

Louisville Metro Planning Commission
October 15, 2015



Docket No. 15ZONE1030

Proposed change in zoning from R-4 to R-6, Detailed District Development Plan and Waivers to allow an apartment community located at 12202, 12204, 12206 and 12212 Aiken Rd.

ECHELON

ATTORNEYS: BARDENWERPER TALBOTT & ROBERTS, PLLC

LAND PLANNERS, LANDSCAPE ARCHITECTS & ENGINEERS: MINDEL SCOTT & ASSOCIATES

TRAFFIC ENGINEERS: DIANE B. ZIMMERMAN TRAFFIC ENGINEERING, LLC

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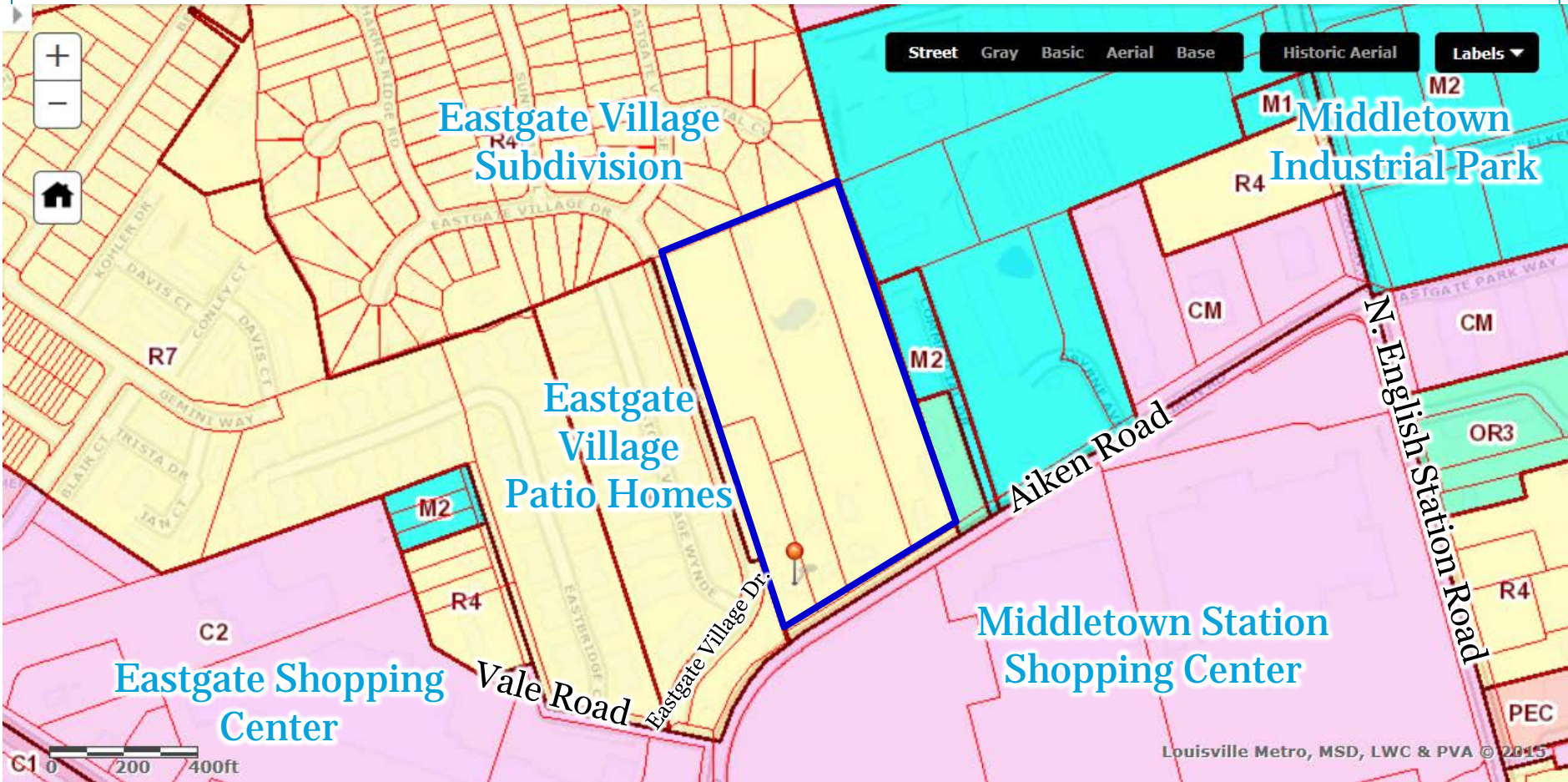


1. **LOJIC Zoning Map**
2. **Aerial photographs of the site and surrounding area**
3. **Ground level photographs of the site and surrounding area**
4. **Neighborhood Meeting notice list map, letter to neighbors inviting them the meeting and summary of meeting**
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9. **Executed Agreement between applicant/developer and the four adjoining neighborhood and condominium organizations**



