

# Planning Commission Staff Report

October 15th, 2015



<b>Case No:</b>	<b>15ZONE1030</b>
<b>Request:</b>	<b>Change in zoning from R-4 to R-6 on 13.20 acres with land development code waivers and detailed district development plan</b>
<b>Project Name:</b>	<b>Aiken Road Multi-Family</b>
<b>Location:</b>	<b>12202, 12204, 12206 &amp; 12212 Aiken Road</b>
<b>Owner:</b>	<b>D &amp; J Rental Inc. Gary &amp; Sherrian DeWitt Charles &amp; Beverly Servino Gary Bozarth</b>
<b>Applicant:</b>	<b>The Garrett Companies</b>
<b>Representative:</b>	<b>Bill Bardenwerper</b>
<b>Jurisdiction:</b>	<b>Middletown</b>
<b>Council District:</b>	<b>19 – Julie Denton</b>
<b>Case Manager:</b>	<b>Christopher Brown, Planner II</b>

## REQUEST

- Change in zoning from R-4 to R-6
- Waiver #1: Sidewalk waiver from Chapter 5.8.1 of the 2004 Land Development Code to waive the required sidewalk along the Eastgate Village Drive frontage
- Waiver #2: Landscape waiver from Chapter 10.2.4 of the 2004 Land Development Code to reduce the required 50' landscape buffer to 10' along the property perimeter to the M-2 zoned property that was developed prior to the current landscape regulations
- Detailed District Development plan

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: R-4  
Proposed Zoning District: R-6  
Existing Form District: Neighborhood  
Existing Use: Single Family Residential  
Proposed Use: Multi-Family Residential  
Proposed Units: 210  
Density: 16.78 units/acre  
Minimum Parking Spaces Required: 315  
Maximum Parking Spaces Allowed: 630  
Parking Spaces Proposed: 350  
Plan Certain Docket #: None

The proposal is for a change in zoning from R-4 to R-6 to construct seventeen multi-family residential buildings with a clubhouse on the existing single family residential properties currently located within the Neighborhood Form District. The buildings are proposed to be two stories with one single story clubhouse near the main Aiken Road entrance. A second exit only service entrance will be constructed along Aiken Road as required by the Land Development Code. This requirement results from the number of units exceeding 200. The lots are located along Aiken Road with the western portion of the lots along Eastgate Village Drive. The proposed use will introduce additional multi-family residential into an area of mixed residential and non-residential uses within

the vicinity. Single family residential is located to the north with multi-family residential to the west. A mix of commercial, industrial and office zoned properties are located to the east and south of the subject site. The subject sites are at the edge of the Neighborhood, Suburban Marketplace and Suburban Workplace form districts that meet along the Aiken Road corridor. There is an existing identified blueline pond located within the northern portion of the lots. Additional ROW is proposed to be dedicated along Aiken Road. A sidewalk waiver has been requested along Eastgate Village Drive to the west of the subject site. A landscape waiver has been requested along a portion of the eastern property perimeter adjacent to the rear M-2 property. The M-2 property was developed prior to the current landscape regulations requiring the new development to come into compliance with the required 50' landscape buffer between the existing M-2 and proposed R-6.

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

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject Property</b>			
<b>Existing</b>	Single Family Residential	R-4	N
<b>Proposed</b>	Multi-Family Residential	R-6	N
<b>Surrounding Properties</b>			
<b>North</b>	Single Family Residential	R-4	N
<b>South</b>	Mixed Commercial	C-2	SMC
<b>East</b>	Office Industrial/Storage	OR M-2	N SW
<b>West</b>	Multi-Family Residential	R-6	N

**PREVIOUS CASES ON SITE**

No previous cases on the site.

**INTERESTED PARTY COMMENTS**

A petition was completed by neighbors within the area concerning the development to require a night public hearing at a convenient location to the neighborhood. Comments have been received by a significant number of concerned citizens within the surrounding residential areas targeted toward issues with the traffic and drainage problems the proposed development could create for the area. All email and letters that have been received are part of the record on file for the case.

