

# Board of Zoning Adjustment

## Staff Report

June 17, 2019



<b>Case No:</b>	19CUP1057
<b>Project Name:</b>	Creekside on Whipps Mill –Senior Care
<b>Location:</b>	9701 Whipps Mill Road
<b>Owner:</b>	Creekside Whips Mill LLC., Bryan Keach
<b>Representative:</b>	Blomquist Design Group, LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	7 – Paula McCraney
<b>Case Manager:</b>	Steve Hendrix, Planning & Design Coordinator

### **REQUEST**

Modification of a Conditional Use Permit allowing a nursing home to a Senior Care facility with construction of a new canopy and port cochere, reconfiguration of the parking lot and the creation of two interior patios.

### **CASE SUMMARY/BACKGROUND**

The 2.53 acre site is located on the northwest side of Whipps Mill Road near its intersection with La Grange Road. The nursing home was originally approved in 1968, (B-54-68). The modification is simply a change from a vacant nursing home to a senior care facility (assisted and memory care facility) with a proposed canopy facing Whipps Mill Road, a new port cochere on the east side of the facility, parking lot reconfiguration and two interior patios.

The property is zoned R-4 and is within a Neighborhood Form District. Adjacent land uses include single family homes in the Whipps/Millgate subdivision to the north, an auto service center and the Whipps Mill Woods Condominiums to the south, two structures on the 2.6 acre property to the east that is owned by the same owners of the senior care facility and Millgate Apartments to the west.

### **STAFF FINDING / RECOMMENDATION**

The proposal meets the applicable policies of the Comprehensive Plan. There are three listed requirements of the conditional use permit and all have been met

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the Land Development Code for a conditional use permit.

### **TECHNICAL REVIEW**

There are no outstanding technical review items.

### **INTERESTED PARTY COMMENTS**

A neighborhood meeting was not required, but the applicant did make contact with most of the neighboring residents. (See attachment).

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

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

STAFF: The proposal is consistent with the applicable policies of the Comprehensive Plan.

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

STAFF: The proposal is compatible with the general character of the surrounding neighborhood in terms since the renovation will be minor and the facility remains the same height.

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

STAFF: The proposal has been reviewed by MSD and Transportation Planning and both have approved the plan

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

#### **4.2.8 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.
- B. One sign, not to exceed 60 square feet and six feet in height, may be placed at each of the major entrances.
- C. The Board of Zoning Adjustment shall add any restrictions to mitigate nuisances or adverse effects.

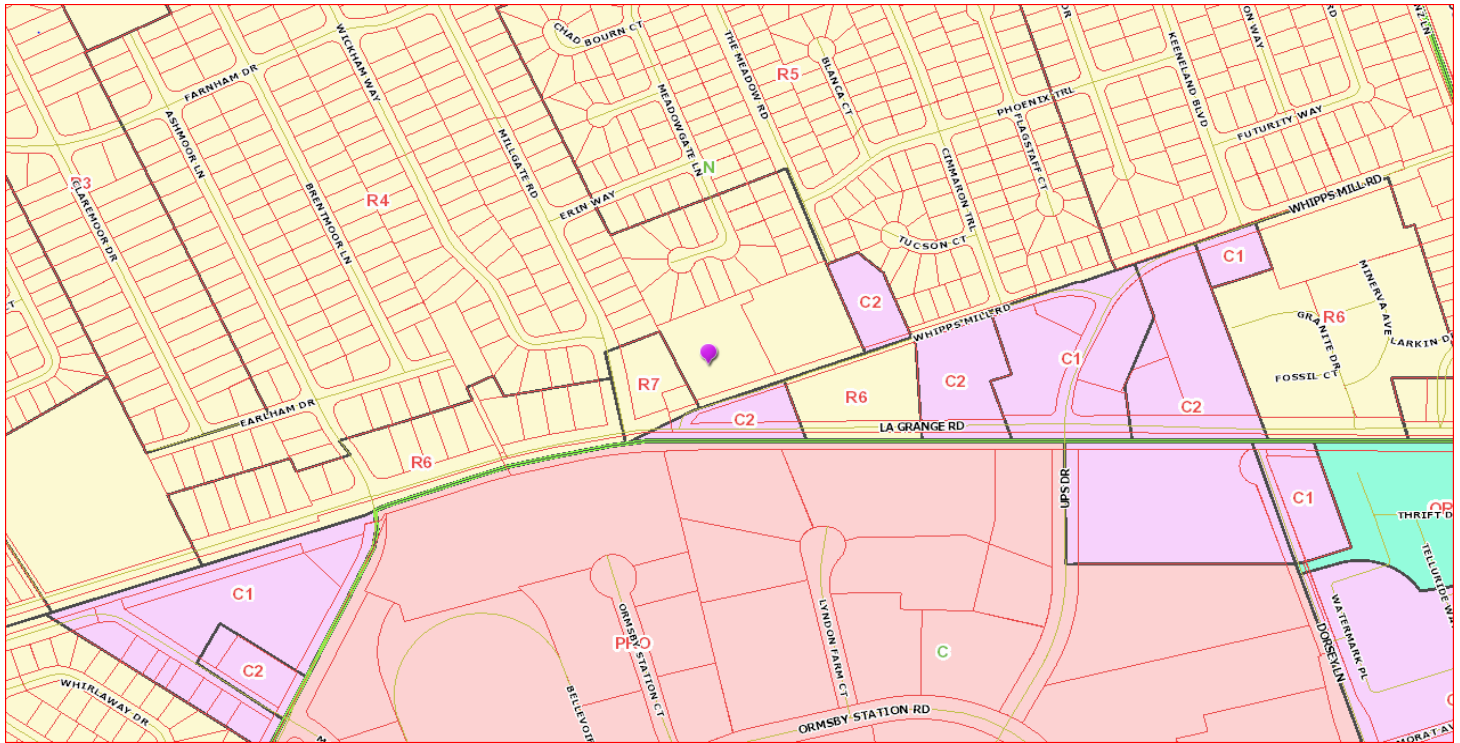
## **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
5/30/2019 6/6/2019	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 7
6/7/2019	Hearing before BOZA	Sign Posting

