

Planning Commission Staff Report

September 12, 2016



Case No:	15ZONE1070
Request:	Change in Form District from Neighborhood to Regional Center; Change in Zoning from R-4 to OR-3; Waivers; Variances; District Development Plan
Project Name:	Cityscape Simcoe Lane
Location:	4113, 4190, 4200, & 4206 Simcoe Lane
Owner:	Bette Kaelin; Fred & Linda Caldwell; Raymond Borchert
Applicant:	Cityscape Residential LLC
Representative:	Land Design and Development; Bardenwerper Talbott and Roberts PLLC
Jurisdiction:	Louisville
Council District:	17 – Glen Stuckel
Case Manager:	Julia Williams, RLA, AICP, Planning Supervisor

REQUEST

- Change in form district from Neighborhood to Regional Center
- Change in zoning from R-4 to OR-3
- Variances:
 1. Variances from Chapter 5 part 3 to permit encroachments into the 15' rear yard setback and 50' side yard setback.
 2. Variance from 5.7.1.B.1 to allow the proposed building to be 60' instead of the required 45' maximum building height
- Waiver from Chapter 10 to permit encroachments into the required 20' LBA along the east property line.
- District Development plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a 5 story residential structure with parking garage and 249 units on the existing 4 subject sites. The subject sites and all adjoining properties are located within the Neighborhood form district. The Regional Center form district ends to the west and includes properties with direct relationships to the Brownsboro Road corridor. The subject sites are located on the north side of Simcoe Lane, an existing 2 lane local road which connects to Brownsboro Road. To the west along Brownsboro Road, there is an existing shopping center and multi-story office building. To the east, there is an existing recreational center along Simcoe Lane. There is a large quantity of existing single family residential to the south of the site along Simcoe Lane and nearby Springhurst Boulevard. There is a parking lot between the subject sites and the Gene Snyder Freeway along the northern property perimeter. The Gene Snyder Freeway requires a 250' buffer from the edge pavement for all travel lanes, exits and entry points.

The applicant has requested a rear yard setback variance and building height variance. The height variance results from the subject site being within the Neighborhood form district transition zone. Only one structure within the nearby vicinity of this property has a similar height and scale. 4113 Simcoe is a potentially eligible historic resource as an example of a rural 1930s vernacular structure, the context is not fully known at this time.

The proposal was continued from the May 24, 2016 Public Hearing to allow the applicant to meet with the Avish Gardens owner to work out a traffic plan.

The applicant has since been working with the Kentucky Transportation Cabinet and Transportation Planning to reconfigure the intersection of Simcoe and Brownsboro to provide a left in, right in, and right out traffic pattern at the intersection. The applicant also agreed to look into signal timing (reflected in binding elements 20 and 21). The applicant has since updated their traffic study to reflect the left in, right in, and right out traffic pattern.

The Avish Gardens development is no longer being considered in the sites traffic plan or study.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Single Family Residential	R-4	N
Proposed	Multi-Family Residential	OR-3	RC
Surrounding Properties			
North	Parking Lot	OTF	N
South	Residential	R-4	N
East	Tennis Club	R-4	N
West	Vacant	OTF	N

PREVIOUS CASES ON SITE

There are no previous related cases.

INTERESTED PARTY COMMENTS

See attachments.

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

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

STAFF ANALYSIS FOR REZONING 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 Neighborhood Form District

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

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

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

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

The site is proposed to be 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.

A single housing type is being proposed. Residential is proposed as a standalone use not associated with commercial.

The proposal is a high density residential use surrounded by the Neighborhood Form District. There is a nearby Regional Center form district but there is not continuity between the existing Regional Center and the proposal but there is continuity between the existing zoning to the north and proposed zoning on the subject site. High density is consistent with the high intensity existing uses found north of the site. Pedestrians and transit users are provided for with a proposed sidewalk along Simcoe that will lead out to Brownsboro but also to the adjacent strip center. Vehicles will use the existing roadway. There is pedestrian access from the site to the nearby transit corridor along Brownsboro Road. The proposal is a higher density residential use adjacent to an activity center that has been created at the Gene Snyder interchange.

