IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

HONKY TONK PARTY EXPRESS, LLC,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. 22-1133-I
	)	
METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, by and through the Transportation Licensing Commission,	)	
	)	
Respondent.	)	

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VERIFIED PETITION FOR WRITS OF CERTIORARI AND SUPERSEDEAS

Petitioner Honky Tonk Party Express, LLC ("HTPE"), states as follows for its Verified Petition for Writs of Certiorari and Supersedeas.

INTRODUCTION

This lawsuit arises from the illegal, arbitrary and capricious overregulation of the entertainment transportation industry in Nashville by the Transportation Licensing Commission ("TLC") of the Metropolitan Government of Nashville and Davidson County ("Metro"), through the TLC's newly adopted Entertainment Transportation Company Rules ("Rules"), Metro Code §§ 6.77.010 *et seq.*, and the TLC's issuance of Certificates of Public Convenience and Necessity ("Permits") pursuant thereto.

HTPE is the oldest and largest participant in the industry. HTPE welcomes reasonable regulation and is willing to comply. Through the Rules and the allotment of

Permits, however, the TLC has assaulted operators of Entertainment Transportation Vehicles ("ETVs"), like HTPE, in nearly every way possible. They have double slashed ETV operators' revenue by: (a) arbitrarily limiting and/or reducing the size of their fleets (by 25% in HTPE's case), and (b) significantly restricting ETV operating hours during the most popular times for guest bookings (by 40% in HTPE's case). Meanwhile, the Rules impose new insurance and enclosure requirements that cannot be complied with, and, if they could, would be extremely costly for HTPE and other ETV operators, to the tune of hundreds of thousands of dollars on both a one-time and recurring basis.

Nashville Mayor John Cooper is on record as being staunchly against the entertainment transportation industry in downtown Nashville. All of the members of the TLC are appointed by Mayor Cooper, and none are engaged in the entertainment transportation industry. For the reasons articulated herein, it seems obvious that the TLC got the Mayor's message loud and clear and has done by rulemaking and permit allotment what Mayor Cooper could not do by fiat, which is improper.

PARTIES

1. HTPE is a limited liability company organized and existing under the laws of the state of Tennessee, with its principal place of business in Nashville, Tennessee.

2. Metro is a consolidated city and county government formed by the City of Nashville and Davidson County and incorporated pursuant to the Metropolitan Charter Act, Tenn. Code Ann. §§ 7-1-101, *et seq.* Metro can be served with process on its Law Director, Wallace Dietz, at the Historic Metro Courthouse, 1 Public Square, Suite 108, Department of Law, Nashville, Tennessee 37201.

3. The TLC is the sole administrative agency for the administration of all laws and ordinances relating to the licensing and regulation of vehicles for hire and booting services within Metro.

VENUE, JURISDICTION & AUTHORITY

4. Venue is proper in this action pursuant to Tenn. Code Ann. § 20-4-101(a) and (b).

5. This Court has subject matter jurisdiction pursuant to Tenn. Code Ann. § 27-8-104.

6. This Court has jurisdiction over and the authority to void the TLC's illegal and unconstitutional actions pursuant to the common law writ of certiorari and Tenn. Code Ann. § 1-3-121.

7. This is HTPE's first application for a writ of certiorari, and is filed within sixty days of the actions at issue in compliance with Tenn. Code Ann. § 27-29-102.

8. HTPE has exhausted all administrative remedies available to it with respect to the TLC's actions.

9. Pursuant to Tenn. Code Ann. § 27-8-110, HTPE is filing contemporaneously herewith a bond in the amount of $500, which HPTE submits is sufficient given that there is no "judgment" entered against HTPE in any amount.

10. The Court has the authority to issue the writ of supersedeas pursuant to Tenn. Code Ann. § 27-9-106(a), because the TLC's decisions that form the basis for this action make a material change in the status of the matters determined herein.

11. Pursuant to Tenn. Code Ann. § 27-9-106(b), HTPE is filing contemporaneously herewith a bond in the amount of $500, which HTPE submits is sufficient given that Respondent will not suffer any injury from the granting of supersedeas.

12. On August 22, 2022, prior to filing this writ, counsel for HTPE notified counsel for Respondent that HTPE would be filing this writ.

STATEMENT OF FACTS

13. HTPE has been engaged in the business of providing tourists with unique and safe entertainment tours of Nashville since 2016. During that time, HTPE has serviced more than 200,000 guests.

14. HTPE uses decommissioned school buses with portions of the sides removed and with the top removed and replaced with a see-through covering to provide an open-air sightseeing and entertainment experience for its guests.

15. HTPE has an exemplary safety record. Since HPTE started more than six years ago, it has had no significant traffic accidents or safety issues.

16. HTPE's drivers have a CDL class A/B license with the "P" (Passenger) endorsement and an average of seventeen years of experience. The few drivers HTPE has that do not currently have a "P" endorsement are working toward obtaining it.

17. The size of HTPE's buses makes them easily visible on the road and, thus, less likely to be hit by other vehicles, unlike other entertainment vehicles in Nashville such as scooters, golf carts and pedal carriages. Also, school buses weigh over 10,000

pounds and are specifically engineered to safely withstand an impact and virtually impossible to roll over in the event of an accident.

18. All of HTPE's buses have rails on both sides that are 42" high, *measured from the seating benches in the vehicle*. As a result, HTPE's side rails significantly exceed the Rules' height requirement, which is 40" *from the floorboard.* (*See* Rule 6.77.050(e)).

19. HTPE also puts a "host" on every tour. The host monitors the guests from within the rear compartment of the bus for the entirety of the tour, is ABC certified, and goes through multiple hours of training by HTPE before being allowed to host tours.

20. The host verbally reviews every rule with guests before tours begin and monitors compliance with the rules and enforces the rules during tours.

21. HTPE currently operates sixteen entertainment buses. It has four additional buses in the process of being customized, and additional buses that it has not yet begun to customize.

22. Conservatively estimated, HTPE has invested over $1,500,000 into its fleet of entertainment vehicles to date.

23. HTPE has also invested heavily into a private guest-processing facility where, among other things, customers' IDs are verified, they each sign a document in which they agree to abide by HTPE's rules for the tour, and they are safely and securely loaded onto and off of HTPE's buses ("Depot").

24. HTPE employs a third-party security firm at its Depot to provide general security.

25. Approximately 80% of HTPE's customers are females ages 23-33. Most are visiting Nashville for bachelorette parties, drawn here by advertisements by the city of Nashville in bridal magazines, *etc.*, social media reviews, and/or word of mouth.

26. According to reports, Nashville remained the top spot in the country for bachelorette and bachelor parties in 2021. *See* https://fox17.com/news/local/2021-already-seeing-record-bachelorette-bachelor-parties-nashville-keeps-1-spot-honky-tonk-broadway-weddings-pandemic-covid-19-scottsdale-miami-lasvegas-austin-new-orleans-charleston-savannah-palm-springs-san-diego.

27. Bachelorette parties, in particular, comprise a significant percentage of Nashville's tourism and account for tens of millions of dollars in economic benefit to Nashville's restaurants, hotels, entertainment venues, *etc.*

28. HTPE's bachelorette customers tell HTPE that they feel safer in the controlled environment of its buses than they do on the streets and/or in the bars of downtown Nashville, where they would be surrounded by throngs of strangers in various states of intoxication. And, they are right about that considering Nashville crime reports.

29. HTPE runs a professional outfit. It regularly garners highly favorable reviews on social media for its professionalism and the quality of guest experience it provides. As a result, HTPE's guests come back and recommend that their friends and family visit Nashville. Some of those individuals ultimately decide to move to Nashville, which adds to Nashville's workforce and benefits the city in innumerable other ways.

30. The demand for HTPE's tours is high and growing. In 2021, HTPE transported approximately 82,000 guests on tours. In 2022, HTPE is on pace to transport approximately 110,000 guests on tours.

31. HTPE has been a good corporate citizen. HTPE complies with and will continue to comply with Metro's ordinances, including its noise ordinance.

32. HTPE also spent more than $190,000 at the city's request to enclose its buses last winter, when other ETV operators did not.

The ETC Rules & Permit Allotment

33. The TLC adopted the Rules at a meeting on June 23, 2022. A true and accurate copy of the Rules is attached hereto as **Exhibit A**.

34. At a meeting on June 29, 2022, the TLC awarded and denied Permits to various Entertainment Transportation Companies, which were further categorized as Permits for either: (a) "Sightseeing Vehicles," which do not serve alcohol and the patrons are seated, or (b) ETVs, which serve alcohol and the patrons may or may not be seated, at their discretion.

35. Although the effective date of the Rules and the allotment of Permits was initially unclear, at a special called meeting on August 18, 2022, the TLC directed that the requirements regarding liquor liability insurance (Rule 6.77.030(e)) and vehicle enclosure (Rule 6.77.040) would go into effect on October 2, 2022, but that all other requirements of the Rules and the Permit allotments were effective immediately.

36. The TLC awarded a total of thirty-nine ETV Permits.

37. HTPE, as a current operator of sixteen ETVs, applied for *twenty* ETV Permits to accommodate its current operating fleet and the additional buses HTPE was in the process of customizing.

38. The TLC awarded HTPE only *twelve* ETV Permits, which resulted in a 25% reduction in HTPE's current operating fleet.

39. The TLC's decision was arbitrary and capricious, an abuse of discretion, and unsupported by substantial and material evidence.

40. The TLC's decision to deny HTPE's request for twenty ETV Permits also violated HTPE's rights under the Due Process and Equal Protection provisions of the Fourteenth Amendment to the United States Constitution and Article XI, Section 8 of the Tennessee Constitution.

41. The TLC had no traffic impact study and no other factual or logical basis for its decision to deny HTPE's request for twenty ETV Permits, or for its decisions to award ETV Permits to other similarly situated ETV operators while denying Permits to HTPE.

42. Instead, during the June 29, 2022 meeting, multiple members of the TLC stated their general intent to drastically reduce the number of ETVs currently operating in the downtown area, and the TLC issued and denied Permits to various ETV operators primarily and arbitrarily on that basis alone.

43. As a result, some ETV operators received all of the ETV Permits they applied for, while others received less or none, without any rational basis for the TLC's

actions other than the TLC's general bias against ETVs and desire to drastically reduce the number of ETVs operating downtown.

44. The TLC's intent to drastically reduce the number of ETVs was primarily and arbitrarily motivated by outside influence and/or personal bias.

45. The TLC requested that Lieutenant Rodgers of the Metropolitan Nashville Police Department attend the TLC's meeting on May 26, 2022. In response to a question from a TLC commissioner, Lieutenant Rodgers testified that the top three concerns for Nashville's downtown Business District were: (1) traffic congestion; (2) vehicles loading and unloading on the streets; and (3) noise.

46. None of these factors justified denying HTPE's request for twenty ETV Permits.

47. HTPE's vehicles do not materially contribute to downtown traffic congestion. The TLC cannot contend otherwise, because the TLC has no current study of the extent to which ETVs impact downtown traffic congestion. Metro is presently conducting such a study, referred to as "Connect Downtown," but it will not be completed until sometime in 2023.

48. Moreover, in the latest traffic impact study obtained by Nashville in 2018, "buses" were found to amount to only 0.7% of downtown traffic during the peak hours of 4:00 p.m. to 6:00 p.m. (*See* **Exhibit B** at 7.). And, ETVs are only a subset of the buses that travel through downtown.

49. Further, unlike pedal carriages, horse-drawn carriages, golf carts, and scooters, HTPE's buses can and do keep up with the speed of traffic and do not make stops on their routes.

50. With respect to loading/unloading on the public streets, HTPE does do not that. It has invested a significant amount of money into its Depot on private property where all loading/unloading occurs.

51. With respect to noise, Lieutenant Rodgers testified at the TLC's May 26, 2022 meeting that Metro's existing noise ordinance was sufficient to control the noise levels of ETVs.

52. Billy Fields, Executive Director of TLC, conveyed essentially the same sentiment at both the TLC meetings on April 12, 2022 and April 28, 2022.

53. Lieutenant Rodgers also testified at the May 26 meeting that there had been a *dramatic decrease* in noise-level issues downtown with greater enforcement of Metro's existing noise ordinance.

54. Mr. Fields stated at the April 12, 2022 meeting that the TLC planned to enforce the noise ordinance "hard."

55. HTPE's tours during prime times are currently sold out for August 2022, approximately 75% sold out for September 2022, approximately 50% sold out for October 2022, and HTPE already has a significant number of tours booked for November 2022 and beyond.

56. If HTPE is forced to comply with its Permit allotment immediately and reduce its current operating fleet by 25%, as the TLC has mandated, HTPE will have to

cancel many tours that are already booked and, in many cases, were booked months in advance and before the Rules were adopted.

57. If HTPE cancels those tours, HTPE will almost certainly receive a flood of severely negative reviews on social media, because of the late notice to customers and, in many instances, because HTPE may be perceived as having "ruined" a special event (*e.g.*, bachelorette party, birthday party, *etc.*).

58. HTPE's business is largely driven by social media reviews and word-of-mouth advertising. As a result, cancelling tours would not only be costly in terms of revenue, it would significantly impair HTPE's reputation and goodwill and irreparably harm HTPE's business.

CLAIMS FOR RELIEF

59. To order the Clerk of the court to immediately send, by registered return-receipt mail, to Respondent a notice of the filing of this Petition and a certified copy thereof.

60. To grant the writ of certiorari and command Respondent, pursuant to Tenn. Code Ann. § 27-9-109(a), to cause to be made, certified, and forwarded to this Court a complete record of all proceedings in the cause appealed.

61. To order the Clerk to promptly, by registered return-receipt mail, notify Respondent of the filing of such transcript pursuant to Tenn. Code Ann. § 27-9-109(b); and

62. To adjudicate this this Petition and enter a final judgment reversing the TLC's decision to deny HTPE's application for twenty ETV Permits and directing the TLC to issue HTPE twenty ETV Permits.

63. To issue an immediate writ of supersedeas to stay putting into effect the TLC's decision to deny HTPE's application for twenty ETV Permits.

64. That the Court award HTPE such other and further relief, specific or general, to which it shows itself entitled.

THIS IS THE FIRST APPLICATION FOR THE WRIT IN THIS MATTER

Respectfully submitted,

D. Gil Schuette

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NOTICE CERTIFICATION

I, D. Gil Schuette, certify that on August 22, 2022 at approximately 12:15 p.m., I attempted to contact the Executive Director for TLC, Billy Fields (Billy.Fields@nashville.gov) to inform him that I was filing this petition order that day (those e-mails are attached hereto as Exhibit C). At approximately 12:5 p.m., I called Billy Fields (615-862-6777) instructing him of the same. I also e-mailed the Metro Law Director, Wally Dietz (wally.dietz@nashville.gov), and called the Metro Law Department to inform them of the same (615-862-6341).

D. Gil Schuette

VERIFICATION

STATE OF TENNESSEE)
)
COUNTY OF DAVIDSON)

I, Grant Rosenblatt, one of the owners of Petitioner Honky Tonk Party Express, LLC ("HTPE"), and pursuant to Tenn. Code Ann. § 27-8-106, have reviewed the foregoing Verified Petition and verify that the facts set forth above, are true and correct to the best of my knowledge.

GRANT ROSENBLATT

Sworn and subscribed to me this 12 day of August, 2022.

NOTARY PUBLIC

VIRGINIA FARMER STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN.

My Commission Expires:

1/8/2024

Entertainment Transportation Company (ETC) Rules

The Metropolitan Transportation Licensing Commission (MTLC) shall have the authority to promulgate, implement, and enforce additional rules and regulations pertaining to entertainment transportation vehicles (ETV), provided such rules and regulations are consistent with the provisions of chapter 6.77.420(C).

010. Certificates of Public Convenience and Necessity

a) Each year the MTLC shall set a date to hold public hearings for the purpose of consideration of any applications to receive a certificate of public necessity and convenience to operate an Entertainment Transportation Company (ETC) or to consider requests from existing Certificate holders to increase fleet numbers. Applications along with fee payment must be made at least 45 days prior to the meeting. If a completed application (including all supporting materials and required documents) is presented after the 45-day deadline, the application will not be considered.

b) Because the subcategory of ETV that meet the definition of Seated Sightseeing or Charter Tour vehicles as defined in section 040 (b), serve a distinct public necessity and convenience, different from that served by other ETV, the Commission shall make a separate finding of fact with regard to the existence or lack thereof of a requirement that further or additional Seated Sightseeing or Charter Tour vehicles are required to serve the public convenience and necessity; this finding will be in addition to the finding that further or additional of the types of ETV that do not meet this definition are required to serve the public convenience and necessity.

c) In making the finding for the award of a Certificate of Public Convenience and Necessity, the MTLC shall, at a minimum, take into consideration:
   1) The number of ETV already in operation.
   2) Adequacy of existing service to meet the public need.
   3) The applicant's experience in the operation of an ETC and its vehicles.
   4) The applicant's history of violations and/or citations of alcohol laws, noise violations, HUB Nashville complaints, and other non-compliant behavior.
   5) The ability of the applicant to comply with the laws and regulations, including the equipment and service proposed to be furnished.
   6) The applicant's financial responsibility and condition.
   7) Safety of the public in the operational area.
   8) The probable effect of increased service on local traffic conditions.
   9) Traffic flow.
   10) Compliance with existing noise ordinances.

020. Fees

a)	ETC Initial application fee	$ 500.00
b)	Sightseeing Certificate of Public Convenience and Necessity fee	$ 2,500.00
c)	Sightseeing Certificate of Public Convenience and Necessity annual renewal fee	$ 2,500.00
d)	Sightseeing Vehicle annual fee	$ 500.00
e)	Certificate of Public Convenience and Necessity fee	$ 5,000.00

f)	Certificate of Public Convenience and Necessity annual renewal fee	$ 5,000.00
g)	Vehicle annual fee	$ 1,000.00
h)	Driver Initial application fee includes the background check	$ 125.00
i)	Driver annual permit fee	$ 50.00
j)	Driver permit replacement fee	$ 20.00
k)	Background check fee	$ 75.00

Note: Fees are non-refundable and are not prorated. "Sightseeing" as defined in section 040 (b).

