

# Board of Zoning Adjustment Staff Report

December 21, 2015



<b>Case No(s):</b>	15CUP1044
<b>Project Name:</b>	Café Press
<b>Location:</b>	11901 & 11909 Shelbyville Road
<b>Owner(s):</b>	Hameron Properties I, LLC
<b>Applicant(s):</b>	Café Press, Inc.
<b>Representative(s):</b>	William Bardenwerper, Kevin Young
<b>Project Area/Size:</b>	0.53 acres
<b>Existing Zoning District:</b>	R-4, Residential Single Family
<b>Existing Form District:</b>	N, Neighborhood
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	19 – Julie Denton
<b>Case Manager:</b>	Jon E. Crumbie, Planning Coordinator

## REQUESTS

- Conditional Use Permit to allow off-street parking in an R-4 Zoning District.

## CASE SUMMARY/BACKGROUND

The applicant is proposing an off-street parking area that will consist of 40 spaces. A previous Conditional Use Permit for off-street parking was approved on the site but was never built and expired. Café press is relocating its corporate headquarters to the vacant rear office.

## SITE CONTEXT

The site is rectangular in shape and located on the north side of Shelbyville Road. The site is vacant and vegetated. Part of the site has a lower elevation than the existing parking to the east.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Vacant Area	R-4	N
<b>Proposed</b>	Parking	R-4	N
<b>Surrounding Properties</b>			
<b>North</b>	Residential Single Family	R-4	N
<b>South</b>	Commercial	C-1	N
<b>East</b>	Offices, Parking	OR-1, C-1	N
<b>West</b>	Residential Single Family	R-4	N

### PREVIOUS CASES ON SITE

**15DEVPLAN1182** Revised plan to reconfigure the parking area only.

**9-105-97** Change in zoning from R-4 to OR-1. Approved by the City of Middletown.

**B-257-00** Conditional Use Permit application to allow off-street parking at 11901 Shelbyville Road. This request was approved by the Board on December 18, 2000.

**B-150-93** Conditional Use Permit application to allow off-street parking at 11901 Shelbyville Road. Denied by the Board on March 7, 1994.

### INTERESTED PARTY COMMENTS

Staff received a letter from a resident on Linney Avenue (see page 14).

### APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMITS

#### 1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: The proposal meets all applicable policies of the Comprehensive Plan. Lighting and landscaping will be Land Development Code compliant.

#### 2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The subject site is located in a commercial area that has a mix of commercial, office, and residential uses. The commercial and office uses in the area have similar, scale, intensity, traffic, noise, and lighting.

3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: The proposal has been reviewed by Transportation Planning and MSD and both have approved the plan. The Middletown Fire Protection Districts did not comment on the proposal.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested? There are 6 requirements and all will be met.

An Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements.

A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks).

B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.

