

# Planning Commission Staff Report

June 29, 2017



<b>Case No:</b>	<b>17zone1011</b>
<b>Request:</b>	<b>Change in zoning from R-4 to R-6, Variance, and Preliminary Subdivision Plan</b>
<b>Project Name:</b>	<b>Storypoint</b>
<b>Location:</b>	<b>12923 &amp; 13309 Urton Lane</b>
<b>Owner:</b>	<b>Ochsner Family LLC</b>
<b>Applicant:</b>	<b>CSIG Development Company LLC</b>
<b>Representative:</b>	<b>Milestone Design Group; Dinsmore &amp; Shohl</b>
<b>Jurisdiction:</b>	<b>City of Middletown</b>
<b>Council District:</b>	<b>19-Julie Denton</b>
<b>Case Manager:</b>	<b>Julia Williams, RLA, AICP, Planning Supervisor</b>

### REQUEST

- Change in zoning from R-4 to R-6
- Variance to permit a building height of 51' instead of the required 35' (16' Variance)
- District Development plan/Preliminary subdivision plan

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposal is for 42 assisted living units and 120 senior dwelling units on approximately 11.81 acres in the City of Middletown. The building is proposed to be 3 stories with a 99,291 sf footprint. The site is 26% covered in tree canopy where none of those trees are indicated to be preserved but new trees will be planted to meet the requirements.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b><i>Subject Property</i></b>			
<b>Existing</b>	Vacant	R-4	Campus
<b>Proposed</b>	Multi-Family, Assisted Living	R-6	Campus
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Multi-Family Residential	R-5A	Campus
<b>South</b>	Vacant	R-4	Campus
<b>East</b>	Vacant	R-4	Campus
<b>West</b>	Vacant	R-4	Campus

### PREVIOUS CASES ON SITE

None found.

### INTERESTED PARTY COMMENTS

None received.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

### 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 Campus Form District

Campus form districts typically contain a mixture of uses that are clustered for a single or predominant function, often of regional importance, such as a university, a hospital complex or an office development for corporate headquarters. A mixture of uses is encouraged and may include residential (e.g., student housing) or commercial, but the uses primarily should serve the people whom work or live on the Campus. The form should be compact and walkable, with multiple buildings, central gathering areas, extensive open space, internal shared parking, private walkways and roadways, and shared utilities and signage. Some Campus form districts may need significant buffering from abutting uses. Campuses may include entry roads as part of an internal system of interconnected streets.

The proposal is in the vicinity of a mixture of uses along Shelbyville Road. Office, commercial, and recreational uses are located north of the site at the intersection of Meridian Hills and Shelbyville Road. Proposed sidewalks will connect the proposal to the existing uses along Shelbyville Road and in the vicinity of the site. The proposal is compact because the building is located in one central area of the site. The parking is external to the building and surrounds the building. There are central and external open spaces. 1 building is proposed. Since there is vacant land located east, west, and south of the site there will be more opportunities in the future for walkability and connectivity. The proposal indicates a ROW extension of Meridian Hills Drive to provide access to the site. Interior drive lanes are also provided for vehicle access to the building and parking. The proposal would be the second residential use within the Campus form district in this area but not directly connected to an activity center that would provide any services.

The proposal does not share an entrance or have cross access to the multi-family site to the north. Cross connectivity is not proposed to the vacant property around the site as well.

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

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

From 5.3.1.C.2 to allow the proposed building to be 51' instead of the required 35' maximum building height

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

STAFF: The requested variance will not adversely affect public health safety or welfare since the buildings are located away from the closest residential development which is also 3 stories tall.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity since the 3 story structure is located mainly interior to the site and adjacent to another multi-family development with 3 story tall buildings.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public since the 3 story structure is located mainly interior to the site and adjacent to another multi-family development with 3 story tall buildings.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations since the 3 story structure is located mainly interior to the site and adjacent to another multi-family development with 3 story tall buildings.

### ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the 3 story structure is located mainly interior to the site and adjacent to another multi-family development with 3 story tall buildings.

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

STAFF: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the 3 story structure is located mainly interior to the site and adjacent to another multi-family development with 3 story tall buildings.

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

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

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDP

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

STAFF: There do 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 has approved the preliminary development plan.

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

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

- 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 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.