030. Insurance requirement

a) Certificate holders must comply with, but not limited to, the liability insurance requirements contained in Tennessee Code Annotated title 65, chapter 15.

b) Holders of certificates of public convenience and necessity shall maintain commercial general (public) liability insurance, inclusive of contractual liability, in an amount of not less than one million dollars written on an occurrence basis. Insurance shall be issued by an insurance company qualified to do business in the state and naming the metropolitan government as an additional insured.

c) Such holders shall also maintain commercial automobile liability insurance that shall afford protection to any third-party sustaining injury or damage as a result of the negligent operation of any ETV, with the minimum amount of insurance being as follows for the following types of vehicles:

    1) Three million dollars per incident, known as combined single limit insurance coverage for medium and large buses with 16-person or more passenger capacity.
    2) Two million dollars per incident, known as combined single limit insurance coverage, for small buses, modified trucks or automobiles with fewer than 16-passenger capacity.
    3) All ETV, regardless of size/category shall have uninsured/underinsured motorist insurance coverage in an amount not less than one million dollars (bodily injury per person)/one million (per accident)/one million (for property damage). All of the above-referenced policies shall be issued by an insurance company qualified to do business in the state and naming the metropolitan government as an additional insured.

d) Such holders operating tractors or trucks pulling trailers/wagons shall also maintain commercial automobile liability insurance that shall afford protection to any third party sustaining injury or damage as a result of the negligent operation of any ETV, with the minimum amount of insurance coverage being two million dollars per incident, known as combined single limit insurance coverage, and uninsured/underinsured motorist insurance coverage in an amount not less than one million dollars (bodily injury per person)/one million dollars (per accident)/one million dollars (for property damage). These policies shall be issued by an insurance company qualified to do business in the state and naming the metropolitan government as an additional insured.

e) With regard to any holder of a certificate of convenience and necessity who serves or dispenses alcoholic beverages to customers, whether or not the certificate holder also supplies the alcoholic beverages served to the customers, adequate insurance coverage shall also mean a policy of liquor liability insurance, with the minimum amount of liquor liability insurance to be one million dollars, issued by an insurance company qualified to do business in the state and naming the metropolitan government as an additional insured and complying in all other respects with the terms of this section.

f) Any insurance policy issued in compliance with this article shall remain in place at least through the length of the licensing, and for any ETV insured thereunder such policies shall expressly provide that they may not be canceled, except after thirty days written notice to the MTLC.
g) ETV will not operate unless in compliance with insurance requirements mandated by this rule section.

040. Enclosed/Unenclosed Vehicles

a) "Enclosed vehicle" means any motor vehicle that is fully enclosed by metal, plexiglass or glass on all sides and on the top/roof. Any vehicle not meeting this definition would constitute an "unenclosed vehicle." A vehicle is unenclosed if any portion of it lacks solid sides and a roof, including all appurtenances attached thereto, including, but not limited to, a pickup truck or a wagon or trailer pulled by a tractor, within which passengers are capable of standing and circulating while the vehicle is in motion. For purposes of this section, a vehicle "side" must be a full side enclosure of the vehicle and cannot consist of solely a guard rail or railing. It may contain windows capable of being opened, but all windows shall be fully closed while the vehicle is in operation. Enclosed vehicles shall maintain any required emergency access or exits but the emergency access or exits may not be used to avoid the safety goals intended by the enclosure.
b) Where the vehicle consistently operates on one or more fixed routes, where all passengers are required to remain seated at all times while the vehicle is in operation, and where alcohol is never permitted or served on the vehicle, the vehicle may be classified as a Seated Sightseeing or Charter Tour vehicle.
c) ETV are required to be fully enclosed, with the exception of those meeting the definition for the subcategory "Seated Sightseeing or Charter Tour vehicle." Seated Sightseeing or Charter Tour vehicles are exempt from the requirement applicable to other types of ETV that the vehicle be required to be enclosed.

050. Safety

a) Certificate holders must comply with, but not limited to, the safety rules and regulations contained in T.C.A. title 65, chapter 15.
b) Entrances and exits of all vehicles must be clearly marked and securely closed when the vehicle is in operation. These areas must also have barriers capable of stopping a person from falling through the opening.
c) The certificate holder's staff shall ensure that passengers understand that they may not and do not open the primary door or any emergency doors at any time during the chartered transportation period.
d) Vehicles must have additional devices to protect public safety as well as prevent violations of the noise ordinance.
e) Rails must be used on all retrofitted ETV and must measure a minimum of 40 inches in height from the floorboard. Rails must be constructed of metal or wood. Balusters (short columns or pillars made of metal, hard plastic or wood) may be present for safety purposes. The top rail must not be large enough to serve as a food or drink resting area.

f) To enhance safety and encourage traffic flow, vehicles must travel in a manner consistent with the flow of traffic and may not operate during the rush hour period between 4-6 p.m., Monday through Friday.

g) Vehicles must undergo a full mechanical inspection annually. Additional mechanical inspections may be required if determined to be necessary by MTLC staff or the Metropolitan Police Department.

h) Prior to the use and operation of any vehicle under the provisions of chapter 6.77, the vehicle shall be thoroughly examined and inspected by the certificate holder or a third party in accordance with rules and regulations prescribed by the MTLC. These rules and regulations shall be promulgated to provide safe transportation and specify such safety equipment and regulatory devices as the MTLC shall deem necessary. When a certificate holder finds that a vehicle has met all the terms established by the MTLC, the holder shall certify this under oath to the MTLC director, who shall authorize a permit to be issued.

i) Any ETV in which open containers of alcoholic beverages are present, with up to 25 passengers onboard, shall have one staff member, in addition to the driver, assigned to ride with the passengers to ensure that behavior is compliant with the rules and not unsafe. If an ETV has 26 or more passengers onboard and open containers of alcoholic beverages are present, it shall have 2 staff members, in addition to the driver, dedicated to this purpose.

060. Compliance Required

a) Certificate holders are responsible for knowing and complying with all local, state and federal safety laws, ordinances and regulations whether or not they are mentioned in MTLC rules.

b) Compliance with all local, state, and federal regulations and rules is required, which includes (but is not limited to) providing evidence of a Davidson County Business License, appropriate Metropolitan Beer Board permits, appropriate Metropolitan Public Health permits as well as other necessary documents.

070. Vehicle Operations

a) No ETV may conduct normal operations within a one city block boundary of a school, daycare center, healthcare facility, or place of worship. Operations will be silent, and passengers cautioned on behavior when routes to/from loading zones require passage inside the boundary of a school, daycare center, healthcare facility, or place of worship.

b) ETV may only operate in the zones established by the MTLC or its staff. These rules may be amended in future to refer to specific zones.

c) Certificate holders must not permit a passenger to ride on any part of an ETV other than the designated seating area while the ETV is in motion. All ETV in which passengers may at any time be standing while the vehicle is in operation, shall be equipped safety devices, such as hand straps, grab bars, and padded hard surfaces, that meet with the approval of the MTLC Director.

d) ETV may only load and unload in locations in the public right of way approved by the Metropolitan Government or on private property with the owner's approval.

e) Alcohol and controlled substances tests will be conducted after a crash involving an ETV driver which results in: (1) a fatality; (2) bodily injury which requires immediate medical treatment away from the scene of the crash, or (3) where one or more vehicles incur disabling damage requiring the vehicle to

be towed away from the scene or resulting in private property damage and/or the ETV driver receives a citation under state or local law for a violation arising from the crash.

Tests should be completed as soon as practical after the crash. Alcohol tests must be administered within two hours following the crash. Controlled substance tests should be administered within 24 hours following the crash. If the ETV driver fails to have the test administered within these time limits, the ETC shall cease attempts to secure the administration of the tests and shall prepare and maintain a record stating the reasons the test was not promptly administered. A copy of this record shall be sent to the MTLC staff as soon as practical.

Recognizing the limitations inherent in the preceding paragraph, an ETV driver who is subject to post-crash testing shall remain readily available for such testing or may be deemed by the MTLC to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following a crash, or to prohibit a driver from leaving the scene of a crash for the period necessary to obtain emergency assistance.

Each ETC must create and adopt a written policy for conducting employee drug screens, while remaining compliant with standards and regulations of the MTLC. Drug testing companies including but not limited to Concentra, Workforce Essentials, ReliaLab, may be contracted to manage this policy. The ETC must choose how the program/process will be managed. This includes a means for on-site collections including responding to emergency rooms, crash location, employer's place of business, etc., which includes performing after-hour collections. The adopted program must be submitted to the MTLC for approval.

If the crash results in an MNPD investigation and the investigation results in substance abuse testing of any type, the MTLC will defer to the investigation findings.

f) ETV may begin operations after 9 a.m. and must cease operations from the public roadway at 11 p.m. Any deviations from this schedule must be requested in writing to the MTLC Director 10 days in advance of the requested deviation. Where merited, the MTLC Director may grant this request.

g) In the event of inclement weather, ETV may not operate. Inclement weather exists when the National Weather Service issues any of the following or if ETC operators are notified by NDOT:

    1) Severe Thunderstorm Warning
    2) Tornado Warning
    3) Flood Warning
    4) If either snow or ice is present on the roadway surface, operations should be halted until the notice is given by NDOT to allow operations to resume.

080. Vehicles

a) Vehicles operated under MCL 6.77 shall be divided in categories as follows:
    1) Buses
        i. Small Bus with up to 15 passenger capacity
        ii. Medium Bus with 16-to-30-passenger capacity
        iii. Large Bus with 31-or-more-passenger capacity

2) Modified Trucks
3) Modified Automobiles
4) Tractors
5) Trailer/Wagons

b) Each vehicle while in operation must remain in compliance with all federal, state, and local regulations as well as all rules established by the MTLC. Each vehicle will be inspected in the manner specified by the MTLC staff.
c) Certificate holders must attest under oath that the vehicle has met all regulations and rules established in Chapter 6.77 of the Metropolitan Code of Law as well as the MTLC or its staff.
d) The vehicle must be equipped with a fire extinguisher marked with the vehicle number and the location of such equipment shall be marked and clearly visible.
e) The vehicle must be equipped with road hazard electronic flares and/or cones/markers for safety in the event of a roadside breakdown.
f) The vehicle must be properly marked with the company's name displayed in letters not less than 6" on both sides of vehicle. Lettering must be painted or otherwise permanently attached (no magnetic signs).
g) The assigned number must be displayed in letters/numbers not less than 4", located on the rear quarter panel behind tires on both sides of vehicle.
h) The vehicle must be marked with a QR Code not less than 6" on both sides of the vehicle that links to HUB Nashville.
i) The exterior of the vehicle may not be equipped with strobe lights, flashing lights, neon lights, laser lights, or spotlights.
j) Certificate holders must have each vehicle inspected and approved for operations by an authorized third-party vendor.
k) The list of approved vehicle inspection vendors includes:

1) West Power Services, 117 Tredco Drive, Nashville, TN 37210
2) At the discretion of MTLC staff, additional inspection vendors may be added.

l) Vehicles may not operate until approved inspection documents are filed with MTLC staff.

090. Sound

a) Compliance with the noise ordinance in Title 9, chapter 20 of the Metropolitan Code of Laws is required.
b) ETV must have installed devices which are able to monitor and govern all sound amplification, so as to be consistent with 9.20.020(B) of the Metropolitan Code of Laws.
c) No amplification devices including speakers may be aimed outside of the vehicle's interior.
d) No airhorns, sirens, whistles, or after-market noise-making devices allowed other than the vehicle's factory-installed horn.

100. Alcohol

a) Certificate holders may not allow service or consumption of alcoholic beverages unless the certificate holder has been issued a permit from the Metropolitan Beer Board.

b) The certificate holder shall be responsible for verifying that all passengers are 21 years of age or older via a personal identification application or scanning device.
c) Passengers under the age of 21 shall not be permitted to ride an ETV where alcohol is present.

110. Miscellaneous

a) Driver must be in uniforms as described by the company in its application.
b) All ETV must be equipped with GPS devices and the data from these devices must be stored in such a way as to allow the MTLC and/or designated third party to be able to capture data related to operations for a period of 30 days.
c) All ETV must be equipped with cameras which record activities outside the vehicle in the front and the back. These video and/or photographic records must be maintained for a period of 30 days and be available to MTLC staff or the Metropolitan Police upon request.
d) All vehicles are subject to inspection at any time by MTLC staff, NDOT, MNPD, and other governmental departments.
e) Vehicles may not dispose of trash accumulated throughout the course of an ETV excursion in Metro owned trash receptacles. Trash must be properly disposed on private property with written permission from the property owner and on file with MTLC staff. Recycling is encouraged. Any litter resulting from an ETV excursion would be considered a violation of this rule.

120. Violations

All provisions of chapter 6.77 shall be governed by the enforcement provisions of Section 6.77.390 thereof, which provides:

> The inspectors of the metropolitan government are authorized and are instructed to observe the conduct of holders of certificates and permits operating under this chapter. Upon discovering a violation of the provisions of this chapter, the inspector may either report the violation to the licensing MTLC, which will order or take appropriate action, or issue a citation as authorized under Section 6.77.420.

Section 6.77.420 in turn provides in pertinent part:

> **6.77.420 Violations-Penalties-Additional regulations.**
>
> a) All provisions of this chapter shall be governed by the penalties and procedures for general ordinance violations set forth in Section 1.01.030.
>
> b) Notwithstanding any provision contained herein, the MTLC shall have the authority to enforce the provisions of this chapter.

In the case of enforcement pursuant to Section 6.77.390, where the violation is reported to the licensing MTLC, if the MTLC determines after a properly noticed hearing (at which the alleged violator may appear, present evidence and be represented) that a violation occurred, the MTLC may suspend, revoke or place on probation the certificate holder's certificate or the driver's permit, as appropriate. In the case of enforcement via a citation as authorized under Section

6.77.420 and Section 1.01.030, the citation shall be tried by the Metropolitan Environmental Court in accordance with its procedures, and as set forth in Metro Code Section 1.24.030, and upon a finding by the court that a violation occurred, the court may order civil penalties (fines) of $50 per violation per day and/or injunctive relief. Likewise, the citation process described above may also be pursued against any unlicensed, unpermitted party who operates an ETV within Davidson County.

The following constitute violations:

a) Certificate Holders
   1) Allowing unpermitted ETV to operate within the Metropolitan government area.
   2) Allowing unpermitted person to operate an ETV within the Metropolitan government area.
   3) Allowing unpermitted ETV to operate without required liability insurance.
   4) Allowing ETV to operate in an unsafe manner.
   5) Failure to report any changes in insurance to the MTLC immediately.
   6) Failure to comply with a correction order issued to MTLC staff or the Metropolitan Police Department within the time specified in the order.
   7) Failure to comply with the requirements established in Chapter 6.77 of the Metropolitan Code of Law or rules promulgated by the MTLC, or any other applicable federal, state or local law, ordinance or regulation.
   8) Breaching the terms of the certificate.
   9) Failure to pay required taxing and fees to the Metropolitan government, state of Tennessee or the federal government.
   10) Failure to adequately train their company employees to comply with all provisions of Chapter 6.77 of the Metro Code and these regulations.

b) Driver Permitting
   1) Operating an ETV while under the influence of intoxicating beverages or drugs.
   2) Operating an ETV while possessing a lighted cigarette, cigar, e-cigarette, smokeless tobacco or pipe at any time.
   3) Operating an ETV without an ETV driver's permit.
   4) Allowing more passengers to be carried in an ETV than for which there is proper seating, and at no time shall the driver allow any passenger to ride in any area of the ETV not specifically designed or designated as a seat.
   5) Allowing a passenger under the age of twenty-one to ride in an ETV where alcohol is present.
   6) Failure to observe and obey all state and local noise, environmental, and traffic laws and regulations.
   7) Failure to comply with all metropolitan government, state, and federal laws, ordinances and regulations.

KCI Technologies, Inc. | 1101 17th Avenue South | Nashville, TN 37212 | main: 615.370.8410 | www.kci.com

MEMORANDUM

To: Billy Fields, Metro Public Works
Chip Knauf, P.E., Metro Public Works

From: Bob Murphy, P.E., PTOE
Preston Elliott, AICP
Kayla Ferguson, P.E.
Liesel Goethert, AICP

Date: January 12, 2018

RE: Slow Moving Vehicle (SMV) Traffic Study – Update

INTRODUCTION

In 2016, KCI Technologies, Inc. (formally known as RPM Transportation Consultants), completed the Slow Moving Vehicle Traffic Study at the request of the TLC and MPW. In light of continued development and traffic growth in the downtown core as well as in the number and types of "slow moving" vehicles, the purpose of this study is to expand the original analysis to include low speed vehicles (LSVs), while further evaluating the unique safety and operational aspects of these vehicle types.

The Transportation Licensing Commission (TLC) and Metro Public Works (MPW) seeks to provide a safe transportation system for all users. This includes the spectrum of for-hire vehicles operating on Nashville's roadways, specifically those considered as "slow moving". These vehicles blend both transportation and pleasure and are an important component to Nashville's tourism industry. Their limitations in terms of top traveling speeds and level of safety standards (which are lower than that of regular passenger vehicles), however, present unique safety challenges. As these vehicles currently share the same right-of-way with standard passenger vehicles, SUVS, commercial trucks, and buses in an urban environment, the TLC and MPW seek to better understand safety issues with specific slow moving vehicle (SMVs) operations. Horse carriages, pedicabs, pedal carriages, and low speed vehicles (LSVs) are included within this update.

