

**Board of Zoning Adjustment
Staff Report**
June 16, 2014



Case No:	14CUP1010
Project Name:	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

- 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.
- Waiver of Sec. 10.2.4.B. of the LDC to allow more than a 50% overlap of the sewer and drainage easement into the required 25-ft. LBA along the east property line.

Variances

Location	Requirement	Request	Variance
Side yard (structure, west property line)	50 ft.	26 ft.	24 ft.
Side yard (parking, east property line)	50 ft.	26 ft.	24 ft.
Side yard (parking, west property line)	50 ft.	6 ft.	44 ft.
Rear yard (structure, north property line)	50 ft.	48 ft.	2 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The CUP, variances and waivers are for consolidation of three lots and construction of a 2-story, 144-unit nursing home. The proposed 94 parking spaces is close to the 80-space minimum. The maximum allowed is 231 spaces. There is an existing sewer and drainage easement along the east property line that will encroach by more than 50% into the required 25-ft. LBA.

A Revised Detailed District Development Plan will also be reviewed by the Development Review Committee June 18. The site was previously approved as Taylor Village, 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, under dockets No. 9-32-06 and 10-25-06.

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 Stonybrook, 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

- 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 comments received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020 – See checklist attached.
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 plan violates 6 of the applicable policies of Cornerstone 2020. Substantial encroachment of the building, parking and maneuvering, particularly on the west side, are proposed. See checklist attached. The applicant should consider revising the site layout to provide more of the required setbacks and LBA, particularly to the west.

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 appears to be compatible with surrounding uses. There is a mix of single and multi-family residential in the area as well as commercial and office uses across the street. The applicant should consider revising the site layout to provide more of the required setbacks and LBA, particularly to the west.

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: Transportation Planning, MSD, Addressing and the Fire Department have reviewed the plan and given preliminary approval.

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

4.2.36 Nursing Homes and Homes 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.

STAFF: – Form district dimensional standards require a 50-ft. residential to non-residential setback, when no loading. Variances have been requested to allow the proposed building to encroach into the required 50-ft. side and rear setbacks. See variance requests.

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.

STAFF: The monument sign detail on the plan indicates that it will comply with this requirement. Details of any additional proposed signage should also be provided.

C. The Board of Zoning Adjustment shall add any restrictions to mitigate nuisances or adverse effects.

STAFF: The Board should determine whether additional restrictions are necessary.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- **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.**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The variances could adversely affect the public health, safety or welfare because there is a significant encroachment of the building and pavement in the side yard, particularly on the west side.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The variances will alter the essential character of the general vicinity because the site is adjacent to single-family residential to the north, east and west, and the scale of the development adjacent to residential given the encroachments.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The variances will not cause a hazard or nuisance to the public because the plan has received approval from Transportation Planning, MSD and is subject to fire department and construction review.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variances will allow an unreasonable circumvention of the zoning regulations because the 30-ft. setbacks of the CUP standards, at a minimum, will not be observed on all sides. Encroachments into a significant amount of the 50-ft. setbacks is proposed.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The variances arise from the size of the proposed nursing home and need to provide the required parking.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict provision of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because of the nursing home could be designed in a manner that observes more of the required setbacks.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of the request for construction of a nursing home.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- **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.**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The variance will not adversely affect the public health, safety or welfare because the variance request is small, 2 ft., and the structures and pavement will be screened by the required landscape and tree canopy screening.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The variance will not alter the essential character of the general vicinity because the majority of the required setback as well as the screening will be provided.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The variance will not cause a hazard or nuisance to the public because the majority of the larger 50-ft. setback is proposed.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations because the variance request is small and will be mitigated by the required screening.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The variances arise from the proposed construction of the nursing home.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict provision of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the site could be designed in a manner that observes the required setback.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of the request for construction of a nursing home.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

- **Waiver of Sec. 10.2.4.A. of the LDC to allow pavement to encroach into the required LBA along the west property line.**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will adversely affect adjacent property owners because significant encroachment of parking and maneuvering is proposed within the LBA.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver violates the applicable guidelines of Cornerstone 2020.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The waiver is not the minimum necessary to afford relief to the applicant because the site could be designed in a manner that provides the required LBA.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); **OR**

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship because the site could be designed in a manner that provides the required LBA.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

- **Waiver of Sec. 10.2.4.B. of the LDC to allow more than a 50% overlap of the sewer and drainage easement into the required 25-ft. LBA along the east property line.**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners because the required screening will still be provided within the LBA.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver meets the applicable guidelines of Cornerstone 2020.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The waiver is the minimum necessary to afford relief to the applicant in order to provide the required LBA given the location of the existing utility easements.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship because of the need to provide the required landscaping in the area of the existing utility easements.

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

The CUP and waivers meet 10 of the applicable guidelines of the Comprehensive Plan.

The CUP and waivers violate 6 guidelines. Substantial encroachment of the building, parking and maneuvering, particularly on the west side, into both the required setback and LBA are proposed.

Staff's analysis of the standards of review supports the granting of the CUP, with recommendations that the site layout be revised to provide more of the required setback and LBA, particularly to the west.

Staff's analysis of the standards of review do not support the granting of the first two variances because of the substantial encroachments of parking, maneuvering and pavement into the required setbacks, particularly to the west.

Staff's analysis of the standards of review support the granting of the third variance to allow encroachment of the building into the required yard. This request is for two feet and is mitigated by providing the required screening.

Staff's analysis of the standards of review do not support the granting of the waiver to allow the building and pavement to encroach into the west property line.

Staff's analysis of the standards of review support the granting of the waiver to allow more than a 50% encroachment of a utility easement into the LBA to the east.

Based upon the information in the staff report, the testimony and evidence provided, the Board of Zoning Adjustment must determine if the proposal meets the standards for approval of a CUP, variances and waiver as established in the Land Development Code.