**APPLICABLE PLANS AND POLICIES**

Cornerstone 2020  
2004 Land Development Code (Middletown)

**STANDARD OF REVIEW FOR REZONING**

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

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

## STAFF ANALYSIS FOR REZONING

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 choices 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 proposal to rezone the subject site from R-4, Single Family Residential, to R-6, Multi-Family Residential would create an additional mix of residentially zoned property that could include possible housing associated with the non-residential uses located along the nearby Shelbyville Road corridor. The Neighborhood form district encourages a mix of residential uses and types with a mixture of related non-residential uses in nearby centers such as that seen along the intersection of Shelbyville Road and Aiken Road. The proposed rezoning integrates into an area of mixed residential and non-residential uses.

The applicant has demonstrated compliance with the majority of **Guideline 1, Community Form**, since the proposed rezoning integrates into an area of mixed residential uses with the nearby activity centers located along the Shelbyville Road corridor. There is existing single and multi-family residential in the vicinity. The proposal is compact on the site with private walkways connecting the various buildings on the property. There are large open space areas within the interior of the site. The applicant needs to address the issue that arises from the proposal being classified as high density. High density developments are recommended to be located along a major or minor arterial. It has frontage along a secondary collector and local roadway. It could have a negative impact on adjacent low or moderate density developments along Eastgate Village Drive.

The applicant has demonstrated that the proposed R-6 zoning district will comply with all of **Guideline 2, Centers** and **Guideline 3, Compatibility** with the exception of alternative methods of transportation being provided along the Eastgate Village Drive street frontage. The applicant has provided for all methods of transportation and easy access to the site for all modes of transportation along Aiken Road. There is pedestrian connectivity to the street frontages at the vehicular entrance and exits to the site. There is no pedestrian connectivity proposed along Eastgate Village Drive that would further connect the site to the larger Aiken and Shelbyville Road corridors. The site is designed around central open space features and it is

generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development. It follows the required setbacks of the neighborhood form district and provides the appropriate transitions between developments with the needed buffering and landscaping.

The proposal has some issues in its compliance with **Guideline 5, Natural Areas and Scenic and Historic Resources**, of the Comprehensive Plan. There are large areas of existing tree canopy along Eastgate Village Drive and portions of the rear of the property. The proposal is indicating that none of the existing tree canopy on the site will be preserved. The development will be utilizing the existing ponding area central to the site around the proposed detention basin and open space.

The proposal does not support easy access by alternative forms of transportation along Eastgate Village Drive with a lack of pedestrian facilities. Movement of pedestrians and bicyclists around and through the development is considered and accounted for with connections to Aiken Road. ROW will be dedicated along Aiken Road to allow potential future roadway improvements. There is continuous connectivity throughout the site with access to Aiken Road; therefore, the applicant has demonstrated compliance with most of the **Guidelines 7, 8, and 9** of the Comprehensive Plan.

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 Middletown City Council regarding the appropriateness of this zoning map amendment. The Middletown City Council has zoning authority over the property in question.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP and BINDING ELEMENTS**

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

STAFF: There does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site.

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

STAFF: Provisions for safe and efficient vehicular transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan with 40' ROW to be dedicated along Aiken Road. Pedestrian transportation has not been fully accounted for with sidewalks not being proposed along the Eastgate Village Drive frontage. Aiken Road has sidewalks proposed that fully connect to the interior of the proposed development.

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

STAFF: Sufficient open space is being provided to meet the needs of the proposed development.

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

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

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

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

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

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code with the exception of the request to waive the sidewalks along the Eastgate Village Drive frontage which does not meet the standard of review.

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

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

STAFF: The waiver will adversely affect adjacent property owners since sidewalks will not be provided along Eastgate Village Drive that will allow full pedestrian connectivity along that street frontage.

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

STAFF: Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The waiver will violate specific guidelines of Cornerstone 2020 since the movement of pedestrians will not be appropriately met along the Eastgate Village Drive frontage.

