

Planning Commission

Staff Report

December 6, 2018



Case No:	18zone1032
Project Name:	Clover Senior Housing
Location:	11700 Interchange Drive
Owner(s):	Gault-Marsh Properties Southpoint LLC
Applicant:	Clover Construction Management West
Jurisdiction:	Louisville Metro
Council District:	13- Vicki Aubrey Welch
Case Manager:	Julia Williams, AICP, Planning Supervisor

REQUEST(S)

- Change in zoning from PEC to OR-1
- Variance from Chapter 5.3.1.C to permit encroachments in the 15' rear yard setback and 18' side yard setback to the east as shown on the development plan
- Waivers:
 1. Waiver from Chapter 10.2.4 to permit encroachments into the 25' LBA along the west property line and 15' LBA along the south property line.
 2. Waiver from 10.2.4 to permit over 50% overlap of an easement into the 20' LBA and to eliminate the planting and screening requirements along the east property line
- Amendments to the General Plan Binding Elements
- Revised District Development Plan with Binding Elements

CASE SUMMARY/BACKGROUND

The proposal is for 120 senior living units within the Suburban Workplace Form District. Access to the site is from the private Southpoint Drive. The proposal is adjacent to PEC zoning to the north and west, C-2 to the east, and R-4 to the south. All adjacent properties are located within the Workplace Form. The C-2 property is developed as apartments. The PEC property is developed as a data center. A piece of the overall property, north of Southpoint Drive at the intersection of Interchange Drive, is currently vacant. The site is currently 100% treed where 14.5% of the existing trees will be preserved. The overall site was rezoned under case number 9-25-99.

STAFF FINDING

Staff finds that the proposal meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code. The Planning Commission should further discuss the preservation of trees or requiring additional tree canopy within the currently 100% treed site.

TECHNICAL REVIEW

Land Development Code
Cornerstone 2020

The applicant needs to show a pedestrian connection from the proposed private sidewalk along Southpoint Drive to the pedestrian network within the site.

Transportation Planning and MSD have preliminarily approved the proposal.

INTERESTED PARTY COMMENTS

None received.

STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Cornerstone 2020.

The site is located in the Suburban Workplace Form District

A Suburban Workplace 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. New larger proposed industrial uses are encouraged to apply for a planned development district.

In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. Walkways to workplace-serving uses are encouraged for workplace employees. Development within suburban workplace form districts may need significant buffering from abutting uses.

The proposal will generally meet the required setbacks for the form district. Office zoning is compatible with the mix commercial/industrial zoning of PEC albeit less intense than the surrounding zoning. PEC permits office uses. Transit is not available in the area. A proposed sidewalk along Southpoint Drive will extend to connect to the existing sidewalk in the area. OR-1 zoning is generally compatible to the existing office/warehouse zoning of the area as the proposal only differs in intensity. The building materials are more related to the existing and proposed residential in the area and are more compatible to the existing residential rather than that of the existing office/warehouses. The proposal is compatible with the adjacent areas as it allows for both office and residential uses. OR-1 zoning allows for multi-family which is currently not permitted in the existing PEC zoning. Buffers and open space are provided on the site.

The site is 100% covered in tree canopy where 14.5% will be preserved. The site is meeting the minimum for tree canopy.

All other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

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 side and rear of the property where the property is adjacent to multi-family which is the same use proposed for the site.

- (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 proposed parking is located on the side and rear of the property where the property is adjacent to multi-family which is the same use proposed for the site.

- (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 side and rear of the property where the property is adjacent to multi-family which is the same use proposed for the site.

- (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 side and rear of the property where the property is adjacent to multi-family which is the same use proposed for the site.

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 arises from a special circumstance in that the property is being developed for multi-family residential in an office/residential zone where the encroachments are minimal and also located adjacent to existing multi-family.

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 is located on the side and rear of the property where the property is adjacent to multi-family which is the same use proposed for the site.

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 actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant is not responsible for the existing pipeline that runs through the site nor the adjacent developed existing multi-family.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1: LBA Encroachment

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

STAFF: The waiver will not adversely affect adjacent property owners since all the landscape requirements will still be met in the buffer.

- (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. The proposal meets the comprehensive plan guidelines since all the landscape requirements will still be met in the buffer.

- (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 all the landscape requirements will still be met in the buffer.

- (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 would create an unnecessary hardship on the applicant since all the landscape requirements will still be met in the buffer.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2: Easement Encroachment

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

STAFF: The waiver will not adversely affect adjacent property owners since the adjacent property is the same use as the proposed site.