NOTIFICATION

Date	Purpose of Notice	Recipients
6/2/2014	BOZA Hearing	1 st and 2 nd tier adjoining property owners
5/30/2014	Sign Posting	On property

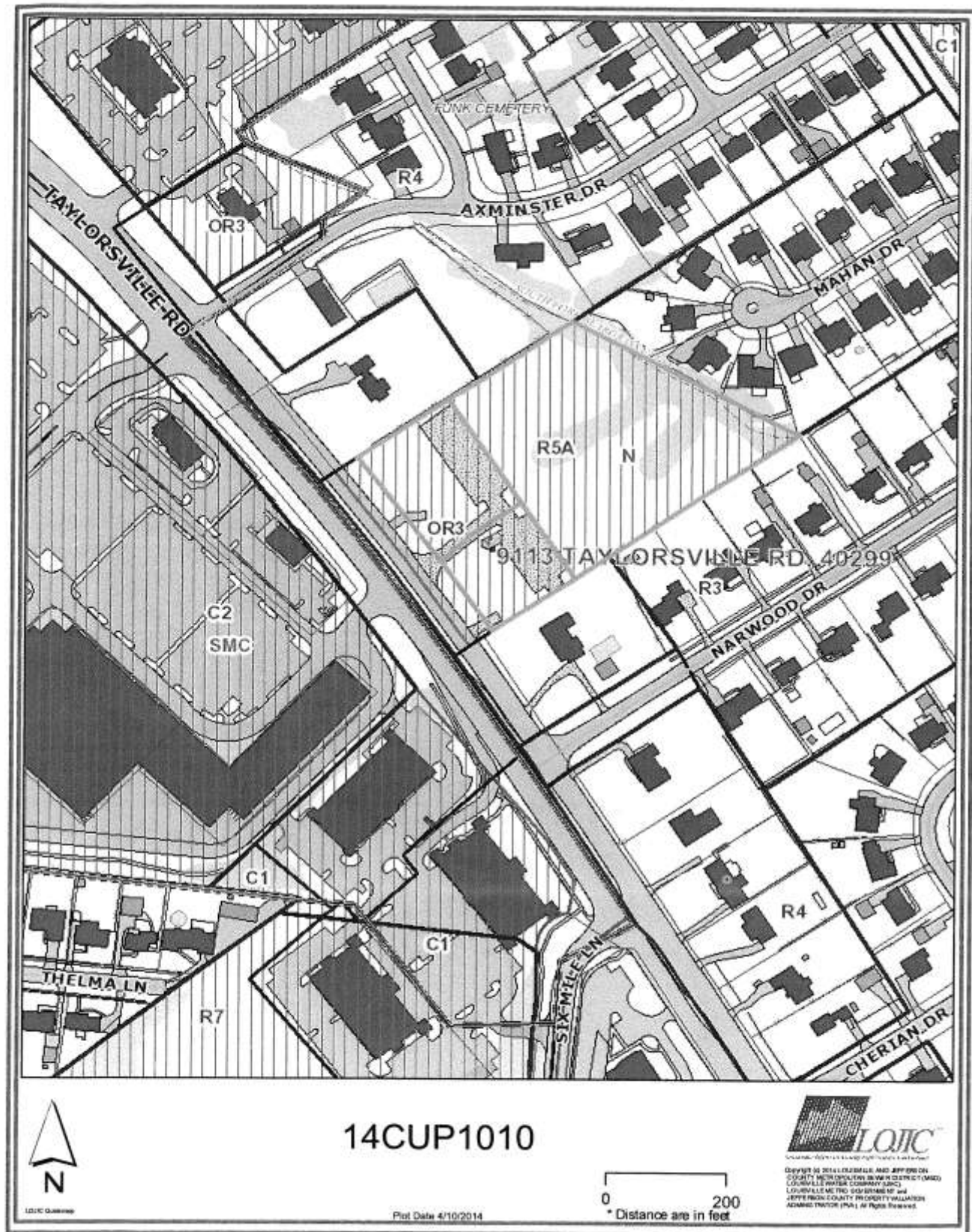
ATTACHMENTS

1. Zoning Pre-App. Tax Map
2. Aerial Map
3. Site Plan
4. Elevations / Photos
5. Neighborhood meeting documents
6. Cornerstone 2020 Comprehensive Plan Checklist
7. Applicant's justification statements

Proposed 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 potentially hazard or nuisance use without further review and approval by the Board.

