

# Planning Commission Staff Report

February 19th, 2015



<b>Case No:</b>	<b>14ZONE1039</b>
<b>Request:</b>	<b>Change in Zoning from C-1 to C-2; Revised Detailed District Development Plan; General Plan Binding Element Amendment</b>
<b>Project Name:</b>	<b>OBC Lots C &amp; D</b>
<b>Location:</b>	<b>9840 Von Allmen Court</b>
<b>Owner:</b>	<b>McMahan Group Ventures LLC</b>
<b>Applicant:</b>	<b>Rory F. McMahan</b>
<b>Representative:</b>	<b>Glenn Price</b>
<b>Jurisdiction:</b>	<b>Louisville</b>
<b>Council District:</b>	<b>16 – Kelly Downard</b>
<b>Case Manager:</b>	<b>Christopher Brown, Planner II</b>

## REQUEST

- Change in zoning from C-1 to C-2
- General Plan Binding Element Amendment
- Revised Detailed District Development plan

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-1, Commercial  
Proposed Zoning District: C-2, Commercial  
Existing Form District: RC, Regional Center  
Existing Use: Vacant  
Proposed Use: Office, Retail, Restaurant & Tavern  
Minimum Parking Spaces Required: Not provided accurately  
Maximum Parking Spaces Allowed: Not provided accurately  
Parking Spaces Proposed: 184  
Plan Certain Docket #: 9-55-01

The applicant is proposing a change in zoning from C-1 to C-2 to allow a tavern use within the proposed mixed commercial and office building on the subject site. All of the uses proposed on the site with the exception of the tavern require only the existing C-1 zoning. The proposed building will remain at the previously approved 40,724 SF. The minimum parking requirement will increase with the tavern use which parks at a rate of 1 space per 100 square feet. The property is surrounded by a mix of commercial uses with C-1 to the south and east and C-2 to the north and west. The property is located within the Old Brownsboro Crossing development which was originally rezoned from under Docket #9-55-01. A detailed district development plan was recently approved for the subject site under Docket #14DEVPLAN1051. The applicant is requesting to amend general plan binding element #10 from Docket #9-55-01 to allow the materials approved for use on the building at a previous Development Review Committee meeting. The language proposed by the applicant would eliminate the language regarding structures along KY 22 and add language specific to the subject site and materials proposed for use. The applicant has stated that they would address the larger issue of compliance with the binding element within the development at a later date/time.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Vacant	C-1	RC
<b>Proposed</b>	Commercial and Office	C-2	RC
<b>Surrounding Properties</b>			
<b>North</b>	Vacant	C-2	RC
<b>South</b>	Mixed Commercial	C-1	RC
<b>East</b>	Restaurant	C-1	RC
<b>West</b>	Bank & Restaurant	C-2	RC

**PREVIOUS CASES ON SITE**

- 9-55-01: The Planning Commission approved a rezoning for Old Brownsboro Crossing from R-4 to OR-3, C-1 and C-2.
- 14DEVPLAN1051: Development Review Committee approved a detailed district development plan with landscape waivers to allow the proposed mixed commercial and office building on the subject site.
- 14MOD1006: Development Review Committee approved an update to the general plan binding element to account for the overall square footage of uses proposed within the Old Brownsboro Crossing development.

**INTERESTED PARTY COMMENTS**

No interested party comments.

**APPLICABLE PLANS AND POLICIES**

Cornerstone 2020  
Land Development Code

**STANDARD OF REVIEW FOR REZONING AND FORM DISTRICT CHANGES**

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

- The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020; **OR**
- The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; **OR**
- 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 AND FORM DISTRICT CHANGES

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

### The site is located in the Regional Center Form District

A Regional Center is a development form that typically contains a mixture of high intensity uses including regional shopping, office, services, entertainment facilities and medium to high-density residential uses. Such Regional Centers may include a variety of stores under one roof, or may consist of freestanding structures. The amount of floor space in regional centers usually exceeds 400,000 square feet, reflecting a market area designed to serve a population of at least 100,000. Redevelopment and infill development are encouraged.