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Explanation Letter
5. Contacts
6. Conditions of Approval

# 1. Zoning Map

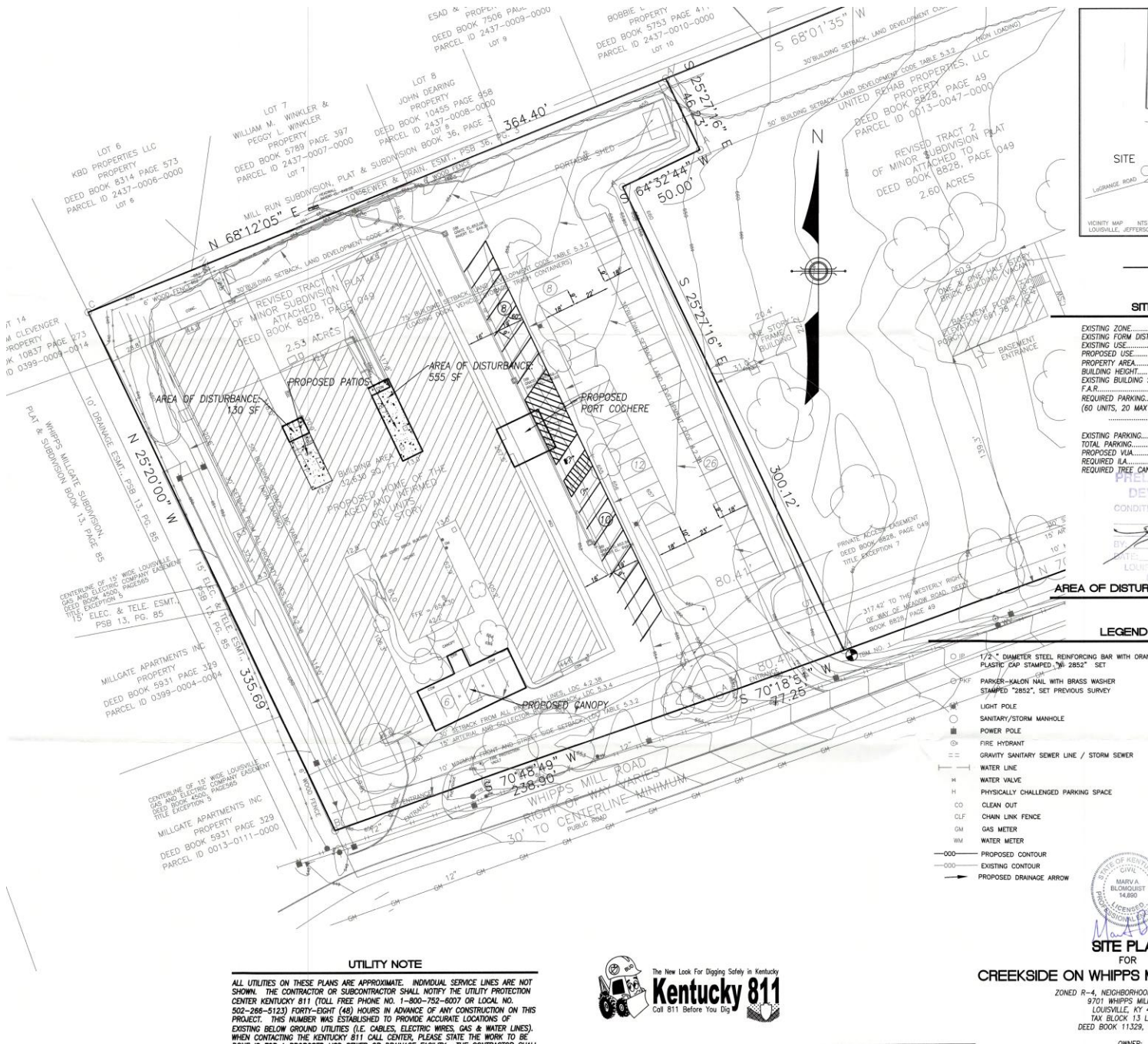


2. Aerial Photograph





# Site Plan





March 22, 2019

Metro Louisville Planning and Design Services  
444 South 5<sup>th</sup> Street  
Louisville, KY 40202



