

# Board of Zoning Adjustment Staff Report

March 3, 2014



<b>Case No(s):</b>	13CUP1023
<b>Project Name:</b>	Full Care
<b>Location:</b>	2601 Blankenbaker Road
<b>Owner(s):</b>	Twins Unlimited, LLC
<b>Applicant(s):</b>	Twins Unlimited, LLC
<b>Representative(s):</b>	Erik J. Merten
<b>Project Area/Size:</b>	1.4 acres
<b>Existing Zoning District:</b>	R-6, Residential Multi-Family
<b>Existing Form District:</b>	Suburban Workplace
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	20 – Stuart Benson
<b>Case Manager:</b>	Jon E. Crumbie, Planner II

## REQUESTS

- Conditional Use Permit to allow a commercial greenhouse in an R-6 zoning district.
- Approve the alternative landscape plan

## CASE SUMMARY/BACKGROUND

The applicant is proposing a Conditional Use Permit to allow and existing business to continue as a commercial greenhouse/plant nursery/landscape material supply operation. The business was issued a Notice of Violation on September 24, 2013. There will be seven parking spaces on site that will be buffered from the adjoining residential property by an 8-foot wood fence. The existing greenhouse will be relocated away from the adjacent residential property.

## SITE CONTEXT

The site is irregular in shape and located near the northeast corner of Shinning Water Drive and Blankenbaker Road. The site is adjacent to residential uses to the north, south, and east. A vacant wooded area is to the west.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b><i>Subject Property</i></b>			
<b>Existing</b>	Greenhouse	R-6	SWC
<b>Proposed</b>	Greenhouse	R-6	SWC
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Residential Single Family	R-4	SWC
<b>South</b>	Right-of-Way		
<b>East</b>	Residential Multi-Family	R-6	SWC
<b>West</b>	Wooded Area	PEC	SWC

## PREVIOUS CASES ON SITE

**9-53-04W** A request for a change in zoning from R-4 to R-6 and a waiver to omit required perimeter landscaping. This request was approved on December 2, 2004 by the Planning Commission. The project was never built.

## INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

## 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 development of the site will be consistent and compatible with the character of the area. The site is located in the Suburban Workplace Form District with residential uses in the immediate area. Adequate transportation infrastructure exists to accommodate the use. There are no natural, scenic, environmental, or historic resources on the subject property that would restrict the development. The subject site is not located in the 100-year floodplain and there are no streams, wetlands, or waterways on the site. All necessary utilities, including water, electricity, telephone, and cable are available, the development has adequate supply of potable water and water for fire-fighting purposes, and is served by the Jeffersontown Fire Department.

### 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 neighborhood in terms of scale, intensity, drainage and appearance. Staff could not determine if noise will be an issue.

### 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 Jeffersontown 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 4 items in the listed requirements for greenhouses. All items will be met.

Commercial Greenhouses/Plant Nurseries may be allowed in the R-R, R-1, R- 2, R-3, R-4, R-5, R-5A, R-5B, **R-6**, R-7, R-8A, OR-1, OR-2, OR-3 and OTF Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

A. Buffers and Screening - Greenhouses and other structures shall be buffered and screened in accordance with standards for commercial uses in Chapter 10, Landscaping, Screening, and Open Space. Parking lots

shall be screened from adjacent properties in accordance with the provisions of the Development Code. **The applicant will be asking for approval of the alternative landscaping and buffering plan.**

B. Setbacks – All buildings and structures shall be at least 50 feet from the front property line and a minimum of 20 feet from any other property line.

C. Freestanding Signs - Only one freestanding sign shall be permitted. The freestanding sign shall not exceed 32 square feet in area per side and shall not exceed a height of 6 feet. The maximum height shall include any berm, landscape mound, or other manmade alteration above the surrounding ground level.

D. Attached Signs – Only one attached sign shall be permitted. The one attached sign permitted shall be attached to the primary building only and no attached sign shall be permitted on any other buildings on the site. The attached sign shall not exceed 20 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building.

#### **TECHNICAL REVIEW**

- A revised plan will need to be submitted and approved.
- What are the hours of operation and number of employees
- The applicant will need to discuss the machinery used and amount of noise.
- The property has been issued a Notice of Violation which is attached to the staff report.