Tab 1

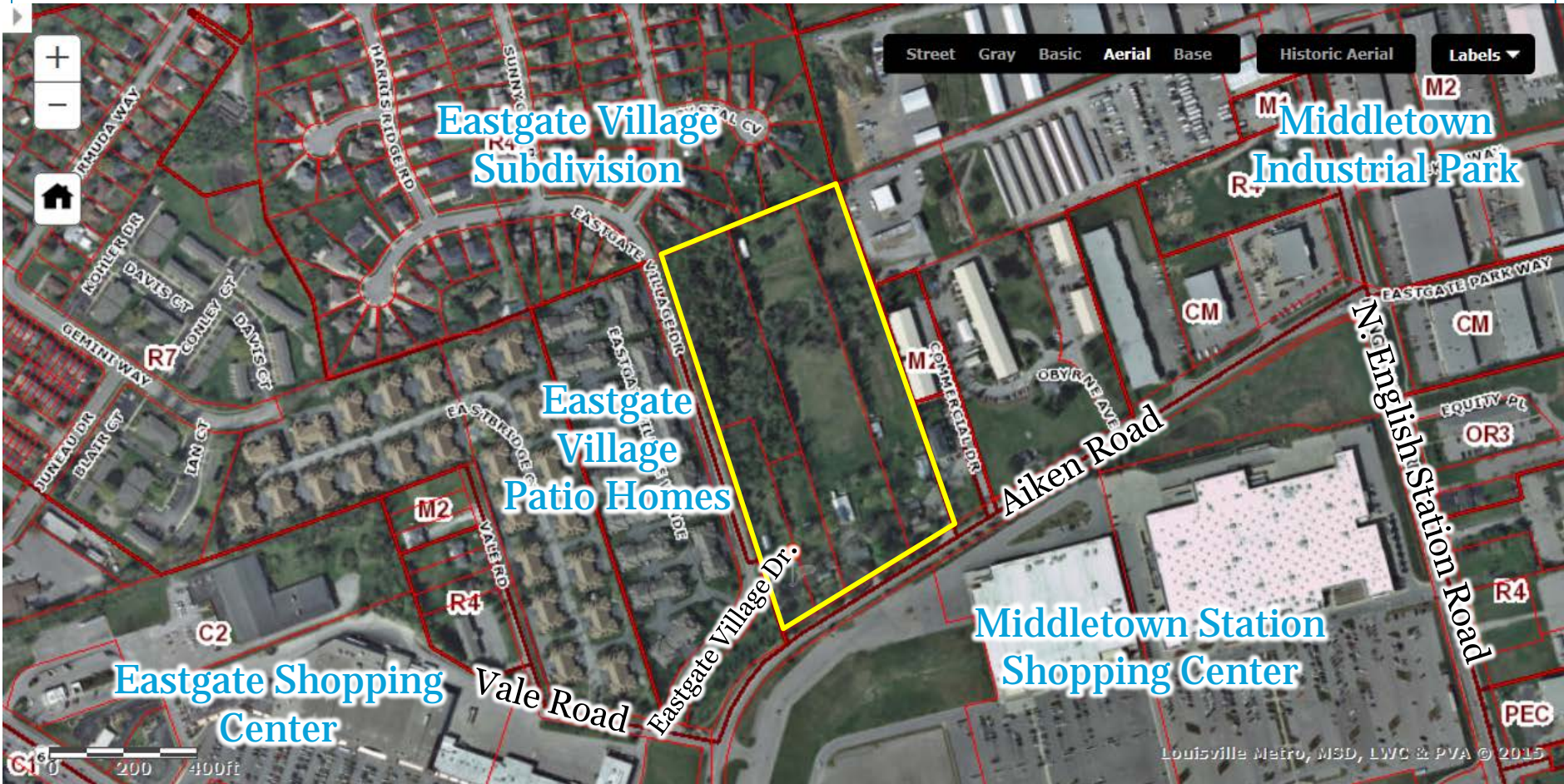
LOJIC Zoning Map

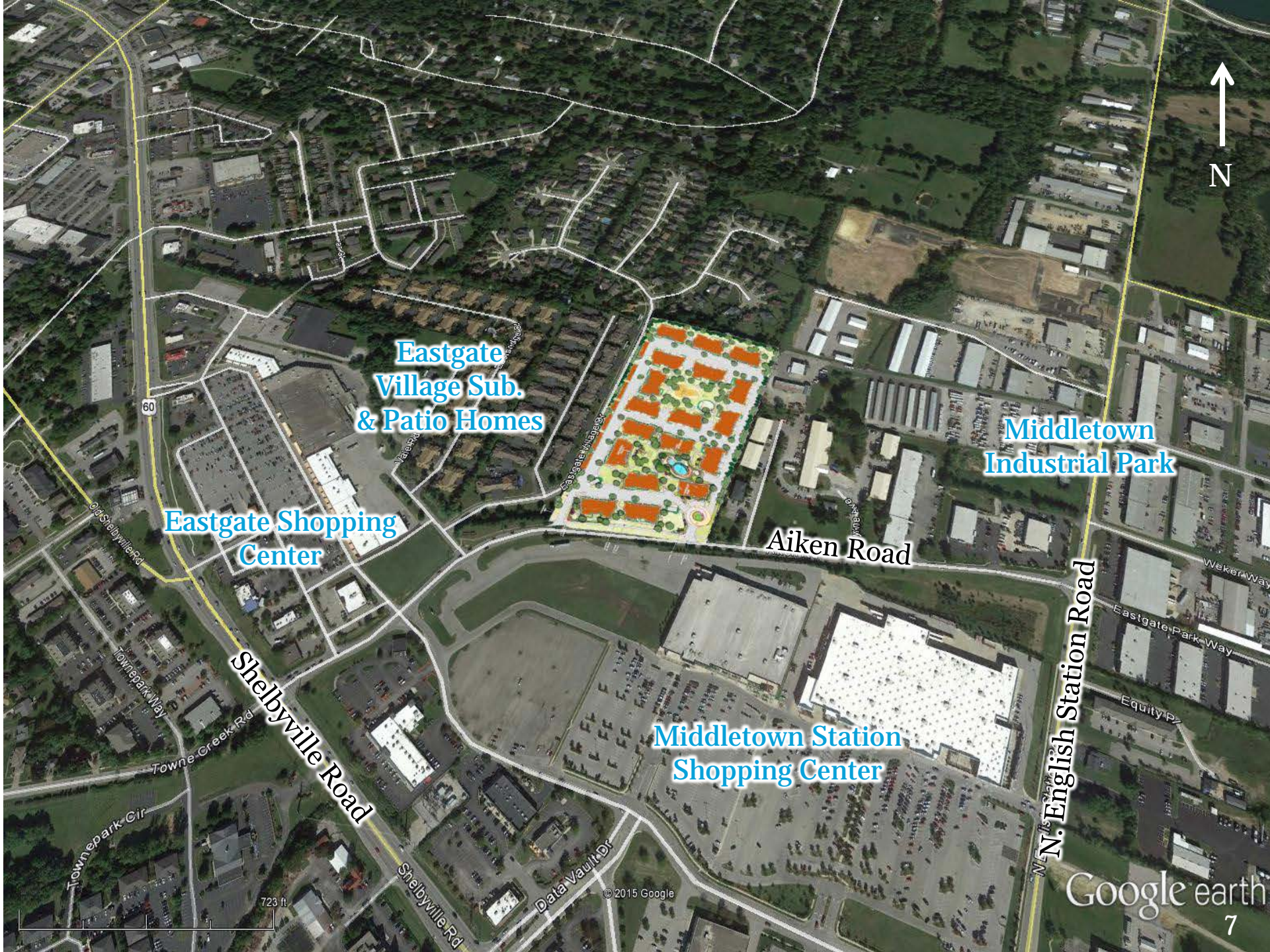




Tab 2

**Aerial photograph of the site and
surrounding area**





Eastgate
Village Sub.
& Patio Homes

Middletown
Industrial Park

Eastgate Shopping
Center

Aiken Road

Middletown Station
Shopping Center

Shelbyville Road

N. English Station Road

60

723 ft

© 2015 Google

Google earth



Tab 3

Ground level photographs of the site
and surrounding area

Entrance to Canterbury Place Condos and Eastgate Village, just southwest of the site.



Entrance to Canterbury Place Condos and Eastgate Village, just southwest of the site.



Looking east down Aiken Road. Site is to the left and Middletown Station Shopping Center is to the right.



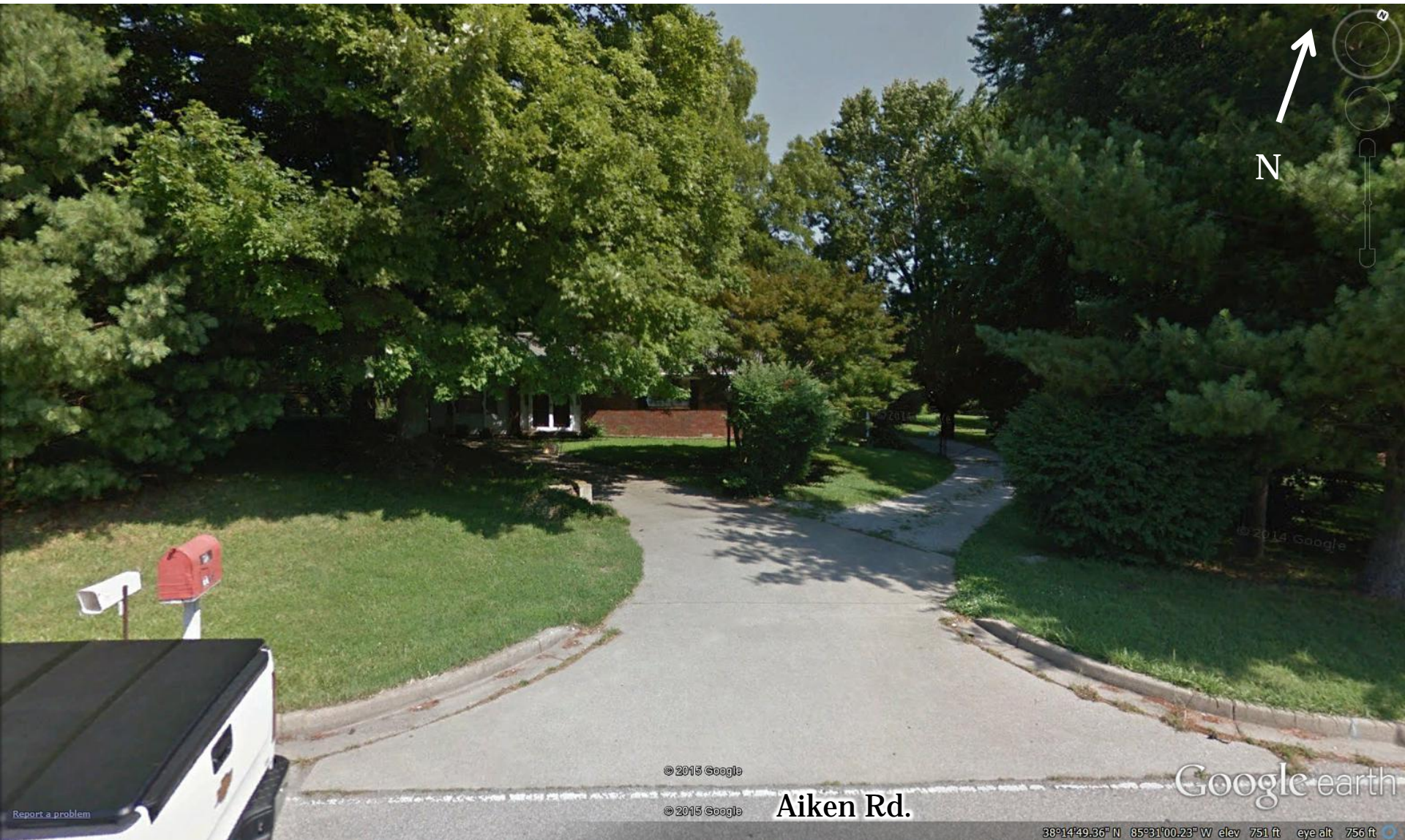
Existing house on site at 12202 Aiken Road



Existing house on site at 12204 Aiken Road



Existing house on site at 12206 Aiken Road



Existing house on site at 12212 Aiken Road



Aiken Rd.