Re: Creekside on Whipps Mill – Senior Care  
9701 Whipps Mill Road  
Tax Block 13; Lot No. 54

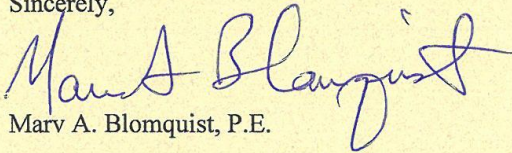
Gentlemen:

The proposed site is currently occupied by an existing vacant Nursing Home Facility. Due to the increased need for Senior Care facilities, the current Owner is proposing to renovate and upgrade the existing building into a Home of the Aged and Infirmed. The existing Nursing Home was approved for a Conditional Use Permit in 1968, Case No. B-54-68. The Proposed Plan is to add a covered canopy over existing parking in front of the building and 3 parking spaces to the front as well. Also planned is a Port Cochere along the east side of the building to provide covered access to the building. These additions and parking changes require a Modified Conditional Use Permit from Metro Planning and Design Services. The attached Site Plan indicates the canopy, parking and Port Cochere additions and the overall existing site and their relationship to the adjacent properties.

If you should have any questions or comments concerning the Site Plan or the project in general, please do not hesitate to contact us. Otherwise, we look forward to meeting with the Metro Planning and Design Services to discuss the project.

Thank you for your consideration.

Sincerely,

  
Marv A. Blomquist, P.E.

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10529 Timberwood Circle, Suite E  
Louisville, Kentucky 40223  
Telephone: 502.429.0105  
Facsimile: 502.429.6861  
marvbdg@aol.com

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**Table 1: Residents – Called**

<b>Residents</b>
Millgate Apartments, INC
Sean M. Clevenger
Creek Property, LLC
Charles WM Haller & Barbara Graef
KBD Properties, LLC
William M & Peggy L. Winkler
John J. & Sharon Dearing
Esad & Jadranka Crneta
Bobbie L. Juenger
Allen J. & Jeanne Marie Share

During the public outreach stage of the Creekside on Whipps Mill – Senior Care Project, all efforts were made to contact the neighboring residents. Table 1 depicts residents contacted via telephone. During a phone conversation, each resident was notified of the commencement of construction of the Creekside on Whipps Mill – Senior Care Project, renovating the existing nursing home (9701 Whipps Mill, Louisville, KY 40223) into an assisted living and memory care facility in their neighborhood. The residents voiced concerns, comments, and questions.

**Resident Concerns/Comments:**

- 1.) *"All roof drain pipes are buried and come underneath the fence to neighboring property. Flooding is a concern."*
- 2.) *"I'm glad the building will look nicer and that the windows will no longer be boarded."*
- 3.) *"I talked to Jeff Smith with TDK Construction. 3 big lights are no longer working. Mr. Smith said that he will check with LG&E to get these turned back on."*
- 4.) *"Last year the site management issued a no smoking policy. As a result, people smoked in the utility easement. Please make sure this doesn't happen again."*
- 5.) *"Upon completion of construction, the owners should mail a letter and/or call immediate neighbors to share the contact info. of the new facility."*
- 6.) *"It would be nice for the local residents to be able to use the neighboring field."*

**Resident Questions/Engineer Answers:**

- Q1: *"Will the fallen privacy fence be fixed?"* A1: *"Yes, when construction is finished, the fence will no longer be in disrepair."*
- Q2: *"Will the neighboring house be torn down and replaced with cottages as a phase II?"* A2: *"I am unaware of a phase II but will let you know if I hear otherwise."*
- Q3: *"Will the building be torn down?"* A3: *"No, the building is being renovated into the assisted living/memory care facility."*
- Q4: *"What will happen to neighboring field?"* A4: *"For now, the field will remain."*
- Q5: *"Will there be any explosions in the middle of the night?"* A5: *"No, there will not be any explosions on this project."*

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**Table 2: Residents – Not called due to no listed phone number.**

Residents
Cumberland Federal Savings & Loan
Creekside Whipps Mill LLC
Kathryn Roberts
The 9801 Whipps Mill Rd Land Trust

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### **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 senior care facility without further review and approval by the Board.