



KENTUCKIANA
— COURT REPORTERS —

LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT

15CUP1012

PROJECT NAME:

CHAMBERLAIN SENIOR CARE

DATE:

MAY 4, 2015



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LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT

15CUP1012

REQUEST: CONDITIONAL USE PERMIT TO ALLOW A HOME FOR
THE INFIRMED AND AGED IN AN R-4 ZONING
DISTRICT

PROJECT NAME: CHAMBERLAIN SENIOR CARE

DATE: MAY 4, 2015, 8:30 A.M.

LOCATION: OLD JAIL BUILDING
 OLD JAIL COURTROOM
 514 WEST LIBERTY STREET
 LOUISVILLE, KENTUCKY 40202

Page 2 1 MEMBERS PRESENT: 2 3 CHAIRMAN DAVID PROFFITT 4 VICE-CHAIRMAN MICHAEL ALLENDORF 5 ROSALIND FISHMAN 6 FREDERICK LIGGIN 7 DEAN THARP 8 PAUL BERGMANN 9 10 MEMBERS ABSENT: 11 12 BETTY JARBOE 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 4 1 site. That's page 2 of your staff report. Here's your 2 aerial map. Again, this is the site here. These are 3 your photos. If you'll look at your plan, that'll be 4 the entrance to the site going up, and then the rest of 5 the pictures are going around, so, hopefully, you'll be 6 able to get a good idea of where you are. This is along 7 the property line and in the background see the Snyder. 8 Again, this is just going around the property. In the 9 background, you can see some of Norton Commons. And 10 that's the existing house on the site that will be 11 removed. Again, this is just going along the property 12 line. Norton Commons in the background. And this is 13 going back out toward the front of the property to the 14 entrance. This is your development plan. Again, like I 15 said, there's two two-story structures and one three- 16 story structure. Here are the elevations, the plans and 17 policies in effect, and your conclusions. If you look 18 on page 2 and 3 of your staff report, you'll see the 19 standard of review for the conditional use permit on 20 page 3 under item 4. There are three items listed. Item 21 A and B will be met and that item C, you can add any 22 restrictions to mitigate nuisances or adverse effects, 23 so that'll be up to you. The staff justification 24 statement starts on page 6, and that goes through page 25 8. And then the neighborhood meeting -- that goes
Page 3 1 PROCEEDINGS 2 3 CHAIRMAN PROFFITT: We'll move on into Case 4 Number 15CUP1012, which is the Chamberlain Senior Care 5 located at 5217 Chamberlain Lane. The owner is 6 Chamberlain LLC. Bill Bardenwerper's office is the 7 representative. Jon Crumbie is the applicant. Mr. 8 Crumbie, go right ahead. You've already been sworn in. 9 MR. CRUMBIE: Right. This is a conditional 10 use permit for home for the infirmed located in the R-4 11 Zoning District, and what I did on page 1 of your staff 12 report, if you'll look under the case summary, this was 13 a previous case that was going before the Planning 14 Commission, so that first paragraph is that case, that 15 it did not go through, did not get approved. So I just 16 wanted to give you a little background on that. And 17 that's on page 1 of your staff report, first paragraph. 18 The current background is this is a home for the 19 infirmed and will consist of two two-story structures 20 and one three-story structure and the total units would 21 be 162. As you see the dot, this is the site. Can you 22 see the mouse? So all this is the site here and also, I 23 can tell you, previously, there was a nursing home that 24 has been approved by BOZA for this particular site, too. 25 And that's in your cases on page -- previous cases on	Page 5 1 through page 13. Excuse me. The neighborhood meeting 2 starts on page 14. See, there were a number of people 3 in attendance at the neighborhood meeting, which is the 4 sign-in sheet on page 15 and 16, and then the 5 neighborhood meeting summary is on page 17, and the 6 conditions of approval are on page 20. Are there any 7 questions? 8 CHAIRMAN PROFFITT: Any questions for Mr. 9 Crumbie? Okay. Mr. Bardenwerper. If you would, state 10 your name and address, please. 11 MR. BARDENWERPER: Yes, sir. Good morning, 12 Mr. Chairman, members of the Board. Bill Bardenwerper 13 with Bardenwerper Talbott and Roberts, 1000 North 14 Hurstbourne Parkway, 40223. 15 CHAIRMAN PROFFITT: And, Mr. Bardenwerper, do 16 you swear or affirm the information you are about to 17 give the Board of Zoning Adjustment is the truth? 18 MR. BARDENWERPER: Yes, sir. 19 CHAIRMAN PROFFITT: Go right ahead. 20 MR. BARDENWERPER: Yes. This is a conditional 21 use permit. We've had some form of development at this 22 site for several years, and I'll just show it. As I go 23 through this presentation, I'll let you see what that is 24 so that you can see what we have done in the course of 25 this. Ken Gootee is going to help me with Mindel, Scott

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1 and David Mindel is here in case there are any
 2 particular questions about storm water management, water
 3 quality, and then Brad Pauling is here from the
 4 architect group out of Columbus, Ohio. They're
 5 specialists in senior care facilities like this. And
 6 then we also have the managing partner of the group that
 7 would be in charge of the operational side of this,
 8 Oscar Jarnicki, and he's here as well and will have a
 9 few things to say so that you understand how this would
 10 operate. In any event, this map here just shows you
 11 where that site is. It's this little cutout in what is
 12 otherwise several very large Norton Commons'
 13 developments. That piece of property was actually, at
 14 one time -- is currently still owned by a former partner
 15 in the Norton Commons development. Norton Commons never
 16 purchased it. It continued to be used by one of the
 17 previous owner-developers of Norton Commons. And a
 18 detention basin was placed on that property, and in the
 19 course of us going through this for an apartment
 20 development, we ran into the usual thing from people
 21 don't like apartments, and then we ran into the can't
 22 use the detention basin because it's allocated
 23 specifically to Norton Commons, and it ended up in a
 24 bunch of lawsuits. Everything was thrown our way
 25 possible to do apartment development here, and we were a

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1 long time in front of the Planning Commission. Chairman
 2 Proffitt probably recalls seeing us at our last meeting
 3 there. It was, I don't know, a year or two ago when, I
 4 think, the Planning Commission was meeting at Memorial
 5 Auditorium. You may remember. And, for various
 6 reasons, because we had been in court so long, we were
 7 told to start over again. Well, at that point in time,
 8 we started thinking well, there's so many issues that
 9 have been and roadblocks that have been thrown our way,
 10 maybe we need to just rethink the entire use of this
 11 property. And apartments are now located and have been
 12 built, as you'll see in some photographs, right there
 13 along I71 right next door to where to where -- Hills
 14 Communities was going to build apartments here, but --
 15 and there you see the site. There you can see from the
 16 aerial both how much has been developed, and Norton
 17 Commons really has exploded. It has become one of the
 18 most successful developments in this entire metro area.
 19 The new apartment community that was built next door by
 20 another developer, I think, out of Tennessee and then
 21 this site here, which is the one -- there's this
 22 detention basin, which became the subject of a
 23 significant, ongoing dispute, where lawsuits were filed
 24 against Hills Communities and against MSD and so forth.
 25 All of that was ultimately resolved in a settlement

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1 agreement that was entered and the cases were dismissed
 2 in court. This, also, I just provide so that you can
 3 sort of the original development plan village -- the
 4 original village PD plan for Norton Commons. Things
 5 have changed a little bit, but the red was a spine down
 6 the middle and then along I71 up to where this property
 7 was, which was where the mixed used commercial, higher
 8 intensity development would have been, and that's where
 9 we had proposed originally the apartment community. This
 10 is looking down at Chamberlain Lane. Just on the FYI --
 11 just for orientation, this is where you-all recently
 12 approved a conditional use permit for us for a Kindred
 13 healthcare facility here right next to the Norton's
 14 healthcare facility, so we're just a stone's throw from
 15 a large hospital, physician's offices and a long-term,
 16 intensive, I guess you'd call it, rehabilitative care
 17 center, and so it's very close proximity to that, and
 18 that's very attractive to senior care facilities to be
 19 located in close proximity to healthcare facilities for
 20 obvious reasons. So this is going down Chamberlain Lane
 21 as you get near the access to this property on the other
 22 side of -- we're on the -- I can't remember our
 23 directions. I guess this would be the south side of the
 24 bridge? North side of the bridge. Yeah. That's the I71
 25 bridge there. So you can see the site is off in the