Integration of civic uses such as branch libraries, community centers or government offices is encouraged, and can strengthen the identity and success of the center. Regional Centers are most appropriately located on or near major arterials, state or interstate highways. Development in Regional Centers should be compact and provide for site accessibility through all means of transportation. A high level of transit access is desirable and regional centers should serve as focal points for transit from homes and workplaces. Connectivity and the capacity to handle traffic should be addressed through unified access and circulation. The site plan should encourage pedestrian activity within the Regional Center with human-scale design and by providing pedestrian amenities and pedestrian connectivity among buildings.

Landscaping, building design and unified signs in the Regional Center give character to the development, defines and reinforces identity and provides a human scale. A center may include several internal focal points. Several uses sharing a building may have separate entrances and the design of the building facades may mimic a traditional market place corridor or "main street." Parking in Regional Centers is provided on a shared basis to avoid excessive impervious areas, and the center is designed to encourage customers to visit several establishments without moving their vehicles.

Regional Center site design should provide screening of the parking lot and outbuildings as the site is viewed from the arterial roadway. The rear or loading area of buildings should be well screened from arterials, freeways and adjacent residential areas. Human safety or "crime prevention through environmental design" should be a factor in the design of regional centers.

The proposal to rezone the subject site from C-1, Commercial, to C-2, Commercial, will allow the inclusion of a tavern into the proposed commercial center on the site located within Old Brownsboro Crossing. The Regional Center form district encourages a variety of commercial uses of higher intensity. The proposed mixed commercial structure connects to the larger center with shared access and connections to the surrounding street frontages for multi-modal access.

The applicant has demonstrated that the proposed C-2 zoning district will comply with **Guideline 1, Community Form** since the proposal is for a medium to high density commercial zoning designation consist with those found within the existing Regional Center. The landscaping and signage will be consistent with the unified designs of the existing Old Brownsboro Crossing. It has proper location within the existing large development center and provides connections to other existing commercial establishments to encourage customers to visit several establishments without moving their vehicles.

The applicant has demonstrated that the proposed C-2 zoning district will comply with **Guideline 3, Compatibility** with the appropriate transitions and buffering being provided on the site. The building follows the setback pattern and design of the form district as well as the design elements of the previously approved general plan. The building follows the same approved design from previous cases on the site that has been approved by the Old Brownsboro Crossing ARC.

The proposal complies with the natural areas guidelines of the Comprehensive Plan under **Guideline 5, Natural Areas and Scenic and Historic Resources** by maintaining the required Brownsboro Road landscape buffering and providing all required tree canopy for the site.

The proposal complies with the guidelines of the Comprehensive Plan under **Guideline 6, Economic Growth and Sustainability** since it is located in an area of commercial activity with connectivity to both the Gene Snyder Freeway and Brownsboro Road arterial corridor.

The proposal provides for appropriate multi-modal transportation facilities following the Comprehensive Plan under **Guidelines 7 and 8, Circulation and Transportation Facility Design** with full pedestrian connectivity, cross access as well as bicycle parking provided to support the proposed uses.

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 FOR DEVELOPMENT PLAN 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 does 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.

- 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. The existing infrastructure can accommodate the proposed increase in commercial square footage.

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

STAFF: The open space requirements are met with the current proposal.

- 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 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.

- 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 will meet all required setbacks.

- 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 conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

### TECHNICAL REVIEW

- Planning Commission needs to make a determination regarding general plan binding element #10.

### STAFF CONCLUSIONS

The proposal meets the intent of the guidelines of the Comprehensive Plan and the requirements of the LDC. The Commission needs to determine whether to accept the language proposed by the applicant or address the larger compliance issue regarding materials used within Old Brownsboro Crossing by making additional changes to the general plan binding element. 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. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must also determine if the proposal meets the standards for granting a Revised Detailed District Development Plan as established in the Land Development Code.

