

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 16ZONE1049

Request:	R-5 to C-2
Project Name:	Team Automotive
Location:	2208 & 2210 Beargrass Avenue
Owner:	Cardinal One Properties
Applicant:	Cardinal One Properties
Representative:	Bruce Mattingly
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Beth Jones, AICP, Planner II

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

03:29:35 Beth Jones discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Bruce Mattingly, 4209 Bardstown Road, Louisville, KY 40218

Summary of testimony of those in favor:

03:43:32 Bruce Mattingly summarized the applicant's proposal and showed a presentation. He responded to questions from the Commissioners.

The following spoke in opposition to this request:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299
Daniel Boone, 2214 Beargrass Avenue, Louisville, KY 40218
John Vanderhoff, 2211 Beargrass Avenue, Louisville, KY 40218
Benita Jolly, 2209 Beargrass Avenue, Louisville, KY 40218

Summary of testimony of those in opposition:

04:07:10 Steve Porter spoke on behalf of the neighbors across the street from the subject site who are in opposition to the request. The existing conditional use permit only allows storage of vehicles 114' into the property from the Bardstown Road side and requires the owner to maintain the property. There have been several violations on the property over the years for

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the lack of upkeep of the fence and failure to remove trash from the property. The vacant portion of the lot offers a buffer between the car storage and surrounding residential. There was a case brought to the Board of Zoning Adjustment in 1981 that requested sales be added as a use. This was denied by BOZA, but Hertz employees are currently selling cars to clients from the property. Binding elements only restrict use to automotive-related uses which could allow more than just car sales to be conducted on the property.

04:25:20 Daniel Boone owns the property adjacent to the subject site. He has never subdivided or developed this property because he enjoys living next door to vacant land and likes having the tree buffer on the subject site. He would not have bought this property if it was next door to a car sales lot.

04:29:18 John Vanderhoff is a neighbor who is opposed to the project. He used to enjoy sitting on his front porch watching nature across the street. Now the lot is an eye sore, and he never sits on his front porch anymore.

04:30:49 Benita Jolly lives across the street from the subject site. She is concerned that her property value will severely decrease if the property is rezoned to be commercial.

04:32:29 Ms. Jones stated that the comment in the staff report about lighting was erroneously left in after revisions. She responded to questions from the Commissioners about violations on the property. She confirmed there have been violations for trash over the years, and the only use granted to the property was off-street parking in 1973.

Rebuttal:

04:38:28 Mr. Mattingly spoke in rebuttal. He provided the Commissioners with pictures of the fence and landscape screening that are in poor condition. There is nothing in the existing CUP that restricts the fence to its current location. He stated that he plans to construct a new privacy fence with landscaping only slightly closer to the adjacent lot. He stated he would provide a plan with lighting and landscaping when he gets to the appropriate place in the rezoning process. He feels his improvements to the property will increase the surrounding property values. He agreed to further restrict the uses listed in binding element 7.

Deliberation:

04:51:05 Commissioner Peterson has several reservations about this request. The neighbors make a good case about the rezoning negatively affecting the character of the neighborhood. The use would be restricted so much that C-2 seems too strong of a zoning class. He is not in favor of the zoning change and doesn't feel that it fits into the neighborhood.

Commissioner Smith is concerned that this is too drastic of a change in zoning for this area, and she doesn't feel the zoning is appropriate based on what she's heard today.

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Commissioner Brown feels this would be an incompatible expansion into a residential area. He feels that the existing lots could be used in a more efficient way. Because there is an existing CUP, he does not feel that the owner would be deprived of use of his property. He does not think the CUP should encroach more than 114' feet into the residential area.

Vice Chair Lewis feels that the current use provided by the CUP is appropriate and the zoning does not need to be changed to C-2.

Commissioner Lindsey does not feel that the rezoning would be appropriate for this residential area. The CUP allows the applicant to still continue to park vehicles in the allotted space. There is nothing preventing him from maintaining his property as it is currently zoned—a change in zoning is not necessary to help him clean up, as that is already his responsibility.

Commissioner Ferguson appreciates what the owner is trying to do, but she agrees that there is cause for concern with the zoning change request and change in form district request.

Commissioner Carlson does not feel that the zoning change is justified. There has not been enough testimony to suggest that the request complies with the Comprehensive Plan. There have not been changes of an economic or social nature to justify the rezoning. The current zoning is appropriate for the area.

Chair Jarboe stated that he could have supported a rezoning if further restrictions were put in the binding elements, but he would not support a change in form district. Mr. Mattingly could have had a better argument if his property had been cleaned up and the fence had been replaced from the beginning. This would have shown that he cared for the neighbors' concerns as well.

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.

Change in Zoning

04:58:03 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the change in zoning would be an unjustified expansion of a non-residential use into a residential area; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-5 Residential Single-Family to C-2 Commercial on 0.603 acres of property described in the attached legal description be **DENIED**.

The vote was as follows:

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YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson

NOT PRESENT: Howard and Tomes

Change in Form District

04:59:08 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there is potential for non-residential uses in an established residential neighborhood; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in form district from Neighborhood to Suburban Marketplace Corridor be **DENIED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson

NOT PRESENT: Howard and Tomes