a connected, healthy, authentic, sustainable and equitable built environment. Community Form encourages *redevelopment while promoting land use flexibility*. What's more, Community Form recommends historic preservation of buildings and promotes the arts and creativity to enhance the quality of life and a sense of place. As described in detail herein, the applicant's Proposal advances these stated principles of the Community Form because the Proposal involves the restoration and adaptive re-use of an existing structure, which holds the corner of a block in an already-established neighborhood along S 4th St., an important urban corridor in strong need of reinvestment and vitality.

The Proposal complies with Community Form Goal 1, Policy 3.1.2 because the Property lies within the Traditional Neighborhood Form District, which is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks. The higher density uses are encouraged to be located in centers or near parks and open spaces

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having sufficient carrying capacity as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods, (b) in the case of new developments or *redevelopments* using traditional building scales and site layouts, (c) the preservation of the existing grid pattern of streets and (d) preservation of or creation of new public open space.

The Proposal aims to reinforce and revitalize the S. 4th St. Traditional Neighborhood Form because the applicant has invested significant time and capital in restoring a corner building that housed the well-known Whirlaway Tavern, long-standing whiskey-by-the-drink bar that served the neighborhood from 1946 to 2018. In its place, the applicant proposes the LongTail (a name that gives a nod to ol' Whirlaway), a neighborhood- and community-serving beer garden and bar where the applicant wishes to cultivate interaction and activity primarily for the residents of the immediate area. The adjacent structure (2528 S. 4th St.) has also been brought back to life from its near demise. Both structures are remade mostly within their original footprints and without increase in height or bulk, thereby maintaining traditional building scales. Setbacks of the buildings remain the same. The R-6 zoned portion of the site was added to the Property for increased internal green space and added buffer between the commercial uses fronting the S. 4th St. corridor and the start of the residential properties of the Traditional Neighborhood Form, located behind and west of said commercial uses.

The applicant has planted and plans to further plant numerous trees and native bushes and shrubs throughout the site and more heavily along rear property line to establish a nice, aesthetically pleasing buffer between the commercial and residential properties. A large mature tree with a generous canopy looks over the northwestern corner of the Property, which will be preserved as a vital natural resource. No flood prone areas or wet or highly permeable soils, or severe, steep or unstable slopes exist on the Property to avoid. Hence, the Proposal protects existing natural resources and proposes integration of additional tree canopy and landscaping into the sight. Consequently, the Proposal complies with Community Form's Goal 3 and its applicable policies.

No change to the existing grid pattern of streets is proposed, although improvements to the S. 4th St. streetscape are intended in the form of a new TARC stop and bicycle parking. In an effort to keep matters green and with less blacktop onsite, the applicant proposes no off-street parking on the Property. On a day-to-day basis, the Proposal aims to cater mainly to the residents and those who work in the immediate neighborhood, where folks can walk, bicycle, ride TARC, or use Uber/Lyft, if necessary, as transportation to the Property. Moreover, providing less blacktop onsite in favor of greenery supports the effort to reduce heat island effect in the surrounding area, an

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issue so prevalent in Louisville that it has garnered national attention from media outlets, some of which have called it the worst in the country.