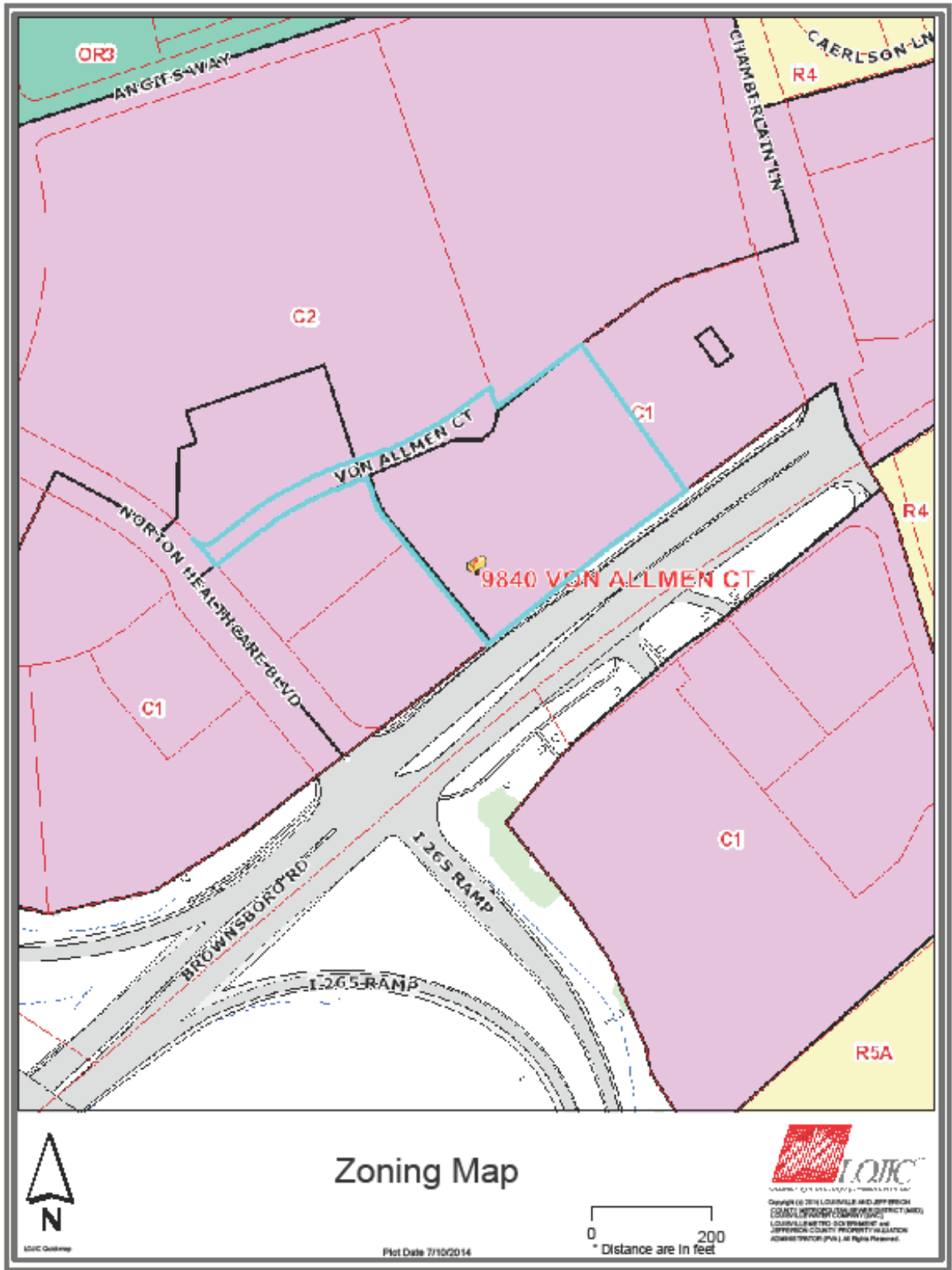
### NOTIFICATION

Date	Purpose of Notice	Recipients
10/30/14	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 16 Notification of Development Proposals
12/22/14 2/5/15	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 16 Notification of Development Proposals
12/31/14	Hearing before PC	Sign Posting on property
1/8/15	Hearing before PC	Legal Advertisement in the Courier-Journal

### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing General Plan Binding Elements
4. Existing Detailed Plan Binding Elements
5. Proposed General and Detailed Plan Binding Elements

