

**FINDINGS OF FACT ADDRESSING COMPLIANCE WITH GOALS,
OBJECTIVES AND POLICIES OF PLAN 2040, A COMPREHENSIVE
PLAN FOR LOUISVILLE METRO**

AL CAT, LLC

**6212 OLD SHEPHERDSVILLE ROAD:
PROPOSED ZONE CHANGE FROM: R-4, SINGLE-FAMILY RESIDENTIAL
TO: CM, COMMERCIAL MANUFACTURING**

CASE NOS.: 21-ZONE-0072

OCTOBER 21, 2021

**THE PROPOSAL'S AGREEMENT WITH PLAN 2040
LOUISVILLE METRO'S COMPREHENSIVE PLAN**

The Louisville Metro Planning Commission ("Commission"), having heard testimony before its September 23, 2021 Land Development & Transportation Committee meeting and during its Public Hearing convened for October 21, 2021, and having reviewed evidence submitted into the administrative record for Case No. 21ZONE0072 and further evidence presented by the applicant, interested parties, and the staff's analysis of the application, make the following findings:

SUMMARY STATEMENT

WHEREAS, the Commission finds the applicant and property owner for the zoning application assigned Case Number 21-ZONE-0072, AL CAT, LLC, initially submitted to Louisville Metro Planning & Design Services its formal zoning application, which then included two (2) land use components over three (3) tracts for the Property; more specifically, said initial application proposed a drive-thru restaurant on approximately 0.75 acres of land which was to be tract 1, and for tracts 2 & 3, the applicant proposed a moderately-sized office/warehouse use consisting of three structures that was intended to provide additional storage space on over 2+ acres of land labeled what were to be tracts 2 and 3; and

WHEREAS, since its original submittal, the applicant amended its formal zoning application to reduce the amount of property subject to the rezoning request, which said amendment involved removing the warehouse/office component and tracts 2 & 3 from the zoning application, and, as a result, the applicant's zoning application presented to the Planning Commission requested changing the zoning designation of only tract 1 from R-4, Single-Family Residential to CM, Commercial Manufacturing to allow the construction and operation of a drive-thru Taco Bell restaurant on property, which contains approximately 0.75 acres of property area and has an address of 6212 Old Shepherdsville Road, Louisville, KY 40228 (the "Property"), yet fronts Shepherdsville Road; the Property is within a well-

established, active Suburban Workplace Form District, where a multitude of industrial and commercial properties operate and is anchored by the Haier Appliances Campus (formerly GE Appliance Park), just to the northeast of the Property; and

WHEREAS, as more fully detailed herein, the Commission finds that the proposed restaurant use is an appropriate use for the Property because it will serve the many employees and customers of the various businesses operating within the Suburban Workplace Form as well as those customers passing thru the immediate area; and whereas the Commission further finds the existing land use is no longer an appropriate use for the Property because the current residential use is the last remaining single-family dwelling fronting this section of Shepherdsville Road, bracketed by Poplar Level Road to the north and Fern Valley Road to the south; and whereas directly to the south of the Property is a McDonald's drive-thru restaurant very similar in use and functionality to what the applicant proposes for tract 1, and to the south of that drive-thru restaurant is a vacant bowling alley building that holds the corner of Shepherdsville Road and Fern Valley Road; and to the south and west of the Property are mini-storage units, then a multi-family residential community on property zoned R-7, multi-family residential; and to the north of the Property are a day-care use, then a Circle K convenient store and gas station, the latter of which holds the corner of Shepherdsville Road and Poplar Level Road; and across Shepherdsville Road from the Property is a handful of automotive and heavy equipment uses; and, therefore, given the intensity of the uses surrounding the Property, both individually and collectively, the Commission finds the R-4, Single-Family Residential is no longer an appropriate zoning district designation for the Property; and

WHEREAS, the applicant has submitted alongside its formal zoning application proposal associated development review applications, including a review of a detailed district development plan ("DDDP"); and a parking waiver to allow the drive-thru restaurant to have more parking on its site than permitted by the Land Development Code ("LDC") (cumulatively, all associated development review applications the applicant has submitted for the development of the 0.75-acre tract 1 comprise the "Proposal").

WHEREAS, the Commission finds the applicant's request to rezone its Property from R-4, Single-Family Residential, to C-M, Commercial Manufacturing is in agreement with Plan 2040, A Comprehensive Plan for Louisville Metro ("Plan 2040"), and the associated DDDP complies with the Land Development Code, and the applicant's related parking waiver application is justified by the Commission's adopted Findings of Fact, as detailed hereinafter, and, therefore, the Commission recommends the Louisville Metro Council approve CM, Commercial Manufacturing as an appropriate zoning district designation for the Property.