#### **STAFF CONCLUSIONS**

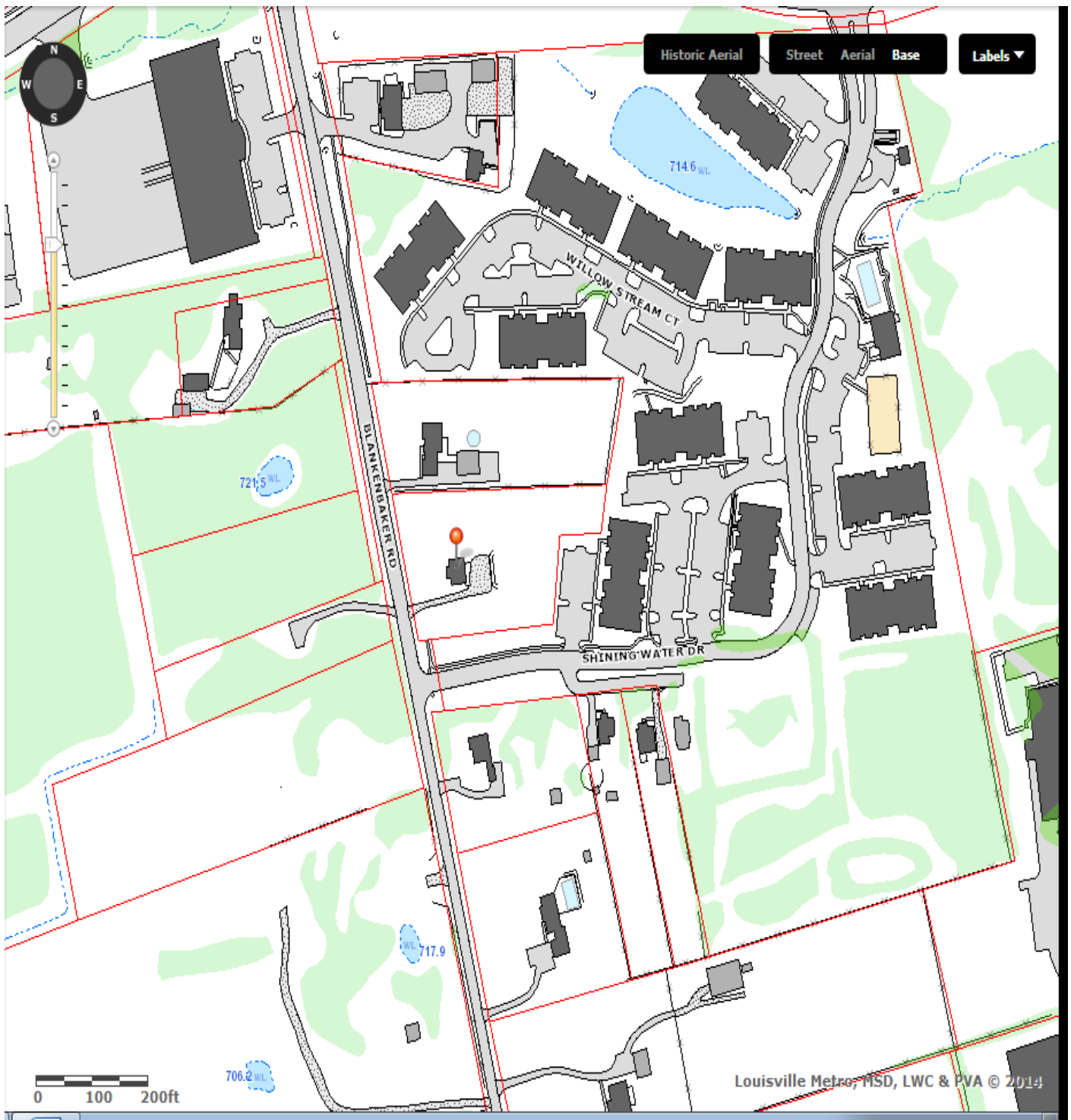
The proposal is located in an area that is surrounded by residential uses. Additional landscaping will be added along the north property line to help mitigate any nuisance. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, BOZA must determine if the proposal meets the standards for granting the Conditional Use Permit as established in the LDC.