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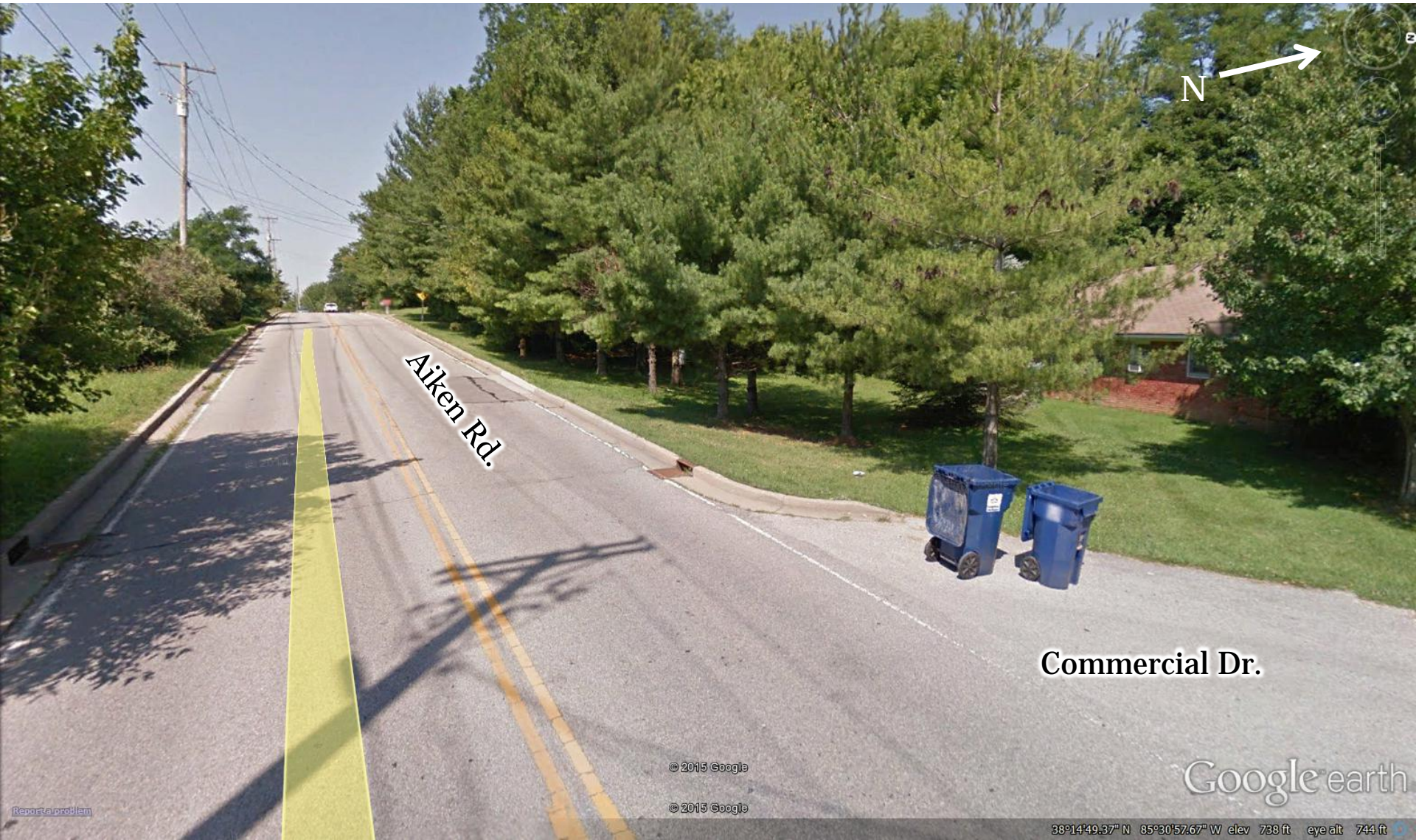
Google earth

38°14'49.83" N 85°30'57.56" W elev 737 ft eye alt 744 ft

Looking northeast down Commercial Dr. which is east of the site.



Looking west down Aiken Road at intersection of Aiken and Commercial Dr.

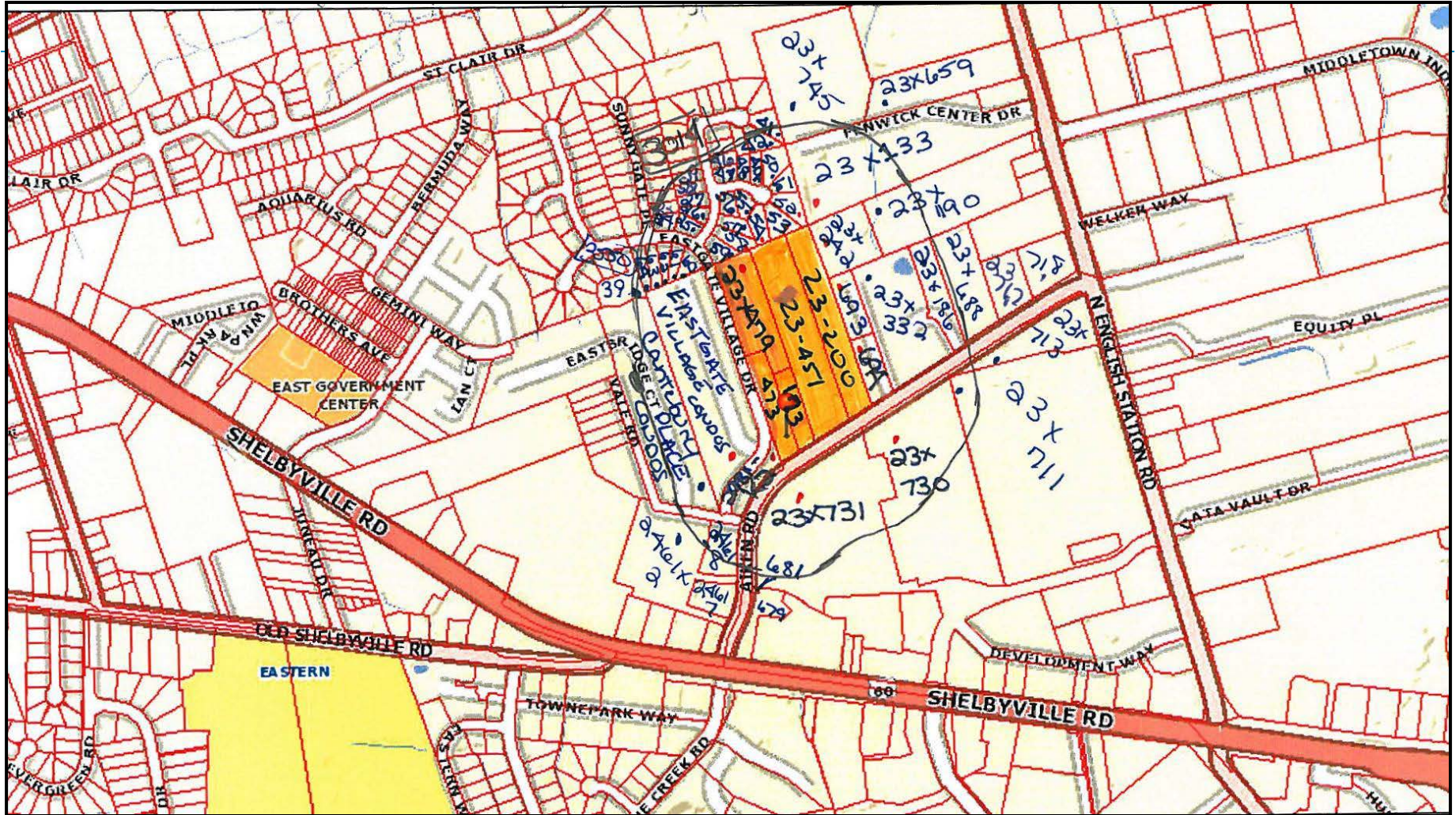




Tab 4

Neighborhood Meeting notice list map,
letter to neighbors inviting them the
meeting and summary of meeting

Neighborhood Meeting notice list map



THE GARRETT COMPANIES

c/o Matthew Griffin
435 E Main Street, Suite 220
Greenwood, Indiana 46143

June 10, 2015

Dear Neighbor,

RE: Proposed change in zoning from R-4 to R-6 and detailed district development plan to allow an apartment community located on the north side of Aiken Road, just east of Eastgate Village Drive on approximately 13.20 +/- acres at 12202, 12204, 12206 and 12212 Aiken Rd.

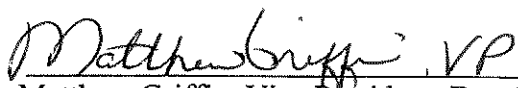
We are writing to invite you to a meeting we have scheduled to present neighbors with our rezoning and detailed district development plan located as above.

Accordingly, we have filed a plan for pre-application review with the Division of Planning and Design Services (DPDS) that has been assigned case number 15ZONE1030, that we would like to show and explain to neighbors so that we might hear what thoughts, issues and perhaps concerns you may have. In that regard, a meeting will be held on **Thursday, June 25th at 7:00 p.m. at the Middletown Fire Station located at 108 Urton Lane.**

If you cannot attend the meeting but have questions or concerns, please call me, my attorney Bill Bardenwerper at 426-6688, or my land planning and engineering firm representatives David Mindel or Kent Gootee at 485-1508.