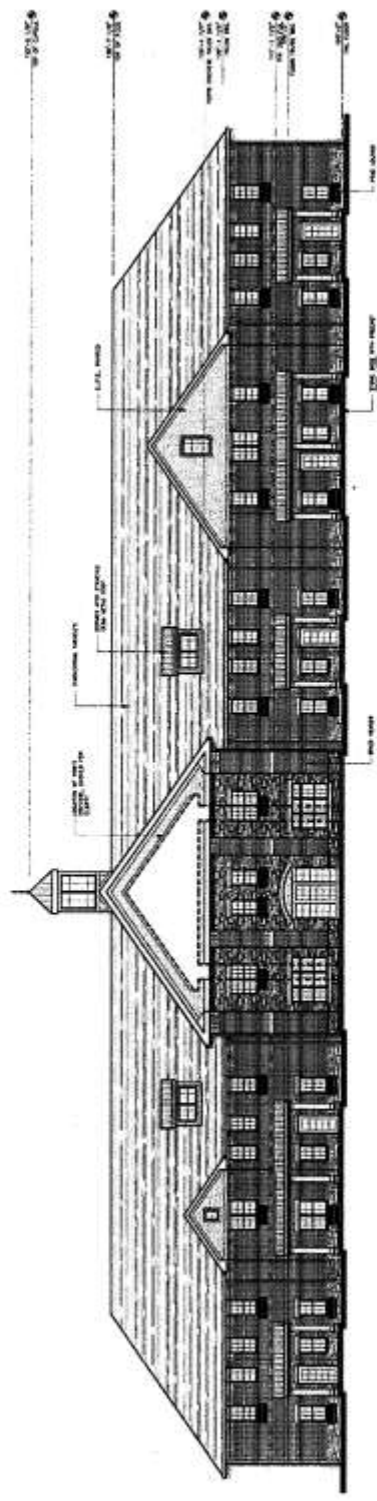
1. Zoning Map



2. Aerial Photo



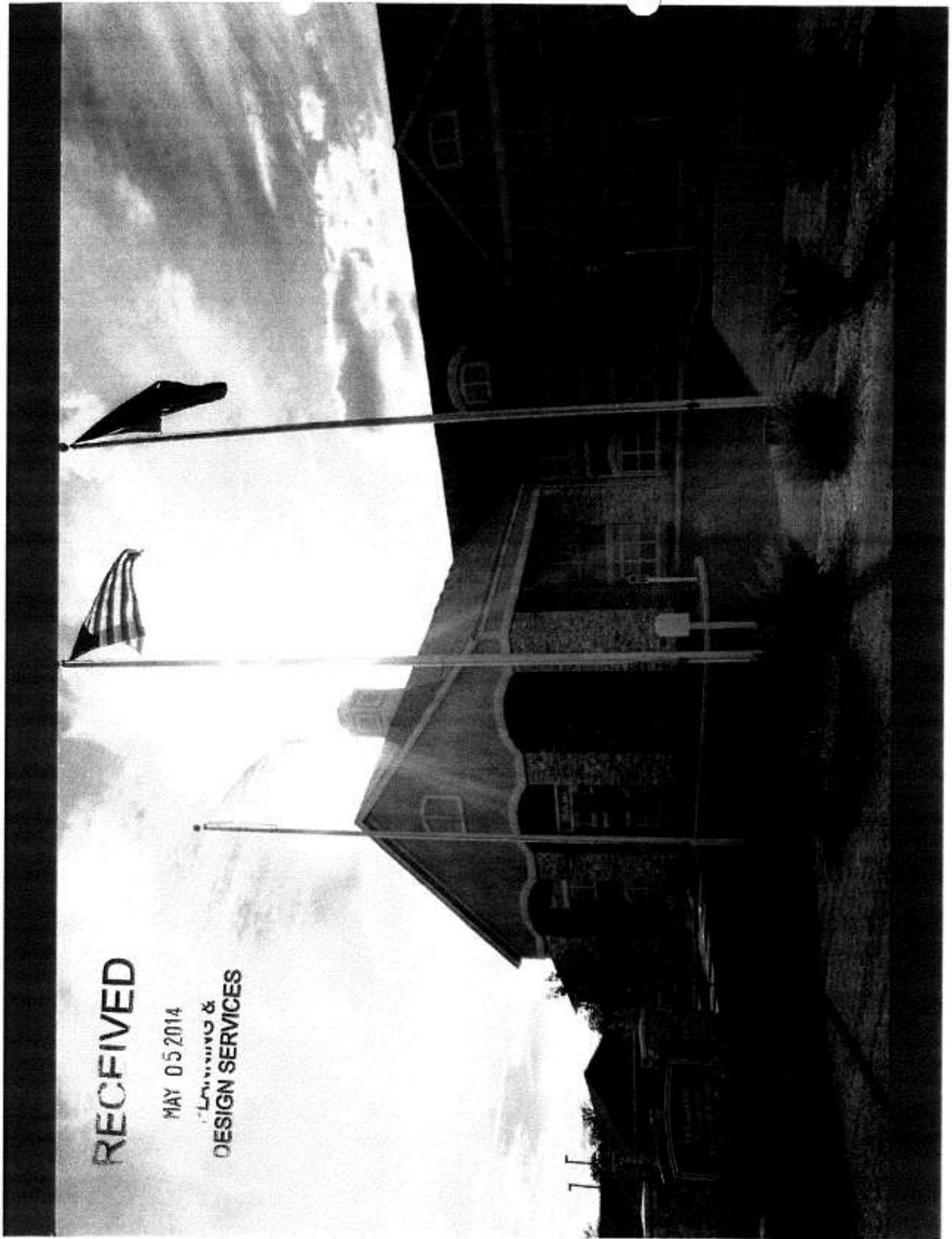
4. Elevations / Photos



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ARCHITURA CORPORATION
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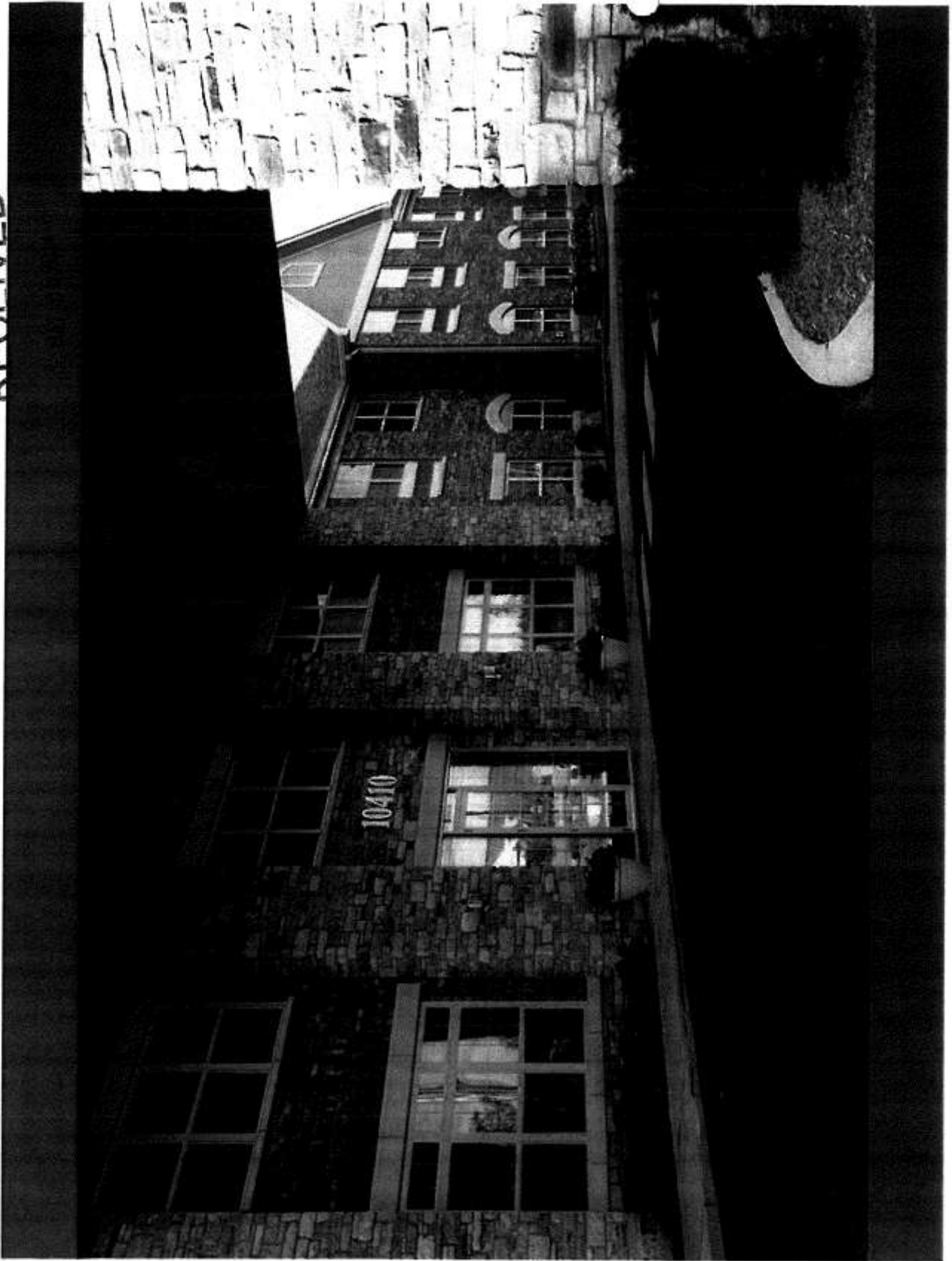