#### **NOTIFICATION**

Date	Purpose of Notice	Recipients
02/14/2014	APO Notice	First tier adjoining property owners Neighborhood notification recipients
02/18/2014	Sign Posting	Subject Property Owner

#### **ATTACHMENTS**

1. Zoning Map



## 2. Aerial Photograph





3. Cornerstone 2020 Staff Checklist

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Pre-App Finding	Pre-App Comments	Final Finding	Final Comments
6	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	√	APCD has reviewed and approved the proposal.		
7	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	-	Public Works has reviewed the proposal and has comments.	√	Public Works has reviewed and approved the proposal.
8	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	-	Lighting is not shown on the proposal.	√	Lighting is not proposed.
10	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	+/-	LBA will be provided along the property lines.	+/-	25-foot LBA will be provided along the north, south, and east property lines. Also the applicant will be asking to approve the alternative landscape plan.
11	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	+/-	LBA will be provided along the property lines.	+/-	25-foot LBA will be provided along the north, south, and east property lines. Also the applicant will be asking to approve the alternative landscape plan.
13	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	-	Public Works has reviewed the proposal and has comments.	√	Public Works has reviewed and approved the proposal.
14	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	-	Public Works has reviewed the proposal and has comments.	√	Public Works has reviewed and approved the proposal.

16	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	-	Signs are not shown on the site plan.	√	Signage is shown at front of the property and will be code compliant.
31	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	-	Public Works has reviewed the proposal and has comments.	√	Public Works has reviewed and approved the proposal.
32	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	-	Staff does not know the number of employees.	-	Staff does not know the number of employees.
38	Livability, Goals B1, B2, B3, B4, Objectives B1.1-1.8, B2.1-2.7, B3.1-3.4, B4.1-4.3	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blueline streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If stream bank restoration or preservation is necessary, the proposal uses best management practices.	-	MSD has reviewed the proposal and has comments.	√	MSD has reviewed and approved the proposal.
39	Livability Goals C1, C2, C3, C4, all related Objectives	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	√	APCD has reviewed and approved the proposal.		
41	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	√	There are existing utilities in the area.		
42	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	√	The site is served by the Jeffersontown Fire District.		
43	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	√	The site is served by existing water and sewer.		

#### 4. Applicant's Justification Statement and Proposed Findings of Fact

# Full Care of Louisville, INC

23 Country Life Acres.  
St. Louis, MO 63131  
T: 502-643-4120

January 4, 2014

Planning and Design Services  
444 South Fifth Street, Suite 300  
Louisville, Ky. 40202

Planning and Design Services:

We respectfully request a Conditional Use Permit, in a R-6 Zoning District, to allow a Commercial Greenhouse, Plant Nursery and Landscape Material Supply at 2601 Blankenbaker Road. The plan is an existing 1.5+/- acre site located in the Suburban Workplace Form District. The site has been an existing Commercial Greenhouse, Plant Nursery and Landscape Material Supply for several years. Seven (7) parking spaces are existing on the site, which is the minimum spaces required. The parking area and a portion of the site adjoining the R-4 zone to the North is surrounded by an 8 foot solid wood fence. Existing tree masses line the North, East and South boundary lines within the required 25' Landscape Buffer Area. The existing greenhouse will be relocated to conform to the required 25 foot Landscape Buffer area along the North Property Line. There is no signage proposed for this development. No waivers or variances are being requested for this development. No new construction is proposed for this development. This proposal meets and/or exceeds all requirements of the LDC and follows the guidelines of the Comprehensive Plan respectively.

I look forward to working with you on this proposal and welcome any comments or suggestions as we proceed without delay through the CUP process.

Sincerely,

Tim Mueller

**RECEIVED**

JAN 13 2014  
PLANNING &  
DESIGN SERVICES

13CUP1023

**Neighborhood Meeting Notification**

**Date Sent: 11-07-2013**

**To:** Adjoining Property Owners of 2601 Blankenbaker Road and Metro Council District 20

**From:** Full Care

**Re:** Conditional Use Permit for a Commercial Greenhouse, Plant Nursery and Landscape Material Supply in a R-6 Zoning District

**When:** November 19<sup>th</sup> at 6:30pm

**Where:** Blankenbaker Crossings Clubhouse, 2515 Shining Water Drive, Jeffersontown, KY 40299

At this meeting representatives for Full Care will explain the proposal and then discuss any concerns you have. The purpose of this meeting is to increase your understanding of this proposal early in the process. We encourage you to attend this meeting and to share your thoughts.