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

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

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDP

- 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 Transportation Planning has approved the preliminary development plan.

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

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

- 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.

- 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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE For encroachments into setbacks

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

STAFF: The requested variance will not adversely affect public health safety or welfare since the drive lane is mainly pervious, to be used as a fire lane, and is located adjacent to a parking lot and tennis center.

- (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 since the drive lane is mainly pervious, to be used as a fire lane, and is located adjacent to a parking lot and tennis center.

- (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 since the drive lane is mainly pervious, to be used as a fire lane, and is located adjacent to a parking lot and tennis center.

- (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 since the drive lane is mainly pervious, to be used as a fire lane, and is located adjacent to a parking lot and tennis center.

ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the drive lane is for fire department access and the proposed building is located adjacent to a residentially zoned nonresidential use (tennis center).

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 deprive the applicant of reasonable use of the land since the encroachment is a drive lane is for fire department access and the proposed building is located adjacent to a residentially zoned nonresidential use (tennis center).

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE
from 5.7.1.B.1 to allow the proposed building to be 60' instead of the required 45' maximum
building height**

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

STAFF: The requested variance will not adversely affect public health safety or welfare since the tallest portion of the building is located to the rear of the site and away from the closest residential development.

- (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 since there are other taller structures located in the vicinity and along the Gene Snyder corridor.

- (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 since the tallest portion of the building is located to the rear of the site and away from the closest residential development.

- (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 since the tallest portion of the building is located to the rear of the site and away from the closest residential development and there are other taller structures located in the vicinity.

ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since this proposal is located in the NRD transition zone. The tallest portion of the building is located to the rear of the site and away from the closest residential development.

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 deprive the applicant of reasonable use of the land since there are other taller structures located in the vicinity and along the Gene Snyder corridor.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 10.2.4.

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

STAFF: The waiver will not adversely affect adjacent property owners since the adjacent property owner is a non-residential use whose building is located adjacent to the property line where the waiver is being requested.

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The adjacent use is compatible because it is non-residential and the adjacent building is located adjacent to the property line where the waiver is being requested not creating a nuisance.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the existing non-residential building is located adjacent to the property line where the waiver is being requested.

- (d) Either:

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

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

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the existing non-residential building is located adjacent to the property line where the waiver is being requested.

TECHNICAL REVIEW

- All agency review comments have been addressed.

STAFF CONCLUSIONS

A single housing type is being proposed. Residential is proposed as a standalone use not associated with commercial.

The proposal is a high density residential use surrounded by the Neighborhood Form District. There is a nearby Regional Center form district but there is not continuity between the existing Regional Center and the proposal but there is continuity between the existing zoning to the north and proposed zoning on the subject site. High density is consistent with the high intensity existing uses found north of the site. Pedestrians and transit users are provided for with a proposed sidewalk along Simcoe that will lead out to Brownsboro but also to the adjacent strip center. Vehicles will use the existing roadway. There is pedestrian access from the site to the nearby transit corridor along Brownsboro Road. The proposal is a higher density residential use adjacent to an activity center that has been created at the Gene Snyder interchange.

The proposal generally meeting the guidelines of the Comprehensive Plan and requirements of the Land Development Code.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal is in conformance with the Comprehensive Plan; OR the existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR if there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

