

Planning Commission Staff Report

October 29th, 2015



Case No:	15ZONE1041
Request:	Change in Zoning from C-1 to C-2; Land Development Code Waiver and Detailed District Development Plan
Project Name:	Tire Discounters
Location:	13319 Shelbyville Road
Owner:	Middletown Investment Partners LLC
Applicant:	Middletown Investment Partners LLC
Representative:	Bardenwerper, Talbott & Roberts, PLLC
Jurisdiction:	Middletown
Council District:	19 – Julie Denton
Case Manager:	Christopher Brown, Planner II

- ***Case was continued from October 29th, 2015 Planning Commission public hearing regarding general plan binding element issues that need to be resolved***

REQUEST

- Change in zoning from C-1 to C-2
- Waiver #1: Land Development Code Waiver from Chapter 5.5.2 of the 2004 Land Development Code to allow the front facing door on the side of the building and no entrance located along the primary street frontage
- Detailed District Development plan
- General Plan Binding Element Amendment

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-1
Proposed Zoning District: C-2
Existing Form District: Suburban Marketplace Corridor
Existing Use: Vacant
Proposed Use: Auto Service
Minimum Parking Spaces Required: 22
Maximum Parking Spaces Allowed: 46
Parking Spaces Proposed: 23
Plan Certain Docket #: 10723

The proposal is for a change in zoning from C-1 to C-2 to construct a proposed 8,190 SF auto service use currently located within the Suburban Marketplace Corridor Form District. The proposed use has more than two bays and the work completed on site rises to the level that it requires C-2 zoning. The lot is located along Shelbyville Road within Middletown Commons. The entirety of the shopping center is existing C-1 that was rezoned under Docket #10723 from R-4 and R-7 to C-1 to allow a mixed commercial shopping center. The form district was also changed from Suburban Workplace to Suburban Marketplace Corridor under the same docket number. A revised general plan and several detail plan level lots were approved by the City of Middletown prior to the current request. There is an existing general plan binding element for the entirety of Middletown Commons that limits the uses to office, retail, restaurants, bank and hotel or other uses permitted

in the C-1 district. This binding element would not permit the requested use since it requires the change in zoning to C-2. The applicant has requested to amend the general plan binding element to state that only C-1 uses are permitted except for the proposed C-2 use as a tire/auto care center. A building design waiver is being requested for the location of the entrance.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	C-1	SMC
Proposed	Auto Service	C-2	SMC
Surrounding Properties			
North	Mixed Commercial	C-1	SMC
South	Mixed Commercial	C-2	SMC
East	Restaurant	C-1	SMC
West	Retail	C-1	SMC

PREVIOUS CASES ON SITE

10723: The Planning Commission and City of Middletown approved a change in zoning from R-4 and R-7, residential, to C-1, commercial, a change in form district from Suburban Workplace to Suburban Marketplace Corridor, a conditional use permit for outdoor alcohol sale and consumption for restaurants in C-1 zoning, a variance to reduce the required yard along the northern property line from 50' to 25' and approval of a detailed district development plan.

13DEVPLAN1051: Revised general/detailed district development plan was approved for Middletown Commons with landscape waivers granted along Shelbyville Road and Gene Snyder Freeway scenic corridors as well as encroachments and reductions of landscape buffers along the northern property perimeter. Variances were approved for pavement encroachment and building setbacks for Lot 1 of the proposed development.

14DEVPLAN1075: Revised general/detailed district development plan was approved for Middletown Commons with updates to the pattern book.

INTERESTED PARTY COMMENTS

Issues have been raised regarding general plan binding element #15 and the extension of Data Vault Drive.

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 Suburban Marketplace Corridor Form District

Suburban Marketplace Corridors: Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium to high intensity uses. Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users as well as to minimize automobile dependency and traffic congestion. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings, which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity. This form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower density residential uses in adjacent form districts. Medium density residential uses may serve as a transition area from lower to higher density residential uses and should be encouraged in this form. Proposed new commercial uses are encouraged, to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of suburban marketplace corridors, particular emphasis should be placed on: (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code.

