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ORDINANCE NUMBER 14-07

CarDon Senior Living PUD

AN ORDINANCE OF THE CITY OF WESTFIELD AND WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA CONCERNING AMENDMENT TO TITLE 16 – LAND USE CONTROLS

This is a planned unit development ordinance (to be known as the "**CARDON SENIOR LIVING PUD DISTRICT**") to amend the Westfield-Washington Township Zoning Ordinance of the City of Westfield and Washington Township, Hamilton County, Indiana (the "Zoning Ordinance"), enacted by the City of Westfield pursuant to its authority under the laws of the State of Indiana, Ind. Code § 36-7-4 *et.seq.*, as amended.

WHEREAS, the City of Westfield, Indiana (the "City") and the Township of Washington, both of Hamilton County, Indiana are subject to the Zoning Ordinance;

WHEREAS, the Westfield-Washington Advisory Plan Commission (the "Commission") considered a petition (**Petition No. 1403-PUD-04**), requesting an amendment to the Zoning Ordinance and to the Zoning Map with regard to the subject real estate more particularly described in **Exhibit A** attached hereto (the "Real Estate");

WHEREAS, the Commission forwarded **Petition No. 1403-PUD-04** to the Common Council of the City of Westfield, Hamilton County, Indiana (the "Common Council") with a favorable recommendation in accordance with Indiana Code § 36-7-4-608, as required by Ind. Code § 36-7-4-1505;

WHEREAS, the Secretary of the Commission certified the action of the Commission to the City Council on April 22, 2014;

WHEREAS, the Common Council is subject to the provisions of the Indiana Code § 36-7-4-1507 and Ind. Code § 36-7-4-1512 concerning any action on this request;

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Westfield, Hamilton County, Indiana, meeting in regular session, that the Zoning Ordinance and Zoning Map are hereby amended as follows:

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Section 1. **Applicability of Ordinance.**

1.1 The Zoning Ordinance is hereby changed to designate the Real Estate as a Planned Unit Development District to be known as the "**CarDon Senior Living PUD District**" (the "District").

1.2 Development of the Real Estate shall be governed by (i) the provisions of this CarDon Senior Living PUD Ordinance (the "Ordinance") and its exhibits, and (ii) the provisions of the Zoning Ordinance as set forth herein, unless specifically modified by the terms of this Ordinance.

1.3 This Ordinance shall be in full force and effect in accordance with Indiana law, upon publication and the passage of any applicable waiting periods, all as provided by the laws of the State of Indiana.

1.4 All provisions and representations of the Zoning Ordinance that conflict with the provisions of this Ordinance are hereby made inapplicable to the Real Estate and shall be superseded by the terms of this Ordinance.

1.5 If any portion of this Ordinance is later deemed invalid or inoperative, the entire Ordinance shall be invalid.

Section 2. **District Intent.** Located at the northeast corner of 146th Street and Ditch Road, approximately 13 acres of the overall 16 acres will provide for a senior living community which will include skilled nursing care (short term rehabilitation and long term), memory care, and assisted living. An approximately 3 acres portion of the overall site, nearest Ditch Road, will be reserved as a later phase of development for either independent living senior apartments or light commercial. As the Real Estate is located adjacent to an established single-family residential development to the north and east, significant care will be given to ensure an appropriate buffer along these common property boundaries. Additionally, development of the Real Estate will be required to comply with architectural standards, including quality building materials and design criteria.

Section 3. **Definitions.** Capitalized terms not otherwise defined in this Ordinance shall have the meanings ascribed to them in the Zoning Ordinance.

3.1 Character Exhibits: The illustrative exhibits attached hereto and incorporated by reference as **Exhibit C**. The exhibits are a compilation of images designed to capture the intended quality of structures to be constructed in the District. Although the exhibits do not necessarily represent the final design or specify a required architectural style or element, they do hereby establish a benchmark for the quality and appearance of structures that are permitted to be constructed and that contribute to the District's intent and vision. The Economic and Community

Development (the "Department") shall determine whether a structure is consistent with the established benchmark and complies with the standards of this Ordinance. The Department's decision may be appealed to the Plan Commission.

