

Board of Zoning Adjustment Staff Report

December 17, 2018



Case No:	18CUP1070
Project Name:	Modification
Location:	2208 & 2210 Beargrass Avenue
Owner/Applicant:	Cardinal One Properties, Bruce Mattingly
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Steve Hendrix, Planning & Design Coordinator

REQUEST(S)

- Modified Conditional Use Permit to allow an off-street parking area in an R-5 zoning district.
- Waiver to reduce the required 25 foot landscape buffer along the north and west property lines. Land Development Code 10.2.4.A.

Location	Requirement	Request	Waiver
North Property Line	25	5 feet	20 feet
West Property Line	25	2 feet	23 feet

CASE SUMMARY/BACKGROUND

The subject site is located on the southeastern side of Beargrass Avenue approximately 240 feet from Bardstown Road. The existing Conditional Use Permit was approved in 1973 to allow off-street parking for customers for the mobile homes sales located at 4171 Bardstown Road, (corner lot to the south) which is now a used vehicle sales business, Team Automotive. The applicant is requesting to lease the area to Hertz for the “temporary parking” of rental cars that are going to be sold at the Hertz retail establishment located at 4167 Bardstown Road which is across Beargrass Avenue from 4171 Bardstown Road. Team Automotive would continue to use 12 spaces as off-street parking.

The “temporary parking” involves vehicles waiting to be inspected by the Jefferson County Sheriff’s office for title verification which may take up to a week. After the inspection, the vehicle would leave the parking area and be taken to a service facility to be serviced and detailed, after which the vehicle would be returned to the Hertz facility at 4167 Bardstown Road to be sold. Staff has noted that the property was granted the initial Conditional Use Permit strictly for customers for what is now Team Automotive at 4171 Bardstown Road.

The Land Development Code 4.2.39 states that Off-Street Parking Areas may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off street parking is provided, and where the provision of such parking space will

materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements.

Parking requirements for both locations are met as shown on the supplemental site plan for parking, (Team Automotive and Hertz are both shown using space on the existing Conditional Use Permit lot) right behind the Team Automotive building.

The approved site plan for the Off-Street Parking Conditional Use Permit in 1973 shows a 25 foot setback from Beargrass Avenue with shrubbery, a 75 opaque fence along the northern residential boundary, 40 parking spaces and a 4 foot walkway. Staff's site visit did not reveal those conditions.

Staff has determined that the request is for the storage of vehicles and therefore not eligible for a Conditional Use Permit in an R-5 District.

Related Cases

16Zone1049 2208 & 2210 Beargrass Avenue

Change in zoning from R-5, Residential Single Family to C-2, Commercial to allow vehicles sales as an expansion of an auto sales business that at the time was owned and operated by the applicant on adjoining properties to the east and south.

The item was DENIED by the Louisville Metro Planning Commission on March 15, 2018.

Open Code Enforcement Cases

2210 Beargrass Avenue-----18PM9856

2208 Beargrass Avenue-----16PM5859

B-6-73 2210 Beargrass Avenue

Conditional Use Permit to allow off-street parking for customers and prospective customers only for the proposed mobile homes sales located at 4171 Bardstown Road.

Approved by the Board on January 24, 1973.

STAFF FINDING / RECOMMENDATION

Staff has determined that the request is for the storage of vehicles and therefore not eligible for a Conditional Use Permit.

The applicant may want to request the Board to continue the case, so the application can be amended to include the changes that now exist, but again any request would need to meet the definition for off-street parking and not be considered outdoor storage as defined by the LDC.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the Development Code for a conditional use permit.

TECHNICAL REVIEW

There are no outstanding technical review items.

INTERESTED PARTY COMMENTS

2209 Beargrass Avenue email in opposition.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: Not Eligible.

2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: Not Eligible.

3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: Not Eligible.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

STAFF: Although there are six listed requirements staff did not respond, since the request was not eligible for a Conditional Use Permit.

4.2.39 Off-Street Parking Areas

An Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements.

- A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks).

- B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.
- C. The minimum front, street side, and side yards required in the district shall be maintained free of parking.
- D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.
- E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area.
- F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for transportation planning prior to the public hearing on the Conditional Use Permit.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER
Landscape Buffer Area along north and west property lines.**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF:

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF:

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF:

- (d) Either:
 - (i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
 - (ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF:

Waivers are not needed, since the request is not eligible for a Conditional Use Permit.

