

Planning Commission Staff Report

May 15, 2014



Case No:	13devplan1066
Project Name:	The Shoppes at Gardiner Park
Location:	100 Flat Rock Road and 16411 Shelbyville Road
Owner(s):	Shoppes at Gardiner Park LLC
Applicant:	Shoppes at GardinerPark LLC
Representative(s):	Land Design and Development; Bardenwerper Talbott and Roberts
Project Area/Size:	11.2 Acres
Existing Zoning District:	C-1
Existing Form District:	Village
Jurisdiction:	Louisville Metro
Council District:	19- Jerry Miller
Case Manager:	Julia Williams, AICP, Planner II

REQUEST

- Waivers:
 1. Chapter 5.5.1.A.3.a, to permit parking to be located between the primary structures and the roadway.
 2. Chapter 5.9.2.C.4, to permit parking and traffic circulation to be located between the principal buildings and the roadway.
 3. Chapter 5.5.1.A.5, to permit the gas station canopy to be located between the primary structure and the roadway.
 4. Chapter 5.5.1.A.1.a, to permit principal buildings to be perpendicular to the primary street instead of parallel.
 5. Chapter 5.5.1.A.1.b, to permit the front doors to the 10,460 sf retail structure to not be located on the corner and to not have an entrance facing both the primary and secondary streets.
- Revised Detailed District Development plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to retail, bank, office, gas station, convenience store, and grocery store uses on the C-1 zoned site within the Village Center Form District. 307 parking spaces are proposed on the former nursery and garden center site. The site is surrounded by R-4 zoning and single family uses on all sides with the exception of the C-1 zoned retention basin located northwest of the property and a church located at the corner of Eastwood Cutoff Road and Shelbyville Road.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	C-1	Village Center
Proposed	Grocery, Retail, Bank, Office, Gas Station	C-1	Village Center
Surrounding Properties			
North	Single Family Residential	R-4	Village Center
South	Church, Single Family Residential	R-4	Village Center/ Village
East	Single Family Residential	R-4	Village
West	Single Family Residential	R-4	Neighborhood

PREVIOUS CASES ON SITE

9-106-84, Change in zoning from R-4 to C-1 for a greenhouse and retail garden center
 9-44-05, Change in zoning from R-4 to C-1 for mixed commercial and office
 8769, Revised District Development Plan with waivers and variances
 13897, Amendment to Binding Element

INTERESTED PARTY COMMENTS

Staff has received both comments in support of the proposal and comments against the proposal.

APPLICABLE PLANS AND POLICIES

- Cornerstone 2020
- Land Development Code
- Eastwood Neighborhood Plan (Approved November 2005)
 - On page 15 the plan recommends the site located in the Village Center to be a gateway to the Eastwood Neighborhood. The Village Center recommends “reduced building setbacks, parking in the rear, pedestrian connections, an architectural preservation district, and lighting signage and architectural standards.”
 - On page 16, the plan further indicates that the “proposed uses and design of the developments will be measured by the guidelines presented in the neighborhood plan.” Further on page 16 under the design category the Plan states “the scale and character of development in this portion of the center should maintain the village atmosphere with pedestrian scale design incorporating benches and awnings on storefronts. Buildings are placed closer to the street, with on street parking or parking in the rear of the building.”
 - Page 31 and 32 detail the recommended standards as follows:

Village Center Design Standards (Applies to Entire Village Center)
a. Retail commercial footprints should be limited to 35,000 square feet or less within the Eastwood Village Center. In exceptional circumstances in which it can be clearly and convincingly demonstrated that the proposed structure and use, site design and related development (i.e. parking and maneuvering) are consistent with the scale, design, and intent of the village center as described in Cornerstone 2020 and further elaborated upon in the Eastwood Neighborhood Plan, may a square footage greater than 35,000 be approved.
b. Require Development Review Committee review for buildings with a footprint greater than 15,000 square feet
c. Require new buildings to incorporate design features that are compatible and consistent with existing buildings to maintain the existing character of Eastwood
d. Exterior building materials shall consist primarily of wood, brick and stone and shall incorporate design features of traditional village character such as paned windows
e. Define outdoor spaces within existing and future public rights-of-way to create greens, squares, boulevards, and medians to maintain the rural atmosphere and to connect the greenways and parks throughout the village
f. Require signs to be externally lit and constructed from more traditional materials (wood, metal, cloth, etc.)