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1 distance there next to I think it's a day care facility.
 2 This Civic Way would be a primary access through Norton
 3 Commons for this development, which would also have its
 4 access off of Chamberlain Lane. This was a picture that
 5 was taken at the time that those apartments next door
 6 were under construction. Now they're under construction
 7 and being occupied. Those are the apartments that are
 8 built right next door to this development. Just as an
 9 FYI, we've had a number of neighborhood meetings going
 10 back to the time when this site was under a proposal for
 11 an apartment community. Our most recent neighborhood
 12 meeting involved this group of residents that were
 13 invited. We always go well beyond the required notice
 14 list, and we've had our meetings in a large facility at
 15 Northeast Christian Church which is within close
 16 proximity. We had a lot of interest from the Wolf Pen
 17 Preservation Association, which is represented here
 18 again today. They had a lot of concerns with the earlier
 19 apartment community, in part because of the use proposed
 20 at that time by the property of the detention facility
 21 on there, and that was a point of contention for various
 22 reasons that no longer are. So this is what was
 23 previously proposed. There's that large detention basin
 24 that was the subject of ongoing litigation. And it is
 25 part of this real estate and always will be part of this

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1 real estate, but we're no longer going to use that
 2 detention basin because of the fact that it was a
 3 subject of litigation. I mean, both us and MSD were
 4 sued because MSD said we could use that basin since it
 5 was part of this real estate. So that was the proposal
 6 for the apartment community and this is what it looked
 7 like. It was designed to very much look like the Main
 8 Street buildings in Norton Commons. And you can see it
 9 was very much a resort style apartment community, had
 10 that flat roof look and so forth. But eventually, just
 11 because we could not move forward with that, would have
 12 been in litigation, even if we had been approved, for
 13 years and years and years, Hills Communities rethought
 14 this whole thing, and because they are a large developer
 15 and builder of apartment communities, they had been
 16 thinking already about getting into the senior living
 17 business, and what they did is set up a brand new
 18 company and partnered with Oscar Jarnicki, who's here
 19 today, to go into the senior care business. So we
 20 dropped our zoning request and came forward with a
 21 conditional use permit. They had been getting a lot of
 22 requests during that period of dispute from others who
 23 were interested in putting senior care facilities here,
 24 and having researched the market themselves, they said
 25 well, let's do it ourselves, and that is what is now

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1 being brought forward to you. So this is the plan. We
 2 went down from where this apartment community, what did
 3 I say, had 256 units, four-story buildings, 343,000
 4 square feet, and now it's been brought down to 168.
 5 They're really more like bedrooms instead of apartment
 6 units, a mix of one, two, and three-story buildings.
 7 This is a three-story unit here. The memory care is
 8 one-story and then the independent care are, right now,
 9 two-story buildings. And I'm going to ask Brad Pauling
 10 here with the architect group to come through and just
 11 walk you through these, and once he walks through the
 12 buildings and layout, then I'm going to ask Kent to talk
 13 through that development plan -- yeah. I'm going to ask
 14 Kent to talk through that development plan, where there
 15 may be the most issues. We won't go through ever floor
 16 plan here, but I just wanted you to have them so that
 17 you know that this -- and so that the people who had
 18 problems with this know that it is a very serious
 19 proposal. I mean, this has been fully designed in
 20 accordance with what the interior will be -- look right,
 21 but programmatically, you know, why it's designed the
 22 way it is. So, Brad, would you come on up here for a
 23 second and talk to them about that? And then I'm going
 24 to ask Kent to walk through the site plan at the end,
 25 which might be the main issue. If you can go through

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1 the design, tell them the building materials, the
 2 heights, and so forth. Introduce yourself
 3 CHAIRMAN PROFFITT: State your name and
 4 address, please.
 5 MR. PAULING: Brad Pauling, 5239 Whitegate
 6 Court, Dublin, Ohio and I am representing PH7
 7 Architects.
 8 CHAIRMAN PROFFITT: Do you swear or affirm the
 9 information you're about to give the Board of Zoning
 10 Adjustment is the truth?
 11 MR. PAULING: I do.
 12 CHAIRMAN PROFFITT: Go right ahead.
 13 MR. PAULING: So what we're proposing and what
 14 we're looking at here is a -- it's a mini retirement
 15 community, continuum care retirement community. There
 16 are a series of components. The first piece is a --
 17 this is a three-story building that's a shared assisted-
 18 living and memory care facility. So when you look at
 19 the building itself, you're looking at a three-story
 20 facility here, which consists of mostly the assisted
 21 care, and then this is a memory care facility, which is
 22 designed with internalized courtyards. Ended up being
 23 people with cognitive impairment and need slightly more
 24 assistance.
 25 MS. FISHMAN: Are those -- I'm sorry. The

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1 ones -- the assisted living and the memory care, are
 2 they just bedrooms? Is that what it is?
 3 MR. PAULING: I can show you, but the memory
 4 care is generally studio units where the -- and I can
 5 fast forward here. I'll go to memory care first. This
 6 is looking at what we call a household. So the entrance
 7 to these facilities most of the time, we're looking at
 8 making sure that there's circulation where people are
 9 able to move in what we call a wandering path, but in
 10 this case, we're looking at trying to minimize dead end
 11 corridors and whatnot. But these are apartment studio
 12 units, full baths. The key to memory care is to making
 13 sure that the people are part of a community, so we're
 14 really trying to get the residents out of their rooms
 15 and be part of a social environment. And so the spaces
 16 inside the memory care are dining here. This is the
 17 dining room, dining facilities, living spaces, shared.
 18 There's a series of quiet study places as you move
 19 around. This happens to be one. Internalized
 20 courtyards so that people have outdoor space that are
 21 free to come in and out this way, but we're trying to
 22 limit people from being able to get out of the facility
 23 itself. This is just looking at the bottom half of this
 24 facility -- the memory care. But the entrance to the
 25 memory care is off of the main building, and it comes

