

**Board of Zoning Adjustment**  
**Staff Report**  
July 30, 2018



<b>Case No:</b>	18CUP1031 & 18DEVPLAN1025
<b>Project Name:</b>	Dominion Northfield Independent Living
<b>Location:</b>	6000 Hunting Road
<b>Owner(s):</b>	Dominion Louisville, LLC
<b>Applicant:</b>	Dominion Louisville, LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	16 – Scott Reed
<b>Case Manager:</b>	Jon Crumbie, Planning & Design Coordinator

**REQUEST(S)**

- Modified Conditional Use Permit to allow an independent living facility in a R-3 and R-4 zoning district and Neighborhood Form District
- Category 3 Review (18DEVPLAN1025)
- Variance to allow proposed parking to encroach into the proposed required rear yard

Location	Requirement	Request	Variance
Proposed Property Line	15'	0	15'

- Waiver to omit the required landscape buffer area along the proposed property line between the existing structure and proposed structure

Location	Requirement	Request	Waiver
Proposed Property Line	15'	0	15'

**CASE SUMMARY/BACKGROUND**

The applicant proposes to operate a 2-story, 56 unit independent living facility, adjacent to an already existing senior healthcare center. The unit mix will be comprised of mainly 1-bedroom units with some studio and 2-bedroom units as well. Amenities provided on site will include upscale dining, fitness, spa, salon, cinema, outdoor dining, walking paths, patios, balconies, and outdoor activity spaces. The facility will not be licensed or offer nursing care services, but residents can hire a 3<sup>rd</sup> party care provider to help with daily activities. Parking will be provided to the residents. The structure will have a maximum height of 32 feet.

**STAFF FINDING / RECOMMENDATION**

There are three listed requirements for a nursing home. Item A. the applicant will be asking for relief and item B. will be met. Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for the modified conditional use permit, variance, and waiver.

## **RELATED CASES**

**B-8-97** This was a request for a Conditional Use Permit to allow a nursing home facility. The proposal was approved by the Jefferson County Board of Zoning Adjustment on February 17, 1997.

A modification of the approved Conditional Use Permit was approved by the Jefferson County Board of Zoning Adjustment on June 2, 1997.

A modification of the approved Conditional Use Permit was approved by the Jefferson County Board of Zoning Adjustment on March 16, 1998.

## **TECHNICAL REVIEW**

There are no outstanding technical review items.

## **INTERESTED PARTY COMMENTS**

Staff has received several emails from concerned citizens who oppose the proposal.

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

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

STAFF: The proposal is consistent with the policies of the Comprehensive Plan. The applicant will be asking for a variance and waiver from the Land Development Code.

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

STAFF: The proposal is compatible with the previously approved plan. This proposal will be compatible with the general character of the area including traffic, noise, dust, and lighting.

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

STAFF: The subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal. The Harrods Creek Fire Protection District reviewed the proposal and provided comments.

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

4.2.38 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. **The proposed structure will be 25 feet from the north property line and 20 feet from the south property line.**
- B. One sign, not to exceed 60 square feet and six feet in height, may be placed at each of the major entrances, except in districts where larger signs are allowed.
- C. The Board of Zoning Adjustment shall add any restrictions to mitigate nuisances or adverse effects.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE**

- (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 proposed parking is located on the interior of the site facing the existing structure.

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

STAFF: The requested variance will not alter the essential character of the general vicinity because the parking addition will match the existing parking and provide internal landscape areas that will be code compliant.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public because the proposed parking is located on the interior of the site facing the existing structure.

- (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 proposed parking is located on the interior of the site facing the existing structure.

#### **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 requested variance does not arise from any special circumstances. The applicant is proposing to add a new property line for financing purposes.

- 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 application of the provisions of the regulation would create an unnecessary hardship on the applicant because the proposed parking would have to be reduced or reconfigured.

- 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 applicant is responsible for the proposed new property line and location of the parking area.

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners since the parking area is located on the interior of the site facing the existing structure. The new parking area will provide internal landscape areas that will be code compliant.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed parking would have to be reduced or reconfigured.

- (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 by limiting the number of parking spaces.