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

STAFF: The extent of waiver of the regulation is not the minimum necessary to afford relief to the applicant since the sidewalks can be constructed along the Eastgate Village Drive street frontage with minimal impact to the proposed 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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since there are no constructability issues preventing the sidewalks from being provided along the street frontage.

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

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

STAFF: The waiver will not adversely affect adjacent property owners since the adjacent use is a higher intensity use.

- (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 proposed 10' landscape area along the property perimeter will provide sufficient buffering; therefore, the waiver will not violate specific guidelines of Cornerstone 2020.

- (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 a 10' landscape buffer area will be provided with the interior roadway being located along this property perimeter that connects from the proposed Aiken Road entrance.

- (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 by requiring the interior roadway and several buildings to be relocated on the site.

### TECHNICAL REVIEW

- No outstanding technical review issues need to be addressed.

### STAFF CONCLUSIONS

The proposed rezoning integrates into an area of mixed residential and non-residential uses along the Aiken Road corridor that leads to the intersection with Shelbyville Road. ROW will be reserved along Aiken Road to allow potential for future roadway improvements. The applicant needs to address the issues of the proposed high density development being located along a secondary collector and not the recommended major or minor arterial. Tree preservation is not incorporated into the development plan as recommended by Guideline 5 of Cornerstone 2020 regarding natural areas. The requested sidewalk waiver along Eastgate Village Drive does not meet the standard of review and staff analysis. It also creates issues with Guidelines 2 and 9 of Cornerstone 2020 by not creating complete pedestrian connectivity and alternative forms of transportation. The

standard of review has been met for the requested landscape waiver. Appropriate buffering will be provided on the site. 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. In addition, 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 meets the standards for granting a sidewalk waiver, landscape waiver and detailed district development plan as established in the Land Development Code. All actions should be made as recommendations to the City of Middletown.