1. Zoning Map



2. Aerial Photograph





### 3. Cornerstone 2020 Staff Checklist

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

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Final Finding	Final Comments
1	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal is of a moderate to high density consistent with the high intensity uses found in the Regional Center Form District.	√	The proposal is for a medium to high density commercial zoning designation consist with those found within the existing Regional Center.
2	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal integrates civic uses such as branch libraries, community centers or government offices.	NA	The proposal is not for a civic related use.
3	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal contributes to the identity of the regional center as a focal point for transit from homes and workplaces.	√	The proposal is located within the focal point of the regional center and served by both a local and express transit route.
4	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal is compact and provides for efficient movement of pedestrians, vehicles, transit and bicycles through and around the site.	√	The proposal provides for the efficient movement of pedestrian and bicycle modes of transportation through and around the site.
5	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal supports a high level of transit access and connectivity.	√	The proposal supports a high level of transit access and connectivity
6	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal includes unified signs, and landscaping and building design that gives identity to the center and that provides a human scale, and includes an internal focal point.	√	The proposed tavern use incorporates into the proposed mixed commercial structure on the site. The landscaping and signage will be consistent with the unified designs of the existing Old Brownsboro Crossing.
7	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal provides shared parking to avoid excessive impervious surface and to encourage customers to visit several establishments without moving their vehicles.	√	The proposal provides connections to other existing commercial establishments to encourage customers to visit several establishments without moving their vehicles.
8	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Regional Center Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	NA	The proposal will not create a new center. It is located within the existing Old Brownsboro Crossing center.



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9	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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 commercial development is located in an area that has a sufficient population to support it.
10	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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 proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.
11	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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 zone change does not propose a center. It is incorporated into an existing center that reduces trips, supports alternative forms of transportation and creates a sense of place with a unified plan.
12	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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.	√	The proposal includes a mix of office and commercial uses into a multi-story building.
13	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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.	√	The proposed development is located within the Old Brownsboro Crossing center with its orientation similar to other buildings within the development. It incorporates multiple uses into the mixed commercial structure.
14	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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.	√	The proposal shares entrances with adjacent uses.
15	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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 designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.
16	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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.	√	The proposal supports easy access to the site by cyclist, pedestrians or transit users from the existing transit routes along Brownsboro Road and Norton Healthcare Blvd.
17	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	√	The building follows the same approved design from previous cases on the site that has been approved by the Old Brownsboro Crossing ARC.

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18	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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.	√	The proposal does not constitute a non-residential expansion into a residential area. The zone change will incorporate into an established commercial center known as Old Brownsboro Crossing with a mix of non-residential office and commercial uses.
19	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	√	APCD has given preliminary approval.
20	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	√	The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.
21	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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 Land Development Code.
22	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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 in an existing commercial activity center along transit routes serving Brownsboro Road and Old Brownsboro Crossing.
23	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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.	√	The proposal provides all appropriate landscaping and screening.
24	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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 proposal provides all appropriate landscaping and screening.

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25	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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, building heights and lot size are compatible to the existing nearby developments within the form district and follow the Land Development Code.
26	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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.	NA	Parking areas are not located adjacent to residential areas.
27	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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.	√	The proposal provides all appropriate landscaping and screening.
28	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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	A parking garage is not included with the proposed development.
29	Form District Goals E1, E2, E3, E4, Objective E1.1, E2.1-2.5, E3.1-3.4, E4.1-4.4	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 follow the Land Development Code and requirements of the properties located within Old Brownsboro Crossing.
30	Livability Goals H3 and H5, all related objectives	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.	NA	Open space is not required for the development.
31	Livability Goals H3 and H5, all related objectives	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.	NA	Open space is not required for the development.
32	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	√	The proposal will maintain the required Brownsboro Road landscape buffering.