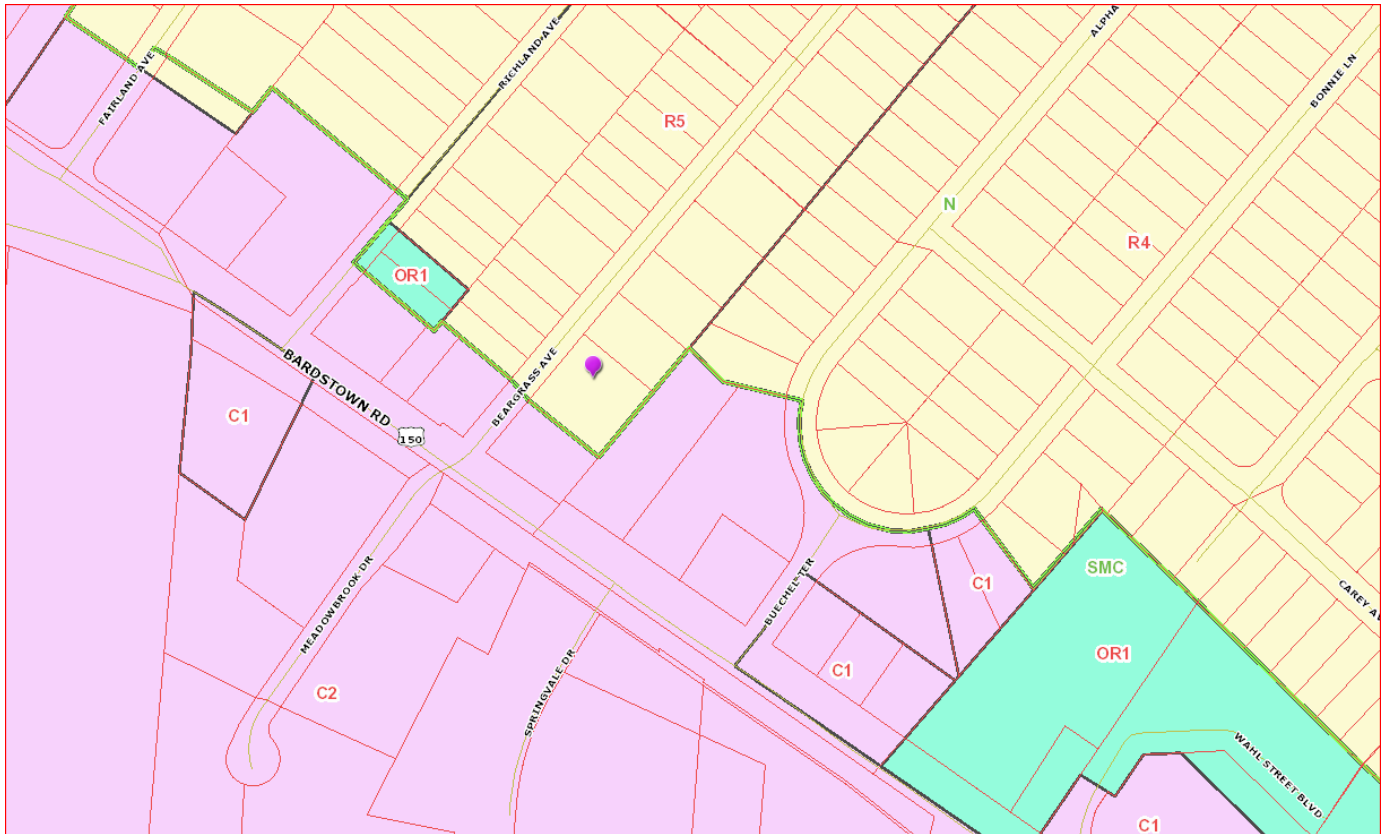
NOTIFICATION

Date	Purpose of Notice	Recipients
11/28/2018	Hearing before BOZA	1 st and 2 nd tier adjoining property owners
11/28/2018		Registered Neighborhood Groups in Council District 10
11/30/2018	Hearing before BOZA	Sign Posting/Site Inspection