Page 14 1 through a generous corridor here. The assisted care 2 facility is really everything else that you see. So the 3 main drop off and porte-cochere happens here. Reception 4 and greeting followed by a lot of amenity spaces, 5 restaurants -- multiple different kinds of restaurants - 6 - therapy spaces, administration spaces, salon. There's 7 a home health center inside of here for inpatient or 8 outpatient treatment. And then as you make your way 9 down, this happens to be that memory care facility. It's 10 a wing of the building, but it's a one-story wing. So 11 everything -- yes. 12 MS. FISHMAN: I'm sorry. You have apartments 13 and rooms in that place? 14 MR. PAULING: Yes. So the assisted living 15 facility, which is everything that you see kind of to 16 the right -- this is a prototypical wing -- these 17 consist of one bedroom, two bedroom, and studio units. 18 And the two bedroom units could consist of one bath, two 19 bath, but they're full apartments. 20 MS. FISHMAN: All right. 21 MR. PAULING: But the next two floors up are 22 pretty much the same as that with a little bit more 23 amenity space. This happens to be the front door you're 24 looking at. You come into cafand a bistro area. But 25 we're looking at multiple different kinds of dining	Page 16 1 moment, but it's pretty accurate to the massing and the 2 type of materials that we would envision. 3 MR. BERDENWERPER: This is from Civic Way, 4 right? 5 MR. PAULING: Yes. That's correct. 6 MR. BERDENWERPER: And we'll go back to that 7 site plan, but on either side is Civic Way. What you 8 don't see on here are the independent living buildings 9 off to the sides there, and that's where that porte- 10 cochere is on Civic Way, right? 11 MR. PAULING: That's correct. 12 MR. BERDENWERPER: And when you go back to 13 this, you can see that view we were looking at was from 14 this angle here. 15 MR. PAULING: That's correct. 16 MR. BERDENWERPER: I'm trying to remember if 17 we have the other sides or not. Well -- 18 MR. PAULING: That's the last one. 19 MR. BERDENWERPER: Yeah. Well, Kent will 20 mention that cross-section here, because there was an 21 interest in what are you going to be able to see from 22 Chamberlain Lane, and so Kent will speak to that there. 23 Kent, you want to come up here? 24 MS. FISHMAN: Okay. And -- 25 MR. BERDENWERPER: Go ahead.
Page 15 1 experiences, multiple different kinds of living 2 experiences, and then shared outdoor space. This 3 happens to be a courtyard inside the building for 4 resident amenities. And then in this particular design, 5 we've looked at a series of what we call podium parking. 6 So there is covered parking for the residents. 7 Generally, this is a resident group that -- some have 8 cars, but most do not drive, and the ones that do -- we 9 need a very few, limited number of spaces. Otherwise, 10 upper levels are pretty much the same. This happens to 11 be the second floor. Again, you're looking at more 12 amenity spaces in the center, and then three wings off 13 of the building. Pretty much repeat itself on the next 14 level. 15 MR. BERDENWERPER: You might want to talk 16 about the elevations, see what building materials that 17 is. 18 MR. PAULING: That's a good one. We're 19 talking about a three-story facility. The height 20 limitation on this property is 35 feet and we typically 21 intend to be below that. The building is predominantly 22 we're looking at a brick facility, maybe a couple 23 different shades of brick, and then a third material 24 might be fiber cement siding that you see up in the 25 higher reaches. It's a conceptual rendering at the	Page 17 1 MS. FISHMAN: I'm sorry. As you're coming in, 2 that one thing with the little oval part where the trees 3 and stuff are on there to the right there? 4 MR. PAULING: Uh-huh. 5 MS. FISHMAN: That's what you were just 6 talking about. And then the two independent living, 7 which are all apartments on both sides; is that correct? 8 And then it would come around -- I'm assuming it would 9 go around one way and come out the other -- 10 MR. PAULING: That's correct. 11 MS. FISHMAN: -- there. And the parking to 12 the left where it says the -- 13 MR. BERDENWERPER: Over in this area? 14 MS. FISHMAN: Yeah. Well, it's that. 15 MR. PAULING: Yeah. That's designed for staff 16 mostly. Staff parking. 17 MS. FISHMAN: Staff? That brown building part 18 there? 19 MR. BERDENWERPER: Yeah. This is when -- Brad 20 mentioned that covered garage there. 21 MS. FISHMAN: Covered garage. Yeah. 22 MR. PAULING: That's correct. 23 MR. BERDENWERPER: That's your covered garage 24 there. 25 MR. PAULING: The parking that's in the back,

Page 18 1 this is really designed for the staff parking. The 2 staff and service entrances happen to be in the back 3 here. 4 MS. FISHMAN: So guest parking would be just 5 in the front? 6 MR. PAULING: Yes. The guest parking is all 7 through here and along this boulevard entry, and I think 8 Kent can speak to that a little bit more but 9 MS. FISHMAN: Okay. 10 MR. PAULING: Really, the idea is to make a 11 community out of it. 12 CHAIRMAN PROFFITT: So is it safe to say that 13 the majority of the parking that would be a regular in 14 and out type thing will be from the Norton Commons side 15 and what's coming off of Chamberlain Lane will be mainly 16 staff? 17 MR. PAULING: That's correct. 18 CHAIRMAN PROFFITT: And it'll be a turnover at 19 their individual three shift changes? 20 MR. PAULING: Yeah. They'll -- I'm sure Oscar 21 can speak to that, but I assume they'll run on a three 22 shift. Yeah. 23 MS. FISHMAN: Okay. Thank you. 24 MR. PAULING: Uh-huh. 25 MR. BERDENWERPER: All right. I'll let Kent	Page 20 1 within their development to kind of create a cohesive 2 feel coming in off Civic Way. So as a main entrance, we 3 come in from Civic Way. We have some parallel parking 4 here in front of these independent living buildings and 5 along the main boulevard here, and then we'll probably 6 have additional street trees and additional plantings on 7 the development, but the 18 percent -- the trees we show 8 right now are not meeting the 18 percent required for 9 the tree canopy. So instead of cluttering up the plan, 10 we just basically showed some core plantings. But 11 anyway, we'll come in through our -- and have the drop 12 off, or the porte-cochere, these little satellite 13 parking here on either side, the front one here is 14 mainly for visitor parking, but this will be mostly for 15 residents for this independent living building, and then 16 for the southern independent living, these people can 17 park here near front or also park here in the back as 18 well. Like Brad had said, most of this in the front is 19 planned for visitor parking for the development. And 20 then, you can make your way out to Chamberlain Lane if 21 you so choose, but most all the employees, we feel will 22 be coming in, at least the ones from Westport Road and 23 that direction, will be coming in from this entrance off 24 Chamberlain Lane to get in. It would be the most direct 25 way to get in, but it also would serve for a direct
Page 19 1 and then I'll have Oscar then come up for a minute to 2 kind of talk about that operational part of it, but 3 Kent, you want to talk about the flow of this detention 4 and access off of Chamberlain? 5 MR. GOOTEE: Kent Gootee, Mindel, Scott and 6 Associates, 5151 Jefferson Boulevard, Louisville, 7 Kentucky 40219. 8 CHAIRMAN PROFFITT: Do you swear or affirm the 9 information you're about to give the Board of Zoning 10 Adjustment is the truth? 11 MR. GOOTEE: I do. 12 CHAIRMAN PROFFITT: You can speak now because 13 this is the right case. 14 MR. GOOTEE: I appreciate that. The building 15 is going to have a Civic Way entrance, so if anybody 16 uses the standard way of finding directions nowadays off 17 Google or however -- 18 MR. BERDENWERPER: That is Civic Way. 19 MR. GOOTEE: Yeah. This is -- Civic Way comes 20 in from Norton Commons, so that means anybody following 21 Google or any of the other -- MapQuest or whatever, 22 they'll be coming in from Civic Way to get to the 23 property. We had some meetings with Norton Commons, 24 like Bill had said, and we had planned on it and agreed 25 to utilizing the same street trees that they are using	Page 21 1 access for ambulances and service vehicles to get in off 2 of Chamberlain Lane instead of taking them all the way 3 through Norton Commons and down the front entranceway. 4 As far as buffering for -- well, let's go to storm water 5 drainage. We're going to take everything from our 6 development into this detention basin area right here. 7 We have delineated swales to basically pull everything 8 in and not allow any of our drainage to get into Norton 9 Commons detention basin because we don't want to 10 compound any problems that they may have with 11 development of their own water quality basins. So we're 12 going to take everything to our detention basin and on 13 down in the storm piping system to get it over to Wolf 14 Pen Branch, the same way all the other areas drain on 15 that side of Chamberlain Lane. We will be adhering to 16 the new best management practices for green 17 infrastructure for the first sixth-tenths of an inch. 18 We'll do most of that through either subterranean water 19 quality basins or surface bioswales with native plants. 20 Let's see here. Since it's fairly high and fairly level 21 with Interstate 71, we'll be buffering as best we can 22 the upper floors, which sit back a little bit further on 23 the assisted living. You'll be able to see those from 24 71, but like, for the memory care unit, you'll have a 25 hard time seeing that from 71 just because we're trying

