

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION**

January 18, 2017

A meeting of the Louisville Metro Planning Commission was held on January 18, 2017, at 6:00 p.m. at the Central Government Center, 7201 Outer Loop, Louisville, KY 40228.

Members present:

Vince Jarboe, Chair
Lula Howard
Jeff Brown
Rich Carlson
Robert Kirchdorfer
Marilyn Lewis, Vice Chair

Members absent:

David Tomes
Robert Peterson
Emma Smith
Marshall Gazaway

Staff members present:

Emily Liu, Planning Director
Joe Reverman, Assistant Director
Brian Davis, Planning Manager
Julia Williams, Planning Supervisor
John Carroll, Legal Counsel
Kristen Loeser, Management Assistant

The following cases were heard:

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CASE NUMBER 15ZONE1045

Request: Change in zoning from R-4 to C-1 on approximately 0.99 acres with variances and a waiver
Project Name: Outer Loop Restaurant/Retail
Location: 5103 Outer Loop
Owner: DFWM Outer Loop LLC
Applicant: DFWM Outer Loop LLC
Representative: Blomquist Design Group LLC
Jurisdiction: Louisville Metro
Council District: 24 – Madonna Flood
Case Manager: Julia Williams, AICP, Planning Supervisor

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:

Julia Williams summarized the request and showed a brief presentation, noting that the Buena Vista Court access has been removed from the plan and square footage of the structure has been reduced (see Staff Report for detailed information).

The following spoke in favor of the request:

Bill Bardenwerper, 1000 North Hurstbourne Parkway, Louisville, KY 40223
Marv Blomquist, 10529 Timberwood Circle, Suite D, Louisville, KY 40223

Summary of testimony of those in favor:

Bill Bardenwerper spoke on behalf of the applicant and gave a PowerPoint presentation. Two access points were eliminated from the development plan, leaving only one access point on the Outer Loop. Mr. Bardenwerper showed a photograph of a proposed 8 ft. masonry wall that will be constructed along the north property line to provide screening to the neighbor most affected by the development. This type of screening will require no maintenance and will act as a sound barrier to the home. He noted that a traffic

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study was conducted prior to the removal of the Buena Vista access point, but this is no longer relevant.

Commissioner Howard asked if the topography of the site is the reason there is not a proposed access point adjacent to Jefferson Commons.

Marv Blomquist stated that Commissioner Howard was correct; there is a grade difference of approximately 13 ft. leading west towards Jefferson Commons. The layout of the proposed site also provides a problem with having an access from Jefferson Commons.

Commissioner Carlson asked for more detail regarding dumpster screening and the hours of operation of the future occupant.

Mr. Blomquist stated that the dumpster is in the same location as on the previous development plan and there is a note on the plan stating that it will be screened in accordance with the Land Development Code. The screening materials will resemble those of the main structure, and shrubbery will be used to screen the dumpster as well.

Mr. Bardenwerper stated that they are unfortunately not able to provide the names of the prospective occupants at this time, but the hours of operation will be from 6:30 a.m. to 11:00 p.m. In response to Commissioner Kirchdorfer, Mr. Bardenwerper agreed to provide a binding element for the hours of operation.

Chair Jarboe suggested to Mr. Bardenwerper that they work with the neighbor to the north when constructing the screening wall and asked if they were willing to bind out some of the uses that the neighbors would be against, such as a liquor store or auto repair shop.

Mr. Blomquist advised that the wall will be stopped at the last parking space so that the home will be shielded from the parking lot, and the wall will be located 10 ft. away from the property line. They are willing to work with the neighbor on the screening wall and to bind out uses the neighbors might be opposed to.

In response to Commissioner Howard, Mr. Bardenwerper stated that the conditional use permit that previously belonged to this site had been abandoned.

The following spoke in opposition to the request:

Melissa House, 7625 Buena Vista Court, Louisville, KY 40219

Bill Schuermeyer, 6701 Cape Court, Louisville, KY 40219

Jane Stambaugh, 7624 Buena Vista Court, Louisville, KY 40219

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Sundea Murphy, 5112 Outer Loop, Louisville, KY 40219

Summary of testimony of those in opposition:

Melissa House, a neighbor across the street from the subject property, asked the applicant's representation several questions. In response, Mr. Bardenwerper and Mr. Blomquist stated that there will be screening between the parking lot and Buena Vista and it will be constructed in accordance with the Land Development Code. The dumpster will be located on the western side of the property adjacent to Chick-Fil-A. The occupant of the subject property will be responsible for maintenance of the property.