Shelbyville Road Village Center Standards (Applies only to Shelbyville Road)
l. Minimize new entrances onto Shelbyville Road through the use of shared entrances and service drives, where feasible
m. Promote cross access between compatible uses and use alleys and service drives for vehicular access to sites to promote rural atmosphere created by landscape setbacks and buffers along Shelbyville Road
n. Designate pedestrian crossings at major intersections for safe connections across Shelbyville Road to provide pedestrian access to areas of the Village Center on both sides of Shelbyville Road
o. Design parking in pods or smaller areas broken by green space to reduce the impact of large asphalt parking lots and vehicles parked within the developments
p. Do not permit parking between buildings and Shelbyville Road frontage
q. Design buildings with more than one front façade to address frontage along Shelbyville Road as well as internal frontage served by rear or side access to parking as well as pedestrian cross-connections
r. Provide shared identification signs at access points to reduce the number of signs along Shelbyville Road
s. Maintain the 30 feet setback and 30 feet parkway buffer along Shelbyville Road with landscaping to provide buffer for commercial uses as well as to provide rural atmosphere
t. Require landscaping in parkway buffer to utilize native species and designs emulating the surrounding natural environment
u. Designate points on Shelbyville Road as gateways at the Village boundary and design gateway elements to create a sense of arrival

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS
#1 and 2 to permit parking between the principal structure and the road**

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

STAFF: The requested waivers will be mitigated by a 3' masonry wall and required landscaping within the parkway buffer. Pedestrian connectivity is not hindered by the parking and circulation as sidewalks are being provided from the proposed public sidewalk to the structures with identified crosswalks being provided as well.

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

STAFF: Comprehensive Plan Guideline 3, Policy 1 calls for development to be compatible with the pattern of the form district. The Village Center form district follows the Traditional Neighborhood form, which does not permit parking and circulation in front of buildings. The adopted Eastwood Neighborhood Plan also indicates that parking should not be permitted between buildings and Shelbyville Road. The 3' masonry wall and proposed parkway landscaping mitigates the circulation routes shown on the plan. Parking is facing the structure and not toward adjacent residential.

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

STAFF: The applicant chose to place the structures perpendicular to the street to give the development the opportunity to serve both vehicles and pedestrians. The majority of parking being located between Shelbyville Road and the principal buildings has been eliminated with mainly circulation being between the building and Shelbyville Road. The exception is the gas station where 5 parking spaces are located between the building and Shelbyville Road. In that case a 3' masonry wall and pedestrian entrance feature have been added to mitigate the building not being located more towards the roadway.

(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 applicant chose to place the structures perpendicular to the street to give the development the opportunity to serve both vehicles and pedestrians. The majority of parking being located between Shelbyville Road and the principal buildings has been eliminated with mainly circulation being between the building and Shelbyville Road. The exception is the gas station where 5 parking spaces are located between the building

and Shelbyville Road. In that case a 3' masonry wall and pedestrian entrance feature have been added to mitigate the building not being located more towards the roadway.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER
#3 to permit the gas station canopy to be located between the principal
structures and the public street**

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

STAFF: The requested waiver will be mitigated by required landscaping within the parkway buffer. Pedestrian connectivity is not hindered by the parking and circulation as sidewalks are being provided from the proposed public sidewalk to the structures with identified crosswalks being provided as well. The gas station located is across from a non-residential use, a church, and some residential.