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

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

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

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

### TECHNICAL REVIEW

- Agency review comments have been addressed.

### STAFF CONCLUSIONS

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

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

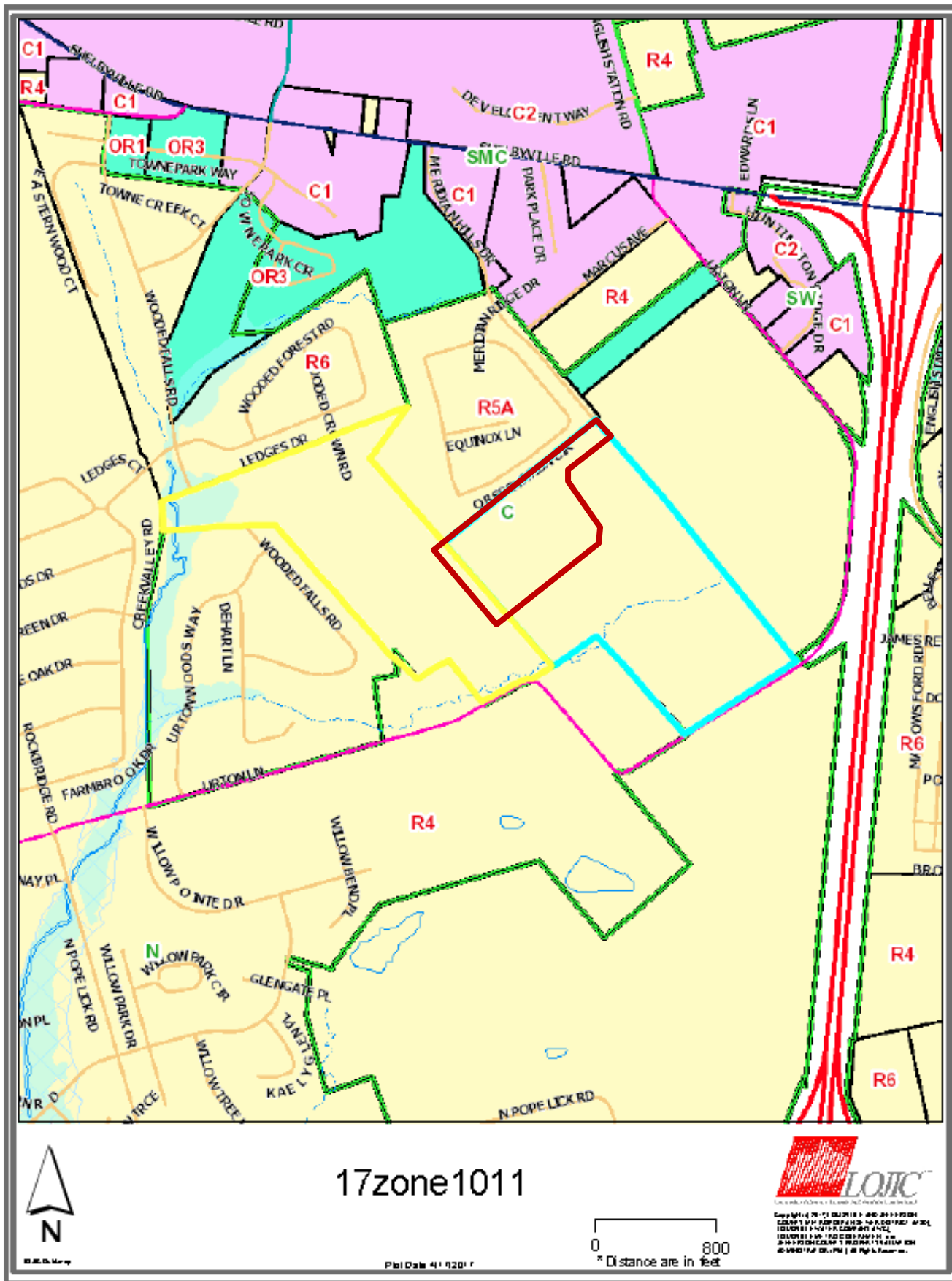
**NOTIFICATION**

Date	Purpose of Notice	Recipients
5/24/17	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 19 Notification of Development Proposals
6/14/17	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 19 Notification of Development Proposals
6/14/17	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

