

Development Committee

Staff Report

June 18, 2014



Case No:	14Devplan1064
Project Name:	Proposed Personal Care Facility
Location:	9107, 9109 & 9113 Taylorsville Rd.
Owner(s):	9107 Taylorsville Road, LLC.
Applicant:	Turtle Creek Management, Inc.
Representative(s):	Bill Bardenwerper, Bardenwper, Talbott & Roberts
Jurisdiction:	Forest Hills
Council District:	18 – Marilyn Parker
Case Manager:	Latondra Yates, Planner II

REQUEST

- Revised Detailed District Development Plan and Binding Element Amendments for a proposed nursing home.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The site was previously approved as Taylor Village to construct 35 condominium units within 4 buildings and two 4,032 square foot office buildings under dockets No. 9-32-06 and 10-25-06. Consolidation of three lots and construction of a 2-story, 144-unit nursing home is now proposed. The proposed 94 parking spaces is close to the 80-space minimum. The maximum allowed is 231 spaces.

A Conditional Use Permit for the nursing home, variances and waivers will be heard by BOZA Monday, June 16.

The site is zoned R-5A and OR-3 in the Neighborhood Form District (NFD). To the north are Regent Park and Forest Hills Estates Subdivisions, zoned R-4. The property transitions to the Suburban Marketplace Corridor (SMC) Form District to the south, across Taylorsville Rd., where there is Stonybook, zoned C-2. To the east is Devonshire Subdivision, Sec. 1, zoned R-3. To the west is Regent Park Subdivision. There are unplatted R-4 lots immediately adjacent to the east and west.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Vacant	R-5A / OR-3	NFD
Proposed	Nursing home	R-5A / OR-3	NFD
<i>Surrounding Properties</i>			
North	Single-family residential	R-4	NFD
South	Commercial	C-2	SMC
East	Single-family residential	R-3	NFD
West	Single-family residential	R-4	NFD

PREVIOUS CASES ON SITE

- **14CUP1010**, the following will be heard by BOZA Monday, June 16:
 - Conditional Use Permit (CUP) under Sec. 4.2.39 of the Land Development Code to allow a nursing home.
 - Variance of Sec. 5.3.1.C.5. of the LDC to allow the proposed structure to encroach into the required 50-ft. west side yard. The requested setback is 26 ft., at its closest point, a variance of 24 ft.
 - Variances of Sec. 5.3.1.C.5. of the LDC to allow parking to encroach into the required 50-ft. side yards. The requested setback is 26 ft. on the east side, a variance of 24 ft. The requested setback is 6 ft. on the west side, a variance of 44 ft.
 - Variance of Sec. 5.3.1.C.5. of the LDC to allow the proposed structure to encroach into the required 50-ft. rear yard. The requested setback is 48 ft., at its closest point, a variance of 2 ft.
 - Waiver of Sec. 10.2.4.A. of the LDC to allow pavement to encroach into the required LBA along the west property line.
- **Case No. 9108**, RDDDP for Taylor Village to construct 35 condominium units within 4 buildings and two 4,032 square foot office buildings. Reviewed by the Planning Commission October 18, 2007.
- **Dockets No. 9-32-06 and 10-25-06**, Taylor Village, previously approved as a change in zoning from R-4 to R-5A and OR-3 to create 3 buildable lots for offices on Tracts 1 and 2, and multi-family residential on Tract 3. Approved by the Planning Commission December 7, 2006.

INTERESTED PARTY COMMENTS

No interested party comments received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020 – See checklist attached.
Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO
BINDING ELEMENTS**

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: Waiver of the required landscaping proposed. A significant encroachment of the structure, parking and maneuvering are proposed, particularly on the west side. MSD has given preliminary approval.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: The plan has been reviewed by KDOT and the Transportation Planning Review team and has preliminary approval.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: No open space requirement for this development.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The plan has MSD preliminary approval.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The proposed use appears to be compatible with the surrounding mix of uses. However, significant encroachment of structure, parking and maneuvering is proposed, particularly on the west side, into the required landscape buffer, is proposed.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The plan violates some of the applicable guidelines of the Comprehensive Plan. See checklist attached.