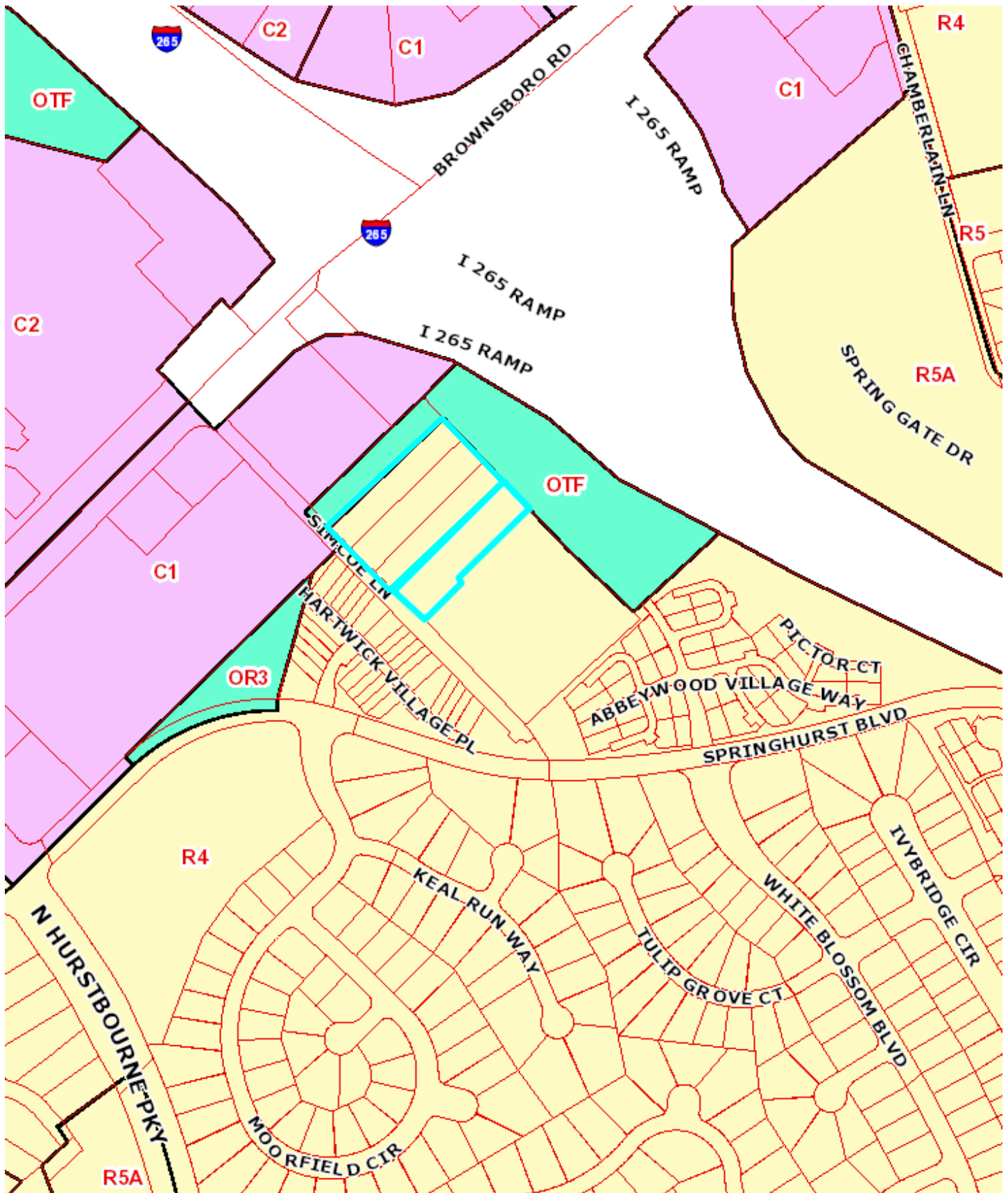
NOTIFICATION

Date	Purpose of Notice	Recipients
3/31/16	Hearing before LD&T on 4/14/16	1 st and 2 nd tier adjoining property owners Subscribers of Council District 17 Notification of Development Proposals
5/9/16	Hearing before PC 5/24/16	1 st and 2 nd tier adjoining property owners Subscribers of Council District 17 Notification of Development Proposals
5/11/16	Hearing before PC	Legal Advertisement in the Courier-Journal
5/4/16	Hearing before PC	Sign Posting on property
8/23/16	Hearing before PC 9/12/16	1 st and 2 nd tier adjoining property owners Subscribers of Council District 17 Notification of Development Proposals
8/25/16	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