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33	Livability Goals H3 and H5, all related objectives	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 will maintain the required Brownsboro Road landscape buffering.
34	Livability Goals H3 and H5, all related objectives	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	There are no historical or architectural items or buildings of value on site.
35	Livability Goals H3 and H5, all related objectives	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.	NA	The development site does not have severe, steep or unstable slopes nor does it have soil issues.
36	People, Jobs and Housing Goal K4, Objective K4.1	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 within downtown.
37	Marketplace Strategy Goal A1, Objectives A1.3, A1.4, A1.5	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	The proposal is not for an industrial use.
38	Land Use and Transportation Connection Goal E1, Objectives E1.1 and E1.3	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.	√	The proposal is located in an existing commercial activity center with access from the local roads within Old Brownsboro Crossing to an arterial at Brownsboro Road.
39	Land Use and Transportation Connection Goal E1, Objectives E1.1 and E1.3	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	The proposal is not for an industrial use.
40	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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 provides all necessary and appropriate transportation related improvements.

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Final Finding	Final Comments
41	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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.	√	The proposal provides amenities to support transit, bicycle or pedestrian use and connectivity to the site.
42	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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 proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands.
43	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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 supports easy access to the site by cyclist, pedestrians or transit users from the existing transit routes along Brownsboro Road and Norton Healthcare Blvd.
44	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	√	The proposal includes adequate parking spaces to support the use.
45	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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.	√	The proposal does not provide for cross access through the development to the lots to the east and west.
46	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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	Street stubs are not needed or required for the proposed development.
47	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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 development avoids access to the site from lower intensity or density uses. The site is surrounded by low to medium level intensity commercial development.
48	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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.	√	The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Final Finding	Final Comments
49	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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.	√	The proposal provides amenities to support transit, bicycle or pedestrian use and connectivity to the site and movement around the development.
50	Livability, Goals B1, B2, B3, B4, Objectives B1.1-1.8, B2.1-2.7, B3.1-3.4, B4.1-4.3	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 approval to the development.
51	Livability Goals C1, C2, C3, C4, all related Objectives	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 given preliminary approval.
52	Livability, Goals F1 and F2, all related objectives	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	There are no natural systems or corridors along the subject site.
53	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	√	The proposal is in an area of existing utilities.
54	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	√	The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.
55	Quality of Life Goal J1, Objectives J1.1-1.2	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 proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

#### 4. **Existing General Plan Binding Elements**

1. The Development approved as a General District Development Plan shall be developed in accordance with such Plan and binding elements contained herein 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. Each applicant seeking approval of a detailed district development plan for each parcel in the Development shall be responsible for up-dating the General District Development Plan as to those matters where the applicant's approved plan deviates from the General District Development Plan.
2. The commercial and retail development shall not exceed 501,567 square feet of gross floor area. The office development shall not exceed 420,000 square feet of gross floor area and 5,000 square feet of

gross floor area for the preservation of the historic residence. The hospital and medical office buildings shall not exceed a total of 298,000 square feet. Outlet structures shall be generally oriented toward the internal roadways as shown on the General District Development Plan.

3. Prior to development **(includes clearing and grading)** of each parcel in the development, the applicant, developer, or property owner of each such parcel shall obtain approval of a detailed district development plan from the Architectural Review Committee and thereafter obtain approval from LD&T. 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; provided that the development is not more restricted than set forth within the binding elements.
  - 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
4. The following uses shall not be permitted in the C-2 Commercial District: adult entertainment, auction sales, automobile repair garages, bingo halls, car washes and flea markets.
5. Each applicant for development of a parcel shall be required to provide the information needed to notify first tier property owners to the perimeter of the entire Development, plus those who spoke in opposition to the Development at the public hearing, at least seven (7) days prior to the Land Development and Transportation Committee meeting review of any detailed district development plan for each parcel in the Development. This list of names and addresses shall be submitted by the applicant at the time of filing for any Land Development and Transportation Committee meeting review. Staff of the Planning Commission shall be responsible for ensuring that these notices are mailed in accordance with this binding element.
6. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a) Articles of Incorporation, Articles of Organization or other appropriate origination documents filed with appropriate governmental authorities for the entity responsible for common areas maintenance, repair and upkeep, which include maintenance of WPAs.
  - b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space and maintenance of WPAs and other issues required by these binding elements / conditions of approval.

