

PLANNING COMMISSION MINUTES
January 21, 2016

PUBLIC HEARING

CASE NO. 15ZONE1017

Case No: 15ZONE1017
Request: Change in zoning from R-4 to C-2 on 2.5 acres with
Variances, Parking Waiver, Land Development Code Waiver
and Detailed District Development Plan
Project Name: Gordon Motor Sports
Location: Hurstbourne Parkway
Owner: Vandebrook Properties, LLC
5801 Bardstown Road
Louisville, Ky. 40291
Applicant: Vandebrook Properties, LLC
5801 Bardstown Road
Louisville, Ky. 40291
Representative: Glenn Price
Frost Brown Todd
400 West Market Street, 32nd floor
Louisville, Ky. 40202
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Case Manager: Christopher Brown, Planner II

NOTE: COMMISSIONER BROWN LEFT AT THE BEGINNING OF THIS CASE

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:

00:44:12 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

PLANNING COMMISSION MINUTES
January 21, 2016

PUBLIC HEARING

CASE NO. 15ZONE1017

Glenn Price, Frost Brown Todd, 400 West Market Street, Louisville, Ky. 40202
Kevin Young, Land Design and Development, 503 Washburn Avenue, Louisville, Ky.
40222
Michael Gordon, 5801 Bardstown Road, Louisville, Ky. 40291

Summary of testimony of those in favor:

00:59:50 Mr. Price stated that the applicant wishes to operate a prestigious automobile dealership as well as maintain a residence on the property. The use will be low intensity as there won't be many customers on site. Also, the applicant is aware of the buffering, screening and lighting issues.

01:06:22 Mr. Young stated that the setback will be 65-70 feet to protect the neighbors to the east.

Mr. Young handed out (to Commissioners) a response letter to the neighbor's concerns. There will be a self-imposed 15 foot for a total of 40 foot landscape buffer area. Also, the cars will not be serviced on site, all lighting will be bollard style, a privacy fence will be provided, a self-imposed 25 foot non-disturb area and trees on the tree line will be preserved.

01:13:13 Mr. Price read the following additional binding element into the record: The following uses shall not be permitted onsite without a duly noticed public hearing and approval by the planning commission: auction sales, automobile repair garages, billiard parlors and game rooms, bingo halls and parlors, boat sales, book binding, cleaning, pressing and drying establishments, dance halls, fraternities and sororities, exposition building or center, flea market, indoor paint ball ranges, laser tag, tattoo, body art and piercing parlors, package liquor stores, restaurants where dancing or entertainment is allowed, rubber stamp manufacture, skating rinks, taverns, bars and saloons, theaters, automobile service stations, car washes, boarding and lodging houses, and tourist homes.

The following spoke neither for nor against the request:

Sherry Archer, 4912 Clarmar Road, Louisville, Ky. 40299

Summary of testimony of those neither for nor against:

01:15:40 Ms. Archer stated she wants to make sure the applicant does what he says he's going to do, not just rezone and flip it to make a profit.

Rebuttal:

PLANNING COMMISSION MINUTES
January 21, 2016

PUBLIC HEARING

CASE NO. 15ZONE1017

01:17:55 Mr. Gordon said if he can't get the zoning changed, he will sell it otherwise, he wants to live there.

Mr. Gordon stated he's willing to invest because of the growth in that area.

Deliberation

01:24:30 Commissioner Tomes said the property is not viable for R-4 so the request is appropriate. Commissioner White stated that the staff report was very clear and precise. Also, likes the fact that the proposed house will also be a buffer. Chairman Blake remarked that the proposal is a good fit for the neighborhood. Also, there are 3 additional binding elements proposed by the applicant – lighting, 15 ft. LBA and uses.

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

Zoning Change from R-4 to C-2

On a motion by Commissioner White, seconded by Commissioner Jarboe, the following resolution was adopted.