Page 22 1 to filter as much of that sound as possible from 71. And 2 then regarding the service parking and employee parking 3 here along Chamberlain Lane, we have about -- 4 MR. BARDENWERPER: You can go back to these 5 ground level photographs, but this really helps to give 6 you a sense of what you can and can't see from 7 Chamberlain Lane. 8 MR. GOOTEE: Chamberlain Lane is pretty low 9 relative to adjacent properties, and you can see the 10 three-story portion of the assisted living. You'll have 11 a very hard time seeing that from Chamberlain Lane not 12 to say you won't. When you're coming in from like, 13 where the roundabout is on Chamberlain from Norton 14 Commons, you might be able to see up that access drive 15 and see some of the assisted living building, but, you 16 know, as you saw from those photographs, the existing 17 vegetation in the right of way -- our right of way line 18 is way back here from Chamberlain Lane, so we have no 19 intention of constructing our entrance of disturbing 20 that area. This is actually a swale to take some water 21 off of 71 down into the Wolf Pen Branch watershed. 22 Working with Wolf Pen Branch Neighborhood Association, 23 we agreed to -- we do have to provide VUA screening for 24 parking, so we're proposing deciduous and evergreen 25 trees, mostly evergreen trees, since we have the space	Page 24 1 MR. GOOTEE: Yes. We've discussed that with 2 MetroWorks, and they're in agreement with that. 3 MR. ALLENDORF: All right. 4 CHAIRMAN PROFFITT: Question while we've got 5 -- 6 MR. BARDENWERPER: Yes, sir. Yep. 7 CHAIRMAN PROFFITT: Talk about the landscaping 8 just a minute. What are you doing for screening from 9 the Norton Commons area, anything particularly? 10 MR. GOOTEE: Well, I won't say what we're 11 going to do. We're going to do the minimum as far as 12 plantings as required by the -- you know, one tree per 13 -- 14 CHAIRMAN PROFFITT: You're going to meet the 15 -- 16 MR. GOOTEE: Yeah. We're going to meet the 17 landscape buffer requirements as far as the CUP against 18 the PD, but it'll be mostly deciduous trees within an 19 area and some shrubs mixed in there for that. This is 20 really -- they're going to be planting most of the basin 21 with native plants and I don't know that we really need 22 to compound their problem with maintaining the native 23 plants within their development, so we'd like to -- kind 24 of stuff that's not so weedy in that area, so that we 25 don't have to, you know, introduce seeds and stuff into
Page 23 1 along our Chamberlain Lane portion of the property. I 2 guess that's about it. 3 MR. BARDENWERPER: I'd say go back to just an 4 aerial view here. 5 MR. GOOTEE: Okay. And I'll just talk about 6 pedestrian connection real quick and access throughout 7 the site. We have our sidewalks connecting into Civic 8 Way to access Norton Commons and be able to get into the 9 commercial developments within the Norton Commons. But 10 we have a looped sidewalk around here. It would come 11 down. You can get through and come all the way back 12 down here to Chamberlain Lane. We're only proposing 13 this section of the sidewalk along Chamberlain Lane and 14 then you can get all the way around the roundabout. We 15 are requested a fee in lieu of for the sidewalks along 16 Chamberlain Lane because of the grade issue. Now, when 17 Norton Commons put their development in, they hit the 18 same issue as far as grade. So when they did the 19 widening for Chamberlain Lane to do the improvements on 20 the west side of Chamberlain Lane, they pregraded a 21 section for a future sidewalk. So that's what the fee 22 in lieu of is for is to provide sidewalks on the west 23 side of Chamberlain Lane. 24 MR. ALLENDORF: Have you discussed that with 25 MetroWorks?	Page 25 1 their basin area. 2 CHAIRMAN PROFFITT: Well, I was just -- 3 MR. GOOTEE: But we will screen this area 4 right through here fairly heavily between the two 5 developments just to, you know, put up a natural barrier 6 between the two. 7 CHAIRMAN PROFFITT: My concern more was more 8 for the scale over your front buildings. I guess 9 they're what, two-story; is that all 10 MR. BARDENWERPER: Yeah. This here is that 11 building that I showed you earlier, which was, I think - 12 - it looked like a two-story. I'd have to go back to 13 it. Let's see. Yeah. That building there. That's 14 that building that's right next to our entrance there 15 and, of course, -- 16 CHAIRMAN PROFFITT: Right. 17 MR. BARDENWERPER: -- these are the three- 18 story apartments along there. So when you look at how 19 this all lays out here, these are all three-story 20 buildings. That's that two-story building there. This 21 is a three, I think it is -- that's that Goldberg and 22 Simpson -- 23 CHAIRMAN PROFFITT: Right. 24 MR. BARDENWERPER: -- law firm office building 25 and then some other tenants in there, so this is office

Page 26 1 building, and, of course, as you go down, it's the main 2 drag there of Norton Commons, larger buildings along 3 there. Now, these are the single-family homes that back 4 up to this property, but this is the area that is 5 basically -- as part of the settlement agreement we 6 entered into is not only is it an area that we're 7 supposed to leave untouched, not utilize that basin, but 8 I think it calls for us to grant a long-term easement, 9 or put a long-term restriction on that in favor of the 10 Norton Commons developer so that they had -- one of 11 their points of contention we disagreed with, but 12 ultimately, we settled it, so it's no longer a point of 13 dispute, was they had entered into an agreement with the 14 Wolf Pen folks at the time they did their development 15 that called for a lot of water quality measures within 16 the area of that basin. So it wasn't just a storm water 17 issue; it was a water quality issue before there were 18 the water quality standards that MSD has now 19 implemented. So they didn't want us interfering with 20 what they thought would be their obligations under their 21 binding elements as to the larger community as to water 22 quality. So I don't know whether you're planting in 23 that area or relying on them to still implement some 24 water quality measures. 25 MR. GOOTEE: We'll have to do our plantings	Page 28 1 as to the conditions along Chamberlain Lane. In the 2 final analysis, because they're such low generation and 3 from a senior living facility like this and a high 4 dependency on Civic Way, which goes directly to Highway 5 1694, we were able to actually eliminate a deceleration 6 lane. Do you want to just mention that, because that 7 was an issue, I think? 8 MR. GOOTEE: Yeah. Originally, when we had to 9 zone it as an apartment community, we had a right 10 deceleration lane 100 feet tapered and 100 foot stacking 11 lane, both in this location and later we had an interim 12 plan to use this location as far as accessing the site, 13 so we just used the same criteria as 100 foot decel and 14 100 foot taper. Since the volume is going to be so low 15 and also to prohibit destroying the trees along 16 Chamberlain Lane in that vegetative buffer, the existing 17 vegetative buffer in the right of way, we chose to 18 eliminate that deceleration lane, and you can hear 19 Diane, that we really won't need it. 20 CHAIRMAN PROFFITT: Just out of curiosity, why 21 wouldn't you keep that, what it's primary use is, which 22 is for employees, on that back side and guests on the 23 front, and other than the paved requirement for fire 24 access, I guess on the lower part closest to 71, why 25 wouldn't you put up some sort of gate to keep somebody
Page 27 1 within the LBA along that property line. 2 MR. BARDENWERPER: And otherwise, they'll do 3 their water quality -- 4 MR. GOOTEE: They'll end up doing all the 5 maintenance and plantings within that easement line, 6 which kind of goes down here -- or actually, it starts 7 real close here and gets a little narrower and then 8 hooks around that area right like that. 9 MR. BARDENWERPER: Is that already serving as 10 an detention basin or is it still a soil erosion -- 11 sediment basin? 12 MR. GOOTEE: I believe it's still a sediment 13 basin. 14 MR. BARDENWERPER: It's kind of rough still, 15 but it'll be improved and have a high visual quality. 16 Right now, it's just -- as I think you said, you think 17 it's still serving as a sediment basin because of all 18 the construction that's obviously going around there, so 19 they've got to catch some sediment while this 20 construction occurs in that area. Diane Zimmerman is 21 here -- just stay up here one more second -- if you have 22 questions of her. But she did a generation distribution 23 study multiple times. Obviously, when it was an 24 apartment community, we were talking about a lot more 25 trip generation distribution and those were added issues	Page 29 1 from going around that? You can put a crash gate there 2 and they -- 3 MR. GOOTEE: Yeah. 4 MR. BARDENWERPER: Well, I think the main -- 5 it isn't a big issue. Diane can address it in terms of 6 any trapping impacts at the intersection and so forth. 7 The main interest in having this was to have the 8 proximity to the hospital, and so we wouldn't want to 9 have it as a gate that made it difficult for -- 10 CHAIRMAN PROFFITT: Well, but your -- 11 MR. BARDENWERPER: Fire -- 12 CHAIRMAN PROFFITT: -- your ambulance access 13 is in the rear anyway, though, right? 14 MR. BARDENWERPER: Yeah. 15 CHAIRMAN PROFFITT: I'm not saying get rid of 16 it, Bill. I'm saying down here on the bottom, the 17 horizontal piece now that's parallel to 71, why wouldn't 18 you have that blocked so that you wouldn't have 19 potential thru traffic? 20 MR. BARDENWERPER: Oh, you mean down in here? 21 CHAIRMAN PROFFITT: I'm not talking about in 22 the back. I understand that. 23 MR. BARDENWERPER: Yeah. 24 CHAIRMAN PROFFITT: That's where your 25 ambulances would come and everything else and employees.