We look forward to seeing you.

Sincerely,



Matthew Griffin, Vice President, Development Operations

cc: Hon. Byron Chapman, Mayor, City of Middletown
Hon. Julie Denton, Councilman District 19
Bill Bardenwerper, attorney with Bardenwerper, Talbott & Roberts, PLLC
David Mindel or Kent Gootee, land planners with Mindel, Scott & Associates, Inc.
David Wagner, Case Manager with Division of Planning & Design Services

Neighborhood Meeting Summary The Garrett Companies/Aiken Road

The neighborhood meeting was called to order by Bill Bardenwerper at the Middletown Fire Station on Urton Lane on Thursday, June 25 at 7 PM. Also attending were Kent Gootee with Mindel-Scott and Associates and Matt Griffin with The Garrett Companies, the proposed developer of the four properties it has under contract to purchase contingent on rezoning. Mr. Bardenwerper showed a PowerPoint presentation which included aerial photographs of the area, close up and farther out, the site plan superimposed on aerial views, LOJIC zoning maps, and plus elevation renderings and photographs of the proposed clubhouse, two-story apartment buildings and detached garages.

Mr. Bardenwerper and Mr. Gootee explained how drainage will be collected within catch basins in the proposed parking lots, then routed to the proposed one-acre detention basins, then released slowly at a rate not exceeding the current rate of runoff, and finally directed into a defined drainage channel. At least one nearby business owner discussed an interest in meeting with Mr. Gootee on site to discuss his current drainage problems.

Residents within the single-family subdivision to the north, especially those adjoining the subject properties, expressed concerns about the apartment use, proximity of buildings and trees to be removed from the subject property to make way for its development. Others present expressed the view that people who desire that the subject properties remain as it should purchase the properties, in which case they can develop them less intensively or not at all. Mr. Bardenwerper and Mr. Gootee explained that no waivers or variances are being requested, that the LDC-required setbacks and landscape buffers will be provided and that perimeter trees to the north and west will be preserved where they can be, as Tree Canopy Regulation provisions incentivize tree protection over tree planting.

Traffic and access were also issues of considerable discussion. Residents within the adjoining patio home community to the west and within the adjoining single-family subdivision to the north both made it known that they want no access to the public street to the west to and from this development. Mr. Bardenwerper and Mr. Gootee explained that that connection is highly unlikely and that the only access, apart from the separate fire gate, will be along Aiken Road. They said that a center left-turn lane will likely be required and that possible other road improvements, perhaps an improved right-turn lane at Aiken Road and Shelbyville Road, and maybe signal timing changes, will be determined in the Jacobs Engineering Group traffic study.

Mr. Griffin explained the building designs and materials, especially how some buildings will contain garages that will provide direct access to some apartment units. He and Mr. Bardenwerper explained lighting and how the LDC protects everyone from light intrusion. He also explained the company's interest in this site because of its proximity to shopping, workplaces and a good transportation network.

Some people complained that, despite the large number of people in attendance and the multiple tiers of adjoining property owners who were invited, everyone from Eastpoint Village and the adjoining patio homes, and perhaps property owners even further removed, should have been invited to this meeting. Mr. Bardenwerper said that he, Mr. Gootee and Mr. Griffin would be happy to attend future neighbor meetings that anyone wants to set up.

Mr. Bardenwerper explained the process and his current estimates of dates for public review.

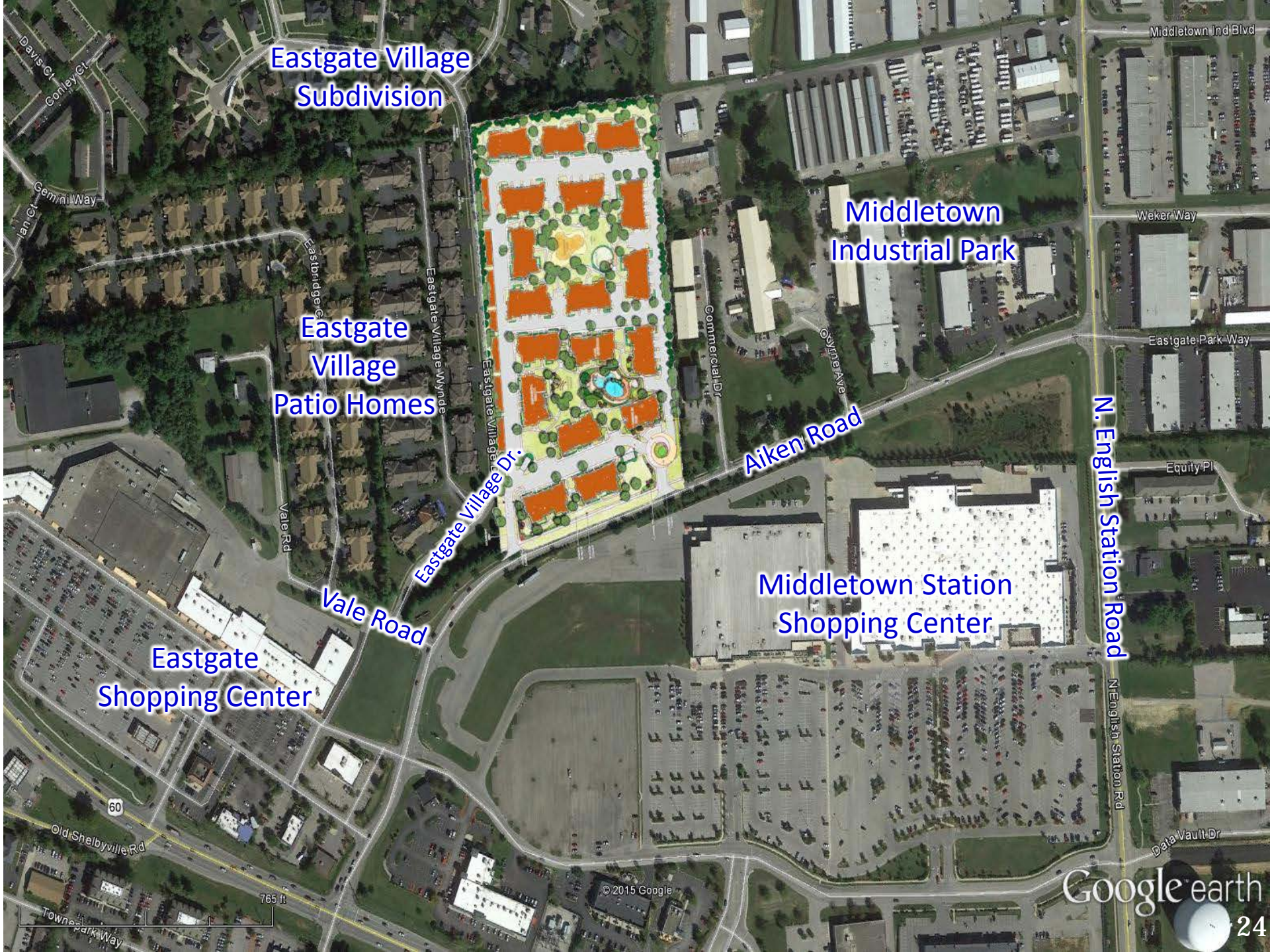
Respectfully submitted,

William B. Bardenwerper
Bardenwerper, Talbott & Roberts, PLLC
Building Industry Association of Greater Louisville Building
1000 N. Hurstbourne Parkway, 2nd Floor
Louisville, KY 40223
(502) 426-6688



Tab 5

Development Plan and Landscape Plan



Eastgate Village
Subdivision

Eastgate
Village
Patio Homes

Eastgate
Shopping Center

Middletown
Industrial Park

Middletown Station
Shopping Center

Eastgate Village Dr.