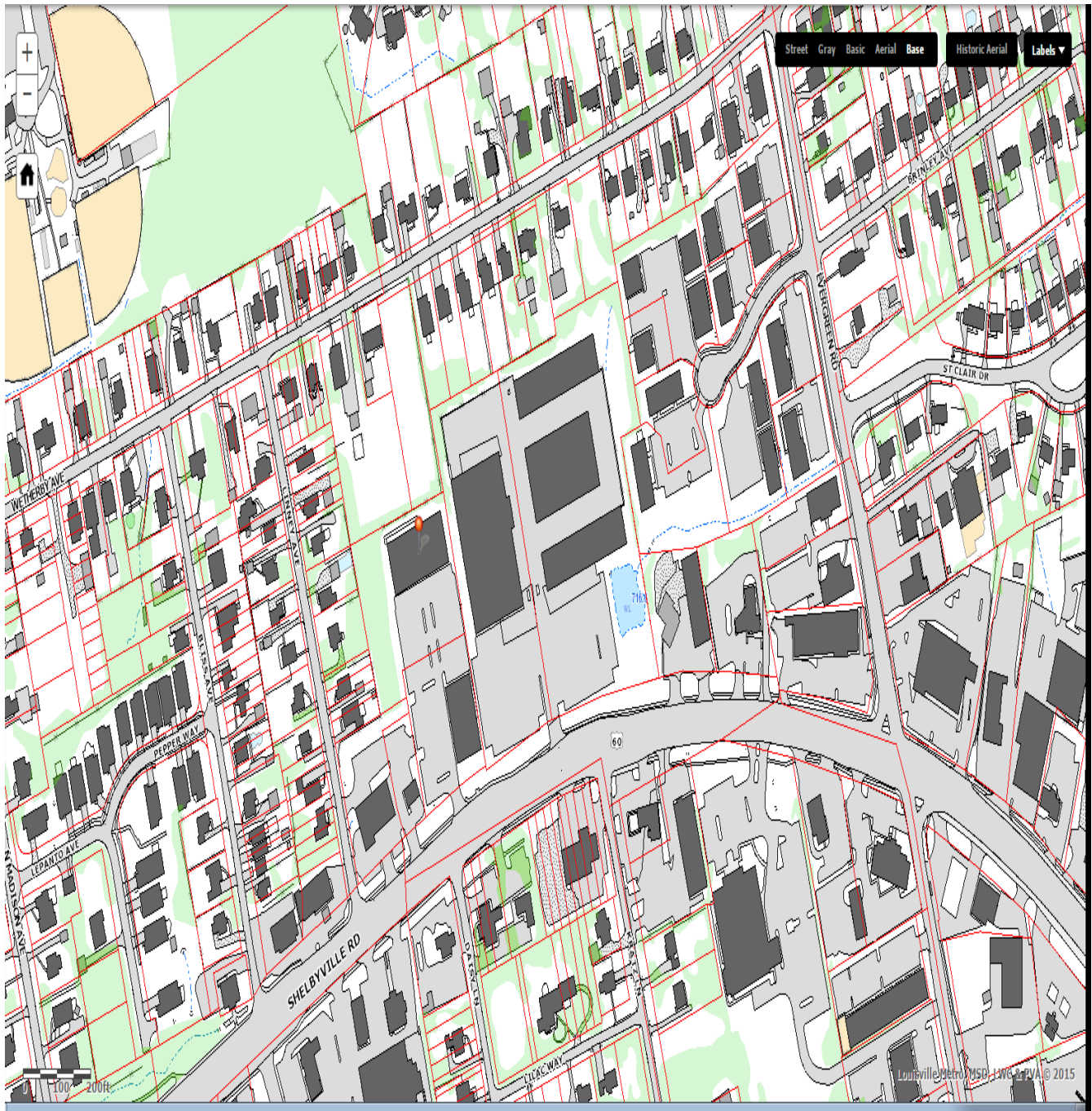
C. The minimum front, street side, and side yards required in the district shall be maintained free of parking.

D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.

E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area.

F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for traffic engineering prior to the public hearing on the Conditional Use Permit.

## 1. Zoning Photograph







# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG • 1000 N. HURSTBOURNE PARKWAY • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223  
(502) 426-6688 • WWW.BARDLAW.NET

William B. Bardenwerper  
Direct dial: 426-0388, ext. 135  
Email: WBB@BARDLAW.NET

November 2, 2015

Case Manager  
Louisville Metro Planning & Design Services  
444 S. Fifth Street  
Louisville, Kentucky 40202

Re: Proposed Conditional Use Permit for parking (per previously approved, but expired, plan) and Revised Detailed District Development Plan to allow the 2 office buildings to remain but with re-configured parking, property located at 11901 and 11909 Shelbyville Road

Dear Case Manager:

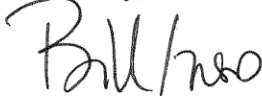
We are herewith filing a Conditional Use Permit (CUP) application to allow parking on a vacant property in the R-4 zone where a CUP was previously granted but never exercised. We are also filing a Revised Detailed District Development Plan (RDDDP) in order to reconfigure parking on the existing 2-office building lot, and to divide same per minor plat into 2 separate office building lots.