Ms. House continued and stated that traffic has been a major problem in this area since the opening of Jefferson Commons, and she feels that the addition of this development will cause traffic to worsen. She questioned the need for another restaurant in this area and raised concern for the hours of operation and for potential odor coming from the property.

Bill Schuermeyer spoke about traffic problems in this area and in nearby subdivisions. He also feels this development will worsen the already existing traffic problem.

Jane Stambaugh lives in the home north of the subject property and questioned the request for C1 zoning rather than CN. She is concerned about blasting on the site and potential damage it might cause to her property. She would like to know who will occupy the property and she is concerned about exhaust fumes if a drive through is added. She appreciates the elimination of the Buena Vista access point, but feels that this development will still increase traffic. Noise and lighting are also concerns of hers.

Ms. House spoke again. She expressed concern for blasting near her home and described the damage that was done to her home and her neighbors' homes while the Jefferson Commons property was being blasted.

Sundea Murphy is an employee of Corn Island Archaeology and also President of the Falls of the Ohio Archaeological Society. She lives across the street from the subject property on the other side of Outer Loop and stated that she disagrees with the Staff Analysis that there are no environmental constraints or historic resources on the site. Prior to construction of Jefferson Commons, she was a part of an archaeological survey conducted on the subject property and said that several significant historical artifacts had been found. She would like the opportunity to return to the site to ensure that any remaining artifacts are not destroyed.

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In response to Commissioner Carlson, Mr. Schuermeyer stated that traffic has gotten to the point where residents feel desperate for a resolution, and many residents are seeking alternate routes to avoid Outer Loop. Commissioner Carlson mentioned a future potential connection at Woodhill Lane. Mr. Schuermeyer questioned if this would alleviate some of the problem or cause more traffic in other subdivisions.

Ms. Stambaugh also questioned if this connection would help the traffic problem or cause more problems for other residents.

Rebuttal:

Mr. Bardenwerper shared the proposed binding elements with the Commissioners. He stated that there will be no blasting at this site and that development will not have a significant impact on traffic. He feels that seeking C1 zoning will ensure this becomes a successful retail enterprise. He feels that the wall will provide Ms. Stambaugh more screening than she has now and is willing to work with her to determine the best material for constructing the screening wall. He stated that the applicant is not trying to hide information from the public, but they are not able to reveal who is interested in the property.

Deliberation:

Commissioner Brown feels that the requested zoning will be a good way to transition from the high intensity urban arterial road into a residential R4 subdivision. Even with C1 zoning, uses of the property will be limited because of the size of the lot and how it is accessed.

Commissioner Howard agrees with Commissioner Brown in that the requested zoning is appropriate because it is on a major arterial road. She is satisfied that the screening wall will not be constructed on the property line and that landscaping will be planted on the residential side of the wall. And she was pleased to see that the access point from Buena Vista Court was eliminated from the plan.

Vice Chair Lewis agrees that existing zoning is not appropriate and likes that wall will set back from property line and plantings will face the neighbor. She feels that the applicant has done their best to make it look as good as possible and that they seem to be willing to work with the neighbor on construction of the screening wall. She had a problem with C1 versus CN, but is satisfied that they have agreed to bind out the more offensive uses.

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Commissioner Kirchdorfer agrees with his fellow commissioners. He feels that the applicant tried to address the issues that were discovered in the previous review of the plan, and that adding landscaping to the screening wall will make a nice buffer.

Commissioner Carlson feels that a residential structure would not be appropriate on this property and was glad to see that the site plan was improved. He raised concern that a restaurant would generate more traffic than another business, such as a drive through cleaner, and is worried that headlights will shine into windows on the south side of Outer Loop. He has issues with granting the higher intensity C1 zoning over CN zoning, which he feels would generate less traffic.

Chair Jarboe feels that the applicant has mitigated some of the things that initially had the most impact on the adjacent properties. They would never be able to do everything that each neighbor would like for them to do, but he believes that by binding out some of the worst uses, some of the problems will be alleviated. He feels that the screening wall will buffer the noise and will be a good thing for the adjacent neighbor. He does not feel that this development is so intensive that it will worsen traffic.

Commissioner Brown asked if the applicant was willing to allow the archaeological survey to be conducted on the property per the request of Ms. Murphy. Mr. Bardenwerper agreed to allow Ms. Murphy and her associates to have "reasonable access to the site for reasonable archaeological investigation at no cost to the developer."