It is important to note that while these slow moving vehicles meet the minimum federal safety standards, they are not in the same vehicle classification as regular passenger vehicles, and thus, have different safety standards. Being able to legally operate on public roadways does not

automatically translate into safe operations under all traffic conditions. Therefore, state and local governments are given the authority to restrict the operation of slow moving vehicles in order to promote a safe and/or efficient transportation system.

STUDY OVERVIEW

In 2016, KCI Technologies, Inc. (formally known as RPM Transportation Consultants), completed the Slow Moving Vehicle Traffic Study at the request of the TLC and MPW. These agencies sought to understand the extent of the SMVs currently operating on Nashville's streets and their related impacts, if any, to traffic flow and congestion. The Study specifically focused on vehicles that typically move slower than 15 mph, including horse carriages, pedicabs, and pedal carriages. Video data collected at key intersections during peak hours helped to quantify the volumes and speeds of these vehicles in operation. While observations largely revealed compliant behavior in terms of obeying traffic rules and regulations, these vehicles were observed to have much slower average speeds as they traveled through an intersection. Average speeds observed for each vehicle type, which ranged between 23% - 45% less than that of the average motor vehicle are provided in Table 1.

Table 1 Average Speeds Observed through Intersections

Slow Moving Vehicle Type	Average Speeds Through Intersections (2016)
Pedicab	7.2 mph
Pedal Carriage	5.7 mph
Horse Carriage	3.8 mph
Low Speed Vehicle (LSV)	*Not part of original SMV Traffic Study

The 2016 study presented recommendations for reducing the impacts of SMVs on traffic flow. Based on the recommendations of the study, the TLC subsequently restricted the operation of all SMVs during the weekday peak traffic flow periods, 7:00 – 9:00 am and 4:00 – 6:00 pm.

Given the low speeds of SMVs, in addition to other unique safety challenges mentioned in the Introduction section, the TLC and MPW desires to further understand the operations of these vehicle types and the potential vulnerabilities posed to operators and passengers. While additional types of SMVs exist in Nashville, SMVs collectively described in this report specifically refer to the four vehicle types listed in Table 1.

SLOW MOVING VEHICLE (SMV) SAFETY

The following section presents safety information through the lens of LSVs. Of the four vehicle types, these are capable of traveling the fastest and relatively, have the most safety measures. It can be assumed that, the three remaining vehicle types likely would fare worse than LSVs in crash scenarios.

The National Highway Traffic Association (NHTSA) established the Federal Motor Vehicle Safety Standard No. 500 for LSVs in 1998. At the time, these vehicles were primarily used for short trips in planned communities, such as those centered around golf courses, retirement communities, and institutional campuses. Mainly golf carts, these vehicles were providing trips for recreation, shopping,

and social purposes. Joyride, Cruzzin, Hee Hawlin and Music City Golf Carts are current operators of LSVs in Nashville. Over time, the use of these vehicles around the country has increased substantially to include a variety of transportation services in various settings and not just in the low-risk environments originally envisioned. For example in Nashville, these LSVs provide point-to-point transportation as well as tours throughout downtown Nashville and outlying areas close to downtown.

Safety Standard No. 500 established the LSV definition to include four-wheeled electric or gasoline powered vehicles capable of traveling above 20 mph but less than 25. Furthermore, LSVs must be equipped with basic safety features, such as seatbelts, headlamps, tail lights, rear-view mirrors and turn signals, but are not required to have airbags, bumpers or doors as they are envisioned to be used in low-risk environments. This distinction puts LSVs in a separate vehicle classification than regular passenger vehicles. For example, even the ultra-compact Smart car meets basic crashworthiness standards for passenger vehicles. Today, the federal LSV classification includes minitrucks, modified golf carts, and neighborhood electric vehicles (NEVs).

LSV weight, construction, and the lack of crashworthy design features, such as "crumple zones", create unique safety concerns when co-operating with regular passenger vehicles, including sports utility vehicles (SUVs) and commercial trucks. The Insurance Institute for Highway Safety simulated crashes between a GEM e2 (an LSV) and a Smart Fortwo car. The simulations showed that the LSVs did not perform well, as a side impact crash between a Smart car traveling at 31 mph and hitting a stationary LSV in its side resulted in detrimental impacts for the GEM test dummy, including the dummy's head almost striking the Smart car's windshield. Although belted, the dummy indicated measures that would translate into a "serious or fatal injury for real occupants". A similar collision with a much larger vehicle would undoubtedly result in similar, if not more severe outcomes.

Additionally, speed has been identified as a key risk factor in roadway traffic injuries, influencing both the risk of a roadway crash as well as the severity of the injuries that result from crashes. A basic goal of traffic engineering is to achieve uniform traffic flow as this enhances safety by minimizing speed differentials. Speed differentials, even between two regular passenger vehicles, create enhanced risk for a collision to occur, as illustrated in Figure 1. Similarly, the graph on the right illustrates the exponential increase in risk for a fatal collision, also between two regular passenger vehicles. Simply put, the greater the speed difference is between two vehicles that crash into each other, the greater the likelihood for serious or fatal injury. The lack of the ability to travel faster than 25 mph particularly puts LSVs at risk in shared roadway environments where other vehicles may be traveling at much higher speeds.

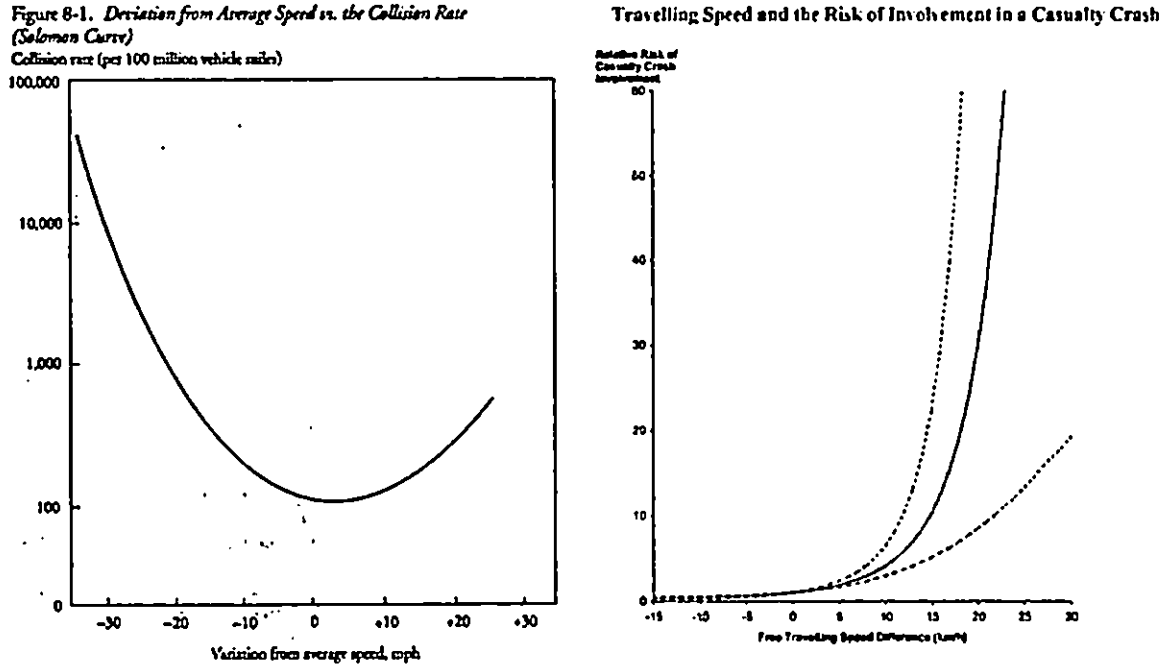


Figure 1 Speed Differentials and Crash Risks

The NHTSA does not have the legislative power to control where LSVs may be operated. Instead, state and local governments are in charge of establishing operating rules. According to the Tennessee Department of Transportation's (TDOT) website, "Tenn. Code Ann. § 55-8-191 allows low speed vehicles to be operated at a speed not exceeding twenty-five miles per hour (25 mph) only on streets where the posted speed limit is thirty-five miles per hour (35 mph) or less. A low speed vehicle is permitted to cross streets that exceed this thirty-five mile per hour limit". Materials state, that in the interest of safety, local governments, as well as TDOT, may further prohibit the operation of a LSV on any road within its jurisdiction.

EXISTING OPERATIONS AND CONDITIONS

While each vehicle type has unique rules and regulations regarding operations, a majority of the SMVs regardless, currently operate within the Low Speed Vehicle Service Area (shown in Figure 2) that Metro has established. LSVs are allowed to use any roadway with a posted speed of 35 mph or less within this area, except those identified as prohibited. LSV operations are further restricted by time and day. They cannot operate during the AM and PM peak hour timeframes, Monday through Friday, between 7:00-9:00 AM and 4:00-6:00 PM respectively. As shown in Figure 2, LSVs are allowed to travel on the majority of streets within the Low Speed Vehicle Service Area. The only exceptions are the interstate system, James Robertson Parkway, and segments of Rosa Parks Boulevard, Korean Veteran's Boulevard, Shelby Avenue, 21st Avenue, Broadway, Church Street, West End and Charlotte Pike.

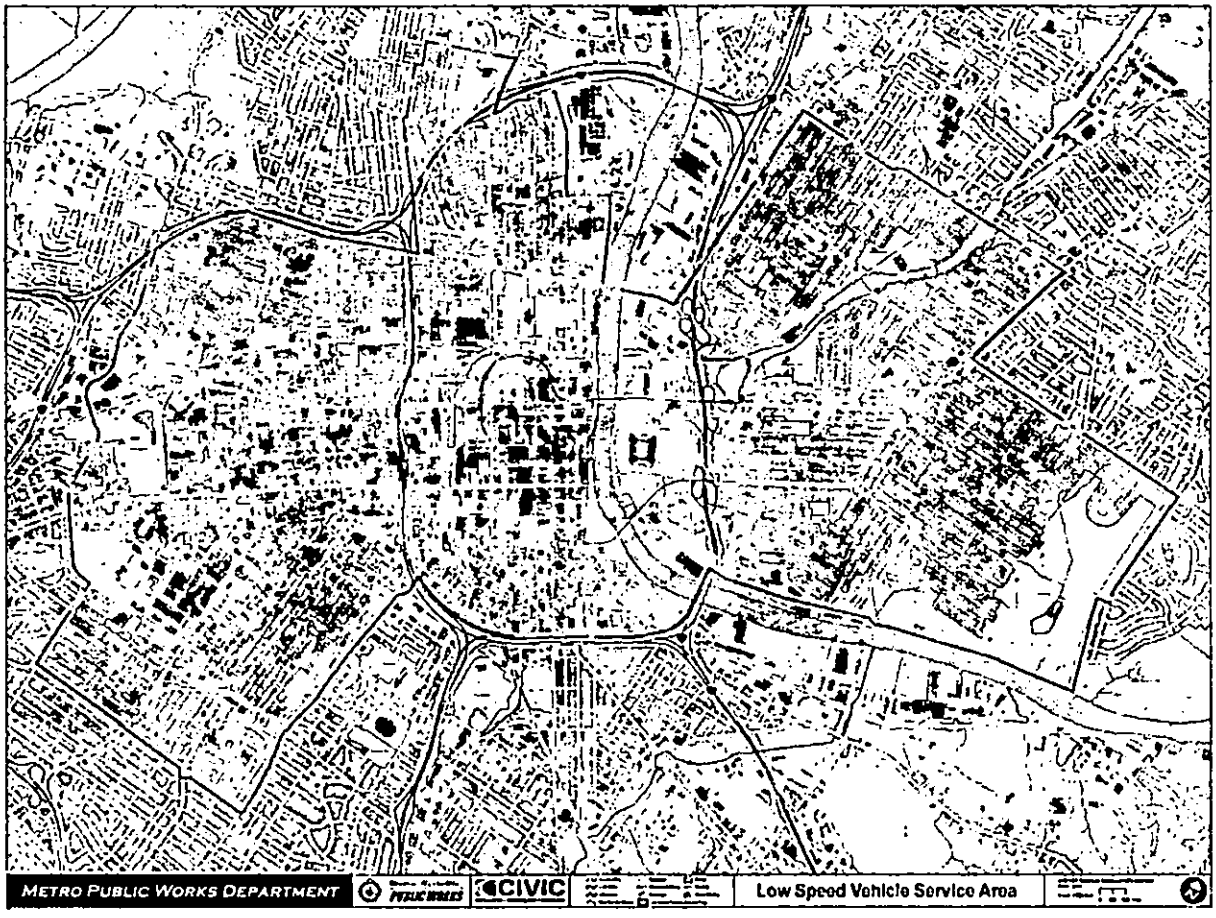


Figure 2 Existing Low Speed Vehicle (LSV) Service Area

This section presents information relating to two key elements central to this study. The first being the industry's goal to provide transportation for hire transport to, in, and around Nashville's most popular neighborhoods and destinations. Therefore, these destinations are identified and mapped. In addition, the number of existing SMV operators is updated. The second element is the TLC and MPW's goal to increase safety related to the use of these vehicle types. Therefore, roadway characteristics relating to the safety and/or operations of these vehicles are also provided.

EXISTING OPERATIONS

An important component of this study is understanding where, when, and how SMVs are currently operating within Nashville. This includes how many vehicles are on the roadway, how these vehicles travel on streets and through intersections, and when their volumes are highest. Table 2 provides a listing of the existing SMV operators, including the number of vehicle permits each operator has been granted. In total, 115 SMV permits have been granted.

Table 2 Existing Slow Moving Vehicle (SMV) Operators

Operators	SMV Type	Number of Vehicle Permits
Nashville Pedal Tavern	Pedal Carriage	10
Sprocket Rocket	Pedal Carriage	8
Country Music Crawler	Pedal Carriage	1
Nashville Pedi Cab	Pedi Cab	20
Music City Rickshaw	Pedi Cab	3
American Melody Carriages	Horse Carriage	1
Cumberland Carriage Tours	Horse Carriage	3
Hat Creek Carriage	Horse Carriage	4
Sugar Creek Carriage	Horse Carriage	5
Southern Comfort Carriage	Horse Carriage	4
JoyRide	LSV	38
Cruzzin'	LSV	10
Hee Hawlin'	LSV	4
Music City Touring	LSV	4
	TOTAL	115

To better understand SMV operations on downtown streets, during April and May 2017, video data was collected at several key intersections within the inner loop. The six intersections included:

- Broadway and 5th Avenue S
- Commerce Street and 3rd Avenue S
- Commerce Street and 2nd Avenue S
- Demonbreun Street and 2nd Avenue S
- Demonbreun Street and 5th Avenue S
- Demonbreun Street and 12th Avenue S

Using the captured video data, afternoon vehicle counts were recorded for the various types of SMVs. Timeframes for these counts include peak hour (4-6 PM) and non-peak hour times (3-4 PM and 6-7 PM). These timeslots were chosen based on when the greatest potential conflicts occur between slow moving and regular passenger vehicles as traffic volumes of any type are high. In addition to the SMV types, additional for-hire and regular passenger vehicles movements were also noted. Observed volumes are provided in Table 3.

Table 3 Peak Hour and Non-Peak Hour Counts

	Pedi-Cab	Pedal Carriage	Horse Carriage	LSV	Tour Bus	Motor Vehicles	Percent (%) SMV	Percent (%) Tour Bus
Peak Hours (4-6 PM)	1*	1*	0	10*	80	11,680	0.1%	0.7%
Non-Peak Hours (3-4 PM & 6-7 PM)	2	9	3	69	70	6,198	1.3%	1.1%

Values with asterisks in Table 3 denote violators of the time of day restrictions. Most of these occurred within a 15-minute timeframe after 4 PM/before 6 PM. Movements appeared as though vehicles were either returning to storage/parking destination or positioning themselves to begin operations at 6 PM in a desirable location. Table 4 describes the ratio of SMV types observed operating during the non-peak hours. As shown, the majority (83%) of SMVs are LSVs.

Table 4 Slow Moving Vehicle (SMV) Non-Peak Hour Percentages

	Percent (%) of SMVs Observed				Percent SMV (Average)	Percent SMV (High	Hourly SMV (High)
	Pedi-Cab	Pedal Carriage	Horse Carriage	LSV			
Non-Peak Hours (3-4 PM & 6-7 PM)	2%	11%	4%	83%	1.3%	4.2%	27

DESIRABLE DESTINATIONS

The TLC and MPW recognize that the industry model for many of the SMVs depends upon the locations they are able to serve. Therefore, this section identifies the top three most common destinations that SMVs desire to serve: hotels, tourist destinations, and bars. Instead of mapping individual bars, establishments with beer permits are used as a proxy. Figure 3 illustrates these three types of locations within the existing Service Area. A full-size version may be found in Appendix A.