Café Press is relocating its corporate headquarters to the rear office building pending the CUP and RDDDP approvals. The other office building on front created lot will remain as it exists today.

As mentioned, a CUP was granted in December 2000, per the attached BOZA minutes. However the applicant at that time did not proceed with the additional parking, and therefore the CUP expired. Because the CUP was fairly recently approved, we will not be requesting a Pre-App Conference. However, if you have any questions regarding this matter, we are happy to discuss it further with you.

Many thanks.

Sincerely,



William B. Bardenwerper

Cc: Hon. Byron Chapman, Mayor, City of Middletown  
Garrett Jackson, Café Press  
Kevin Young and Ann Richard, Land Design & Development

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**Café Press**  
**6901A Riverport Road**  
**Louisville, KY 40258**

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November 2, 2015

Dear Neighbor,

**RE: Proposed Conditional Use Permit for parking (per previously approved, but expired plan) and Revised Detailed District Development Plan to allow the 2 office buildings to remain but with re-configured parking, all on approximately 2.6 +/- acres located at 11901 and 11909 Shelbyville Road**

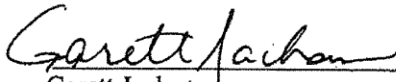
We are writing to invite you to a meeting we have scheduled to present neighbors with our CUP and RDDDP plans at the location above.

We have filed these for pre-application review with the Division of Planning and Design Services (DPDS) that we would like to show and explain to neighbors so that we might hear what thoughts, issues and perhaps even concerns you may have. The plan has been assigned Case Numbers 15CUP1044 and 15DEVPLAN1182 and will be assigned a case manager, which we will inform you of the night of the meeting. In that regard, a meeting will be held on **Monday, November 16<sup>th</sup> at 7:00 p.m.** at the **Middletown Fire Station #1** located at **108 Urton Lane.**

If you cannot attend the meeting but have questions or concerns, please call my attorneys Bill Bardenwerper or Nick Pregliasco at 426-6688, or my land planning and engineering firm representatives Kevin Young or Ann Richard at 426-9374.

We look forward to seeing you.

Sincerely,

  
Garrett Jackson

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cc: Hon. Byron Chapman, Mayor, City of Middletown  
Hon. Julie Denton, Metro Councilwoman, District 19  
Bill Bardenwerper & Nick Pregliasco, attorneys with Bardenwerper, Talbott & Roberts  
Kevin Young & Ann Richard, land planners with Land Design & Development, Inc.  
Brian Davis, Planning & Design Supervisor with Division of Planning & Design Services

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# Developer's Neighborhood Meeting

Meeting Date and Time Nov. 16, 2015 @ 7:00 pm Developer's Name Café Press

Location of Meeting Middletown Fire Station, 108 Urton Lane, Louisville, KY

Description of Proposal CUP and RDDDP to allow 2 office bldgs. to remain with re-configured parking

Subject Site Location 11901 & 11909 Shelbyville Road, Louisville, KY

## NEIGHBORS IN ATTENDANCE

NAME	ADDRESS	ZIP CODE	EMAIL ADDRESS
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Please Print Clearly

Melody Schenk		40205	melodyxcaro.schenk@bigm.com
✓ G. A. Schenk		40257	G.A.Schenk@bigm.com
✓ Garet H. Jackson		40258	g.jackson@cafePress.com
✓ MARK SHIVER		40243	WATCHES@BLUEGRASS.NET
NANCY DUPPS		40241	nancy@teamdupps.com
Cathie Tucker		40243	Sam-Tucker@att.net
SAM TUCKER		40243	" " " "
✓ J. Byron Chapman		40243	

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## Neighborhood Meeting Summary

A neighborhood meeting was held on Monday, November 16th at 7:00 p.m. at the Middletown Fire Station #1 located at 108 Urton Lane. Those present for the applicant included attorney Nick Pregliasco and Land Design & Development land planner Kevin Young, as well as Garrett Jackson on behalf of CafePress.