3.2 Comprehensive Senior Living Community: A place for senior living consisting of facilities and services associated with an assisted living, skilled nursing care, and memory care use, which may include, but not limited to, meal service, large kitchen, dining rooms, housekeeping, personal and medication assistance, transportation services, theater, beauty shop, activity rooms, occupational and speech therapy, and a therapy gym.

3.3 Conceptual Plan: The plan attached hereto and incorporated herein by reference as **Exhibit B**.

3.4 Façade, Front: The front façade of a building shall include any building façade directly facing either 146th Street or Ditch Road, or a roundabout at that intersection. Additionally, the westernmost building face on Lot 1 oriented west toward Ditch Road, which is proposed for an assisted living building, shall also be deemed a front facade.

3.5 Façade, Side: All other building facades not defined as a front façade shall be defined as a side facade.

3.6 Lot 1: The majority of the Real Estate (approximately 13 acres) as represented on the Conceptual Plan.

3.7 Lot 2: A smaller portion of the Real Estate (approximately 3 acres) adjacent to Ditch Road as represented on the Conceptual Plan.

3.8 Masonry: Including brick, limestone, natural stone, cultured stone, or a combination of the same, bonded together with a mortar to form a wall, buttress, or similar mass.

3.9 Senior Living Amenities: Facilities and services associated with an assisted living, skilled nursing care, and memory care use, which may include, but not limited to, meal service, large kitchen, dining rooms, housekeeping, personal and medication assistance, transportation services, theater, beauty shop, activity rooms, occupational and speech therapy, and a therapy gym.

3.10 Underlying Zoning District: The zoning district of the Zoning Ordinance that shall govern the development standards of the District and its two Lots.

Section 4. **District Areas.** The District is hereby divided into two Lots as set forth and illustrated on the Conceptual Plan. Development of each District Lot shall be regulated as set forth in this Ordinance.

4.1 Lot 1: Lot 1 is intended for a senior living community, which may include skilled nursing care, (short term rehabilitation and long term), memory care, and assisted living.

4.2 Lot 2: Lot 2 is intended for senior independent living apartments as a first option, with light commercial as a secondary option if the market is not present for a senior independent living apartment development.

Section 5. **Conceptual Plan.** The Conceptual Plan provides a general vision for the development of the District which illustrates one possible layout of internal drives, parking areas, green spaces, and buildings that are permitted by this Ordinance. The Conceptual Plan is only conceptual. However, senior living related uses shall substantially comply with the Conceptual Plan.

Section 6. **Underlying Zoning District.** Except as modified, revised, supplemented, or expressly made inapplicable by this Ordinance, the development standards of the GB (General Business) District shall apply.

Section 7. **Permitted Uses.** The uses permitted in each District Lot shall be as set forth below.

7.1 The District is within the 146th Street Economic Development Area ("Area"). In recognition of the District's location within the Area, the use of land that results in the District being exempt from payment of all or part of the real property taxes ("Tax Exempt Uses"), including any future change in this District's status to a Tax Exempt (nonprofit) Use are permitted only by Special Exception. In addition to the decision criteria of the Board of Zoning Appeals Rules of Procedure for a Special Exception, the following additional criteria shall be considered prior to approval: (i) whether the Special Exception will be injurious to the City of Westfield's fiscal goals for the Area as stated by the Westfield City Council and Westfield Redevelopment Commission; and (ii) whether the change in tax status to a Tax Exempt Use is at the District owner's election for its own benefit or as a result of federal or state laws adversely affecting the ability of the District's facility to remain functionally and economically viable.

7.2 Lot 1: Comprehensive Senior Living Community and associated uses (such as Senior Living Amenities) contained therein and related thereto, which may include senior independent and assisted living and skilled nursing care, associated with short term rehabilitation and long term care, and memory care.

7.3 Lot 2: Senior independent living apartments or, alternatively, light commercial use(s). Permitted light commercial uses in this area are doctor offices, dentist offices, chiropractic office, other medical offices, optometrist, general offices, elder care services, financial service offices, bank or credit union.

Section 8. **General Regulations – Development Standards.** The regulations of the Underlying Zoning District shall apply to the development of the District, except as otherwise set forth below.

