

PLANNING COMMISSION MINUTES
August 2, 2018

PUBLIC HEARING
CASE NO. 17ZONE1043

Request: Change in zoning from R-4 to C-1 and detailed district development plan for beauty salon and recording studio with landscape waiver along southeast property line

Project Name: Taylor Styles Salon
Location: 9101 Taylorsville Road

Owner: Robert Childers
1917 Prairie Heights Drive
Fort Worth, Tx. 76108

Applicant: Robert Childers
1917 Prairie Heights Drive
Fort Worth, Tx. 76108

Representative: Bardenwerper, Talbott & Roberts, PLLC
William B. Bardenwerper
1000 North Hurstbourne Parkway, 2nd floor
Louisville, Ky. 40223

Jurisdiction: Louisville Metro
Council District: 18 - Marilyn Parker
Case Manager: Joel 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:42:45 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Summary of testimony of those in favor:

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01:47:43 Mr. Pregliasco gave a power point presentation. The building will remain the same and the garage will connect to it. There were 2 neighborhood meetings, but no serious objections.

The following spoke neither for nor against the request:

Kenny Griffin, 2213 Mahan Drive, Louisville, Ky.

Summary of testimony of those neither for nor against:

02:01:10 Mr. Griffin, Mayor City of Forest Hills, asked if the applicant would have to come back before the Planning Commission if he changes his mind on the use. Mr. Whitty, legal counsel, answered unless there's a binding element requiring it, the site is approved for all C-1 uses.

Rebuttal

02:02:00 Mr. Pregliasco said there's been concern about maintenance of the Juang property and hopefully it will be resolved as soon as they start construction.

Deliberation

02:03:32 The Commissioners agree that the request is appropriate and justified. Acting Chair Tomes said he has a conflict of interest and will need to abstain.

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

Zoning Change from R-4 to C-1

On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted based on the Cornerstone 2020 Staff Analysis, testimony heard today and the applicant's findings.

WHEREAS, this property is located on Taylorsville Road across from the large Kroger anchored retail center with only three properties separating the subject property from the retail corridor of Hurstbourne Parkway; in addition to the commercial corridor along Hurstbourne Parkway, one of the two other properties separating this property from the busy corner being recently rezoned to C-1 for a Hwang's Martial Arts studio and medical office building; on the other side of this property (the east side) is the recently

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constructed Forest Hill Commons assisted living facility; and because of all the development surrounding the subject site, it is already located in an “activity center”; this is one of the largest remaining residentially zoned properties near this very busy intersection; the property having been used for over 10 years in the recent past as a recording studio for commercials, etc., presumably under non-conforming rights; the property owner again wishes to use the property for this use, however, first obtaining the proper zoning prior to doing so; and the Development Plan shows the existing residential building to remain, with only the addition of parking and a small 327 square foot addition to connect the existing residential home to the existing garage; and

WHEREAS, the application complies with the Suburban Neighborhood Form District description of an area characterized by *predominantly* residential uses but that also includes, at appropriate locations, a mixture of uses, such as offices, retail shops, restaurants and services so long as these uses are at a scale appropriate for the nearby neighborhoods; this application keeps the existing home as it is currently with a minor modification to connect the garage, thus protecting the area, while still providing additional uses in this activity center, which is precisely what is contemplated by the Suburban Neighborhood Form District; the salon and recording studio proposed would round out the “activity center” in this corridor; also, these proposed uses in the existing residential building will be a less intense use than the neighboring Forest Hill Commons assisted living facility, the Hwang’s Martial Arts development or the Tire Discounters store and Panera Bread, thus serving as a transition to the residential to the east; sidewalks will be installed along Taylorsville Road providing pedestrian connectivity, as well as dedication of additional right of way requested as part of this development and requested by the adjoining City of Forest Hills for new TARC improvements that are much needed; no new access will be included, instead the existing access on Taylorsville Road will be relocated to maximize the distance between entrances on Taylorsville Road; the applicant has worked with the adjoining City of Forest Hills to address other potential impacts as well; and the limited impact on the adjacent overall low density residential community of Forest Hills will be further discussed in the following sections of this Compliance Statement; and

WHEREAS, the application complies with the Intents and applicable Policies 1, 2, 4, 5, 7, 8, 9, 11, 14 and 15 of this Guideline because the subject property adjoins the mixture of commercial, assisted living residential and single-family residential uses mentioned above, placing it in the activity center that already exists in and around this location; the subject property is located in an activity center at the intersection of two major arterial roadways, Taylorsville Road and Hurstbourne Parkway; with goods and services available in close proximity to the west of this site and at the Kroger center and the residential uses mentioned above, this salon and recording studio adds to the vitality and sense of place among the mostly disconnected nearby neighborhoods; and

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WHEREAS, the re-use of the existing residential building will be a compact development and a transition from the heavy commercial intersection to the east, along with the assisted living facility directly to the east; and the re-use of the existing residential building will also minimize impacts on the neighboring residential properties; and