Nick Pregliasco began the meeting showing a PowerPoint presentation of the Proposed Conditional Use Permit for parking (per previously approved, but expired plan) and Revised Detailed District Development Plan to allow the 2 office buildings to remain but with re-configured parking. Mr. Pregliasco explained the previously approved CUP and the very minor changes thereto, mainly the addition of detention for drainage. Mr. Pregliasco explained that the CUP and RDDDP are to provide needed parking for CafePress to purchase the rear building and to relocate its corporate headquarters to this building which has never been fully occupied. Garrett Jackson explained CafePress' business and that the location will be only for office use and not production. Mr. Jackson explained that office operations will be consolidated to one location upon purchase, including relocating jobs from Southern California. One adjoining property owner was in attendance with concerns about drainage. Kevin Young explained that all additional runoff from the new parking will be addressed with the new detention basin proposed. Mr. Young explained that the applicant will consider increasing the size of the detention basin to overdetect water to not only deal with the proposed CUP area, but to also help improve the current existing condition. Kevin Young also explained the proposed buffering with the residential properties adjoining the CUP area despite those residents not being in attendance.

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## **STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN**

Applicant: Café Press, Inc.

Owner: Hameron Properties I, LLC

Location: 11901 and 11909 Shelbyville Road

Proposed Use: Office

Request: Conditional Use Permit to allow off-street parking  
in an R-4 zone

Engineers, Land Planners and  
Landscape Architects: Land Design & Development, Inc.

### **SUMMARY STATEMENT**

This application is a combined one for a Conditional Use Permit (CUP) to allow parking in an area that was previously granted a CUP for off-street parking, but which was never exercised and so therefore expired. Combined with this CUP application is an application for a revised detailed district development plan (RDDDP) because of the fact that the existing configuration, circulation and cross-connectivity between the existing parking and new parking will be modified somewhat to make sure that the overall parking field better suits the needs of the intended users while further serving to better circulate internal traffic from one site to the other. This application is basically a redo of the CUP that had been approved before, although since expired as a consequence of non-exercise, and an RDDDP—both of which must demonstrate compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

### **GUIDELINE 1 –COMMUNITY FORM: SUBURBAN NEIGHBORHOOD**

The form district of this overall property is part Suburban Workplace and part Suburban Neighborhood. This application complies with both of those form districts because, for starters, the Suburban Workplace Form clearly contemplates uses of the kinds occupying the principal properties, those being office buildings, and parking is always essential in an adequate supply to serve those uses.

Within the Suburban Neighborhood context, this application complies with that form district because, among other things, this particular form contemplates a mixture of uses (such as offices, retail, restaurants and services, so long as they are accessible and connected, providing for good automobile, pedestrian, bicycle and even transit access use and usage.

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## **GUIDELINE 2 - CENTERS**

The CUP and RDDDP applications complies with the Intents and Policies 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 13 and 15 of this Guideline as follow.

Infrastructure already exists at the site, including a large parking lot in between the two existing office buildings which will be split into two lots. The added parking area is to provide more space for the corporate headquarters user (Café Press) which is purchasing the rear building. Because Middletown is a small city with a support population of its own that is all surrounded by many more subdivisions, there is the opportunity to reduce commuting time and transportation-related air pollution by better utilizing this property than at present, in its underutilized condition. Repurposing the rear building on this site with a corporate headquarters also helps create vitality along the US 60 corridor and a better sense of place in the community than on an underutilized property.

Also, this site is already part of an activity center, surrounded in all directions except north, by additional commercial activity. By improving utilization of this site, that adds to compact development. By helping assure a better, stronger, longer term corporate user of the rear building, that adds to a strong mixture of uses—office and retail that feed off one another.

Also, the parking lots between the two lots will look as one, although each lot will have the parking reserved unto itself in order to satisfy the demands of tenants located in these buildings.

Recall again that this is an already built site except for the additional parking that is subject of the CUP application. Parking is mostly located between and to the west of the existing office buildings where other commercial uses (most notably to the southwest, where a tire store exists.