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5. Neighborhood Meeting Documents

Stevenson, Beth

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Sent: Wednesday, April 16, 2014 9:01 AM
To: cornie.ewing@louisvilleky.gov; Thomas, Regina; Kessinger, Holly; Simmons, Rebecca; Cestaro, Chris; Brashner, Pamela; Stevenson, Beth; Wethington, Jessica; Gartner, Matt
Subject: Courtesy Copy: Invitation to Neighborhood Informational Meeting, 9107, 9109 & 9113 Taylorsville Rd.
Attachments: BOZA_Turtle+Creek+Mgmt+Neigh+Meeting+on+4-14-14.pdf

This is a courtesy copy of an email bulletin sent by Beth Stevenson.

This bulletin was sent to the following groups of people:

Subscribers of Council District 18 Notification of Development Proposals (207 recipients)

The attached invitation is being forwarded to you on behalf of the applicant for the development proposal described. This is for an informational meeting the applicant is required to conduct before a formal application can be made with Louisville Metro Planning and Design Services for this development proposal.

- [BOZA_Turtle Creek Mgmt Neigh Meeting on 4-14-14.pdf](#)

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 "alicia@kftc.org", "09/24/2013 02:02 PM EDT"
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 "auerhobbs@yahoo.com", "04/09/2014 01:13 PM EDT"
 "awise@hearst.com", "11/15/2013 02:59 PM EST"
 "b_duke@bellsouth.net", "07/05/2013 08:13 AM EDT"
 "barbaracroftmcgill@yahoo.com", "04/15/2014 07:00 PM EDT"
 "bboles90@gmail.com", "11/14/2013 10:39 AM EST"
 "bcolebrook@dlz.com", "07/25/2013 10:48 AM EDT"
 "bdmetts@att.net", "11/06/2013 01:10 PM EST"
 "billdoll@insightbb.com", "05/20/2013 03:14 PM EDT"
 "billmattlingly59@yahoo.com", "10/25/2013 03:35 PM EDT"
 "blnemecc@insightbb.com", "02/05/2013 09:48 PM EST"
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 "bob-barbg@insightbb.com", "05/13/2013 03:52 PM EDT"
 "brcbldt@yahoo.com", "12/31/2013 06:39 PM EST"
 "bronston195@hotmail.com", "09/04/2013 05:16 PM EDT"
 "brookhaven.neighborhood@gmail.com", "02/04/2013 04:21 PM EST"
 "bthompson@shermamdixie.com", "10/25/2013 03:32 PM EDT"
 "busuzima2012@yahoo.com", "02/02/2014 11:54 PM EST"
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 "caresto@gmail.com", "08/25/2013 12:03 AM EDT"
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 "Kevinage@insightbb.com", "05/01/2013 07:23 PM EDT"
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Turtle Creek Management, Inc.
6900 S. Gray Road
Indianapolis, Indiana 46237
Phone: (317)783-5460

April 14, 2014

RE: Proposed Conditional Use Permit (CUP) on property previously zoned for residential multi-family and office; now for a Personal Care Facility; located at 9107, 9109 and 9113 Taylorsville Road

Dear Neighbor,

We are writing to invite you to a meeting we have scheduled to present neighbors with our plan for a personal care facility to be located as above.

A meeting will be held on **Thursday, April 24th, at 7:00 p.m. at the Christ Evangelical Lutheran Church located at 9212 Taylorsville Rd (in the Gym)** to discuss the plan with you. *(Please enter through door at rear of church, near yellow shed.)*

As a neighbor, you are invited to this meeting so that we may show you what we plan and address questions or concerns that you or your neighbors may have.

If you cannot attend the meeting but have questions or concerns, please call me, our local attorney Bill Bardenwerper at 426-6688, or our land planning and engineering firm representative Ann Richard with Land Design & Development, Inc. at 426-9374.

We look forward to seeing you.

Sincerely,


Wess Jackson

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cc: Hon. Marilyn Parker, Metro Councilwoman, District 18
Hon. Kenny Griffin, Mayor, City of Forest Hills
John Singler, Attorney, City of Forest Hills
Latondra Yates, case manager with Department of Planning & Design Services
Bill Bardenwerper attorney with Bardenwerper, Talbott & Roberts, PLLC
Ann Richard, land planner with Land Design & Development, Inc.

Developer's Neighborhood Meeting

Meeting Date and Time April 24, 2014 @ 7:00 pm **Developer's Name** Turtle Creek Management, Inc.
Location of Meeting Christ Evangelical Lutheran Church located at 9212 Taylorsville Rd
Description of Proposal Conditional Use Permit (CUP) to allow a Personal Care Facility
Subject Site Location 9107, 9109 and 9113 Taylorsville Road

NEIGHBORS IN ATTENDANCE

NAME	ADDRESS	ZIP CODE	PHONE # (OPTIONAL)
✓ KENNY GRIFFIN	2213 MAHAN DR	40299	502-592-4911
✓ SHARON HENRY	5 HARWOOD DR	40299	502-523-5118
✓ Barbara Childers	7207 Supreme Dr	40214	502-937-0888
✓ Bob Childers	9101 Taylorsville Rd	40299	859-509- 8888 7486
✓ Jeffm Tsozic	2200 Mahan Dr	40299	502 417- 8307
✓ DAN PARKER	11760 Commonwealth Dr	40299	502 445-0901
✓ DAVE JETT	9619 TAMARISK PL	40223	502 436 4001
✓ Pastor Ron Pisel	9212 Taylorsville Rd	40299	502-267-5082
✓ Paul Pantofa / Rodolfo for Dr. Mann. Realty	9017 Taylorsville Rd	40299	502-299-0306

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Neighborhood Meeting Summary

Bill Bardenwerper, applicant's local counsel, presented neighbors who attended with a PowerPoint presentation showing aerials of the site and aerials with the proposed new site plan superimposed. He explained the previous rezoning approval that he and LDD handled for all 2-store multi-family and office bldgs. He and LDD land planner Kevin Young, along with Mark and Wes Jackson, 2d generation cousin-owners of this referenced companies, explained the proposed project and answered questions as follows.