WHEREAS, The Planning commission finds that the proposal conforms to KRS 100.213 because it is in agreement with Comprehensive Plan for Louisville and Jefferson County, Kentucky as detailed in these findings of fact; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Community Form Guideline 1 and all applicable Policies adopted thereunder, including Policy 3 because the site lies within the Neighborhood Form District and is compliant therewith; because the proposed automobile dealership use is a low intensity use having little traffic, and is at a scale which is appropriate for nearby neighborhoods; because the proposal is not a neighborhood "center" even though located with frontage on South Hurstbourne Parkway, an arterial roadway; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Centers Guideline 2 and all applicable Policies adopted thereunder, including Policies 2, 3, 4, 8 and 15 because alternative transportation modes are encouraged through the provision of sidewalks along the South Hurstbourne Parkway frontage; because the proposed use is an automobile dealership and Centers Guideline 2, Policy 2 recognizes "car dealerships" as businesses which do "not fit well into a compact center" and are

PLANNING COMMISSION MINUTES
January 21, 2016

PUBLIC HEARING

CASE NO. 15ZONE1017

appropriate being located outside a designated activity center; because due to its successful unique business model, this dealership will not cause significant volumes of traffic to and from the site; and because the number of parking spaces on site, a total of nine (9), with two (2) of the nine set aside for the residential unit, and the remaining seven (7) being available for customer and employee parking is appropriate; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 2, 5, 6, 7, 8, 9, 21, 22, 23, 24 and 28 because the proposed dealership has its frontage on South Hurstbourne Parkway with a residential living unit facing the homes along Clarmar Road to the rear; because the proposed building materials will be appropriate for this site; because the proposal will not be a source of odor, air quality emissions, excessive traffic, noise, lighting or visual impacts; because the proposal will conform to all lighting requirements of the Land Development Code; because adequate buffering will be provided all around the site and setbacks will be observed except for one variance has been granted; and because signs will be located and sized pursuant to Land Development Code restrictions; and

WHEREAS, The Planning Commission further findst that the proposal conforms to Natural Areas and Scenic and Historic Resources Guideline 5 and all applicable Policies adopted thereunder, including Policies 5.1, 5.2 and 5.6 and social and Cultural Resources Goal D1 and Objective D1.1 because there are no steep or severe slopes on-site; because on-site soils drain well and are highly permeable; and because no soils on-site are classified as wet soils; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 10, 13 and 16 because the Louisville Department of Public Works has approved the proposal indicating, among other things, that the development provides adequate access for motorists and pedestrians, to, from and through the development; because there is no transit services on this section of Hurstbourne Parkway; because adequate parking is provided for even with the grant of the parking waiver; and because cross access is not provided and would not be appropriate due to the lower intensity zoning classification of surrounding properties on Hurstbourne Parkway; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Bicycle, Pedestrian and Transmit Guideline 9 and all applicable Policies adopted thereunder, including Policies 1, 3 and 4 because sidewalks are proposed along the South Hurstbourne Parkway frontage and internal to the site; because bicycle storage facilities will be located within the building and because South Hurstbourne Parkway is not a transit route; and

PLANNING COMMISSION MINUTES
January 21, 2016

PUBLIC HEARING

CASE NO. 15ZONE1017

WHEREAS, The Planning Commission further finds that the proposal conforms to Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 4, 7, 10 and 11; because the development of the site will minimize the potential for the impacts of flooding, and effectively manages stormwater runoff; because there is no impact to the regulatory floodplain because all structures will be located above the floodplain; because no buildings are proposed to be located within the 100-year FEMA regulatory floodplain; because the Metropolitan Sewer District (MSD) has approved the development plan and all construction plans will be reviewed and approved by MSD prior to construction; because detention facilities (on-site detention basin) will adequately accommodate stormwater from the site, based on a fully developed watershed; because the on-site drainage system will likewise accommodate the “through” drainage system of water flows on-site and off-site; and because peak stormwater runoff rates post-development will not exceed pre-development rates; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 1, 2, 6 and 8 because the Louisville Air Pollution Control District has approved the proposal which indicates, among other things, that the proposal conforms to Air Quality Guideline 12 and related Policies; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 1, 2, 4, 5 and 6 because landscaping will be provided as shown on the development plan; because native plant species will be installed; because planting and buffering plans, wherever required, will be implemented; and because an adequate tree canopy will be provided for the Subject Site; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 2, 3, 4, 6 and 14.7 because the proposal has adequate service for all necessary utilities; because a common utility corridor exists in the development that includes gas, electric, water, telephone, cable and telecommunications; because an adequate water supply for domestic and fire-fighting purposes will serve the site; and because utilities will be located underground and will be situated where recommended by each utility for appropriate maintenance and repair access; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 15.9 because adequate fire fighting services will be provided by the Jeffersontown Fire Protection District; and