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

STAFF: Comprehensive Plan Guideline 3, Policy 1 calls for development to be compatible with the pattern of the form district. The Village Center form district follows the Traditional Neighborhood form, which does not permit parking and circulation in front of buildings. A gas station canopy, by nature of its use, indicates that parking and circulation will be located on this plan between the building and Shelbyville Road. The adopted Eastwood Neighborhood Plan also indicates that parking should not be permitted between buildings and Shelbyville Road. The proposed parkway landscaping mitigates the canopy location.

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

STAFF: Alternative design measures have been applied to the plan to be more in keeping with the design regulations. The canopy and gas station is located on the site where it will have less impact on the adjacent residential because it is located across from a church. The parkway plantings will lessen the impact of the canopy on the adjacent uses.

(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: Other design measures have been applied to the plan to be more in keeping with the design regulations. The canopy and gas station is located on the site where it will have less impact on the adjacent residential because it is located across from a church. The parkway plantings will lessen the impact of the canopy on the adjacent uses.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER
#4 to permit principal buildings to be perpendicular to the primary street instead of parallel**

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

STAFF: The buildings will still have articulation and windows as if they were parallel to the street. The store associated with the fuel station will have a pronounced pedestrian entrance within the parkway buffer to offset the store not being parallel to the roadway. The orientation of the structures will not affect adjacent property owners because the buffering and wall requirements within the parkway buffer will still be met.

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

STAFF: The orientation of the structures will not violate guidelines of the Comprehensive Plan because a street wall is still achieved through the proposed structures, 3' wall, and parkway plantings.

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

STAFF: Having the structures oriented inward and toward each other allows for a balance of parking and pedestrian needs.

(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: Other design measures compensate for non-compliance as the plan indicates a focal point within the development as well as a pronounced pedestrian access in the area of the fuel station.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER
#5 to permit the front doors to the 10,460 sf retail structure to not be
located on the corner and to not have an entrance facing both the primary
and secondary streets**

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

STAFF: The waiver will not affect adjacent property owners as there will still be articulation on the facades.

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

STAFF: The Comprehensive Plan guidelines will not be violated because there will still be windows facing the roadway and entrances located along the main façade.

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

STAFF: Having the entrances along the main façade that faces interior to the site will accommodate both pedestrians and consumers that will drive to the building.

(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: There are focal points and building articulation that mitigate the waiver request.

STANDARD OF REVIEW FOR DEVELOPMENT PLAN

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: The proposal does not have any existing natural resources to conserve. The sites cemetery will be preserved and the required buffer will be provided.

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

STAFF: Pedestrian and vehicular connectivity is found throughout. Pedestrian and vehicle conflicts have been minimized.

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

STAFF: The planting requirements within the buffers will be met and the detention basin at the corner of Flat Rock and Shelbyville will further enhance the scenic open space created with the designated parkway and scenic corridors.

- 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: MSD has preliminarily approved the proposal.

- 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: Landscape requirements will be met within the buffer areas. The parking lots will be screened along Shelbyville Road by a 3' stone wall. The proposed land uses fit within the C-1 zoning district.

- f. 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 proposal is for a mixed commercial/office use center within the Village Center Form District.

TECHNICAL REVIEW

- Signs along Shelbyville Road. Two signs are permitted but the area of the two signs together may not exceed 81 sf. This needs to be clarified on the plan.

STAFF CONCLUSIONS

The Planning Commission will need to determine if the waivers have been properly mitigated and determine if the proposal meets the recommendations of the Eastwood Neighborhood Plan. The Planning Commission may also want to address a possible binding element regarding outdoor sales and display in and around the gas station.