Page 30 1 I guess where I'm coming with it is I just see a 2 potential for people who live in that apartment complex 3 to know a shortcut to Chamberlain Lane and guess what? 4 It's going to be through your property. And then 5 Diane's -- 6 MR. GOOTEE: Well, we tried to make it -- 7 CHAIRMAN PROFFITT: -- dollars go out the -- 8 MR. GOOTEE: -- the most secure route 9 possible, so you really wouldn't -- I understand, but if 10 you -- let's say you were going to make it a cut-through 11 and you're going to come out onto Chamberlain Lane, you 12 would probably have to come back around the roundabout 13 to get back out so 14 MR. BARDENWERPER: See, they not only have -- 15 this is literally a real straight shot, Civic Way to 16 1694, but they've also got access down -- what is that 17 road there? 18 CHAIRMAN PROFFITT: Oh, I understand, Bill. 19 MR. BARDENWERPER: Which you'd be smarter 20 going out this way and around the roundabout than trying 21 to make the left hand turn here against the traffic, but 22 I hear what you're saying. We just didn't -- we know 23 that we can install traffic -- 24 CHAIRMAN PROFFITT: I'm just playing the human 25 nature thing.	Page 32 1 MR. JARNICKI: I do. 2 CHAIRMAN PROFFITT: Go right ahead. 3 MR. JARNICKI: As was indicated through 4 previous presentations as well as the staff report, you 5 know, Norton Commons is a very fast and growing 6 development, and this proposed project allows the 7 residents of Norton Commons to continue to live in place 8 as their needs might change. What's being proposed is 9 state of the art in every way, shape, or form in that if 10 a person chooses to live there until their last days, 11 they can because we have put in the necessary supports 12 in place. There is an area for a home care agency that 13 will have their offices on the premises. There's an 14 aquatic therapy pool area that's proposed to be put in 15 the complex as well so that anybody that has any type of 16 therapy needs can have it right there without having to 17 leave the community. So it allows not only current 18 residents of Norton Commons, but future generations to 19 continue to live in the area. And what we've tried to 20 do is blend not only healthcare with hospitality, which 21 is the current trend and will continue to be the trend 22 as time goes on. What we knew was acceptable through 23 previous generations obviously is not going to be 24 acceptable to today's consumer or future consumers. So 25 what we've tried to do is think ahead and come up with
Page 31 1 MR. BARDENWERPER: Yeah. Sure. If it became 2 a problem, these guys have the right to install traffic 3 control measures like speed humps and so forth because 4 it's all a private, internal development, so -- 5 CHAIRMAN PROFFITT: Okay. 6 MR. BARDENWERPER: Obviously, with elderly 7 people, some of these people are going to be very mobile 8 and will probably find this a very attractive facility 9 because it's a very short walk to downtown Norton 10 Commons, which is a very pleasant place to spend time. 11 CHAIRMAN PROFFITT: Okay. 12 MR. BARDENWERPER: And so I would say if it 13 became an unsafe situation for the elderly residents, 14 maybe they'd come back with a gate just to stop that 15 very thing. 16 CHAIRMAN PROFFITT: Okay. Thanks. 17 MR. BARDENWERPER: Oscar, do you want to say 18 just a few things about the operations? 19 CHAIRMAN PROFFITT: State your name and 20 address, please, Mr. Jarnicki. 21 MR. JARNICKI: I'm Oscar Jarnicki. My address 22 is 10025 Trail Lane, Cincinnati, Ohio. 23 CHAIRMAN PROFFITT: Mr. Jarnicki, do you swear 24 or affirm the information you're about to give the Board 25 of Zoning Adjustment is the truth?	Page 33 1 what we believe is a blend of meeting someone's 2 healthcare needs but as well as doing it in a 3 hospitality type environment. 4 MR. BARDENWERPER: Real quickly, so they 5 understand your background in it, you came in as a 6 program planner on this in conjunction with the 7 architects who did the design plan for this elderly care 8 facility. What was your background in -- 9 MR. JARNICKI: Sure. 10 MR. BARDENWERPER: -- this sort of thing? 11 MR. JARNICKI: I have been in the senior 12 living business for the past 32 years, currently am in 13 Cincinnati as well. Many, many years ago, I was a 14 hospital administrator. So my entire professional 15 career has been devoted to healthcare in some form or 16 fashion. 17 CHAIRMAN PROFFITT: Any questions for Mr. 18 Jarnicki? Okay. Thank you. 19 MR. BARDENWERPER: So with that, I'm going to 20 go back to the site plan here. Diane did a traffic 21 analysis. It was included in your handouts of your 22 materials. If you have any questions about that, she's 23 there. Otherwise, I'll -- I think she said you heard 24 some traffic testimony earlier today, so you maybe heard 25 enough traffic testimony. But she's here if you have

Page 34 1 questions on any of that and can take those questions as 2 can Dave Mindel, who's here as well. 3 CHAIRMAN PROFFITT: Okay. 4 MR. BARDENWERPER: Otherwise, when we filed 5 this, we did file a detailed statement of compliance 6 with all the applicable guidelines and policies of the 7 comprehensive plan because that's the test. We did also 8 file in this booklet some proposed findings of fact, 9 which we always recommend for your consideration, which 10 takes what you heard today plus our compliance statement 11 and turns it into some findings that would demonstrate 12 compliance for purposes of helping us in the event there 13 were any more litigation in court, which we don't expect 14 since we think that we have placated all of the 15 residents, the adjoining developer, and the Wolf Pen 16 Preservation Association, although they are the one 17 group that are here today and may have something to say 18 on this so 19 CHAIRMAN PROFFITT: Okay. 20 MR. BARDENWERPER: We'll take any questions, 21 but that is our testimony. Hoping to have your support 22 of this today. 23 CHAIRMAN PROFFITT: Thanks, Bill. One quick 24 question in terms of signage. That will only be on the 25 Civic Way side; is that correct?	Page 36 1 entrance. 2 CHAIRMAN PROFFITT: I get it for employees and 3 deliveries. That's not at issue. 4 MR. BARDENWERPER: Yeah. 5 CHAIRMAN PROFFITT: My concern is that -- 6 MR. BARDENWERPER: Yeah. 7 CHAIRMAN PROFFITT: I'm going to ask Diane to 8 come up because I do want to ask her one quick question 9 since she's been extremely patient and no one has talked 10 to her today. So we're going to give her that 11 opportunity. You're welcome. If you would, state your 12 name and address for the record, please, ma'am. 13 MS. ZIMMERMAN: Yes. I will. Diane Zimmerman 14 with Jacobs Engineering Group, 11940 US 42 in Goshen 15 40026. 16 CHAIRMAN PROFFITT: And do you swear or affirm 17 the information you're about to give the Board of Zoning 18 Adjustment is the truth? 19 MS. ZIMMERMAN: Yes, sir. 20 CHAIRMAN PROFFITT: Okay. Quick question. 21 Your traffic counts and study based on exit and entry at 22 Chamberlain were based more for that entrance on what 23 would be utilized for staff; is that correct? 24 MS. ZIMMERMAN: That is correct. The trip 25 generation for this type of facility is 32 a.m. trips --
Page 35 1 MR. BARDENWERPER: Let me look and see what we 2 have on the plan. 3 MR. GOOTEE: I thought we had covered this. 4 There's one small sign right here. I just want to make 5 sure people know. 6 MS. FISHMAN: I'm sorry. Could you show me 7 again? 8 MR. BARDENWERPER: Where at, Kent? 9 MR. GOOTEE: Right here on Chamberlain Lane, 10 we were proposing a small sign here on Chamberlain Lane. 11 CHAIRMAN PROFFITT: And the purpose of that 12 sign is? Is it a employee-delivery entrance sign only 13 or is that to actually advertise for the site? And if 14 it is -- 15 MR. BARDENWERPER: Well, it was meant to 16 identify the site. We don't want people to think they 17 can't come in here. On the other hand, we also didn't - 18 - we think -- this is the most obviously direct route to 19 I71 at the healthcare facilities and so forth, but we 20 didn't care to just label it as a delivery because it 21 kind of gives a bad connotation because people are just 22 thinking this is the delivery entrance. It's an 23 entrance. We think it's the logical entrance for going 24 back and forth between healthcare facilities and for 25 employees and deliveries, but anybody can use either	Page 37 1 CHAIRMAN PROFFITT: Right. 2 MS. ZIMMERMAN: -- and 45 p.m. trips. 3 CHAIRMAN PROFFITT: So -- 4 MS. ZIMMERMAN: The only thing I could 5 logically draw from that was that that was going to be 6 staff coming and going. 7 CHAIRMAN PROFFITT: Okay. With that said, if 8 that were changed and they, let's say, put a sign there 9 that said hey, this is the property and now, all of the 10 sudden, it became the main entrance and exit -- quasi 11 main entrance and exit for the site, wouldn't that pull 12 your numbers way up? And the numbers aren't bad on 13 either side, but I'm just saying. 14 MS. ZIMMERMAN: I only projected 10 percent of 15 the traffic going to and from Norton Commons. I put the 16 90 percent using the Chamberlain Lane. 17 CHAIRMAN PROFFITT: For visitors and staff? 18 MS. ZIMMERMAN: All of these numbers. Yes. 19 We're assuming most of these numbers are generated by 20 staff, but I have to believe that if my mother was in 21 that facility, I would be coming in and out Chamberlain 22 Lane -- 23 CHAIRMAN PROFFITT: Chamberlain Lane. 24 MS. ZIMMERMAN: -- because of where I live in 25 proximity to this facility. If you live in Norton