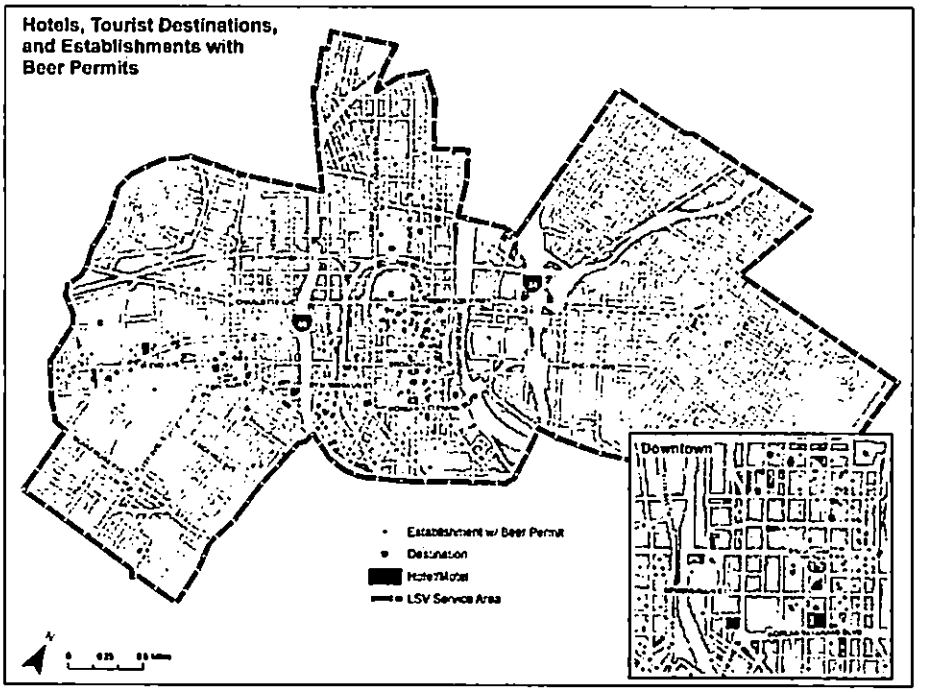


Figure 3 Desirable Destinations for Slow Moving Vehicles (SMVs)

EXISTING OPERATIONAL ISSUES AND CONCERNS

General issues and concerns currently associated with the operation of each type of SMV include the following:

Horse Carriages

- Impacts of horse carriages on vehicular operations, particularly as it relates to the startup and top speed limitations of horse carriages.
- Existing stand location on 2nd Avenue North just north of Broadway is not optimal given negative impacts to both motorized and non-motorized traffic flow and safety at this busy intersection during peak times. The first come, first serve nature creates incentive for carriages vying for a position to make undesirable movements through this intersection which ultimately negatively impacts traffic flow.
- Safety ramifications of speed differentials between horse carriages and other passenger and freight vehicles.
- Some undesirable safety and operational behaviors, such as pulling through a congested signalized intersection on a green and thus, blocking the opposing vehicular approaches' through movements once the signal phase changes.
- Conflicts caused by the presence of horse carriages in specific areas of the downtown (i.e., south/east of Broadway) given key destinations and their associated freight logistic needs, such as Bridgestone Arena, the Country Music Hall of Fame, and the Ascend Amphitheatre.
- Impacts on the horses themselves due to high levels of activity in the right-of-way, such as along Broadway, as well as the noise and visual stimulation that occurs.

LSVs

- Safety ramifications of speed differentials between LSVs and other passenger and freight vehicles.
- An increasing number of trips and vehicles in operation.
- Some undesirable operating behaviors, such as parking and/or loading and unloading in improper locations, such as in bike lanes, on-street parking spaces, and freight loading zones. Several LSVS were also observed not abiding by the restrictions set for passenger curb loading zones, which is as follows: "No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for a period not to exceed three minutes."
- Differences in operating behaviors as it relates to point-to-point trips versus touring trips. LSVs providing tours tend to impede traffic flow and perform undesirable or illegal movements more often than those providing point-to-point trips.
- Impacts of LSVs on vehicular operations, particularly as it relates to the top traveling speed limitations of these vehicle types.

Pedal Taverns

- Impacts of pedal taverns on vehicular operations, particularly as it relates to the startup and top speed limitations of pedal carriages. The 2016 study showed that these impacts are especially problematic at intersections as it takes as much as four times as long for a pedal tavern as compared to a motor vehicle to travel through an intersection.
- Safety ramifications of speed differentials between pedal taverns and other passenger and freight vehicles, as well as pedal tavern passenger safety in general given exposure and lack of safety restraints.
- Noise generated from the occupants and sound systems of these vehicle types.

Pedicabs

- Impacts of pedicabs on vehicular operations, particularly as it relates to the startup and top speed limitations of pedicabs.
- Noise generated from the occupants and sound systems of these vehicle types.

EXISTING ROADWAY CONDITIONS

This section covers key roadway characteristics that impact the ability of SMVs to safely operate within the urban environment in and around downtown Nashville. These include speed limits, annual average daily traffic (AADT), and the number of travel lanes. In addition, roadway elevation profiles are evaluated given the unique limitations on horse-drawn carriages. This information aided in the identification of recommended adjustments to slow moving vehicle operations.

Posted Speed Limits

As previously described, high speed differentials increase risk and severity of crashes for both SMVs and regular vehicles alike. The map in Figure 4 illustrates speed limits according to TDOT's 2016 Tennessee Roadway Information Management System (TRIMS) GIS shapefile. Within the LSV Service Area, LSVs are already prohibited from using higher speed roadways, including Rosa L. Parks Boulevard, James Robertson Parkway, and Korean Veterans Boulevard. A full-size version of the map may be found in Appendix B.

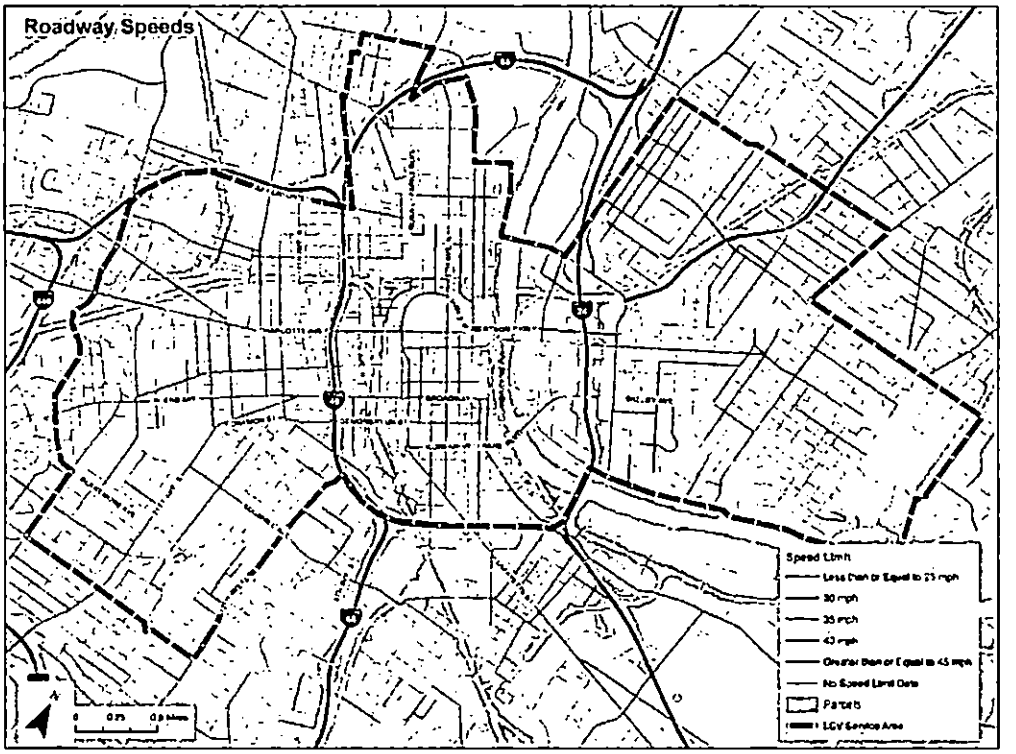


Figure 4 Posted Speed Limits

Lane Widths and AADTs

Traffic volumes and the number of travel lanes are also important roadway metrics for understanding SMV operations in shared roadway environments. High AADTs indicate roadways where SMV operations may be limiting the functionality of the transportation system during peak hours and where there is greater potential for conflicts between SMVs and other vehicles. In response to these issues/concerns, SMVs are prohibited to varying degrees from using certain specific roadways that move large amounts of traffic into and out of downtown. Time of day greatly influences traffic volumes and as previously mentioned, several vehicle types are also further prohibited from operating on any roadway whatsoever during certain hours (7:00-9:00 AM and 4:00-6:00 PM, Monday-Friday).

The number of travel lanes is also relevant when evaluating SMV operations. Having more than one lane allows for regular vehicles to safely pass SMVs that are either operating at a slower speed or

are loading/unloading passengers. The map in Figure 5 illustrates both the number of travel lanes and 2016 AADTs. These numbers were generated using TDOT count station information and the TRIMS shapefile. A full-size version may be found in Appendix C.

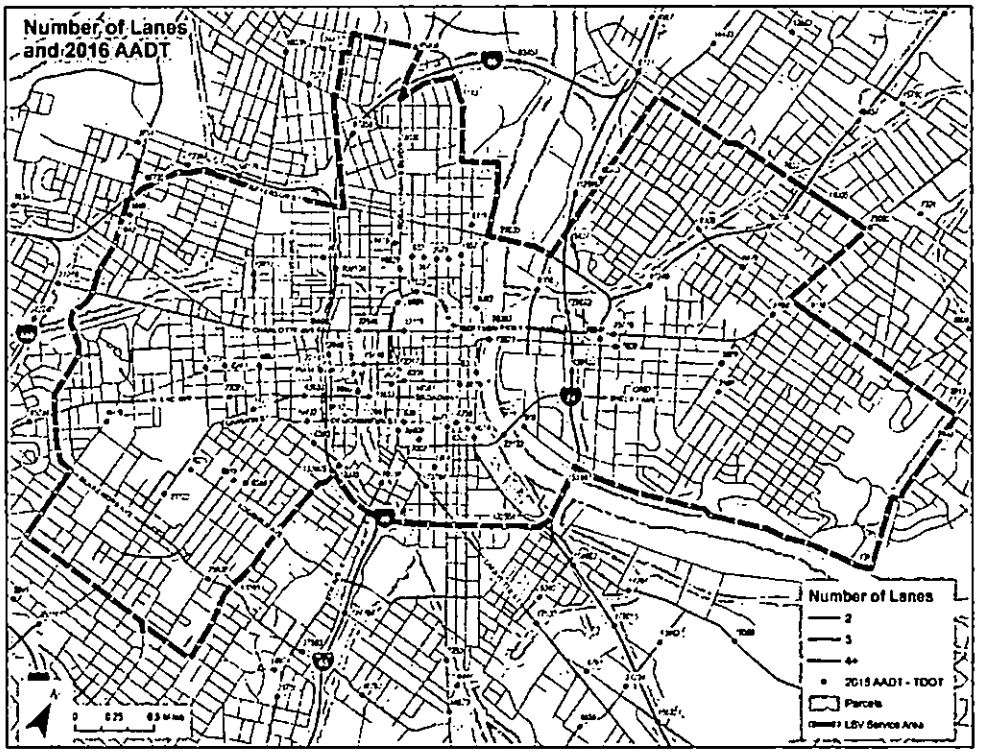
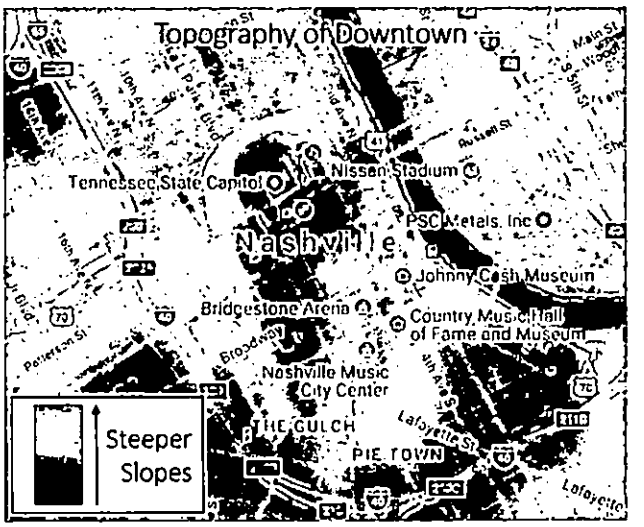


Figure 5 Lane Widths and 2016 AADTs

Elevation

Elevation and grade are important elements of the roadway network given human-powered and horse-drawn vehicles. Pedal carriages, specifically those without a motor assist, horse carriages, and pedicabs are all impacted by elevation gain/loss and grade. Steep inclines and declines can thus, increase conflicts and create unsafe conditions for these vehicles. Figures 6 and 7 illustrate the elevation profiles for the roadway network north of Broadway and east of 7th Avenue South. Graphs illustrating grades for these roadways are provided in Appendix D. This information was used when determining recommended horse carriage routes.



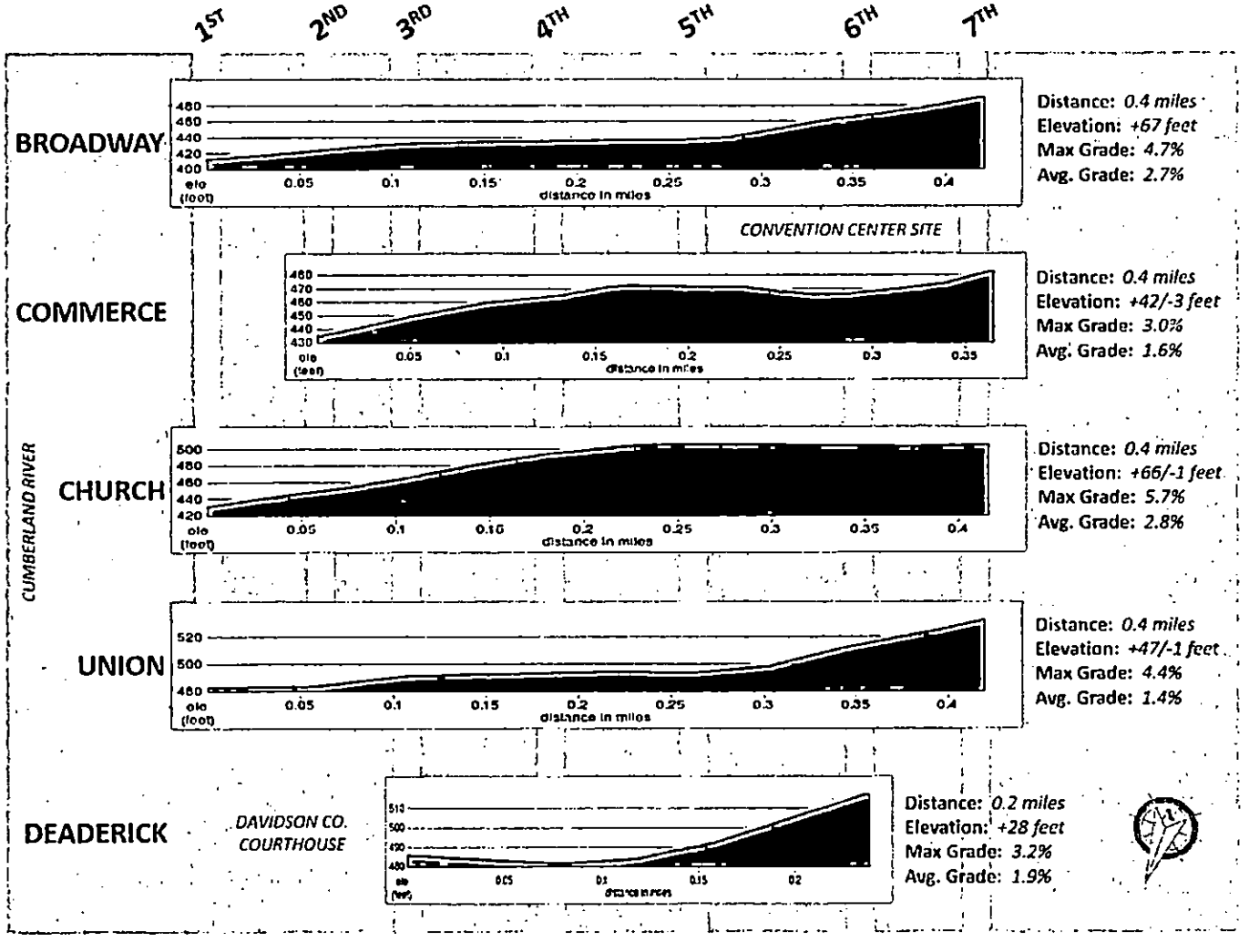


Figure 6 Elevation Profile – Broadway to Deaderick Street

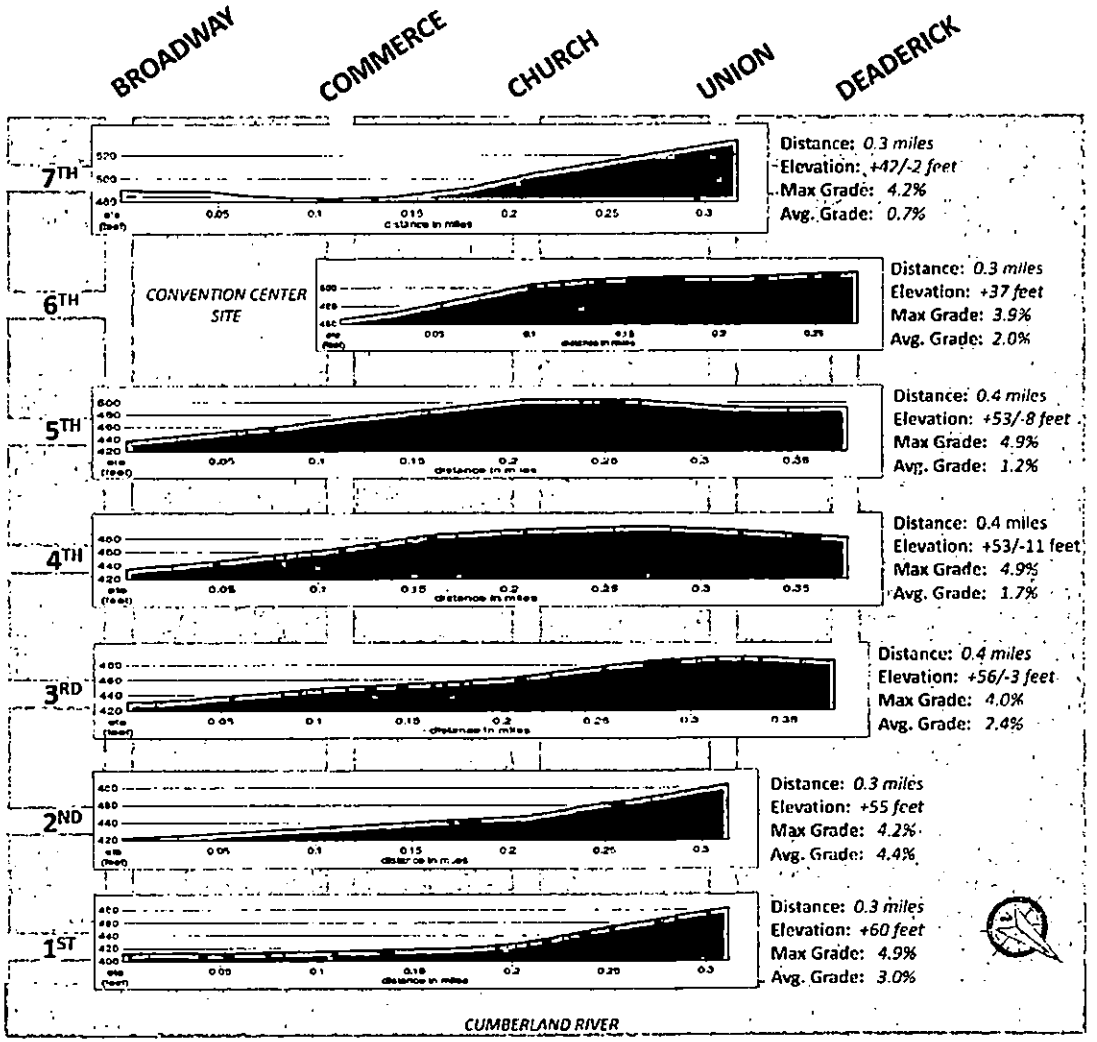


Figure 7 Elevation Profile – 1st Avenue North to 7th Avenue North

PEER CITY REVIEW

The original SMV Traffic Study included a peer city review in terms of how other communities have started to regulate the variety of SMV types. Specifically, the review focused on licensing and permitting and operating restrictions. The review was expanded to include LSVs as part of this update. Table 5 and 6 summarize how other cities are currently regulating (if allowed at all) pedal carriages, pedicabs, horse carriages, and LSVs by time of day and/or route.