**This request will be considered by the  
Louisville Metro Board of Zoning Adjustment**

In accordance with procedures of Louisville Metro Planning and Design Services, we have been directed to invite adjoining property owners and neighborhood group representatives to discuss this proposal before an application can be filed. This will be an informal meeting to give you the opportunity to review the proposed plan and discuss the proposal with the developer or his representative. This meeting will be held in addition to the established public hearing procedures of the Board of Zoning Adjustment.

**RECEIVED**  
JAN 13 2014  
PLANNING &  
DESIGN SERVICES

# Full Care of Louisville, NC

23 Country Life Acres.  
St. Louis, MO 63131  
T: 502-643-4120

November 20th

Planning and Design Services  
444 South Fifth Street, Suite 300  
Louisville, Ky. 40202

Planning and Design Services:

The required neighborhood meeting was held on November the 19<sup>th</sup> and 4 people were in attendance including myself. The meeting lasted approximately 10 minutes and the discussion was about the plan and use in general. The neighbors were not concerned about the plan they were there only to keep up with development in the area. We asked them questions to prompt any feedback on the plan and the only thing given was their support of the project. I discussed the use, the additional landscaping provided, the plan and the process for approval.

Sincerely,

Tim Meuller

RECEIVED  
JAN 15 2014  
PLANNING &  
DESIGN SERVICES



NEIGHBORS IN ATTENDANCE

	Name	Address	Zip Code	Phone #
1.	Kory Leighty	2515 Shining Water Dr	40299	502-261-9472
2.	Tim Mueller	6004 Moser Farm Rd	40059	502-643-4120
3.	Patty Jenkins	2613 Shining Water Dr	40299	502-267-1841
4.	Carl Jenkins	2613 Shining Water Dr	40299	" " "
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**Louisville-Jefferson County Metro Government**

**Department of Codes & Regulations**

**Property Maintenance Division**

444 S. 5th Street, Suite 200 - Louisville, KY 40202

Phone: 502.574.2508 Web Site: [louisvilleky.gov/lpl/](http://louisvilleky.gov/lpl/)

**Case Number:** 468722-2441254

9/25/2013

**Page 1 of 2**

Tim miller  
2750 Constant Comment Place  
louisville, ky 40299

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**Location:** 2601 BLANKENBAKER RD

Your property was inspected on September 24, 2013 and found the existence of one or more violations of the Louisville/Jefferson County Development Code.

You must cease immediately using this property in violation of the Land Development Code.

Failure to comply with this Notice will result in fines against you of not less than \$10 but not more than \$500 for each violation with each day of violation. Each day that a violation continues after this notice shall be deemed a separate offense.

If you disagree with this Notice, you may file an appeal to the Board of Zoning Adjustment (BOZA). Appeals must be filed within thirty (30) days of this Notice, using the official BOZA appeal form along with any supplemental documentation required. A copy of the appeal must also be forwarded to me at the time the appeal is filed. BOZA appeal application forms are available at the Department of Codes & Regulations Customer Service Desk or online at [http://www.louisvilleky.gov/planningdesign/checklists\\_application.htm](http://www.louisvilleky.gov/planningdesign/checklists_application.htm). The department is located at 444 S. 5th Street, Louisville, KY 40202.

I will be returning to your property in the near future to ensure that you have complied with this Order. Should you have any questions, please call me at the number below.

RONALD MILLER  
\_\_\_\_\_  
Inspector  
(502)773-2052x  
[ronald.miller@louisvilleky.gov](mailto:ronald.miller@louisvilleky.gov)





**Louisville-Jefferson County Metro Government**

**Department of Codes & Regulations**

**Property Maintenance Division**

444 S. 5th Street, Suite 200 - Louisville, KY 40202

Phone: 502.574.2508 Web Site: louisvilleky.gov/fpl/

Case Number: 468722-2441254

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**Z194 NON-PERMITTED USE-RESIDENTIAL**

Chapter 2.2.2-13/Article 4.1-13 Non-Permitted Use: You are allowing a non-permitted use to exist on the above referenced residential property. This is in violation of The Land Development Code for Louisville and Jefferson County (Chapter 2.2.2-13) OR You are allowing a non-permitted use to exist on the above referenced residential property. This is in violation of The Development Code for Louisville and Jefferson County (Article 4.1-13).

