

Planning Commission Staff Report

November 6, 2017



Case No:	17ZONE1025
Request:	R-4 to C-N and Conditional Use Permit
Project Name:	Artis Senior Living
Location:	4922 Brownsboro Road
Owner:	Kinman Compound, LLC
Applicant:	Artis Senior Living, LLC
Representative:	Bardenwerper, Talbott, & Roberts, PLLC
Jurisdiction:	Louisville Metro
Council District:	7 – Angela Leet
Case Manager:	Laura Mattingly, AICP, Planner II

REQUEST

- **Change in Zoning** from R-4, Single Family Residential to C-N, Commercial Neighborhood on 1.2 acres
- **Conditional Use Permit** for Senior Living Facility on 4.8 acres
- **Variance from Table 5.3.2 within Section 5.3.1** to allow the maximum front setback to be exceeded for the proposed buildings on Tracts 1 & 2
- **Detailed District Development Plan** with proposed binding elements

CASE SUMMARY/BACKGROUND

The applicant is proposing a 34,369 square foot senior living facility with 72 rooms and 43 parking spaces in the Crossgate neighborhood in northeastern Jefferson County. The proposal also includes one commercial outlot, a 5,200 square foot bank, along Brownsboro Road. The bank will have an additional 24 parking spaces. The site is a total of 6.3 acres, and is currently occupied by a single family residence. The lot is proposed to be subdivided into two individual lots. Primary access is from Brownsboro Road, a minor arterial and parkway with one secondary access point that is proposed to be gated from Warrington Way, a local road.

STAFF FINDING

Staff finds that the proposal generally complies with the applicable policies and guidelines of Cornerstone 2020. The proposed bank is a neighborhood serving commercial use, appropriately located on a minor arterial. The bank is adequately screened and buffered in order to provide good transitions to lower intensity uses and sidewalks and pedestrian connectivity is provided throughout. The senior living facility complies with the conditions set forth in Section 4.2.38 of the Land Development Code and has provided a building design and site layout that will have a low-impact on the surrounding neighborhood. The requested variance meets the standard of review and appears adequately justified due to the existing character of the site.

TECHNICAL REVIEW

- MSD and Transportation have given preliminary approvals.
- The variance for the parking encroachment into the 50' non-residential to residential setback was removed, as it was determined that the area is within the CUP boundaries, making the 30' setback requirement of the Conditional Use Permit applicable.
- The rezoning line for the C-N portion needs to be moved to include the access easement, in order to avoid access from a lower intensity zoning class.

- TARC has recommended that the owner/developer construct a 35x12 boarding area on Brownsboro Road at Crossgate between the sidewalk and the edge of pavement and install upon it a bench and trash receptacle. TARC also requests the addition of a binding element regarding the maintenance of the transit stop and trash receptacle.

INTERESTED PARTY COMMENTS

Staff has received several emails in opposition to this case citing issues such as traffic concerns, the character of the development, the incompatibility of the commercial uses along Brownsboro, access from the local roadways, and drainage concerns. Some of these emails were received prior to the changes to the plan from two retail lots to one and the change from the request from C-1 to C-N.

Peggy Swain, advocate for the City of Crossgate, has been opposed to the development due to traffic and compatibility concerns but has now agreed to be in favor with the proposed changes to the plan including the one retail lot, preservation of open space and gate at the entrance along Warrington.

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 REZONING

The site is located in the Neighborhood Form District

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing.

The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks,

shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

This proposal includes a higher intensity use that is appropriately located on a minor arterial. Open space is provided on the northeastern portion of the site, which also provides a large buffer area adjacent to the single family residences along Crossgate Lane. Sidewalks and pedestrian connections are provided and transit is easily accessible as there is a TARC stop abutting the site on Brownsboro Road. Buffers are present to provide transitions from the non-residential development to the existing residential neighborhood, as well as along all public rights-of-way. Building and site design add to the compatibility of the development as the increased setbacks preserve the character along Brownsboro Road and building materials are similar to those of homes surrounding the development.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT for a Senior Living Facility:

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

STAFF: The proposal for a senior living facility does generally comply with the applicable Guidelines within Cornerstone 2020, as detailed in the Comprehensive Plan checklist.

