

PLANNING COMMISSION MINUTES
February 16, 2017

PUBLIC HEARING

CASE NO. 16ZONE1051

Case No: 16ZONE1051
Request: C-1 to C-2
Project Name: Hertz Corporation
Location: 4163 Bardstown Road

Owner: Larry Schwartz
S & A Investments, LLC
7102 Old Henry Road
Louisville, Ky. 40299

Applicant: John Grotto
Hertz Corporation
8501 Williams Road
Estero, Fl. 33928

Representative: Randy Strobo
Downey Strobo Barkley PLLC
239 South 5th Street, Suite 917
Louisville, Ky. 40202

Jurisdiction: Louisville Metro
Council District: 10-Pat Mulvihill
Case Manager: Laura Mattingly, Planner I

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:

00:09:51 Ms. Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

00:16:14 Ms. Mattingly added, proposed binding element 5 will include (e) - A deed of consolidation must be recorded for the two lots shown on the development plan. It will read as follows: A copy of the recorded instruments shall be submitted to Planning

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and Design Services. Transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

The following spoke in favor of this request:

Randy Strobo, 239 South Fifth Street, Suite 917, Louisville, Ky. 40202

Summary of testimony of those in favor:

00:17:44 Mr. Strobo stated he received positive feedback from the community. There are improvements to accessibility, sidewalks and buffering for the neighbor to the east. It meets and exceeds the Comprehensive Plan and the Land Development Code.

Deliberation

00:19:18 Commissioner Tomes stated the plan is appropriate. It's good to get it cleaned up and reused. It meets the Comprehensive Plan.

The other commissioners are in agreement with Commissioner Tomes.

00:20:20 Commissioner Brown elaborated on binding element 5b: "They're not required to come back in for construction approval on anything, I think we would condition the plan transmittal on the issuance of encroachment permits from Transportation Planning and from Ky. Transportation Cabinet, which is standard."

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 C-1 to C-2

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, The site is located in the Suburban Marketplace Corridor Form District Suburban Marketplace Corridors: Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium to high intensity uses. Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users

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as well as to minimize automobile dependency and traffic congestion. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings, which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity. This form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower density residential uses in adjacent form districts. Medium density residential uses may serve as a transition area from lower to higher density residential uses and should be encouraged in this form; and

WHEREAS, the Louisville Metro Planning Commission finds, proposed new commercial uses are encouraged, to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of suburban marketplace corridors, particular emphasis should be placed on: (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal to change the zoning from C-1 to C-2 to allow car rental and sales re-uses an existing auto service facility within an existing commercial corridor. The site is located with other medium to high density commercial uses and fits with the character of the corridor with similar design and setback. Access and streetscape improvements have been made in order to increase vehicular and pedestrian safety and aesthetics of the site. Although it is not required by the Land Development Code as there are no proposed changes to the site, the applicant is also adding screening and additional buffering in order to improve the transition of the commercial use to the residential use to the north. The proposed car rental and sales facility is appropriate for the Suburban Marketplace Corridor form district and follows the pattern of development surrounding the site.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council, **APPROVAL** of Case No. 16ZONE1051, a change in zoning from C-1 to C-2 based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Gazaway

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Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, There do not appear to be any environmental constraints on the subject site. While the change in use does not trigger tree canopy requirements, the applicant is preserving four large trees on site and planting three additional trees; 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 has approved the preliminary development plan; and

WHEREAS, There is no open space requirement for this proposal; and

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

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 the residential use to the north and the applicant is providing streetscape improvements that improve the aesthetics from Bardstown Road; 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.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 16ZONE1051, the Detailed District Development Plan and binding elements on page 14 of the staff report with the change to binding element 5b adding: Encroachment permits must be obtained from Kentucky Department of Transportation, Bureau of Highways and Transportation Planning prior to plan transmittal and addition to 5 – add (e) to read as follows: A deed of consolidation must be recorded for the two lots shown on the development plan. A copy of the recorded instrument shall be submitted to Planning and Design Services. Transmittal of approved plans to the office responsible for permit issuance will occur only after the receipt of said instrument; based on the staff report and testimony heard today and **SUBJECT** to the following Binding Elements:

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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 3,287 square feet of gross floor area for the office use.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from Kentucky Department of Transportation, Bureau of Highways and Transportation Planning prior to plan transmittal.
 - 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.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. A deed of consolidation must be recorded for the two lots shown on the development plan. A copy of the recorded instrument shall be submitted to Planning and Design Services. Transmittal of approved plans to the

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office responsible for permit issuance will occur only after the receipt of said instrument.

6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 16, 2017 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Gazaway