Zoning change from R-4 to C-1

On a motion by Commissioner Brown, seconded by Vice Chair Lewis, the following resolution was adopted:

Introductory Statement

WHEREAS, the Louisville Metro Planning Commission finds that the proposed restaurant/retail building is located on approximately 1 acre of vacant land located along Outer Loop, a major arterial and commercial corridor; several years ago, this site was part of the proposed commercial center now called Jefferson Commons and was approved for a Conditional Use Permit for parking associated with the center; since that time, the center has changed ownership and was developed without utilizing this site in its overall development plan; consequently, the owners have been maintaining a vacant piece of potentially valuable land waiting for the economic conditions to turn positive to warrant rezoning the property; the owners are now requesting a zone change from R-4 to C-1 to allow for a 4,900 SF restaurant/retail building and associated parking; the

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proposed building is located closest to the Chick-Fil-A Restaurant at Jefferson Commons and as far from the adjacent residential structure as possible; the proposed parking is located in front of the building with access to both Outer Loop and Buena Vista Court; and a proposed drive-thru window is also located behind the building, shielding it from the adjacent residential property with what is now proposed as a masonry screening wall; and

WHEREAS, the Commission further finds that a concern of neighbors has been the traffic currently along Outer Loop and Buena Vista Court and the traffic impacts of this proposed development; a traffic impact study (TIS) with trip generation was performed by Dianne Zimmerman, Traffic Engineer with CDM Smith, Inc. and was included in the formal filing of this application and presented and discussed at the Public Hearings; another concern of the neighbors was the request for outdoor alcohol consumption; based on hearing this concern and reconsidering the need, the owners decided not to request a Conditional Use Permit (CUP) for outdoor alcohol consumption; and

Guideline 1: Community Form

WHEREAS, the Commission further finds that the proposed development is located in the Neighborhood Form District and the surrounding area is primarily residential to the east and across Outer Loop; Jefferson Commons is located adjacent/west of this proposed development and is a major Regional Commercial Center located in the Regional Center Form District; this proposed development is proposed to be rezoned to C-1 and is located to serve as a transition between the two Form Districts and as such, this proposed development complies with Guideline 1; and

Guideline 2: Centers

WHEREAS, the Commission further finds that the application complies with applicable Intents and Policies 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 14 and 15 of the Comprehensive Plan because this small retail center is connected to a large Regional Center shopping center which is connected to another one which together include a mix of uses which are made compatible through design and which have mitigated their impacts on adjoining residential neighborhoods based on limitation of uses, setbacks, landscaping, screening, buffering, location of parking and limited lighting; and the issue of access to Buena Vista Court has been resolved by eliminating that connectivity; and

WHEREAS, the Commission further finds that the application is also proposing elimination/reconstruction of the raised median in Outer Loop to allow east bound left turns into this site and a pedestrian sidewalk connection and proposed bicycle facilities are shown on the proposed development plan; and

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Guideline 3: Compatibility

WHEREAS, the Commission further finds that the application complies with applicable Intents and Policies 1, 2, 3, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24 and 28 of the Comprehensive Plan because this center includes a desirable mix of uses which are made compatible through design and use of building materials whose potentially negative impacts are mitigated through the C-1 limitation of potential uses, by including good setbacks, landscaping, screening and buffering, by locating parking away from and screening it from residential properties and by limiting lighting through compliance with the new LDC, while limiting noise and odor impacts through building location plus screening and buffering; further the proposed building is located at the far western section of the property to provide the maximum distance to the adjacent residence; the drive-thru window and dumpster are also located on the western side of the proposed building away from the adjacent residence; the proposed parking is being screened from the adjacent residence by a proposed 25 ft. landscape buffer area to include trees and an 8-foot screen; and a 30 foot wide parkway buffer area with an earthen berm, except where the drive line is located, is also provided along Outer Loop to shield the parking lot and building; and

WHEREAS, the Commission further finds that parking lot lighting will comply with the required foot candles at the adjacent property lines and will be directed away from the residential properties, while still providing adequate light for security purposes; and

WHEREAS, the Commission further finds that the proposed building as stated will be located along the western property line; to do so would require a variance from the setback requirements for the Neighborhood Form District; to comply with the requirements would place the building at the southeast corner of the property at the intersection of Buena Vista and Outer Loop; this would place the building in front of the adjacent residential structure and would not be similar to other buildings located along Outer Loop to the west of this site; and a monument style sign is proposed near the entrance to the parking lot from Outer Loop; and