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

STAFF: The proposed senior living facility appears to be at a scale appropriate with the surrounding residential area, and will seemingly have limited impact on adjacent and nearby residential uses. The proposal provides appropriate transitions to adjacent residential uses through the use of landscape buffer yards, setbacks and screening. The proposed building is one-story and will contain brick on the areas that are not within the proposed privacy fence. Therefore, the proposal is compatible with surrounding uses and the general character of the area.

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

STAFF: Improvements to the site and right-of-way made necessary by the proposed development, such as transportation and drainage, have been adequately provided to serve the proposed use.

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

A. All buildings shall be located at least 30 feet from any property line.

STAFF: All structures, with the exception of the uncovered porches, and vehicle use area within the area of the conditional use permit are setback 30 feet from the property line.

B. One sign, not to exceed 60 square feet and six feet in height, may be placed at each of the major entrances, except in districts where larger signs are allowed.

STAFF: All signage within the Conditional Use Area will comply with the signage regulation for senior living.

C. The Board of Zoning Adjustments shall add any restrictions to mitigate nuisances or adverse effects.

STAFF: The applicant has provided all required setbacks and buffers, as well as concessions to the neighborhood on access and would be willing to discuss any further mitigation efforts the Commission deems necessary.

STANDARD OF REVIEW AND STAFF ANALYSIS for a Variance from Table 5.3.2 within Section 5.3.1 to allow the maximum front setback to be exceeded for the proposed buildings on Tracts 1 & 2.

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the location of the buildings has no impact on the public right of way or any public space.

- (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 as the proposed setbacks are more similar to the existing structure's setback than what the regulations allow.

- (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 as the buildings will be buffered where they are adjacent to residential and along roadways.

- (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 as the setbacks are compatible with the existing conditions of the area.

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 size and shape of the lot result in circumstances that make it difficult to meet the setback requirements.

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 desired parking lot locations could not be achieved while adhering to the setbacks regulations.

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 action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP with 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 environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site and the proposal includes preserving all trees located on the east side of the lot adjacent to Crossgate Lane.

- 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan.

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

STAFF: The applicant is preserving the open space located on the northeast side of the lot.

- 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.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

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

NOTIFICATION

Date	Purpose of Notice	Recipients
09/26/17	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 7 Notification of Development Proposals
10/31/17	Hearing before PC / BOZA	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 7 Notification of Development Proposals
10/30/17	Hearing before PC / BOZA	Sign Posting on property
10/28/17	Hearing before PC / BOZA	Legal Advertisement in the Courier-Journal