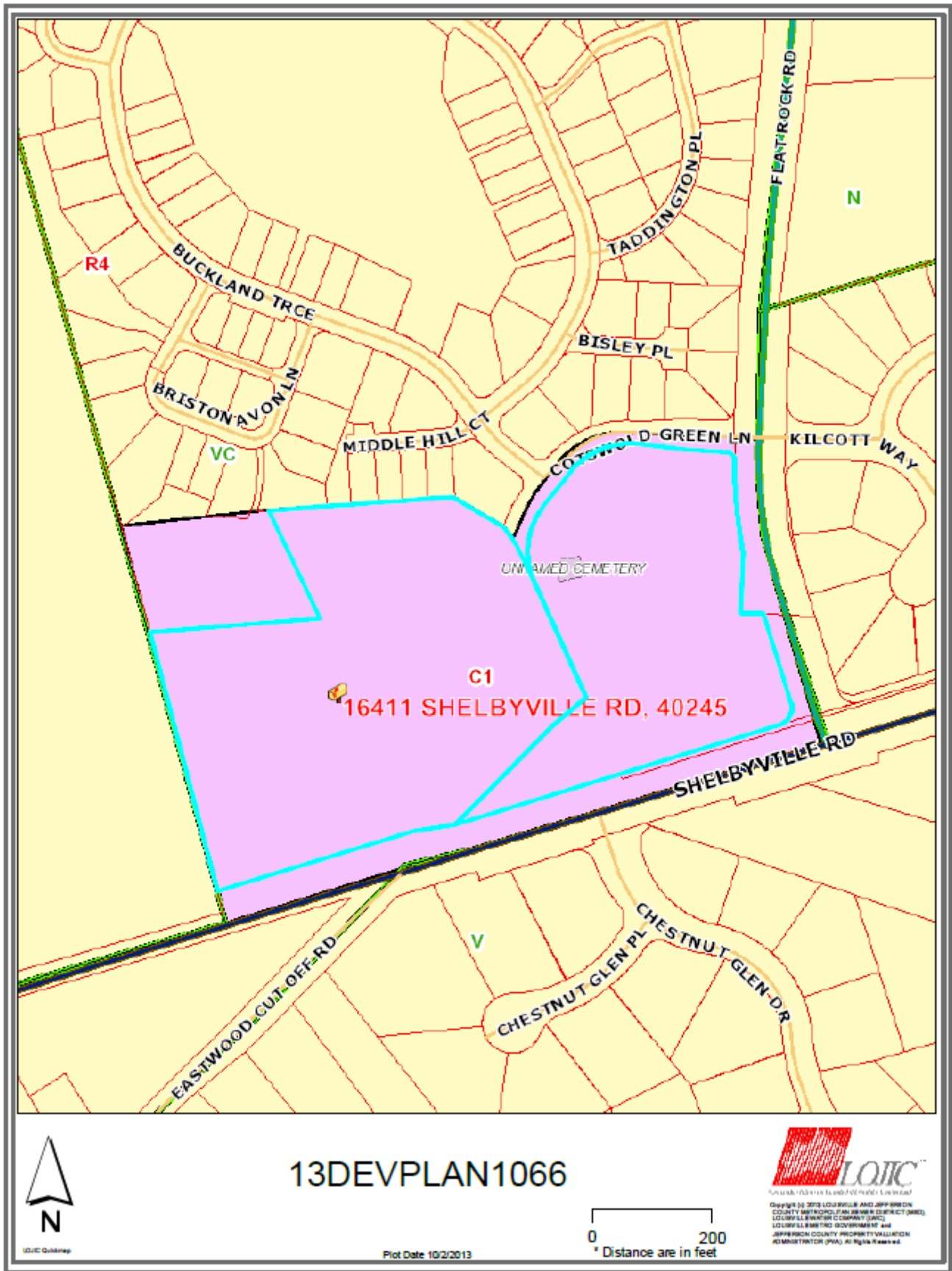
NOTIFICATION

Date	Purpose of Notice	Recipients
1/10/14	Hearing before LD&T on 1/23/14	1 st tier adjoining property owners Those who spoke at the Planning Commission Public Hearing Subscribers of Council District 19 Notification of Development Proposals
4/30/14	Hearing before PC on 5/15/14	1 st tier adjoining property owners Those who spoke at the Planning Commission Public Hearing Subscribers of Council District 19 Notification of Development Proposals

