

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

MAY 4, 2015

NEW BUSINESS:

CASE NO. 15CUP1012

Request: Conditional Use Permit to allow a home for the infirm and aged in an R-4 zoning district.

Project Name: Chamberlain Senior Care

Location: 5217 Chamberlain Lane

Owner: Chamberlain, LLC
Tim Martin, Attorney & Agent for owner
4800 Springdale Road
Louisville, KY 40241

Applicant: Chamberlain Senior Care, LLC
4901 Hunt Road, Suite 300
Cincinnati, OH 45242

Attorney: Bardenwerper Talbott & Roberts, PLLC
Bill Bardenwerper, Esq.
1000 N. Hurstbourne Parkway, 2nd Floor
Louisville, KY 40223

Representative: Mindel Scott & Associates
Kent Gootee
5151 Jefferson Blvd.
Louisville, KY 40219

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 16—Kelly Downard
Staff Case Manager: Jon Crumbie, Planner II

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available to any interested party prior to the public hearing. (The staff report is part of the

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case file maintained at the Planning and Design Services offices located at 444 S. 5th Street).

Agency Testimony:

Staff case manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant is proposing a home for the infirm and aged that will consist of two, 2-story buildings and one, 3-story building. The total units will be 162. Mr. Crumbie said this facility will be located near another recently approved healthcare facility; and is close to the new Norton Hospital, medical clinics, restaurants and shopping.

The following spoke in favor of this request:

Bill Bardenwerper, Attorney.

Brad Pauling, 5239 Whitegate Court, Dublin, OH 43016.

Kent Gootee, Representative.

Oscar Jarnicki, 10025 Trail Lane, Cincinnati, OH 45249.

Diane Zimmerman, Jacobs Engineering Group, Inc., 11940 W. Highway 42, #1, Goshen, KY 40026.

Summary of testimony of those in favor:

Bill Bardenwerper, the applicant's attorney, said this site has been in several lawsuits due to the previous apartment complex development. He said the detention basin was also subject to litigation but is part of this property. Mr. Bardenwerper said his client withdrew the change in zoning request for the apartments and now would like approval of a Conditional Use Permit to develop a senior retirement community.

Brad Pauling said there will be different living units considering the tenant's capabilities or needs. He said it will have an internalized courtyard for socializing, restaurants, salon, health center etc.

Kent Gootee, the applicant's representative, said the proposed landscaping will be cohesive to what exists; and will include more street trees and plantings. He said water runoff will go into their detention basin, so there will be no issues with

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Norton Commons. Mr. Gootee also discussed the proposed pedestrian connections, sidewalks and road improvements.

Oscar Jarnicki said the proposed development will benefit people who live in Norton Commons, so they can continue to live in the same area. He said it will be a "state of the art facility" including aquatic therapy and other hospitable services.

Diane Zimmerman, the applicant's engineer, discussed the traffic generation report for number of trips generated from Chamberlain Lane.

The Board was concerned about people cutting through one of the access points.

Mr. Bardenwerper agreed to a condition of approval, that they will install a sign along Chamberlain Lane (Access #1) that will state the entrance is for employee and delivery access only. Mr. Bardenwerper also said, if this doesn't work, they will install a gate since it would be unsafe for the residents.

The following spoke neither for nor against the request:

Alice Gunnison, President of the Wolf Pen Branch Neighborhood Group, 7849 Wolf Pen Branch Road, Prospect, KY 40059.

Summary of testimony of those who spoke neither for nor against:

Alice Gunnison said the Wolf Pen Branch Neighborhood group was a party to the lawsuit with regard to the detention basin, but is still concerned about drainage onto their property.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one spoke in opposition.

MSD Agency Representative:

Pat Barry, MSD, 600 W. Liberty Street, Louisville, KY 40202.

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Summary of testimony MSD:

Pat Barry, with MSD, said the applicant is meeting the requirements for detention and water quality.

Board of Zoning Adjustment Deliberation:

Member Allendorf said the applicant will need to contact the local fire department if they decide to install a gate. The Board overall liked the proposal.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the May 4, 2015 public hearing proceedings.

Conditional Use Permit to allow a home for the infirm and aged in an R-4 zoning district:

On a motion by Member Allendorf, seconded by Member Fishman, the following resolution was adopted:

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and the applicant's justification statement, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit to allow a home for the infirm and aged in an R-4 zoning district; and

WHEREAS, the Board finds that the proposal is consistent with the applicable policies of the Comprehensive Plan because it will be compatible with the character of the area; and because 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; and because the Neighborhood Form District contains 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; and because the site will incorporate low level lighting and adequate landscaping and buffering from adjoining properties; and

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WHEREAS, the Board finds that the proposal is compatible with the general character of the area of the surrounding neighborhoods in terms of height, scale, intensity, lighting and appearance; and

WHEREAS, the Board finds that the necessary public facilities (both on and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services etc. because the proposal has been reviewed by Public Works and MSD, and both have approved the plan; and

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow a home for the infirm and aged in an R-4 zoning district on the site **SUBJECT** to the following 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."

YES: Members Allendorf, Fishman, Liggin, Proffitt, Tharp and Bergmann.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe.

ABSTAINING: No one.