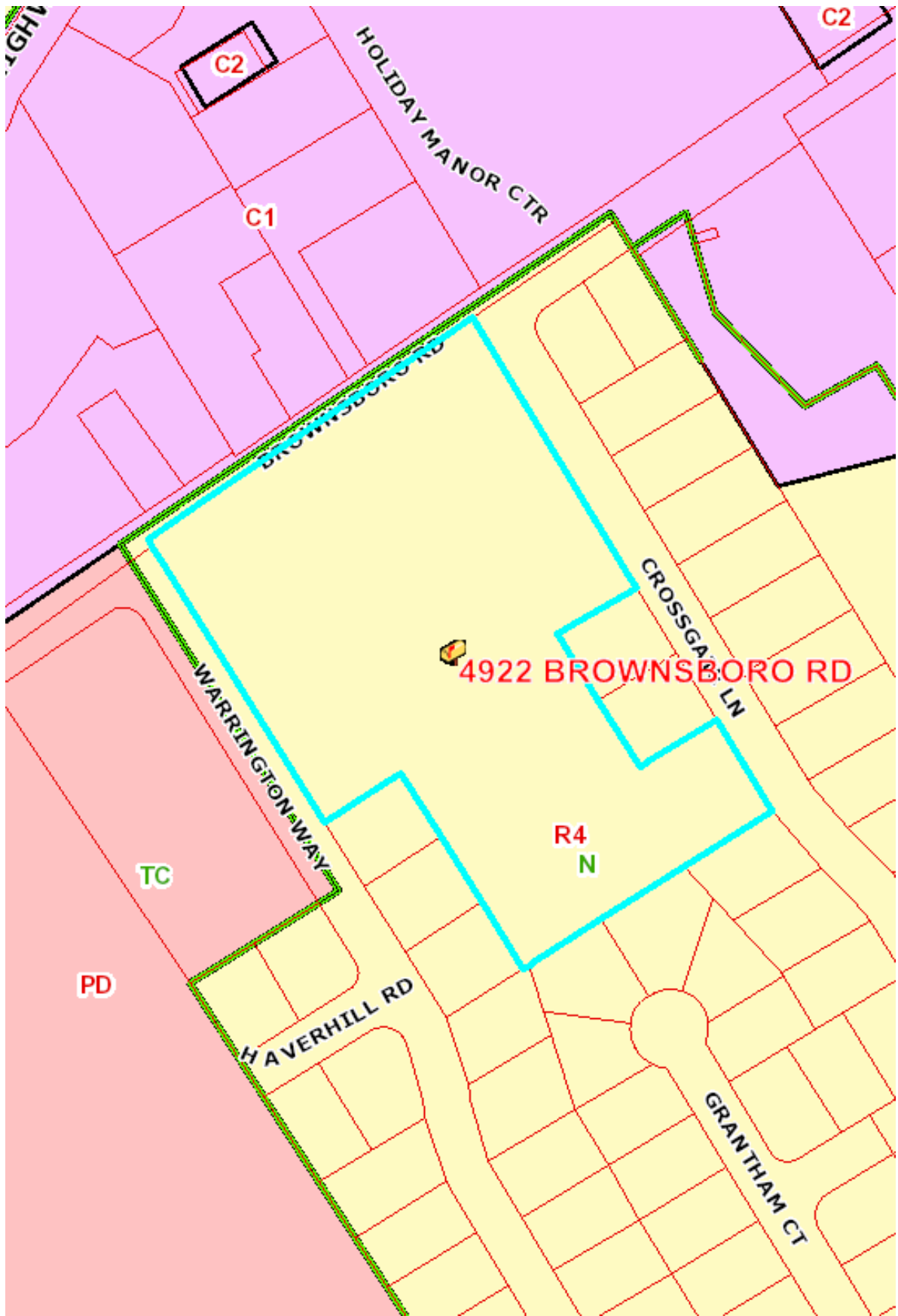
REQUIRED ACTIONS

- **RECOMMEND APPROVAL or DENIAL** to Metro Council of Change in Zoning from R-4, Single Family Residential to C-N, Commercial Neighborhood on 1.2 acres
- **APPROVE or DENY** the Conditional Use Permit for Senior Living Facility on 4.8 acres
- **APPROVE or DENY** the Variance from Table 5.3.2 within Section 5.3.1 to allow the maximum front setback to be exceeded for the proposed buildings on Tracts 1 & 2.
- **APPROVE or DENY** the Detailed District Development Plan with proposed binding elements

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Checklist
4. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Cornerstone 2020 Checklist

