

**Board of Zoning Adjustment  
Staff Report  
June 20, 2016**



|                                  |                                      |
|----------------------------------|--------------------------------------|
| <b>Case:</b>                     | 16Mod1002                            |
| <b>Project Name:</b>             | Oaklawn                              |
| <b>Location:</b>                 | 100 Shelby Station Drive             |
| <b>Owner:</b>                    | Oaklawn Development Properties, LLC. |
| <b>Applicant:</b>                | Oaklawn Development Properties, LLC  |
| <b>Representative:</b>           | William B. Bardenwerper              |
| <b>Project Size/Area:</b>        | 5.6 acres                            |
| <b>Existing Zoning District:</b> | R-4                                  |
| <b>Existing Form District:</b>   | Neighborhood                         |
| <b>Jurisdiction:</b>             | Louisville Metro                     |
| <b>Council District:</b>         | 19 – Julie Denton                    |
| <b>Case Manager:</b>             | Steve Hendrix, Planning Supervisor   |

## REQUEST

### To change Conditions of Approval:

- #3** -- There will be a maximum number of 30 employees on site during any shift.  
and  
**#4** -- There shall be a maximum number of 78 residents on site at any given time.

### TO:

**#3** – There will be a maximum number of 30 employees on site during any shift and a maximum number of 78 dwellings units, or any combination thereof such that the total number of parking spaces required by the Land Development Code, taking into consideration all applicable parking credits, is satisfied. Any revisions to the requirements of this condition of approval shall be submitted to the Planning Commission Director for review and determination.

## CASE SUMMARY/BACKGROUND

The subject site was approved for a Conditional Use Permit to allow an assisted living /senior citizen retirement facility (nursing home and homes for the infirmed or aged) in 2010 with conditions.

This request clarifies the parking requirements.

## **BACKGROUND/PREVIOUS CASES ON SITE**

### **B-12834-09**

On July 19, 2010, the Board approved the request to allow a home for the infirmed and aged in an R-4 zoning district with conditions.

### **B-314-99**

On July 19, 2010, the Board approved the modification to allow a change in the existing boundary for Lots 1, 2 and 4.

**09-12573-09** An ordinance changing the zoning from R-4 to R-5A on property known as 400 Shelby Station Drive and being in Louisville Metro. This proposal was approved by Metro Council on February 28, 2010 (lot 3).

**153-03** A Minor subdivision Plat was approved on August 8, 2003.

August 6, 2001, at a meeting of the Board, a hearing was held on this case and a revision was approved to extend the Conditional Use Permit area southeast of the nursing home structure.

July 2, 2001, at a meeting of the Board, a hearing was held and the Board continued the hearing to allow the applicant to submit a revised plan with modifications.

February 19, 2001, the Board approved an application of a Modification of an approved Conditional Use Permit to allow a reduction in the number of units for the assisted facility.

**B-314-99** An application for a Conditional Use Permit to allow an assisted living facility/nursing home in an R-4 zoning district. This was approved by the Board on January 18, 2000.

## **SITE CONTEXT**

The 5.6 acre development site is zoned R-4 within a Neighborhood Form District just west of the Shelbyville Road/South Beckley Station Road intersection.

### **LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

|                                      | <b>Land Use</b>               | <b>Zoning</b> | <b>Form District</b> |
|--------------------------------------|-------------------------------|---------------|----------------------|
| <b><i>Subject Property</i></b>       |                               |               |                      |
| <b>Existing</b>                      | Senior Living Facility        | R-4           | Neighborhood         |
| <b>Proposed</b>                      | Same                          | R-4           | N                    |
| <b><i>Surrounding Properties</i></b> |                               |               |                      |
| <b>North</b>                         | Residential, Office, Church   | R-5, R-4,     | N                    |
| <b>South</b>                         | Oaklawn Rehabilitation        | R-4           | N                    |
| <b>East</b>                          | Vacant Lot, Convenience Store | C-1           | N                    |
| <b>West</b>                          | Landis Lakes TowneCenter      | C-1           | N                    |

### **INTERESTED PARTY COMMENTS**

No comments have been received from interested parties.