Guideline 6: Economic Growth and Sustainability

WHEREAS, the Commission further finds that the application complies with applicable Intents and Policies 1, 2 and 6 of the Comprehensive Plan because this is an addition to the existing retail workplace center located from this location west to Jefferson Blvd.; and

Guidelines 7: Circulation; Guideline 8: Transportation Facility Design; and Guideline 9: Bicycle, Pedestrian and Transit

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WHEREAS, the Commission further finds that the application complies with applicable Intents and Policies 1, 2, 3, 4, 10, 11, 12, 14 and 15 of Guideline 7, Policies 9, 10 and 11 of Guideline 8, and Policies 1, 2, 3, and 4 of Guideline 9 of the Comprehensive Plan because the pedestrian sidewalks are proposed to connect the proposed building with the existing Outer Loop sidewalk and bicycle facilities are also proposed as shown on the Detailed District Development Plan; the Detailed District Development Plan was prepared in accordance with all Metro Public Works and Transportation Planning design criteria such that these agencies were able to stamp the plan for preliminary approval prior to these public hearings; and since the October 17, 2016 Public Hearing access was eliminated to Buena Vista Court; and

Guideline 10: Storm water; Guideline 11: Water Quality; and Guideline 12: Air Quality

WHEREAS, the Commission further finds that the application complies with applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10, Policies 3 and 5 of Guideline 11, and Policies 1, 2, 3, 5, 6, 7, 8 and 9 of Guideline 12 of the Comprehensive Plan because the existing storm water pipe that discharges onto this site from Outer Loop will be extended through the site to discharge into the existing ditch line along the west property line; the on-site drainage system will also direct storm water to this same extended pipe; Redwing Ecological Services, Inc. has been engaged by the applicant to provide consultation and permitting for the existing ditch line and environmental issues relative to same; required approvals and permits from MSD and the US Army Corps of Engineers, as necessary, will be obtained prior to construction; and at time of construction the development will comply with MSDs Water Quality and Soil Erosion/Sedimentation Control regulations;

WHEREAS, the Commission further finds that for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books and on the approved Detailed District Development Plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council **APPROVAL** of Case Number 15ZONE1045, a change in zoning from R-4 to C-1, based on the Staff Report, testimony heard today, and the applicant's findings of fact as presented at today's meeting.

The vote was as follows:

YES: Kirchdorfer, Lewis, Howard, Brown, and Jarboe

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ABSENT: Tomes, Gazaway, Smith, and Peterson

ABSTAIN: None

NO: Carlson

Variance from 5.3.1.C.5 to permit the building to exceed the maximum 80' setback from the Buena Vista Road property line by approximately 120'

On a motion by Commissioner Brown, seconded by Vice Chair Lewis, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will place the building further from the adjacent residence and keep the drive through dumpster shielded from the residence by the building itself. A 25 ft. LBA also helps screen the building from the adjacent residence, and

WHEREAS, the Commission further finds that the building will be located adjacent to the Jefferson Commons commercial center and away from the adjacent residential structure and subdivision. This will be similar to existing development to the west along Outer Loop and be a transition to the residential subdivision east of the site, and

WHEREAS, the Commission further finds that the requested variance will place the building further from the adjacent residence and keep the drive through and dumpster shielded from the residence by the building itself, and

WHEREAS, the Commission further finds that the building will be located on the site in a similar manner as other existing buildings along Outer Loop to the west of the site, and

WHEREAS, the Commission further finds that the vacant lot proposed for this development is a transition piece between Jefferson Commons (Regional Center Form District) and the adjacent subdivision (Neighborhood Form District) and is located along Outer Loop, a major arterial roadway, and

WHEREAS, the Commission further finds that requiring the building to be placed within 80 ft. of Buena Vista Court (street side yard) would place it closer to the adjacent residence and have a much greater impact on the residential subdivision, and

WHEREAS, the Commission further finds that the setback variance is being requested to place the building further from the adjacent residence and provide a buffer from the Jefferson Commons commercial center; now, therefore be it

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RESOLVED, that the Louisville Metro Planning Commission, in Case Number 15ZONE1045, does hereby **APPROVE** the Variance from 5.3.1.C.5 to permit the building to exceed the maximum 80' setback from the Buena Vista Road property line by approximately 120' based on the Staff Report, testimony heard today, and the applicant's variance justification.