## **GUIDELINE 3: COMPATIBILITY**

The CUP and RDDDP applications comply with the Intents and Policies 1, 3, 4, 5, 6, 7, 8, 9, 20, 21, 22, 23, 24 and 29 of this Guideline as follows.

Because these applications simply represent an addition to and rearrangement of parking to meet the parking demands of a new corporate headquarters user, the proposed added use on the CUP site is compatible with what already exists to the east of it. Residential compatibility resulting from the new CUP parking lot is assured because of good transitions, including appropriate screening and buffering as determined throughout the course of the Board of Zoning Adjustment (BOZA), the Planning Commission, the Division of Planning and Development Services (DPDS) staff, and City of Middletown reviews of transitions, buffers, screening and buffering to make sure that the added parking does not adversely impact the few adjoining residential properties to the west and north.

Also, because this is just a small addition to an existing parking lot, with minor redesign of what already exists, the CUP and RDDDP applications do not involve odor, traffic, noise, lighting or visual impact issues, especially in light of the screening and buffering of adjoining residential properties that will be provided as determined throughout the agency review and ultimately City of Middletown approval processes.

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## **GUIDELINE 6: ECONOMIC GROWTH AND SUSTAINABILITY**

The CUP and RDDDP applications comply with the Intents and Policies 1, 2, 5, 6 and 11 of this Guideline as follows.

This is currently an underutilized office site, with buildings that have existed at this property for a long time, yet at times having been vacant or not fully occupied. Café Press is a significant corporate citizen, and relocating its headquarters to this site will assure that available property is put to productive use. It also helps reduce public and private costs for new land development when existing and underutilized buildings, like this, can be utilized instead. Because the City of Middletown and surrounding areas include major population bases, locating a corporate headquarters here insures adequate access between employment centers and population centers. As noted above, this stretch of Shelbyville Road is also an activity center where a variety of office, service and commercial uses already exist. Again, by repurposing the rear building on this site, and improving the parking layout and adding to the amount, this helps to adaptively reuse this older office location.

## **GUIDELINES 7 AND 8: CIRCULATION AND TRANSPORTATION FACILITY DESIGN**

These CUP and RDDDP applications comply with the Intents and Policies 1, 2, 3, 4, 10, 11, 12, 13, 14, 15 and 16 of Guideline 7 and Policies 4, 9, 10 and 11 of Guideline 8 as follows.

First and foremost, the CUP Site Plan and RDDDP accompanying this application has been designed taking into account Metro Transportation Planning and Metro Public Works standards with respect to safe, proper functioning of the Shelbyville Road street system, ensuring that this repurposed use of the rear most building will not result in traffic exceeding the traffic-carrying capacity of Shelbyville Road, that access and parking should prove adequate, and that there are good corner clearances and sight distances. Prior to BOZA and Planning Commission or DPDS staff approvals, along with recommendations, to the Middletown City Commission with respect to the CUP site and plan and RDDDP, Metro Transportation Planning and Metro Public Works must provide their preliminary "stamp" of approval on these plans, demonstrating compliance with those agencies' traffic and transportation design standards.

## **GUIDELINE 9: BICYCLE, PEDESTRIAN AND TRANSIT**

The CUP and RDDDP applications comply with the Intents and Policies 1, 2 and 3 of Guideline 9 as follows.

Sidewalks will be provided along Shelbyville Road. Bike racks will be provided next to the two office buildings. Transit already exists along Shelbyville Road.

## **GUIDELINES 10 AND 11: FLOODING, STORMWATER, AND WATER QUALITY**

The CUP and RDDDP applications comply the Intents and Policies 1, 3, 6, 10 and 11 of Guideline 10 and Policies 1, 3 and 4 of Guideline 11 as follows.

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Among other things, post-development rates of runoff may not exceed predevelopment conditions. To the extent that detention is needed or inadequate at present, it will be provided. Also, in all DDDP and RDDDP instances like this, because this is a discretionary review, it provides opportunities for potential existing problems to be reviewed and possibly addressed as well. If parts of the existing storm water system involving these properties are not presently operating according to regulation, those systems will have to be improved. Also, at time of construction, erosion and sedimentation control regulations of MSD must be satisfied. The same is true of MSD's new water quality standards which will have to be addressed within any new parking lots.