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist for waivers 1-5
4. Existing Binding Elements
5. Proposed Binding Elements
6. Applicant's Justification Statements

Attachment 1: Zoning Map



Attachment 2: Aerial Photograph



Attachment 3: Cornerstone 2020 Staff Checklist

- + Exceeds Guideline
- √ Meets Guideline
- +/- More Information Needed
- NA Not Applicable

Waiver #1 & 2 5.5.1.A.3.a and 5.9.2.C.4

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Finding	Final Comments
9	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	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 parking is located where the majority of it is located behind proposed structures. Where parking is located between the principal structure and roadway a 3' stone wall is proposed to screen the parking and drive lanes. Pedestrian access from the public sidewalk to the principal structures is not compromised with the parking and drive lanes in front of the principal structures. The waiver while not in compliance with the Neighborhood Plan which indicates that parking should not be between the road and the buildings the request has been mitigated by the 3' stone wall.
11	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	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.	√	Pedestrian access from the public sidewalk to the principal structures is not compromised with the parking and drive lanes in front of the principal structures.
20	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	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.	+/-	The setbacks proposed would be compatible with the setbacks already granted for another portion of the site (bank and 8,448 sf retail). There is no other development in the area to compare the setbacks as the other developments in the area are single family residential.
21	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	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.	√	The 3' stonewall prevents the parking and associated drive lanes from being impacted. The parkway buffer and plantings will further provide a screen of the parking areas from the adjacent roadway and nearby residential.
22	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	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.	√	Plantings and the 3' stone wall will be provided to screen the parking and roadway. The parking areas are oriented toward the side and interior of the site rather than to the roadway.

Waiver #3 5.5.1.A.5- Gas Station Canopy

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Finding	Final Comments
9	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	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 parking is located where the majority of it is located behind proposed structures. Where parking is located between the principal structure and roadway a 3' stone wall is proposed to screen the parking and drive lanes. Pedestrian access from the public sidewalk to the principal structures is not compromised with the fuel canopy. The canopy is also located where it is across from another non-residential use.
11	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	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.	√	Pedestrian access from the public sidewalk to the principal structures is not compromised with the location of the gas station canopy.
21	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	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.	√	The location of the canopy being across the street from another non-residential use lessens the impact of the canopy. Also the parkway buffer plantings will minimize negative impacts of the canopy on adjacent property.
22	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	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 location of the canopy being across the street from another non-residential use lessens the impact of the canopy. Also the parkway buffer plantings will minimize negative impacts of the canopy on adjacent property.

Waivers #4 and #5- Building Façade and Location

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Finding	Final Comments
8	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	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.	√	The building is designed to face a focal point and an interior road. The facades facing roadways will be articulated with windows. The proposed location of the entrances will serve both pedestrians and vehicle users.

Attachment 4: Existing Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The total square footage of the center will be 88,634, including: 44,524 square foot grocery store building, 16,800 and 8,448 square foot retail buildings, a 4,160 square foot branch bank building, a 10,900 square foot office building, and a 2,250 square foot coffee shop
3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. 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.
6. Before any permit (including but not limited to building, parking lot, change of use, or site disturbance permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
7. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
8. 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.
9. 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.
10. Binding element number 10 was omitted as a numbering mistake.
11. The materials and design of the proposed grocery, retail and branch bank buildings shall be substantially the same as depicted in the renderings as presented at the March 27, 2006 Planning Commission public hearing. The materials and design of the proposed office building shall return to the LD&T Committee for review and approval in order to insure design consistency with the retail buildings with special emphasis on the Cotswald Green Lane side, so that the office building has an equally high level of design detail on that

façade. In order to insure final design consistency with these elevation renderings, construction plans shall be returned to the DPDS Urban Design Section for review and approval prior to issuance of building permits.