PLANNING COMMISSION MINUTES
January 21, 2016

PUBLIC HEARING

CASE NO. 15ZONE1017

WHEREAS, The Planning Commission further finds that the proposal conforms to all other applicable Goals, Objectives, Guidelines and Policies of the Comprehensive Plan; and

WHEREAS, The Planning Commission further finds that all necessary utilities, including gas, electric, water, telephone, cable and telecommunications, either presently exist on-site or will be constructed and all essential public services, including sidewalks will be constructed to serve the site; and

WHEREAS, The Planning Commission further finds that implementation of proposed uses is anticipated to begin within twelve (12) months of final approval.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 15ZONE1017, change in zoning from R-4 to C-2 based on the staff report, the applicant's justification, the testimony heard today and the applicant's finding of facts.

The vote was as follows:

YES: Commissioners Blake, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioner Peterson

ABSTAINING: Commissioner Brown

Variance

On a motion by Commissioner White, seconded by Commissioner Jarboe, the following resolution was adopted.

WHEREAS, The requested variance will not adversely affect the public health, safety or welfare since safe pedestrian access is provided from the public rights-of-way to the building entrance; and

WHEREAS, The requested variance will not alter the essential character of the general vicinity since there are varying setbacks that exist throughout the Hurstbourne Parkway corridor; and

WHEREAS, The requested variance will not cause a hazard or nuisance to the public since safe pedestrian access is provided from the public rights-of-way to the building entrance and since safe vehicular maneuvering has been provided on the site; and

PLANNING COMMISSION MINUTES
January 21, 2016

PUBLIC HEARING

CASE NO. 15ZONE1017

WHEREAS, The requested variance will not allow an unreasonable circumvention of the zoning regulation since the proposed development allows the residential portion of the structure to be placed in proximity to the adjacent residential uses while providing the non-residential uses on the site nearest Hurstbourne Parkway; and

WHEREAS, The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the proposal is a mixed residential and non-residential proposal. The additional setback being requested allows the outdoor display and circulation associated with the non-residential portion of the use to be located adjacent to Hurstbourne Parkway; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring movement of the building toward Hurstbourne Parkway and interrupting proper vehicular circulation on the site; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the lot existed at its shallow depth with surrounding residential prior to the current ownership.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1017, Variance #1 from chapter 5.3.1.C.5, table 5.3.2 of the Land Development Code to allow the building to exceed the 80 foot maximum front yard setback based on the staff report, the applicant's justification and the testimony heard today.

The vote was as follows:

YES: Commissioners Blake, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioner Peterson

ABSTAINING: Commissioner Brown

Parking Waiver

On a motion by Commissioner White, seconded by Commissioner Jarboe, the following resolution was adopted.

WHEREAS, Guideline 7 Policy 10 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market

PLANNING COMMISSION MINUTES
January 21, 2016

PUBLIC HEARING

CASE NO. 15ZONE1017

area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking. Parking standards should include the minimum and maximum number of spaces required based on the land use and pattern of development in the area. The subject site is located in a suburban area along a major arterial with a mix of uses requiring a lower level amount of parking. There is multi-modal access to the site from the street frontage in addition to the vehicular spaces being provided; therefore, the parking waiver is in compliance with the Comprehensive Plan; and

WHEREAS, The applicant has provided as many parking spaces in front of the structure as possible to afford space for display along the street frontage as well as parking within garage spaces for the second story residential use proposed within the structure; and

WHEREAS, The requested waiver is the smallest possible reduction of parking spaces that would accommodate the proposed use for the automobile sales as well as the residential use on the site and the parking spaces to be provided are located directly adjacent to the office portion of the building; and