1. The rear portion of the building parallel to the back line adjoining single family homes is single story, whereas the rest of the building is two-story.
2. The building will be constructed of mostly brick, stone and dryvit exterior materials.
3. There will be a vinyl maintenance free fence along the east side of the property, but along the rear where the stream exists, trees will be protected and the apparent mess left by MSD along that creek will be cleaned up.
4. Deliveries will be on the northwest side during daytime hours. Dumpster in that location will be emptied in compliance with City of Forest Hills ordinance.
5. Lighting will be directed down and away, with 90 degree cutoffs, which will light parking areas along Taylorsville Road and to the east and west, not along the rear where there is no parking. Lighting will be in compliance with Metro Land Development Code restrictions.
6. At peak, the facility is anticipated to have 27 employees. About 96 parking spaces are proposed for these employees and for maybe 10-15 resident cars, and the rest of the spaces are for guests, an ample number based on the applicant's experience.
7. The applicant is the largest senior housing provider in Indiana, with 60 Indiana facilities with 8000 beds, serving 24, 000 meals per day. At this facility, it proposes 116 assisted living beds and 28 dementia care beds. It operates under the names Basic American Industries (the holding company), American Senior Communities (the operator), Turtle Creek Management, Inc. (the specific owner of this proposed facility), and Jackson Construction Co (builder/developer).
8. The dementia care portion of the facility will always be totally locked down. The assisted living facility will be open at the front door during normal business hours. After hours, the front door will be locked, so that guests will need to ring the bell for a nurse to answer and allow outsiders in.
9. No new zoning is required. In fact, the current OR Office/R-5A multi-family residential is not required because this is a licensed healthcare facility that only needs a Conditional Use Permit (CUP) because it has nurses who dispense medications. However, this is NOT a nursing home. But for the nursing staff, the proposed facility could operate within the existing zoning districts as an assisting living facility without the CUP. Absent this proposed facility, the property could accommodate about 50 apartment units.
10. Side yard waivers and/or variances are required because the CUP regulation requires a greater setback than otherwise required. But for the nursing staff and thus the need for a CUP, the greater setback standard would not apply.
11. Storm water runoff is anticipated to be addressed via vault storage as opposed to an open air detention basin.

Respectfully submitted,

William B. Bardenwerper

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6. Cornerstone 2020 Comprehensive Plan Checklist

Case No.14CUP1010 Staff Findings			Cornerstone 2020 Checklist			Neighborhood Form District	
#	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
1	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 1: Community Form	B.3: The proposal is a neighborhood center with a mixture of uses such as offices, retail shops, restaurants and services at a scale that is appropriate for nearby neighborhoods.	NA		NA	
2	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 1: Community Form	B.3: If the proposal is high intensity, it is located on a major or minor arterial or an area with limited impact on low to moderate intensity residential uses.	NA		NA	
3	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 2: Centers	A.17: The proposal, which will create a new center, is located in the Neighborhood Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	NA		NA	
4	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	NA		NA	
5	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	-	Variances may be needed to encroach into the non-residential-to-residential setbacks.	-	Variances requested to encroach into the non-residential-to-residential setbacks. The minimum 30-ft. setback that the CUP would allow in the absence of larger setbacks is also not being observed. Parking encroachments are proposed 15-ft. from adjacent residential along both side property lines.
6	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	NA		NA	
7	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	NA		NA	

+ exceeds guidelines
✓ meets guidelines / 0
+/- more information needed

6 - does not meet guidelines
NA not applicable

Case No. 14CUP1010
Staff Findings

Cornerstone 2020
Checklist

Neighborhood
Form District

#	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
8	Form Districts Goals C1-04, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	NA		NA	
9	Form Districts Goals C1-04, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	NA		NA	
10	Form Districts Goals C1-04, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	+/-	Any utility lines proposed to be placed underground in common easements?	✓	Utility lines underground in common easements.
11	Form Districts Goals C1-04, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	✓	Site will be served by sidewalks. No transit amenities requested at this point.	+/-	TARC revised comments need to be addressed.
12	Form Districts Goals C1-04, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	+/-	Provide building elevations to determine compliance with building and site design standards.	✓	The elevations and photos provided appear to meet building and site design requirements.
13	Form Districts Goals C1-04, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	Though classified as non-residential, the facility will serve as housing for its residents.	✓	Though classified as non-residential, the facility will serve as housing for its residents.

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

- does not meet guidelines
NA not applicable

Case No. 14CUP1010
Staff FindingsCornersone 2020
ChecklistNeighborhood
Form District

#	Cornersone 2020 Guidelines & Policies	Cornersone 2020 Plan Element	Plan Element or Portion of Plan Element	Pre-App Finding	Pre-App Comments	Final Finding	Final Comments
14	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	APCD has no comments/issues.	✓	Plan has APCD approval with dust mitigation note.
15	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Plan will likely be a low traffic generator. Subject to addressing Transportation Planning Review comments.	✓	Plan will likely be a low traffic generator. Plan has Transportation Planning Review preliminary approval.
16	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	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.	+/-	Provide lighting details, when known.	+/-	Provide lighting details, when known.
17	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	NA		NA	
18	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	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.	-	Will the required screening be provided within the LBAs? The lesser width of LBA buffers (25-ft.) proposed with encroachment setbacks requested adjacent to residential encroachment may be needed to encroach into required side and rear yards.	-	Substantial encroachments of parking into the required LBAs proposed.
19	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	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.	-	Will the required screening be provided within the LBAs? The lesser width of LBA buffers (25-ft.) proposed with encroachment setbacks requested adjacent to residential encroachment may be needed to encroach into required side and rear yards.	-	Substantial encroachments of parking into the required LBAs proposed.
20	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	-	Variances will need to be requested for setbacks.	-	Substantial encroachments of parking into the required LBAs proposed.