Goal 2 of the Community Form encourages sustainable growth and density around mixed- use centers and corridors, while Goal 4 promotes the preservation of historic resources that contribute to our authenticity. The applicant's Proposal harmonizes with these two Community Form goals because, as mentioned, great efforts were undertaken to completely refurbish – from its foundation up – the old Whirlaway Tavern building, which perfectly holds the corner of Montana Avenue and the S. 4th. St. corridor, a location within an existing and growing activity center comprised of mixed uses. Anchoring the northern end of the Traditional Neighborhood Form is The Marshall, another high-density multi-family residential building located on property zoned C- 2, Commercial. The Marshall is approximately a block to the north from the LongTail, at the northwest quadrant of the Creel Avenue and S. 4th St. intersection (same side as the street as LongTail Building). Directly across S. 4th St. is a small Traditional Workplace Form, which contains properties zoned EZ-1 and M-2. The primary use of this smaller Workplace Form is a large, densely built multi-family apartment complex named the Trifecta Apartments. Adjacent to the south of the Trifecta Apartments is property zoned C-2, Commercial, where a restaurant currently exists. To the east and north of this Workplace Form is the University of Louisville Campus Form, which contains institutional, residential, office and commercial uses that serve the University. To the west of the S. 4th St. corridor, and extending westward to 7th Street Road, is the primary residential component of the surrounding Traditional Neighborhood Form. Here within this traditional neighborhood, residents have a well-established grid of streets and sidewalk connections to walk and bike to the Property. To the south, toward Churchill Downs, C-1 and C- 2, Commercial and a small amount of M-2, Industrial properties front the S. 4th St. corridor. Beginning at M Street and heading 3 blocks south to Central Avenue, all of the properties fronting the S. 4th St. corridor are zoned C-2 Commercial, many of which need reinvestment and reactivity. The Proposal provides appropriate access and connectivity to serve more than sufficient demand for walkable, neighborhood-servings uses. It is hopeful that with the opening of the LongTail at its location, additional reinvestment will come to the area and add to the growth, density and mix of uses the S. 4th St. Corridor so desperately needs.

And although Goal 5 of Community Form sets forth only programmatic policies, the Proposal certainly integrates art and cultivates creativity. The applicant took special care to hire ghosts sign specialists to research and recreate the public murals directly onto the brick exterior of the LongTail building, which resemble the old advertisement signs from yesteryear. Not only does this integrate art into the built environment in view from the streetscape, but it also adds to the authenticity of the building and immediate area of the activity center. Thus, the Proposal certainly promotes the spirit of Goal 5; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Plan Element - 2 Mobility because Goal 1 of Plan 2040's Mobility Plan Element is to implement an accessible system of alternative transportation models. (Incidentally, the image selected for Goal 1 of Mobility is of a location on the S. 4th St. corridor, two blocks north of the Property). Goal 2 of the Mobility Plan Element is to plan, build and maintain a safe, accessible and efficient transportation system, while Goal 3 encourages land use and transportation patterns that connect Louisville Metro and support future growth. The applicant's Proposal complies with Plan 2040's Mobility Plan Element and furthers it three goals because it encourages the utilization of the existing multi-modal transportation systems currently serving the S. 4th St. corridor and will facilitate the strengthening of walkability in the immediate area of the applicable Traditional Neighborhood Form, where pedestrian connections have long been in place. As mentioned, the Property is located in an existing activity center that is being rejuvenated by quality, high density multi-family residential communities constructed to primarily serve the nearby University of Louisville (the Marshall, Trifecta Apartments); the momentum of S. 4th Street's redevelopment is positioned to continue south, where vacant and underused properties are ripe for reinvestment. The Property is well positioned on the edge of the traditional neighborhood, with the bulk of the residential properties to its west and a traditional workplace form directly across S. 4th St. from the Property. The intended use of the Property as a beer garden/bar is appropriately located within the traditional neighborhood for mobility of people because it is located at the corner of Montana Avenue, a local level roadway, and S. 4th Street, a minor arterial roadway, where both roadways contain street-level sidewalks. Moreover, the applicant looks forward to helping TARC construct new bus stop improvements for the existing TARC stop located on S. 4th St. near the entrance to the LongTail Building. The transit stop provides a convenient, accessible location, minimizing distances for pedestrians and transit users. The Property is also in ideal location for cyclists who travel the Olmsted Parkways from/to Cherokee, Iroquois, and Shawnee Parks, among others. The Property is central to the locations of these parks and is located near access to Eastern Parkway, Algonquin Parkway and Southern Parkway. Bicycle parking will be furnished on the Property to accommodate cyclists, further supporting non-motorized methods of mobility.

