

**Planning Commission**  
**Staff Report**  
April 18, 2019



<b>Case No:</b>	18ZONE1055
<b>Project Name:</b>	Bluestone Diversified Investments, LLC
<b>Location:</b>	13811 Wickham Green Way, 13820 Old Henry Road, 2600 James Thornton Way & 2401 Terra Crossing Blvd
<b>Owner(s):</b>	Multiple Owners
<b>Applicant:</b>	Bluestone Diversified Investments, LLC
<b>Representative(s):</b>	Dinsmore & Shohl, LLP
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	19 – Anthony Piagentini
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

**REQUEST(S)**

- **Change-in-Zoning** from OR-3, Office-Residential to C-2, Commercial
- **Variance** from Land Development Code (LDC), section 8.3.3B.10.a.i to allow for a sign area variance of 60 sq. ft. from 150 sq. ft. to 210 sq. ft.
- **Waiver** of LDC, section 10.2.10 to omit the VUA LBA along James Thornton and Wickham Green Way
- **Revised General/Detailed District Development Plan**

**CASE SUMMARY**

A C-2, commercial zoning district east of I-265 along Old Henry Road is proposed. A mixed use development has been proposed containing a hotel, restaurants, bank, retail, and coffee shop. Parking and access will be shared amongst the users and primary access will be obtained from the entrance at Old Henry Road and James Thornton Way. A recently installed sign is present in the state right-of-way. The applicant will incorporate the signage into its development site as a master plan project identification sign; thus, requiring a variance for the current nonconformance of its area. Waivers are being requested to reduce landscape buffers adjacent to internal roadways. The developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way.

Portions of the site on the west side of James Thornton Way had been approved for an assisted living community in 2013, while the remainder has not been proposed for development since the initial change in zoning under docket 9-99-98.

**Associated Cases:**

9-99-98: CIZ from R-4 to R-5A, OR-3, OTF, C-1, and CM (approved by PC 1/8/2001)  
13DEVPLAN1012/13CUP1002: Assisted living community

**STAFF FINDING**

The proposal integrates into the pattern of development and allows for a greater integration of uses by increasing the ability to provide commercial and office development along the corridor. Connectivity, parking, landscaping, and site design appear to be sufficiently addressed on the development plan in

accordance with the Land Development Code and Comprehensive Plan. The proposed zoning change appears to conform to the Guidelines and Principles of Cornerstone 2020.

## **TECHNICAL REVIEW**

All binding elements currently applicable to the subject site will be abandoned and replaced with a set of elements specific to the zoning change request. Site and building design elements will be carried forward as needed, see Attachments 4-6.

## **STANDARD OF REVIEW FOR ZONING DISTRICT CHANGES**

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

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

## **STAFF ANALYSIS FOR CHANGE IN ZONING**

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

The site is located in the Suburban Workplace Form District

Suburban Workplace is a form characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district.

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

The proposal integrates into the pattern of development, which features buildings set back from the street in a landscaped setting. Significant landscaping is provided between the edge of pavement and the property line of the development site. The subject site provides a minimum landscape buffer of 30' along the designated Parkway. The proposed district allows for a greater integration of uses by increasing the ability to provide commercial and office development along the corridor. The proposal incorporates connected roads, encourages access to public transportation, and provides for pedestrians as public and private ways will be provided to connect each site with the development to each other and to adjacent centers.

The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as the developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way. All required

plantings will be provided. Transitions to adjacent development have been provided. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. All relief from buffers has been adequately justified in the standard of review.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE**

- (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 sign does not appear to create any limitation on sight lines for pedestrians or motorists.

- (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 sign is constructed of compatible material consistent with the area and the sign is attractively landscaped.

- (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 sign does not appear to create any limitation on sight lines for pedestrians or motorists.

- (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 sign will serve to identify the larger development site in an attractive manner that does not impede the sight of motorists or pedestrians.