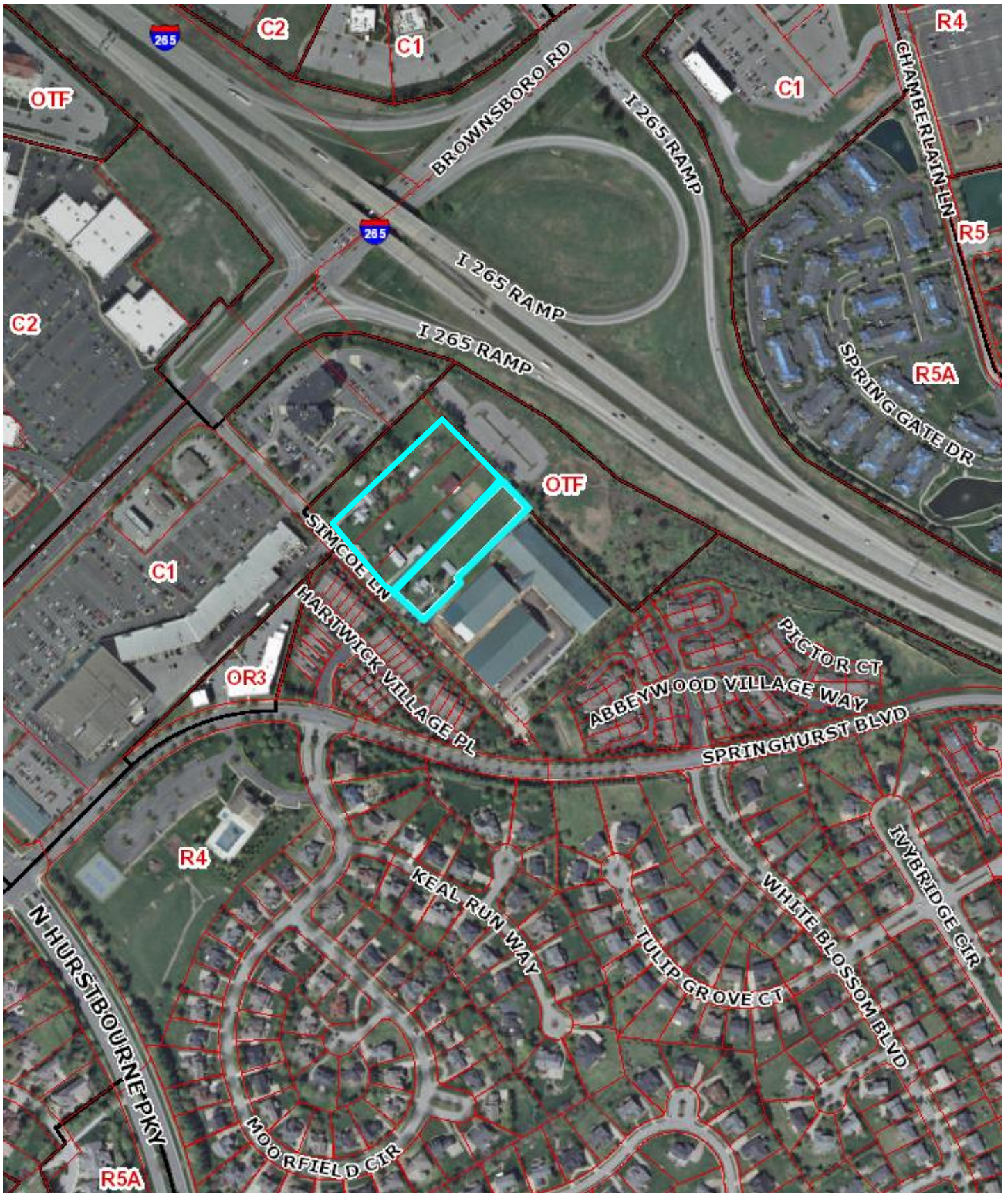
ATTACHMENTS

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

Regional Center: Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.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 a high density residential use surrounded by the Neighborhood Form District. There is a nearby Regional Center form district but there is not continuity between the existing Regional Center and the proposal but there is continuity between the existing zoning to the north and proposed zoning on the subject site. High density is consistent with the high intensity existing uses found north of the site.
2	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.	✓	Pedestrians and transit users are provided for with a proposed sidewalk along Simcoe that will lead out to Brownsboro but also to the adjacent strip center. Vehicles will use the existing roadway.
3	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal supports a high level of transit access and connectivity.	✓	There is pedestrian access from the site to the nearby transit corridor along Brownsboro Road.
4	Community Form/Land Use Guideline 2: Centers	A.1. Locate activity centers within the Regional Center Form District.	✓	The proposal is a higher density residential use adjacent to an activity center that has been created at the Gene Snyder interchange.
5	Community Form/Land Use Guideline 2: Centers	A.2: Develop non-residential and mixed uses only in designated activity centers except (a) where an existing center proposed to expand in a manner that is compatible with adjacent uses and in keeping with form district standards, (b) when a proposal is comparable in use, intensity, size and design to a designated center, (c) where a proposed use requires a particular location or does not fit well into a compact center, (d) where a commercial use mainly serves residents of a new planned or proposed development and is similar in character and intensity to the residential development, or (e) in older or redeveloping areas where the non-residential use is compatible with the surroundings and does not create a nuisance.	NA	The proposal is not a mixed use or non-residential use.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
6	Community Form/Land Use Guideline 2: Centers	A.4: Encourage a more compact development pattern that results in an efficient use of land and cost-effective infrastructure.	✓	The proposal is cost effective for infrastructure as the roadway will not change with the proposal and utilities are existing.
7	Community Form/Land Use Guideline 2: Centers	A.5: Encourage a mix of compatible uses to reduce traffic by supporting combined trips, allow alternative modes of transportation and encourage vitality and sense of place.	✓	The existing strip centers in the area will be served by the high density residential proposed. The area is walkable which encourages a sense of place, reduces traffic, and supports alternative transportation.
8	Community Form/Land Use Guideline 2: Centers	A.6: Encourage residential uses in centers above retail and other mixed-use multi-story retail buildings.	-	Residential is proposed as a standalone use not associated with commercial.
9	Community Form/Land Use Guideline 2: Centers	A.7: Encourage new developments and rehabilitation of buildings to provide residential uses alone or in combination with retail and office uses.	✓	The proposal is a new development with a single high density residential use.
10	Community Form/Land Use Guideline 2: Centers	A.10: Encourage out lot development in underutilized parking lots provided location, scale, signs, lighting, parking and landscaping standards are met. Such out lot development should provide street-level retail with residential units above.	NA	Not applicable to current proposal.