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

- does not meet guidelines
NA not applicable

#	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
21	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	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.	-	Will the required screening be provided within the LEAs? The lesser width of LEA buffers (25-ft.) proposed with encroachment waivers requested adjacent to residential encroachments may be needed to encroach into required side and rear yards.	-	Landscape waivers requested to encroach into the non-residential-to-residential setbacks. The minimum 30-ft. setback that the CUP would allow in the absence of larger setbacks is also not being observed. Parking encroachments are proposed 15-ft. from adjacent residential along both side property lines.
22	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	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.	-	Will the required screening be provided within the LEAs? The lesser width of LEA buffers (25-ft.) proposed with encroachment waivers requested adjacent to residential encroachments may be needed to encroach into required side and rear yards.	-	Landscape waivers requested to encroach into the non-residential-to-residential setbacks. The minimum 30-ft. setback that the CUP would allow in the absence of larger setbacks is also not being observed. Parking encroachments are proposed 15-ft. from adjacent residential along both side property lines.
23	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA		NA	
24	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1-4.7	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form, distinct pattern and contribute to the visual quality of their surroundings.	+/-	Sign details should be provided, when known.	✓	Sign detail on plan meets code. Details for any additional signage, if proposed, should be provided.
25	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 4: Open Space	A.23/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	NA	Non-residential use not required to have open space.	NA	
26	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA		NA	
27	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA		NA	

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

- does not meet guidelines
NA not applicable

#	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
28	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	NA		NA	
29	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	NA		NA	
30	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	NA		NA	
31	People, Jobs and Housing Goal K4, Objective K4.1	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA		NA	
32	Marketplace Strategy Goal A1, Objectives A1.3, A1.4, A1.5	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA		NA	
33	Land Use and Transportation Connection Goal E1, Objectives E1.1 and E1.3	Marketplace Guideline 6: Economic Growth and Sustainability	A.5: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	NA		NA	

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

- does not meet guidelines
NA not applicable

#	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
34	Land Use and Transportation Connection Goal E1, Objectives E1.1 and E1.3	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA		NA	
35	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.12: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	NA		NA	
36	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle, and pedestrian use and provides amenities to support these modes of transportation.	✓	The required sidewalks will be provided. No transit amenities requested.	+/-	Revised TARC comments need to be addressed.
37	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	N/A		NA	
38	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.	NA		NA	

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

- does not meet guidelines
NA not applicable

#	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
39	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.	✓	The required parking will be provided.	✓	The required parking will be provided.
40	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.13-16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	NA		NA	
41	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA		NA	
42	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	NA		NA	
43	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	NA		NA	
44	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.12: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	✓	The required 5-ft. sidewalks and internal pedestrian connections are proposed.	✓	The required 5-ft. sidewalks and internal pedestrian connections are proposed.

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

- does not meet guidelines
NA not applicable

#	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
45	Livability, Goals B1, B2, B3, B4, Objectives B1.1-1.6, 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 blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	+/-	Subject to construction review.	+/-	Subject to construction review.
46	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 no comments/issues.	✓	Plan has APCD approval with dust mitigation note.
47	Livability, Goals F1 and F2, all related objectives	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA		NA	
48	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.	✓	Site served by existing utilities.	✓	Site served by existing utilities.
49	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.	+/-	Subject to construction review.	+/-	Subject to construction review.
50	Livability Goal B1, Objective B1.3	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.	+/-	Subject to construction review.	+/-	Subject to construction review.

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

- does not meet guidelines
NA not applicable

7. Applicant's Justification Statement

BARDEN WERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG • 1000 N. HURSTBOURNE PARKWAY • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
(502) 426-6688 • WWW.BARDLAW.NET

**DETAILED STATEMENT OF COMPLIANCE WITH THE APPLICABLE GUIDELINES
AND POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN**

Applicant:

Turtle Creek Management, Inc. (affiliated
with Basic American Industries, Inc.,
American Senior Living, Inc. and Jackson
Construction Co.)

Owner:

9107 Taylorsville Road, LLC

Location:

9107, 9109 and 9113 Taylorsville Road

Proposed Use:

Home for Aging and Infirm

Engineers, Land Planners and
Landscape Architects:

Land Design and Development, Inc.

Request:

Revised Detailed District Development Plan
and Conditional Use Permit for a home for
the aging and infirm

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SUMMARY STATEMENT

The subject property and others to the east and west along Taylorsville Road have long been the subject of considerable speculation as to how they will ultimately develop. Properties on the opposite side of Taylorsville Road are now nearly completely developed for uses and rezoned other than single family. Indeed, the properties involved in this application were rezoned in 2006 by the same lawyer and land planner involved in this CUP application. That rezoning was to OR-3 office and R-5A multi-family zoning districts that could work for this applicant and its use but for its desire to offer nursing services in its proposed assisted living and memory care home in order to help seniors in taking medications. Assisted living residences that are not state regulated health care facilities (i.e., no nurses dispensing medications) can operate within existing zoning without a CUP. Because of this minor level of care, this use falls within this CUP category despite no visible or felt impacts of the outside.

The previously approved plans for this site collapsed with the real estate Recession, from which the community is still struggling to recover.

This new use brings to Louisville the largest senior housing developer/operator in the state of Indiana. American Senior Living and its affiliated companies referenced above have 60 facilities in Indiana caring for 8,000 senior citizens, delivering 24,000 meals daily. With this kind of experience and track record of success, in a second generation company which builds for its own use, the applicant knows the demand and is able to understand market demographics. It has determined that this site is a good one for its senior living services.

In that regard, its principals, Wess and Mark Jackson, have walked the site, understand the adjoining properties, the proximity thereto, the small intermittent or ephemeral stream to the rear (north) of the site and the impacts that this could have on neighbors. Accordingly, on the east side where houses back up, they propose a solid screen of a six-foot high solid vinyl maintenance free fence. On the north side, they intend to clean up around the creek where it appears that MSD had begun creek repairs but never completed them. And along this rear (north) side of the site, its proposed building will be one-story, rather than two stories as with the balance (about two-thirds to three-quarters) of the rest of the building.

The previous applicant in the original rezoning of this property proposed a single point of access between the two previously existing buildings, eliminating a driveway in favor of just one.

On that prior approved development plan, behind the two previously approved office buildings were to be located several multi-family residential buildings, which were intended to serve as a transition between the office use along Taylorsville Road and the standard single-family subdivision that otherwise encompasses most of the small city of Forest Hills. The current proposed development plan continues with a "transitional" form of use, but with likely less traffic or activity impacts of the area or on Taylorsville Road.