Aiken Road

N. English Station Road

Gemini Way

Eastbridge Ct

Vale Rd

Vale Road

Eastgate Village Wynde

Eastgate Village

Commercial Dr

Spartan Ave

Middletown Ind Blvd

Weker Way

Eastgate Park Way

Equity Pl

N. English Station Rd

Data Vault Dr

Google earth

Eastgate Village
Subdivision

Eastgate
Village
Patio Homes

Middletown Industrial
Park

Middletown Station
Shopping Center



Eastbridge Ct

Eastgate Village Wynde

Eastgate Village Dr

Commercial Dr

Coastline Ave

Aiken Road

Vale Rd

Eastgate Village Dr

Vale Road

© 2015 Google

Google earth





Tab 6

Building Elevation

Architectural elevation renderings of proposed clubhouse



Architectural elevation renderings of proposed apartment buildings



FRONT ELEVATION



LEFT ELEVATION



SW 7506



SW 7710



STONE



RIGHT ELEVATION



REAR ELEVATION

Architectural elevation renderings of proposed apartment buildings



FRONT ELEVATION



LEFT ELEVATION



RIGHT ELEVATION



REAR ELEVATION



SW 7506



SW 7710



STONE

Architectural elevation renderings of proposed apartment buildings



FRONT ELEVATION



LEFT ELEVATION



RIGHT ELEVATION



REAR ELEVATION

Architectural elevation renderings of proposed apartment buildings



FRONT ELEVATION



LEFT ELEVATION



RIGHT ELEVATION



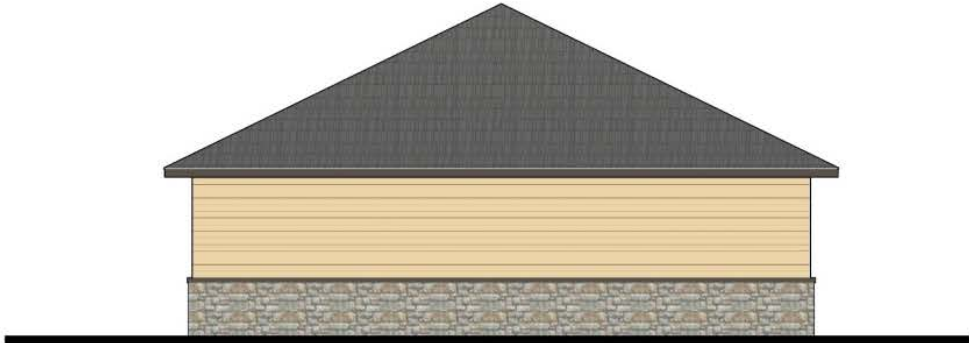
REAR ELEVATION



Architectural elevation renderings of proposed detached garages



GARAGE ELEVATION - FRONT



GARAGE ELEVATION - SIDE



Photographs of prototypical design as at Hurstbourne Estates apartments at Hurstbourne Parkway & Dorsey Lane



Photographs of prototypical design as at Hurstbourne Estates apartments at Hurstbourne Parkway & Dorsey Lane



Photographs of prototypical design as at Hurstbourne Estates apartments at Hurstbourne Parkway & Dorsey Lane



Photographs of prototypical clubhouse design as at Hurstbourne Estates apartments at Hurstbourne Parkway & Dorsey Lane



Prototypical clubhouse interior



Prototypical clubhouse interior



Prototypical clubhouse interior, workout room



Prototypical apartment unit interior



Tab 7

Statement of Compliance filed with the original zone change application with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan and Waiver Justifications

BARDENWERPER, TALBOTT & ROBERTS, PLLC

Attorneys at law

BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG • 1000 N. HURSTBOURNE PARKWAY • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
(502) 426-6688 • WWW.BARDLAW.NET

STATEMENT OF COMPLIANCE WITH THE APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

<u>Applicant:</u>	The Garrett Companies
<u>Owner:</u>	D & J Rental, Inc.; Gary & Sharrin Dewitt; Charles & Beverly Servino; Gary Bozarth
<u>Location:</u>	12202, 12204, 12206, 12212 Aiken Road
<u>Proposed Use:</u>	Multi-family residential community
<u>Engineers, Land Planners and Landscape Architects:</u>	Mindel Scott & Associates
<u>Requests:</u>	Change in Zoning from R-4 to R-6

GUIDELINE - 1 COMMUNITY FORM

The Garrett Company (“Garrett”) proposes an apartment community consisting of 2-story buildings with a total of 210 units on 13.20 +/- acres along the north side of Aiken Road behind the Middletown Station shopping center.

The subject property lies within the Neighborhood Form District and is located just northeast of the intersection of Shelbyville and Aiken Road and just northwest of the intersection of Aiken Road and N. English Station Road. The site’s location provides opportunities for this anticipated community of residents to gain quick and easy access to many shopping and dining opportunities and services in the bustling community of Middletown to workplace job opportunities along N. English Station Road and Hurstbourne Parkway and to US 60 and I-265 and its use of access to downtown and other office centers. This proposal will provide this area with new, attractive housing choices for residents who desire to live in a rental community. Other multi-family zoning and serving commercial land uses in close proximity to the subject property include two adjoining patio home communities plus Middletown Commons, Middletown Station and Eastgate Shopping Centers.

Garrett proposes an apartment community, of all 2-story buildings, some with internal and some with detached garages. Gross density will be on the low side of the high density range. Buildings will be constructed of attractive durable building materials (stone and “hardy plank” lap siding) and will feature high end architectural details.

Perimeter setbacks and landscape buffer areas are provided along all property lines as required by the Land Development Code (LDC), which will screen and buffer resident activities with existing tree masses or new landscaping from and as to adjoining property owners.

GUIDELINE – 2 CENTERS

The proposed apartment community conforms with the overall Intents of and specifically with Policies 1, 4, 5, 7, 11, 13, 14 and 15 of Guideline 2 of the for all the reasons listed above and because it will make efficient use of available property that lies within the Neighborhood Form District and is located in an extremely popular, very robust small city where residents currently seek new housing options that have easy access to the Shelbyville Road commercial center and such nearby Workplace Areas as along North English Station Road and Hurstbourne Parkway. Future residents will also support the businesses and services in nearby activity centers east and these also nearby west of the Snyder Freeway along Shelbyville Road. Parking is compact and shared, and walking and biking are convenient. Internal open space focal points are included on the development plan.

GUIDELINE – 3 COMPATIBILITY

The proposed apartment community conforms with the overall Intents of and specifically with Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, and 28 of Guideline 3 for all the reasons described above and because this proposed community is in a density range and design comparable to other nearby apartment communities. Buildings will be a mix of 2 stories in height and constructed with attractive building materials comparable to residential communities in the area, in this case stone and “hardy plank”, following copyrighted “big-house” plans of the Texas architects who “invented” this very single-family residential design for larger multi-family housing. Perimeter landscaping, screening and buffering will be provided and/or retained along all property lines. Buildings are oriented toward internal open spaces, and garages face internal roadway and the adjoining Eastgate Village subdivision street to the west.

Sidewalks are provided where required, and accommodations are made for pedestrian and bicycle transportation as well as the handicapped and elderly. Odors won’t exist as in commercial industrial developments, and air quality concerns related to traffic congestion or delay will be mitigated by the fact that this is a residential development and that internal roads and sidewalks are efficiently organized to control traffic flow and prevent delays. Refuse will be picked up on a regular basis. Lighting will be residential in character and directed down and away from adjoining properties in conformance with LDC regulations. All signage will be in conformance with LDC regulations. No waivers or variances are sought.

GUIDELINES – 4 and 5 OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES

The proposed apartment community conforms with the overall Intents of and specifically with Policies 1, 3, 5, 6 & 7 of Guideline 4 and with the Intents of Guideline 5 for all the reasons described above and because it will feature open space interspersed among the buildings, parking areas and streets. That open space will be available for the passive recreational enjoyment by residents and will serve to provide small seating and other gathering areas and an overall positive appearance for the community. Landscaping will also be provided and/or trees retained along property perimeters, along street frontages and around buildings. Setbacks and buffers along property lines will ensure good transitions between the proposed community and existing land uses. Maintenance of landscaping, natural and open space areas will be performed by the corporate landlord of this rental community. This maintenance arrangement will result in a higher and more consistent level of maintenance of the open spaces than if the property were developed as a single-family subdivision.

GUIDELINE – 6 MARKETPLACE

The proposed apartment community conforms with the overall Intents of and specifically with Policies 1, 2 and 6 of Guideline 6 because, as noted above, future residents will support and be supported by the businesses, services, schools and churches in and around the nearby activity center of the very robust City of Middletown, an increasingly popular place to work, live and play. This proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services. The apartment community, as proposed, will have easy access to Shelbyville Road and I-265 and several other roads in the area, and from there to other Louisville employment and commercial centers.

GUIDELINES – 7 (CIRCULATION), 8 (TRANSPORTATION FACILITY DESIGN), and 9 (BICYCLE, PEDESTRIAN AND TRANSIT)

The proposed apartment community conforms with the overall Intents and applicable Policies of Guidelines 7, 8 and 9 because the proposed Detailed District Development Plan (DDDP) has been designed in conformance with all Metro Public Works and Transportation Planning design policies. Good internal circulation, appropriate access, sight distances, corner clearances and parking are provided. Aiken and Shelbyville Roads have adequate traffic-carrying capacity, which will be demonstrated upon completion, and Metro Transportation’s preliminary approval of, the Jacobs Engineering-commissioned traffic study. A center left-turning lane on Aiken Road, where one permanent access (and one fire gate) will be located, will be provided. Sidewalks will be provided where required.

GUIDELINES – 10, 11 and 12 - FLOODING AND STORMWATER, WATER QUALITY and AIR QUALITY

The proposed apartment community conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 because, all drainage will run to internal catch basins and then to a sufficiently sized detention basin, and from there to an existing drainage channel and in that way will comply with all MSD storm water management requirements. This DDDP must receive the preliminary stamped of approval by MSD prior to docketing for LD&T review. Louisville Water Company will provide water to the site. A soil erosion and sediment control plan will also be implemented to further manage sediment and drainage during construction. MSD water quality regulatory requirements will also be addressed. Air quality is addressed by virtue of the referenced shorter commuting distances explained hereinabove.