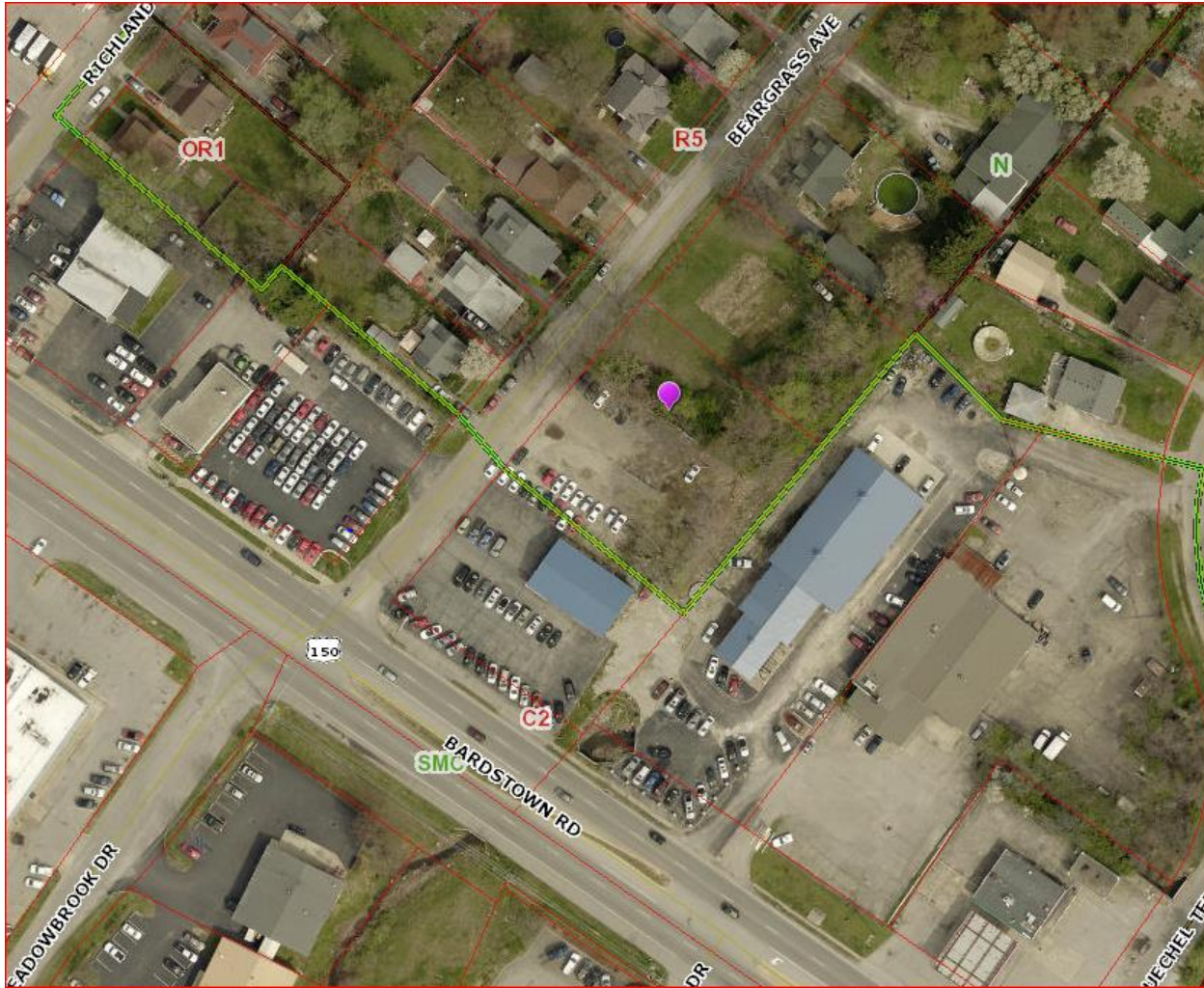
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Staff Checklist Cornerstone 2020
4. Conditions of Approval
5. Opposition Email
6. Zoning Map with Existing CUP and Requested Modification
7. Supplemental Parking Plan
8. Definitions
9. 1973 CUP Site Plan

1. Zoning Map



2. Aerial Photograph



3. Staff Checklist Cornerstone 2020

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

Neighborhood: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
1	Community Form/Land Use Guideline 1: Community Form	B.3: The proposal is a neighborhood center with a mixture of uses such as offices, retail shops, restaurants and services at a scale that is appropriate for nearby neighborhoods.	NA	
2	Community Form/Land Use Guideline 1: Community Form	B.3: If the proposal is high intensity, it is located on a major or minor arterial or an area with limited impact on low to moderate intensity residential uses.	-	The site plan shows 5 feet of landscaping along the northern boundary and a 6 foot high 75% opaque fence. No buffering is shown along Beargrass Avenue.
3	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Neighborhood Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	NA	
4	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	NA	
5	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	-	Proposal is an expansion into the residential area.
6	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	NA	
7	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	NA	