GUIDELINE 1 - COMMUNITY FORM

The subject property is located near a Suburban Marketplace Corridor but still within the Suburban Neighborhood Form. This form district is characterized by a variety of forms of development, including retail, office and residential, with high density residential recommended along major arterials. Taylorsville Road is a major arterial. The proposed development is for a Personal Care Facility (aka a home for the aging and infirm), which is appropriate for the Suburban Neighborhood Form and for an arterial roadway such as Taylorsville Road, a very typical location for a development of this kind. The proposed development will include sidewalks along the frontage, sidewalks within the development, good perimeter screening and buffering, despite the need for side setbacks from the standard single-family subdivision of Forest Hills, safe access and a style and design that is compatible with the adjoining Forest Hills subdivision/small city.

GUIDELINE 2 - CENTERS

Guideline 2, Policies 1, 2, 4, and 5 pertain to the location of "activity centers" and the development of mixed uses that are compatible within compact developments. This development complies with these Policies of this Guideline because it is proposed for a very mixed use corridor across from a large shopping center. This development also complies with Policy 8 of this Guideline because, as compatibly designed, it is allowed within the Neighborhood Form because it serves the day-to-day needs of nearby residents who look to "retire" to a facility of this kind close to where they live, worship and shop and/or where friends or family live who are likely to come visit. As explained, the Personal Care Facility is a good transition from commercial to the south to residential to the north and with nice screening and buffering along the perimeters of this site, as explained above and as promised residential neighbors, and because of the style, design and choice of building materials, also as explained to neighbors. Policy 16 of this Guideline encourages alternative transportation modes, which is addressed because this is along a TARC route, and sidewalks internally and externally are also provided.

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GUIDELINE 3: COMPATIBILITY

Policies 1, 2, 3 and 4 address the issues of compatible design, including building materials, vegetative buffers, open space, interior landscaping, minimization of parking lot lighting and so forth. As the development plan accompanying this application shows, and as otherwise explained above and within the elevation renderings of buildings submitted with this application, the proposed project is compatible in terms of use, style and design with the adjoining Forest Hills subdivision/small city. The transition from low intensity Personal Care Facility to standard single-family is a good one, particularly when this project fronts along a very busy arterial – Taylorsville Road. The styles and designs of the building are evident on the accompanying building photographs and elevation renderings. These have been discussed with neighbors, and thus far the response has been positive. Good perimeter landscaping and fencing are also included to lessen the impact on smaller adjoining single-family homes. Policies 5, 6, 7, 8 and 9 address what might become nuisances (odor, traffic, noise, lighting and visual impacts), but for the special attention given to assure that these obstacles to compatibility do not occur. Because of the use proposed, odors will not be an issue. Because of the low traffic generating effect, air quality will not be a problem. Few residents will even have cars. Also, guests of the residents in the facility are anticipated to arrive and depart at various hours of the day instead of all at the beginning or all at the end, which is when the greatest impact on peak hour traffic volumes occurs. Lighting will be residential in style and design and of low intensity, or directed down and away from nearby residential properties. Visual impacts are mitigated with good screening and buffering, retention of some existing perimeter trees, and a style and design of buildings that is compatible with that nearby, especially those within the adjoining Forest Hills subdivision/small city.

Policies 10, 11, 12, 13, 14 and 15 all deal with the variety of housing types, accessibility, appropriateness of higher density in appropriate areas and so forth. As explained, the proposed Personal Care Facility is not multi-family and office as previously approved. Yet the style and design of the proposed facility is attractive at first glance. Of course, requirements for accessibility imposed by federal and state law will also be assured, and price points will be such that this form of senior living will be comparable to others in the larger community.

Policies 21, 22 and 23 of this Guideline address transitions, buffers and setbacks, which have all been largely addressed above. Around the buildings will be trees, both retained and added, plus other landscaping both on the perimeter and interior to provide for a comfortable, landscaped setting. Good transition buffers to the adjoining standard single-family residential community of Forest Hills are assured. The architectural style and design of the building has been shown to neighbors and seem to be acceptable.

GUIDELINE 4 – OPEN SPACE

Policies 1, 5, 6 and 7 of this Guideline all pertain to the provision of open spaces, appropriately designed and maintained. Every residential community needs some form of open space, although the smaller the residential community, the less naturally provided or obviously available. Nevertheless, a small interior courtyard, as shown on the development plan accompanying this application can serve that purpose, thus enhancing the quality of the living environment.

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**GUIDELINES 7 (CIRCULATION), 8 (TRANSPORTATION FACILITY DESIGN),
AND 9 (BICYCLE, PEDESTRIAN AND TRANSIT)**

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Policies 1, 2, 4 and 6 of Guideline 7 all pertain to addressing the traffic impacts of the proposed development and to assure that transportation services and facilities are always available, plus access to surrounding land uses. The development plan accompanying this application, including the notes shown on that plan, together with a previous traffic study that was prepared to assess the impacts of what was approved as a more intense use than this one on Taylorsville Road all demonstrate that this project will not cause a deterioration of the current traffic-carrying capacity of Taylorsville Road. Further, there will be adequate gaps in traffic along Taylorsville Road to accommodate traffic exiting and entering the proposed development. The center turn lane along Taylorsville Road will especially provide for left-hand turning movements into the development and will also assure that traffic turning left out of the proposed development can move into the center turning lane to await an opportunity to enter traffic moving toward Jeffersonton. Right-hand turns are normally not problematic and should not be at this location. As further noted above, an easement for future access to any development occurring on the adjoining properties to the west will be provided.

Policies 10, 11, 13, 14, 15, 16 and 17 all pertain to parking, joint and cross access, and access and circulation design. The single point of access along Taylorsville Road to the development will assure that traffic access is managed in a way that will have minimal impact on Taylorsville Road and also on the nearby local streets of Axminster and Norwood Roads. There will not be cross access to the adjoining properties to the east and west, although an easement can be provided if these properties ever developed. The location of the point of access and the width of same, plus circulation through the overall mixed use development have all been designed with input from Metro transportation planners.