GUIDELINE 13 – LANDSCAPE CHARACTER

The proposed apartment community conforms with the overall Intents and applicable Policies of Guideline 13 for all the reasons described above and because landscaping will be provided and/or trees retained around buildings, along the Aiken Road entrance and frontage, along internal streets, and along property perimeters as noted above. Open space is preserved for a positive natural appearance and for passive recreational enjoyment by residents. Tree canopy requirements will be met.

GUIDELINE 14 – INFRASTRUCTURE

The proposed apartment community conforms with the overall Intents and applicable Policies of Guideline 14 because, as noted above, water, sewer, electric, phone and cable service connections are available by nearby connection to ensure a reduced cost for infrastructure.

For all these reasons those set forth in the applicant's detailed Statement of Compliance with the Cornerstone 2020 Comprehensive Plan, and as evidenced by the DDDP and other evidence submitted with this application and to be presented at LD&T and Planning Commission meetings, the proposed community complies with the specific Intents, Policies and Guidelines of Comprehensive Plan.

Respectfully submitted,

William B. Bardenwerper
Bardenwerper Talbott & Roberts, PLLC
1000 N. Hurstbourne Parkway, Second Floor
Louisville, KY 40223

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General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of: Section 6.2 to omit the sidewalk along the Eastgate Village Drive frontage

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the Eastgate Condominium and Eastgate Village subdivision appear prefer to retain the tree buffer along the entrance drive. This applicant is willing to provide the sidewalk if the adjoining Condo association and HOAs prefer the sidewalk instead of the existing landscape buffer.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the applicant is not requesting any other waivers or variances and, as stated above, would prefer not to request this one either but for what it believes is the preference of the adjoining Condo association and HOAs.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the adjoining Condo association and HOAs might end up very upset if the existing landscaped buffer along this road were eliminated in favor of a sidewalk, which would cause this applicant trouble through no fault of its own.

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of: Section 10.2.4, not to provide the LBA along the east property line adjacent to the M-2 and OR zoned properties

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the adjacent property owners constitute office and industrial uses. The intent of these regulations are to protect lower intensity residential properties from higher intensity business properties.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the applicant is not providing no screen and buffer protection for its residents, rather it is providing a different form of screen and buffer – that being in the form of one-story garage buildings with fencing or landscaping along the gaps in order to provide an effective visual and noise screen/buffer.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would be constructing a screen and buffer and otherwise not utilizing an area that can be put to productive use, which would cause it to either add third stories to its buildings which it chose not to do in deference to residential neighbors on the north and west side of the property.



Tab 8

**Proposed findings of fact pertaining to
compliance with the Comprehensive
Plan and Waiver criteria**

BARDENWERPER, TALBOTT & ROBERTS, PLLC

Attorneys at law

BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG • 1000 N. HURSTBOURNE PARKWAY • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
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PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

<u>Applicant:</u>	The Garrett Companies
<u>Owner:</u>	D & J Rental, Inc.; Gary & Sharrin Dewitt; Charles & Beverly Servino; Gary Bozarth
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<u>Proposed Use:</u>	Multi-family residential community
<u>Engineers, Land Planners and Landscape Architects:</u>	Mindel Scott & Associates
<u>Requests:</u>	Change in Zoning from R-4 to R-6

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on October 15, 2015 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

GUIDELINE 1 - COMMUNITY FORM

WHEREAS, the subject property lies within the Neighborhood Form District and is located just northeast of the intersection of Shelbyville and Aiken Road and just northwest of the intersection of Aiken Road and N. English Station Road; the site's location provides opportunities for this anticipated community of residents to gain quick and easy access to many shopping and dining opportunities and services in the bustling community of Middletown to workplace job opportunities along N. English Station Road and Hurstbourne Parkway and to US 60 and I-265 and its use of access to downtown and other office centers; this proposal will provide this area with new, attractive housing choices for residents who desire to live in a rental community; other multi-family zoning and serving commercial land uses in close proximity to the subject property include two adjoining patio home communities plus Middletown Commons, Middletown Station and Eastgate Shopping Centers; and

WHEREAS, Garrett proposes an apartment community, of all 2-story buildings, some with internal and some with detached garages; gross density will be on the low side of the high density range; and buildings will be constructed of attractive durable building materials (brick/stone and "hardy plank" lap siding) and will feature high end architectural details; and

WHEREAS, perimeter setbacks and landscape buffer areas are provided along all property lines as required by the Land Development Code (LDC), which will screen and buffer resident

activities with existing tree masses or new landscaping from and as to adjoining property owners; and

GUIDELINE 2 - CENTERS

WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with Policies 1, 4, 5, 7, 11, 13, 14 and 15 of Guideline 2 of the for all the reasons listed above and because it will make efficient use of available property that lies within the Neighborhood Form District and is located in an extremely popular, very robust small city where residents currently seek new housing options that have easy access to the Shelbyville Road commercial center and such nearby Workplace Areas as along North English Station Road and Hurstbourne Parkway; future residents will also support the businesses and services in nearby activity centers east and these also nearby west of the Snyder Freeway along Shelbyville Road; parking is compact and shared, and walking and biking are convenient; and internal open space focal points are included on the development plan; and

GUIDELINE 3 - COMPATIBILITY

WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, and 28 of Guideline 3 for all the reasons described above and because this proposed community is in a density range and design comparable to other nearby apartment communities; buildings will be a mix of 2 stories in height and constructed with attractive building materials comparable to residential communities in the area, in this case brick or stone and “hardy plank”, following copyrighted “big-house” plans of the Texas architects who “invented” this very single-family residential design for larger multi-family housing; perimeter landscaping, screening and buffering will be provided and/or retained along all property lines; buildings are oriented toward internal open spaces; and garages face internal roadway and the adjoining Eastgate Village subdivision street to the west; and

WHEREAS, sidewalks are provided where required, and accommodations are made for pedestrian and bicycle transportation as well as the handicapped and elderly; odors won’t exist as in commercial or industrial developments, and air quality concerns related to traffic congestion or delay will be mitigated by the fact that this is a residential development and that internal roads and sidewalks are efficiently organized to control traffic flow and prevent delays; refuse will be picked up on a regular basis; lighting will be residential in character and directed down and away from adjoining properties in conformance with LDC regulations; and all signage will be in conformance with LDC regulations; and

WHEREAS, the four adjoining neighborhood organizations and the applicant/developer have reached agreement on certain design changes to the development plan that enhanced compatibility between this apartment community and the adjoining single family and condominium communities; and

GUIDELINES 4 and 5 - OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES

WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with Policies 1, 3, 5, 6 & 7 of Guideline 4 and with the Intents of Guideline 5 for all the reasons described above and because it will feature open space interspersed among the

buildings, parking areas and streets; that open space will be available for the passive recreational enjoyment by residents and will serve to provide small seating and other gathering areas and an overall positive appearance for the community; landscaping will also be provided and/or trees retained along property perimeters, along street frontages and around buildings; setbacks and buffers along property lines will ensure good transitions between the proposed community and existing land uses; maintenance of landscaping, natural and open space areas will be performed by the corporate landlord of this rental community; and this maintenance arrangement will result in a higher and more consistent level of maintenance of the open spaces than if the property were developed as a single-family subdivision; and

GUIDELINE 6 - MARKETPLACE

WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with Policies 1, 2 and 6 of Guideline 6 because, as noted above, future residents will support and be supported by the businesses, services, schools and churches in and around the nearby activity center of the very robust City of Middletown, an increasingly popular place to work, live and play; this proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services; and the apartment community, as proposed, will have easy access to Shelbyville Road and I-265 and several other roads in the area, and from there to other Louisville employment and commercial centers; and

GUIDELINES 7 - (CIRCULATION), 8 (TRANSPORTATION FACILITY DESIGN), and 9 (BICYCLE, PEDESTRIAN AND TRANSIT)

WHEREAS, the proposed apartment community conforms with the overall Intents and applicable Policies of Guidelines 7, 8 and 9 because the proposed Detailed District Development Plan (DDDP) has been designed in conformance with all Metro Public Works and Transportation Planning design policies; good internal circulation, appropriate access, sight distances, corner clearances and parking are provided; Aiken and Shelbyville Roads have adequate traffic-carrying capacity as demonstrated by Metro Transportation's preliminary approval of the Diane Zimmerman, P.E.-commissioned traffic study; and a center left-turning lane on Aiken Road, where one permanent access (and one fire gate) will be located, will be provided; and

GUIDELINES 10, 11 and 12 - FLOODING AND STORMWATER, WATER QUALITY and AIR QUALITY

WHEREAS, the proposed apartment community conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 because, all drainage will run to internal catch basins and then to a sufficiently sized detention basin, and from there to an existing drainage channel and in that way will comply with all MSD storm water management requirements; this DDDP received the preliminary stamped of approval by MSD prior to docketing for LD&T review; Louisville Water Company will provide water to the site; a soil erosion and sediment control plan will also be implemented to further manage sediment and drainage during construction; MSD water quality regulatory requirements will also be addressed; and air quality is addressed by virtue of the referenced shorter commuting distances explained hereinabove; and

GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, the proposed apartment community conforms with the overall Intents and applicable Policies of Guideline 13 for all the reasons described above and because landscaping will be provided and/or trees retained around buildings, along the Aiken Road entrance and frontage, along internal streets, and along property perimeters as noted above; open space is preserved for a positive natural appearance and for passive recreational enjoyment by residents; and tree canopy requirements will be met; and

GUIDELINE 14 – INFRASTRUCTURE

WHEREAS, the proposed apartment community conforms with the overall Intents and applicable Policies of Guideline 14 because, as noted above, water, sewer, electric, phone and cable service connections are available by nearby connection to ensure a reduced cost for infrastructure; and

* * * * *

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby recommends to the City of Middletown that it rezone the subject property from R-4 to R-6.