12. The façade elevations shall be in further accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
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 there after. 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. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
14. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
15. Residents of Gardiner Park shall be assured north property line perimeter screening and buffering and an entry wall along the north side of Cotswald Green Lane and an entry gate to their private street subdivision consistent with landscape plans and design themes for this buffer area, wall and entry gate as presented at the January 23, 2006 and March 27, 2006 public hearings and as further reviewed for consistency therewith by the landscape architect and Urban Design Staff of DPDS.
16. The architectural design of the grocery store shall use façade and entrance elements to ensure that the structure has the appearance of multiple, discrete businesses rather than one large business. These architectural elements may include: 1) multiple entrances, 2) window with views of specific sections of the grocery store, 3) pilasters, column or other treatments that break up the façade to give the appearance of several retail spaces rather than one grocery store.
17. All signage shall be constructed from traditional materials such as wood, metal, cloth. No plastic signs shall be allowed.
18. No signage shall be internally illuminated.
19. Signage attached to any building shall not be located more than three feet above the ceiling of the first floor of the building nor shall the top of the sign be higher than fifteen feet off the ground level.
20. The stone retaining wall located at the retention basin shall be continued across the entire front property line to the westernmost edge of the west parking area. The wall shall be constructed using the same materials as presented at the January 23, 2006, and March 27, 2006 public hearings. The wall shall screen the west parking area and at that location shall be built to a height of at least three feet above the paved surface of the parking lot.
21. Lighting shall be directed down and away from adjacent properties and shall be fully shielded with 90 degree cutoffs. All lighting elements shall be completely concealed. Lighting shall otherwise comply with the requirements of the Land Development Code.
22. The freestanding monument style sign located adjacent to Flat Rock Road as shown on the approved plan shall be a maximum of 6 feet tall. The freestanding monument style sign located adjacent to Shelbyville Road (US 60) as shown on the approved plan shall be a maximum of 8 feet tall. The site shall be limited to two freestanding signs.
23. A traffic signal shall be installed at the intersection of Shelbyville Road (US 60) and Flat Rock Road prior to the issuance of a certificate of occupancy for the grocery store as shown on the approved plan.

The developer shall facilitate the installation of the signal using funds collected by the Department of Public works from other developers, state supplied equipment, and the developer's own funds, if needed.

24. The proposed 4,160 square foot structure as shown on the approved plan shall be limited to a bank or office use unless another use is approved by Metro Council.
25. Trash enclosures shall be screened with solid walls constructed of materials similar to those used in the construction of adjacent buildings in the development and as presented at the January 23, 2006, and March 27, 2006 public hearings.
26. Prior to Certificate of Occupancy (C.O.) of the main grocery store building, a continuous curbed right turn lane shall be added on the north side of Shelbyville Road from Flat rock Road to the main entrance to the development across from the entrance to Chestnut glen. *Modified by the DRC on March 10, 2010, Case # 13897*
27. Prior to Certificate of Occupancy (C.O.) of the main grocery store building, the developer shall contribute \$25,000 to the Louisville Metro Department of Public works towards the cost of construction of a right/through lane on westbound Shelbyville Road just east of the Flat Rock Road intersection. *Modified by the DRC on March 10, 2010, Case # 13897*
28. The renderings submitted by the applicant at the original public hearing shall be used as a starting point for evaluating the final design. Prior to the issuance of a building permit, the applicant shall submit a final architectural plan to the staff of DPDS for review and approval under this binding element.

Attachment 5: Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The total square footage of the center will be 71,714, including: 20,837 square foot grocery store building, 8,448, 12,175, 5,312, and 10,460 square foot retail buildings, a 4,160 square foot branch bank building, a 10,509 square foot office building, and a 4,000 square foot gas station.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. Before any permit (including but not limited to building, parking lot, change of use, or site disturbance permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
6. 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.
7. 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.
8. The materials and design of the proposed grocery, retail, gas station and branch bank buildings shall be substantially the same as depicted in the renderings as presented at the May 15, 2014 Planning Commission meeting. The materials and design of the proposed office building and 8,448 SF retail building shall return to a committee of the Planning Commission for review and approval.
9. The façade elevations shall be in further accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.

10. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
11. Residents of Gardiner Park shall be assured north property line perimeter screening and buffering and an entry wall along the north side of Cotswald Green Lane and an entry gate to their private street subdivision consistent with landscape plans and design themes for this buffer area, wall and entry gate as presented at the January 23, 2006 and March 27, 2006 public hearings and as further reviewed for consistency therewith by the landscape architect and Urban Design Staff of DPDS.
12. All signage shall be constructed from traditional materials such as wood, metal, cloth. No plastic signs shall be allowed.
13. No signage shall be internally illuminated.
14. Signage attached to any building shall not be located more than three feet above the ceiling of the first floor of the building nor shall the top of the sign be higher than fifteen feet off the ground level.
15. Lighting shall be directed down and away from adjacent properties and shall be fully shielded with 90 degree cutoffs. All lighting elements shall be completely concealed. Lighting shall otherwise comply with the requirements of the Land Development Code.
16. The freestanding monument style sign located adjacent to Flat Rock Road as shown on the approved plan shall be a maximum of 6 feet tall. The freestanding monument style sign located adjacent to Shelbyville Road (US 60) as shown on the approved plan shall be a maximum of 8 feet tall. The site shall be limited to two freestanding signs.
17. A traffic signal shall be installed at the intersection of Shelbyville Road (US 60) and Flat Rock Road prior to the issuance of a certificate of occupancy for the grocery store as shown on the approved plan. The developer shall facilitate the installation of the signal using funds collected by the Department of Public works from other developers, state supplied equipment, and the developer's own funds, if needed.
18. The proposed 4,160 square foot structure as shown on the approved plan shall be limited to a bank or office use unless another use is approved by Metro Council.
19. Trash enclosures shall be screened with solid walls constructed of materials similar to those used in the construction of adjacent buildings in the development and as presented at the January 23, 2006, and March 27, 2006 public hearings.
20. Prior to Certificate of Occupancy (C.O.) of the main grocery store building, a continuous curbed right turn lane shall be added on the north side of Shelbyville Road from Flat rock Road to the main entrance to the development across from the entrance to Chestnut glen.
21. Prior to Certificate of Occupancy (C.O.) of the main grocery store building, the developer shall contribute \$25,000 to the Louisville Metro Department of Public works towards the cost of construction of a right/through lane on westbound Shelbyville Road just east of the Flat Rock Road intersection.
22. The retention pond located on the C-1 property to the north west of the site shall be maintained by the Shoppes at Gardiner Park property owner or subsequent assigns.

**Attachment 6: Applicant's Waiver Justification Statements
Waiver #1 and 2**



**Louisville Metro Planning & Design Services
LAND DEVELOPMENT CODE WAIVER SUBMITTAL
REQUIREMENTS**

SUPPLEMENTAL INFORMATION SHEET

Application is hereby made for one or more of the following waivers of the Land Development Code

- Waiver of Chapter 10, Part 2 Landscaping Design
- Waiver of Chapter 10, Part 1, Tree Canopy
- Sidewalk Waiver
- Other Waiver of the Land Development Code, briefly explain below:
Waiver of Section 5.5.1.A.3.a and 5.9.2.C.4 to allow the proposed parking areas to be located in front of the proposed buildings and to not provide a 3' tall masonry wall between the parking areas and the public right-of-ways.

Reason for Request: Because high quality, intensive landscaping will be substituted for the wall, and the configuration of this site and mix of tenants mandates that front door parking exists.



