

PLANNING COMMISSION MINUTES
April 18, 2019

PUBLIC HEARING

CASE NO. 18ZONE1055

NOTE: Commissioner Brown left the meeting temporarily and did not hear or vote on this case.

Request: Change in zoning from OR-3 to C-2, revised general/detailed plan, sign variance, and landscape waiver
Project Name: Bluestone Diversified Investments, LLC
Location: 13811 Wickham Green Way; 13820 Old Henry Road; 2600 James Thornton Way; and 2401 Terra Crossing Boulevard
Owner: Multiple Owners
Applicant: Bluestone Diversified Investments, LLC
Representative: Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 19 – Anthony Piagentini

Case Manager: **Joel Dock, AICP, Planner II**

Notice of this public hearing appeared in The Courier-Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:19:28 :Joel Dock presented the case and showed a Power Point presentation. Mr. Dock discussed abandoning binding elements and COA that are currently on the site. If the requests are approved, he said the Commission should adopt only those binding elements specifically related to the development (see staff report and recording for detailed presentation.)

The following spoke in support of this request:

Cliff Ashburner, Dinsmore & Shohl LLC, 101 South 5th Street Suite 2500, Louisville, KY 40202

Kevin Young, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Diane Zimmerman, 12803 High Meadows Pike, Louisville, KY 40059

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Summary of testimony of those in support:

01:26:40 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:31:52 Diane Zimmerman, traffic engineer, discussed the traffic impact study she prepared for this site. She noted that the only approved location for a future traffic signal would be at Terra Crossing Boulevard (see recording).

01:36:46 Mr. Ashburner said the applicant has talked with Transportation Planning and with Commissioner Brown in his role as Assistant Director of Metro Public Works about the signalization of Terra Crossing. He discussed the buildout of the nearby St. Joseph's property and how that will affect the State signalization process and traffic improvements for the Terra Crossing / Old Henry Road areas. He also discussed the site plan and some related binding elements.

01:40:10 In response to a question from Commissioner Carlson, Mr. Ashburner said the applicant would be willing to consider "way-finding" signs for this development that could direct drivers and pedestrians.

01:41:05 In response to a question from Commissioner Daniels, Mr. Ashburner said the applicant will provide sidewalks / pedestrian access.

01:41:45 In response to a question from Commissioner Howard, Mr. Ashburner discussed details about the sign (design and square footage.) In response to a question from Commissioner Peterson, Mr. Ashburner said the sign will say "Thornton's Business Campus."

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:43:36 Commissioners' deliberation. Delete proposed binding element #9.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

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Zoning

01:47:23 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, the Cornerstone 2020 staff checklist, the applicant's justification statement, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1: Community Form because the proposal integrates into the pattern of development, which features buildings set back from the street in a landscaped setting; significant landscaping is provided between the edge of pavement and the property line of the development site. The subject site provides a minimum landscape buffer of 30' along the designated Parkway; the proposal integrates into a planned development that features a mixture of related uses, and that may contain either a single major use or a cluster of uses. The proposed district allows for a greater integration of uses by increasing the ability to provide commercial and office development along the corridor; the proposed plan provides neighborhood services (restaurant, bank, and retail) in combination with regional services (Hotel); and the proposal incorporates connected roads, encourages access to public transportation, and provides for pedestrians as public and private ways will be provided to connect each site with the development to each other and to adjacent centers; the subject property is located in the Suburban Workplace Form District, which the Comprehensive Plan states is a form "characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development." Here, the proposal is consistent with the form district and pattern of development in the area, which features buildings set back from the street in a landscaped setting. The proposal includes significant landscaping between the edge of pavement and the property line of the proposed development site. The proposed development is also consistent with the proposed C-2 zoning district and the intent and policies of Guideline 1 as it will provide a greater integration of uses by increasing commercial and office development along the Old Henry Road corridor; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2, Centers because the subject property is located within an existing activity center along Old Henry Road. The proposal includes neighborhood and regional serving uses (restaurants, retail, and a hotel.) The proposed uses will provide supportive services to employees and nearby residents in the area. The