The applicant is proposing to introduce C-2 zoning, a higher intensity commercial zoning category, into an existing C-1 shopping center known as Middletown Commons. The proposal complies with the guidelines and policies of Cornerstone 2020 as outlined within the attached checklist but the applicant needs to address how the proposed zoning category, which is a higher intensity category than the existing shopping center, is compatible with the existing zoning category for Middletown Commons. The higher intensity category could potentially introduce uses into the out lot that would not be compatible with the overall concept and design of Middletown Commons. The applicant also needs to address the signage which is not consistent with the pattern of signage along a scenic corridor or those originally proposed within Middletown Commons.

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 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 and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan.

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

STAFF: There are no open space requirements with the current proposal. Future multi-family developments proposed on the subject site will be required to meet Land Development Code requirements.

- 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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The requested waiver will not adversely affect adjacent property owners since proper access will be provided from the right of way to the building entrance.

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

STAFF: Guideline 3, policy 1 and 2 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that is representative of the form district. Animating features and materials consist with the design of the building will be provided along the street facing façade and the entrance will be located toward the interior parking lot; 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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since sufficient access will be provided on the site and animating features with glazing will be provided along the street facing façade.

(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 a second entrance away from both the parking and pedestrian entry points.

TECHNICAL REVIEW

- There are no outstanding plan review issues.

STAFF CONCLUSIONS

The applicant has issues that need to be addressed in regards to the higher intensity commercial zoning category integrating with the existing shopping center, the proposed signage and how they intend to be compliant with the existing general plan binding elements. The standard of review has been met for the requested waiver and detailed plan proposal. 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. Further, 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 an LDC Waiver and Detailed Development Plan as established in the Land Development Code. All actions should be made as recommendations to the City of Middletown.