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

STAFF: Guideline 3, Policy 9 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 to mitigate 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 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. 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. The proposal meets the compatibility guideline since the adjacent property is the same use as the proposed site.

- (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 adjacent property is the same use as the proposed site.

- (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 would create an unnecessary hardship on the applicant since the adjacent property is the same use as the proposed site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO BINDING ELEMENTS

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: There do not appear to be any historic resources on the subject site. The site is currently 100% covered in tree canopy where 14.5% is being preserved. The minimum tree canopy requirements of the Land Development Code will be provided on the subject site.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Open space requirements are being met on the site.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots generally meet all required setbacks.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code.

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTIONS:

- **RECOMMEND** that the Louisville Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from PEC to OR-1
- **APPROVE** or **DENY** the **Variance**
- **APPROVE** or **DENY** the **Waivers**
- **APPROVE** or **DENY** the **Amendments to the General Plan Binding Elements**
- **APPROVED** or **DENY** the **Revised Detailed District Development Plan**

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal is in conformance with the Comprehensive Plan; OR the existing form district/zoning classification is inappropriate and the

proposed classification is appropriate; OR if there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

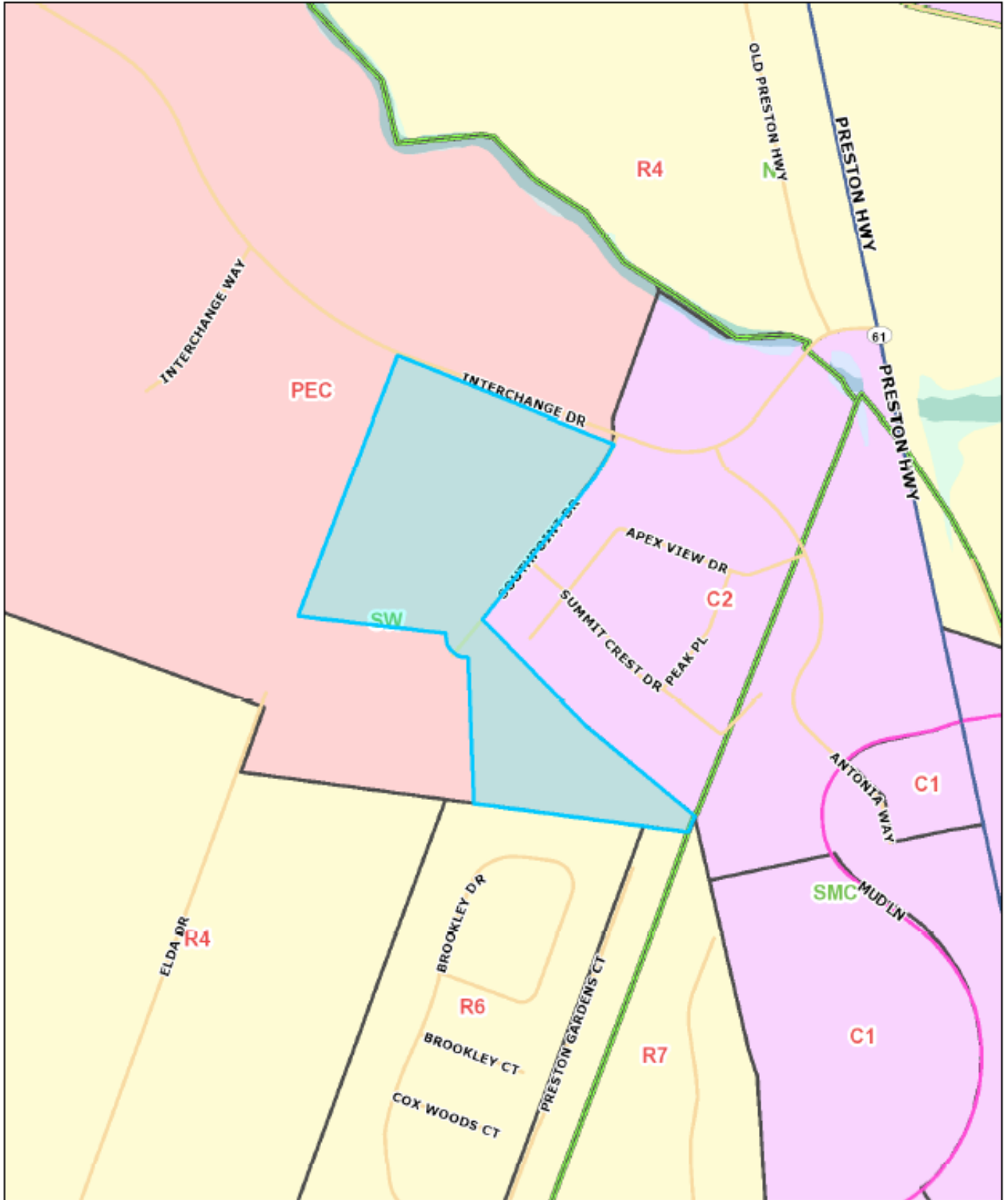
NOTIFICATION

10/25/18	Hearing before LD&T on 11/8/18	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 13
11/19/18	Hearing before PC on 12/6/18	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 13
11/19/18	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Staff Cornerstone 2020 Checklist
4. Existing General Plan Binding Elements with amendments
5. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Staff Cornerstone 2020 Checklist

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

Suburban Workplace: Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal integrates into the pattern of development, which features buildings set back from the street in a landscaped setting.	✓	The proposal will generally meet the required setbacks for the form district.
2	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal integrates into a planned development that features a mixture of related uses.	✓	Office zoning is compatible with the mix commercial/industrial zoning of PEC albeit less intense than the surrounding zoning. PEC permits office uses.
3	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal incorporates connected roads, encourages access to public transportation, and provides for pedestrians.	✓	Transit is not available in the area. A proposed sidewalk along Southpoint Drive will extend to connect to the existing sidewalk in the area.
4	Community Form/Land Use Guideline 3: Compatibility	A.1: The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development.	✓	OR-1 zoning is generally compatible to the existing office/warehouse zoning of the area as the proposal only differs in intensity.
5	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility. (Only for a new development in a residential infill context, or if consideration of building materials used in the proposal is specifically required by the Land Development Code.)	✓	The building materials are more related to the existing and proposed residential in the area and are more compatible to the existing residential rather than that of the existing office/warehouses.
6	Community Form/Land Use Guideline 3: Compatibility	A.3: The proposal is compatible with adjacent residential areas, and if it introduces a new type of density, the proposal is designed to be compatible with surrounding land uses through the use of techniques to mitigate nuisances and provide appropriate transitions between land uses. Examples of appropriate mitigation include vegetative buffers, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences.	✓	The proposal is compatible with the adjacent areas as it allows for both office and residential uses. OR-1 zoning allows for multi-family which is currently not permitted in the existing PEC zoning. Buffers and open space are provided on the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
7	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Transportation Planning has not indicated that the development would cause adverse impacts to traffic.