11	Community Form/Land Use Guideline 2: Centers	A.12: Design large developments to be compact, multi-purpose centers organized around a central feature such as a public square, plaza or landscape element.	✓	Large development is organized around courtyard spaces located throughout the building footprint.
12	Community Form/Land Use Guideline 2: Centers	A.13: Encourage sharing of entrance and parking facilities to reduce curb cuts and surface parking.	✓	Entrances are not shared due to the nature of the use and the vacancy to the north and existing development to the south.
13	Community Form/Land Use Guideline 2: Centers	A.14: Design and locate utility easements to provide access for maintenance and to provide services in common for adjacent developments.	✓	Utilities will be provided underground. A 20', mainly pervious, fire lane is provided around the structure for fire and other utility access.
14	Community Form/Land Use Guideline 2: Centers	A.15: Encourage parking design and layout to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations.	✓	Parking is provided interior to the site. There are two curb cuts to provide access to the interior parking.
15	Community Form/Land Use Guideline 2: Centers	A.16: Encourage centers to be designed for easy access by alternative forms of transportation.	✓	The proposal will able to be accessed by all forms of transportation due to the existing roadway and proposed sidewalk.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
16	Community Form/Land Use Guideline 3: Compatibility	A.1: The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development.	✓	The proposed building is stepped back from Simcoe Lane to provide more distance from the closest residential uses. There are several other multi-story structures located in the area making the pattern of development along the Gene Snyder area consistent.
17	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility. (Only for a new development in a residential infill context, or if consideration of building materials used in the proposal is specifically required by the Land Development Code.)	✓	The building materials are consistent with other materials found in the area.
18	Community Form/Land Use Guideline 3: Compatibility	A.3: The proposal is compatible with adjacent residential areas, and if it introduces a new type of density, the proposal is designed to be compatible with surrounding land uses through the use of techniques to mitigate nuisances and provide appropriate transitions between land uses. Examples of appropriate mitigation include vegetative buffers, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences.	✓	The proposal is a high density type of residential that is being introduced into the area. There are no residential uses directly adjacent to the site but are located across Simcoe. The residential across Simcoe is not served by Simcoe. Setbacks along Simcoe are being followed. The tallest portions of the building are located away from the existing residential.
19	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Transportation Planning has not indicated any adverse traffic issues.
20	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 meet LDC requirements.
21	Community Form/Land Use Guideline 3: Compatibility	A.10: The proposal includes a variety of housing types, including, but not limited to, single family detached, single family attached, multi-family, zero lot line, average lot, cluster and accessory residential structures, that reflect the form district pattern.	-	A single housing type is being proposed.