WHEREAS, the planned development complies with the Intents of Guideline 3 and specifically with applicable Policies 1, 2, 4-9, 11, 12, 20, 21, 22, 23, 24, and 28 thereof for all the reasons described above and because the existing residential building respects the pattern of development in the area and is compatible with the neighboring residential properties maintaining good buffering; the development will not create any odor impacts due to the uses and any additional lighting will be mitigated by directing lighting down and away from adjoining properties in accordance with LDC regulations; hours of operation and traffic are also minimal considering the planned uses compared to many others and due to the small size of the existing building; like many infill redevelopment proposals, utilities are available at the site, thus reducing public cost for infrastructure; and the proposal is also located along a transit corridor on Taylorsville Road, and in very close proximity to another transit corridor on Hurstbourne Parkway with the addition of sidewalks to increase pedestrian connectivity in the area; and

WHEREAS, the proposed development complies with the overall Intents of Guideline 4 and specifically with Policies 1, 2, 4, and 7 thereof and with the Intents of Guideline 5 because it will provide open space in the form of landscape buffer areas and the landscaping; the planned development also complies with the preservation and re-use of historic resources due to the existing home, built in 1940 and thus eligible for historic preservation, being retained; no portion of the site has been designated as a natural, scenic or historic resource; and

WHEREAS, this proposed development complies with the overall Intents of Guideline 6 and specifically with Policies 2 and 6 thereof because it will provide a mix of new neighborhood-serving uses as both a salon and recording studio and an investment into an infill parcel that, due to the rapid redevelopment of this corridor is no longer appropriate for residential use; this project is on property R-4, but will serve the community better than rezoning a property not located in an existing activity center; due to the very limited proposed changes, this project will be very compatible with the neighboring centers; and this development will have access from Taylorsville Road (just relocated for better spacing), with no new access created; and

WHEREAS, this proposed development complies with the overall Intents and specifically with Policies 1, 2, 3, 4, 6, 9, 10, 13, 14, and 16 of Guideline 7 thereof, and the Intents of Guidelines 8 and 9 because it is located as described hereinabove, along Taylorsville Road near Hurstbourne Lane near a significant support population and adjoining and near other compatible commercial and institutional uses; sidewalks will be

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installed along Taylorsville Road to allow area residents to walk or bike to the subject property, which is served by TARC service; the development provides the full parking needed for the two uses which will have somewhat different hours of operation; and the DDDP received the preliminary stamp of approval from Louisville Metro Public Works prior to LD&T and Planning Commission meetings; and

WHEREAS, the proposed zone change complies with all of the applicable Intents and specifically with Policies 1, 3, 6, 9, 10, and 11 of Guideline 10 for the reasons evident on the accompanying detailed district development plan and because of the addition of very minimal impervious surface from what exists currently and through on-site detention as shown on the development plan accompanying this application; no portion of the site lies within the 100-year floodplain; the proposed development will connect to existing sewer and water lines available to the site at the applicant's expense, which will eliminate public costs for such infrastructure; prior to LD&T, the DDDP received the preliminary stamp of approval from MSD; and

WHEREAS, the proposed development complies with all of the applicable Intents and Policies 1, 2, 3, 5, 8, and 9 of Guideline 12 for all the reasons explained above and because the addition of these proposed uses helps reduce travel time from home to services and employment; due to the small size of the existing building, there will be limited traffic impacts as a result of this proposed development; traffic flow to and through the site will be efficient and controlled through good access and internal traffic circulation design; and readily available transit service will help to eliminate adverse air quality impacts; and

WHEREAS, the proposed zone change complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, and 6 Guideline 13 because LDC landscaping requirements are fully met; and