Table 5 Regulate by Time of Day

	Regulate by Time of Day			
	Pedi-Cab	Pedal Carriage	Horse Carriage	LSV
Austin, TX		✓*	✓*	
Charleston, SC		*Does not allow*	✓	
Charlotte, NC				
Chicago, IL	✓	*Does not allow*	✓	✓**
Detroit, MI	✓	✓	✓	
Houston, TX			✓*	
Knoxville, TN	✓*	✓*	✓*	
Miami, FL	✓*	✓*	✓	
Minneapolis, MN		✓	✓	
New Orleans, LA			✓	
Portland, OR			✓	
San Diego, CA			✓*	✓*
Savannah, GA	✓	✓	✓	*Does not allow*
Tallahassee, FL	✓	✓		✓

**Approved schedule only*
***Yes, if impacts traffic flow*

Table 6 Regulate Routes

	Regulate Routes			
	Pedi-Cab	Pedal Carriage	Horse Carriage	LSV
Austin, TX	✓	✓	✓	✓
Charleston, SC	✓	*Does not allow*	✓	✓**
Charlotte, NC				
Chicago, IL	✓	*Does not allow*	✓	✓
Detroit, MI	✓	✓	✓	
Houston, TX			✓*	
Knoxville, TN	✓*	✓*	✓*	✓

Continued on following page

Miami, FL	✓	✓	✓	
Minneapolis, MN			✓	
New Orleans, LA		✓		
Portland, OR			✓	
San Diego, CA	✓	✓	✓	✓
Savannah, GA	✓	✓	✓	*Does not allow*
Tallahassee, FL			✓	

**Routes by approval only*

*** LSVs only allowed to be used between two properties owned by the same owner (ex: hotel to parking lot)*

The TLC and MPW further desire to understand how other cities use fees and other revenue generators to offset the administrative costs related to horse carriage operations. Review of peer city fee structures revealed a spectrum of costs, from no cost (other than typical business permits) to very high costs. A wide variety of fee types are also used by cities, including:

- Application Fees / Certificate Fees
- Horse License/Operating Fees
- Driver License Fees
- Carriage License Fees
- Veterinarian Fees (Horse Inspection)
- "Per Ride" Fees
- Sanitation Clean-Up Fees
- Ground Transportation Tax
- Touring Fees

Instead of simply identifying each city's fee formula, approximate annual revenue generation is estimated for each community using an example of one company who is operating one carriage. It should be noted that several values, such as the cost for a veterinarian, are held constant for the purpose of estimating. Nashville's current estimated cost is also provided.

Table 7 Example Annual Estimated Revenue

	Estimated Revenue from One Company Operating One Horse Carriage (Per Year)
Charleston, SC	$50,000
Savannah, GA	$19,098
Chicago, IL	$1,825
Minneapolis, MN	$960
Nashville, TN	$495
New Orleans, LA	$360
Knoxville, TN	$325
Portland, OR	$275
Detroit, MI	$200
Orlando, FL	$125
Austin, TX	$50

Before describing Charleston's very high operating costs, it is worth noting that the city has very strict regulations in regards to tour vehicles, in general. A tourism management division within the City of Charleston is responsible for issuing all permits, making tour zone assignments, and enforcing code violations for all touring vehicle types. The community seeks to proactively preserve the historical ambience of its downtown and this extends to for-hire horse carriage operations. In addition, the City heavily regulates these vehicles to avoid litter and waste issues, animal cruelty concerns, traffic and pedestrian flow conflicts, and negative impacts "on the tourism industry and economy of the city". All of these efforts, however, require funds to offset the administrative and sanitizations costs associated with these operations.

Based on the high demand for tour vehicles within the city's core, a $17,500 annual license fee is required annually for a carriage to operate within the central loading zone in the historic downtown. Sanitation fees are split among the horse carriage companies, which were estimated to be approximately $33,000 per company. Additional annual fees and regulations raise the estimated cost to around $50,000 per year.

SMV CONCLUSIONS AND RECOMMENDATIONS

Both route and regulation recommendations are provided in this section. Recommendations are presented for the SMVs as a whole as well as for each SMV type. Proposed recommendations are based upon the data collected and evaluated, observations made, and review of peer city regulations.

Permitting of SMVs

Through the analysis and observations conducted for this study, it is clear that SMVs are impacting traffic flow on Nashville streets. This is primarily due to the traffic speed differentials between the SMVs and motor vehicles as well as the lower acceleration speeds associated with SMVs. To avoid further degradation of traffic operations due to SMVs, it is recommended that the current permit cap for SMVs be maintained.

Horse Carriages

Planning considerations for horse carriage routes include stand locations, the topography of downtown streets, the desire for companies to be highly visible to tourists, and the need for attractive streetscapes and destinations that appeal to tourists. Recommendations are as follows:

- Stand Location: Observations of existing horse carriage operations at the current designated carriage stand on 2nd Avenue identified traffic operation and safety issues, which were largely attributed to the overall traffic congestion and pedestrian activity that takes place at the adjacent intersection and the limited availability of space for carriages at the stand.

  Potential options to reduce the negative impacts of horse carriage operations include enhanced enforcement and improved stand management, further limiting the number of carriages in operation at any one time, relocation of the stand to a less impactful site and establishing alternate routes and stands. These options are described in detail below:

- Stand Relocation: Relocating the stand from its current location on 2nd Avenue would be beneficial in order to reduce traffic operation and safety issues on 2nd Avenue and at its intersection with Broadway. Two locations were identified for relocating the stand, on the east side of 1st Avenue just south of Broadway and on the north side of Broadway, just west of 1st Avenue. These two optional locations are shown in Figure 8.
- Stand Relocation Alternative - Enforcement Assistants: Instead of relocating the existing loading/unloading stand, using staff to manage the carriage stand is also an option. Staff members could either be a Metro or Nashville Downtown Partnership employee and would help regulate the flow of carriages into the stand and into travel lanes, as well as enforce other TLC regulations. The stand would be treated similarly to a taxi stand with a first-in, first-out queueing model. Parking and/or loading zone spaces (either at the existing or potential locations) could be leased to carriage companies as a means of generating revenue to help offset the administrative costs associated with staffing the carriage stands. Figure 8 illustrates the existing most common routes taken by horse carriages relative to highly desirable corridors (based on exposure to tourists and number of key destinations) as well as the existing and potential stand locations if relocation is desired.

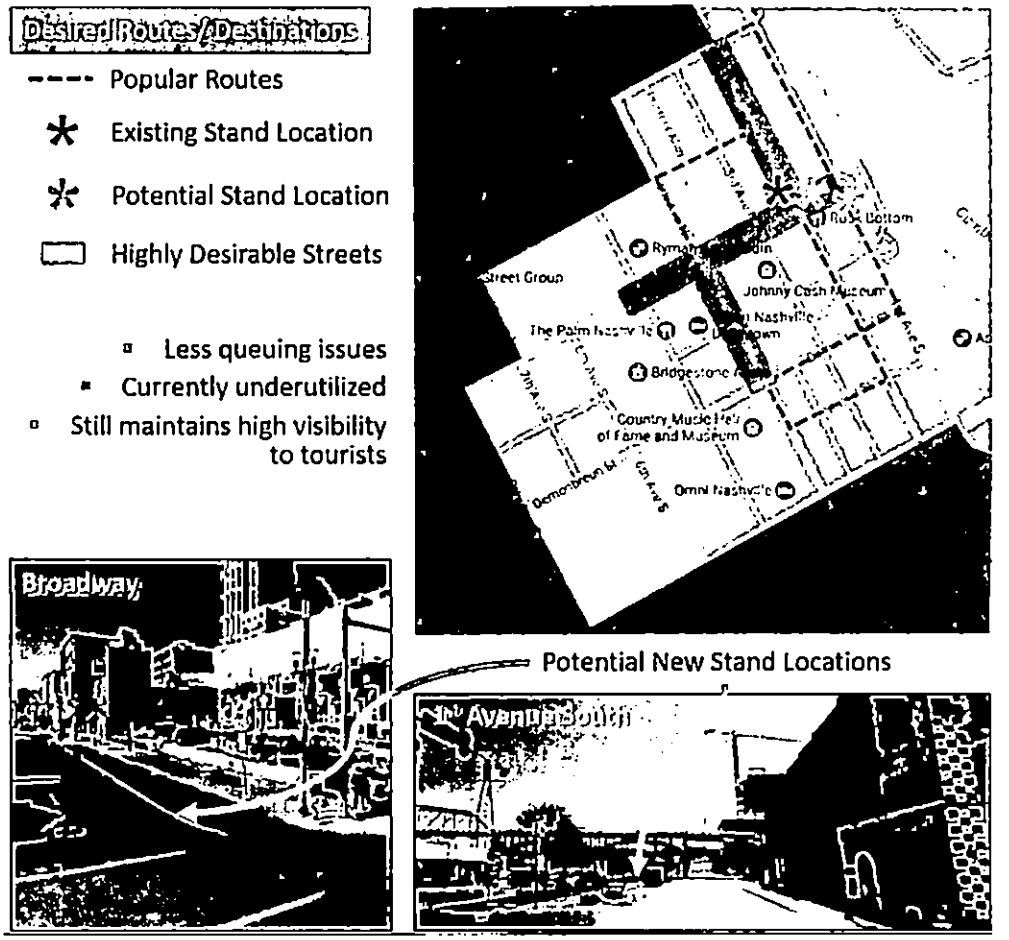


Figure 8 Existing and Potential Horse Carriage Stand Locations

- Number of Carriages in Operation: Limiting the number of horse carriages in operation, whether on the streets at one time or by stand location, could improve operations and safety at carriage stands. At times, the current stand cannot adequately accommodate the carriage demand. The first-in, first-out queuing model can, especially when demand is high, negatively impact operations and safety for all transportation users. This is especially true at the current stand location on 2nd Avenue North, where horse carriage movements have operational and safety impacts on the Broadway/2nd Avenue South intersection. Therefore, providing a carriage limit for stands (or for those operating on roadways at one time) would help to reduce these conflicts.
- Noise Restriction: No ordinance currently exists that regulates noise levels. While typically not associated with noisy operations, application of a noise restriction is possible for this vehicle type to maintain consistency between all types of slow moving vehicles.
- Recommended Routes: Revised carriage routes are recommended in order to lessen the impacts on traffic flow. Figure 9 illustrates the potential routes designated for horse carriage operations within Nashville's downtown core. A full-size map is provided in Appendix E.

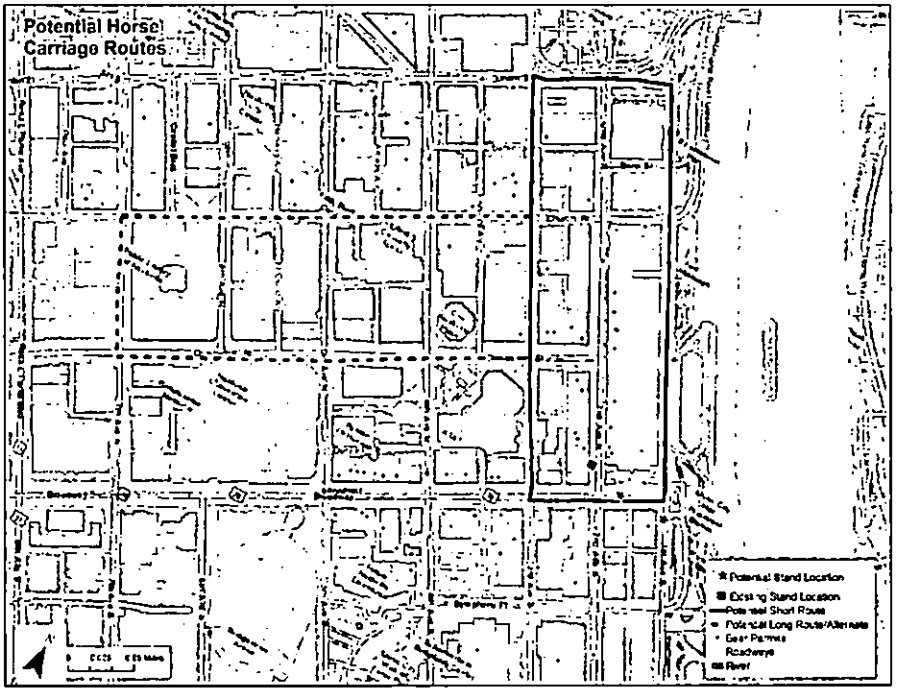


Figure 9 Potential Horse Carriage Routes in Downtown Nashville's Core

- Additional Alternate Routes: Downtown Nashville's core, specifically within and adjacent to Lower Broadway, holds many recreational and social events that require roadways to be shut down. Therefore, providing alternate routes for horse carriage operations, as opposed to simply restricting use during these occurrences, would be beneficial for horse carriage companies. Due to slope concerns on the northern and western side of Downtown and a desire to keep horse carriages north of Broadway to minimize traffic impacts, alternate routes (illustrated in Figure 10) are identified that maintain a high degree of exposure to tourists, while providing a route that is both visually appealing and relevant to tourism destinations in the city. Coordination with special

events at Nissan Stadium, First Tennessee Park, and Bicentennial Capitol Mall State Park events would be required.

Regardless of special events in and around the Lower Broadway area, these routes could be made available on Friday evenings, Saturdays, and Sundays (when games/large events are not being held at First Tennessee Park and Nissan Stadium). These routes offer a low traffic volume environment (during off-peak times) for these carriages to operate, while offering their own unique riding experience of the city.

- Maintain Existing Permit Levels: It is recommended that the number of permits currently allocated to horse carriages (17) be maintained and not expanded.