8.1 Lot 1:

8.1(a) Minimum building setback along east property line: thirty (30) feet.
8.1(b) Minimum building setback from 146th Street right-of-way: thirty (30) feet.
8.1(c) Minimum building setback from north property line: sixty (60 feet.
8.1(d) Maximum building height: two (2) stories (taller architectural features such as atriums or other elements which do not include floor area are permitted as depicted on the Character Exhibits in Exhibit C).

8.2 Lot 2:

8.2(a) Minimum building setback from new Ditch Road right-of-way: twenty (20) feet.
8.2(b) Minimum building setback from new 146th Street right-of-way: twenty (20) feet.
8.2(c) Maximum building height: three (3) stories (taller architectural features such as atriums or other elements which do not include floor area are permitted as depicted on the Character Exhibits in Exhibit C).
8.2(d) Maximum number of dwelling units: ninety (90)

8.3 Drive-thru Facilities. Drive-thru facilities shall not be permitted between the building(s) and the right-of-way line of Ditch Road or 146th Street.

Section 9. **Off-Street Parking and Loading.** The parking and loading standards of the Zoning Ordinance shall apply, except as provided below:

9.1 Parking spaces may be nine (9) feet by eighteen (18) feet in size.

9.2 The parking areas for Lot 1 and Lot 2 may be integrated. The Comprehensive Senior Living Community shall provide a minimum of one-hundred forty (140) parking spaces. The senior independent living apartments shall provide a minimum of thirty (30) parking spaces on Lot 2, for an overall total of one-hundred seventy (170) parking spaces within the District.

9.3 Loading. Loading doors shall be located a minimum of seventy-five (75) feet from the north property line. Loading shall be limited to 8:00 AM to 6:00 PM.

Section 10. **Landscaping and Screening.** The District's landscaping and screening shall comply with the Zoning Ordinance, except as otherwise provided below.

10.1 Installation of Landscaping. The installation of landscaping required by this Ordinance may be delayed, at the Director's determination, due to: (i) periods of adverse weather; (ii) availability of plant material; and (iii) conflicts between construction scheduling (e.g. completion of infrastructure both on-site and by Hamilton County Highway Department) and proper planting conditions.

10.2 Buffer Yards. Buffer yards shall not be required between Lot 1 and Lot 2. A portion of the required buffer yard and road frontage landscaping along the 146th Street and Ditch Road frontages may be installed elsewhere on the property subject to approval by the Director of the Department of Economic and Community Development.

10.2(a) Minimum buffer yard from the north property line: forty (40) feet

10.2(b) Minimum buffer yard from the east property line: thirty (30) feet

10.2(c) Minimum buffer yard from the 146th Street right-of-way: ten (10) feet

10.2(d) Minimum buffer yard from the Ditch Road right-of-way: ten (10) feet

10.2(e) A combination of landscaping and mounding shall be provided within the forty (40) and thirty (30) foot wide buffer yards along the north and east property lines, respectively. Mounding west of Montclair Drive will be five (5) feet tall. Mounding east of Montclair Drive will be three (3) feet tall.

10.2(f) Along and adjacent to the north property line, a berm and six (6) foot tall wood privacy fence shall be constructed and integrated with the existing berm and fence of the Centennial neighborhood in accordance with **Exhibit B** and **Exhibit D**.

10.2(g) The fence atop the mound west of Montclair Drive may be substituted with Viburnum plantings at a spacing, size and location subject to approval by the Director.

Section 11. **Sign Standards.** The District's signs shall comply with the Zoning Ordinance, except as provided below:

11.1 Prohibited Signs. Wall signs shall not be located facing north above the first story of the building(s). Wall signs facing north shall not be illuminated.

Section 12. **Lighting Standards.** The District's lighting shall comply with the Zoning Ordinance with the following exception:

12.1 Lighting Structures. Lighting structures, such as poles and bollards, within the parking and pedestrian areas shall not exceed twenty (20) feet in height.

Section 13. **Pedestrian Amenities.** Sidewalks or pathways shall be provided within the development to provide a pedestrian amenity generally as depicted on the Conceptual Plan, with connections to the 146th Street and Ditch Road sidewalks and pathways subject to approval of the Hamilton County Highway Department.