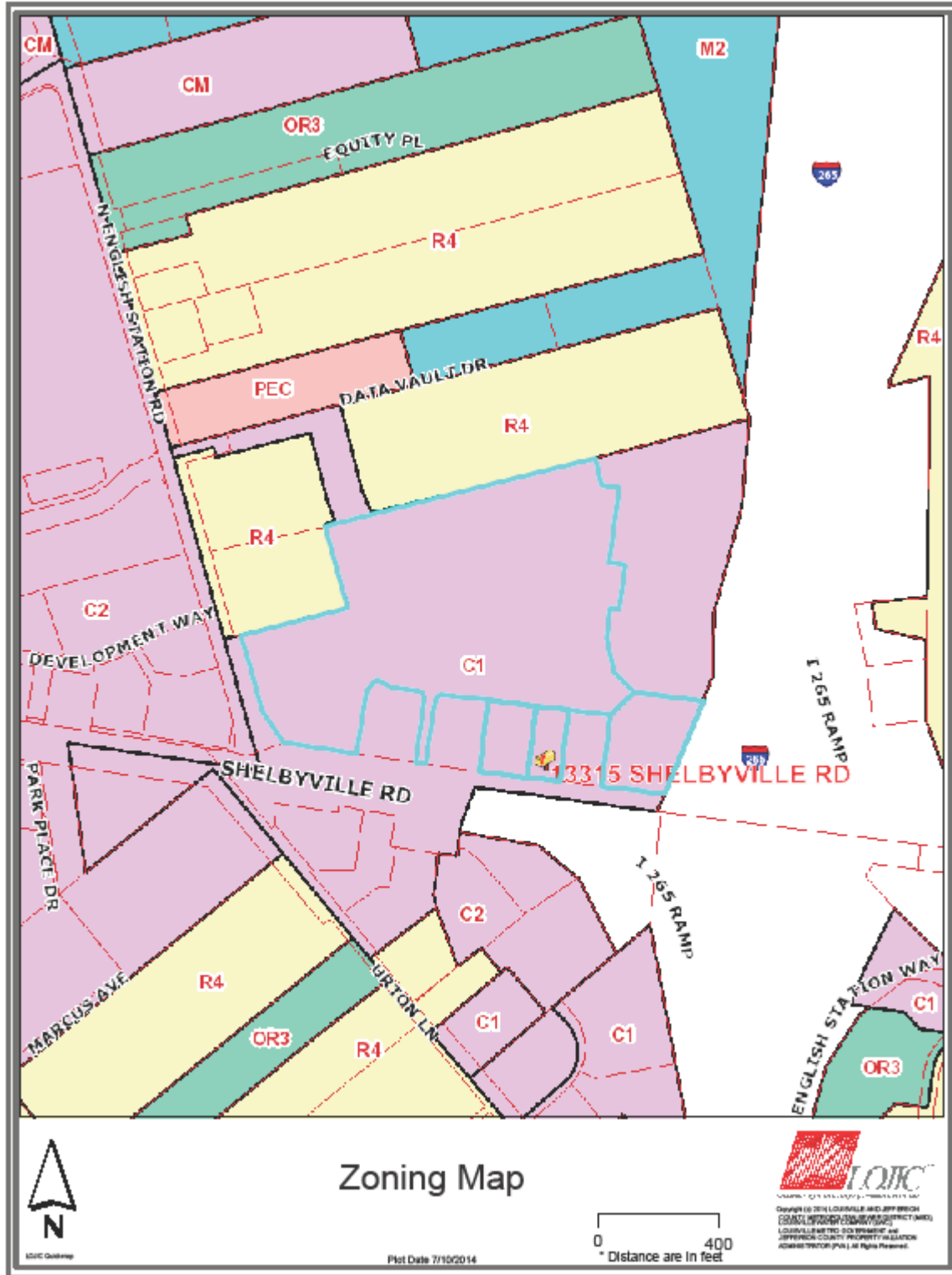
NOTIFICATION

Date	Purpose of Notice	Recipients
9/24/15	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 19 Notification of Development Proposals
10/15/15	Hearing before PC	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 19 Notification of Development Proposals
10/15/15	Hearing before PC	Sign Posting on property
10/22/15	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Checklist
4. Existing General Plan Binding Elements
5. Proposed Detailed Plan Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Cornerstone 2020 Checklist

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

Suburban Marketplace Corridor: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal integrates into the existing pattern of development, which includes a mixture of medium- to high-density uses.	✓	The proposal integrates into the existing pattern of development, which includes a mixture of medium- to high-density uses.
2	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal provides accommodations for transit users, pedestrians and bicyclists and provides connectivity to adjacent developments.	✓	The proposal provides accommodations for transit users, pedestrians and bicyclists and provides connectivity to adjacent developments.
3	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal includes a compact group of buildings using the same curb cut, parking and signs, and that have a common buffering or streetscape plan with respect to any abutting lower density or intensity uses.	✓	The proposal follows a similar concept to the parking layout, access, signage and streetscape plan as the other out lots within Middletown Commons.
4	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal is of a medium to high density designed to be compatible with both non-residential development in the corridor and adjacent low density residential development in other form districts.	+/-	The applicant needs to address how the proposed zoning category, which is a higher intensity than the existing shopping center, is compatible with the existing zoning category for Middletown Commons.
5	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal is located within the boundaries of the existing form district, and if the proposal is to expand an existing corridor, the justification for doing so addresses the use or reuse of land within the existing corridor, the potential for disruption of established residential neighborhoods, and compliance with the site and community design standards of the Land Development Code.	✓	The proposal is located within the boundaries of the existing form district.
6	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Suburban Marketplace Corridor Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	✓	The proposal is new construction in an existing center.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
7	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	✓	The proposed retail commercial development is located in an area that has a sufficient population to support it.
8	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	✓	The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.
9	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	NA	The proposal is within an existing and does not create a new center.
10	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	-	The proposal is a single commercial use.
11	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	NA	The proposal is an out lot within an existing center and large development.
12	Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	✓	The proposal shares access with the other lots of the Middletown Commons shopping center.
13	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	✓	The proposal is designed to share utility hookups and service entrances with adjacent developments.
14	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	✓	The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.
15	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	The proposed building follows the Land Development Code.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
16	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	The proposal does not constitute a non-residential expansion into an existing residential area
17	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	The proposal mitigates any potential odor or emissions associated with the development.
18	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.
19	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Lighting will comply with the LDC.
20	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 intensity located within an activity center.
21	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	✓	The proposal provides appropriate transitions between uses.
22	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	✓	The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another.
23	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.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
24	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	✓	Parking areas are appropriately located on site.
25	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	✓	The proposal includes screening and buffering of parking and circulation areas adjacent to the street. Garage doors are oriented to the side of the building rather than the street.
26	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	Not applicable to proposal.
27	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	-	Signage for the proposal is not compatible with the pattern of the form district and the visual qualities sought along a scenic corridor. It does not follow the concepts of the larger shopping center concept.
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.	NA	Not applicable to proposal.
29	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA	Not applicable to proposal.
30	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	Not applicable to proposal.
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	Not applicable to proposal.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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	Not applicable to proposal.
33	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	Not applicable to proposal.
34	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	Not applicable to proposal.
35	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	Not applicable to proposal.
36	Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	✓	The commercial proposal is located within an activity center along a major arterial with access to the Gene Snyder Freeway.
37	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	Not applicable to proposal.
38	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	✓	The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
39	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.
40	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	✓	The proposal's transportation facilities are compatible with and support access to surrounding land uses.
41	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.	NA	Not applicable to proposal.
42	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	The proposal includes adequate parking spaces to support the use.
43	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	NA	Not applicable to proposal.
44	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	Not applicable to proposal.
45	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	The proposal has access from the internal roadway system of the larger shopping center.
46	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	✓	The proposal has access from the internal roadway system of the larger shopping center.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
47	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	✓	The proposal provides for the movement of pedestrians, bicyclists and transit users around the development and from the right of way.
48	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 blueline streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	MSD has given preliminary approval.
49	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	APCD has given preliminary approval.
50	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	Not applicable to proposal.
51	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.
52	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.
53	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

