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.**

1. **Will the waiver adversely affect adjacent property owners?**

    This waiver will not adversely affect adjacent property owners. Although the Interior Landscape Area is less than required, there is a 5' landscape buffer along three of the four perimeter sides which is not required. Additionally, there are several interior landscape areas which are not counted since they are less than the minimum required area, but they still help enhance the aesthetic appeal.

2. **Will the waiver violate the Comprehensive Plan?**

    This waiver will not violate the Middletown Commons Development Plan.

3. **Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?**

    Yes. In order for Chick-fil-A to construct their building, drive-thru and patio, meet the minimum parking requirements, have a minimal perimeter buffer, they can only get a 5.7% Interior Landscape Area.

4. **Has either (a) the applicant 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 would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?**

    (a) Strict application of the Interior Landscape Area would result in a loss of parking which would violate the minimum required parking and would be less than Chick-fil-A needs. (b) Although the requested percentage of the Interior Landscape Area is less than required, the required number of large or medium trees will be met, supplemented with a large variety of shrubs throughout the Interior Landscape Areas.

RECEIVED

MAY 09 2014
PLANNING &
DESIGN SERVICES

14DEVPLAN1018