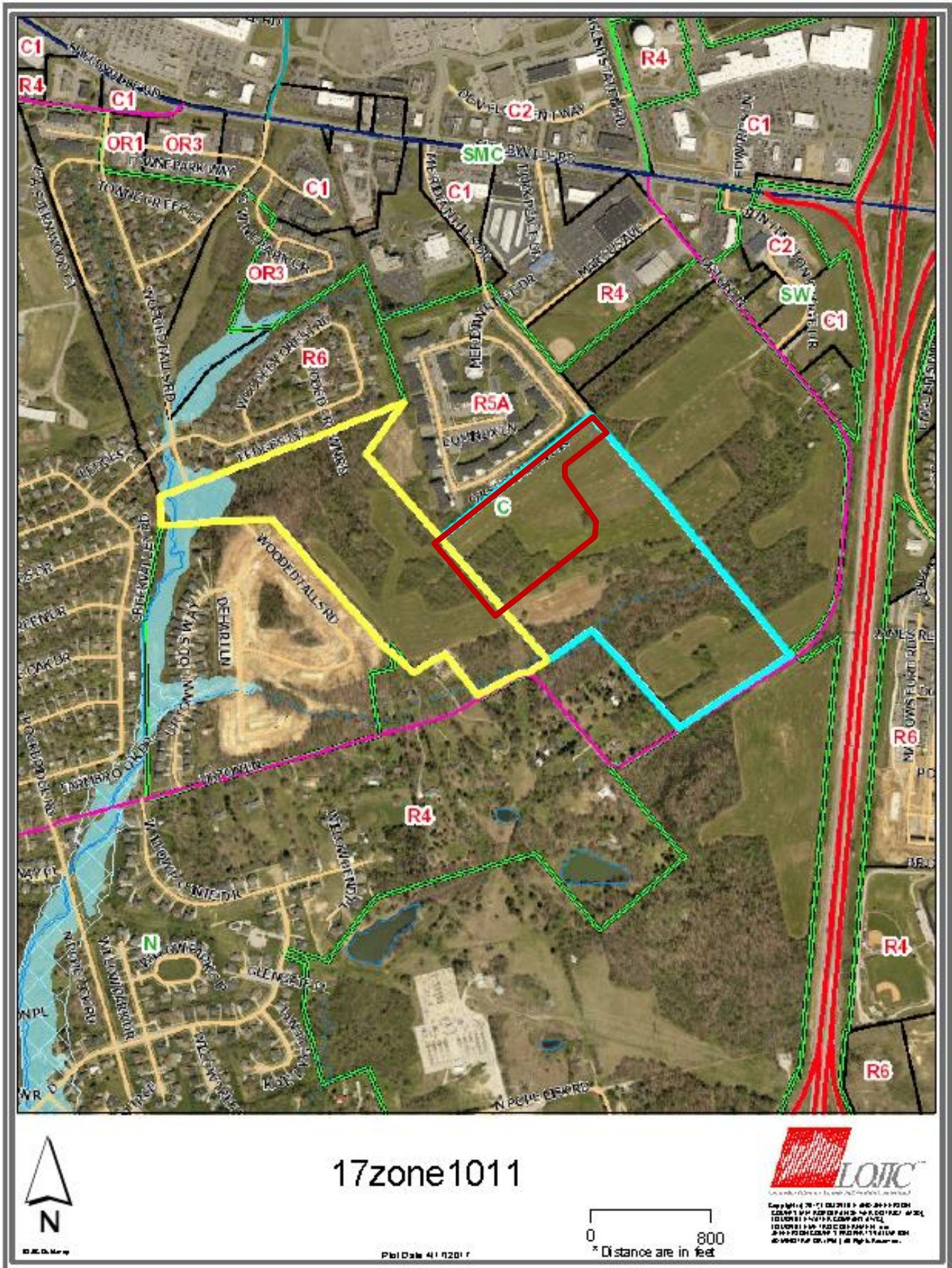
1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Proposed Binding Elements