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because minimal changes to the subject site preserve the appropriateness of the scale within the context of nearby neighborhoods. The site is located opposite an activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposed use is low intensity and located along an arterial roadway. The minimal site improvements would limit the impact on residential uses nearby; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal will not create a new center, but will add to uses available in the adjacent center opposite the roadway frontage. The proposed use repurposes an existing residential structure for mixed use; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because there is sufficient residential population in the area and population generated by the activity center to support the use; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposed site improvements result in an efficient use of land as the existing structure will be repurposed. The relocation of the driveway to the Southern side of the site reduces the impact of customer traffic on the adjacent single-family use; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because while a new center is not being created, the proposed use and site improvements add to the vitality of the existing activity center at the nearby major intersection and continue the pedestrian network. A commercial zoning district is compatible with the activity center and development on the West side of Taylorsville Road; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposed district does not limit the ability to provide residential and office uses above retail and/or includes other mixed-use; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal is relatively small compared to nearby development and repurposes an existing residential structure; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because sharing facilities would not be achievable or practical as the development to the South does not provide connection to the subject site and is fully built out with parking spaces along the property line. The property to the North is a single-family residential use and access may not be shared with that use. Parking is to the rear away from the roadway and pedestrian facilities have been provided. Connectivity will be provided in the event of future non-residential development of the property to the north; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because utilities would appear to be available based on existing development in the area; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the development supports access by multiple modes of transportation as sidewalk and pedestrian facilities have been provided and turning from southbound or northbound lanes do not appear to be restricted to the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the repurposed of the existing structure and proposed materials for minimal improvements preserve the residential character of the use; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the conversion of the site to the proposed use is a limited expansion upon the predominately residential side of the roadway, but the use and site changes as proposed are limited in intensity. A major activity center is present opposite the major roadway; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because odor or emissions will be mitigated by required landscaping and limited vehicular parking; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal would not impact traffic on nearby communities as access to the site would be from an arterial roadway and local roadway use is not required; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because lighting will comply with LDC 4.1.3; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal is along an arterial roadway providing multiple modes of transit; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal provides appropriate landscape and setback transitions due to the minimal site improvements; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using landscape buffers. The encroachment on the southeast side is minimal; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because structure is being repurposed; therefore, setbacks and height are compatible; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the relocation of the driveway to the Southern side of the site reduces the impact of customer traffic on the adjacent single-family use. Parking is to the rear and side which adds to the compatibility of the site with uses on the same side of the roadway; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. ILA and LBA are provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because signs shall be in compliance with Ch. 8 of the LDC; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because provisions for open space are not required for this application. However, the majority of the green space currently existing along the frontage is maintained and undisturbed areas along the rear are provided. This is consistent with existing development and the form district; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because the preliminary plan indicates the preservation of multiple mature trees in the front yard; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because there do not appear to be any environmentally sensitive features on site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because the proposal includes the preservation, use or adaptive reuse of the existing building, site, and landscapes. There are no apparent features of historical significance; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because the site does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means. Sidewalks have been proposed to enhance the pedestrian network within the right-of-way; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because sidewalks have been proposed to enhance the pedestrian network within the right-of-way. Pedestrian connections are being made to the sidewalk and mass transit is available. Bike parking is provided; and.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because right-of-way will be dedicated as needed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because parking is sufficient to meet the needs of the development in compliance with Chapter 9 of the LDC; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because sharing facilities may not be achievable or practical as the development to the South (OR-3) does not provide connection to the subject site and is fully built out with parking spaces along the property line. The property to the North is a single-family residential use and access may not be shared with that use. Connection upon redevelopment for nonresidential proposes will be made; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because access is provided via arterial roadway; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because sidewalks have been proposed to enhance the pedestrian network within the right-of-way. Pedestrian connections are being made to the sidewalk and mass transit is available. Bike parking facilities will also be provided to serve these users; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because the proposal has been reviewed by APCD and found to not have a negative impact on air quality; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because no natural corridors are present

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because utilities would appear to be available; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because the proposal has access to an adequate supply of potable water and water for fire-fighting purposes; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the Infrastructure guideline because the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family Residential to C-1, Commercial on the property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Howard, Robinson and Smith

NOT PRESENT AND NOT VOTING: Commissioners Carlson, Jarboe, Lewis and Peterson

ABSTAINING: Commissioner Tomes

Waiver of the Land Development Code, section 10.2.4 to allow vehicle maneuvering in 20 foot LBA along east property line

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as all screening and planting material is being provided as required; and

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WHEREAS, the Louisville Metro Planning Commission finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The waiver will not violate these specific guidelines as all screening and planting material is being provided as required; and

WHEREAS, the Louisville Metro Planning Commission finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the encroachment are a result of improved access and drainage facilities; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 as all screening and planting material is being provided as required, access points are improved and drainage will be handled appropriate as a result of these minor encroachments.

Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted based on the Standard of Review and Staff Analysis and testimony heard today.

WHEREAS, the Louisville Metro Planning Commission finds that minimal site improvements preserve the residential character of the property within the context of surrounding properties. Landscaping and significant open areas are provided; and

WHEREAS, the Louisville Metro Planning Commission finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as pedestrian connection to the public way, bike parking, and safe and convenient parking to meet the demands of the proposed use are provided on site; and

WHEREAS, the Louisville Metro Planning Commission finds that open space is not required for this application. Landscaping and significant open areas are provided; and

WHEREAS, the Louisville Metro Planning Commission 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

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WHEREAS, the Louisville Metro Planning Commission finds the overall site design and land uses are compatible with the surrounding area as minimal changes to the subject site preserve the appropriateness of the scale within the context of nearby neighborhoods while limiting the impact on nearby residential property; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in the *Cornerstone 2020 Staff Review Checklist* for the change in zoning request contained in *Attachment 3* of the staff report.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver of the Land Development Code, section 10.2.4 to allow vehicle maneuvering in 20 foot LBA along the east property line and the Detailed District Development Plan **SUBJECT** to the following Binding Elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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 Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting

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a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

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.

The vote was as follows:

YES: Commissioners Brown, Howard, Robinson and Smith

NOT PRESENT AND NOT VOTING: Commissioners Carlson, Lewis, Peterson and Jarboe

ABSTAINING: Commissioner Tomes