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
8	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	NA	
9	Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	-	Adjacent uses to the north and west are single family homes. Proposal encroaches more into these residentially zoned properties.
10	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	NA	
11	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	NA	
12	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	NA	
13	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	-	The proposal is an expansion into an existing residential area.
14	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	NA	
15	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	-	Additional traffic will be created with the proposal on this single family residential street.
16	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	+/-	Site plan does not show placement.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
17	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	NA	
18	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	-	The applicant has applied for landscape buffers.
19	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	-	The proposal involves the storage of vehicles on the site with very little buffering.
20	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	+/-	Site plan does not show where the vehicles will be parked/stored.
21	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	-	Residents along Beargrass Avenue will have a continuous movement of vehicles from the proposed site.
22	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	-	Storage location of vehicles is not shown.
23	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
24	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	NA	
25	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	NA	
26	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA	
27	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	
28	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	-	Site has already been cleared
29	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	NA	
30	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	NA	
31	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	
32	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
33	Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	NA	
34	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	
35	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	NA	
36	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	NA	
37	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	NA	
38	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	NA	
39	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	-	Parking was supposed to be used for employees and prospective customers, not for storage/parking.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
40	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	NA	
41	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	
42	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	NA	
43	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	NA	
44	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	NA	
45	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blueline streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	+/-	
46	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	NA	

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
47	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	
48	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	
49	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	
50	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	

4. Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for off-street parking without further review and approval by the Board.

Hendrix, Steve

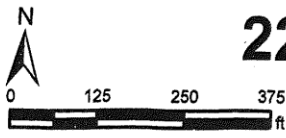
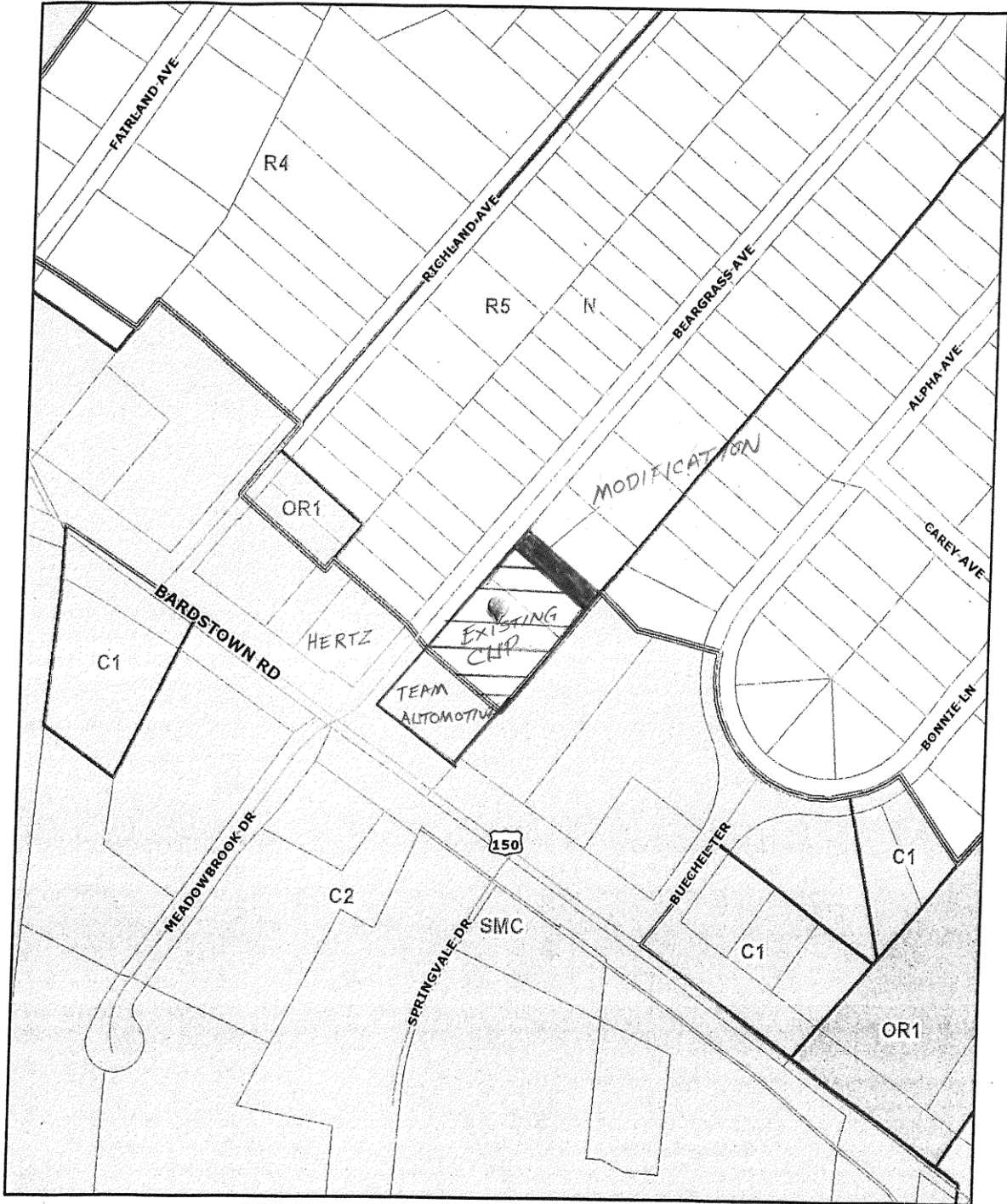
From: paula jolly <jollyeight@msn.com>
Sent: Thursday, July 19, 2018 9:10 AM
To: Hendrix, Steve
Cc: danielboone@twc.com
Subject: revised CUP