## DESIGN

7. A Streetscape Master Plan shall be submitted to Planning Commission staff for review and approval prior to filing of any Detailed District Development Plan. The Streetscape Master Plan shall include, but not be limited to street tree planting locations/sidewalk and multi-purpose trail typical cross section design/location of street lights, public benches, TARC stop, and trash receptacles. A transit stop has



been shown for conceptual purposes only. The decision and location of a transit stop shall be made by TARC prior to construction plan approval for the public roadway.

8. The only permitted freestanding signs shall be as shown on the approved General District Development Plan or sign plans. Prior to the erection of any sign, a unified sign plan for the entire Development shall be submitted, detailing the materials, sizes and appearance of all freestanding signs proposed for the Development. Freestanding signs shall be monument style. Information relating to attached building signage shall be submitted as part of the detailed plan review for each parcel. Attached signage affixed to the office buildings, hotel, and the medical diagnostic clinic shall be back lit and not internally illuminated. No outdoor advertising signs, small free-standing signs, pennant, balloons, or banners shall be permitted on any parcel in the Development.
9. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff. Light levels due to lighting on the Development shall not exceed one-foot candle measured at the property line. Light levels due to lighting on Lot O shall not exceed 0.5-foot candle measured at the property line of the Development. Each applicant for such parcel in the Development shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter. Light standards in the commercial, office and hotel components shall not exceed 30-feet in height. The Development shall meet all Article 12 requirements for screening and buffering.
10. The materials and design of proposed structures shall be substantially the same as depicted in renderings presented at the time of detailed district development plan approval for each parcel. The building materials for the retail component and hotel shall be drivit, tile, brick, masonry and stone except nationally or regionally recognized chain operations may utilize wood exteriors where such exterior appearance is part of an established and generally used trade dress. The building materials for the office component shall be brick or stone or a combination of brick and stone. All structures adjacent to KY 22 shall have a consistent architectural style and exterior color scheme. An Architectural Review Committee shall be established by the Developer and reflected within the Deed Restrictions recorded prior to the submittal of the first detail district development plan.
11. Focal points, to help visually unify and organize the overall Development and establish a sense of identity for each Activity Center and amenity parcel that provide opportunities for public gathering and seating shall be provided. General location of focal points and amenity parcels shall conform to the conceptual focal points/amenities master plan submitted at the March 25, 2002 public hearing, and shall be considered with each detailed district development plan review.
12. The number and general location of curb cuts for all parcels shall conform to the General District Development Plan. Crossover access easements shall be granted for shared access between parcels where shown on the General District Development Plan. Pedestrian and Bicycle parking facilities shall be provided in accordance with the Planning Commission Policies and the Louisville and Jefferson County Development Code in effect at the time of detailed district development plan submittal. Parking shall be designed to provide safe pedestrian way to all structures. Applicants submitting a detailed district development plan shall consider opportunities for shared parking, the use of alternative materials to reduce impervious surface and the transport of water born pollutants. Low Impact Development (LID) stormwater management strategies such as bioretention, vegetated swales/buffer strips, permeable pavers, and shared parking shall be incorporated where appropriate as determined by the Architectural Review Committee or LD&T into each activity center to reduce impervious surface area and negative water quality impacts from the transport of water born pollutants. Where appropriate, as provided above, the applicant shall demonstrate provisions for LID strategies at the time of detailed district development plan submittal.
13. A sidewalk collector system, providing pedestrian access to the Development in connecting the activity centers, shall be provided as shown on the General District Development Plan. Sidewalks, connecting

individual parcels to the connector system, shall be provided and their location reviewed with each detailed district development plan request. A 10-foot wide multi-purpose trail shall be provided as shown on the General District Development Plan. Extension of the multi-purpose trail into an activity center, as shown on the General District Development Plan shall be provided prior to a Certificate of Occupancy request for the structure(s) on the parcel in which the extension is proposed.