### **ADDITIONAL CONSIDERATIONS:**

1. The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the sign was constructed upon agreement with the State transportation department and is now being placed with a development site.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the sign would need to be removed as a result of denial of the request.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the sign was initially constructed upon an agreement with the State.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER**

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

STAFF: The waiver will not adversely affect adjacent property owners as the development is a single unified development containing common landscaping, drives, and parking.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The development is unified and will contain consistent landscaping and design elements. The developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way. All required plantings will be provided.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the expressway severely restricts pedestrian movement and the full application of the sidewalk requirements would create a disconnected sidewalk from adjacent development.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as The developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way. All required plantings will be provided.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR REVISED DETAILED DISTRICT DEVELOPMENT PLAN**

- 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: the proposed development provides required tree canopy and does not appear to be located in an area containing significant natural resources. Buffers required along the parkway will be provided.

- 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 are provided as public and private ways will be provided to connect each site within the development to each other and to adjacent centers.

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

STAFF: The proposal provides open space that helps meet the needs of the proposed development and community as amenity areas have been provided in the form of outdoor dining spaces.

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

- 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 proposed development plan conforms to the Comprehensive Plan as demonstrated in the Staff Analysis for Change in Zoning contained in the Staff Report.

**REQUIRED ACTIONS**

- **RECOMMEND** to the Louisville Metro Council that the change in zoning Change-in-Zoning from OR-3, Office-Residential to C-2, Commercial on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the **Variance** from Land Development Code (LDC), section 8.3.3B.10.a.i to allow for a sign area variance of 60 sq. ft. from 150 sq. ft. to 210 sq. ft.
- **APPROVE** or **DENY** the **Waiver** of LDC, section 10.2.10 to omit the VUA LBA along James Thornton and Wickham Green Way
- **APPROVE** or **DENY** the **Revised General/Detailed District Development Plan** subject to the abandonment of existing binding elements of dockets 09-99-98 (development site only) & 13DEVPLAN1012, abandonment of the conditional use permit issued under 13CUP1002, and adoption of the proposed binding elements.