The applicant's redevelopment and reuse of the structure on the site as a neighborhood-serving beer garden/bar heavily discourages single-occupant vehicular travel; rather, the applicant stresses the intent behind its Proposal is to serve the community of the immediate area and prefers patrons to walk, bike, and utilize transit to access the Property. Indeed, the addition of a neighborhood beer garden to the area where no such use exists today will contribute to reducing miles traveled for the residents living in the neighborhood, whom now have to venture elsewhere from the immediate area to find a similar use. The applicant wishes to not provide off-street

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parking onsite in favor of maintaining more greenery. Accordingly, it is intentional to deprive the Property of additional parking not only as a means of reducing unnecessary blacktop in an area already suffering from urban heat island effect, but also as a deterrent to users of vehicular traffic. Rather, the applicant believes the Proposal's location on a corner property is the ideal spot to locate a neighborhood-serving use because the LongTail fronts a heavily-traveled corridor and within a traditional neighborhood well served by pedestrian connections and the onsite availability of transit. Moreover, its proximity to high-density residential, numerous workplaces and within reasonable walking distances to the University and Louisville and Churchill Downs supports the position that the use can be well-served without the need of much parking. The attendees to the neighborhood meeting were in agreement that LongTail would well serve the immediate area without the need for additional parking and the idea of creating off-street parking was not supported. The applicant will be submitting a request for relief from the minimum parking requirement attributable for the proposed use on the Property. There will be no circulation of vehicles on the Property.

For the foregoing reasons, the Proposal complies with the Mobility Plan Element of Plan 2040, including its Goals 1, 2 and 3 and their applicable Policies. The redevelopment of the Property has created keen interest from residents in the neighborhood, many of whom have knocked on the front door while walking past the LongTail to inquire about its (re)opening. The location of a beer garden on a corner property within a traditional neighborhood form is a common neighborhood-serving use found in numerous urban neighborhood settings across the country, whether Chicago, Philadelphia, New York, Memphis etc., to name a few. The Proposal is properly supported by a safe, accessible and efficient transportation network that connects areas of residential, commercial, workplace, and recreation from various modes of transportation, namely pedestrian connections, easy access to transit and bicycles; and

WHEREAS, the Commission further finds that the proposal meets the intents of Plan Element 3 – Community Facilities because Plan 2040's Community Facilities Plan Element provides guidance and recommendations for the proper integration of necessary community resources across Louisville Metro to plan and maintain accessible facilities that will improve the quality of life for existing and future residents and visitors of Louisville Metro. The Proposal complies with Plan 2040's Community Facilities Plan Element, and all applicable Goals, Objectives and Policies thereunder, because the Property is within the urban service district, served by existing infrastructure and all necessary utilities, including water, sewer, electricity, telephone and cable. To the extent possible, utilities will be located within common easements and trenches, as required by each utility. The development also has an adequate supply of potable water and water for fire-fighting purposes and is served by the Louisville Fire Department's Engine 18, which is conveniently stationed at 2600 S. 4th St., directly across Montana Avenue from the property; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Plan Element 4 – Economic Development because the intent of Plan Element 4 of Plan 2040 is to provide a positive, healthy economic climate for citizens of Louisville Metro in a way that cultivates a vibrant city to attract and retain a highly-skilled workforce. The Property is appropriately located within an existing activity center along S. 4th St. – a minor arterial roadway also known as the University Corridor, which provides a central spine for moving goods and people north and south between Churchill Downs and Downtown Louisville Metro. The Proposal promotes the Goals and Objectives of Plan 2040’s Economic Development Plan Element because it is geographically positioned along a vital urban corridor, this particular section of which is on the precipice of a resurgence. Yet, the corridor needs more positive infusion of interest and reinvestment in the properties fronting the corridor to reach it. Here, the applicant has overhauled the old Whirlaway Tavern building and its neighboring structure to the north to recondition site where public engagement, congregation and commerce can reoccur. The LongTail is will provide employment opportunities for the local community, too. Indeed, the Proposal is a great example of local entrepreneurship where local business folks have reinvested back into the neighborhood structures of the community where they work and live, and now wish to open a small business therein to serve its neighbors.