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1 Commons, you -- there are not very many places that you
 2 can live --
 3 CHAIRMAN PROFFITT: Right.
 4 MS. ZIMMERMAN: -- and want to come through
 5 Civic Way. You'd have to live in far western Oldham
 6 County, far eastern Jefferson County that you'd be
 7 coming in that way. So, for me, providing analysis of
 8 what might be the worst case scenario was, if at all,
 9 went to and from Chamberlain Lane.
 10 CHAIRMAN PROFFITT: Hang on Bill. The numbers
 11 that you had generated for Chamberlain Lane, would you
 12 repeat those again?
 13 MS. ZIMMERMAN: Thirty-two a.m. trips, 45 p.m.
 14 trips.
 15 CHAIRMAN PROFFITT: Okay. And that's based on
 16 an 8:00 to 5:00, but not necessarily a 3:00 --
 17 MS. ZIMMERMAN: Right. Well, again, you'd
 18 have to assume that the counts were made at other
 19 facilities operating on a three-shift type of thing, so
 20 these counts were made at similar type facilities so
 21 CHAIRMAN PROFFITT: Okay. That sort of
 22 answers my question. Kent, if you would, come back up.
 23 I'd like to ask you your question. With this glorified
 24 entrance that you've got -- and I'm not saying that in a
 25 negative way. I'm saying you've highlighted it and

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1 you've made it a spectacular entry. It's my assumption
 2 that in basic site planning, that's where you want the
 3 majority of the visitors to come into the site?
 4 MR. GOOTEE: This is where we want the
 5 employees to come into the site.
 6 CHAIRMAN PROFFITT: I'm sorry.
 7 MR. GOOTEE: We don't really want --
 8 obviously, when you get directions to the site, you're
 9 going to come in off Civic Way. Once you figure out
 10 there's a second entrance, you might say oh, yeah, I can
 11 cut through.
 12 CHAIRMAN PROFFITT: But I guess my point is
 13 now it goes back to the signage issue. If you put a
 14 sign down there that you just allow anybody and
 15 everybody to come through there, that goes directly
 16 against what you just said relative to anybody and
 17 everybody wanting to come into the site and it being
 18 primarily for staff entry and delivery, ambulance, et
 19 cetera, et cetera. Now, you've got that as actually the
 20 quasi main entrance for your facility, correct?
 21 MR. BARDENWERPER: Well, one thing we could
 22 do, if it would help, I mean, we could put on the sign,
 23 if you want, employees and delivery entrance.
 24 CHAIRMAN PROFFITT: Something to --
 25 MR. BARDENWERPER: Put that on the sign to say

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1 --
 2 CHAIRMAN PROFFITT: Something to delineate
 3 that that's what that entrance is for.
 4 MR. BARDENWERPER: Right. I mean, this, again
 5 is -- this is the main entrance. This is looking at
 6 Civic Way, so if you come in this way, you're going to
 7 be driving along the back of the building, along the
 8 side of the building and approaching down here.
 9 CHAIRMAN PROFFITT: Now, will that change your
 10 philosophy then on adding a sign then to the -- do you
 11 have one at the front -- at the Civic Way entrance as
 12 well?
 13 MR. BARDENWERPER: Yes.
 14 CHAIRMAN PROFFITT: Okay.
 15 MR. BARDENWERPER: And so this would be -- if
 16 I was going to do it, this would be -- not only because
 17 this is an attractive entrance to Norton Commons, but
 18 I'd either come in like this or because I know --
 19 CHAIRMAN PROFFITT: Down here past 71.
 20 MR. BARDENWERPER: -- 22 parallels 71 there --
 21 CHAIRMAN PROFFITT: Right.
 22 MR. BARDENWERPER: -- so you come in and then
 23 you come in the main entrance. If you go right past the
 24 fire station, you come down Civic Way and then you see
 25 this entrance.

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1 MS. FISHMAN: Stop.
 2 MR. BARDENWERPER: So that's a logical way for
 3 people to come in if you don't want to come in the back
 4 way .
 5 CHAIRMAN PROFFITT: I'm just concerned about
 6 --
 7 MR. BARDENWERPER: Right. Well, why don't we
 8 do that? Why don't we put on that sign something, an
 9 identifier underneath the name of the sign that says
 10 employee and delivery entrance?
 11 CHAIRMAN PROFFITT: And you'll take that as a
 12 condition --
 13 MR. BARDENWERPER: A condition of approval.
 14 CHAIRMAN PROFFITT: Okay.
 15 MR. BARDENWERPER: I think it's a good idea.
 16 MS. FISHMAN: So let me make sure I
 17 understand. If you go to the map showing the --
 18 MR. BARDENWERPER: Yes, ma'am.
 19 MS. FISHMAN: -- transportation thing --
 20 either way. That's fine. So the one on the -- by the
 21 roundabout coming down that way, on Chamberlain Lane,
 22 coming down through here, that's mainly for --
 23 CHAIRMAN PROFFITT: Staff and delivery.
 24 MS. FISHMAN: -- staff and delivery; is that
 25 correct?