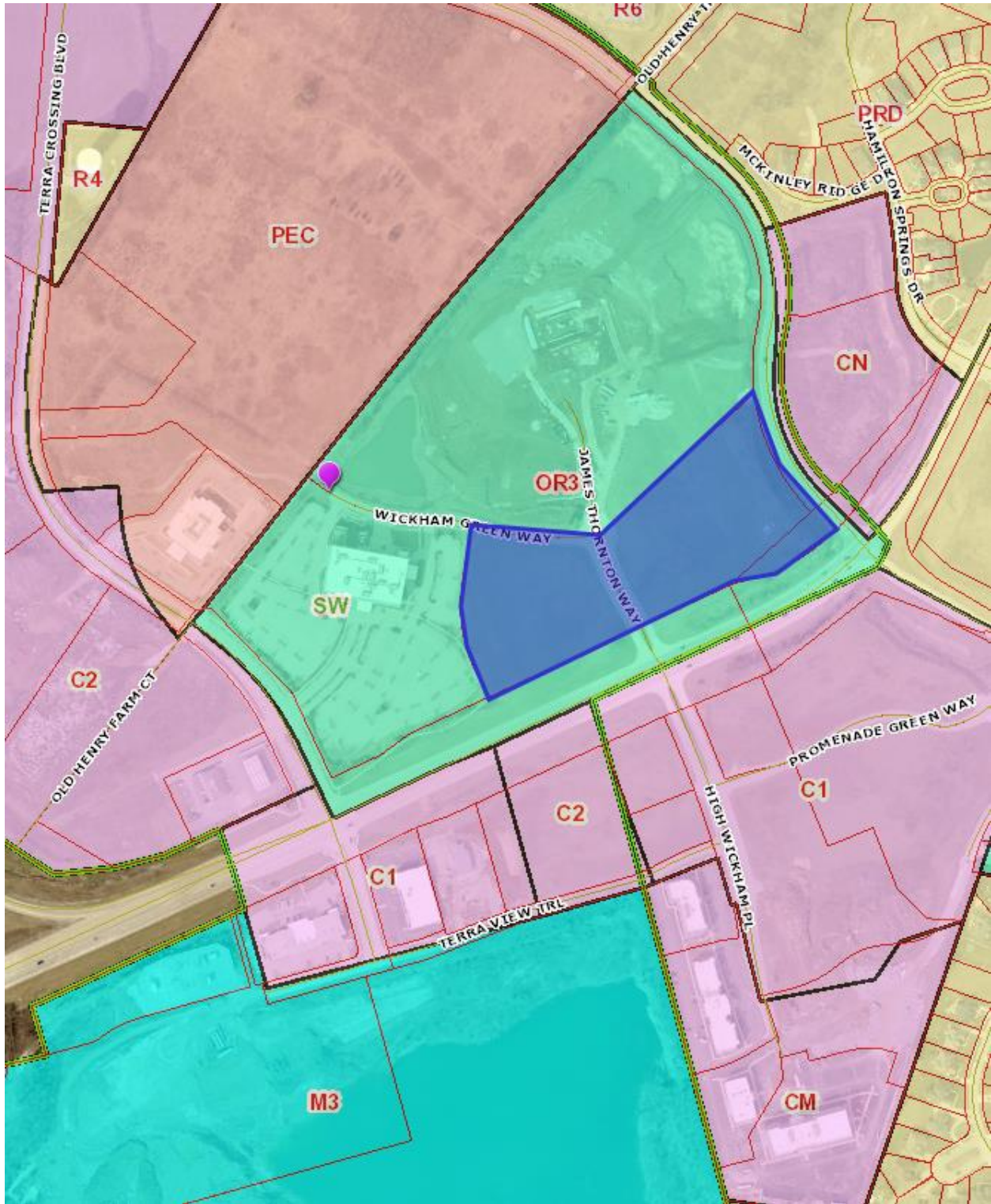
**NOTIFICATION**

Date	Purpose of Notice	Recipients
3/1/19	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 19
3/27/19	Hearing before Planning Commission	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 19
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Analysis
4. General Plan Binding Elements – 9-99-98
5. Binding Elements – 13DEVPLAN1012
6. Proposed Binding Elements – 18ZONE1055

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

#### Suburban Workplace: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
1	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal integrates into the pattern of development, which features buildings set back from the street in a landscaped setting.	✓	The proposal integrates into the pattern of development, which features buildings set back from the street in a landscaped setting. Significant landscaping is provided between the edge of pavement and the property line of the development site. The subject site provides a minimum landscape buffer of 30' along the designated Parkway.
2	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal integrates into a planned development that features a mixture of related uses, and that may contain either a single major use or a cluster of uses.	✓	The proposal integrates into a planned development that features a mixture of related uses, and that may contain either a single major use or a cluster of uses. The proposed district allows for a greater integration of uses by increasing the ability to provide commercial and office development along the corridor. The proposed plan provides neighborhood services (restaurant, bank, and retail) in combination with regional services (Hotel).
3	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal incorporates connected roads, encourages access to public transportation, and provides for pedestrians.	✓	The proposal incorporates connected roads, encourages access to public transportation, and provides for pedestrians as public and private ways will be provided to connect each site with the development to each other and to adjacent centers.
4	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	Building design will be compliant with Chapter 5 of the Land Development Code.
5	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 an existing residential area as the site is currently zoned for mixed-use and surrounded by the same.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
6	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	The proposal mitigates any potential odor or emissions associated with the development as proposed users are limited intensity and the district does not allow for industrial users.
7	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Traffic impacts will be minimized as the site is located along a major arterial roadway with highway access.
8	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Lighting will be compliant with LDC 4.1.3
9	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 a high intensity use and is located along an arterial roadway within close proximity to an interstate and within an activity center of mixed commercial, office, and industrial uses.
10	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 appropriate transitions between uses that are substantially different in scale and intensity or density of development as the developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way. All required plantings will be provided. Transitions to adjacent development have been provided.
11	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 mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another. The development is compatible with adjacent uses.
12	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, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. All relief from buffers has been adequately justified in the standard of review.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
13	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.	✓	Parking area locations are consistent with the pattern of development in the area and do not infringe of residential areas. Landscaping along the parkway has been provided as required by Chapter 10 of the LDC.
14	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 includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots as the developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way. All required plantings will be provided. Transitions to adjacent development have been provided.
15	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	No parking structures have been proposed.
16	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 complaint with Chapter 8 and all applicable binding elements.
17	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.	✓	The proposal provides open space that helps meet the needs of the community as outdoor amenity areas (dining) have been indicated on the proposed plan.
18	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.	✓	Open space design is consistent with the pattern of development in the Neighborhood Form District.
19	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	The site does not appear to contain natural features as it is void of tree coverage and contains no streams.
20	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	The site does not appear to contain natural features as it is void of tree coverage and contains no streams.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
21	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 proposal does not contain any features of historic significance. Buffers along the Parkway to preserve views will be provided. Building materials will be in compliance with the form district standards.
22	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.	✓	The development site does not appear to contain wet or highly permeable soils, or contain significant portions of erodible soils. No steep slopes are present.
23	Marketplace Guideline 6: Economic Growth and Sustainability	A.1: Limit land uses in workplace districts to those land uses necessary to meet the needs of the industrial subdivision or workplace district and their employees.	✓	The retail components of the plan provide supportive services to employees and nearby residents within and surrounding the form district. The hotel component is conveniently located near an interstate and provides for the short-term stay of clients or temporary workers.
24	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	Not downtown
25	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.	✓	The proposed development is not an industrial development, but rather provides supportive services as evidenced by the staff analysis of Guideline 6, Policy 1.
26	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 within an existing activity center along a minor arterial roadway within proximity to the interstate and due to the location of this use with respect to transportation facilities, it will no impact lower intensity uses.
27	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.	✓	The proposed development is not an industrial development, but rather provides supportive services as evidenced by the staff analysis of Guideline 6, Policy 1.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
28	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 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.
29	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 promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as public and private ways will be provided to connect each site within the development to each other and to adjacent centers.
30	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. The proposal's existing roadway network is relatively undisturbed by development, with the exception of internal connections.
31	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.	✓	No additional right-of-way is being requested.
32	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.
33	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 provides for joint and cross access through the development and to connect to adjacent development sites.
34	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	✓	No stub roadways are needed to facilitate this or adjacent development
35	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.	✓	Access to the development site is from areas of similar intensity from an arterial roadway with interstate access.