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proposed hotel will be conveniently located near the entrance to I-265 and provide for short-term stays for applicant's clients or temporary workers, as well as those visiting other businesses in the area; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because the building design will be compliant with Chapter 5 of the Land Development Code; the proposal does not constitute a non-residential expansion into an existing residential area as the site is currently zoned for mixed-use and surrounded by the same; the proposal mitigates any potential odor or emissions associated with the development as proposed users are limited intensity and the district does not allow for industrial users; traffic impacts will be minimized as the site is located along a major arterial roadway with highway access; lighting will be compliant with LDC 4.1.3; the proposal is a high intensity use and is located along an arterial roadway within close proximity to an interstate and within an activity center of mixed commercial, office, and industrial uses; the proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as the developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way. All required plantings will be provided. Transitions to adjacent development have been provided; the proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another. The development is compatible with adjacent uses; setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. All relief from buffers has been adequately justified in the standard of review; parking area locations are consistent with the pattern of development in the area and do not infringe of residential areas. Landscaping along the parkway has been provided as required by Chapter 10 of the LDC. 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 as the developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way. All required plantings will be provided. Transitions to adjacent development have been provided; no parking structures have been proposed; and signage will be complaint with Chapter 8 and all applicable binding elements; the proposal is not a non-residential expansion into an existing residential area as the subject site is currently zoned for mixed-use development, and is surrounded by other mixed-use zones. The proposal will not have adverse traffic, parking, noise, or visual impacts on the surrounding lower intensity uses due to the subject property's location in an existing activity center and the proximity of transportation facilities. The applicant will work with Louisville Metro Public Works to determine the traffic impact of the proposed uses as it

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compares to the previously approved office uses. The subject property is located within an existing activity center along a minor arterial (Old Henry Road), with easy access to I-265. The proposed parking area locations are consistent with the pattern of development in the area, and the applicant proposes to provide significant landscaping between the edge of Old Henry Road and the proposed parking area; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because the proposal provides open space that helps meet the needs of the community as outdoor amenity areas (dining) have been indicated on the proposed plan; open space design is consistent with the pattern of development in the Neighborhood Form District; and the site does not appear to contain natural features as it is void of tree coverage and contains no streams; the proposal complies with the intent and applicable policies of **Guideline 4, Open Space, and Guideline 5, Natural Areas and Scenic and Historic Resources** because the applicant proposes commercial uses that do not require open space, but each use will include some outdoor features (seating or pool area) to serve customers and visitors to the site. No natural or historic resources are located on the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because the site does not appear to contain natural features as it is void of tree coverage and contains no streams; the proposal does not contain any features of historic significance. Buffers along the Parkway to preserve views will be provided. Building materials will be in compliance with the form district standards; and the development site does not appear to contain wet or highly permeable soils, or contain significant portions of erodible soils. No steep slopes are present; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6: Economic Growth and Sustainability because the retail components of the plan provide supportive services to employees and nearby residents within and surrounding the form district. The hotel component is conveniently located near an interstate and provides for the short-term stay of clients or temporary workers; the site is not downtown; the proposed development is not an industrial development, but rather provides supportive services as evidenced by the staff analysis of Guideline 6, Policy 1.; the proposal is located within an existing activity center along a minor arterial roadway within proximity to the interstate and due to the location of this use with respect to transportation facilities, it will not impact lower intensity uses; and the proposed development is not an industrial development, but rather provides supportive services as evidenced by the staff analysis of Guideline 6, Policy 1.; the proposal is to develop a currently undeveloped tract of land into a mixed-use development with regional and

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neighborhood-serving commercial uses. The proposed hotels, restaurants, and retail uses are a natural fit for the existing activity center along Old Henry Road; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because 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; the proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as public and private ways will be provided to connect each site within the development to each other and to adjacent centers; 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's existing roadway network is relatively undisturbed by development, with the exception of internal connections; no additional right-of-way is being requested; the proposal includes adequate parking spaces to support the use; and the proposal provides for joint and cross access through the development and to connect to adjacent development sites; the proposal complies with the intent and applicable policies of **Guideline 7, Circulation, and Guideline 8, Transportation Facility Design, and Guideline 9, Bicycle, Pedestrian and Transit** because the proposal includes adequate parking to support the proposed uses, and the development will connect directly to minor arterial Old Henry Road via the existing connector James Thornton Way. Old Henry Road provides easy access to the nearby 1-265. The proposal provides for internal pedestrian connection to the existing development to the west and via connector Wickham Green Way on the north end of the site. Access to future development to the north is provided via connectors Wickham Green Way and James Thornton Way. The proposal also includes sidewalks for pedestrian access to Old Henry Road, to the adjacent development to the west, and within the development. Bike parking will be provided at convenient locations; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because no stub roadways are needed to facilitate this or adjacent development; access to the development site is from areas of similar intensity from an arterial roadway with interstate access; the development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because 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