**Comments:** You are allowing a non-permitted use to exist on the above referenced residential property. Property is zoned R6. Landscape Business is not permitted.

**Responsible:** BOTH

Subject violation needs to be in compliance on or before September 24, 2013 to avoid additional fines and court action.



**FULL CARE**

DESIGN • INSTALLATION • MAINTENANCE  
[WWW.FULLCAREINC.COM](http://WWW.FULLCAREINC.COM)

SEAWER

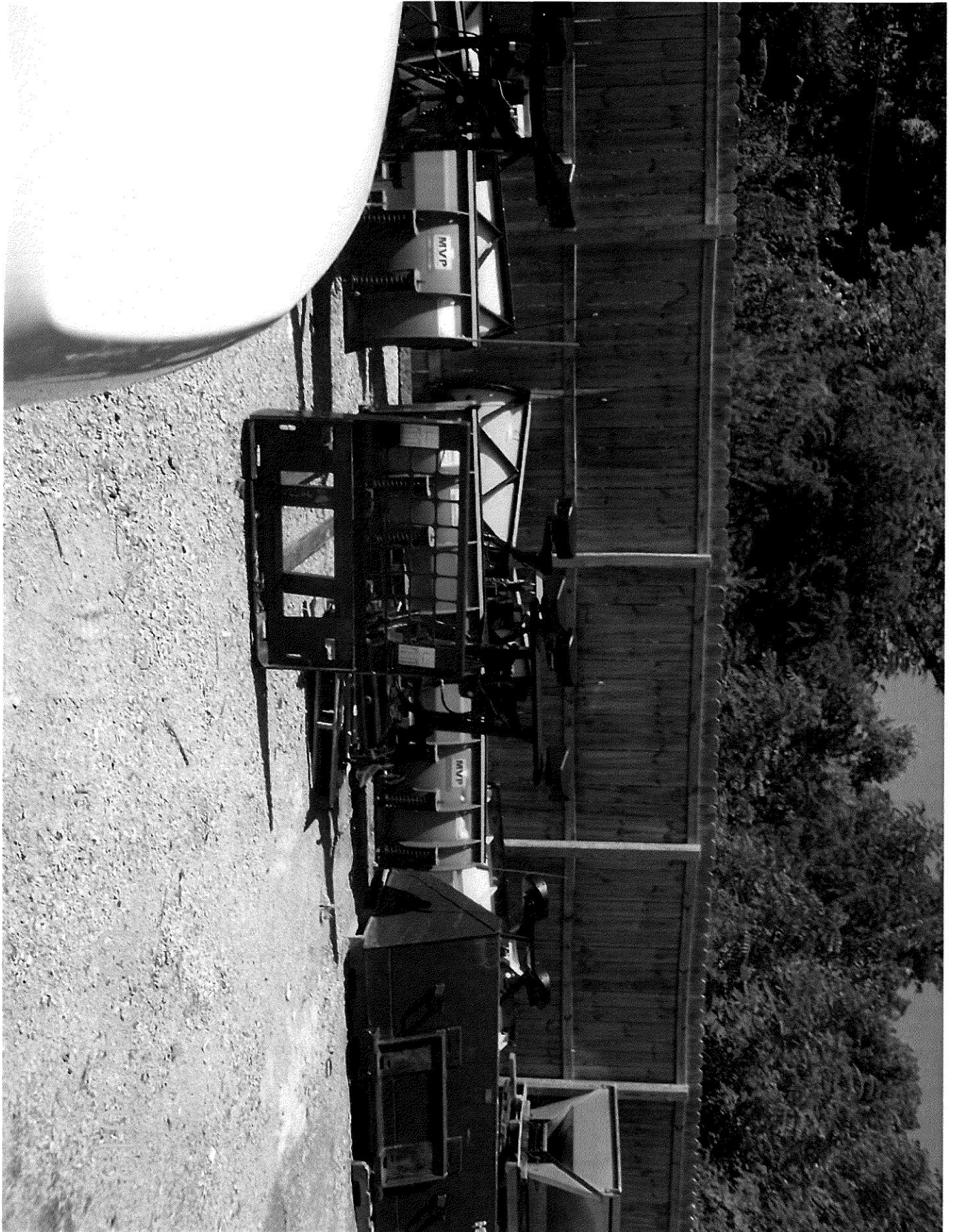
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09/24/2013