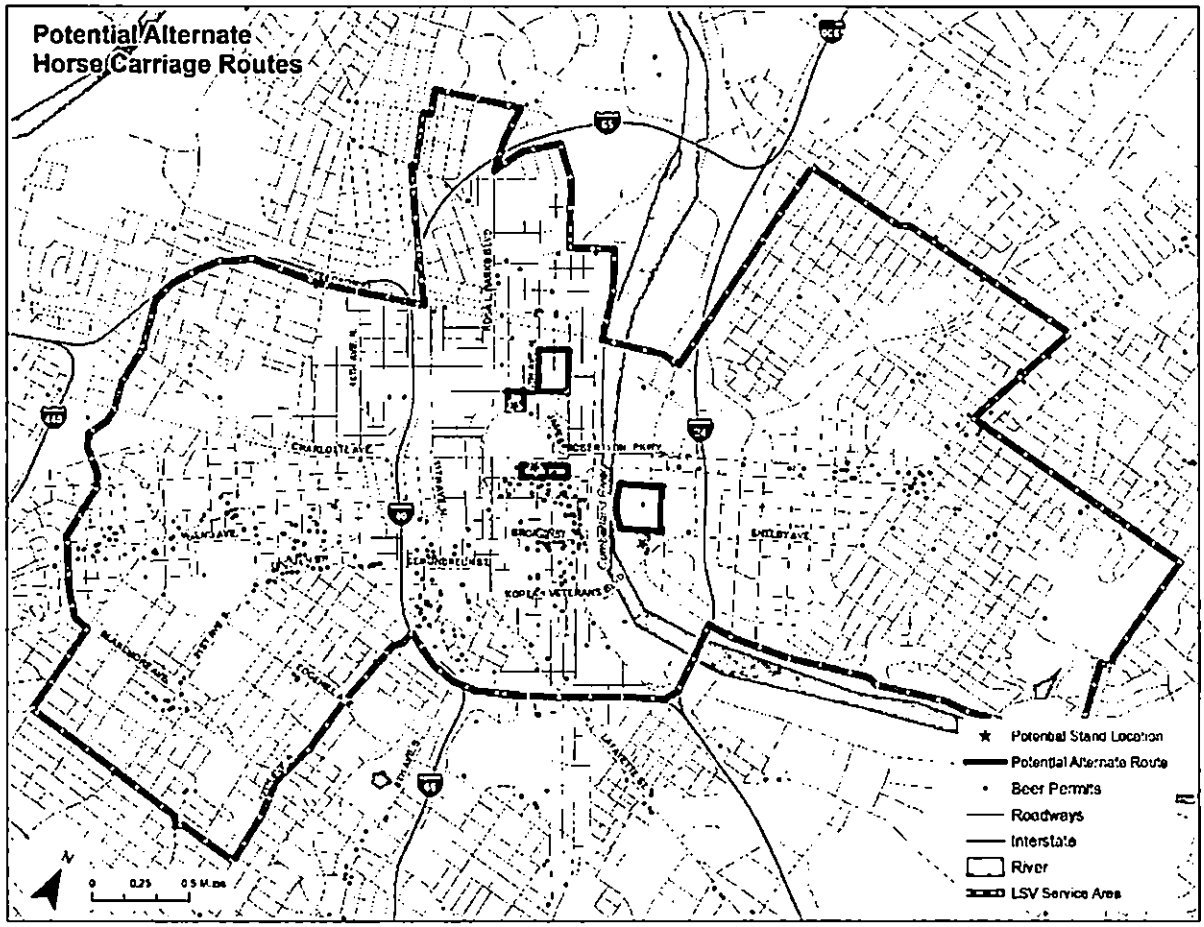


Figure 10 Potential Alternate Horse Carriage Routes

LSVs

Planning considerations for LSV routes include desirable destinations for both tourists and residents alike, traffic volumes, and posted roadway speeds. Recommendations for these vehicle types include:

- LSV Equipment: As previously described, the NHTSA has established Federal Motor Vehicle Safety Standard No 500 (49 CFR 571.500) to address the operation of LSVs on public streets. In terms of vehicle equipment, this standard states the following:

  "Each low-speed vehicle shall be equipped with:
  (1) Headlamps
  (2) Front and rear turn signal lamps
  (3) Tail lamps
  (4) Stop lamps
  (5) Reflex reflectors: one red on each side as far to the rear as practicable, and one red on the rear
  (6) An exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror
  (7) A parking brake
  (8) A windshield that conforms to the Federal motor vehicle safety standard on glazing materials (49 CFR 571.205)
  (9) A VIN that conforms to the requirements of part 565 Vehicle Identification Number of this chapter, and
  (10) A Type 1 or Type 2 seat belt assembly conforming to Sec. 571.209 of this part, Federal Motor Vehicle Safety Standard No. 209, Seat belt assemblies, installed at each designated seating position."

  It is recommended that all LSVs operating within Metro Nashville conform to these vehicle equipment standards.

- Enforce Alcohol Restrictions for Passengers: Current LSV regulations specify that "a certificate holder or LSV driver violates [the ordinance] if he or she provides, stocks, or otherwise permits any alcoholic beverage in the LSV". Several observations were made of LSV passengers drinking alcoholic beverages.
- Restrict Operations: Either reaffirm roadways that are currently prohibited (based on speed, volume, etc.) in the LSV Service Area or restrict operations to specified routes. Operations could further be restricted by prohibiting tours and only allowing point-to-point transportation. Potential routes, if LSVs are to be restricted to specific roadways, are illustrated in Figure 11. A full-size version may be found in Appendix G. These routes were developed giving greater considerations for roadway characteristics, including traffic volumes, posted speeds, and the number of travel lanes, while ensuring key destinations and/or neighborhoods are able to be served. These key destinations and neighborhoods include 5 Points in East Nashville, Downtown, Midtown and the Gulch, the Vanderbilt and Belmont University districts, Hillsboro Village, Germantown, Marathon Village, and the Fisk University campus.

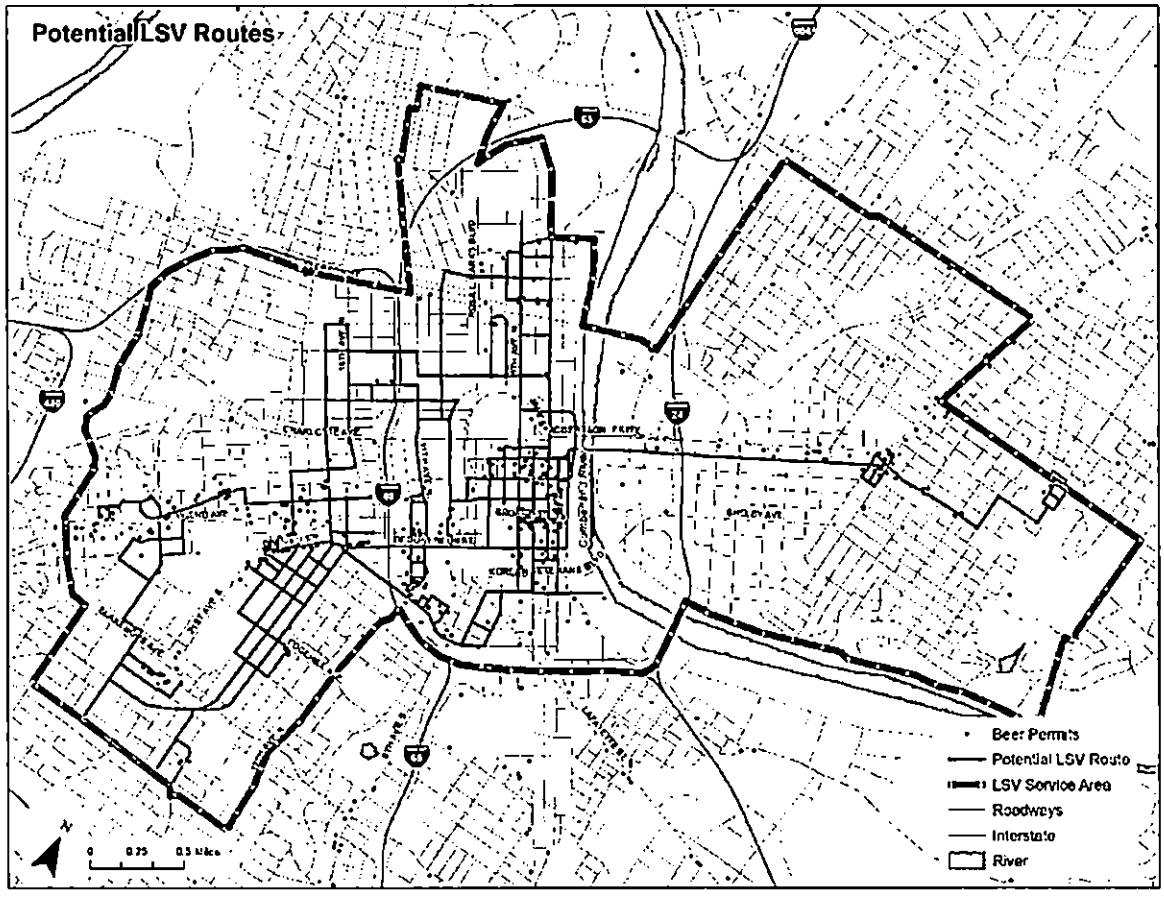


Figure 11 Potential LSV Routes

Along with route designation, Metro could consider providing a one-block "buffer" around identified routes to be used when roadways are closed for construction, special events, or other activities that may require a detour from the restricted route network. This would not, however, allow LSVs to use roadways within the Service Area that are prohibited based on posted speed limits or high traffic volumes, such as West End Avenue, Charlotte Avenue, or James Robertson Parkway.

- Prohibit Restrictions of Traffic Flow: There are already Metro Code provisions for restricting traffic flow when loading and unloading; however, ordinance language could be expanded to specify no stopping on tour routes, if touring is allowed.
- Monitor and/or Enforce Operations: Requiring GPS units on LSVs could potentially act as an important tool in monitoring the operations of these vehicles, including enforcement as well as better understanding where, when, and how these vehicles are operating.
- Education and Enforcement of Parking and Passenger Loading and Unloading: Based on observations, education for LSV operators and/or enforcement regarding the parking of their vehicles, as well as the loading and unloading of passengers could be beneficial. Existing loading zones are classified into two types for either passenger or freight loading and unloading. As stated in the Passenger Curb Loading Zone regulations, if in a passenger loading zone, the loading and

unloading of passengers must transpire in three minutes or less. Freight loading zones are designated for the "unloading and delivery or pickup and loading of freight and merchandise" only. LSVs were observed to be in violation of these time and use restrictions. Furthermore, education and enforcement could be helpful in regards to ride solicitation activities, as these should not impede traffic flow or impact legal parking capabilities in on-street parking spots.

- Noise Restriction: A restriction on noise levels, similar to those for pedal carriages, should be considered for LSVs. Some LSVs play music loudly through speakers, while others speak through a microphone to engage passengers and/or give touring information.
- Maintain Existing Permit Levels: It is recommended that the number of vehicle permits currently allocated to LSVs (56) be maintained and not expanded.

Pedicabs

Planning considerations for pedal carriage routes include desirable destinations, roadway grades, and areas to load and unload passengers. Recommendations for these vehicle types include:

- Consider Requiring Motor-Assist Capabilities: While many cities require pedicabs to be unassisted only, some do allow for pedicabs equipped with electric assist motors. Minneapolis, specifically, allows for these capabilities given the hilly terrain of the city. Requiring motor-assist capabilities should be further explored as it would assist pedicabs in reaching traveling speed more quickly from a stopped position as well as when traveling up hilly terrain.
- Noise Restrictions: Consider adding a noise provision for pedicabs.
- Alcohol Provisions: Consider expanding ordinance language to mirror that of the LSVs. The ordinance currently prohibits operators from "providing or stocking any alcoholic beverage", while for LSVs, operators are in violation if the operator "provides, stocks, or otherwise permits any alcoholic beverage in the LSV".
- Maintain Existing Permit Levels: It is recommended that the number of permits currently allocated to Pedicabs (23) be maintained and not expanded.

Pedal Carriages

Planning considerations for pedal carriage routes include desirable destinations, roadway grades, and areas to load and unload passengers. Recommendations for these vehicle types include:

- Consider Requiring Motor-Assist Capabilities: Pedal carriages equipped with motor-assist have much faster top travel speeds (approximately 25 mph for some). As indicated in the original SMV Traffic Study, pedal carriages have a very slow travel speed through intersections, especially when starting from a complete stop. Motor-assist capabilities could assist vehicles in reaching higher speeds while passengers still pedal.
- Enforcement of Noise Restrictions: Current pedal carriage regulation states that "no music or amplified sound shall be played, nor yelling or conversation be conducted, on a pedal carriage in such a manner that it would violate the Excessive Noise ordinance codified at Metropolitan Code of Laws Section 11.12.070." Many pedal carriages, however, were observed playing loud music with some carrying raucous, loud passengers and/or groups of passengers.

- Restrict Routes: It is recommended that pedal carriages be limited to specific routes, similar to LSVs, based on traffic volumes, posted speeds, and the number of travel lanes. Recommended routes are illustrated in Figure 12. It is proposed that these vehicle types be allowed to request additional routes with the TLC. A full-size map is provided in Appendix H.
- Maintain Existing Permit Levels: It is recommended that the number of permits currently allocated to pedal carriages (19) be maintained and not expanded.