1. **Zoning Map**





2. Aerial Photograph



**3. Cornerstone 2020 Staff Checklist**

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

**Campus: 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.11: The proposal integrates into a mixture of uses, including residential or commercial, that are designed to support those who live in the Campus.	✓	The proposal is in the vicinity of a mixture of uses along Shelbyville Road. Office, commercial, and recreational uses are located north of the site at the intersection of Meridian Hills and Shelbyville Road. Proposed sidewalks will connect the proposal to the existing uses along Shelbyville Road and in the vicinity of the site.
2	Community Form/Land Use Guideline 1: Community Form	B.11: The proposal is compact and walkable, and includes multiple buildings, central gathering areas, extensive open space, internal shared parking, private walkways and roads, and shared utilities and signs.	✓	The proposal is compact because the building is located in one central area of the site. Proposed sidewalks will connect the proposal to the existing uses along Shelbyville Road and in the vicinity of the site. The parking is external to the building and surrounds the building. There are central and external open spaces. 1 building is proposed. Since there is vacant land located east, west, and south of the site there will be more opportunities in the future for walkability and connectivity.
3	Community Form/Land Use Guideline 1: Community Form	B.11: The proposal includes a system of interconnected streets.	✓	The proposal indicates a ROW extension of Meridian Hills Drive to provide access to the site. Interior driveways are also provided for vehicle access to the building and parking. There is no connection to the adjacent multi-family residential to the north.
4	Community Form/Land Use Guideline 2: Centers	A.1. Locate activity centers within the Campus Form District.	✓	The proposal would be the second residential use within the Campus form district in this area but not directly connected to an activity center that would provide any services. Proposed sidewalks will connect the proposal to the existing uses along Shelbyville Road and in the vicinity of the site which provides an adjacent activity center.



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
5	Community Form/Land Use Guideline 2: Centers	A.2: Develop non-residential and mixed uses only in designated activity centers except (a) where an existing center proposed to expand in a manner that is compatible with adjacent uses and in keeping with form district standards, (b) when a proposal is comparable in use, intensity, size and design to a designated center, (c) where a proposed use requires a particular location or does not fit well into a compact center, (d) where a commercial use mainly serves residents of a new planned or proposed development and is similar in character and intensity to the residential development, or (e) in older or redeveloping areas where the non-residential use is compatible with the surroundings and does not create a nuisance.	NA	The proposal is for a residential use.
6	Community Form/Land Use Guideline 2: Centers	A.4: Encourage a more compact development pattern that results in an efficient use of land and cost-effective infrastructure.	✓	The proposal expands high density zoning further south of an existing commercial corridor that provides services and multi-modal transportation. Utilities and infrastructure will expand to the vacant portions of land in this area which would make the proposed infrastructure efficient.
7	Community Form/Land Use Guideline 2: Centers	A.5: Encourage a mix of compatible uses to reduce traffic by supporting combined trips, allow alternative modes of transportation and encourage vitality and sense of place.	✓	Proposed sidewalks on the site will encourage pedestrian activity and create more of a sense of place. The site is well connected via sidewalks and roadways to the activity center along Shelbyville Road.
8	Community Form/Land Use Guideline 2: Centers	A.6: Encourage residential uses in centers above retail and other mixed-use multi-story retail buildings.	✓	The proposal is not located in a center nor is it involved in mixed use but is located a walkable distance away from the existing activity center along Shelbyville Road.
9	Community Form/Land Use Guideline 2: Centers	A.7: Encourage new developments and rehabilitation of buildings to provide residential uses alone or in combination with retail and office uses.	✓	The proposal is for new development for multi-family residential.
10	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 not for commercial.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
11	Community Form/Land Use Guideline 2: Centers	A.12: Design large developments to be compact, multi-purpose centers organized around a central feature such as a public square, plaza or landscape element.	✓	The development is organized with surrounding open space.
12	Community Form/Land Use Guideline 2: Centers	A.13: Encourage sharing of entrance and parking facilities to reduce curb cuts and surface parking.	-	The proposal does not share and entrance or have cross access to the multi-family site to the north. Cross connectivity is not proposed to the vacant property around the site as well.
13	Community Form/Land Use Guideline 2: Centers	A.14: Design and locate utility easements to provide access for maintenance and to provide services in common for adjacent developments.	✓	Utility easements are provided and would allow for extensions to adjacent developments.
14	Community Form/Land Use Guideline 2: Centers	A.15: Encourage parking design and layout to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations.	✓	The parking design balances traffic and pedestrian safety because there are minimum interruptions in the sidewalk. A pedestrian can easily navigate from one part of the site to the other without multiple vehicle/pedestrian conflicts.
15	Community Form/Land Use Guideline 2: Centers	A.16: Encourage centers to be designed for easy access by alternative forms of transportation.	✓	The site can be accessed by alternate forms of transportation. Transit, while not directly available is located a short distance away along Shelbyville Road.
16	Community Form/Land Use Guideline 3: Compatibility	A.1: The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development.	✓	The proposed R-6 zoning district constitutes an increase in density, which will generally be compatible with the scale and site design of nearby existing residential developments that are of the same or higher density.
17	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility. (Only for a new development in a residential infill context, or if consideration of building materials used in the proposal is specifically required by the Land Development Code.)	✓	The building materials are similar to what is found in the area.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
18	Community Form/Land Use Guideline 3: Compatibility	A.3: The proposal is compatible with adjacent residential areas, and if it introduces a new type of density, the proposal is designed to be compatible with surrounding land uses through the use of techniques to mitigate nuisances and provide appropriate transitions between land uses. Examples of appropriate mitigation include vegetative buffers, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences.	✓	Required buffers and open space are being provided.
19	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Transportation Planning has not indicated that traffic will be an issue.
20	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Lighting will meet LDC requirements.
21	Community Form/Land Use Guideline 3: Compatibility	A.10: The proposal includes a variety of housing types, including, but not limited to, single family detached, single family attached, multi-family, zero lot line, average lot, cluster and accessory residential structures, that reflect the form district pattern.	✓	The proposal is for multi-family which sits in between multi-family residential and vacant land. Multi-family in this area would contribute to having a variety of housing types available in the area.
22	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	✓	The proposal is for high density zoning that is located less than a ½ mile from Shelbyville Road which is a transit corridor and the SMC activity corridor.
23	Community Form/Land Use Guideline 3: Compatibility	A.13: The proposal creates housing for the elderly or persons with disabilities, which is located close to shopping, transit routes, and medical facilities (if possible).	✓	R-6 permits assisted living and senior housing which the applicant is proposing.
24	Community Form/Land Use Guideline 3: Compatibility	A.14/15: The proposal creates appropriate/inclusive housing that is compatible with site and building design of nearby housing.	✓	Whether or not the housing is inclusive has not been identified on the site. The building materials are similar to what is found in the area.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
25	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	✓	Required buffers and open space are being provided.
26	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	✓	Required buffers and open space are being provided.
27	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	Setbacks, lot dimensions and building heights of will be compatible with nearby developments.
28	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	✓	Open space requirements of the Land Development Code are provided on the site to meet the needs of the community.
29	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Campus Form District.	✓	Open space requirements of the Land Development Code are provided on the site to meet the needs of the community.
30	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	There are no natural features on the site that would be adversely affected by development of the property.
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.	✓	There are no natural features on the site that would be adversely affected by development of the property.