Policies 4, 5, 7, 8, 9, 10 and 11 of Guideline 8 all address many of the same policies addressed in Guideline 7 – notably provision of traffic facility improvements along Taylorsville Road, if required, the adequacy of the Taylorsville Road street infrastructure, stub connections to adjoining properties and access to those if ever developed, internal circulation and the design of the point of access. The development plan accompanying this application, like all other development plans, is reviewed by Metro transportation planners. The land planners and engineers involved in designing this project are familiar with the requirements of those transportation planners, such that the development plan accompanying this application has taken into account and assured that access and circulation to and within this development have all addressed the requirements of these government agencies.

Policies 1, 2, 3 and 4 of Guideline 9 all pertain to alternative forms of transportation, notably pedestrian, bicycle and transit. Sidewalks are included along the Taylorsville Road frontage and within the proposed development. Bicycle access and parking facilities are provided. TARC service is available along Taylorsville Road.

**GUIDELINES 10 (FLOODING AND STORMWATER), 11 (WATER QUALITY) AND
12 (AIR QUALITY)**

These Guidelines all pertain to the environmental issues that every project needs to address. For example, post development rate of stormwater runoff cannot exceed predevelopment conditions, and they won't on this development site either. Normally, that is assured through on-site detention, as anticipated to be provided here through vault detention. As to water quality, the development will be required during the construction stage to show compliance with the local Sedimentation and Soil Erosion Control Ordinance and also new water quality regulations. As to

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air quality, this form of development is a low peak hour traffic generator, thus air quality impacts are not anticipated. In a development of this kind, employees and guests of the residents are not likely to all enter and exit at the same time, thus mitigating the impacts of large traffic generators, because all will not utilize the street system or single points of access at the same time, but rather will be dispersed over the course of the day.

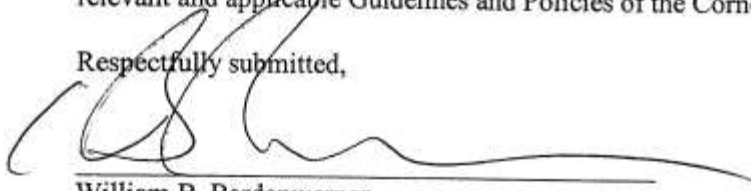
GUIDELINE 13 – LANDSCAPE CHARACTER

As the development plan accompanying this application shows, good perimeter screening and buffers are provided even if, for reasons set forth in the accompanying setback variance justifications, regulatory side setbacks cannot be fully provided, even though they would very nearly be but for the inclusion of nurses in this facility, which takes it, oddly enough, from a residential classification to an institutional one. Landscaping will be assured along the frontage on Taylorsville Road in order to assure separation and mitigation impacts and also along the property perimeters in order to minimize the impacts of this larger building on adjoining single-family homes. Within the development itself, there will be a high level of landscaping in order to assure a very livable residential community.

* * * *

For all of the above reasons and others identified on the Detailed Development Plan submitted with this application, including conditions of approval to be addressed with neighbors and presented by the time of Planning Commission review, this application complies with all other relevant and applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,



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Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of: Section 5.3.1.C.5 to allow the proposed pavement and building to encroach into the rear and side 50 ft setbacks as shown on the development plan to be within 24 ft. on all 3 sides for building encroachments and within 6 ft on the west side and 26 ft on the east side for pavement encroachments. What is important to understand about this is that, were this an "assisted living residence", which is permitted as a matter of right in the multi-family and office zoning districts, instead of a state licensed/regulated health care facility, this applicant would not need to apply for a CUP as an "institution for the aged and infirmed" which, according to DPDS staff, throws this into the "institutional" as opposed to "residential" use category. It is this distinction that causes the 50 instead of 30 foot setback. In other words, but for the inclusion of this application of nursing care in order to dispense medications to elderly patients, this would not be considered an institutional facility, but rather a residential one, in which event a lesser setback would apply. Furthermore, until recently DPDS staff applied the 30 ft CUP setback to uses of this kind not the 50 ft Section 5.3.1.C.5.

1. The variance will not adversely affect the public health, safety or welfare because the proposed use is really no different than would be an "assisted living residence", which would impose significantly lesser setbacks. The only difference is the inclusion in this building of nurses, which results in no greater exterior building impacts on adjoining properties which might necessitate, per LDC, the greater 50 ft setbacks.
2. The variance will not alter the essential character of the general vicinity because, as stated above, the current zoning for multi-family doesn't require this greater setback and neither would this same use without nurses.
3. The variance will not cause a hazard or a nuisance to the public for all the reasons set forth above, which is an LDC anomaly which requires a greater setback for institutional uses, which this is characterized to be because of the state regulation involved when nurses are introduced into the facility in order to dispense medications.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning

regulations because of the reasons set forth above. In other words, eliminating nurses and the dispensing of medications would eliminate the added setback.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because the requirement for this added setback is that the CUP "home for the aged and infirmed" category, not the residential care use, is what necessitates the added setback because of the DPDS interpretation that this becomes an "institutional" use instead of a residential one.
2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because it could not fit the same facility on this property that it could if it was categorized differently simply by eliminating nursing staff.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation, but rather are the result of the recent DPDS interpretation/classification of this residential care facility as an institutional, rather than residential use.

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General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of: Section 10.2.4A to allow the proposed pavement to encroach into the 25 ft LBA along the west property line.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because adequate landscaping screening and buffering will be assured despite the waiver.
2. The waiver will not violate the Comprehensive Plan because for all the reasons set for in the Detailed Statement of Compliance with all the applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with this application for the Conditional Use Permit.
3. The extent of waiver of the regulation the minimum necessary to afford relief to the applicant because this is not a request to eliminate that LBA entirely, only a portion of it.
4. Strict application of the provisions of the regulation will not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant could not fully fit on this site what it needs to fit in order to effectively design and operate a personal care facility of this kind, which is a less intensive use, than the multi-family and office use previously approved.

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General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of: Section 10.2.4.B to allow more than 50% overlap of the sewer and drainage easement along the east property line in the 25 ft LBA

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the applicant proposes a good screening fence in this area which will adequately compensate for the landscape buffer otherwise provided.
2. The waiver will not violate the Comprehensive Plan because for all the reasons set for in the Detailed Statement of Compliance with all the applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with this application for the Conditional Use Permit.
3. The extent of waiver of the regulation the minimum necessary to afford relief to the applicant because only half of the LBA overlaps with the utility, and normally the utility allows some planting within the easement anyway.
4. Strict application of the provisions of the regulation will not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant could not fully fit on this site what it needs to fit in order to effectively design and operate a personal care facility of this kind, which is a less intensive use, then the multi-family and office use previously approved.

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