As mentioned, the applicant took special care in refurbishing the site, including hiring ghost artists to recreate mural paintings on the exterior of the structure, appealing to the nostalgia of the neighborhood’s yesteryear, while also furthering the authenticity of the site and S. 4th St. streetscape. The Proposal invites folks to experience a community-focused space within a rehabilitated structure that previously housed a local business named after a world-famous thoroughbred horse, all within a neighborhood supported by multi-modal transportation and within walking distance to Churchill Downs. Indeed, this is the kind of authenticity Plan 2040 encourages development to achieve. Moreover, the applicant is open to working with groups from the University, such as the School of Urban Design, to use the space in support of academic, artistic, and entrepreneurship events. What follows, if the zoning request is approved, is a neighborhood- serving business that will improve the economic value of the immediate area while contributing to vibrancy and uniqueness of an area that warrants such revival, especially considering the Property’s location between the University and Churchill Downs. Therefore, the Proposal is in agreement with the Economic Development Plan Element of Plan 2040; and

WHEREAS, the Commission further finds that the proposal meets the intents of Plan Element 5 – Livability because The Livability Plan Element of Plan 2040 provides guidance and direction for the provision and maintenance of resources necessary for the health and well-being of citizens, including a focus designing places for health and safety with tree preservation and tree canopy enhancement. Applicant’s Proposal is

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consistent with the applicable Goals, Objectives and Policies of Plan 2040's Livability Plan Element, primarily those set forth under Goal 1 of the Plan Element, because the redevelopment of the Property protects the natural environment and integrates it with the built environment. The applicant looks to open up a neighborhood-serving use on a site whereon the applicant rehabilitated two aged and dilapidated structures that when used together will relate to and function with one another to create a pleasant indoor/outdoor community experience. The Proposal incorporates recently consolidated unused, vacant ground zoned multi-family residential into the site for use as interior green space, which, like the rest of the site, will be well planted with trees, bushes, flowers, shrubberies. This rear area of the site already contains numerous new trees as well as an older, mature tree with a generous canopy that holds the northwestern corner of the site. Not only will this rear area of greenery on the Property present a nice buffer between the active area of the site to the east and the neighboring residential property to the west, but, because it is a fully pervious area, it will also help maintain good stormwater drainage onsite as well as fight off the ever-increasing heat island effect in downtown Louisville.

The Proposal requires no additional impervious surfaces and will utilize existing MSD sewer facilities and infrastructure already in place to further handle stormwater runoff.. Parking is proposed to remain on-street parking only, therefore no storm sewer or GMPs are required. No area associated with the Proposal is located in the regulatory floodplain, the 100-year flood hazard area, nor within the combined sewer overflow floodprone area. Hydric soils are not present on the Property. As a result, the Proposal will accommodate stormwater runoff in a manner complying with MSD standards, which mandate post development rates of runoff may not exceed pre-development conditions. And, as discussed in addressing similar policies set forth under Plan 2040's Community Form Plan Element, the Property does not display thereon any characteristics of carbonate or karst areas being present, nor does the Property contain any protected waterways, riparian zones, nor blue line steams –perennial or intermittent. The Property contains no known archaeological features on it. No severe, steep or unstable slopes exist on site of which would cause impediments to the Proposal. Moreover, because the development of the Property consisted largely of the refurbishing of worn down structures, the built environment already exists onsite along with a well-landscaped site; thus, no site disturbance is expected on the Property. Therefore, implementation of an erosion prevention and sediment control plan is unnecessary. Consequently, applicant's Proposal will not have any negative impacts to mitigate on site.

