

**Board of Zoning Adjustment
Staff Report**
March 20, 2017



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|----------------------------------|--------------------------------|
| Case No(s): | 16CUP1084 |
| Project Name: | Chamberlain Senior Care |
| Location: | 5217 Chamberlain Lane |
| Owner(s): | Chamberlain, LLC |
| Applicant(s): | Chamberlain Senior Care, LLC |
| Representative(s): | William B. Bardenwerper |
| Project Area/Size: | 14.82 acres |
| Existing Zoning District: | R-4, Residential Single Family |
| Existing Form District: | N, Neighborhood |
| Jurisdiction: | Louisville Metro |
| Council District: | 16 – Scott Reed |
| Case Manager: | Jon E. Crumbie, Planner II |

Case was continued from the January 23, 2017 public hearing to allow parties to talk and hopefully reach an agreement.

REQUEST

- Modification of and Conditional Use Permit to allow an increase in the number of units and square footage for the 2nd and 3rd floors by 7,000 square feet for a new total of 295,719.

CASE SUMMARY/BACKGROUND

Previous background - This case was re-filed from case number 15792 as a result of a recommendation from the Land Development & Transportation Committee of the Planning Commission. It was brought to the attention of the Committee that the previous case (case number 15792) had violated the Case Management System for Development Review policies adopted by Planning & Design Services in June of 2006. The policy states that "Cases for which revised plans and/or materials are not submitted within 6 months shall be removed from the review process." Case number 15792 did not have revised materials submitted from November 23, 2011 to July 15, 2013.

The applicant is proposing a home for the infirm and aged that will consist of two 2-story structures and one 1-story and 3-story structure combined. The total units in the complex will be 162. It will be located a few hundred yards from another just-approved healthcare facility of similar kind catering to those people who require a higher level of care than the proposed facility. The new Norton Hospital is close by and medical clinics are also located in the same area known as Old Brownsboro Crossing, which includes many restaurants, small shops, and large box retailers like Lowes and Costco. 195 parking spaces will be provided including 36 garage and 10 handicapped.

Current background - The applicant is proposing a home for the infirm and aged that will consist of two 3-story structures and a 1-story, 2- story, and 3-story structure combined. The total units in the complex will be 220. 265 parking spaces will be provided including 90 garage and 7 handicapped.

Chamberlain Senior Care, Norton Commons, and Wolf Pen Preservation Association had voluntarily executed a settlement agreement that included the deceleration lane along Chamberlain Lane in early 2015. Pursuant to the Agreement, Chamberlain Senior Care, and its affiliates were obligated to provide Norton Commons at least twenty-one (21) days prior notice of any material changes to the plan. The plan was presented to the Board of Zoning Adjustment and approved without the deceleration lane.

The current plan eliminates the retaining wall shown in the right-of-way and access control gate shown on the prior plan.

SITE CONTEXT

The site is located at the northeastern corner of Chamberlain Ln and I-71. Norton Commons is located to the north and east of the subject site.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

| | Land Use | Zoning | Form District |
|--------------------------------------|------------------------------|---------------|----------------------|
| <i>Subject Property</i> | | | |
| Existing | Single Family Residential | R-4 | N |
| Proposed | Home for the infirm and aged | R-4 | N |
| <i>Surrounding Properties</i> | | | |
| North | Norton Commons Residential | PVD R-4 | None N |
| South | I-71 | ROW | ROW |
| East | Norton Commons | PVD | None |
| West | Residential | R-4 | N |

PREVIOUS CASES ON SITE

16DEVPLAN1049/16CUP1044

The changes were filed as a revised detailed district development plan, but should have been a modified Conditional Use Permit plan. This plan was not acted upon by the Board of Zoning Adjustment. Changes were made to the plan and submitted under a news case number.

15CUP1012

Conditional Use Permit to allow a nursing home on property known as 5217 Chamberlain Lane. This proposal was approved by BOZA on May 4, 2015.

15CUP1014

Conditional Use Permit to allow a nursing home on property known as 5000 Chamberlain Lane. This proposal was approved by BOZA on September 8, 2014.

14ZONE1012

Change in zoning from R-4, Single Family Residential, to R-6, Multi-Family Residential on 15.06 acres Detailed District Development plan

Case # 15792

Rezoning request from R-4 to R-6 for the same proposal. Case # 15792 was deemed to be expired per Louisville Metro Planning & Design Services Case Management Policies, which states, "Cases for which revised plans and/or materials are not submitted within 6 months shall be removed from the review process. If revised materials are submitted after this time, a new application, plans, supporting information and applicable fees will be required. A new case (docket) number will be assigned and the request will be reviewed as a new submittal. Extensions of this deadline must be submitted in writing and may be approved, by the Planning Director or designee, in unique circumstances."

INTERESTED PARTY COMMENTS

Prior Proposal (January 23, 2017) - Staff has received comments from Norton Commons, LLC which is in favor of the deceleration lane with no access control gate and Wolf Pen Branch Neighborhood Association which is in favor of the access control gate. The prior councilman for district #19 (Kelly Downard) submitted a letter in opposition to the deceleration lane until there is a proven need.

Staff has not received any comments concerning the current proposal.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMITS

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

STAFF: The proposed development of the site will be consistent and compatible with the character of the area. The Neighborhood Form District is characterized by predominantly residential uses that vary from low to high density and blend compatibly into the existing landscape and neighborhood areas. The Neighborhood Form District should contain diverse housing types in order to provide housing choices for differing ages and incomes, as well as provide for accessibility and connectivity between adjacent uses and neighborhoods. The site will incorporate low level lighting and adequate landscaping and buffering from adjoining properties.