The vote was as follows:

YES: Kirchdorfer, Carlson, Lewis, Howard, Brown, and Jarboe

ABSENT: Tomes, Gazaway, Smith, and Peterson

ABSTAIN: None

NO: None

Waiver from 10.3.5 to permit the encroachment of vehicle use area approximately 10' into the 30' parkway buffer along Outer Loop

On a motion by Commissioner Brown, seconded by Vice Chair Lewis, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the required plantings and screening will still be installed in the required LBA. The 30 ft. Parkway Buffer along Outer Loop and the width of the property make the waiver necessary, and

WHEREAS, the Commission further finds that the Comprehensive Plan encourages designs that are compatible with the surrounding areas, and this maintains that by placing the building away from the existing residence, but will require an LBA Waiver to provide the required parking lot dimensions, and

WHEREAS, the Commission further finds that the 30 ft. Parkway Buffer along Outer Loop, the narrow width of the property, and the required dimensions of the parking lot necessitate the minimal LBA Waiver, and only for the first couple of parking spaces. The remainder of the parking lot will provide the required LBA, and

WHEREAS, the Commission further finds that strict application would not allow two parking spaces and would require a parking waiver. Parking is not allowed along Outer Loop or along Buena Vista, and there are no adjoining areas for additional parking. The 30 ft. Parkway Buffer along Outer Loop, the narrow width of the property, and the required dimensions of the parking lot necessitate the minimal LBA Waiver, and only for the first couple of parking spaces. The remainder of the parking lot will provide the required LBA; now, therefore be it

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RESOLVED, that the Louisville Metro Planning Commission, in Case Number 15ZONE1045, does hereby **APPROVE** the Waiver from 10.3.5 to permit the encroachment of vehicle use area approximately 10' into the 30' parkway buffer along Outer Loop based on the Staff Report, testimony heard today, and the applicant's waiver justification.

The vote was as follows:

YES: Kirchdorfer, Carlson, Lewis, Howard, Brown, and Jarboe

ABSENT: Tomes, Gazaway, Smith, and Peterson

ABSTAIN: None

NO: None

District Development Plan

On a motion by Commissioner Brown, seconded by Vice Chair Lewis, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site, and

WHEREAS, the Commission further finds that provisions for vehicular and pedestrian transportation within and around the development and the community has been provided and Transportation Planning has no issues with the proposal, however the proposed right in/right out entrance/exit would cause traffic to enter the residential neighborhood and turn around to enter the subject site instead of providing direct access which causes an unnecessary safety issue for people who live in the neighborhood. The access along Buena Vista also does not allow for patrons from within the neighborhood to directly access their neighborhood after visiting the site which is not an efficient traffic movement because it causes the driver to have to make two lefts to get back into their neighborhood, and

WHEREAS, the Commission further finds that there are no open space requirements pertinent to the current proposal, 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

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WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways, and

WHEREAS, the Commission further finds that the development plan generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission, in Case Number 15ZONE1045, does hereby **APPROVE** the District Development Plan based on the Staff Report, testimony heard today, and the applicant's justification, **SUBJECT** to the following binding elements:

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. The development shall not exceed 4,900 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.

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- c. 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. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
6. 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.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. 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.
9. The property owner shall provide a cross over access easement if the property to the west is ever re-developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
10. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
12. Customer service hours shall be limited to 6:30 a.m.-11:00 p.m. Parking lot pole lighting shall be cut off after customer service hours.
13. The style and design of the 8' screening wall shall be as shown at the 1/18/17 Planning Commission public hearing or as agreed to by the adjacent property owner to the north prior to landscape plan approval. Required trees shall be planted on the residential side of the screen wall.

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14. The following C-1 uses shall be prohibited. Any amendment to this binding element shall be subject to full Planning Commission review and approval after a public hearing.
 - Convenience grocery
 - Auto service and repair
 - Auto rental agencies
 - Car washes
 - Package liquor stores
 - Gas station
15. The dumpster shall be screened with a masonry wall that matches the building materials. 6' evergreen trees shall also be planted in front of the dumpster screen to diminish its visibility from Outer Loop.
16. The applicant will allow reasonable access to the site for reasonable archeological investigation of the site prior to site disturbance.

The vote was as follows:

YES: Kirchdorfer, Carlson, Lewis, Howard, Brown, and Jarboe

ABSENT: Tomes, Gazaway, Smith, and Peterson

ABSTAIN: None

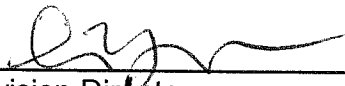
NO: None

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ADJOURNMENT

The meeting adjourned at approximately 8:00 p.m.


Chairman


Division Director