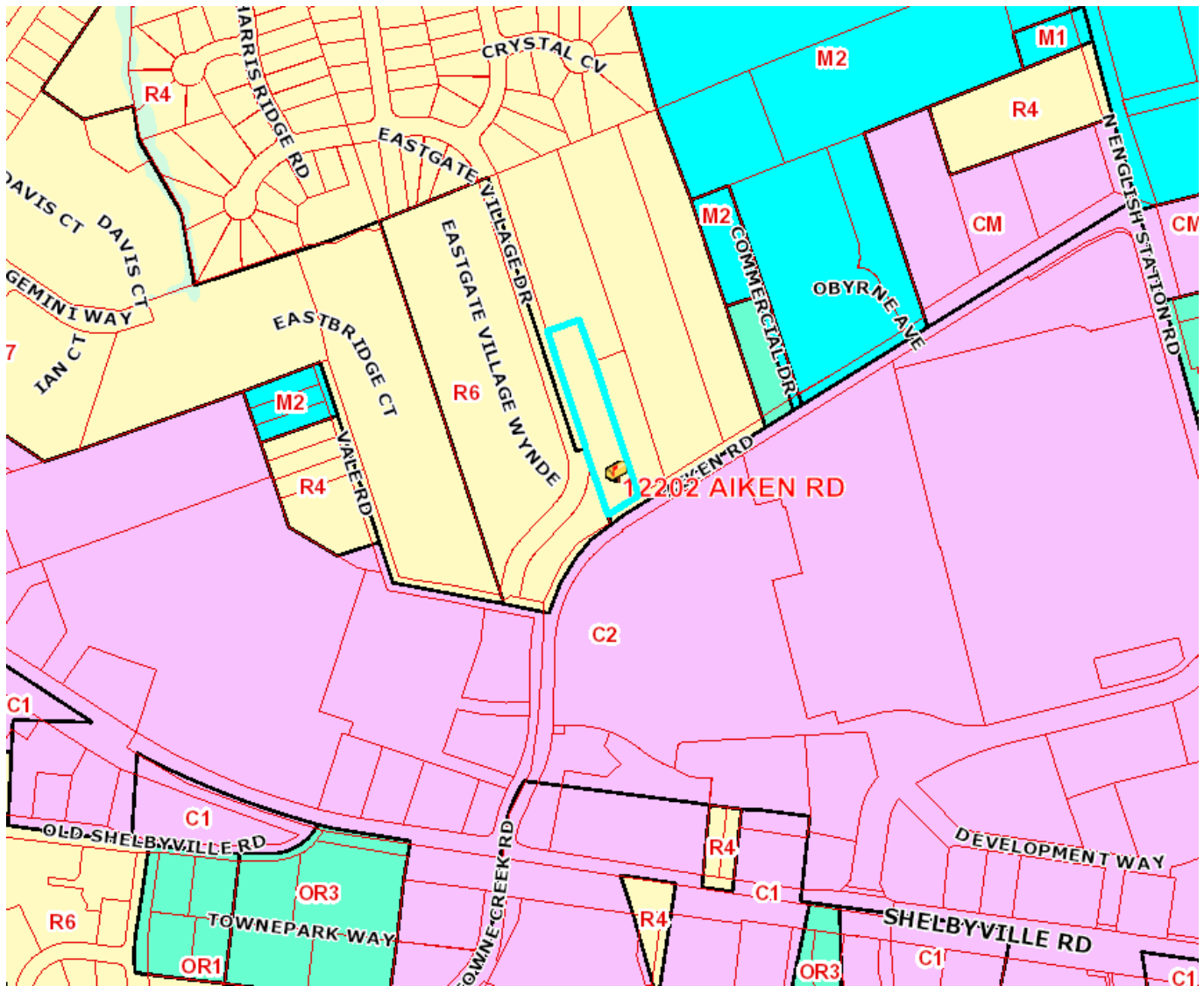
**NOTIFICATION**

Date	Purpose of Notice	Recipients
8/13/15	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 19 Notification of Development Proposals
10/1/15	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 19 Notification of Development Proposals
10/1/15	Hearing before PC	Sign Posting on property
10/3/15	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

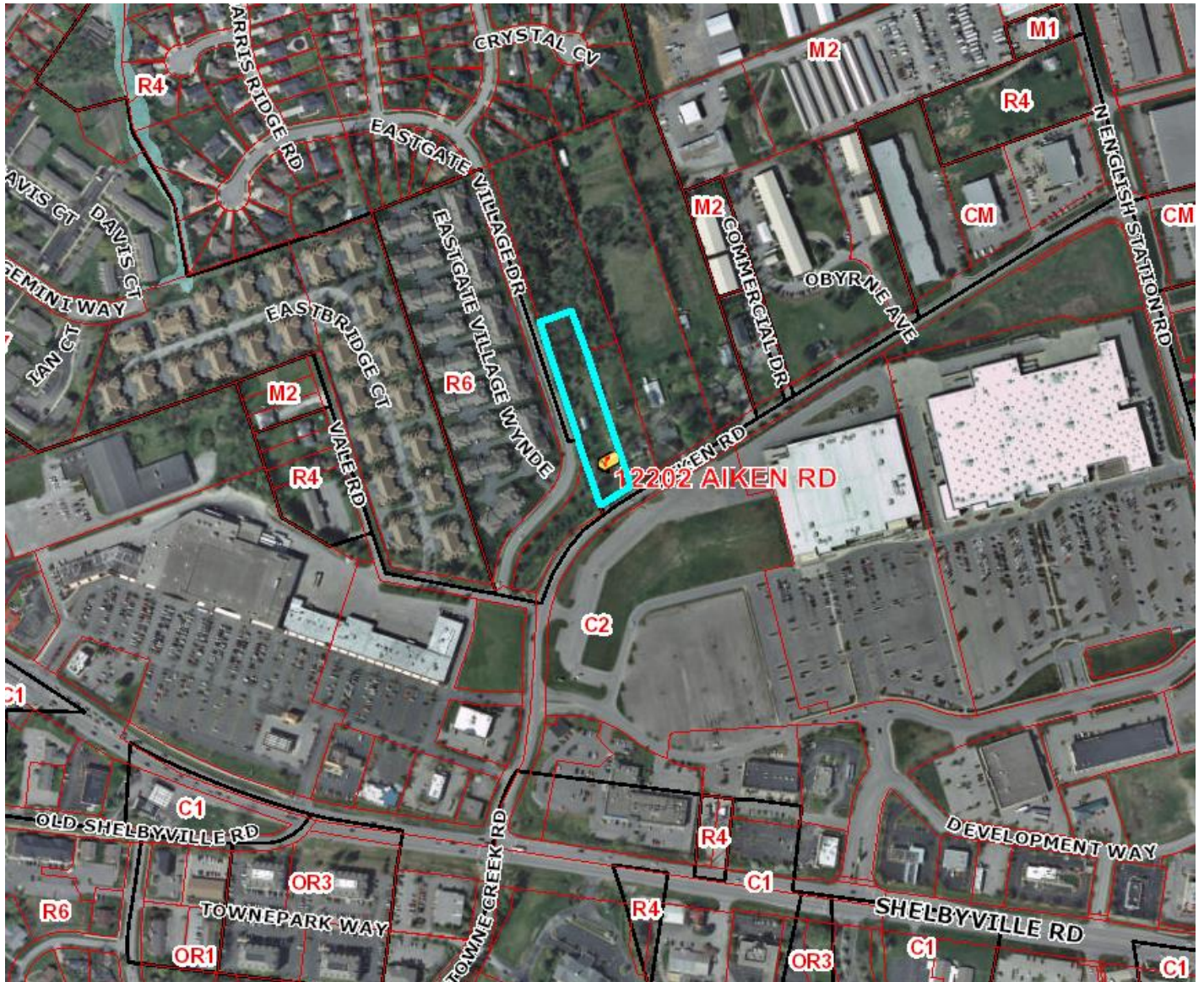
1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Checklist
4. Proposed Binding Elements