#### **GUIDELINE 12: AIR QUALITY**

This application complies with the Intents and Policies 1, 2, 3, 5, 6, 8 and 9 of this Guideline as follows.

As stated above, because these office buildings are located in the City of Middletown, surrounded by significant support populations, this repurposed and better utilized office development will help reduce vehicle miles traveled because residents will have added opportunities to work in close proximity to where they live. Also, a CUP site plan and RDDDP that are designed in ways to provide good circulation and ease of access to and from Shelbyville Road will assure that traffic will not back up and that congestion will not be caused as a result of the small amount of added parking to serve the corporate headquarters of Café Press to be located in the rearmost building on this overall site.

#### **GUIDELINE 13: LANDSCAPE CHARACTER**

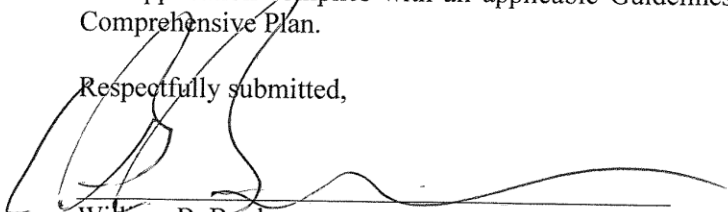
The CUP and RDDDP applications comply with the Intent and Policies 1, 2, 4, 5 and 6 of this Guideline as follows.

First and foremost, the application will need to comply with the Land Development Code (LDC) requirements as respects landscaping, screening and buffering both in and around the perimeter of the parking lot and along Shelbyville Road. Tree canopy requirements will be met. Screening and buffering will be provided, along with landscaping, as determined throughout the review processes, ending at the Middletown City Commission.

\* \* \*

For all of the above-stated reasons, plus those that will be further explained at the public reviews, this application complies with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,

  
William B. Bardenwerper  
Bardenwerper Talbott & Roberts, PLLC  
Building Industry Association of Greater Louisville Building