14. Buildings longer than 100 feet in length shall contain recesses or other design features to break up the facade. No interrupted length of the facade shall be greater than 100 feet. In addition, each applicant with respect to Lots 'J' and 'K' shall address the rear elevations of buildings so as to make buildings compatible and complimentary to the front elevation.
15. The maximum height of the medical diagnostic clinic, office buildings and hotel shall be 71 feet from the ground floor elevation to the roof eaves.
16. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
17. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of the deed restrictions shall be approved by Planning Commission counsel. Deed Restrictions must be recorded prior to tree preservation approval. All plans setting out woodland protection areas must contain the following notes:
  - A. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site that shall permanently preserve all existing vegetation. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity other than as required by MSD for sewer and drainage maintenance/installation and construction of multi-purpose trail shown on general district development plan shall take place within designated WPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat.
  - B. Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
  - C. Tree protection fencing shall be erected around all WPAs prior to Site Disturbance Approval to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed.
  - D. No parking, material storage or construction activities are permitted within the WPAs.
18. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
19. The applicant shall provide a minimum 50-foot setback adjacent to the Gene Snyder Freeway for Lots G, H, J, K and L. No impervious surfaces, excluding the multi-purpose trail as shown on the General District Development Plan are allowed within this setback area. Screening from the Gene Snyder Freeway shall be consistent with the concept Home Improvement Buffer concept plan as shown at the March 25, 2002 public hearing.

20. The applicant shall expand the 30-foot Woodland Protection Areas (WPAs) beyond 30 feet where more space is available and where space is needed to meet the preservation requirements as listed within binding element 16A-D. The applicant shall work with Planning Commission staff to provide supplemental tree plantings where gaps exist within the WPAs.
21. The applicant shall provide screening and buffering in excess of the landscape code requirements along KY 22 and Chamberlain Lane. The proposed landscaping design shall be consistent with the KY 22 and Chamberlain Lane buffer concept plans as shown at the March 25, 2002 public hearing.
22. The historic Von Allmen Dairy Farm Residence shall be preserved and there shall be no alterations to the exterior of the historic residence unless approved by the Planning Commission and the Jefferson County Office of Historic Preservation and Archives.
23. A landscaping plan that includes preservation of existing trees shall be established for the Von Allmen House. The plan shall be approved by the Office of Historic Preservation and Archives and Planning Commission staff and shall apply only to the area delineated for preservation by the Office of Historic Preservation. The preservation area shall contain 0.6 acres and shall be located as shown on the preservation area drawing received on April 11, 2002. The landscape/tree preservation plan for the house shall be submitted and approved prior to requesting a building permit for Lot O or a change of use/certificate of occupancy for the historic house (for non-residential uses).
24. All loading areas shall be screened from adjacent public streets and residential properties. At time of detailed plan approval the applicant shall demonstrate to LD&T compliance with the above stated restriction and details related to screening materials.
25. Off-street parking for each development site shall not exceed the greater of (1) the parking spaces proposed in the table shown on the General District Development Plan or (2) the minimum parking requirements as set forth within the Louisville and Jefferson County Development Code.