4. Existing General Plan Binding Elements

1. The development 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. Prior to development of each tract/building or phase of this project, the applicant, developer, or property owner shall obtain approval from the Planning Commission and City of Middletown of building design in accordance with Chapter 5 of the LDC. The façade elevations shall be in accordance with the Suburban Form District building design standards.
3. Use of the subject site shall be limited to office, retail, restaurants, bank and hotel, and other uses permitted in the C-1 district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.
4. The development shall not exceed 272,000 square feet of gross floor area.
5. Signs shall be in accordance with the City of Middletown sign regulations.
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
7. The access to the site must be provided from the curb cut on Shelbyville Rd, N. English Station Rd and Data Vault Drive as shown on the development plan.
8. 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.
9. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, or alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval by the Planning Commission and the City of Middletown 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. Any landscaping shown in the scenic corridor must be installed and maintained as possible after clearing. There shall be no removal of the existing landscaping or required landscaping without City Commission approval. In the event any tree or landscaping is removed without written consent of the City, the City may require the owner/applicant to replace with a tree of similar size and age (when cut), or as approved by the City Commission. Any replacement tree or trees shall be such as are deemed adequate by the City to mitigate the impact.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance. Approval of the Tree Preservation Plan and a Tree Inventory by Middletown is required prior to clearing or removal of trees.
 - e. A major record plat must be recorded creating Tracts 1, 2 and 3, private access easements and designate a portion of Data Vault Drive as public road as shown on the development plan.
 - f. The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.