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36	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
37	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, 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. Pedestrian connectivity to public ways and adjacent site has been provided, bike parking is being made available, and the development site is well connected internally and to external development.
38	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.	✓	The proposal's drainage plans have been approved by MSD
39	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	The proposal has been reviewed by APCD and found to not have a negative impact on air quality
40	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	✓	The development site does not appear to contain any natural corridors that can provide habitat areas and allow for migration.
41	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 located in an area served by existing utilities or planned for utilities
42	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 will have access to an adequate supply of potable water and water for fire-fighting purposes.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
43	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 (9-99-98)**

- ~~1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.~~
- ~~2. Prior to development of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan from the Planning Commission. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:
  - ~~a. screening, buffering, landscaping, tree preservation~~
  - ~~b. density, floor area, size and height of buildings~~
  - ~~c. points of access and site layout with respect to on-site circulation~~
  - ~~d. land uses~~
  - ~~e. signage~~
  - ~~f. loading berths~~
  - ~~g. parking~~
  - ~~h. sidewalks~~
  - ~~i. site design elements relating to alternative transportation modes~~
  - ~~j. outdoor lighting~~
  - ~~k. minor subdivision plat approval~~
  - ~~l. air pollution~~
  - ~~m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection~~
  - ~~n. dumpsters~~~~
- ~~3. The development shall not exceed 977,360 office, 157,725 commercial square feet of gross floor area (including 97,500 neighborhood retail), 184 Hotel rooms, and 139 Condominiums.~~
- ~~4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~5. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site.~~
- ~~6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.~~
- ~~7. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - ~~a. The development plan for each site or phase of this project must receive full construction approval from~~~~