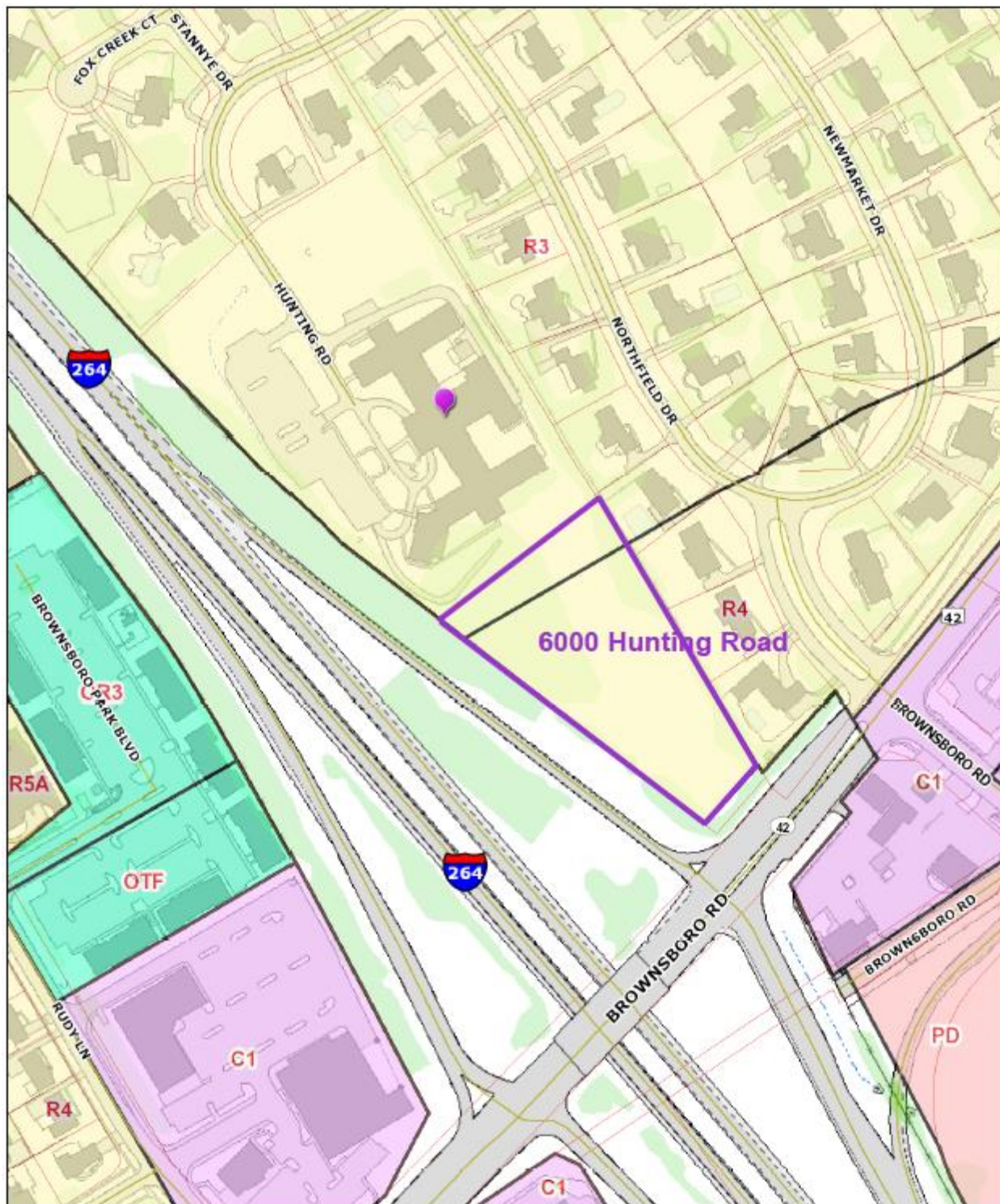
**NOTIFICATION**

Date	Purpose of Notice	Recipients
6/28/2018	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 16
6/29/2018	Hearing before BOZA	Sign Posting

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing/Proposed Conditions of Approval

1. **Zoning Map**



2. Aerial Photograph





### 3. Existing Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan. No further development shall occur on the site without prior review and approval by the Board.
2. The site shall be landscaped in accordance with the requirements of Article 12 of the Zoning District Regulations.
3. No district offices shall be located on this site. The additions as shown on the development plan shall be used for the expansion to the laundry and employee breakroom areas.
4. All roads and parking areas shall be surfaced with a hard and durable material and properly drained.
5. All outdoor lighting shall be directed downward and away from adjacent residential properties.
6. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within one year of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a nursing and rehabilitation facility without further review and approval by the Board.

#### **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 an independent living facility without further review and approval by the Board.
3. Development on Tract 1 (assisted living facility) and Tract 2 (independent living facility) are functionally related through a program of continuum of care which for the purposes of this condition is defined as "a variety of senior care services focused on the stages of aging." If this program of continuum of care is discontinued on Tract 1 (or Tract 1 becomes an independent living facility as well), then an application for a modification of the conditional use permit shall be submitted to the Board of Zoning Adjustment for review. If the Board finds that the continuum of care program is no longer in place, then the independent living facility (Tract 2) must qualify for a zoning classification as a "care facility" pursuant to LDC 4.2.38 (Nursing Homes and Homes for the Aged and Infirm) or must apply for a rezoning to a residential multi-family zoning classification.