The proposal conforms to the requirements of APCD, represents an efficient land use that maintains the existing pattern of development within the traditional neighborhood form, and utilizes current traffic patterns. Because the site is positioned in an area well-supported by multi-modal transportation infrastructure, including sidewalks, nearby accessible bike routes and transit, the proposed development accommodates

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alternative modes of travel, which enables and promotes a reduction in vehicular miles traveled, thereby reducing overall air quality impacts; and

WHEREAS, the Commission further finds that the proposal meets the intents of Plan Element 6 – Housing because the Housing Plan Element strives to enhance housing opportunities for all citizens of Louisville Metro by promoting equitable housing means ensuring diverse, quality, physically accessible, affordable housing choices with access to opportunities, services and amenities. The following three Goals are set forth within the Housing Plan Element: 1) Expand and ensure a diverse range of housing choices; 2) Facilitate the development of connected mixed-use neighborhoods; and 3) Ensure long-term affordability and livable options in all neighborhoods. As discussed herein, the Proposal advances all three Goals of the Housing Plan Element. Applicant's Proposal incorporates no housing uses in the Property, neither single-family nor multi-family housing, and although the development is within a neighborhood on the verge of reemergence, no displacement of residents from the immediate area will occur. The C-2, commercial zoning designation being sought by the applicant is a flexible zoning designation that does permit housing, however, including at a high density. Therefore, should the Property be re-purposed after its proposed use as a neighborhood beer garden, the C-2 zoning would permit a variant of housing types to be developed, including single-family, multi-family, mixed-use, zero-lot line developments. Multi-family housing or a mixed-use development including a residential component atop commercial or office would be a nice transition from the S. 4th St. corridor to the more residential component of the Traditional Neighborhood Form situated to the west of the Property. Moreover, the Property's inclusion within an existing activity center and its doorstep access to public transit also supports a future housing development on the Property, where residents could avail themselves of multi-modal transportation.

Although the applicant is not pursuing a housing development for the Property, the Proposal will provide for the reintroduction of commercial use on the Property, which will serve a walkable neighborhood and facilitate additional employment opportunities to residents in the area. As such, additional employment positions in the area will assist residents of inter-generational, mixed-income and mixed-use development possibly find employment in an area within reasonable walking and bicycling distances from where they reside. Pedestrian connections already exist within the neighborhood, including along the site's frontages with Montana Avenue and S. 4th St. The Proposal is a major reinvestment for the Property, surrounding neighborhood, and the S. 4th St. corridor and can provide the catalyst for further reinvestment into the S. 4th St. corridor, including residential developments built at appropriate densities and price levels for inclusive, equitable housing in the neighborhood; now therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to

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the Louisville Metro Council that the proposed Change-in-Zoning from R-6, multi-family & C-1, commercial to C-2, commercial be **APPROVED**.

The vote was as follows:

YES: Commissioners Daniels, Carlson, Brown, Seitz, Mims, Peterson, Howard, and Jarboe.

NOT PRESENT: Commissioner Lewis.

Detailed District Development Plan

03:57:43 On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be conserved as the site does not appear to adversely impact these features. Existing canopy is being preserved in the northwest corner of the property; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided by public sidewalks and transit service in this well-connected, traditional neighborhood; and

WHEREAS, the Commission further finds that the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided by an interior open/gathering/recreation space; and

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

WHEREAS, the Commission further finds that the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as structures are being rehabilitated consistently with the historic character of structures on site and nearby area, as well as the form districts pattern of development; and

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WHEREAS, the Commission further finds that the proposed development plan conforms to Plan 2040 as the proposal is located on a transit route near the University of Louisville and population centers to support transit-oriented development and an efficient public transportation system. The proposal also preserves existing structures that exhibit compatibility with the character of the area and maintain features of traditional neighborhoods; now, therefore be it

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, 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 or certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
3. 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.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties

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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.

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. The hours of operation for the outdoor serving areas will end at 12:00 a.m.

The vote was as follows:

YES: Commissioners Daniels, Carlson, Brown, Seitz, Mims, Peterson, Howard, and Jarboe.

NOT PRESENT: Commissioner Lewis.