22	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 higher density not directly along a transit corridor but with short sidewalk access to a transit corridor (Brownsboro Road). The proposal is located within an existing activity center created at the Gene Snyder interchange.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
23	Community Form/Land Use Guideline 3: Compatibility	A.13: The proposal creates housing for the elderly or persons with disabilities, which is located close to shopping, transit routes, and medical facilities (if possible).	✓	The proposal could be housing for elderly or persons with disabilities.
24	Community Form/Land Use Guideline 3: Compatibility	A.14/15: The proposal creates appropriate/inclusive housing that is compatible with site and building design of nearby housing.	✓	The proposal adds a housing type that is not generally found in the area. The design is generally compatible with the nearby housing due to the setbacks and materials.
25	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 is located directly adjacent to non-residential compatible uses where the buffers provided are sufficient.
26	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 is located directly adjacent to non-residential compatible uses where the buffers provided are sufficient.
27	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 along Simcoe are being followed. The tallest portions of the building are located away from the existing residential. The proposed building is stepped back from Simcoe Lane to provide more distance from the closest residential uses. There are several other multi-story structures located in the area making the pattern of development along the Gene Snyder area consistent.
28	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.	✓	Open space provided meets the requirements of the LDC and form district.
29	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Regional Center Form District.	✓	Open space provided meets the requirements of the LDC and form district.
30	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	No significant natural features are present.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
31	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.	NA	No significant natural features are present.
32	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	NA	No significant preservation features are present on the subject sites.
33	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.	✓	No new roadway improvements to Simcoe are necessary.
34	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.	✓	All types of transportation facilities are being provided on the site.
35	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	✓	The proposal includes the dedication of ROW.
36	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	No new roadways are being created with this proposal.
37	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 site is through public roadway that serves similar intensity uses.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
38	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.	NA	No new roadways are being created with this proposal.
39	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.	✓	There is access from the site to the nearby transit corridor along Brownsboro Road via the existing roadway and proposed sidewalks.
40	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 no issues with the proposal.
41	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	No significant natural features are present.
42	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	Existing and proposed utilities will serve the site.
43	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	An adequate water supply exists for the site.
44	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The Health Department has no issues with the proposal.