### **APPLICABLE PLANS AND POLICIES**

- Cornerstone 2020
- Land Development Code

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT**

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

STAFF: The proposal meets all applicable policies of the Comprehensive Plan.

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 surrounding land uses and will be adjacent to and existing nursing home. The proposal will be compatible with the general character of the area with respect to scale, drainage, 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.

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

STAFF: There are 3 items in the listed requirements for a nursing home. Item A. and B. have been met and item C. is subject to the Board.

### **Nursing Homes and Home for the Infirm or Aged**

Nursing Homes and Homes for the Infirm or Aged 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**

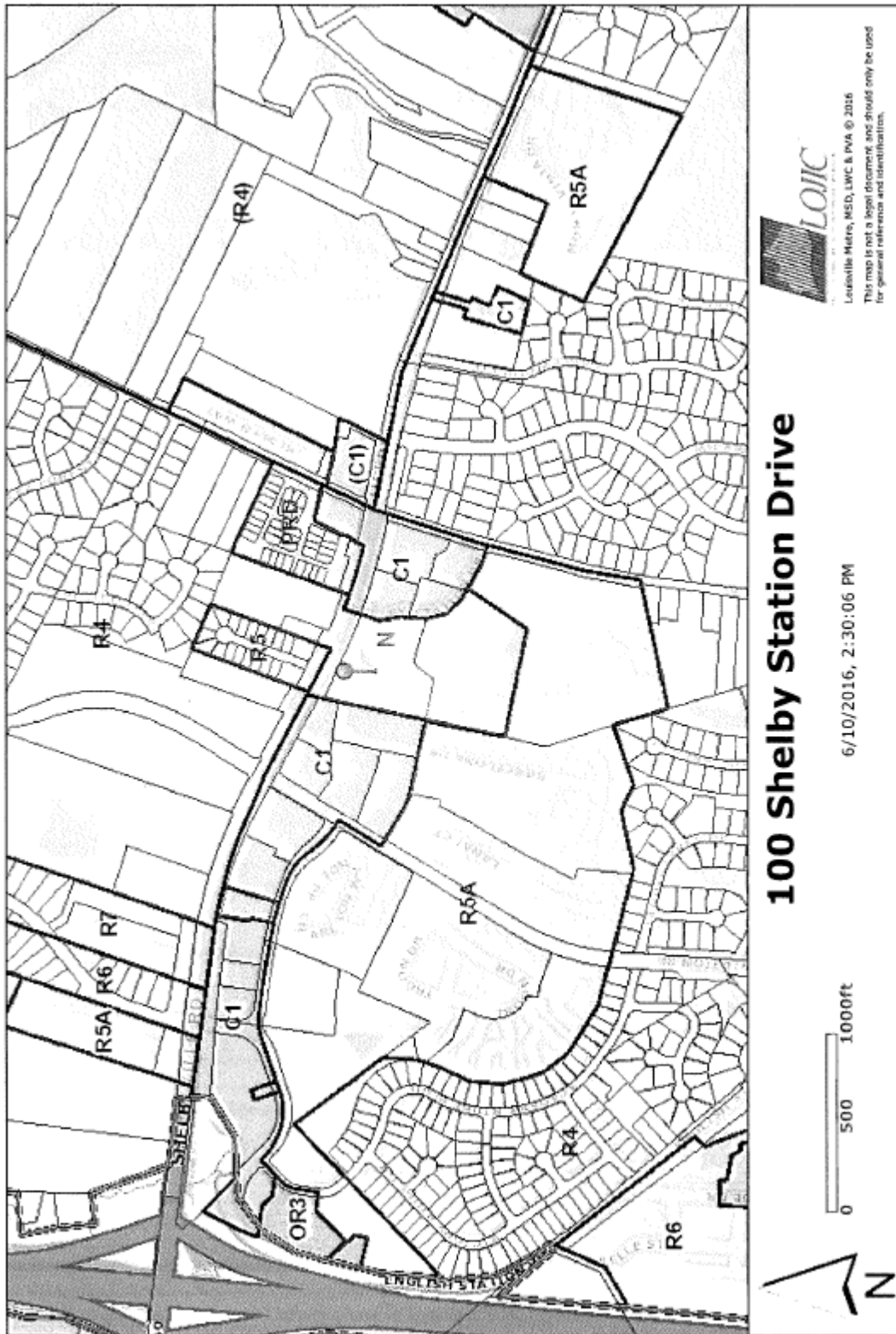
None

## **STAFF CONCLUSIONS**

The proposed change to the Conditions of Approval #3 and #4 better explains the parking requirements for the senior living facility.

## **ATTACHMENTS**

1. Zoning Map
2. Justification Statements
3. B-12834-09 Minutes
4. LDC Parking requirements
5. 2009 Site Plan



**BARDENWERPER, TALBOTT & ROBERTS, PLLC**

ATTORNEYS AT LAW

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June 6, 2016

Case Manager  
Louisville Metro Planning & Design Services  
444 S. 5<sup>th</sup> Street, 3<sup>rd</sup> Floor  
Louisville, KY 40202

**RECEIVED**

JUN 06 2016  
PLANNING &  
DESIGN SERVICES

Re: Proposed Amendment to Conditions of Approval on property located at 100 Shelbyville Road, previous Docket No. B-12834-09

Dear Case Manager:

We are herewith filing an application to amend the Conditions of Approval number 3 and 4 under the above referenced Docket No. relating to the number of employees and residents on this site. These Conditions of Approval were added to address the Land Development Code parking requirements for the subject Lot 2, and should have been worded differently. LDC Table 9.1.12 provides the minimum parking requirement for Assisted Living/Senior Citizen/Retirement Facilities is "0.5 spaces for each dwelling unit plus 1 space for each two employees on maximum shift". The total required parking spaces for the CUP Lot 2 would be 54 spaces, which is what is shown on the CUP Plan as the minimum required parking confirming this is where these COA were derived.