#	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.	✓	The site does not have any existing structures on it nor has Historic Preservation indicated that there are resources on the site.
33	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	✓	The roadway leading up to the site is proposed to be dedicated right of way and stubs to the vacant property to the south.
34	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	✓	The roadway leading up to the site is proposed to be dedicated right of way and stubs to the vacant property to the south. The roadways throughout the site are driveways through a parking lot.
35	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	✓	Additional ROW will be dedicated. Walkway facilities are provided from the site to the adjacent sidewalk system in the ROW.
36	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	✓	The roadway leading up to the site is proposed to be dedicated right of way and stubs to the vacant property to the south.
37	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	Access to the site is via a public ROW. Access to the site will not be a nuisance to the adjacent non-residential uses.
38	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	✓	The parking area within the development is connected by a driveway to a roadway that will be dedicated ROW which leads to Shelbyville Road. This hierarchy is appropriate.



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
39	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	-	Pedestrian connectivity to the proposed sidewalk in the ROW is being provided. Connections to adjacent properties have not been provided to encourage vehicle or pedestrian cross access
40	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	MSD has preliminarily approved the plans.
41	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	✓	The proposal provides green areas and open space.
42	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	Existing or proposed utilities will serve the site.
43	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	The site has existing access to an adequate supply of potable water and water for fire-fighting purposes.
44	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The health department has no issues with the proposal.

#### **4. Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - 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 major subdivision plat creating the roadway as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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 June 29, 2017 Planning Commission meeting.