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

#### Neighborhood: Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.3: The proposal supports the creation of a mix of residential housing choices and densities for the neighborhood.	√	The proposal introduces a new housing type and choice into the area at an appropriate density for the form district.
2	Community Form/Land Use Guideline 1: Community Form	B.3: If the proposal is classified as high density (greater than 12 dwelling units per acre), it is located on a major or minor arterial or in a location that has limited impact on adjacent low or moderate density developments.	-	The proposal is classified as high density. It is not located along a major or minor arterial. It has frontage along a secondary collector and local roadway. It could have a negative impact on adjacent low or moderate density developments along Eastgate Village Drive.
3	Community Form/Land Use Guideline 1: Community Form	B.3: If the proposal introduces a new housing type to the neighborhood, it is designed to be compatible with nearby land uses.	√	The proposal introduces a new housing type to the neighborhood that is generally compatible with the land uses of the surrounding area.
4	Community Form/Land Use Guideline 1: Community Form	B.3: Neighborhood streets are designed to invite human interaction and easy access through the use of connectivity, and design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets.	√	Complete connectivity is provided within the proposed development.
5	Community Form/Land Use Guideline 2: Centers	A.1. Locate activity centers within the Neighborhood Form District at street intersections with at least one of the intersecting streets classified as a collector or higher, AND one of the corners containing an established non-residential use.	√	Aiken Road is a secondary collector with an intersection at Shelbyville Road to the southwest. The intersection has several established non-residential uses within an activity center,