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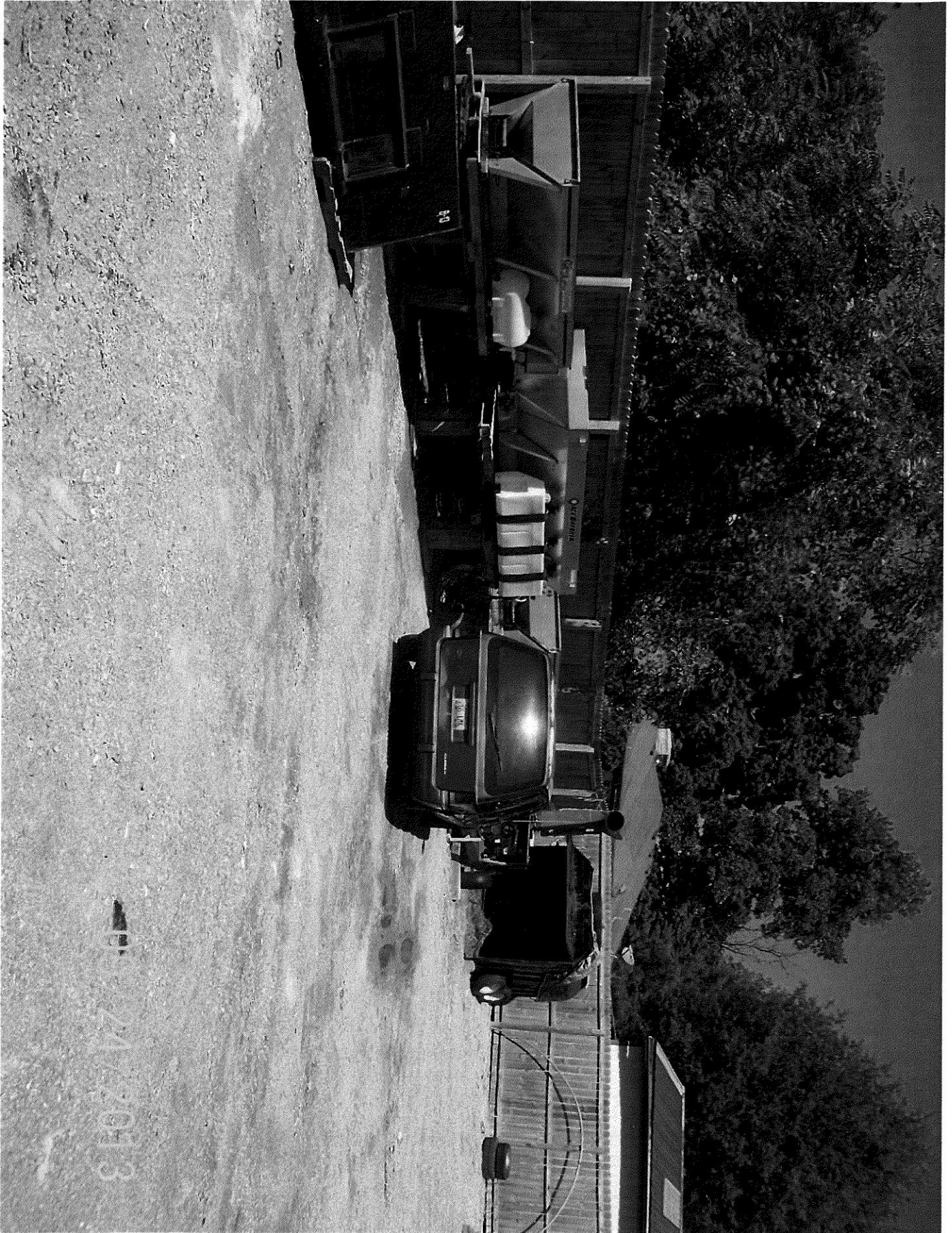
















**13CUP1023**

**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 as a commercial greenhouse/plant nursery/landscape material supply company without further review and approval by the Board.