**Louisville Metro Planning & Design Services
LAND DEVELOPMENT CODE WAIVER SUBMITTAL
REQUIREMENTS**

In order to justify approval of any waiver or modifications of standards, the Planning Commission considers four criteria. Please answer all of the following four items. (Use additional sheets, if needed.)

- A. The waiver will not adversely affect adjacent property owners because of the commitment to a high level of landscaping, screening and buffering along Shelbyville Rd.
- B. 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.
- C. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the applicant is not looking to eliminate screening and buffering and is not insensitive to the impact of parking along the Shelbyville Road streetscape as evidenced by its commitment to a high level of landscaping, screening and buffering in this area
- D. 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 because the applicant would not be able to proceed with this development plan that has been many years in the making and represents the best that it can possibly do given its extended negotiations with tenants and the necessity for all the various buildings, internal circulation, parking and so forth to work together as one cohesive plan.

Waiver #3

SUPPLEMENTAL INFORMATION SHEET

Application is hereby made for one or more of the following waivers of the Land Development Code

- Waiver of Chapter 10, Part 2 Landscaping Design
- Waiver of Chapter 10, Part 1, Tree Canopy
- Sidewalk Waiver
- Other Waiver of the Land Development Code, briefly explain below:
Waiver of Section 5.5.1.A.5 to waive the locations of both the gas station canopy and the bank canopy to not be located between the principal structure and the public street.

Reason for Request: Because as respects the branch bank located to the east of the main entrance way, the location of the drive-thru aisles are the only way that a drive-thru will work on this site. As respects the gas station, this location has also proven through site design to be the only way that circulation practically can function without negatively impacting the balance of the overall development, which with this RDDDP has already shrunk in building square footage.



Louisville Metro Planning & Design Services
LAND DEVELOPMENT CODE WAIVER SUBMITTAL
REQUIREMENTS

In order to justify approval of any waiver or modifications of standards, the Planning Commission considers four criteria. Please answer all of the following four items. (Use additional sheets, if needed.)

- A. The waiver will not adversely affect adjacent property owners because of the high level of landscaping screening and buffering proposed along Shelbyville Road and the enhanced level of building and structure design.
- B. 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.
- C. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because these are the only two building pads on this shopping center site where this waiver is requested.
- D. 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 because if this design is not permitted as a consequence of these proposed variances, the applicant will lose these tenants which will set back the start of this development even longer than the many years that have already passed between rezoning approval and this day.

Waiver #5

SUPPLEMENTAL INFORMATION SHEET

Application is hereby made for one or more of the following waivers of the Land Development Code

- Waiver of Chapter 10, Part 2 Landscaping Design
- Waiver of Chapter 10, Part 1, Tree Canopy
- Sidewalk Waiver

Other Waiver of the Land Development Code, briefly explain below:

Waiver of Section 5.5.1.A.1.b to waive the location of the front door on the retail and office use buildings facing two or more streets to have at least one customer entrance facing the primary street and one customer entrance facing the second street or instead of two entrances, one corner entrance.

Reason for Request: is because this site plan has been worked and re-worked many times to accommodate the mix of tenants, circulation, parking and site constrains, and this is the only way that it will practically work.



Louisville Metro Planning & Design Services **LAND DEVELOPMENT CODE WAIVER SUBMITTAL** **REQUIREMENTS**

In order to justify approval of any waiver or modifications of standards, the Planning Commission considers four criteria. Please answer all of the following four items. (Use additional sheets, if needed.)

- A. The waiver will not adversely affect adjacent property owners because a version of this development plan not substantially different from this one was previously approved, and this commercial development is integral to the overall plan for Gardiner Park.
- B. 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.
- C. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because, as stated above, the size, configuration and constraints of this site, together with the mix of tenants and sizes of buildings, necessitate this layout, including the locations of entrances to buildings.
- D. 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 because the application would otherwise be unable to proceed with this development plan and probably any development of this site at all given the efforts that it has made over the years to bring a proper mix of tenants to this site appropriate for the area.