Page 42 1 MR. BARDENWERPER: Again, let me answer it 2 this way. That's the way we've identified it. Diane, 3 whose job is to always look at the worst case scenario, 4 took most of the traffic there so that she could 5 determine what is the impact going to be if we take most 6 of the traffic there. 7 CHAIRMAN PROFFITT: But 8 MR. BARDENWERPER: And so that's why -- but 9 her testimony was -- 10 CHAIRMAN PROFFITT: But that's now going to 11 have a sign -- 12 MR. BARDENWERPER: Right. 13 CHAIRMAN PROFFITT: -- that clearly delineates 14 that that -- 15 16 MR. BARDENWERPER: Right. 17 CHAIRMAN PROFFITT: -- is an employee and -- 18 MR. BARDENWERPER: Right. 19 CHAIRMAN PROFFITT: -- delivery sign and -- 20 MS. FISHMAN: Then -- 21 CHAIRMAN PROFFITT: -- unfortunately, what 22 Diane's numbers don't always include is what human 23 nature says will happen at the end. 24 MR. BARDENWERPER: Right. 25 MS. FISHMAN: And then the one from Civic Lane	Page 44 1 okay? So we were constantly in sort of a Catch-22. We 2 had to work our way through satisfying everybody, so we 3 ended up doing these two points of access. But I think 4 you've nailed it exactly, Mr. Chairman, is that if this 5 becomes a source of shortcut for apartment developer, 6 we'll put up a gate or some other devices to stop that 7 because that would become then unsafe for the residents 8 and vice versa as well if all of the sudden, you know, 9 everybody wants to come home this way. Then I think 10 your idea of putting a gate or something that would 11 prohibit that and then that sign that says employee and 12 -- 13 CHAIRMAN PROFFITT: Delivery. 14 MR. BARDENWERPER: -- delivery might end up 15 becoming a sign that says employees and deliveries only. 16 MS. FISHMAN: Now, this is private property; 17 is that correct? 18 MR. BARDENWERPER: Yes. 19 MS. FISHMAN: So could a sign go on there that 20 says private property, no cut-throughs allowed as part 21 of -- 22 MR. BARDENWERPER: Yeah. We could do that, 23 too. Yeah. Uh-huh. 24 MS. FISHMAN: That would seem to me, besides 25 having the fact that it's employee-delivery
Page 43 1 (sic), it'll come down and then right in front of there, 2 they'll have a sign that says -- 3 MR. BARDENWERPER: Right. 4 MS. FISHMAN: -- this is the place? 5 MR. BARDENWERPER: And when we were going 6 through discussions, because we had several groups we 7 needed to talk with. We needed to talk with residents, 8 we needed to talk with the Norton Commons developer, 9 which was the biggest obstacle to the development of 10 this site for reasons that I sort of hinted at earlier, 11 and then the Wolf Pen people. The Wolf Pen people asked 12 us not to have this access. 13 MS. FISHMAN: Not to have -- I'm sorry. 14 MR. BARDENWERPER: The Norton Commons people 15 required us to have this access because we said okay, if 16 we get rid of this and this -- no. I shouldn't say they 17 required us to have this. When we made this connection, 18 they required us to leave this one open. Okay. They 19 did not want us to have all of our delivery vehicles and 20 the ambulances and so forth coming all the way through 21 Norton Commons, so it made practical sense to us because 22 of the proximity to the hospital here to have this, but 23 it was also a requirement of the settlement agreement 24 that we have that access. We couldn't eliminate it 25 altogether, although we could have lived without it,	Page 45 1 MR. BARDENWERPER: Yeah. That's probably a 2 good idea to have something like that. I don't think 3 anybody would be offended by no cut-throughs, do they? 4 MR. GOOTEE: What are you going to do when you 5 see no cut-through? You're going to cut through. 6 CHAIRMAN PROFFITT: You're right, Kent. 7 Sometimes it entices people to want to do something that 8 they shouldn't. 9 MR. BARDENWERPER: That's just like Kent. That 10 wouldn't ever occur to me to do that. 11 CHAIRMAN PROFFITT: That automatically tells 12 you that there's a cut-through there, that people will 13 MR. GOOTEE: Yeah. I missed something in my 14 mapping, so I 15 CHAIRMAN PROFFITT: Yeah. Exactly. Okay. 16 Anything else for Mr. Bardenwerper or any of his 17 speakers? 18 MR. BERGMANN: You've brought up a point which 19 is sort of interesting to me. Let's assume there's an 20 emergency vehicle coming to pick someone up. Do they 21 come around to the front or do they pick up by the 22 garage area? 23 MR. GOOTEE: The rear of the building is 24 designed for, we say, service. It is back-of-house as 25 well for ambulance and whatnot. There is --

Page 46 1 CHAIRMAN PROFFITT: Do you have a medical 2 triage back there? 3 MR. GOOTEE: There's an elevator designed for 4 patients as well in the back. Those elevators will 5 function. The idea would not be to put ambulances at 6 the front door. That's generally not encouraged by the 7 operator. 8 MS. FISHMAN: They'll come in the same place 9 as the -- 10 CHAIRMAN PROFFITT: Employees. 11 MS. FISHMAN: -- delivery and employees? 12 MR. GOOTEE: Sure. 13 CHAIRMAN PROFFITT: But ambulance companies 14 that they deal with would typically know that unless 15 they happen to be over on the 1643 side and they get a 16 call immediately. They'll cut through. I mean, that's 17 just -- 18 MR. BARDENWERPER: Yeah. 19 CHAIRMAN PROFFITT: That's 20 MR. BARDENWERPER: These guys explained to us 21 earlier in one of our meetings that it's not a real good 22 sales tool to have ambulances coming to the front door 23 on a regular basis, even though these are elderly people 24 and there's a lot of ambulances. 25 CHAIRMAN PROFFITT: Michael, you had a	Page 48 1 Board of Zoning Adjustment is the truth? 2 MS. GUNNISON: I do. 3 CHAIRMAN PROFFITT: All right. Go right 4 ahead. 5 MS. GUNNISON: I wanted to do a little 6 background first to remind you that Wolf Pen 7 Preservation Association was a party to the lawsuit that 8 was concerned about the management of the water in the 9 retention basin that is currently owned also by Norton 10 Commons. Because this property proposed is on the 11 periphery of the Wolf Pen Neighborhood Plan, we were 12 very concerned about the effects of any water that would 13 spill off into our area. We did, willingly, sign a 14 settlement agreement stating that we supported this type 15 of plan. It's certainly far preferable to the multi -- 16 the many apartments that have been previously proposed. 17 We agreed that we support the plan as currently proposed 18 in terms of footprint, height, all the other 19 requirements. We realize there may be some tweaking 20 that needs to be done, but we do support this plan. Our 21 concern still remains keenly on the management of water 22 flow. It was stated today that the details of that have 23 not been worked out, so we want to work with the group 24 to make sure that the water is managed because we're 25 concerned about the Old Wolf Pen Mill that sits less
Page 47 1 question? 2 MR. ALLENDORF: Real quick, have you-all 3 started the State application through the Commonwealth 4 for licensing or are you waiting on us? 5 MR. BARDENWERPER: We have the application. We 6 haven't completed it yet pending, you know, the results 7 of today's meeting, yes. But we will be filing that, 8 the certificate of need application for personal care 9 licensure. 10 MR. ALLENDORF: Thank you. 11 CHAIRMAN PROFFITT: Okay. Any other questions 12 for the applicants? Seeing none, we'll move to those 13 that might be neutral to the party's application. Anyone 14 neither for nor against the applicant's proposal? Is 15 there anyone in opposition to the applicant's proposal? 16 Okay. I have Ms. Gunnison. Were you other, against, 17 for? 18 MS. GUNNISON: Well, let me just tell you -- 19 CHAIRMAN PROFFITT: Okay. Then we'll -- 20 MS. GUNNISON: -- since I'm the only other 21 person who wants to speak. I'm Alice Gunnison, 22 president of Wolf Pen Preservation. My address is 7849 23 Wolf Pen Branch Road in Prospect 40059. 24 CHAIRMAN PROFFITT: And, Ms. Gunnison, do you 25 swear or affirm the information you're about to give the	Page 49 1 than a mile downstream and water flow can very 2 negatively impact that. Overall, we do support the 3 plan. And, going back to what you were talking about a 4 minute ago with the entrances, I'm wondering if I'm 5 going out to visit someone there, if I Google-search the 6 entrance, my question would be where would it take me, 7 but I imagine that's a detail that can be worked out 8 later. 9 CHAIRMAN PROFFITT: I think one of the 10 speakers spoke to it. I think Kent was the one that 11 actually spoke to that, that it would have the address 12 of Civic Way, so if you Google it -- 13 MS. GUNNISON: Oh, okay. So that does it. 14 CHAIRMAN PROFFITT: -- it should take you in 15 that direction, correct, Kent? And he's shaking his 16 head in the affirmative. Yes. Okay. All right. Okay. 17 Is that all, Ms. Gunnison? 18 MS. GUNNISON: Yes. 19 CHAIRMAN PROFFITT: Any questions for Ms. 20 Gunnison? Ms. Gunnison, thank you for coming today. 21 It's always good to see a private citizen show up and, 22 unfortunately, have to spend the time that you spend 23 going through the process that we have to go through, so 24 thank you. Okay. Anyone else in the audience that 25 wishes to speak to this case either for, against, or