Steve,

I live at 2209 Beargrass Ave, which is directly across from this property. Would like to know when the meeting will take place, will need to attend. The residents of this street are strongly apposed to the revisions, clearly Mr. Mattingly is trying to work around not being granted the C2 rezoning. We want to keep our neighborhood street residential and not have a used car dealer intrude further back.

Thank you for your time

Paula & Benita Jolly



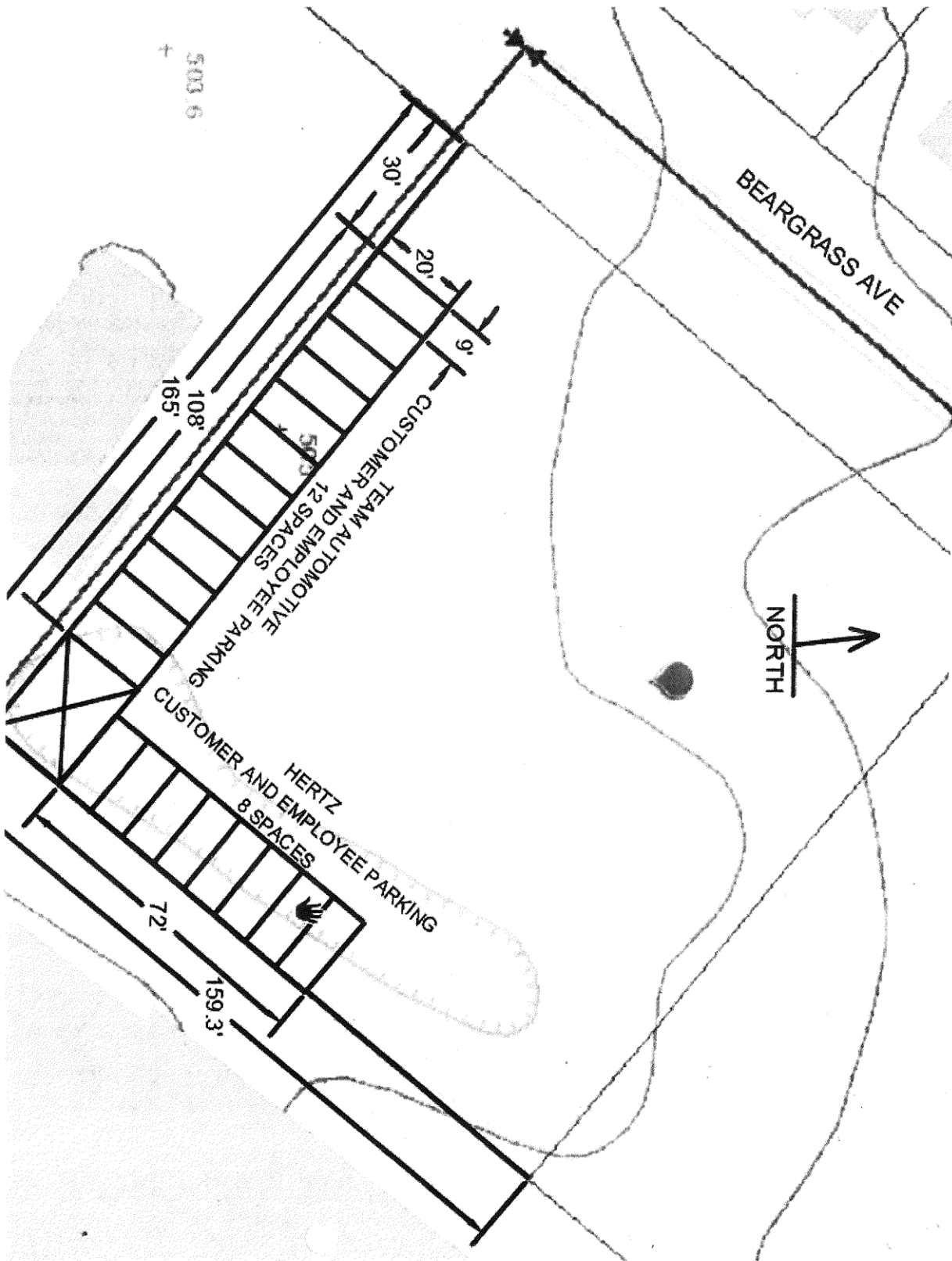
2210 Beargrass Avenue

Friday, December 7, 2018 | 10:51:53 AM



LOJIC © 2018

This map is not a legal document and should only be used for general reference and identification.



Definitions:

Open Space, Private - Open space that is owned by a private individual or entity but is protected or maintained under a recorded conservation easement.

Open Space, Public - Open space that is accessible to the general public.

Outdoor Lighting -the night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means. This includes luminaires used to illuminate advertising signs, landscaping, architectural features, walkways, driveways and parking areas.

Outdoor Sales and Display -The placement of any items(s) outside a building in a nonresidential zoning district for the purpose of sale, rent or exhibit. (This shall not include outdoor dining and seating areas associated with a restaurant.)

Outdoor Storage -The keeping or stockpiling of any item(s) outside a building in a non-residential zoning district that is not directly accessible by the general public for more than twenty-four hours. The placement of moveable containers, including semi trailers and containerized freight boxes, for the purpose of storage of inventory on a temporary basis (not to exceed two months in any calendar year) shall be considered outdoor storage.

Outlot - A separate parcel, often within a larger commercial and/ or office development.