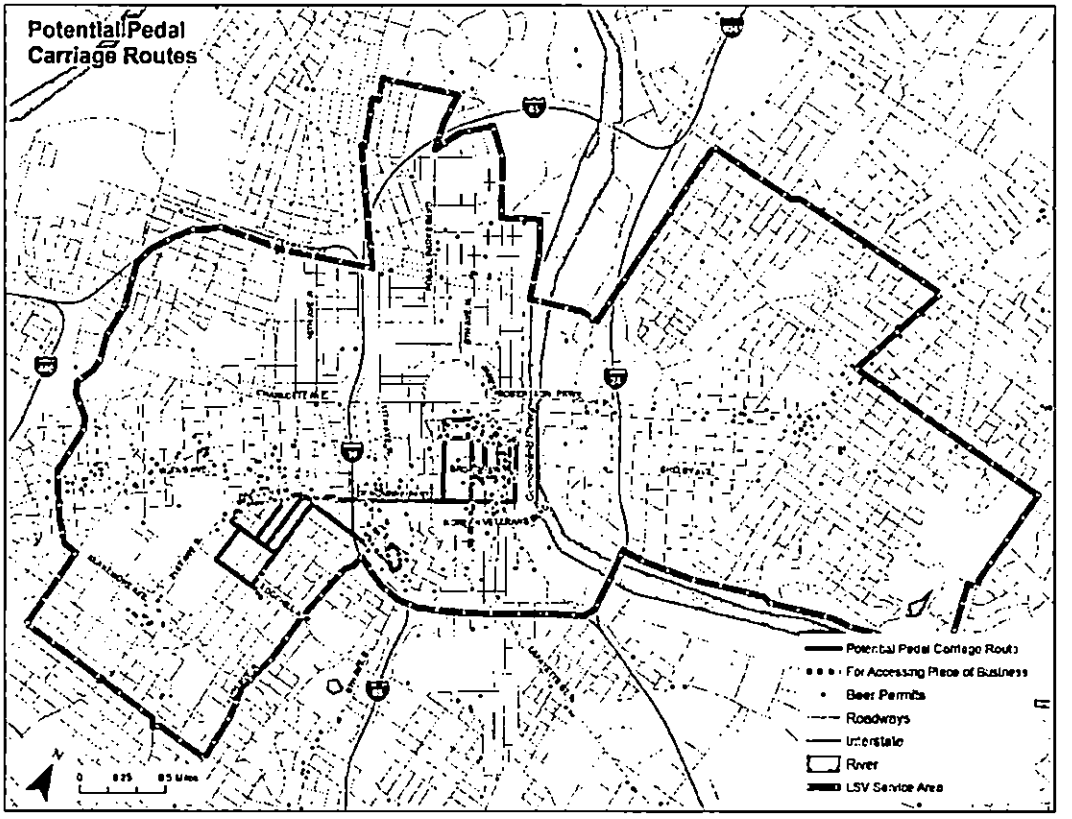


Figure 12 Potential Pedal Carriage Routes

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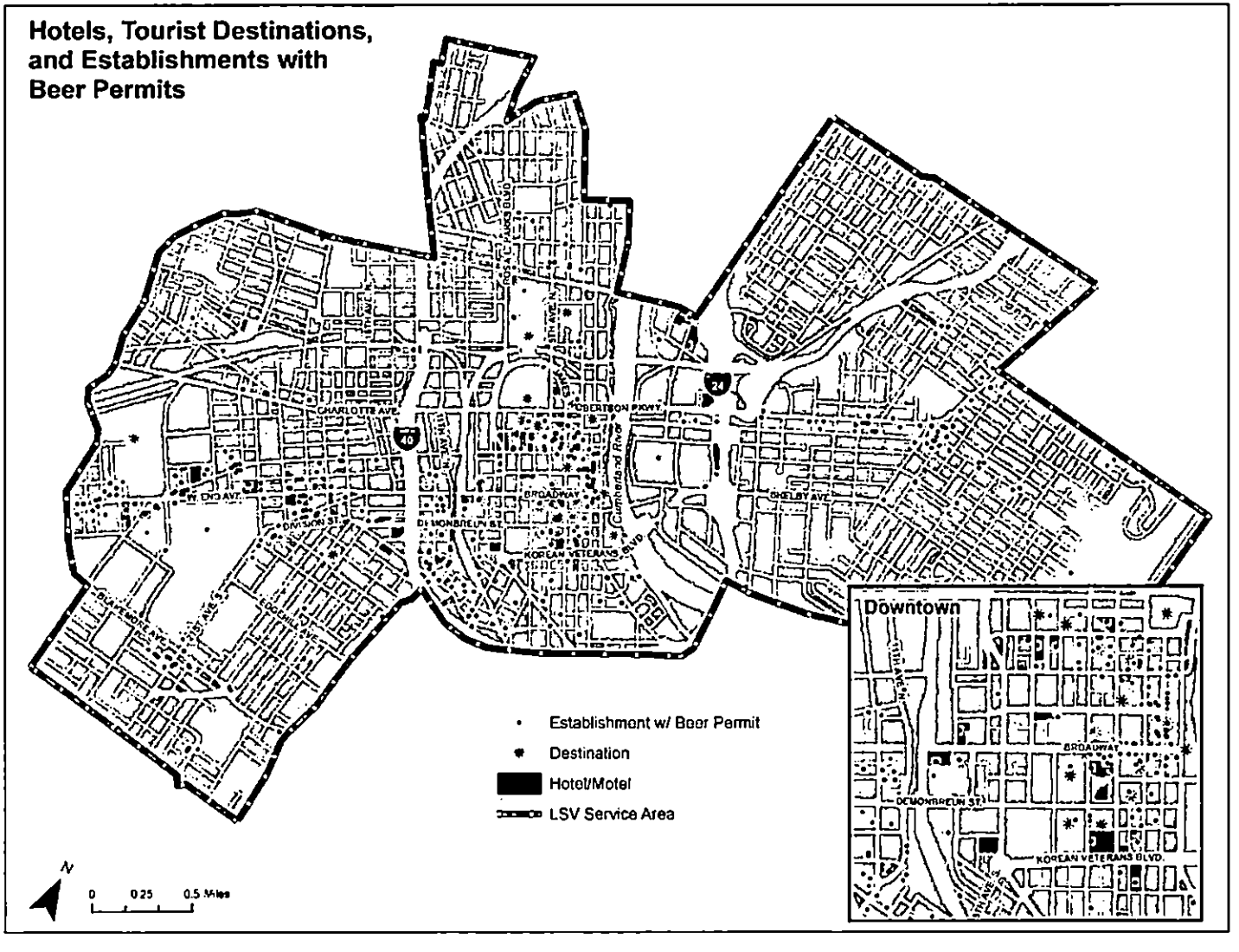
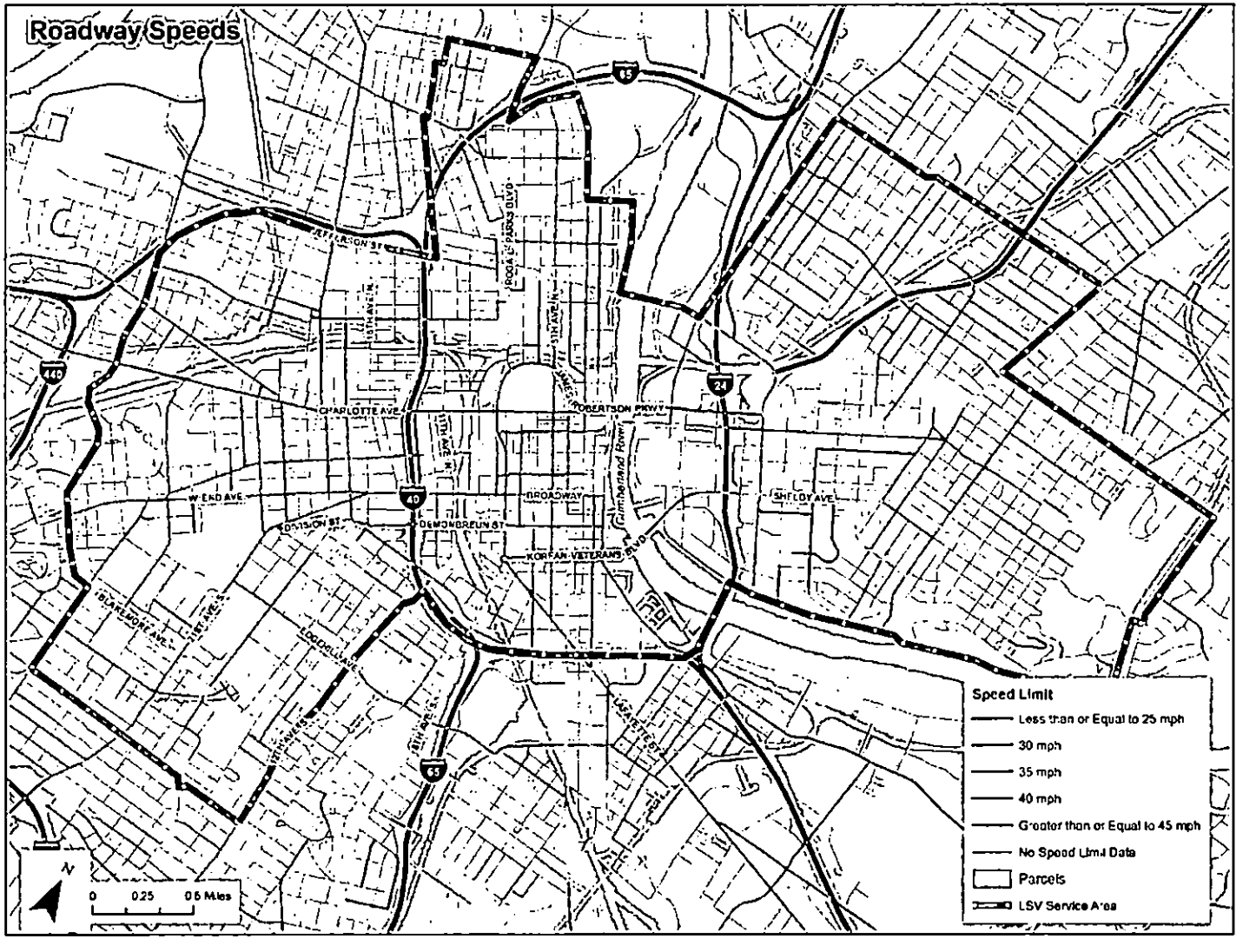
Appendix A

Hotels, Tourist Destinations, and Establishments with Beer Permits


Hotels, Tourist Destinations, and Establishments with Beer Permits
Establishment w/ Beer Permit
Destination
Hotel/Motel
LSV Service Area
Downtown
N
0
0.25
0.5 Miles

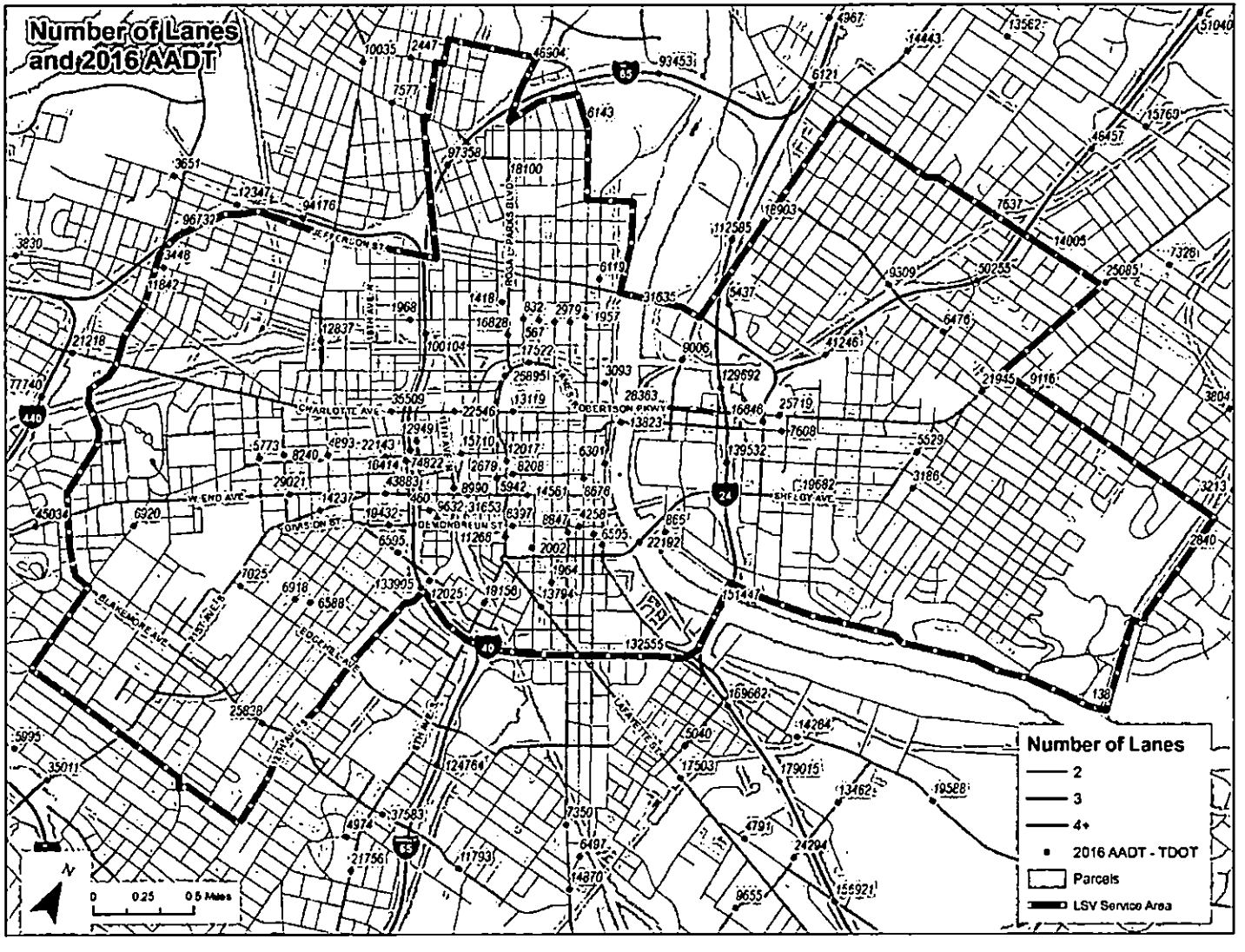
Appendix B

Posted Speed Limits


Roadway Speeds
Speed Limit
Less than or Equal to 25 mph
30 mph
35 mph
40 mph
Greater than or Equal to 45 mph
No Speed Limit Data
Parcels
LSV Service Area
0 0.25 0.5 Miles
N
CHARLOTTE AVE
ROBERTSON PKWY
BROADWAY
KOREAN VETERANS BLVD
DEMONBREUN ST
W END AVE
SHELBY AVE

Appendix C

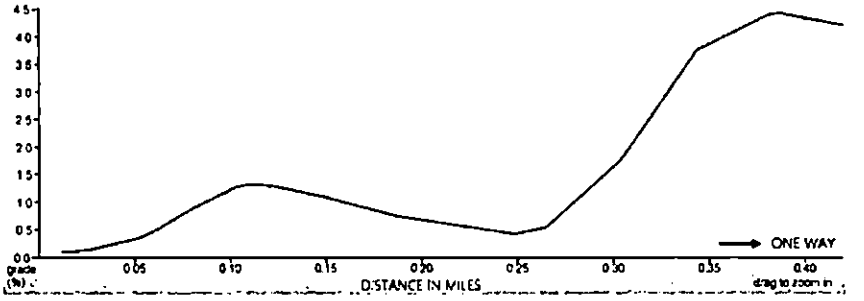
Number of Lanes and AADT


Number of Lanes and 2016 AADT
Number of Lanes
2
3
4+
2016 AADT - TDOT
Parcels
LSV Service Area
N
0 0.25 0.5 Miles

Appendix D

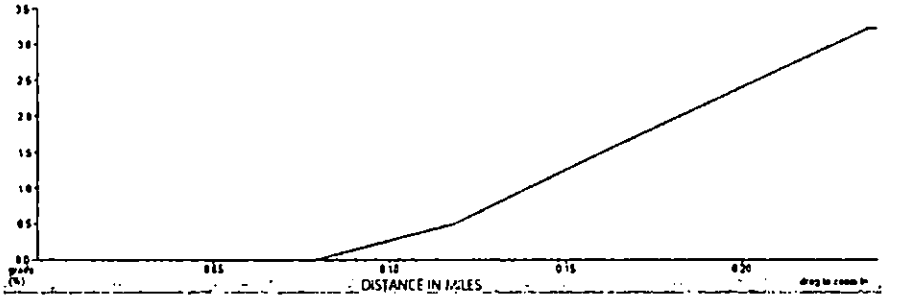
Roadway Grades

UNION: 1ST → 7TH



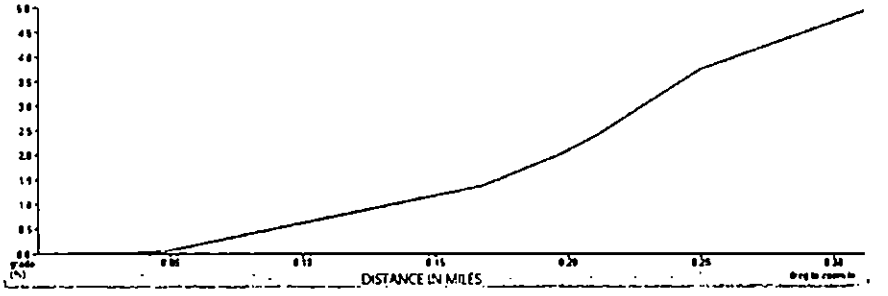
Distance:	0.4 mi
Elevation:	+ 47 / - 0 ft
Max Grade	4.4 %
Avg. Grade	1.4 %

DEADERICK: 3RD → 6TH



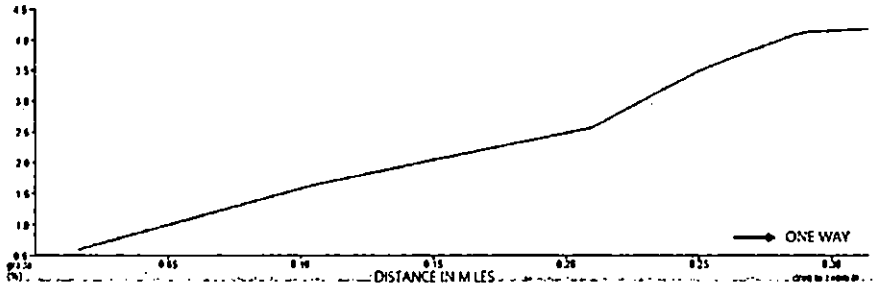
Distance:	0.2 mi
Elevation:	+ 28 / - 0 ft
Max Grade	3.2 %
Avg. Grade	1.9 %

1ST: BROADWAY → UNION AVE



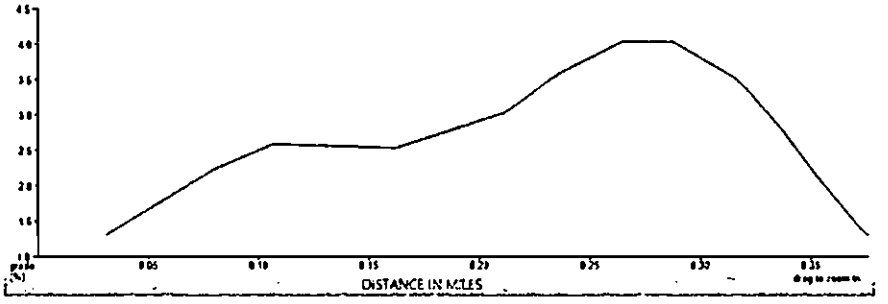
Distance:	0.3 mi
Elevation:	+ 60 / - 0 ft
Max Grade	4.9 %
Avg. Grade	3.0 %

2ND: BROADWAY → UNION AVE



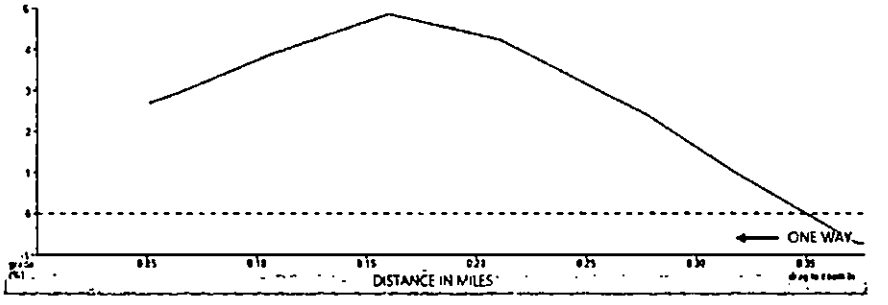
Distance:	0.3 mi
Elevation:	+ 55 / - 0 ft
Max Grade	4.2 %
Avg. Grade	4.4 %

3RD: BROADWAY → DEADERICK AVE



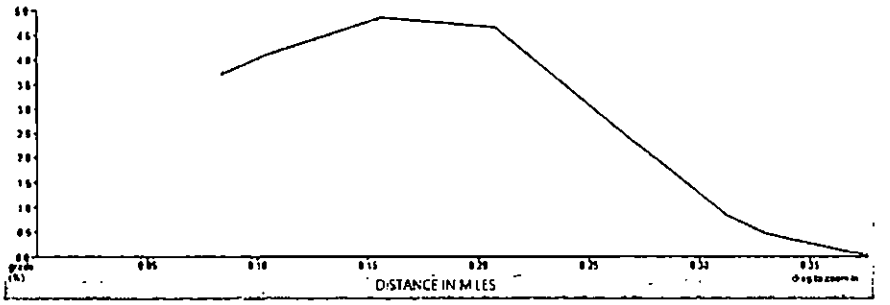
Distance:	0.4 mi
Elevation:	+ 56 / - 3 ft
Max Grade	4.0 %
Avg. Grade	2.4 %

4TH: BROADWAY → DEADERICK AVE



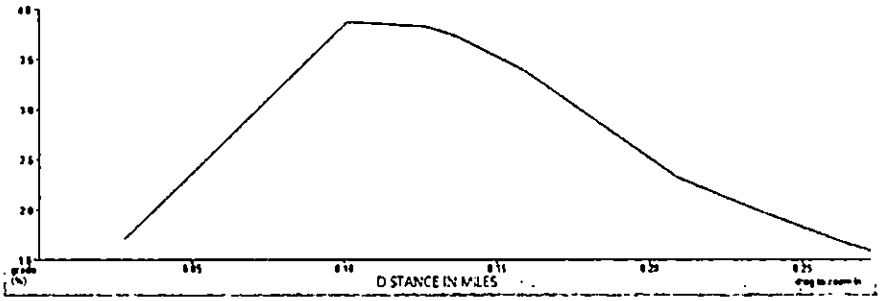
Distance:	0.4 mi
Elevation:	+ 53 / - 11 ft
Max Grade	4.9 %
Avg. Grade	1.7 %

5TH: BROADWAY → DEADERICK AVE



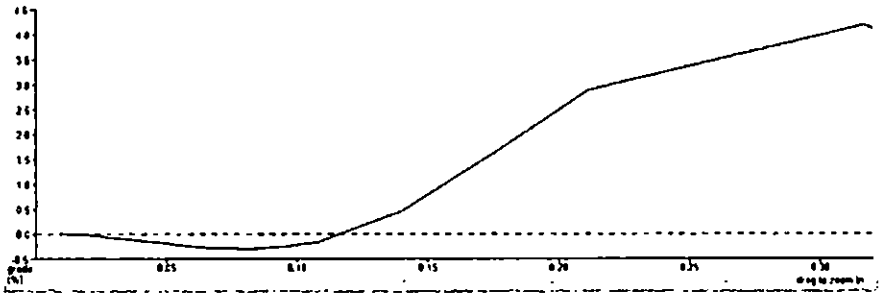
Distance:	0.4 mi
Elevation:	+ 53 / - 8 ft
Max Grade	4.9 %
Avg. Grade	1.2 %