Plan Element 1 - Community Form

WHEREAS, the Commission finds the applicant's Proposal conforms to Community Form Plan Element 1 and all applicable Goals, Objectives, and Policies adopted thereunder 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 in Louisville Metro; and the Community Form encourages *redevelopment while promoting land use flexibility*; and, as described herein, the applicant's

Proposal advances these stated principles of the Community Form because the Proposal will provide redevelopment of infill property to establish a restaurant use more appropriate than the existing current single-family zoning use for the active Suburban Workplace Form District enveloping the Property and surrounding immediate area; in place of the current zoning, the applicant proposes CM zoning, a hybrid commercial and industrial zoning designation, for the current and future use of the Property, which will provide flexibility for commercial, industrial, or hybrid commercial-industrial users (certain light logistical users) to locate thereon and reinvest resources into the Property but without permitting the intense, noxious uses that are permitted within the higher level of intensity zoning designations such as M-2 or M-3, Industrial or EZ-1, Enterprise Zone, which are present in this very Suburban Workplace Form; the less intense CM zoning is appropriate for the commercial restaurant use proposed for the Property, which fronts this specific block of Shepherdsville Road and will be an additional source of convenient access to food service for the large working and residential populations established in the existing Suburban Workplace and adjacent Neighborhood Forms; and

WHEREAS, the Commission finds the applicant's Proposal complies with Plan 2040's Community Form Goal 1, Policy 3.1.10 because the Property lies within the Suburban Workplace Form District, which is characterized by predominantly industrial and office uses where the buildings are set back from the street in a landscaped setting; Suburban Workplaces often contain a single large-scale use or a cluster of uses within a master planned development; in order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged; walkways to workplace-serving uses are encouraged for workplace employees; Development within Suburban Workplace Form Districts may need significant buffering from abutting uses; the Property currently contains the only single-family residence on either side of this specific block of Shepherdsville Road – a block which is home to numerous commercial/light industrial uses such as a gas station and convenience store, numerous auto sales and service establishments, a home improvement store, a large equipment sales and service dealership, a vacant bowling alley building, a McDonald's restaurant on adjacent property, and a day-care facility; adequate roadway infrastructure is in place to serve this immediate area of the Suburban Workplace Form, including the proposed use on the Property, as Shepherdsville Road, a minor arterial roadway, connects to the north with Poplar Level Road, a major arterial roadway to the west of and a minor arterial roadway to the east of its intersection with Shepherdsville Road, and connects to the south with Fern Valley Road, a major arterial roadway; all three well-used corridors maintain sufficient capacity to move goods and services from properties located within the Suburban Workplace Form; and, with easy access to nearby expressway corridors as well as to the Muhammad Ali International Airport, which is a few miles to the west of the Property movement of goods into and out of the Suburban Workplace Form is well-supported; TARC operates a local bus route along this stretch of Shepherdsville Road, as well as eastward on both Poplar Level Road and Fern Valley Road; a pedestrian connection serves the western side of Shepherdsville Road and along the Property's frontage, all of which, together, provide multi-modal options of transportation for customers to access the currently proposed restaurant use on the Property; and

WHEREAS, the Proposal aims to strengthen the surrounding Suburban Workplace Form by removing an out-of-place, no-longer-appropriate residential use and replacing it with a restaurant use fronting Shepherdsville Road (nearly identical to the restaurant use currently operating on the neighboring property to the south) and the redevelopment of the Property will increase compatibility between properties in the immediate area and be served by the adequate infrastructure and transportation facilities already in place; a mini-storage facility also neighbors the Property to the south, a multi-family residential complex lies to the west of the Property, on the other side of the elevated, high-powered electrical transmission lines; to the north of the Property is the Blue Spring Ditch and to the north and eastern side of the Property is an active day-care facility, My Little Testimonies; to the northeast of the Property, at the corner of Poplar Level Road and Shepherdsville Road, is a Circle K gas station and convenience store; anchoring the corner of the Shepherdsville Road and Fern Valley Road to the south is a vacant rectangular structure that was previously used as a bowling alley and, most certainly, will be utilized as a commercial or light industrial use in the near future; the Commission finds the Proposal will ensure compatibility in scale and design with these nearby existing land uses and with the prevailing pattern of development in the Suburban Workplace Form; and