Per my conversation and email communication with Emily Liu last week, we believe these Conditions of Approval could have been worded differently to more properly address the reason for the Conditions of Approval. LDC Table 9.1.12 provides the minimum parking requirement for Assisted Living/Senior Citizen/Retirement Facilities is "0.5 spaces for each dwelling unit plus 1 space for each two employees on maximum shift". First, Condition of Approval should have been a maximum of 78 "dwelling units" per the LDC parking calculation rather than a maximum of 78 "residents" as there are occasions when a dwelling unit has double occupancy which would be a technical violation, but would not affect the parking calculations. Second, we would request that the Conditions of Approval have language added that would provide flexibility should either of the limitations decrease and the other increase such that the LDC parking requirements are still met.

Therefore, we are herewith filing an application to amend the Condition of Approval language, removing Conditions of Approval #3 and 4 and replacing them with the following:

3. There will be a maximum number of 30 employees on site during any shift and a maximum number of 78 dwelling units, or any combination thereof such that the total number of parking spaces required by the Land Development Code, taking into consideration all applicable parking credits, is satisfied. Any revisions to the

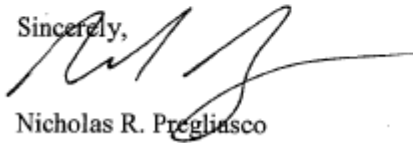
requirements of this condition of approval shall be submitted to the Planning Commission Director for review and determination.

We request that this matter be heard before BOZA's business session consent agenda for the June 20th meeting.

If you have any questions regarding this matter, please do not hesitate to call or write.

Many thanks.