Section 14. **Architectural Design Standards.** The procedures and regulations of Development Plan Review applicable to the Underlying Zoning District shall apply to all primary buildings within the District, except as provided below:

14.1 Building Materials. At least 60% of the Front Façades and 50% of the Side Facades (excluding windows, display windows, doors and roofs) shall be covered by Masonry materials. All remaining portions of the facades shall be covered by fiber cement siding. EIFS may be used on the face of canopies above building entrances. Garage facades shall be covered with Masonry or fiber cement siding (excluding windows, doors and roofs).

14.2 Prohibited Materials. Aluminum and vinyl siding shall be prohibited. Metal roofs shall be prohibited.

14.3 Character Exhibits. Character illustrations indicating conceptually the intended architecture, quality and appearance of the buildings are provided in the Character Exhibits, attached hereto as **Exhibit C**. Buildings within Lot 1 and Lot 2 shall be constructed and maintained in substantial compliance with these Character Exhibits.

14.4 Lot 2 - Building(s) Orientation. Dwelling unit windows for building(s) on Lot 2 shall not face north.

14.5 Dumpsters.

14.5(a) Garbage containers, trash receptacles, trash compactors, recycling areas and other similar facilities shall be completely and permanently screened from view of public rights-of-way and adjoining properties.

14.5(b) Screening methods shall include a solid wall or fence enclosure of a material that matches or compliments the structure to which it is associated.

14.5(c) Dumpster enclosures, which include swinging, moveable doors, shall be kept closed at all times when said doors are not in active use.

14.6 Mechanical Equipment. Mechanical equipment for buildings shall be completely and permanently screened from view of public rights-of-way and adjoining residential properties.

14.7 Accessory Structures. Accessory structures shall be architecturally compatible with the primary building(s) with which they are associated.

ALL OF WHICH IS ORDAINED/RESOLVED THIS 28 DAY OF April, 2014.

WESTFIELD CITY COUNCIL

Voting For	Voting Against	Abstain
Jim Ake	Jim Ake	Jim Ake
Steven Hoover	Steven Hoover	Steven Hoover
Robert L. Horkay	Robert L. Horkay	Robert L. Horkay
Charles Lehman	Charles Lehman	Charles Lehman
Robert J. Smith	Robert J. Smith	Robert J. Smith
Cindy L. Spoljaric	Cindy L. Spoljaric	Cindy L. Spoljaric
Robert W. Stokes	Robert W. Stokes	Robert W. Stokes

ATTEST:

Cindy Gossard, Clerk-Treasurer
City of Westfield, Indiana

"I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law"

Signed

14938825_16

I hereby certify that **ORDINANCE 14-07** was delivered to the Mayor of Westfield on the ____ day of 29 April, 2014, at 10:15 Am.

Cindy Gossard, Clerk-Treasurer

I hereby APPROVE ORDINANCE 14-07

this 1 day of May, 2014.

J. Andrew Cook, Mayor

I hereby VETO ORDINANCE 14-07

this _____ day of _____, 2014.

J. Andrew Cook, Mayor

Prepared by: Matthew M. Price, attorney, Bingham Greenebaum Doll LLP, 10 W. Market St., Suite 2700, Indianapolis, IN 46204 (317) 686-5225.

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SCHEDULE OF EXHIBITS

Exhibit A	Real Estate (Legal Description)
Exhibit B	Conceptual Plan
Exhibit C	Character Exhibits (Architectural Intent)
Exhibit D	Berm and Fence Exhibit

Exhibit A
LAND DESCRIPTION

A part of the Southwest Quarter of Section 15, Township 18 North, Range 3 East in Hamilton County, Indiana, more particularly described as follows:

Beginning at the Southwest Quarter of said Quarter Section, thence North 00 degrees 11 minutes 49 seconds West (assumed bearing based upon a survey by Schneider Corporation, Job Number 7498.001 dated April 23, 2009) along the West line thereof 657.00 feet; thence North 88 degrees 50 minutes 00 seconds East parallel with the South line of said Quarter 1,591.00 feet; thence South 00 degrees 11 minutes 49 seconds East parallel with the West line of said Quarter Section 657.00 feet to the South line of said Quarter Section; thence South 88 degrees 50 minutes 00 seconds West along said South line a distance of 1,591.00 feet to the Beginning Point containing 23.99 acres, more or less.