Owner -Any person, group of persons, partnership, corporation, or any other legal entity having legal title to or sufficient proprietary interest to undertake development pursuant to Chapters 1 through 10.

18 entries for the letter O

Parapet -A low, protective wall constructed as the continuation of the exterior wall of a building and placed along the perimeter of the roof of a building.

Parcel - See "Lot."

Park - A relatively large open space available for recreation and usually located at the edge of a development, neighborhood or village. It may be surrounded by roadways, the fronts of buildings, or the side or rear of publicly or privately owned lots. It is usually partially enfronted by buildings and has a landscape which may consist of natural areas, paved paths and trails, some open lawn, trees, recreational facilities and open shelters, and requires substantial maintenance.

Parking Aisle -An area within a parking facility intended to provide ingress and egress to parking spaces.

Parking Area (or Lot)-An area of land reserved for the purpose of vehicular storage. Such areas shall include parking spaces and vehicular maneuvering areas, but shall not include outdoor display or sales areas.

Parking Module -A standard arrangement of parking spaces containing two tiers of spaces served by a single parking aisle.

Parking Space -An enclosed or unenclosed surfaced area permanently reserved for the temporary storage of one automobile/ motor vehicle, and connected with a street or alley by a surfaced driveway which affords ingress and egress for automobiles/ motor vehicles. Such spaces are considered "on-street" if they are located on a dedicated street right-of-way and are considered "off-street" if they are not.

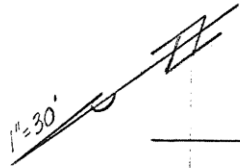
Parking, Joint Use - The sharing of a parking area or space for more than one establishment.