TECHNICAL REVIEW

1. TARC had requested that the applicant consolidate the stops to either side of the development nearside of the proposed driveway that lines up with the driveway of the retail center across the street. The applicant has stated that they are unable to accommodate this request.

STAFF CONCLUSIONS

Staff's analysis of the standards of review support the granting of RDDDP, with recommendations that the site layout be revised to provide more of the required setback and LBA, particularly to the west. The RDDDP violates 6 guidelines of the Comprehensive Plan. Substantial encroachment of the building, parking and maneuvering, particularly on the west side, into both the required setback and LBA are proposed.

Based upon the information in the staff report, the testimony and evidence provided, Development Review Committee must determine if the proposal meets the standards for approval of a RDDDP as established in the Land Development Code.

NOTIFICATION

Date	Purpose of Notice	Recipients
6/2/2014	DRC Meeting	1 st and 2 nd tier adjoining property owners

ATTACHMENTS

1. Zoning Pre-App. Tax Map
2. Aerial Map
3. Site Plan
4. Elevations / Photos
5. Cornerstone 2020 Comprehensive Plan Checklist
6. Existing binding elements
7. Proposed binding elements

1. **Zoning Map**



2. Aerial Photo



3. Site Plan



4. Elevations / Photos









5. **Cornerstone 2020 Comprehensive Plan Checklist**

















6. Existing Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The residential density of the condominium development shall not exceed 12 dwelling units per acre (35 units on 2.9 acres).
3. Office square footage in two buildings shall be limited to 16,128 sf.
4. Signs shall be in accordance with Chapter 8.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
7. Before any permit (including but not limited to building, parking lot, change of use, or site disturbance permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded dividing the residential condominium property from the office property and dedicating any required additional right of way. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
8. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

9. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
10. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system (audible beyond the property line).
11. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
12. Multi-family development of the property shall be limited to development under a horizontal property regime.
13. The site shall be developed in accordance with the Tree Canopy Protection Areas (TCPAs) delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.
 - a. Tree Canopy Protection Areas (TCPAs) identified on this plan represent individual trees and/or portions of the site designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.
 - b. Dimension lines have been used on this plan to establish the general location of TCPAs and represent minimum distances. The final boundary for each TCPA shall be established in the field to include canopy area of all trees at or within the dimension line.
 - c. Tree protection fencing shall be erected adjacent to all TCPAs prior to Site Disturbance Approval to protect the existing tree stands and their root systems. The fencing shall be located at least three (3) feet from the outside edge of the tree canopy and shall remain in place until all construction is completed.
 - d. No parking, material storage or construction activities are permitted within the TCPAs.
 - e. During all construction activity (includes clearing, grading, building construction and VUA construction) a copy of the approved tree preservation plan shall be on site.
14. The construction materials of all buildings shall be primarily of brick or stone, with accent areas of "hardy plank" or dryvit/stucco and other maintenance free materials. No vinyl siding shall be used. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 10, 2007 DRC meeting.
15. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

16. All exterior pole lighting will be directed down and away from properties, or shall be the typical LG&E residential style (acorn or coach lamp) low-wattage lighting. Attached building lights shall be low-wattage, coach lamp style or otherwise directed down and away from off site properties. Spotlights shall not be permitted.
17. All parking areas shall be screened from Taylorsville Road.
18. Contemporaneous with the Developer's required submittal of the landscape plan to Planning Commission staff, the Developer shall at the same time also submit such plan to the City of Forest Hills for comment.
19. Contemporaneous with the Developer's required submittal to the Planning Commission staff (and/or MSD) of any proposed improvements to the stream located at the rear of the subject property, the Developer shall at the same time also submit such plans and /or other description of the improvements to the City of Forest Hills for comment.
20. The landscaping shall be irrigated.

7. **Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
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