Excepting therefrom, that part taken by warranty deed for right-of-way purposes by the Board of Commissioners of Hamilton County, Indiana, recorded October 11, 2013 as Instrument No. 2013063417, containing 7.91 acres, more or less.

Acreage after exception, 16.08 acres, more or less.

Exhibit B

CONCEPTUAL PLAN

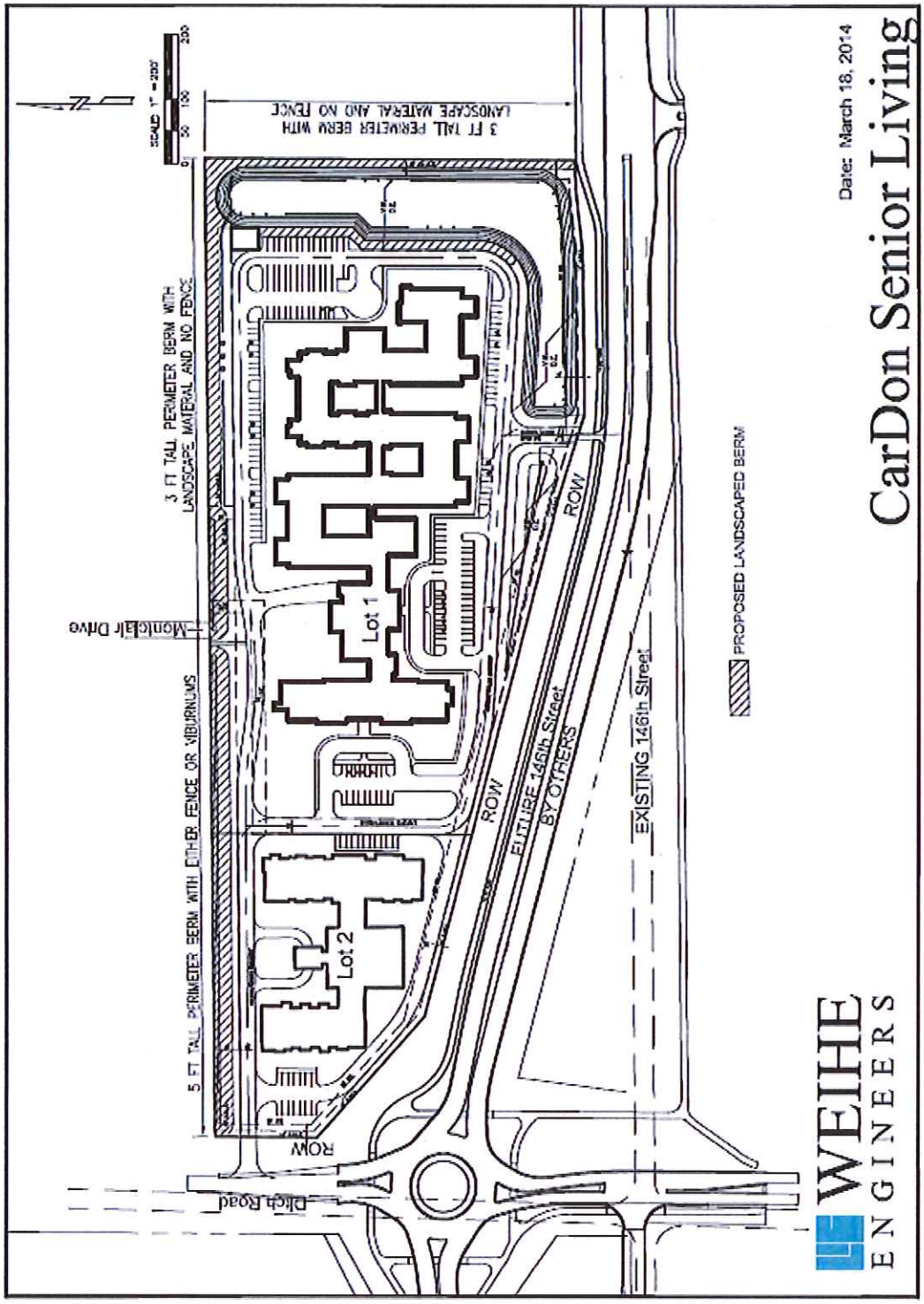

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Exhibit C

CHARACTER EXHIBITS (ARCHITECTURAL INTENT)

