

**Board of Zoning Adjustment
Staff Report**
January 22, 2018



Case No.	17CUP1092
Project Name	The Commitment House
Location	2129 W. Market Street
Owner	LOP Properties LLC
Applicant	Dennis Barnett
Representative	Cardinal Planning & Design Inc.
Project Area	0.112 acres
Council District	4 – Barbara Sexton Smith
Case Manager	Beth Jones, AICP, Planner II

REQUEST

- Conditional Use Permit for Rehabilitation Home (LDC 4.2.31)
 - Relief from Rehabilitation Home CUP parking standard (LDC 4.2.31.C.)
- Waiver of Landscape Buffer Area (LBA) requirements along eastern property line (LDC 10.2.4.)

CASE SUMMARY / BACKGROUND

The applicant proposes to use an existing residential structure as a rehabilitation home. The 0.112 acre site is located on W. Market Street between S. 22nd Street and Dr. W.J. Hodge Street. Pirtle Street runs parallel to W. Market Street at the rear of the property. The site is developed with a two-story brick structure built as a single-family residence and a detached garage at the rear of the property. No exterior construction or alterations to the structure are proposed.

The subject property and adjacent properties to the west are zoned C-2. Properties to the south are zoned C-1 and to the north and east OR-2. Properties to the east, west and south are within a Traditional Marketplace Corridor form district; property to the north is within a Traditional Neighborhood form district. Adjacent parcels to the south and west are in commercial use; to the east, duplex residential; and to the north, a vacant public/semi-public parcel. The site is located within a National Register District.

According to the applicant, the site has served for several years as a sober living facility. Its use will be converted by the applicant to a Behavioral Health/Substance Abuse Rehabilitation Home for a maximum of 16 residents and three staff members. Details on the operation of the facility are included in the applicant's Letter of Explanation and supporting documents.

The applicant is requesting relief from Rehabilitation Home CUP parking requirements of one space for each staff member and two spaces for every five residents, for a total of eleven required spaces. According to the applicant, resident parking will not be needed as residents will be confined to the site and are not permitted to drive. LDC standards credit the 25 ft property frontage on W. Market Street with one parking space; the existing garage fronting Pirtle Street can accommodate two vehicles. Although bicycle parking is not required the applicant's proposal includes bicycle parking spaces – two outside the building and two additional inside the building.

Due to the narrowness of the site and existing development, the applicant is requesting a waiver of LBA requirements along the east property line adjoining the OR-2 property. The applicant proposes to construct an 8 ft high screening fence and meet tree canopy planting requirements for the site within the rear yard.

STAFF FINDINGS

The proposal meets all CUP standards with the exception of parking requirements; relief is being requested and appears to be justified. The LBA waiver request is also justified based on existing conditions on the site.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a Conditional Use Permit as established by the Land Development Code.

TECHNICAL REVIEW

There are no outstanding technical review items to be addressed.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on November 9, 2017. Staff has also received no additional comments.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

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

STAFF: The proposal is consistent with the Comprehensive Plan in that it is a reuse of an existing historic structure and is not expected to create significant additional burdens on public infrastructure.

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 and appearance?

STAFF: The proposal will require no exterior additions or significant alterations to the site or its existing structures.

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

STAFF: Public facilities appear to be adequate to serve the site.

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

4.2.31 Rehabilitation Home Rehabilitation homes may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

A. If using an existing residential building constructed contemporaneously with the surrounding neighborhood, its exterior appearance shall not be substantially altered.

STAFF: No exterior alterations or additions are proposed to the existing principal structure, which was constructed contemporaneously with the original historic neighborhood.

- B. New construction within an area having an established front building setback shall be constructed at the average setback line or the minimum front yard of the form district, whichever is less. Structures adjacent to residential uses or zoning districts shall increase side yards by 10 feet for each story over two.

STAFF: No new exterior construction is proposed for the site.

- C. One parking space on site shall be provided for each staff person, plus two spaces for each five residents, or five clients served by the rehabilitation home. Parking shall be reduced to one space per five residents/clients if the rehabilitation home serves persons with disabilities that preclude operation of an automobile.

STAFF: Relief is requested since, according to the applicant, residents will be confined to the site for the entire period of their residence and parking will be required only for a maximum of three staff members. On-street and on-site garage parking appears to be adequate to serve staff. Available on-street parking on W. Market Street and other nearby roadways appears adequate to serve any guests or visitors to the facility.

- D. One freestanding sign not to exceed 10 square feet and 4 feet in height shall be allowed.

STAFF: Proposal does not include freestanding signage.

- E. The Board shall add any additional restrictions necessary to mitigate nuisances or adverse effects.