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

Neighborhood: Non-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.3: The proposal is a neighborhood center with a mixture of uses such as offices, retail shops, restaurants and services at a scale that is appropriate for nearby neighborhoods.	✓	The proposal has both senior living and commercial proposed and appears to be at a scale that is compatible with nearby residential as well as higher intensity uses along Brownsboro Road.
2	Community Form/Land Use Guideline 1: Community Form	B.3: If the proposal is high intensity, it is located on a major or minor arterial or an area with limited impact on low to moderate intensity residential uses.	✓	The proposal is a higher intensity use than the single family homes that are adjacent but is located on a minor arterial, where primary access is given.
3	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Neighborhood Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	✓	The proposal includes new construction that provides both commercial and senior living.
4	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	✓	The proposed retail is located in a medium density area with nearby access to expressways.
5	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	✓	The proposal is using a large single family lot that currently has one home on it for both senior living and commercial, increasing the efficiency and cost effectiveness of the lot.
6	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	✓	The proposed senior living and bank add to the mix of uses that exist along Brownsboro Road in this area.
7	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	✓	While there are no mixed-use buildings with this proposal, the site does include mixed-use.
8	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	✓	This proposal is multi-purpose and is oriented around the plaza in front of the senior living facility.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
9	Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	✓	Shared entrances and parking is inappropriate in this case as the proposal is bounded on three sides by public streets with the remaining property lines bounded by single family uses.
10	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	✓	The proposal is in an area with existing utilities.
11	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	✓	All required sidewalks and pedestrian connections are provided and there is a TARC stop directly in front of the site along Brownsboro.
12	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	Building materials appear to be compatible with nearby residences.
13	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	While this proposal is a non-residential expansion into a residential area, all buffers are provided, site design is compatible with surrounding development and building materials remain consistent with the character of the area.
14	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	The proposed uses do not typically create odor or emission problems.
15	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	By providing two entrances for vehicles and dedicating right-of-way, the proposal is mitigating for the increase in traffic.
16	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.	✓	The proposal will aim lighting down and away from roadways and adjacent properties.
17	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 located near similar uses and along a transit corridor.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
18	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.	✓	While the maximum front setback has been exceeded with the proposed buildings, this appears to be justified and all other site design elements contribute to the compatibility of the development.
19	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.	✓	The appropriate property perimeter LBAs and screening have been provided where the site abuts single family uses.
20	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.	✓	While the buildings exceed the maximum setback, the setbacks appear compatible with nearby development.
21	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	✓	Vehicle Use Area LBAs are provided.
22	Community Form/Land Use Guideline 3: Compatibility	A.24: 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. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	✓	Vehicle Use Area LBAs are provided and Interior Landscape Area requirements are being met.
23	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	There is no parking garage proposed.
24	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Signage will be in compliance with the CUP standards and with Chapter 8 of the LDC

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25	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.	✓	There is no open space requirement for this proposal.
26	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	✓	There is no open space requirement for this proposal.
27	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	The proposal is preserving a large area of the site.
28	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 proposal is preserving a large area of the site.
29	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.	-	The existing 1949 home is proposed to be removed and may be eligible for the National Register. Urban Design staff has recommended adaptive reuse.
30	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	✓	LOJIC has not identified any of these soil types.
31	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	The proposal is not located in the downtown area.
32	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	This is not an industrial proposal.
33	Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	✓	This proposal has commercial in an area of activity and is located on a minor arterial with good access to US Highway 42, a major arterial.

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34	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	This is not an industrial use.
35	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.	✓	The proposal includes right of way dedication.
36	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	Public sidewalks are provided and pedestrian connections are made to both the bank and senior living facility.
37	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.	✓	The site has vehicular connection to two abutting public streets.
38	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 is dedicating right-of-way along Brownsboro Road.
39	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	Parking is within the required range.
40	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	NA	The site abuts public streets and no other non-residential development sites.
41	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.	NA	The proposal does not create any new public streets.

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42	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.	✓	The main access is from Brownsboro Road.
43	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.	✓	This proposal is located on an existing roadway network that is sufficient.
44	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.	✓	Public sidewalks are provided and pedestrian connections are being made.
45	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 given preliminary approvals.
46	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	APCD has reviewed the plan and had no concerns.
47	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.	NA	This area is highly developed and there are no existing natural corridors.
48	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	This area is fully developed and has adequate existing infrastructure for the proposal.
49	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	There is existing infrastructure in place for potable water

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50	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.	✓	MSD has given preliminary approvals.

4. Proposed Binding Elements

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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - 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 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 minor plat or legal instrument shall be recorded dedicating right-of-way 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 the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. 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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
7. 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.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 6, 2017 Planning Commission meeting.

9. The Owner/Developer will coordinate with the appropriate emergency response agencies to ensure design and operation of gated entrances complies with emergency access gate requirements.