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intensity. Pedestrian connectivity to public ways and adjacent site has been provided, bike parking is being made available, and the development site is well connected internally and to external development; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 10: Flooding and Stormwater because the proposal's drainage plans have been approved by MSD; the proposal should have very little impact, if any, on the surrounding waterways, complying with the intent and applicable policies of Guideline 10, Flooding and Stormwater, and Guideline 11, Water Quality; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 12: Air Quality because the proposal has been reviewed by APCD and found to not have a negative impact on air quality; and the proposal should not have adverse impacts on traffic or air quality due to its location near the existing activity center on Old Henry Road; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because the proposal is located in an area served by existing utilities or planned for utilities; and the proposal will have access to an adequate supply of potable water and water for fire- fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change-in-Zoning from OR-3, Office-Residential to C-2, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Howard, and Carlson.
NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.

Variance

01:48:38 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis,

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the applicant's justification statement, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as the sign does not appear to create any limitation on sight lines for pedestrians or motorists; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the sign is constructed of compatible material consistent with the area and the sign is attractively landscaped; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the sign does not appear to create any limitation on sight lines for pedestrians or motorists; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the sign will serve to identify the larger development site in an attractive manner that does not impede the sight of motorists or pedestrians; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the sign was constructed upon agreement with the State transportation department and is now being placed with a development site; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the sign would need to be removed as a result of denial of the request; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the sign was initially constructed upon an agreement with the State; and

WHEREAS, the Commission further finds that the variance will not alter the essential character of the general vicinity as the sign structure exists today, and the proposed freestanding master plan project identification sign is consistent with the property's proposed C-2 zoning and the size of the proposed multi-use development. The proposed freestanding master plan project identification sign is also appropriate for the property's location along a major arterial road with numerous other large-scale commercial and automobile-oriented uses in the vicinity; and

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WHEREAS, the Commission further finds that the variance will not cause a hazard or nuisance to the public. The proposed freestanding master plan project identification sign will comply with all other signage requirements in the Land Development Code, will be located a safe distance from Old Henry Road, and will permit the public to clearly identify the proposed development. The size of the proposed master plan project identification sign is appropriate for the size of the proposed development; and

WHEREAS, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. The variance will allow the applicant to repurpose an existing sign into the proposed master plan project identification sign in a way that is consistent with the size of the proposed development; and

WHEREAS, the Commission further finds that the variance arises from special circumstances that do not generally apply to land in the vicinity of the project. The variance is the result of the method that is used for measuring monument style signs. The lettering on the sign is below the allowed area but because the sign includes all of the area that is not part of the base, this variance is needed; and

WHEREAS, the Commission further finds that the strict application of the regulations would create an unnecessary hardship because it would force the applicant to remove the existing sign, instead of repurposing it into a master plan project identification sign; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance as the applicant is attempting to bring the sign into compliance by repurposing it into a master plan project identification sign; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Land Development Code (LDC), section 8.3.3B.10.a.i to allow for a sign area variance of 60 sq. ft. from 150 sq. ft. to 210 sq. ft.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Howard, and Carlson.
NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.

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Waiver

01:49:35 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification statement, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the development is a single unified development containing common landscaping, drives, and parking; the landscape buffer areas at issue are adjacent to two private access easements, James Thornton Way and Wickham Green Way, that sit entirely within the applicant's proposed development. There are no adjacent properties that will be affected by the waiver. The waiver will permit the applicant to maximize available off-street parking, vehicle maneuvering area, and interior landscape area within the proposed development, while retaining a 5' pedestrian side walk along both James Thornton Way and Wickham Green Way; and

WHEREAS, the Commission further finds that 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 development is unified and will contain consistent landscaping and design elements. The developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way. All required plantings will be provided; The proposed waiver will permit the applicant to make the most efficient and public-serving use of its lots along James Thornton Way and Wickham Green Way. The proposed waiver will permit the applicant to maximize available off-street parking, vehicle maneuvering area, and interior landscape area within the proposed development, while