STAFF: Additional restrictions are to be determined.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LBA REQUIREMENTS ALONG EASTERN PROPERTY LINE (LDC 10.2.4)

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

STAFF: The applicant proposes to construct a fence meeting LDC screening requirements along the east property line from the rear of the principal structure to the rear property line. Existing fencing is to remain along the east property line for the length of the principal structure, connecting at the front of the property to an existing historic iron fencing across the property frontage.

Due to the proximity of the neighboring structure to the east, no landscaping would be possible between the existing structures. The applicant will plant trees the rear yard to fulfill tree canopy requirements.

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

STAFF: The waiver will not violate Cornerstone 2020 guidelines because the proposed use of the property will likely have minimal additional impact on existing compatibility with neighboring properties.

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

STAFF: The waiver is being requested in part due to the narrowness of the site. The applicant will provide required tree canopy plantings.

(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: The site is narrow and the LBA would require nearly half the width of the rear yard to be set aside, creating an unnecessary hardship on the applicant.

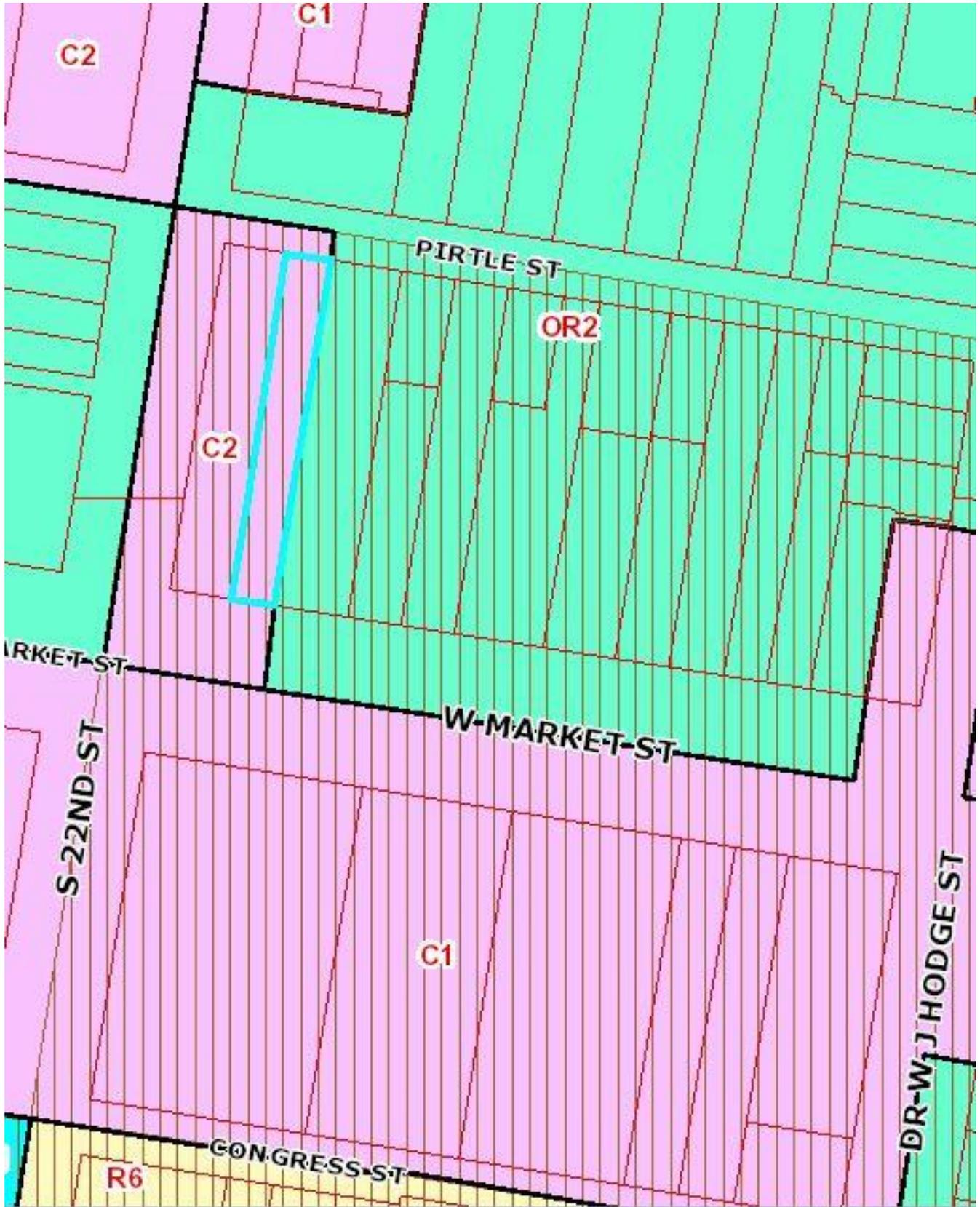
NOTIFICATION

Date	Purpose of Notice	Recipients
11/9/2017	Neighborhood Meeting	1st and 2nd tier adjoining property owners Registered Neighborhood Groups for Council District 4
1/5/2018	Hearing before BOZA	1st and 2nd tier adjoining property owners Registered Neighborhood Groups for Council District 4 Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Checklist
4. Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. Cornerstone 2020 Checklist