10. A certificate of occupancy must be received from the appropriate code enforcement department, after review and approval by the City of Middletown, 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 and the City of Middletown.
11. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line or permitted on the site.
12. 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.
13. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the Land Development Code.
14. The final style and design of each building shall be reviewed and approved by the Planning Commission, DRC, or LD&T Committee and the City of Middletown and be consistent with the general style and design presented at the October 24th LD&T meeting, prior to obtaining building permits for individual buildings.
15. Construction plans, bond, and KTC permit are required by Metro Public Works prior to road construction approval and issuance of MPW encroachment permit. Construction approvals for the site shall not be granted until such time as Kentucky Transportation Cabinet (KTC) improvements as shown on the development plan have been let for construction and bonds have been secured and encroachment permits issued for improvements which are the responsibility of the developer. Developer shall not request a Certificate of Occupancy (CO) for the site until all offsite road improvements as shown on the development plan, approved road improvement exhibit dated 02/16/10 and included in the BTM Engineering Traffic Impact Study (TIS) have been constructed and any required signal installations and modification have been implemented.
16. Prior to submittal of a revised development plan (or a construction plan if no revised development plan is required) or approval of the office building, which shall also require the approval of the City of Middletown, shown on the detailed district development plan approved at the February 19, 2010 Planning Commission public hearing ("Plan") or any other construction generating a greater number of trips (as estimated by the most current version of the ITE Trip Generation Manual) than would be generated by the uses shown on the Plan, an updated traffic study shall be submitted and approved by Metro Public Works and the Kentucky Transportation Cabinet. If Metro Public Works or the Kentucky Transportation Cabinet determines that additional roadway improvements are required, based on the traffic study, such improvements shall be made by the applicant prior to the issuance of a certificate of occupancy. If such additional roadway improvements are not directly necessitated by the applicant's impact on the roadway network, the applicant shall contribute a proportionate share, based on trip generation, for those improvements to Metro Public Works, and shall delay construction until such time as the improvements have been constructed.

17. Developer shall be responsible for any required utility relocations, final surface overlay, signage, signal installation and striping associated with required road improvements to Shelbyville Road, North English Station Road, Data Vault Drive and the portions of the proposed entrance drive within the right-of-way.
18. All street signs shall be installed by the Developer and shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first structure with access from the street and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
19. An encroachment permit and bond may be required by Metro Public Works for roadway repairs on all surrounding access roads to the site due to damages caused by construction traffic activities.
20. Per the approved road improvement exhibit dated 02/16/10, Metro Public Works requirements and KTC requirements, the applicant shall provide the following:
 - a. For Shelbyville Road, install a right turn lane for the proposed right-in-right-out access. Turn lane shall measure 150' in storage length with a 100' taper.
 - b. The southbound approach from North English Station Road at its intersection with Shelbyville Road shall be widened to provide an additional southbound left turn lane. The widening shall continue northward on North English Station to accommodate required taper lengths as necessary.
 - c. Developer shall be responsible for signal installation at N. English Station and Data Vault Dr. and required modifications to the existing traffic signal at the intersection of N. English Station and Shelbyville Road.
 - d. If proposed KTC multiuse path along Shelbyville Road frontage has not been installed at the time of site construction, the area of the path shall be pregraded per KTC requirements. If path has been installed at the time of site construction, the path will be relocated to accommodate Shelbyville Road improvements per KTC requirements.
21. The applicant shall contribute a proportionate share, not to exceed \$10,000, to the cost of the installation of a traffic signal at the intersection of N. English Station Road and Aiken Road (N). This contribution shall be made at the request of Metro Public Works at such time as Metro Public Works is prepared to install this signal.
22. Once the site is cleared, it must be seeded with grass and kept free from overgrowth (weeds or grass over one foot high) and secured, as best is possible, from dumping. In any event the site must be kept in compliance with City of Middletown Ordinances #15, Series 1984; #5, Series 1987, #8, Series 1982.
23. The development shall be substantially in accordance with the "Development Design Guidelines & Pattern Book," as presented at the July 16th, 2014 Development Review Committee meeting.
24. An irrevocable access easement required to the Louisville Water Company site adjacent to the proposed development is required to be submitted to staff and legal counsel for the Planning Commission for final approval prior to building permits.

5. Proposed General Plan and Detailed Plan Binding Elements

General Plan Binding Element Amendment:

3. Use of the subject site shall be limited to office, retail, restaurants, bank and hotel, and other uses permitted in the C-1 district **except for the C-2 use of a lot for tire/auto care center**. There shall be no other use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's

policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.

Detailed District Development Plan:

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. 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.
3. 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.
4. 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.
5. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 29th, 2015 Planning Commission public hearing.