Waiver Findings of Fact

Waiver of Section 10.2.4, not to provide the LBA along the east property line adjacent to the M-2 and OR zoned properties

WHEREAS, the waiver will not adversely affect adjacent property owners because the adjacent property owners constitute office and industrial uses; and the intent of these regulations are to protect lower intensity residential properties from higher intensity business properties; and

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the applicant will assure some form of screen to visually protect its own residents from the different land use to the east; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would be constructing a screen and buffer and otherwise not utilizing an area that can be put to productive use, which would cause it to either add third stories to its buildings which it chose not to do in deference to residential neighbors on the north and west side of the property;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby approves this Waiver.

Waiver Findings of Fact

Waiver of Section 6.2 to omit the sidewalk along the Eastgate Village Drive frontage.

WHEREAS, the waiver will not adversely affect adjacent property owners because the Eastgate Condominium and Eastgate Village subdivision appear prefer to retain the tree buffer along the entrance drive; and this applicant is willing to provide the sidewalk if the adjoining Condo association and HOAs prefer the sidewalk instead of the existing landscape buffer; and

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the applicant is not requesting any other waivers or variances and, as stated above, would prefer not to request this one either but for what it believes is the preference of the adjoining Condo association and HOAs; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the adjoining Condo association and HOAs would end up very upset if the existing landscaped buffer along this road were eliminated in favor of a sidewalk, which would cause this applicant trouble through no fault of its own;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby approves this Waiver.

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Tab 9

**Executed Agreement between
applicant/developer and the four
adjoining neighborhood and
condominium organizations**

Agreement

This Agreement (the "Agreement") is entered into this 8th day of October, 2015 (the "Effective Date"), by and between The Garrett Companies with a mailing address of 435 E. Main Street, Suite 220, Greenwood, Indiana 46143 ("Developer"); and Eastgate Village Homeowners Association, Inc., with a mailing address c/o Richard V. Hornung, Esq., 6511 Glenridge Park Place, #1, Louisville, Kentucky 40222; Eastgate Village Condominiums Council of Co-Owners, Inc. with a mailing address c/o Kentucky Realty Corp., 3944 Bardstown Rd, Louisville, Kentucky 40218; Eastgate Village Estates Residents Association, Inc. with a mailing address c/o Brian Miller, 621 Harris Ridge Rd., Louisville, Kentucky 40223; and Canterbury Condominiums Council of Co-Owners, Inc. with a mailing address c/o Community Management Associates, LLC, 1795 Alysheba Way, Suite #3103, Lexington, Kentucky 40509 (these four entities together referred to as "Neighborhood Organizations").

RECITALS

- A. Developer has filed an application for R-6 multi-family zoning for 210 units of apartments at property located along Aiken Road to the east and south of the Neighborhood Organizations' properties, and a Planning Commission public hearing has been scheduled for the rezoning and related Detailed District Development Plan ("DDDP") for October 15, 2015. The Planning Commission will make recommendation to the Middletown City Commission ("MCC").
- B. The Neighborhood Organizations met with the Developer's attorney on October 5, 2015 and requested that certain revisions be made to the DDDP, which, if made would result in their endorsement of the rezoning and revised DDDP.
- C. The Developer's attorney thereafter discussed the Neighborhood Organizations' requested changes with Developer and its land planning, landscape architecture and engineering firm, Mindel, Scott & Associates, Inc. ("MSA"). The Developer and MSA immediately set about to make the requested DDDP revisions. Further, an MSA representative met with Neighborhood Organization representatives at the development site on October 6, 2015 to review tree stands and drainage along the north line of the development site that is the subject of the DDDP.

NOW, THEREFORE, in consideration of the recitals above and reliance of the parties hereto upon the below, the parties agree as follows:

1. The DDDP has been revised and shall, upon execution hereof (no later than 3:00 pm on the effective date) be filed substantially in accordance with the attachment hereto with the Division of Planning and Development Services ("DPDS") for Planning Commission consideration at the October 15th public hearing. The revised DDDP accomplishes the following and shall be accompanied, as the Planning Commission deems appropriate, by binding elements assuring the following:
 - a. It moves the main entrance to the right side of the development site facing Aiken Road. This keeps the main entrance as far away as possible from the Aiken Road curve toward Shelbyville Road. The turning lane required by Metro Transportation Planning will be constructed along the Aiken Road frontage of the development site, but probably shortened slightly, more or less beginning at the development site's west property line so as not to

interfere with ingress and egress to and from the Neighborhood Organizations' properties.

- b. The pool and clubhouse are moved to the west from the east, and detached garages are moved from the east to the west, sides of the development site to create greater distance between the 2-story apartment buildings, clubhouse and pool and the Eastgate Village condominium buildings in order to create greater distance and buffer.
 - c. No access shall be provided to and from the development site to Eastgate Village Drive.
 - d. Drainage, detention and storm water management shall be constructed in conformance with the approved revised DDDP, which shall include efforts made by developer and MSA in conjunction with the property owner to the east to pipe, instead of sheet-drain, stormwater running through that property.
 - e. At time of construction plan approval in accordance with the approved revised DDDP, existing trees along the development site's north property line shall be specifically located. MSA and Neighborhood Organizations' representatives shall then meet again to jointly determine which trees that do not conflict with site construction are worthy of preservation. In addition to whatever existing trees along that north line can be saved and in addition to landscaping required by the Metro Land Development Code ("LDC"), a 6-foot high opaque fence, of style and design substantially similar to the stone-look fence at the apartment community at Hurstbourne Parkway and Dorsey Lane, shall be installed by Developer along the development site's north property line at such location as not to conflict with trees that are preserved.
 - f. Except for apartment unit entryway/patio/porch lights, exterior pole lighting shall be directed down and away from adjacent properties in accordance with strict lighting provisions of the LDC.
 - g. The apartment community pool shall be closed between the hours of 11:00 pm and 6:00 am each day.
 - h. If any blasting is required during construction of the development site, a pre-blast survey shall be conducted and paid for by Developer in accordance with blasting provisions of state law. Developer activities shall be bonded to address any property damage.
 - i. Developer, successors and assigns shall maintain its buildings, fences and drives in good condition on an ongoing basis.
2. By virtue of their signatures attached hereto, these Neighborhood Organizations agree to publically endorse the rezoning and revised DDDP at the Planning Commission public hearing and at meetings at the MCC.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

THE GARRETT COMPANIES

an Indiana corporation

By: Matt Griffin
Name: Matt Griffin
Title: VP OF DEVELOPMENT

Eastgate Village Homeowners Association, Inc.

a Kentucky corporation

By: 151
Name: _____
Title: _____

Eastgate Village Condominiums Council of Co-Owners, Inc.

a Kentucky corporation

By: 151
Name: _____
Title: _____

Eastgate Village Estates Residents Association, Inc.

a Kentucky corporation

By: 151
Name: _____
Title: _____

Canterbury Condominiums Council of Co-Owners, Inc.


a Kentucky corporation

By: 151
Name: _____
Title: _____

Approved as to form and legality

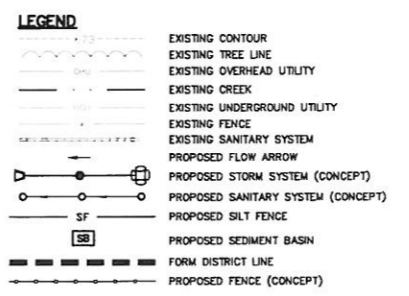


Sarah Almy, Esq.



William B. Bardenwerper, Esq.