WHEREAS, the Commission further finds proposed restaurant use is consistent with the commercial restaurant uses that currently serve Suburban Workplaces and provide an additional food option for the residents located within reasonable walkable distances from the Property, including the residential community to the immediate west; no hazardous materials will be stored or handled onsite; twenty-seven parking spaces will serve the restaurant Proposal and the applicant has submitted an application for a parking waiver to place more parking spaces on the property than currently allowed by the Land Development Code; the neighboring McDonald's property provides more parking spaces than the number of parking spaces the applicant requests to serve the proposed restaurant uses on the Property; and

WHEREAS, Goal 2 of the Community Form encourages sustainable growth and density around mixed-use centers and corridors; the surrounding Suburban Workplace Form is well-developed and active with commercial and industrial uses of various sizes and intensities; the commercial/industrial activity center here is well rooted; the primary user of this particular Suburban Workplace Form is Haier's US Appliance Solutions (known by most as the former GE Appliance Park), where thousands of employees commute daily to and from the large employment center; the Proposal supports the established Suburban Workplace because it will provide the Suburban Form with another convenient food option for the numerous employees working therein and nearby as well as for a strong population of residents who live within reasonable walking distances from the property; moreover, the Proposal will add new investment and resources to the Suburban Workplace and new employment options to the activity center, which is easily accessible via pedestrian connections, transit and by vehicular travel from surrounding nearby residential neighborhoods; as mentioned, this Suburban Workplace Form is served by adequate roadway corridors and TARC service; the proposed restaurant will be served by a curb cut directly onto Shepherdsville Road, while secondary access and shared connections between the property and adjacent properties to the west and south will be established so that access from the restaurant to Fern Valley Road can be achieved without having to access

Shepherdsville Road; no change to the existing grid pattern of streets is proposed and the parking being requested is sufficient to serve the proposed restaurant use; compatible utilities shall be placed in a common trench unless otherwise required by appropriate agencies; and

WHEREAS, the site contains no historic or archaeological resources that contribute to Louisville Metro's authenticity, nor does the site contain watersheds, viewsheds, or natural resources that would be unprotected; additionally, no environmentally sensitive flood prone areas or wet or highly permeable soils, or severe, steep or unstable slopes exist on the Property and, as a result, the proposed restaurant use will not disrupt or disturb any environmentally sensitive features; required tree canopy areas will be provided onsite; for these reasons, the Commission finds the applicant's Proposal complies with the applicable objectives and policies of Plan 2040 Community Form's Goals 1, 2 and 3 and further finds Plan 2040's Goals 4 and 5 are inapplicable to this Property and specific Proposal.

Plan Element - 2 Mobility

WHEREAS, the Commission finds the applicant's Proposal complies with the intent of Plan 2040's Mobility Plan Element and its applicable Goals, Objectives and Policies because Goal 1 of Plan 2040's Mobility Plan Element is to implement an accessible system of alternative transportation models; and 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; and, considering these Plan 2040 Goals, the Commission finds applicant's Proposal complies with Plan 2040's Mobility Plan Element because it redevelops and reuses the Property in a manner more appropriate and more in keeping with the surrounding commercial and light industrial land uses of higher intensities in the Suburban Workplace Form District than the existing single-family dwelling currently occupying the Property; notably, this particular block of Shepherdsville Road contains no other single-family residential property fronting the busy corridor; the change in zoning district designation to the Property allows for reinvestment in the Property and the opportunity for new sources of jobs to become available within the active Suburban Workplace Form; the Property is served by connections to existing public roadways, where, within the Suburban Workplace, industrial, commercial and general pass-thru traffic utilize the roadway network; primary access to the restaurant site is directly from Shepherdsville Road, a minor arterial roadway, secondary access will provide an alternative connection from the Property south to Fern Valley Road, a major arterial roadway; the site has convenient proximity and adequate access via the public roadway network to I-65, I-265 and I-264 highways, which convenient access promotes in general the efficient movement of people and goods, thereby supporting the proposed CM zoning district; and

WHEREAS, as it relates to safety of access to the Property, there are no site-distance, corner-clearance or site-line issues affiliated with the existing curb cuts – both primary and secondary access – proposed for serving the Property; thus, the associated site plan for the Property facilitates safe vehicular and pedestrian access to and from the proposed development and adjacent land uses; the Proposal ensures proper functioning of internal circulation and appropriate access to existing roadway network; an existing pedestrian

connection runs along the Property's frontage with Shepherdsville Road and internal pedestrian connections will be provided intra-site, as depicted on the DDDP filed alongside the applicant's zoning application; the Proposal will add imperceptible vehicular trips to the existing traffic in the immediate area, for the restaurant use on the Property will mostly feed off of customers already in the surrounding area;