4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 315,000 square feet of gross floor area.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 24, 2016 Planning Commission meeting.
8. Fence for privacy and noise abatement:
 - a. Developer will replace the current 6' cedar plank fence with a new solid double sided cedar plank fence. An 8' fence will run from the corner starting behind 4211 Hartwick Village Pl and continue for approximately 240 feet running south behind 4201 Hartwick Village Pl. At this location (starting at north edge of 4123 Hartwick Village Pl the fence will transition over an 8' span to 6' in height and continue running south for approximately 550 feet to the current corner in front of the tennis center parking lot. The entire length of the fence including that portion in front of the tennis center is included to ensure consistent appearance for all homes backing up to

Simcoe Ln. Fence construction will be completed within 30 days of start of initial site clearing and preparation for construction.

- b. The 8' fence will be a solid double sided privacy fence on 6x6 treated posts with 4 2x4 stringers per section. The 6' fence will be a solid double sided solid privacy fence on 4x4 treated posts with 3 2x4 stringers per section.
9. Landscaping for privacy and additional noise abatement and beautification:
- a. The area behind the Hartwick Village fence and in the Simcoe Ln Right of Way starting at east edge of Simcoe Ln. and extending for approximately 12' to the utilities easement will be planted with 2 rows 7-8' Arborvitae or other Evergreens. These plantings will run continually to a point on the opposite side of Simcoe Ln that marks the end of subject development property. Each row will have trees on 10' centers with the 2nd row staggered and 5' behind the first row.
 - b. All plantings will be maintained and if a tree dies it will be replaced by the owner of Simcoe Apartments no later than next growing season.
 - c. The owner of Simcoe Ln Apartments will also mow and maintain the grassy area between the fence and edge of Simcoe Ln for the length of the subject development property.
 - d. The trees will be planted within 60 days after the completion of the curb and gutter upgrade on the west side of Simcoe Ln. or the next growing season.
10. Lighting:
- a. All outdoor lighting will be positioned in such a matter that no lights will shine directly onto the residential property of Hartwick Village.
 - b. Where needed to prevent lights from shining in the direction of Hartwick Village, shades and/or deflectors will be installed around the light fixture to prevent direct beams of light shining toward Hartwick Village.
 - c. Exterior lighting to be low level landscaping type lighting or architectural highlighting shining only on building.
11. Water run-off and storm sewer control: Developer will install curb and gutter on both sides of Simcoe Lane the length of the subject development property.
12. Building Design and layout: Developer agrees to limit the height of the front wing of the building facing Simcoe Ln to 48' with no more than three stories above grade. The final plans for this will be filed and approved prior to the start of any construction or clearing of property.
13. No outdoor advertising or free standing signs will be allowed except for those specifically approved and in compliance with LDC. No pennants, balloons or banners shall be permitted on the site except for a 60 day period immediately following first day of opening or apartment showings.
14. Construction hours will be limited to the hours from 7am to 7pm Mon-Sat.
15. No construction staging or construction parking will take place on Simcoe Ln. All trucks will use an entrance to the construction site that has been prepared (graded and with adequate rock base) for construction trucks and equipment.
16. If construction requires the use of explosives or pile drivers, the homeowners of Hartwick Village and Abbeywood will be notified at least 24 hours in advance with notices provided to designated Home Owner Association Representatives. The use of explosives will be limited to 2 scheduled times a day between the hours of 9am – 4pm Mon-Sat. Pile driving will be limited to the hours between 9am-4pm Mon-Sat.
17. If explosives or pile-driving is used in the construction of Simcoe Apartments, Developer agrees that any sub-contractors or contractors performing such work will be fully qualified, licensed and fully

insured and capable of paying full repair cost to the property owners in Hartwick Village and Abbeywood for any damages to the property that may be caused by those activities.

18. Developer agrees to control dust during construction periods and to take appropriate actions to mitigate dust as necessary.
19. These binding elements will be a permanent record of case 15ZONE1070 and included as part of the case approval and survivable to any owners, current or future, of the property known as Simcoe Ln Apartments as stated in case 15ZONE1070.
20. The developer will engage a signal qualified consulting firm (on the KYTC's Qualification List for this type of work) to be responsible for completing a formal Traffic Signal Timing Report for 5 signalized intersections along KY Highway 22. Metro Public Works will be responsible for supplying 12 hour turning movement counts at each intersection. The developer's consultant will be responsible for performing travel time analysis based on the counts provided; providing 4 separate signal timing plans at each intersection (typical weekday representing AM, noon, PM and Evening periods); and a formal Traffic Signal Timing Report. Metro Public Works will be responsible for the implementation of the signal timing plans and any subsequent testing and in-service adjustment. Five signalized intersections will be included in the study, being:
 - 1) KY 22 & N. Hursbourne Pkwy/Springdale Rd
 - 2) KY 22 & Summit Plaza Dr
 - 3) KY 22 & interstate I-265 SB on ramp
 - 4) KY 22 & Norton Healthcare Blvd
 - 5) KY 22 & Chamberlain Ln

The Traffic Signal Timing Report shall be completed prior to the issuance of building permits.

21. Developer shall construct intersection improvements at KY 22 & Simcoe Ln to prohibit left turn traffic from Simcoe to KY 22. Construction plans, bond & permit for the intersections improvements shall be completed prior to the issuance of building permit. Intersection improvements shall be constructed prior to the issuance of certificate of occupancy.