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
6	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 a residential use only.
7	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 development has a compact design.
8	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.	NA	The proposal is not a mix of uses. Only one type of residential use is proposed.
9	Community Form/Land Use Guideline 2: Centers	A.6: Encourage residential uses in centers above retail and other mixed-use multi-story retail buildings.	-	The residential use is not located in a center above retail or in multi-story buildings incorporating retail.
10	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.	√	Provides residential use alone.
11	Community Form/Land Use Guideline 2: Centers	A.8/11: Allow centers in the Neighborhood Form District that serve the daily needs of residents and that are designed to minimize impact on residents through appropriate scale, placement and design.	NA	The proposal is a residential use only.
12	Community Form/Land Use Guideline 2: Centers	A.10: Encourage outlot development in underutilized parking lots provided location, scale, signs, lighting, parking and landscaping standards are met. Such outlot development should provide street-level retail with residential units above.	NA	The proposal is a residential use only.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
13	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.	√	The development is organized and clustered around two large open space areas to be utilized as focal points and recreational spaces.
14	Community Form/Land Use Guideline 2: Centers	A.13: Encourage sharing of entrance and parking facilities to reduce curb cuts and surface parking.	NA	Sharing of entrances and parking facilities is inappropriate for the type of use being proposed.
15	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.	√	All utility easements are located to provide services and access in common for adjacent developments.
16	Community Form/Land Use Guideline 2: Centers	A.15: Encourage parking design and layout to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations.	√	The parking design and layout balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations.
17	Community Form/Land Use Guideline 2: Centers	A.16: Encourage centers to be designed for easy access by alternative forms of transportation.	-	The proposal does not support easy access by alternative forms of transportation along the Eastgate Village Drive frontage.
18	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 proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development.
19	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.)	√	Building design meets the requirements of the LDC.
20	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 designed to be compatible with surrounding land uses with appropriate buffering and landscaping being provided along the property perimeters and street frontages.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
21	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	+/-	Additional information is needed to determine compliance and how the proposal will mitigate its potential adverse impacts on the associated traffic along Aiken Road.
22	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 the LDC.
23	Community Form/Land Use Guideline 3: Compatibility	A.10: The proposal includes a variety of housing types, including, but not limited to, single family detached, single family attached, multi-family, zero lot line, average lot, cluster and accessory residential structures, that reflect the form district pattern.	-	The proposal includes only one type of housing.
24	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	√	The proposal is located near an activity center at the intersection of Aiken Road and Shelbyville Road.
25	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 creates housing that could be used for the elderly or persons with disabilities.
26	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 creates appropriate/inclusive housing.
27	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 designed to be compatible with surrounding land uses with appropriate buffering and landscaping being provided along the property perimeters and street frontages.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
28	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 designed to be compatible with surrounding land uses with appropriate buffering and landscaping being provided along the property perimeters and street frontages. A wall is being proposed along the northern property perimeter to mitigate its location near adjacent single family residential uses.
29	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.
30	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 a component of the development and provides for the continued maintenance of that open space.
31	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.
32	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	√	The proposal integrates natural features into the pattern of development with the detention basin being located around the area of an existing identified pond area.
33	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	√	The proposal integrates natural features into the pattern of development with the detention basin being located around the area of an existing identified pond area.
34	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 include the preservation of landscapes and heavily treed areas that exist along large portions of the site closest to the Eastgate Village Drive frontage.
35	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	NA	There are no soil or slope issues on the site.

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36	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 shows 40' ROW dedication along Aiken Road.
37	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	√	The proposal includes dedication of right of way along Aiken Road for any needed future roadway improvements that would contribute to the appropriate development of adjacent lands.
38	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	√	The proposal shows ROW dedication along Aiken Road.
39	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	Street stubs are not appropriate for the proposed use.
40	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 gained through an area of mixed use consisting of both lower intensity residential and higher intensity commercial and industrial.
41	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	A connection to other properties and adjacent developments is not required or appropriate.
42	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 does not support easy access by alternative forms of transportation along Eastgate Village Drive with a lack of pedestrian facilities. Movement of pedestrians and bicyclists around and through the development is considered and accounted for with connections to Aiken Road.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
43	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.
44	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	There are no existing natural corridors within the area.
45	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
46	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	√	The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.
47	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. 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 and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The density of the development shall not exceed 16.78 dwelling units per acre (210 units on 13.20 acres).
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 Louisville Metro Department of Develop Louisville Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A 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 October 15<sup>th</sup>, 2015 Planning Commission meeting.