WHEREAS, There are sufficient parking spaces on site available to accommodate the parking space demand created by the proposed uses on the subject site. For these reasons, and the reasons stated above, adjacent or nearby properties will not be adversely affected; and

WHEREAS, the Louisville Metro Planning Commission finds, the parking space demand created by the proposed uses on the subject site, the requirements found in table 9.1.2 of the Land Development Code, which mandate the number of parking spaces required to be provided off-street, do not accurately depict the parking needs of the proposed use due to the unique nature of the mixed use being proposed with higher end automobile sales and second story residential. The requested reduction will accommodate the parking demand to be generated by the proposed use; and

WHEREAS, the Louisville Metro Planning Commission further finds there are sufficient parking spaces that will be available on site to meet the demand for the proposed uses. There are no on-street or public spaces in the area that can be used for the site and its related parking demand.

RESOLVED, that the Louisville Metro Planning Commission does hereby
RECOMMEND, to Metro Council, **APPROVAL** of Case No. 15ZONE1017, the parking

PLANNING COMMISSION MINUTES
January 21, 2016

PUBLIC HEARING

CASE NO. 15ZONE1017

waiver to reduce the minimum required amount of parking from 29 spaces to 9 spaces based on the staff report, testimony heard today and the applicant's finding of fact.

The vote was as follows:

YES: Commissioners Blake, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White
NOT PRESENT AND NOT VOTING: Commissioner Peterson
ABSTAINING: Commissioner Brown

Development Plan and Binding Elements

On a motion by Commissioner White, seconded by Commissioner Jarboe, the following resolution was adopted.

WHEREAS, There does 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, Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

WHEREAS, There are no open space requirements with the current proposal; and

WHEREAS, The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Louisville Metro Planning Commission finds, 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. Buildings and parking lots will follow a pattern of varying setbacks along the Hurstbourne Parkway corridor; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code with the exception of the requested relief which meets the standards of review.

PLANNING COMMISSION MINUTES
January 21, 2016

PUBLIC HEARING

CASE NO. 15ZONE1017

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan and the binding elements as presented by the applicant as well as the Wilson, Jonas email as well as the binding elements listed on pages 17 and 18 of the staff report **SUBJECT** to the following Binding Elements:

Proposed 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 17,280 square feet of gross floor area.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be

PLANNING COMMISSION MINUTES
January 21, 2016

PUBLIC HEARING

CASE NO. 15ZONE1017

implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system (audible beyond the property line or permitted on the site).
7. 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.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 21, 2016 Planning Commission public hearing.

Applicant's Proposed Binding Elements

9. Lighting will be directed down and away from the Morning Pointe property consistent with Chapter 4, Part 1 of the Land Development Code. All display lighting, which is located only in the front of Gordon Motor Sports' showroom and will be limited to "bollard" style lighting fixtures, a maximum of 4 feet in height.
10. **Landscape buffer area (LBA) adjacent to Morning Pointe.** The applicant will provide a 15-foot LBA along the property line shared with Morning Pointe. The LBA will be planted at a Category 3 planting density per Table 10.2.4. This 15-foot LBA will provide a joint planted buffer area of 40 feet between the two properties.
11. The following uses shall not be permitted onsite without a duly noticed public hearing and approval by the planning commission: auction sales, automobile repair garages, billiard parlors and game rooms, bingo halls and parlors, boat sales, book binding, cleaning, pressing and drying establishments, dance halls, fraternities and sororities, exposition building or center, flea market, indoor paint ball ranges, laser tag, tattoo, body art and piercing parlors, package liquor stores, restaurants where dancing or entertainment is allowed, rubber stamp

PLANNING COMMISSION MINUTES
January 21, 2016

PUBLIC HEARING

CASE NO. 15ZONE1017

manufacture, skating rinks, taverns, bars and saloons, theaters, automobile service stations, car washes, boarding and lodging houses, and tourist homes.

The vote was as follows:

YES: Commissioners Blake, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioner Peterson

ABSTAINING: Commissioner Brown