8	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.	✓	Lighting will comply with the LDC.
9	Community Form/Land Use Guideline 3: Compatibility	A.10: The proposal includes a variety of housing types, including, but not limited to, single family detached, single family attached, multi-family, zero lot line, average lot, cluster and accessory residential structures, that reflect the form district pattern.	✓	The OR-1 proposal permits office uses in addition to a variety of densities. The development plan indicates a proposal for multi-family which is not common in the SWFD but multi-family zoning can be found in the C-2 zoning adjacent to the site.
10	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.	-	The proposal is for high density zoning not located along a transit corridor but is located in an office/industrial activity center.
11	Community Form/Land Use Guideline 3: Compatibility	A.13: The proposal creates housing for the elderly or persons with disabilities, which is located close to shopping, transit routes, and medical facilities (if possible).	✓	The proposal has been specifically identified for senior users.
12	Community Form/Land Use Guideline 3: Compatibility	A.14/15: The proposal creates appropriate/inclusive housing that is compatible with site and building design of nearby housing.	✓	The proposal allows for both office and residential uses. Multi-family zoning is located adjacent to the site. The building design is similar to the other proposed multi-family in the area.
13	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.	✓	LDC compliant buffers and open space are provided on the plan to separate the site from the adjacent office/warehouse zoning.
14	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.	✓	LDC compliant buffers and open space are provided on the plan to separate the site from the adjacent office/warehouse zoning.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
15	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.	✓	Setbacks and building heights are in compliance with LDC requirements.
16	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: 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.	✓	Recreational open space is provided on the site in the form of an interior courtyard. There is also a detention basin along the frontage.
17	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Suburban Workplace Form District.	✓	Recreational open space is provided on the site in the form of an interior courtyard. There is also a detention basin along the frontage.
18	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	-	The site is 100% covered in tree canopy where 14.5% will be preserved. The site is meeting the minimum for tree canopy.
19	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.	-	The site is 100% covered in tree canopy where 14.5% will be preserved. The site is meeting the minimum for tree canopy.
20	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	No significant preservation features are present on the subject sites.
21	Mobility/Transportation Guideline 7: Circulation	A.1/2: 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.	✓	Roadway improvements are not being required by Transportation Planning.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
22	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.	✓	No new roadways are created with the proposal. Cross access is not appropriate with the proposed land uses.
23	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.	✓	The proposal includes the dedication of ROW.
24	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.	✓	No new roadways are created with the proposal. Cross access is not appropriate with the proposed land uses.
25	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.	✓	No new roadways are created with the proposal. Cross access is not appropriate with the proposed land uses.
26	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.	✓	No new roadways are created with the proposal.
27	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: 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.	✓	All types of transportation are provided for on the site. There will be interior pedestrian connectivity to the sidewalk in along the private road. While transit is not currently available pedestrian access will be. The private sidewalk network connects to a larger network within the adjacent business park.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
28	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.	✓	MSD has preliminarily approved the proposal.
29	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.	-	The site is 100% covered in tree canopy where 14.5% will be preserved. The site is meeting the minimum for tree canopy.
30	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	Planned utilities will be expanded to serve the site.
31	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	An adequate water supply is available to the site.
32	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.	✓	The Health Department has no issues with the proposal.