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retaining a 5' pedestrian side walk along both James Thornton Way and Wickham Green Way; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the expressway severely restricts pedestrian movement and the full application of the sidewalk requirements would create a disconnected sidewalk form adjacent development; absent the waiver, the applicant would have to either reduce the amount of off-street parking available to the public, reduce the vehicle maneuvering area, or reduce the amount of interior landscape area; and

WHEREAS, the Commission further finds that 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 as The developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way. All required plantings will be provided; the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as it would require the applicant to either reduce the amount of off-street parking available to the public, reduce the vehicle maneuvering area, or reduce the amount of interior landscape area. The proposed waiver will permit the applicant to make the most efficient and public-serving use of its property and retain a 5' pedestrian side walk along both James Thornton Way and Wickham Green Way; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of LDC, section 10.2.10 to omit the VUA LBA along James Thornton and Wickham Green Way.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Howard, and Carlson.
NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.

Revised General/Detailed District Development Plan

01:50:31 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that the proposed development provides required tree canopy and does not appear to be located in an area containing significant natural resources. Buffers required along the parkway will be provided; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as public and private ways will be provided to connect each site within the development to each other and to adjacent centers; and

WHEREAS, the Commission further finds that the proposal provides open space that helps meet the needs of the proposed development and community as amenity areas have been provided in the form of outdoor dining spaces; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Commission further finds that the proposed development is compatible with the existing and projected future development of the area as the proposal provides appropriate transitions between uses. The developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way. All required plantings will be provided.. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. All relief from buffers has been adequately justified in the standard of review; and

WHEREAS, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan as demonstrated in the Staff Analysis for Change in Zoning contained in the Staff Report; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised General/Detailed District Development Plan, subject to the abandonment of the existing binding elements of Case Numbers 9-99-98 and 13DEVPLAN1012; abandonment of Conditional Use Permit issued under Case No. 13CUP1002, and **SUBJECT** to the following binding elements:

Existing General Plan Binding Elements (9-99-98) – to be deleted

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- ~~1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.~~
- ~~2. Prior to development of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan from the Planning Commission. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:
 - ~~a. screening, buffering, landscaping, tree preservation~~
 - ~~b. density, floor area, size and height of buildings~~
 - ~~c. points of access and site layout with respect to on-site circulation~~
 - ~~d. land uses~~
 - ~~e. signage~~
 - ~~f. loading berths~~
 - ~~g. parking~~
 - ~~h. sidewalks~~
 - ~~i. site design elements relating to alternative transportation modes~~
 - ~~j. outdoor lighting~~
 - ~~k. minor subdivision plat approval~~
 - ~~l. air pollution~~
 - ~~m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection~~
 - ~~n. dumpsters~~~~
- ~~3. The development shall not exceed 977,360 office, 157,725 commercial square feet of gross floor area (including 97,500 neighborhood retail), 184 Hotel rooms, and 130 Condominiums.~~
- ~~4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~5. Outdoor lighting shall be directed down and away from surrounding residential properties.
Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site.~~
- ~~6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from~~

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~~compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.~~

- ~~7. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - ~~a. The development plan for each site or phase of this project must receive full construction approval from the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~
 - ~~b. Encroachment permits for each site or phase of this project must be obtained from the Kentucky Department of Transportation, Bureau of Highways.~~
 - ~~c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 and in conformance with the Parkway Policy prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
 - ~~d. A minor subdivision plat creating the lots within a phase in accordance with the approved district development plan shall be recorded prior to issuance of building permits unless public roadways will be created within the phase to be platted, then a major plat shall be required to create the roadway.~~~~
- ~~8. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.~~
- ~~9. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.~~
- ~~10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and~~

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~~other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assigns, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.~~