WHEREAS, the Commission further finds TARC operates a local route along this segment of the Shepherdsville Road corridor, as well as heading east from Shepherdsville Road on both Poplar Level Road and Fern Valley Road, providing multi-modal options for employees and customers to reach the Property without the need for reliance on automobiles; pedestrian connections exist along the western side of this section of Shepherdsville Road, but also along Poplar Level Road and Fern Valley Road, allowing for adequate means of multi-modal transportation to the Property and surrounding goods and services in the area; the Proposal intends to include bicycle parking on the Property, the specific area of which is still being explored but once established will support those employees and customers who prefer or require bicycle transportation as a means of travel; adequate parking for the Proposal is established on the Property for the use, but, per current applicable Land Development Code requirements, necessitates a parking waiver to allow more than the maximum parking required on the restaurant site; per the recently updated parking regulations, the maximum parking requirement for the proposed restaurant use is a mere nine (9) spaces, which is wholly insufficient to serve the proposed use and, as depicted on the DDDP, the applicant requests twenty-seven (27) parking spaces to properly serve the use, which said parking includes two (2) ADA spaces and provides nearly fifteen (15) less parking spaces than the existing McDonald's restaurant use adjacent to the south; street trees will be planted along the Property's frontage with Shepherdsville Road, as indicated on the associated DDDP; for the foregoing reasons, the Commission concludes the Proposal complies with the Mobility Plan Element of Plan 2040, including its Goals 1, 2 and 3 and their applicable Policies.

Plan Element 3 – Community Facilities

WHEREAS, 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; and whereas the Commission finds the Proposal complies with Plan 2040's Community Facilities Plan Element, and all applicable Goals, Objectives and Policies thereunder, because the Property is served by existing infrastructure and all necessary utilities, including water, sewer, electricity, and telephone; upon redevelopment of the Property, and to the extent possible, utilities will be located within common easements and trenches, as required by each utility; the restaurant development will have an adequate supply of potable water and water for fire-fighting purposes and is served by the Okolona Fire District; moreover, the rezoning of the Property to the CM zoning designation can help future investment in the Property that will remain supportive to the Suburban Workplace Form.

Plan Element 4 – Economic Development

WHEREAS, 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; sound economic development planning allows for equitable, sustainable and innovative growth that strengthens our community's ability to attract and retain a strong and diverse workforce; the Commission finds the applicant's Proposal advances the intent of Plan 2040's Economic Development Plan Element, and its applicable Policies, Goals and Objectives because it will designate consistent and appropriate zoning for the underused infill Property so that it can facilitate future industrial and commercial uses within a robust Suburban Workplace Form already well-outfitted with infrastructure serving industrial and commercial uses compatible with the CM zoning proposed for the Property; additionally, the Proposal promotes the Goals and Objectives of Plan 2040's Economic Development Plan Element because it is geographically positioned near one of the Louisville Metro's major job centers – Haier (GE Appliance Park) – where thousands of employees work daily and various nearby supportive services and businesses reliant on Haier/GE Appliance Park coexist and take advantage of common infrastructure and utilities within the Suburban Workplace Form; and

WHEREAS, the Property fronts Shepherdsville Road, between its intersections with Fern Valley Road, a major arterial roadway, and Poplar Level Road, another arterial roadway, which will provide the Proposal appropriate transportation connectivity without negatively impacting current traffic flows; TARC serves the Suburban Workplace Form with a local transit route that includes the Property, which addresses access to multi-modal for the workers who have jobs in this employment center; the Property also has convenient connections to major highways, such as I-65 and I-265, further supporting the flow of goods and services via adequate access to the Suburban Workplace Form and to the Property; the Commission finds rezoning the Property to CM provides an opportunity for useful, appropriate infill redevelopment of the Property, of which the current single-family residential use is certainly not the highest and best, nor the appropriate, use for the Property and will not contribute to the economic growth and sustainability of the community; therefore, the Proposal is in agreement with the Economic Development Plan Element of Plan 2040.