Parking, Shared -Joint use of a parking area or space for more than one establishment.

Passenger Vehicle - See "Vehicle."

Pavement Width -The width of the pavement of a street, as measured from edge to edge but excluding the

1973 CUP Site Plan



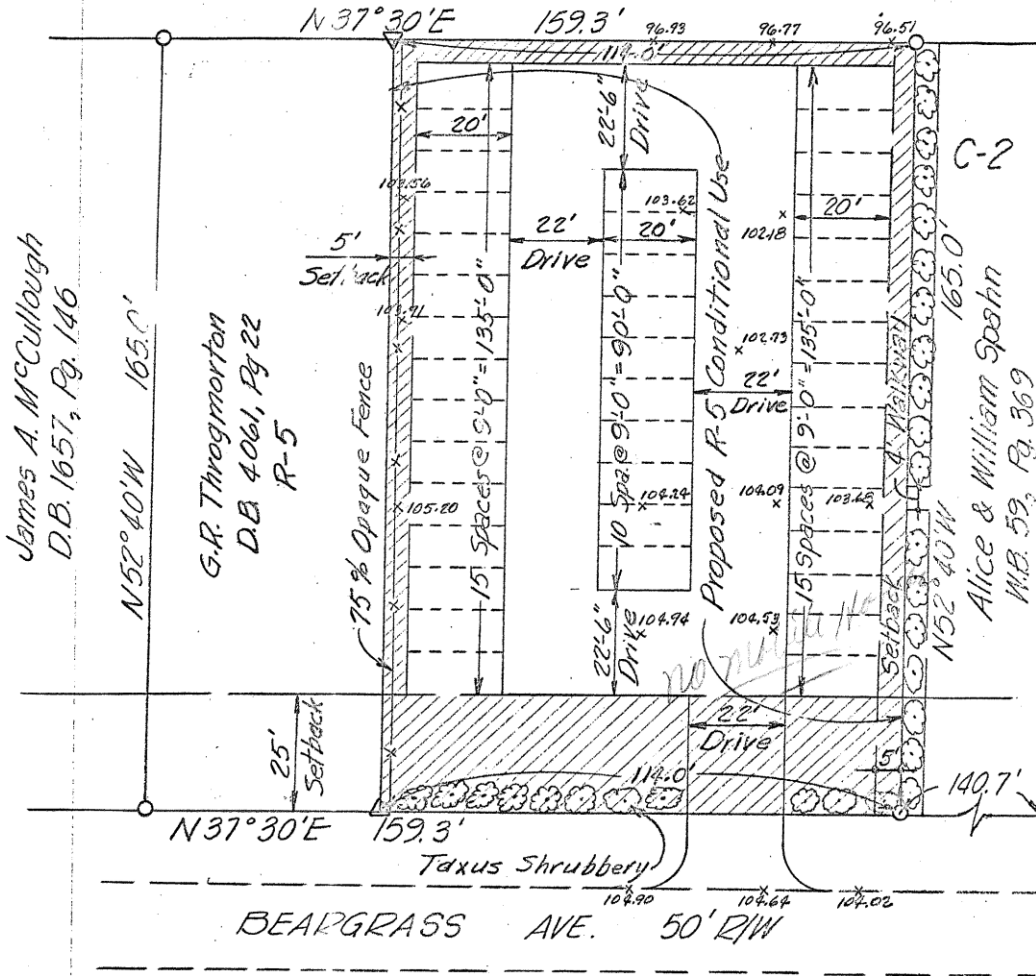
Standard Oil Co.
D.B. 4342, Pg. 374

Drainage Ditch 7

LEGEND

x103.91 Indicates Exist. Grou. Elevations

Indicates Setbacks



James A. McCullough
D.B. 1657, Pg. 146

N52°40'W 165.0'

G.R. Throgmorton
D.B. 4061, Pg. 22
R-5

75% Opaque Fence

15 Spaced @ 5'-0" = 135'-0"

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

22'-6" Drive

APPROVED: 1-17-73

D.H. Bannan
DIRECTOR OF TRAFFIC ENGINEERING

Chester E. &
Delores Tinnell
D.B. 4466, Pg. 105

Daniel E. &
Bonita Jolly
D.B. 4235, Pg. 62

Jerry A. Priest
D.B. 4268, Pg. 295

rac's Enterprises
Inc.
4288, Pg. 66 C-2