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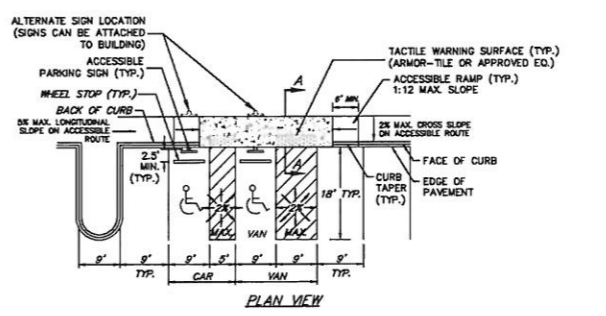


- GENERAL NOTES: 1. DOMESTIC WATER SUPPLY... 2. TREE PRESERVATION... 3. PROTECTION OF TREES... 4. THE DEVELOPMENT LIES IN THE MIDDLETOWN FIRE DISTRICT... 5. SIGNATURE ENTRANCE WALLS... 6. ALL LUMINAIRES SHALL BE AIMED, DIRECTED, OR FOCUSED... 7. ALL DUMPSTER PADS, TRANSFORMERS, AC UNITS... 8. ALL RADI TO BE 4.5' UNLESS OTHERWISE INDICATED... 9. BUILDING ARCHITECTURE TO COMPLY WITH CHAPTER 5.6 OF THE LDC... 10. ALL INTERIOR SIDEWALKS THAT ADJUT PARKING TO BE 5' WIDE MINIMUM... 11. A LANDSCAPE AND TREE CANOPY PLAN PER CHAPTER 10 OF THE LDC SHALL BE PROVIDED... 12. ALL EXISTING STRUCTURES AND DRIVEWAYS ON SITE TO BE REMOVED... 13. MITIGATION MEASURES FOR DUST CONTROL SHALL BE IN PLACE DURING CONSTRUCTION... 14. CITY OF MIDDLETOWN APPROVAL REQUIRED... 15. PRIOR TO CONSTRUCTION PLAN APPROVAL TREES TO THE NORTH OF THE PROPERTY...

- MSD NOTES: 1. WASTEWATER: SANITARY SEWER WILL CONNECT TO THE MIDDLETOWN WASTEWATER TREATMENT PLANT... 2. DRAINAGE / STORM WATER DETENTION: ONSITE DETENTION SHALL BE PROVIDED... 3. EROSION & SILT CONTROL: A SOIL AND SEDIMENTATION CONTROL PLAN SHALL BE DEVELOPED... 4. NO PORTION OF THE SUBJECT PROPERTY LIES WITHIN A FLOOD HAZARD AREA... 5. THE FINAL DESIGN OF THIS PROJECT MUST MEET ALL MS4 WATER QUALITY REGULATIONS... 6. MSD DRAINAGE BOND REQUIRED PRIOR TO MSD CONSTRUCTION PLAN APPROVAL.

- PUBLIC WORKS AND KTC NOTES: 1. NO LANDSCAPING AND COMMERCIAL SIGNS SHALL BE PERMITTED IN METRO WORKS R/W... 2. RIGHT-OF-WAY DEDICATION BY DEED OR MINOR PLAT MUST BE RECORDED PRIOR TO CONSTRUCTION... 3. ALL ROADWAY AND ENTRANCE INTERSECTIONS SHALL MEET THE REQUIREMENTS FOR LANDING AREAS... 4. AN ENCROACHMENT PERMIT AND BOND SHALL BE REQUIRED FOR ALL WORK IN PUBLIC RIGHT-OF-WAY... 5. COMPATIBLE UTILITY LINES (ELECTRIC, PHONE, CABLE) SHALL BE PLACED IN A COMMON TRENCH... 6. DAMAGE BOND MAY BE REQUIRED BY METRO PUBLIC WORKS FOR ROADWAY REPAIRS... 7. THE DEVELOPER IS RESPONSIBLE FOR ANY UTILITY RELOCATION ON THE PROPERTY... 8. ALL SIDEWALK RAMPS SHALL CONFORM TO A.D.A. STANDARD SPECIFICATIONS...

- WAIVER REQUESTS: 1. A WAIVER OF 6.2 OF THE LAND DEVELOPMENT CODE IS REQUESTED TO OMIT THE SIDEWALK ALONG THE SITES EASTGATE VILLAGE DRIVE FRONTAGE... 2. A WAIVER OF 10.2.4 OF THE LAND DEVELOPMENT CODE IS REQUESTED TO REDUCE THE 50' LANDSCAPE BUFFER TO 10'. THIS IS REQUIRED WHERE THE ADJACENT M2 ZONED PROPERTY WAS DEVELOPED PRIOR TO THE LANDSCAPE REGULATIONS.



PROJECT DATA: NFD, R4, R6, SINGLE FAMILY RESIDENTIAL, MULTIFAMILY RESIDENTIAL, 13,202 AC, 12,524 AC, 210, 2 STORY / 35'+, 16.78 D.U./AC, 81,789 S.F. (15%), 269,785 ±S.F., 40,899 S.F. (7.5%), 55,155 ±S.F., 315-630 SPACES, 317 SPACES, 1.50 SP./UNIT

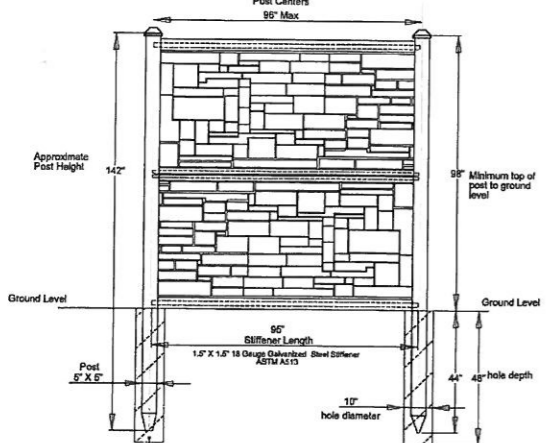
LANDSCAPE DATA: V.I.A., 113,435± S.F., I.L.A. REQUIRED (7.5% X V.I.A.), 8,508 S.F., I.L.A. PROVIDED, 11,167± S.F.

TREE CANOPY DATA: GROSS SITE AREA (AREA DEDICATED TO R/W NOT INCLUDED), 545,802± S.F., TREE CANOPY CATEGORY, CLASS C, EXISTING TREE CANOPY, 214,415± S.F. (39%), EXISTING TREE CANOPY TO BE PRESERVED, 28 S.F. (0%), TOTAL TREE CANOPY REQUIRED, 109,065± S.F. (20%)

EROSION PREVENTION AND SEDIMENT CONTROL NOTE: THE APPROVED EROSION PREVENTION AND SEDIMENT CONTROL (EPSC) PLAN SHALL BE IMPLEMENTED PRIOR TO ANY LAND-DISTURBING ACTIVITY ON THE CONSTRUCTION SITE. ANY MODIFICATIONS TO THE APPROVED EPSC PLAN MUST BE REVIEWED AND APPROVED BY MS4'S PRIVATE DEVELOPMENT REVIEW OFFICE. EPSC BMP'S (BEST MANAGEMENT PRACTICES) SHALL BE INSTALLED PER THE PLAN AND MSD STANDARDS.

IMPERVIOUS AREA: EXISTING IMPERVIOUS AREA: 30,358±S.F., PROPOSED IMPERVIOUS AREA: 278,996±S.F.

DETENTION CALCULATIONS: 2.9/12 (0.70-0.35) (12.67) = 1.04 AC.FT.



Mindel, Scott & Associates, Inc. Planner - Architecture, Interior Design, Landscape Architecture, Urban Planning, Project Management, Construction Management, Real Estate, Surveying, Engineering, Environmental Science, and Consulting. 111 Jefferson Boulevard, Louisville, KY 40219. Phone: (502) 481-1100 Fax: (502) 481-0000 Email: mindel@msa.com

DEVELOPER: THE GARRETT COMPANIES, 435 E. MAIN ST. SUITE 220, GREENWOOD, IN, 46143. OWNER: CHARLES & BEVERLY SERVINO, 12206 AKEN RD., LOUISVILLE, KY, 40223. OWNER: GARY BOZARTH, 12202 AKEN RD., LOUISVILLE, KY, 40223. OWNER: D & J RENTAL INC, 13115 AKEN RD., LOUISVILLE, KY, 40223. OWNER: GARY & SHERAN DEWITT, PO BOX 436054, LOUISVILLE, KY, 40253.

DETAILED DISTRICT DEVELOPMENT PLAN: AKEN MULTI-FAMILY, 12202, 12204, 12206 & 12212 AKEN ROAD, LOUISVILLE, KENTUCKY: 40223. TAX BLOCK: 23 LOTS: 173, 200, 451, 473 & 479. D.B. 3979 PG. 56, D.B. 6837 PG. 205, D.B. W0573, PG. 185, D.B. 7378 PG. 286, D.B. 8598 PG. 499.

Vertical Scale: N/A. Horizontal Scale: 1"=80'. Date: 6/29/15. Job Number: 3270. Sheet: 1 of 1.



SCALE 1" = 30'-0"

ECHELON AT MIDDLETOWN