Page 50 1 neutral to? Okay. Our MSD folks are here, one of them 2 anyway. Do you want to -- come on up just so that 3 you're here. Just like Diane, we're going to give you a 4 chance to speak because you've been so patient and 5 nobody's spoke to you and, of course, nobody likes to 6 speak to MSD but 7 MR. BARRY: It does not hurt my feelings. 8 CHAIRMAN PROFFITT: Okay. Good. 9 MR. BARRY: Pat Barry, Metropolitan Sewer 10 District, 700 West Liberty, Louisville 40203. 11 CHAIRMAN PROFFITT: And, Pat, do you swear or 12 affirm the information you're about to give the Board of 13 Zoning Adjustment is the truth? 14 MR. BARRY: Yes. I do. 15 CHAIRMAN PROFFITT: All right. I'm assuming, 16 Pat, that you've done a preliminary review of this 17 project and that their design intentions for water 18 runoff, storm water retention-detention is adequate? 19 MR. BARRY: Yes. I have. They are meeting 20 all requirements as far as detention and water quality. 21 CHAIRMAN PROFFITT: Okay. 22 MR. BARRY: Without going into much detail, 23 the previous plan was taking the runoff to the lake. You 24 see up there? 25 CHAIRMAN PROFFITT: Uh-huh.	Page 52 1 Chamberlain, considering the distance from that exit to 2 where the building Metro Ordinance addressing, they 3 would have had to put a sign up there regardless, just 4 adding the verbiage, which I guess we're going to do as 5 conditional approval for employees and delivery and then 6 mindful, if they start having the cut-throughs. If they 7 do, put a gate on the property, which they're allowed to 8 do. There are some parameters that they would be 9 required to follow, which I would suggest they call the 10 Worthington Fire Department to work that out because of 11 -- 12 CHAIRMAN PROFFITT: Yeah. Well, they've got a 13 main station right up by Nortons there. 14 MR. ALLENDORF: Yeah. And more than likely, 15 they'll be coming in through the main entrance, so, I 16 mean, trying to dictate you can only go through the back 17 is not going to work. 18 CHAIRMAN PROFFITT: Yeah. I like loading up 19 that bottom end with traffic bump -- 20 MR. ALLENDORF: That's all I have. 21 CHAIRMAN PROFFITT: Roz. 22 MS. FISHMAN: Yes. Explanations helped me 23 understand a lot of stuff that you're talking about in 24 doing, and I appreciate you having patience to listen to 25 all my questions. And I'm glad you've got two signs;
Page 51 1 MR. BARRY: That was a problem. This one is 2 taking no water there, providing their own detention, 3 doing their own water quality, discharging to 4 Chamberlain Lane, eventually into a distributary of Wolf 5 Pen Branch and into the Wolf Pen Branch. 6 CHAIRMAN PROFFITT: Pat, is that pond up 7 there, is that the sole detention basin for Norton 8 Commons? 9 MR. BARRY: It's one of their detention basins 10 and one of their water quality basins and as Mr. 11 Bardenwerper said, they have a previous requirement when 12 Norton Commons was developed years ago, a binding 13 element that was proposed before our water quality 14 requirement, so they're handling their own water 15 quality. And yes, that is one of their detention 16 basins. 17 CHAIRMAN PROFFITT: Okay. Any other questions 18 for Mr. Barry? Pat, thank you so much for coming. We 19 appreciate your effort today. And, Diane, the same for 20 you. Thank you for coming and appreciate your patience. 21 Okay. Seeing no other persons in the audience that 22 wishes to speak, we'll go into business session. 23 Michael, you want to start? 24 MR. ALLENDORF: I think the project, for me, 25 is pretty -- it looks okay. The secondary exit off of	Page 53 1 one will specify employee and delivery and the other one 2 for visitors and something like that. I know there -- 3 you know, something saying private property, no cut- 4 through, I know that could be an issue with people with 5 people saying oh, there is a cut-through, but at least 6 they know it's private property. 7 MR. THARP: Looks like a wonderful retirement 8 community, elder care, looks like it's been well thought 9 out, well planned. I have no problems with anything. 10 CHAIRMAN PROFFITT: Fred. 11 MR. LIGGIN: No problems. 12 CHAIRMAN PROFFITT: Paul. 13 MR. BERGMAN: No problems. Looks like a good 14 plan. 15 CHAIRMAN PROFFITT: Okay. All right. I don't 16 have a problem for it as long as -- the only one I had 17 was the issue that had been ongoing out there about 18 entrance and exit off of Chamberlain, and I think if we 19 do the signage thing, that's about as good as we can 20 get. And if it does become a problem, then they've 21 assured us that they'll put in some kind of traffic 22 control devices on that bottom place. So, with that 23 said, there was a condition of approval added that the 24 sign located on the Chamberlain Lane entrance would read 25 something to the effect of employee -- besides the

Page 54 1 facility, it would clearly delineate employee and 2 delivery access only. 3 MR. ALLENDORF: Ready for motion? 4 CHAIRMAN PROFFITT: Yes, sir. 5 MR. ALLENDORF: Mr. Chair, in the case of 6 15CUP1012, the Chamberlain Senior Care Home located at 7 5217 Chamberlain Lane, I move that we grant a 8 conditional use permit to allow a home for the infirmed 9 and aged in an R-4 Zoning District. Within this motion, 10 we'll incorporate the standard of review and staff 11 analysis for conditional use permits found on page 2 and 12 3 of the staff report as well as the applicant's 13 justification statement under tab 12 of their handout. 14 Also with this motion, we incorporate three condition of 15 approvals. On page 20 of our staff report, there are 16 two already listed. We will add a third to the effect 17 that on the sign to the entrance off of Chamberlain 18 Lane, it shall have some type of wording or verbiage 19 added to the sign which states employee entrance and 20 deliveries only to that effect. As long as it mentions 21 that, I think we should be okay with it unless anybody 22 wants any additional wording added. 23 MS. FISHMAN: I second that with a question. 24 CHAIRMAN PROFFITT: I don't think he's 25 finished with his motion.	Page 56 1 CHAIRMAN PROFFITT: Yeah. Okay. So we have a 2 motion and a second. Any other further discussion? If 3 not, roll call vote, please Beth. 4 MS. STEVENSON: Fishman? 5 MS. FISHMAN: Yes. 6 MS. STEVENSON: Tharp? 7 MR. THARP: Yes. 8 MS. STEVENSON: Bergmann? 9 MR. BERGMANN: Yes. 10 MS. STEVENSON: Proffitt? 11 CHAIRMAN PROFFITT: Yes. 12 MS. STEVENSON: Liggin? 13 MR. LIGGIN: Yes. 14 MS. STEVENSON: Allendorf? 15 MR. ALLENDORF: Yes. 16 CHAIRMAN PROFFITT: I guess that's it, right? 17 Yeah. That's it. Okay. Thank you very much. Any 18 other business to come before the Board of Zoning 19 Adjustment? If not, is there a motion to adjourn? 20 MS. FISHMAN: So moved. 21 CHAIRMAN PROFFITT: Motion is made. 22 MR. BERGMANN: Second. 23 CHAIRMAN PROFFITT: Seconded and we're 24 finished. 25 (END OF HEARING)
Page 55 1 MR. ALLENDORF: No. I'm not. 2 CHAIRMAN PROFFITT: Go ahead and finish your 3 motion. 4 MS. FISHMAN: Oh, I'm sorry. Finish. Sorry. 5 MR. ALLENDORF: And with that -- oh, that's 6 okay. And with that being said, this motion is based 7 off the staff report, PowerPoint presentation, the 8 testimony, as well as the site plan today. 9 MS. FISHMAN: Okay. I will second it and the 10 question I have is do we need to say anything about if 11 it becomes a really bad cut-through that they will do 12 something about it or -- 13 MR. ALLENDORF: Legally, they can do that on 14 their own. 15 MS. FISHMAN: All right. That's okay with me. 16 CHAIRMAN PROFFITT: We either have to tell 17 them that we want traffic control features there or not, 18 I think, at this point in time. 19 MS. FISHMAN: We don't. 20 CHAIRMAN PROFFITT: Because we don't -- 21 MS. FISHMAN: Okay. That's fine. 22 CHAIRMAN PROFFITT: I'm not saying it's not 23 warranted. I'm just saying that it's hard to do ifs. 24 MR. ALLENDORF: Yeah. 25 MS. FISHMAN: Ands or buts.	Page 57 1 CERTIFICATE OF REPORTER 2 COMMONWEALTH OF KENTUCKY AT LARGE 3 4 I do hereby certify that the said matter was reduced to 5 type written form under my direction, and constitutes a 6 true record of the recording as taken, all to the best 7 of my skill and ability. I certify that I am not a 8 relative or employee of either counsel, and that I am in 9 no way interested financially, directly or indirectly, 10 in this action. 11 12 13 14 15 16 17 18 19 <i>Courtney Busick</i> 20 21 22 23 COURTNEY BUSICK, COURT REPORTER / NOTARY 24 COMMISSION EXPIRES ON: 10/18/2017 25 SUBMITTED ON: 1/18/2017

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