Sincerely,



Nicholas R. Pregliasco

RECEIVED

JUN 06 2016  
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**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**JULY 19, 2010**

**NEW BUSINESS:**

**CASE NO. B-12834-09 & B-314-99**

**WHEREAS**, the Board finds that the proposal is compatible with surrounding land uses and will be adjacent to and existing nursing home; and because the proposal will be compatible with the general character of the area with regard to scale, drainage, lighting and appearance; and

**WHEREAS**, the Board finds that the proposal has been reviewed by Public Works and MSD and both agencies have approved the plan; and

**WHEREAS**, the Board finds that the proposal complies with specific standards required to obtain the conditional use permit with regard to setbacks and signage; and

**WHEREAS**, the Board finds the proposal to be in conformance with the Comprehensive Plan because it complies with all applicable guidelines, principles and objectives of the Comprehensive Plan, as it has received preliminary approval from Transportation Review and Louisville and Jefferson County Metropolitan Sewer District;

**NOW, THEREFORE, BE IT RESOLVED**, that the Conditional Use Permit is hereby **APPROVED ON CONDITION**.

**The conditions are as follows:**

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 nursing home without further review and approval by the Board.
3. There will be a maximum number of 30 employees on site during any shift.
4. There shall be a maximum number of 78 residents on site at any given time.

Table 9.1.2A Minimum and Maximum Motor Vehicle Parking Based on Use

| USE CATEGORY     | SPECIFIC USES                                                                      | MINIMUM SPACES REQUIRED                                                                                                                                                                      | MAXIMUM SPACES ALLOWED                                                                                                                                                                              |
|------------------|------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Residential      |                                                                                    |                                                                                                                                                                                              |                                                                                                                                                                                                     |
| Group Housing    | Assisted Living Residences                                                         | .5 spaces for each dwelling unit, plus 1 space for each 2 employees on maximum shift                                                                                                         | 1.5 spaces for each dwelling unit, plus 1 space for each employee on maximum shift                                                                                                                  |
|                  | Boarding and lodging houses                                                        | 1 space for manager plus 0.5 space per boarder                                                                                                                                               | 1 space for manager plus 1.0 space per boarder                                                                                                                                                      |
|                  | College Dormitories                                                                | 1 space for each sleeping room OR As determined upon review by the Planning Director                                                                                                         | 2 space for each sleeping room OR As determined upon review by the Planning Director                                                                                                                |
|                  | Dwellings for Persons with Disabilities that Preclude Driving                      | .25 spaces for each dwelling unit intended for occupancy by persons with disabilities that preclude driving, plus 1.5 spaces for each dwelling unit intended to be occupied by support staff | .75 spaces for each dwelling unit intended for occupancy by persons with disabilities that preclude driving, plus 2 spaces for each dwelling unit intended to be occupied by support staff          |
|                  | Fraternities and Sororities                                                        | 2 spaces for each 3 bedrooms, or 1 spaces for each 50 sq. ft. of floor area used for meeting rooms, whichever is greater                                                                     | 1.5 spaces for each bedroom, or 1 spaces for each 30 sq. ft. of floor area used for meeting rooms, whichever is greater                                                                             |
|                  | Rehabilitation Home                                                                | .75 spaces for each bedroom                                                                                                                                                                  | 1.5 spaces for each bedroom                                                                                                                                                                         |
|                  | Rooming, Boarding and Lodging Houses/Bed and Breakfast                             | .75 spaces for each bedroom                                                                                                                                                                  | 1.5 spaces for each bedroom                                                                                                                                                                         |
|                  | Senior Citizen or Retirement Facilities                                            | .5 spaces for each dwelling unit, plus 1 space for each 2 employees on maximum shift                                                                                                         | 1.5 spaces for each dwelling unit, plus 1 space for each employee on maximum shift                                                                                                                  |
| Household Living | Accessory Residential Uses (e.g. swimming pools, club houses, tennis courts, etc.) | As determined upon review by the Planning Director                                                                                                                                           | As determined upon review by the Planning Director                                                                                                                                                  |
|                  | Duplexes                                                                           | 1 space for each dwelling unit (driveways, carports and garages may be used to fulfill this requirement)                                                                                     | No more than 3 vehicles owned or leased by a resident may be parked outdoors. This does not include vehicles parked in garages or carports with at least three sides enclosed. (See Section 9.1.15) |