Plan Element 5 – Livability

WHEREAS, the Commission finds Plan 2040's Livability Plan Element gives guidance and direction for the provision and maintenance of resources necessary for the health and well-being of citizens, including a focus on designing and developing places while prioritizing the protection and enhancement of the natural environment and the integration of it with the built environment as development occurs; and whereas the Commission finds the applicant's Proposal is 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 proposed development is located on a site that will enable proper stormwater handling and release management that will not adversely affect adjacent and downstream properties; stormwater will be collected and piped underground to a proposed detention basin located west of the Property, near the Blue Spring Ditch, which said basin is designed

to ensure post-developed peak flows will be limited to pre-developed peak flows for 2-, 10-, 25- and 100-year storms or to the capacity of the down-stream system, whichever is more restrictive; the final stormwater design is required to receive approval from MSD prior to construction of the proposed development and must meet all of MSD's MS4 water quality regulations; in addition, an Erosion Prevention and Sediment Control Plan utilizing best management practices as recommended by MSD will be implemented prior to commencing construction of the development; and

WHEREAS, the Commission finds the site is listed within Zone A of the 100-year flood plain, per FIRM Map No. 21111 C 0077 F, dated February 23, 2021, but the applicable layer on Lojic illustrates the Proposal will have no affect to existing floodprone areas, floodplain/conveyance zones nor any FEMA 100-year review zones; no hydric soils are present on the Property and the site does not contain any known archaeological features on it; and no severe, steep or unstable slopes exist on site; the applicant's Proposal does not require any open space and given its compact nature, it would be difficult to locate any open space onsite that would be usable; the area tree canopy requirements will be met via planting, including street tree plantings; and

WHEREAS, the proposal conforms to the requirements of APCD, represents an efficient land use that contributes to and enhances the existing pattern of development for the surrounding Suburban Workplace Form, and utilizes current traffic patterns on roadways outfitted with sufficient capacity and safe access thereto; and although the Property is located within an industrial and commercial center, it is positioned in an area supported by transit services and pedestrian connections, whereby accessing the site is not limited to only vehicular access; the Commission further finds the proposed rezoning of the property to a more appropriate CM zoning will invest new resources into the Property and compatibly add to an existing activity center without negatively effecting adjacent land uses.

Plan Element 6 – Housing

WHEREAS, the Commission finds 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; and whereas the Proposal advances all three Goals of the Housing Plan Element because it seeks to remove the sole remaining R-4, Single-Family zoning from this particular block of the Shepherdsville Road corridor, where commercial and industrial uses dominate the block to a level where single-family residential use is no longer appropriate or desirable on the Property; though Plan 2040 encourages developments to not displace residential uses from property, the change in zoning of the Property to CM, Commercial Manufacturing is much more in keeping with the immediate area along the frontage of this portion of Shepherdsville Road; the current incompatible relationship between the single-family house currently on the Property and its surrounding land uses warrants removal of the single-family use from the Property; and

WHEREAS, although the applicant is (appropriately) not pursuing a housing development for the Property, the Proposal will provide for the eventual redevelopment and reinvestment of capital into the Property, which will add to the employment opportunities within the already active Suburban Workplace Form, which neighbors a long-established Neighborhood Form to the west, consisting of single- and multi-family residential developments that will benefit from the location of the new restaurant use on the Property; as such, the Commission finds that 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 commuting distances from where they reside; pedestrian connections already exist within the Suburban Workplace Form as well as accessibility to TARC; the rezoning of the Property to CM removes inappropriate, isolated single-family zoning from the Suburban Workplace Form and the prospect of the Property's redevelopment into an appropriate industrial/commercial use to further strengthen the existing Suburban Workplace Form will support existing and future residential uses in the surrounding neighborhoods.

WHEREAS, for all the foregoing reasons, as well as the information provided by the applicant's Justification Statement in support of its zoning application, the associated DDDP presented during the Commission October 21, 2021 public hearing, the evidence submitted and testimony provided during both the Planning Commission's September 23, 2021 Land Development & Transportation Committee and the Planning Commission's October 21, 2021 public hearing, the Louisville Metro Planning Commission finds the applicant's Proposal to change the zoning district designation of the Property to CM, Commercial Manufacturing is appropriate for the Property and for the surrounding Suburban Workplace Form District because it complies with all applicable Goals, Objectives and Policies of Plan 2040, Louisville Metro's adopted Comprehensive Plan; and

WHEREAS, the Commission finds equally as true, the current R-4, Single-Family zoning designation is no longer appropriate for the Property and retention of the existing zoning would not be consistent with the Guidelines, Policies and Objectives of Plan 2040; and

NOW, THEREFORE, the Louisville Metro Planning Commission hereby concludes the applicant's Proposal is in agreement with the intents, guidelines and policies of Louisville Metro's Plan 2040 Comprehensive Plan and, consequently, the Commission finds the applicant's zoning application complies with the required standards set forth in Kentucky Revised Statute 100.213, and, therefore, the Commission hereby recommends to the Louisville Metro Council the applicant's requested change in zoning for the Property from R-4, Single-Family to CM, Commercial Manufacturing be approved.