~~the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~

- ~~b. Encroachment permits for each site or phase of this project must be obtained from the Kentucky Department of Transportation, Bureau of Highways.~~
  - ~~c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 and in conformance with the Parkway Policy prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
  - ~~d. A minor subdivision plat creating the lots within a phase in accordance with the approved district development plan shall be recorded prior to issuance of building permits unless public roadways will be created within the phase to be platted, then a major plat shall be required to create the roadway.~~
- ~~8. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.~~
- ~~9. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.~~
- ~~10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assigns, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.~~
- ~~11. The photographs submitted at the January 8, 2001 Planning Commission meeting are representative of the quality of architecture that will be maintained in Old Henry Crossings and may be used by LD&T to review detailed development plans that will be submitted at a later date for quality design. Development on lots 4, 5, 6, 7, 8-9, 10, 14 and 15 shall conform to the same high standard of design and construction as depicted at the hearing for the offices and technical center. Such determination shall be made by the Planning Commission or appropriate committee thereof. In many cases, this will require deviation from the "industry standard design" for such facilities as, but not limited to, fuel stations and eating establishments.~~
- ~~12. To facilitate the extension of the four lanes of Old Henry Road to Crestwood, the Developer shall dedicate the right-of-way and any construction easements needed to construct the Old Henry Road improvement currently being designed by the Kentucky Transportation Cabinet. This design requires an equal amount of right-of-way on the east side of Old Henry Road across from lot 3 as it takes from the west side for the length of the frontage with the exception of the curve at Bush Farm Road (which may require more due to a possible shifting of the Old Henry Road center line; if it shifts, that additional right-of-way should be traded for right-of-way on the opposite side of Old Henry Road).~~
- ~~13. Loading docks shall be prohibited on Lot 11.~~

14. ~~Two trees shall be planted in each parking lot island.~~
15. ~~For each tree of 4-inch caliper or larger that is removed along Old Henry Trail during the required road widening, a new two-inch caliper tree shall be planted a safe distance from the roadway as near as reasonable to the removed tree's location or as requested by the Planning Commission staff landscape architect.~~
16. ~~The applicant agrees to withdraw the C-1 zoning request for Lot 2 (Garden Center) and not to resubmit this request for a five year period from the date of approval of this zoning change.~~

**5. Existing Binding Elements (13DEVPLAN1012)**

- ~~1. The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.~~
- ~~2. The square footage of the development shall not exceed 120,500 square feet for the office to the west and 22,814 square feet for the assisted living facility to the east.~~
- ~~3. Signs shall be in accordance with Chapter 8 of the LDC.~~
- ~~4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~5. Construction fencing shall be erected when off-site trees or tree canopy 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. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):
  - ~~a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan sewer District.~~
  - ~~b. The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
  - ~~c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~
  - ~~d. The appropriate conditional use permit shall be obtained from the Board of Zoning Adjustment to allow the medical office use as shown on the approved district development plan.~~~~
- ~~7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.~~
- ~~8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors, and assignees, contractors subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.~~

9. ~~The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 9, 2008 Development Review Committee meeting for the medical office and July 17th, 2013 for the assisted living facility.~~
10. ~~The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.~~
11. ~~Prior to construction approval of Lot 1A or within 60 days of request from the Director of Public Works, Bush Farm Road shall be dedicated, if legally feasible in the determination of Metro Works and DPDS. If not legally feasible, then a public access easement labeled as "future Bush Farm Road" shall be created at time of minor plat approving Lot 1-A, which is the subject of this detailed district development plan ("DDDP"). At such time as any portion of the Lot 1 residual is brought forward for DDDP approval, an updated traffic analysis shall be required, and it shall be a condition of such DDDP approval that Bush Farm Road be dedicated, if not previously dedicated, and constructed, if traffic is determined to warrant same. If prior to Farm Road because of any other development in the area, including Claiborne Crossings to the north, the owner of the Lot 1 residual shall permit the dedication to occur, if not previously dedicated, by executing any and all necessary instruments in which event the construction of Bush Farm Road shall be done by the developer of said "other development" which triggers the Bush Farm Road dedication and/or construction.~~
12. ~~At time of the Lot 1 residual DDDP approval, a general crossover access easement through that property in favor of the property to the north (presently known as Claiborne Crossings) shall be granted.~~
13. ~~Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off site.~~

**6. Proposed Binding Elements (18ZONE1055)**

1. The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) for each site of phase of development:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan sewer District.
  - b. The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
  - d. The façade elevations for each site or phase shall be in accordance with applicable form district standards and shall be submitted to Planning and Design Services staff for review and approval. A copy of each approved rendering shall be on file in the offices of the Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors: and assignees, contractors subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

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