HOCH ASSOCIATES

CARDON & ASSOCIATES INC

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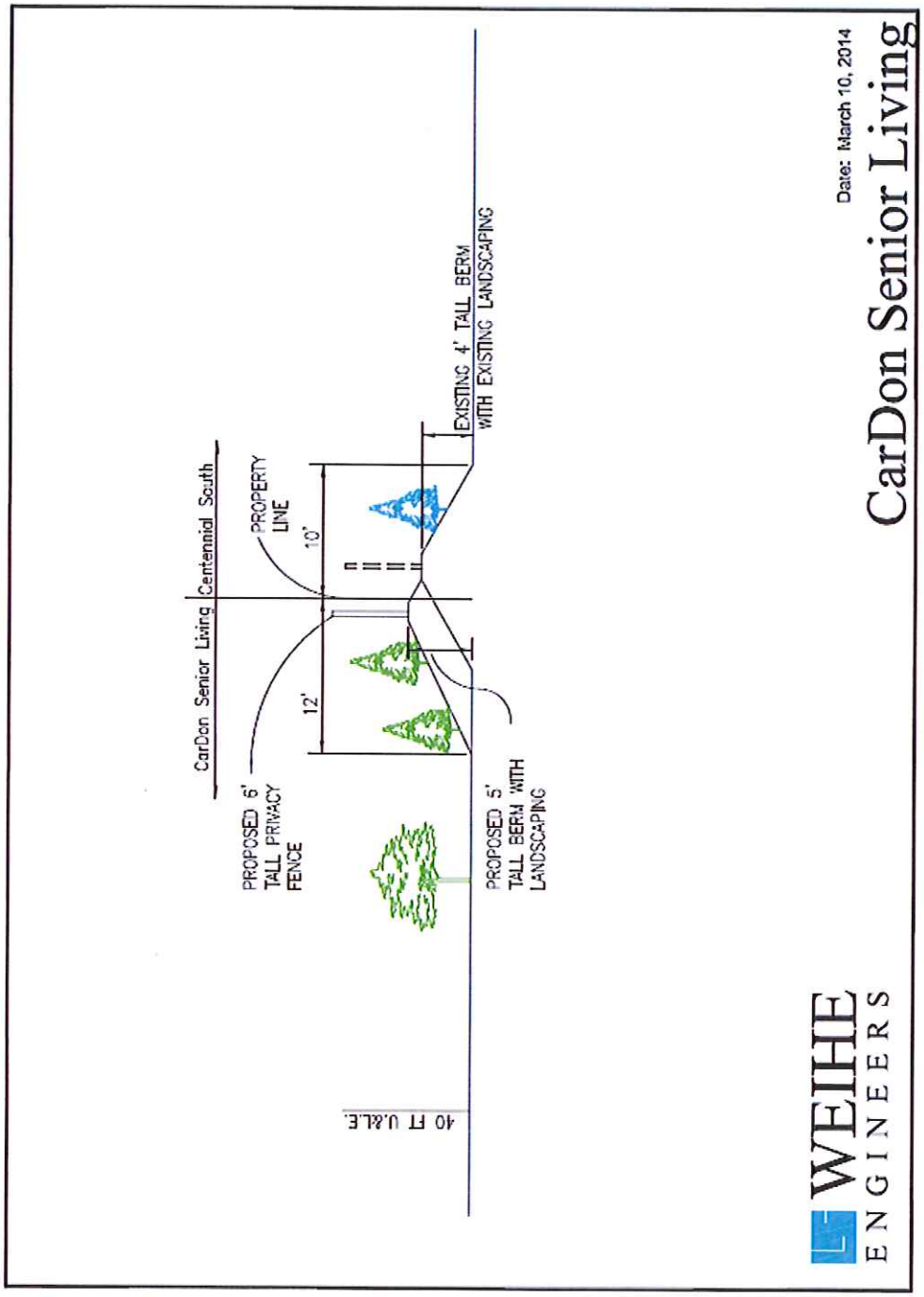
Exhibit D

BERM AND FENCE EXHIBIT



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