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

TRADITIONAL MARKETPLACE CORRIDOR: NON-RESIDENTIAL

#	Cornerstone 2020 Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Community Form/Land Use Guideline 1: Community Form			
1	B.7: The proposal incorporates itself into the pattern of development, which includes a mixture of low to medium intensity uses such as neighborhood-serving and specialty shops, restaurants and services. Often, these uses include apartments or offices on upper floors.	✓	Proposal is a low intensity use of the property.
2	B.7: The proposal includes buildings that have little or no setback, and are oriented to the street. New development respects the predominate rhythm, massing and spacing of existing buildings.	+	Proposal uses existing historic structure.
3	B.7: New development maintains the existing grid pattern of streets and alleys and typical block size.	NA	
4	B.7: The proposal includes on-street parking or parking in lots at the rear of the building, and includes wide sidewalks, street furniture and shade trees.	✓	Parking is on-street and within existing garage at rear of property.
5	B.7: The proposal's design is compatible with the scale and architectural style and building materials of existing developments in the corridor.	+	Proposal uses existing historic structure.
6	B.7: The proposal emphasizes compatibility of scale and the architectural style and building materials are compatible with nearby existing development.	+	Proposal uses existing historic structure.
Community Form/Land Use Guideline 2: Centers			
7	A.1/7: The proposal, which will create a new center, is located in the Traditional Marketplace Corridor Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	✓	Proposal does not create a new center but does reuse existing buildings.
8	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	NA	Proposal does not create a new center.
9	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	NA	
10	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	
11	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 or Portion of Plan Element	Staff Finding	Staff Comments
12	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	
13	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.	NA	
14	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	
15	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	✓	Site is located along transit corridor and provides bicycle parking.
Community Form/Land Use Guideline 3: Compatibility			
16	A.2: The proposed building materials increase the new development's compatibility.	NA	
17	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.	✓	Proposal is not an expansion into a residential area.
18	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	Proposal is not expected to create significant odor or emissions.
19	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Proposal is not expected to create significant traffic impacts.
20	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Proposal will not require additional exterior lighting.
21	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	
22	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.	NA	
23	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.	NA	
24	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	Proposal reuses existing historic structure.

#	Cornerstone 2020 Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
25	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.	✓	Proposal's loading/delivery requirements are minimal and use existing public and private facilities.
26	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.	NA	
27	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	
28	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Signage will meet CUP requirements.
Community Form/Land Use Guideline 4: Open Space			
29	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	There are no open space requirements related to the proposal.
30	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA	There are no open space requirements related to the proposal.
31	A.5: The proposal integrates natural features into the pattern of development.	NA	There are no open space requirements related to the proposal.
Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources			
32	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.	NA	No alterations of current conditions are proposed.
33	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.	✓	Proposal is reuse of existing historic structure.
34	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	NA	
Marketplace Guideline 6: Economic Growth and Sustainability			
35	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	✓	Proposal is reuse of existing historic structure.
36	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 or Portion of Plan Element	Staff Finding	Staff Comments
37	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	
38	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	
Mobility/Transportation Guideline 7: Circulation			
39	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	
40	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	Site is located along transit corridor and provides bicycle parking.
41	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.	✓	Site is located along transit corridor and provides bicycle parking.
42	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	
43	A.10: The proposal includes adequate parking spaces to support the use.	✓	If the requested relief is granted, proposal will provide adequate parking.
44	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	NA	
Mobility/Transportation Guideline 8: Transportation Facility Design			
45	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	
46	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	NA	
47	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	

Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit			
48	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.	✓	Site is located along transit corridor and provides bicycle parking.
Livability/Environment Guideline 10: Flooding and Stormwater			
49	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue-line 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.	✓	Proposal has been reviewed by MSD and has received preliminary approval.
Livability/Environment Guideline 12: Air Quality			
50	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	--	APCD waived comment on the proposal.
Livability/Environment Guideline 13: Landscape Character			
51	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	These natural corridors do not currently exist on the site.
Community Facilities Guideline 14: Infrastructure			
52	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	Proposal has been reviewed by MSD and has received preliminary approval.
53	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	
54	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.	✓	Proposal has been reviewed by MSD and has received preliminary approval.

4. **Proposed 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 by and approval of 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 a Rehabilitation House without further review by and approval of the Board.