6TH: COMMERCE → DEADERICK AVE



Distance:	0.3 mi
Elevation:	+ 37 / - 0 ft
Max Grade	3.9 %
Avg. Grade	2.0 %

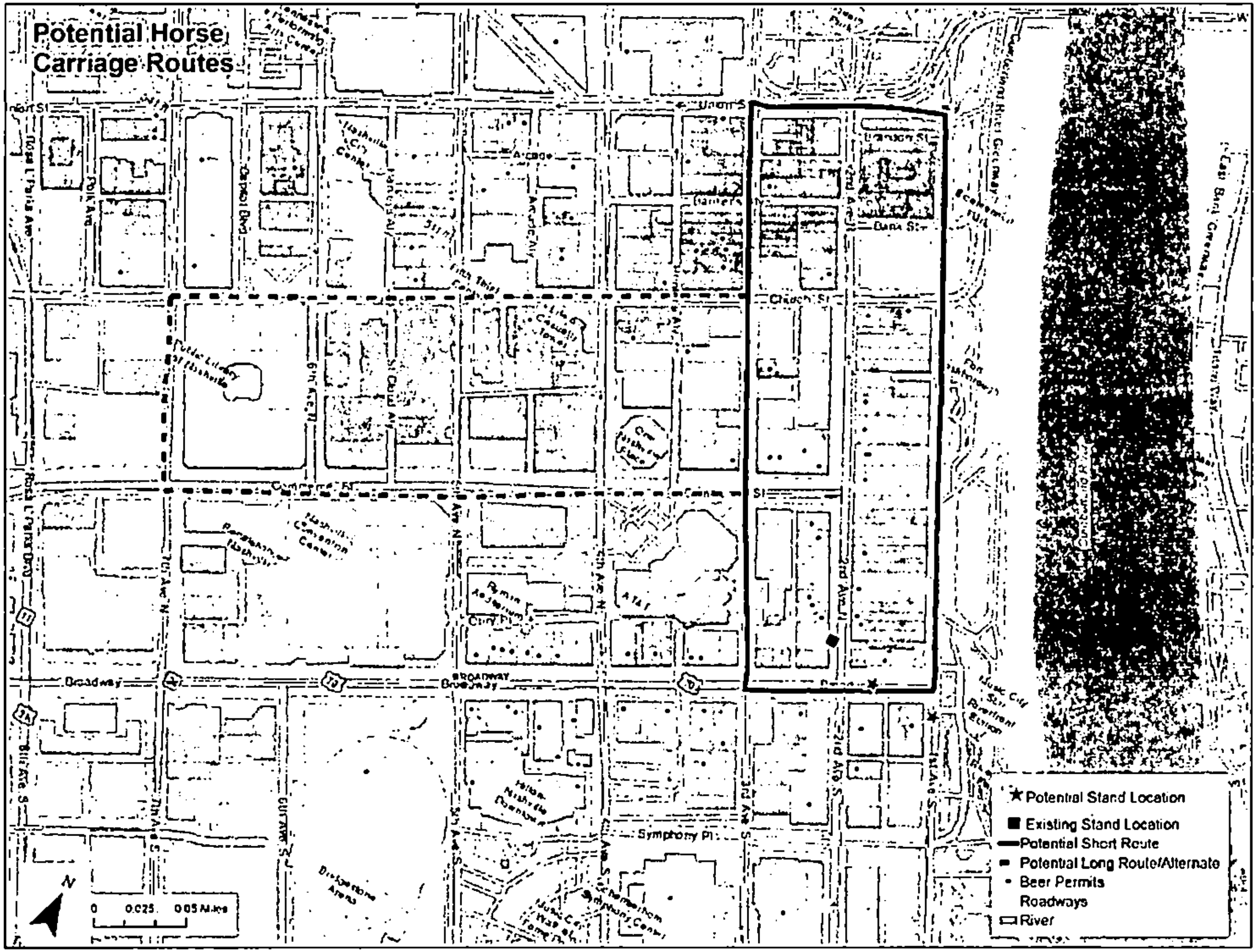
7TH: BROADWAY → UNION AVE



Distance:	0.3 mi
Elevation:	+ 42 / - 2 ft
Max Grade	4.2 %
Avg. Grade	0.8 %

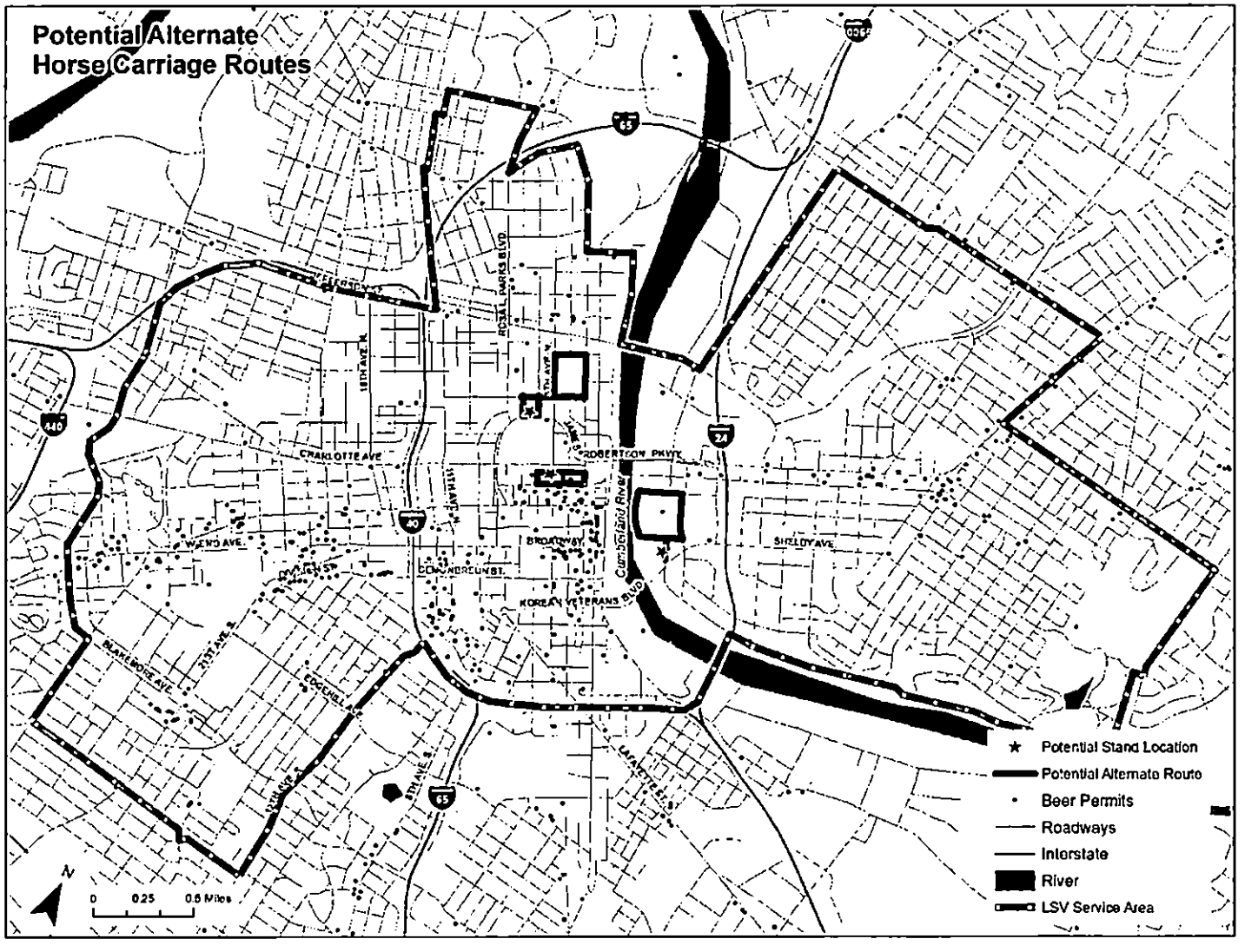
Appendix E

Potential Horse Carriage Routes in Downtown Nashville's Core


Potential Horse Carriage Routes
Union St
Church St
Commerce St
Broadway
Symphony Pl
2nd Ave N
3rd Ave S
2nd Ave S
1st Ave S
Bank St
Potential Stand Location
Existing Stand Location
Potential Short Route
Potential Long Route/Alternate
Beer Permits
Roadways
River
0 0.025 0.05 Miles
N

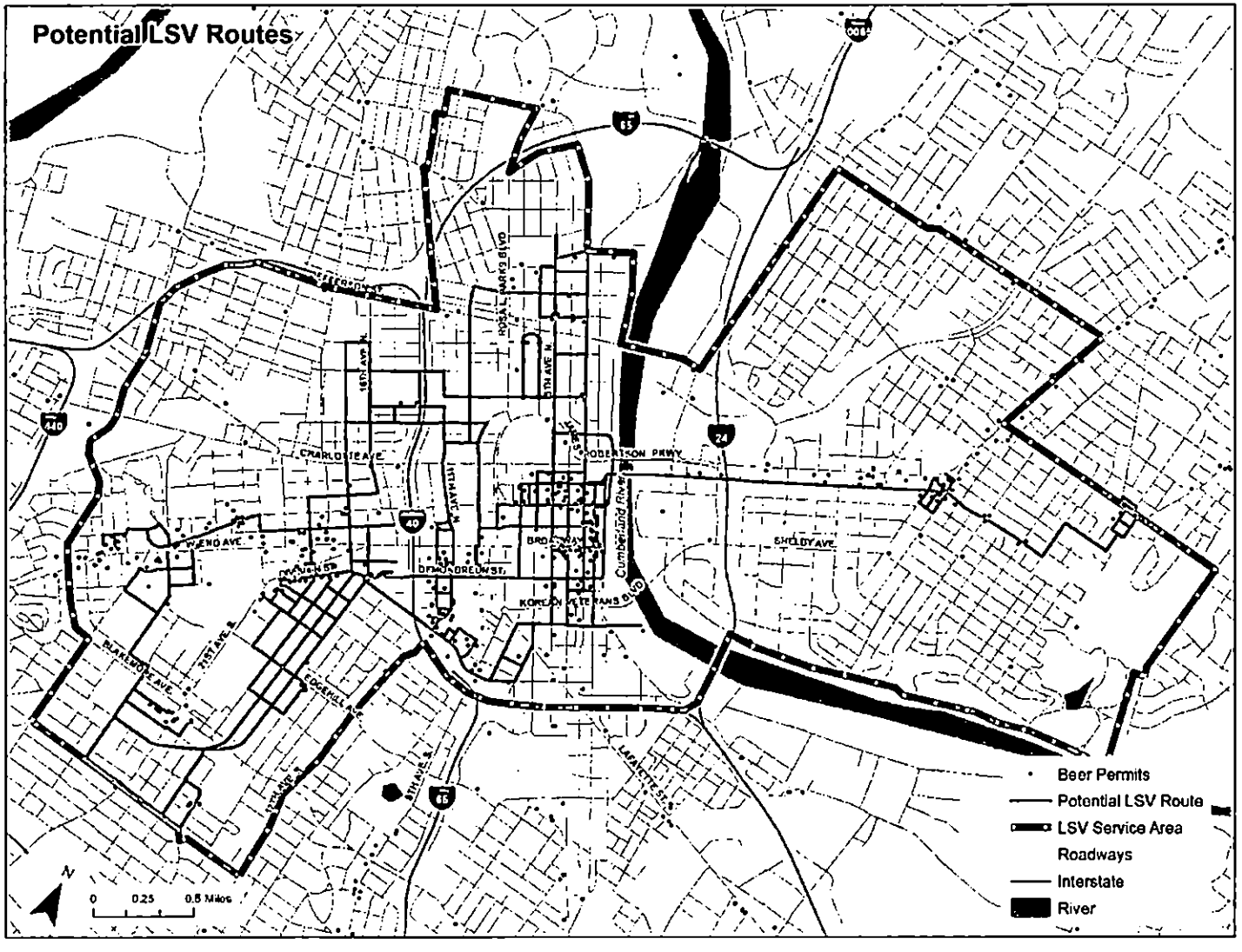
Appendix F

Potential Alternate Horse Carriage Routes


Potential Alternate
Horse Carriage Routes
Potential Stand Location
Potential Alternate Route
Beer Permits
Roadways
Interstate
River
LSV Service Area
N
0
0.25
0.5 Miles

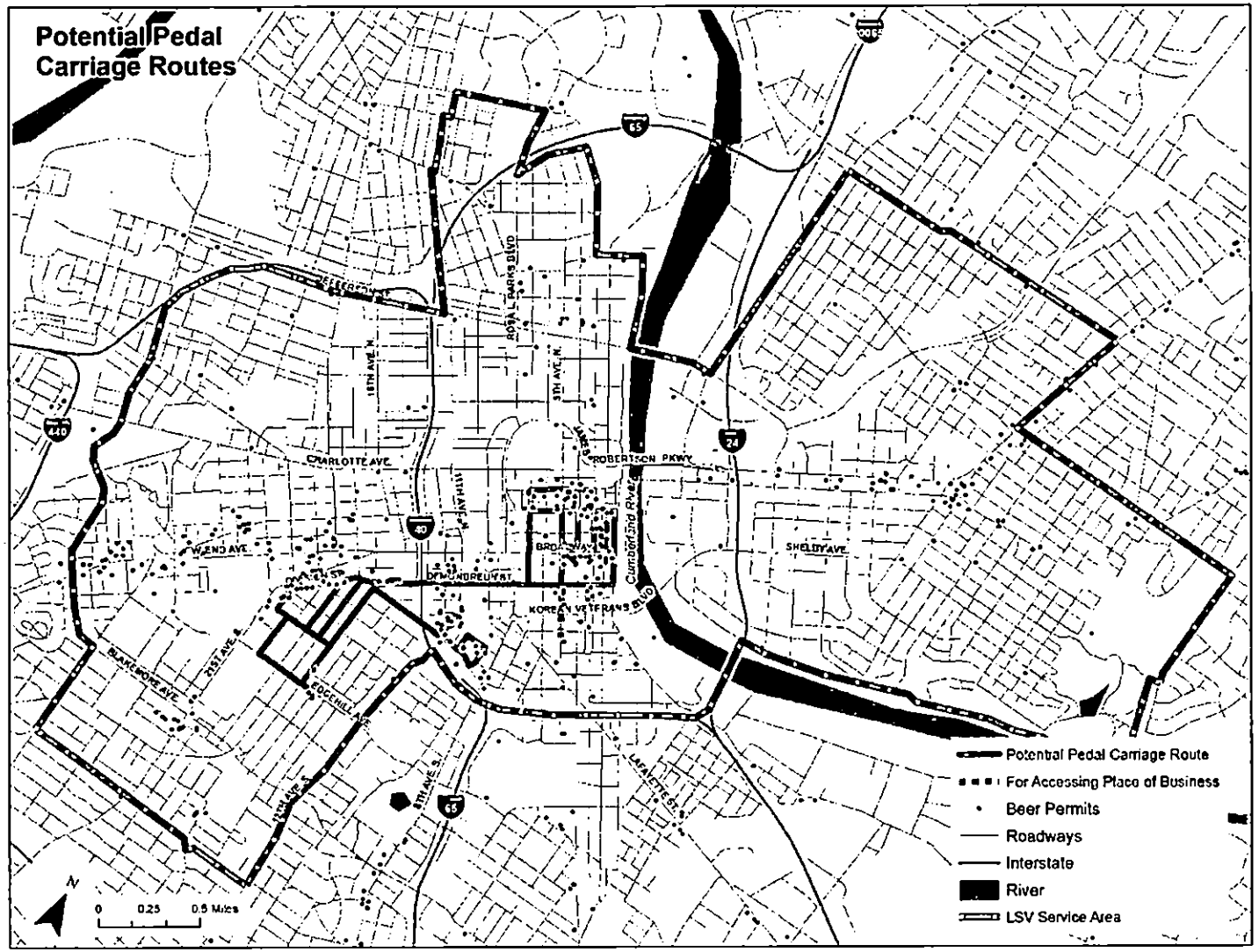
Appendix G

Potential LSV Routes


Potential LSV Routes
Beer Permits
Potential LSV Route
LSV Service Area
Roadways
Interstate
River
0 0.25 0.5 Miles
N

Appendix H

Potential Pedal Carriage Routes


Potential Pedal Carriage Routes
CHARLOTTE AVE
ROBERTSON PKWY
BROADWAY
KOREA VETERANS BLVD
SHELBY AVE
W END AVE
BLAKEMORE AVE
EDGEHILL AVE
LAFAYETTE ST
Cumberland River
0 0.25 0.5 Miles
Potential Pedal Carriage Route
For Accessing Place of Business
Beer Permits
Roadways
Interstate
River
LSV Service Area

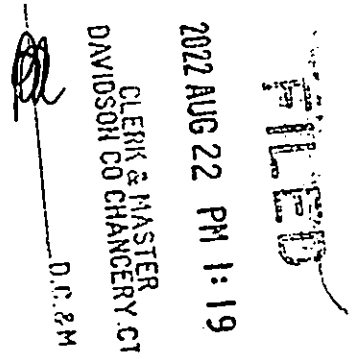
Giny Farmer

From:	Gil Schuette
Sent:	Monday, August 22, 2022 12:15 PM
To:	Billy.fields@nashville.gov; wally.dietz@nashville.gov
Cc:	Giny Farmer
Subject:	Honky Ton Party Express, LLC v. Metro - Temporary Restraining Order - Rule 65.03 Certification and Notice of Filing Writs of Certiorari and Supersedeas
Attachments:	Complaint.pdf; Motion for TRO.pdf; Memo ISO TRO.pdf; Proposed TRO.pdf; Petition for Writ.pdf; Write of Certiorari.pdf; Writ of Supersedeas.pdf

Wally/Billy,

As you know, Scott Sims and I represent Honky Tonk Party Express, LLC. Attached are the documents we intend to file today in the above-referenced matter including a motion for a temporary restraining order and writs for certiorari and supersedeas. Please feel free to contact me if you have any questions, my direct dial is 615-209-9888.

Best,
Gil



SIMS FUNK

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