4. Existing General Plan Binding Elements with Amendments

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, or 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.

1a. Prior to development of each site or phase of this project, other than Lot 3, 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:

- screening, buffering, landscaping, tree preservation
- density, floor area, size and height of buildings
- points of access and site layout with respect to on-site circulation
- land uses
- signage

- loading berths
 - parking
 - sidewalks
 - site design elements relating to alternative transportation modes
 - outdoor lighting
 - minor subdivision plat approval
 - air pollution
 - the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
 - dumpsters
2. The commercial (C-1 and C-2) development shall not exceed 312,494 square feet of gross floor area. ~~and Lot 3 in the PEC district shall not exceed 87,331 square feet.~~
 3. There shall be no direct vehicular access to Preston Highway from outlots 3, 4, 5 or 6 and there shall be no direct vehicular access from tract 6-A-1 to Elda Drive except for a gated emergency access.
 4. There shall be no freestanding signs permitted on site except for the following:

(2) Project identification signs	6 feet high, 32 sq. ft.
(2) Shopping Center identification signs	30 feet high, 144 sq. ft.
Freestanding outlot identification signs	25 feet high, 64 sq. ft.
 5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
 6. There shall be no outdoor storage on the site.
 7. 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.
 8. 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.
 - 8a. The applicant shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas and Woodland Protection Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.
 9. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan 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 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 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
10. 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.
 11. 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.
 12. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
 13. 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.
 14. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to commencement of any clearing, grading, or construction activities.
 15. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
 - ~~16. The materials and design of proposed structures on Lot 3 shall be substantially the same as presented at the July 15, 1999 Planning Commission meeting.~~
 17. Lot 2 shall be limited to a home and garden center, since the justification for the parking waiver is based on this type of use.
 18. Subdivision of Lots may be created using the minor subdivision plat process in conformance with the rules and regulations governing minor subdivisions. A master subdivision plan shall be provided to the Planning Commission showing all current subdivision lots being created and their associated minor subdivision plat docket numbers. This master plan shall be kept current for the entire duration of the development process and shall show any revisions of existing lots, (example: shifting property lines and lot consolidation).
 19. All dedicated streets shall be created utilizing the major subdivision record plat process. Such record plat shall be recorded prior to the issuance of a certificate of occupancy for any building

on a lot with access to proposed Road A. No more than 5 lots accessible only be a private access easement shall be created until said roadway has been dedicated as a public right-of-way. The intent of this binding element is to assure that all lots have frontage on a dedicated public roadway.

20. The developer, successor or assigns shall lengthen the existing northbound left turn lanes at the following locations to meet AASHTO design standards as approved by the Kentucky Department of Highways:
Preston Highway at Antle Drive
Preston Highway at Mudd Land and Mount Washington Road
Preston Highway at proposed Road A
21. The developer, successor or assigns shall construct a new southbound right turn lane from Preston Highway onto proposed Road A to meet AASHTO design standards as approved by the Kentucky Department of Highways.
22. The developer, successor or assigns shall modify the existing flashing signal at Preston Highway and proposed Road A as required by the Kentucky Department of Highways.
23. Timing of road and signal improvements shall be determined at time of detailed district development plan approval and/or construction plan approval for any public roads.
24. All bonds for the 9-105-89 (Southgate I) and 9-2-97 (Standiford Plaza) cases, as previously required, shall be in place.

5. Proposed Binding Elements

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.

- b. A minor subdivision plat or legal instrument 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 prior to obtaining a building permit.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 6, 2018 Planning Commission meeting.