

## PLANNING COMMISSION MINUTES

June 1, 2017

### PUBLIC HEARING

#### CASE NO. 16ZONE1087

Request: Change in zoning from R-7 to C-2 with Variances on approximately 0.75 acres  
Project Name: BMW of Louisville  
Location: 100 & 102 Marshall Drive  
Owner: TT of B Louisville Property LLC  
Applicant: TT of B Louisville Property LLC  
Representative: William Bardenwerper – Bardenwerper Talbott & Roberts PLLC  
John Addington – BTM Engineering Inc.  
Jurisdiction: Louisville Metro  
Council District: 7 – Angela Leet  
**Case Manager: Julia Williams, RLA, AICP, Planning Supervisor**

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**An audio/visual recording of the Planning Commission meeting 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.**

#### **Agency Testimony:**

**01:22:30** Julia Williams presented the case (see Staff Report and recording for detailed presentation).

#### **The following spoke in favor of the request:**

Bill Bardenwerper, 1000 N Hurstbourne Pkwy., Louisville, KY 40223  
John Addington, 3001 Taylor Springs Drive, Louisville, KY 40220  
Kelly Carls, 206 Marshall Drive, Louisville, KY 40207

#### **Summary of testimony of those in favor:**

**01:28:45** Bill Bardenwerper spoke on behalf of the applicant who is requesting a change in zoning from R-7 to C-2 along with a district development plan and two variances (see recording for detailed presentation).

**01:51:05** John Addington with BTM Engineering briefly spoke about the landscape plan.

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**01:52:48** In summary, Mr. Bardenwerper stated that there will be extensive mitigation of the existing drainage problems and the brick wall will be constructed according to Beechwood Village's standards to provide screening to nearby properties.

#### **The following spoke neither for nor against the request:**

Brandon Jagers, 4516 Cordova Road, Louisville, KY 40207

#### **Summary of testimony of those neither for nor against:**

**01:57:44** Brandon Jagers, Mayor of Beechwood Village, stated that he has met with Mr. Bardenwerper and the applicant several times and the city feels comfortable with the binding elements that have been agreed upon. There are still concerns with how drainage will be affected once construction begins.

#### **The following spoke in opposition to the request:**

Phyllis Skonicki, 110 Marshall Drive, Louisville, KY 40207

#### **Summary of testimony of those in opposition:**

**02:10:00** Phyllis Skonicki is a neighbor who lives adjacent to the subject property. She feels that this project will have adverse environmental impacts on the community, such as destruction of established trees, air, light, and noise pollution, creation of a heat island, and an increase in traffic along Marshall Drive. These will negatively affect the health and welfare of the citizens of this community.

#### **Rebuttal:**

**02:06:15** Mr. Bardenwerper stated that there will be more trees on the site post-development than pre-development. The business will not operate seven days a week. Drainage problems will be greatly improved with this project. He stated there is no connection between the subject property and Marshall Drive. Vehicle shipments will be unloaded in the back of the property. Beechwood Village signage will not be removed.

**02:16:45** Ms. Skonicki asked if the business would be open Saturdays and Sundays. If so, then the business does operate seven days a week.

**02:17:50** In correction to his earlier statement, Mr. Bardenwerper stated that the business will operate seven days a week, specifically between the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. Saturday and Sunday.

**02:18:50** In response to County Attorney Paul Whitty, Mayor Jagers stated that the City of Beechwood Village is a 6<sup>th</sup> Class City. They do have a Code Enforcement Board, but any enforcement issues will be handled with the assistance of their attorney.

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**02:20:20** Ms. Williams stated that she is concerned with inserting an agreement into the binding elements on a site that is not currently under review. An agreement would have to be made privately between Beechwood Village and the applicant and could not be considered as part of a binding element that would be enforceable by the City of Louisville.

**02:21:09** There was discussion between Mr. Bardenwerper and the Commissioners about code enforcement (see recording for detailed discussion).

**02:29:10** In response to some confusion about binding elements, Ms. Williams advised the Commissioners that the what they received in their packets were copies of binding elements from both Beechwood Village and the applicant from the April 13, 2017 LD&T meeting. The binding elements in the applicant's booklet are the final version.

**02:30:08** Mr. Bardenwerper stated that the Commissioners should reference the binding elements from the applicant's June 1, 2017 Planning Commission booklet, not the binding elements from the LD&T meeting.

**02:31:20** Mr. Whitty suggested creating a binding element that states there shall be an enforceable contract between the applicant and the City of Beechwood Village. Mr. Bardenwerper stated that the applicant would agree to that, if necessary (see recording for detailed discussion).

**02:38:25** Chair Jarboe pointed out a discrepancy in the hours of operation in binding elements 13 and 14.

**02:39:48** Ms. Williams, Chair Jarboe, and Mr. Bardenwerper discussed the option to continue the case due to issues with the binding elements and code enforcement.

**02:42:20** Commissioner Ferguson stated that binding elements 4.d. and 8 from the Staff Report should be considered as additions to the final version prior to the next hearing if the case is continued—these were omitted from the final version in the applicant's booklet. Commissioner Carlson pointed out an additional discrepancy in the hours in binding element 9 of the booklet.

**02:43:45** Kelly Carls is a member of the Beechwood City Council and lives on Marshall Drive. City Council unanimously endorsed the proposal at their last meeting. From the Council's perspective, the car dealership will remain at this location no matter what happens with this proposal. Endorsement gives the city some leverage over the operation of the dealership which directly affects the residents of the community in three

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areas: drainage, noise, and lighting. Through negotiations, the applicant has agreed to mitigating conditions which will improve the quality of life for Beechwood residents.

**02:47:08** Commissioners' deliberation

**02:49:00** On a motion by Commissioner Carlson, seconded by Commissioner Lewis, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the June 15, 2017 Planning Commission public hearing.

**The vote was as follows:**

**Yes: Brown, Howard, Carlson, Peterson, Lewis, Smith, Ferguson, and Jarboe**

**Absent: Tomes**

**Abstain: None**

**No: None**