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

STAFF: The proposal is compatible with the general character of the surrounding neighborhoods in terms of height, scale, intensity, lighting, and appearance.

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

STAFF: The proposal has been reviewed by Public Works and MSD and both have approved the plan. The Worthington Fire District did not comment on the proposal.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested? There are 3 items in the listed requirements for home for the infirm or aged. Item A. and item B. will be met.

Nursing Homes may be permitted in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings shall be located at least 30 feet from any property line.
- B. One sign, not to exceed 60 square feet and six feet in height, may be placed at each of the major entrances, except in districts where larger signs are allowed.
- C. The Board of Zoning Adjustments shall add any restrictions to mitigate nuisances or adverse effects.

TECHNICAL REVIEW

Wolf Pen Branch Neighborhood Plan was adopted on March 28, 2006. The site abuts Chamberlain Lane between I-71 to Wolf Pen Branch Road.

Public Works is permitting the developer to construct the right turn lane on Chamberlain Ln to serve the main access to the senior care development because of the connection to the public Civic Way within Norton Commons. The distribution of traffic will likely warrant the turn lane in the future after the connection is made because of the volume of traffic on Chamberlain Ln.

STAFF CONCLUSIONS

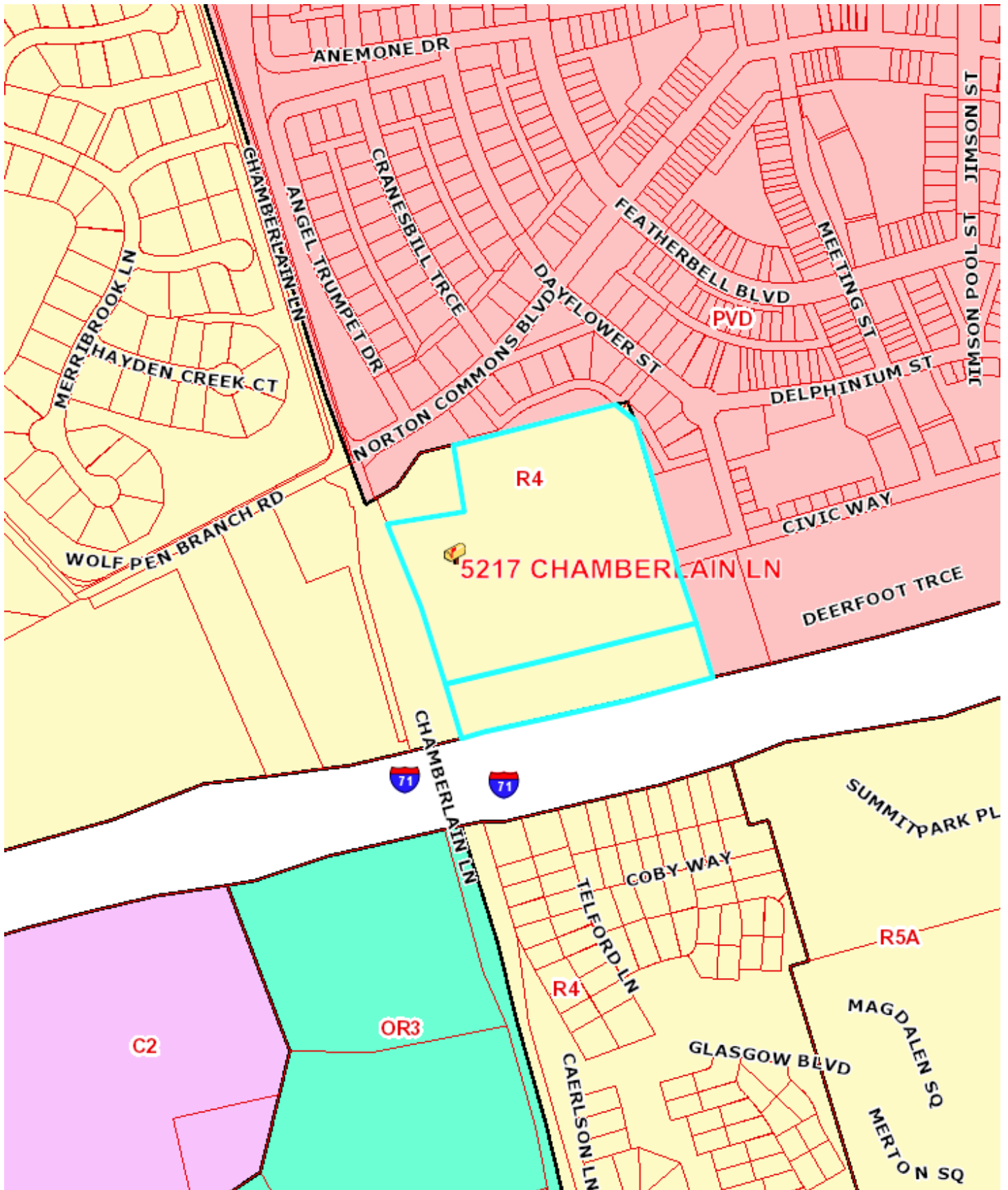
The proposal will be compatible with the surrounding residential development and will provide ample landscaping and buffering. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, BOZA must determine if the proposal meets the standards for granting the modified Conditional Use Permit as established in the LDC.

NOTIFICATION

| Date | Purpose of Notice | Recipients |
|---------|-------------------|--|
| 1/5/17 | APO Notice | First tier adjoining property owners Neighborhood notification recipients |
| 1/10/17 | Sign Posting | Subject Property |

ATTACHMENTS

1. Zoning Map



2. Aerial Photograph



3. Existing Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a home for the infirm and aged without further review and approval by the Board.
3. A sign shall be posted along Access #1 that states "Employee and Delivery Access only."