## **CONSTRUCTION**

26. Prior to the issuance of permits for any buildings, the developer shall contract with an archaeologist approved by the Office of Historic Preservation and Archives to perform an archaeological survey. If determined to be necessary by the archaeologist, an archaeological excavation shall be conducted.
27. The applicant for each parcel shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on each parcel where there are existing trees in the Development (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.
28. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - a. The detailed development plan for such parcel in the Development 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. 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 parcel and shall be maintained thereafter.
  - c. A major subdivision plat creating the parcels and roadways as shown on the approved preliminary subdivision plan shall be recorded prior to issuance of any building permits.
  - d. The Developer shall dedicate fifty feet (50') of right-of-way from the centerline of Chamberlain Lane and shall construct or pay the cost of construction adjacent to the Development in accordance with plans approved by Jefferson County Department of Public Works.
  - e. The Developer shall contribute one million five hundred thousand dollars (\$1,500,000.00) to be used with respect to the cost of construction of a six-lane section of Kentucky Highway 22 as directed by the Kentucky Department of Highways with a grass median for that portion of Kentucky Highway 22 between the Gene Snyder Freeway and Chamberlain Lane, the cost of construction of Chamberlain Lane adjacent to the Development, and the cost of the improvements approved by the appropriate governmental units to the access ramps to and from the Gene Snyder Freeway.
  - f. The Developer shall comply with the three (3) conditions stated in the Federal Highway Administration waiver granting the Developer the right to locate the primary entrance to the Development directly across from the Highway 22 off ramp from the north lane of the Snyder Freeway. The text of each condition is set forth in the letter from the Kentucky Transportation Cabinet dated January 22, 2002.
29. If a building permit is not issued within two years of the date of approval of the General District Development 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.
30. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of each structure on each parcel for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of a certificate of occupancy, unless specifically waived by the Planning Commission.
31. If work is required within the easements causing removal or damage of landscape materials, the property owner of the affected parcel shall be responsible for replacement of materials according to the approved landscape plan.
32. Except for roadway and utility construction, construction activity shall be limited to Monday through Saturday, 7 AM to 6 PM. Roadway and utility construction shall be permitted seven days per week and shall be limited to 6 AM through 11 PM. No other construction activity (except on the interior of a building) shall be permitted on Sundays or national holidays. Except for roadway and utility construction, heavy equipment operation shall be prohibited on Saturdays and Sundays. Public roads shall be kept clear of construction debris and mud.
33. The applicant shall not request a certificate of occupancy for any structure until all roadway improvements adjacent to the overall development site and ramp improvements as required by Jefferson County Public Works and Kentucky Transportation Cabinet have been completed. The applicant shall not request a certificate of occupancy for a use other than residential for the historic house until after January 1, 2005. The applicant shall not request a certificate of occupancy for the proposed office buildings on Lot O until KY 22 between I-265 and HWY 1694 has been widened in accordance with the Kentucky Transportation Cabinet plans.

## OPERATIONS

34. Cleaning of parking lots and dumpster pick-up shall be limited to the hours of 7 AM to 10 PM, Monday through Saturday. Waste receptacles shall be concealed from view.
35. The applicant, developer, or property owner of each parcel shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of parcels in the Development and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of each parcel and occupants of the parcels shall at all times be responsible for compliance with these binding elements. At all times during development of the parcels in the Development, the applicant and developer, their heirs, successors, and assignees, contractors, subcontractors, and other parties engaged in development of the parcels, shall be responsible for compliance with these binding elements.
36. The development shall be in accordance with the approved Preliminary Subdivision Plan. Further subdivision may take place using the minor subdivision plat process. At time of minor plat approval a minor plat index for the development shall be submitted to Planning Commission staff. The minor plat index shall show the proposed lot and all other lots created by minor plat as well as the appropriate minor plat docket numbers.

### **5. Existing Detailed Plan 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. The development shall not exceed 40, 724 square feet of gross floor area.
3. Signs shall be in accordance with the Old Brownsboro Crossing Master Sign Plan.
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 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.
6. 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 Permits Review and Transportation Planning Review and the Metropolitan Sewer District.
  - b. 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.
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 July 16, 2014 DRC meeting.
10. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
11. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

#### 4. Proposed General and Detailed Plan Binding Elements

##### General Plan Binding Element

10. **A.** The materials and design of proposed structures shall be substantially the same as depicted in renderings presented at the time of detailed district development plan approval for each parcel. The building materials for the retail component and hotel shall be drivit, tile, brick, masonry and stone except nationally or regionally recognized chain operations may utilize wood exteriors where such exterior appearance is part of an established and generally used trade dress. The building materials for the office component shall be brick or stone or a combination of brick and stone. ~~All structures adjacent to KY 22 shall have a consistent architectural style and exterior color scheme.~~ An Architectural Review Committee shall be established by the Developer and reflected within the Deed Restrictions recorded prior to the submittal of the first detail district development plan.
- B.** **Notwithstanding anything to the contrary in A. above, the building materials of an approved office/retail building on General District Development Plan Lots C & D, combined, (where glass for windows and doors is not counted as a building material) may be 50% to 60% Alucobond or similar metal panel provided that brick is the facing on more than 10% of the building.**

##### Detailed Plan Binding Element

9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~July 16, 2014~~ **January 15<sup>th</sup> DRC meeting Planning Commission public hearing**.