- ~~11. The photographs submitted at the January 8, 2001 Planning Commission meeting are representative of the quality of architecture that will be maintained in Old Henry Crossings and may be used by LD&T to review detailed development plans that will be submitted at a later date for quality design. Development on lots 4, 5, 6, 7, 8 9, 10, 14 and 15 shall conform to the same high standard of design and construction as depicted at the hearing for the offices and technical center. Such determination shall be made by the Planning Commission or appropriate committee thereof. In many cases, this will require deviation from the "industry standard design" for such facilities as, but not limited to, fuel stations and eating establishments.~~
- ~~12. To facilitate the extension of the four lanes of Old Henry Road to Crestwood, the Developer shall dedicate the right-of-way and any construction easements needed to construct the Old Henry Road improvement currently being designed by the Kentucky Transportation Cabinet. This design requires an equal amount of right of way on the east side of Old Henry Road across from lot 3 as it takes from the west side for the length of the frontage with the exception of the curve at Bush Farm Road (which may require more due to a possible shifting of the Old Henry Road center line; if it shifts, that additional right-of-way should be traded for right-of-way on the opposite side of Old Henry Road).~~
- ~~13. Loading docks shall be prohibited on Lot 11.~~
- ~~14. Two trees shall be planted in each parking lot island.~~
- ~~15. For each tree of 4-inch caliper or larger that is removed along Old Henry Trail during the required road widening, a new two-inch caliper tree shall be planted a safe distance from the roadway as near as reasonable to the removed tree's location or as requested by the Planning Commission staff landscape architect.~~

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- ~~16. The applicant agrees to withdraw the C-1 zoning request for Lot 2 (Garden Center) and not to resubmit this request for a five year period from the date of approval of this zoning change.~~

Existing Binding Elements (13DEVPLAN1012) – to be deleted

- ~~1. The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.~~
- ~~2. The square footage of the development shall not exceed 120,500 square feet for the office to the west and 22,814 square feet for the assisted living facility to the east.~~
- ~~3. Signs shall be in accordance with Chapter 8 of the LDC.~~
- ~~4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~5. Construction fencing shall be erected when off-site trees or tree canopy exist within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.~~
- ~~6. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):
 - ~~a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan sewer District.~~
 - ~~b. The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
 - ~~c. A minor subdivision plat shall be recorded creating the lot lines as~~~~

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~~shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~

~~d. The appropriate conditional use permit shall be obtained from the Board of Zoning Adjustment to allow the medical office use as shown on the approved district development plan.~~

~~7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.~~

~~8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors, and assignees, contractors subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.~~

~~9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 9, 2008 Development Review Committee meeting for the medical office and July 17th, 2013 for the assisted living facility.~~

~~10. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.~~

~~11. Prior to construction approval of Lot 1A or within 60 days of request from the Director of Public Works, Bush Farm Road shall be dedicated, if legally feasible in the determination of Metro Works and DPDS. If not legally feasible, then a public access easement labeled as "future Bush Farm Road" shall be created at time of minor plat approving Lot 1 A, which is the subject of this detailed district development plan ("DDDP"). At such time as any portion of the Lot 1 residual is brought forward for DDDP approval, an updated traffic analysis shall be required, and it shall be a condition of such DDDP approval that Bush Farm Road be~~

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~~dedicated, if not previously dedicated, and constructed, if traffic is determined to warrant same. If prior to Farm Road because of any other development in the area, including Claiborne Crossings to the north, the owner of the Lot 1 residual shall permit the dedication to occur, if not previously dedicated, by executing any and all necessary instruments in which event the construction of Bush Farm Road shall be done by the developer of said "other development" which triggers the Bush Farm Road dedication and/or construction.~~

- ~~12. At time of the Lot 1 residual DDDP approval, a general crossover access easement through that property in favor of the property to the north (presently known as Claiborne Crossings) shall be granted.~~
- ~~13. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site.~~

Binding Elements (18ZONE1055)

1. The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) for each site of phase of development:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction

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Permits and Transportation Planning Review and the Metropolitan sewer District.

- b. The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
 - e. The façade elevations for each site or phase shall be in accordance with applicable form district standards and shall be submitted to Planning and Design Services staff for review and approval. A copy of each approved rendering shall be on file in the offices of the Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors: and assignees, contractors subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

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7. All Loading/unloading areas shall not be visible from adjacent public rights-of-way.
8. A minimum of 2 trees shall be planted in each parking lot island.
- ~~9. For each tree of 4-inch caliper or larger that is removed along Old Henry Road during the required road widening, a new two-inch caliper tree shall be planted a safe distance from the roadway as near as reasonable to the removed tree's location.~~
10. The photographs submitted at the January 8, 2001 Planning Commission meeting under docket 9-99-98 are representative of the quality of architecture that will be maintained in Old Henry Crossings and may be used by the Planning Commission or designee to review development plans. In many cases, this will require deviation from the "industry standard design" for such facilities as, but not limited to, fuel stations and eating establishments.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Howard, and Carlson.
NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.