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**Crumbie, Jon**

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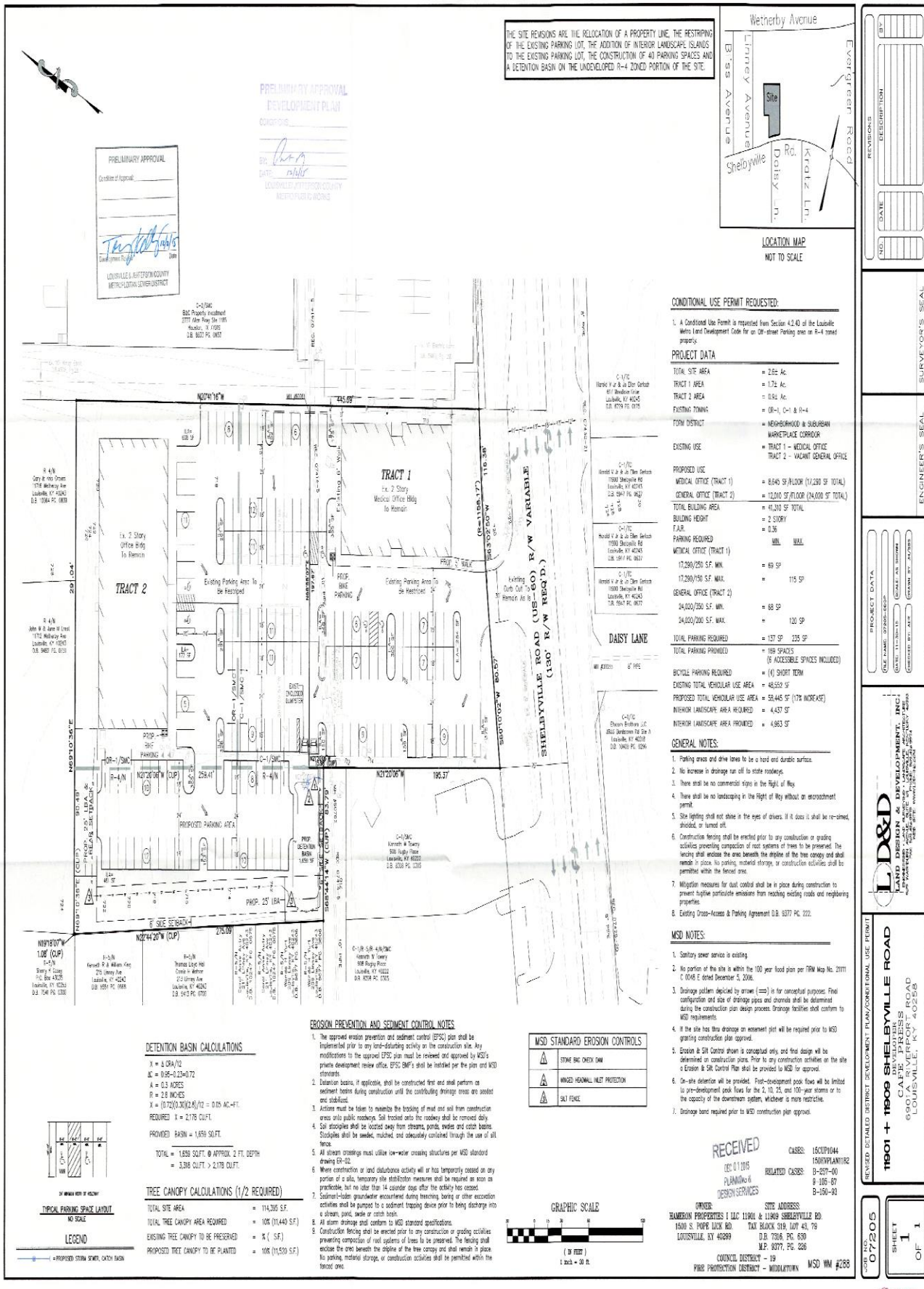
**From:** Charles Love <charlesloveministries@gmail.com>  
**Sent:** Monday, December 14, 2015 7:22 PM  
**To:** Crumbie, Jon  
**Subject:** A Concern Regarding 15CUP1044, 11090 Shelbyville Road

Mr. Crumbie,

I have been made aware of the concerns of my neighbors on the eastern side of Linney Avenue and the impact the referenced project would have upon their homes. I believe that upon my own examination of the plans available on the governmental website (as well as what was provided by the neighbors) the creation of the parking lot would be detrimental to the property owners and of little real value to the Cafe Press project. First, I have been in that lot on a number of occasions as I walked one of my previous wheelchair bound dogs who needed a flat surface. That lot, as it is, should be sufficient for the Cafe Press corporate offices. If my understanding is correct, this is a corporate office, not a retail site and that would mean a more consistent number of individuals parking. I cannot imagine that the lot as it is would not meet their needs. Additionally, the construction would bring the lot within 15' of the residential property owners. Unless Cafe Press were willing to construct a very aesthetically and efficient barrier (not just trees as shown on the plans!), it would be a major change in the area; you and I both know that this will affect the property values on the east side of Linney. That impacts all of us in this neighborhood eventually! I am quite concerned with the impact of this project and I would urge either the denial of the CUP or at the very least a major overall in the degree of incursion upon the residential neighborhood. I believe that my concern is shared and that others will even be voicing their opinions in person at the meeting be held on December 21. Personally, I find the idea of such a major item being up for discussion with only two weeks notice and the week of Christmas to boot very suspect in terms of timing. Please reconsider this CUP and delay any decisions unless it is an outright denial of the permit.

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Rev. Charles R. Love, M.Div, LMFT, LMHC  
206 Linney Avenue  
Louisville, KY 40243  
502-724-7134



**Conditions of Approval**

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for off-street parking without further review and approval by the Board.