

Development Review Committee

Staff Report

August 19, 2015



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| Case No: | 15WAIVER1023 |
| Project Name: | Raising Cane's – Middletown |
| Location: | 12009 Shelbyville Road |
| Owner: | Dropping Bird #12, LLC |
| Applicant: | CRM Companies |
| Representative: | Bardenwerper Talbott & Roberts, PLLC |
| Project Area/Size: | 0.88 ac. |
| Existing Zoning District: | C-1, Commercial |
| Existing Form District: | SMC, Suburban Marketplace Corridor |
| Jurisdiction: | City of Middletown |
| Council District: | 19 – Julie Denton |
| Case Manager: | Matthew R. Doyle, Planner II |

REQUEST

- Waiver from the Land Development Code (LDC) to reduce the Landscape Buffer Area (LBA) to 5 ft. along the north and east property lines
- Waiver from section 10.3.6, Table 10.3.2 of the LDC to reduce the scenic corridor LBA to 5 ft. and eliminate the required 3 ft. tall berm along Shelbyville Road
- Waiver from section 10.3.6 of the LDC to allow vehicular parking and maneuvering to encroach into the 5 ft. scenic corridor LBA along Shelbyville Road

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The subject site is located in the City of Middletown on the north side of Shelbyville Road, 1 lot west of Evergreen Road.

The applicant proposes a fast food restaurant on the subject property, which used to be a bank. The development will involve the construction of a 3,575 sq. ft. building with a drive-thru and 44 parking spaces. It abuts OR-3 properties along the north and east property lines, prompting either a 15 or 20 ft. property perimeter LBA. It is also adjacent to the Shelbyville Road right-of-way, which is designated as a scenic corridor in this area requiring a 40 ft. building setback and 25 ft. LBA.

The subject site has a Category 2B Review pending based on the outcome of the waiver requests.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

| | Land Use | Zoning | Form District |
|-------------------------------|---------------------------------|-----------|---------------|
| Subject Property | | | |
| Existing | Vacant (formerly a bank) | C-1 | SMC |
| Proposed | Restaurant w/ drive-thru | C-1 | SMC |
| Surrounding Properties | | | |
| North | Offices | OR-3 | SMC |
| South | Medical offices | OR-3 | SMC |
| East | Retail and offices | C-2/ OR-3 | SMC |
| West | Automobile service/ repair shop | C-1 | SMC |

PREVIOUS CASES ON SITE

N/A

INTERESTED PARTY COMMENTS

Staff has not received any inquiries or interested party comments to date.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR A WAIVER to reduce the Landscape Buffer Area (LBA) to 5 ft. along the north and east property lines

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

STAFF: The waiver will not adversely affect adjacent property owners since the proposal will re-use a previously developed site with minor modifications to the existing buffers.

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

STAFF: The waiver would not violate specific guidelines of Cornerstone 2020 since the proposal will provide an appropriate buffer given that the LBA along the east will be similar to what is there currently and that adequate buffering is currently provided along the north property line by the abutting property owner.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposal would not meet the minimum parking requirements if the entirety of the LBAs were provided.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of land or create an unnecessary hardship since the proposal would not meet the minimum parking requirements if the entirety of the LBAs were provided.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR A WAIVER to reduce the scenic corridor LBA to 5 ft. and eliminate the required 3 ft. tall berm along Shelbyville Road

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

STAFF: The waiver will not adversely affect adjacent property owners since the proposal will re-use a previously developed site with improvements to the existing buffer along Shelbyville Road.

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

STAFF: The waiver would not violate specific guidelines of Cornerstone 2020 since the proposal will provide a similar buffer along Shelbyville Road as the previous use.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposal would not have adequate parking if the entirety of the scenic corridor LBA was provided.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

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

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of land or create an unnecessary hardship since the proposal would not have adequate parking if the entirety of the scenic corridor LBA was provided.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR A WAIVER to allow vehicular parking and maneuvering to encroach into the 5 ft. scenic corridor LBA along Shelbyville Road

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

STAFF: The waiver will not adversely affect adjacent property owners since the proposal will re-use a previously developed site that also had vehicular parking and maneuvering in the existing buffer along Shelbyville Road.

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

STAFF: The waiver would not violate specific guidelines of Cornerstone 2020 since the proposal will re-use a previously developed site that also had vehicular parking and maneuvering in the existing buffer along Shelbyville Road.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposal would have adequate parking while also providing an LBA similar to the previous use.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

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

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of land or create an unnecessary hardship since the proposal would not have adequate parking.

TECHNICAL REVIEW

N/A

STAFF CONCLUSIONS

The proposed waivers appear to be adequately justified. Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee must determine if the proposal meets the standards established in the LDC for approving the waivers.

REQUIRED ACTION

- **RECOMMEND** that the City of Middletown **APPROVE** or **DENY** the waiver to reduce the Landscape Buffer Area (LBA) to 5 ft. along the north and east property lines
- **RECOMMEND** that the City of Middletown **APPROVE** or **DENY** the waiver to reduce the scenic corridor LBA to 5 ft. and eliminate the required 3 ft. tall berm along Shelbyville Road
- **RECOMMEND** that the City of Middletown **APPROVE** or **DENY** the waiver to allow vehicular parking and maneuvering to encroach into the 5 ft. scenic corridor LBA along Shelbyville Road.

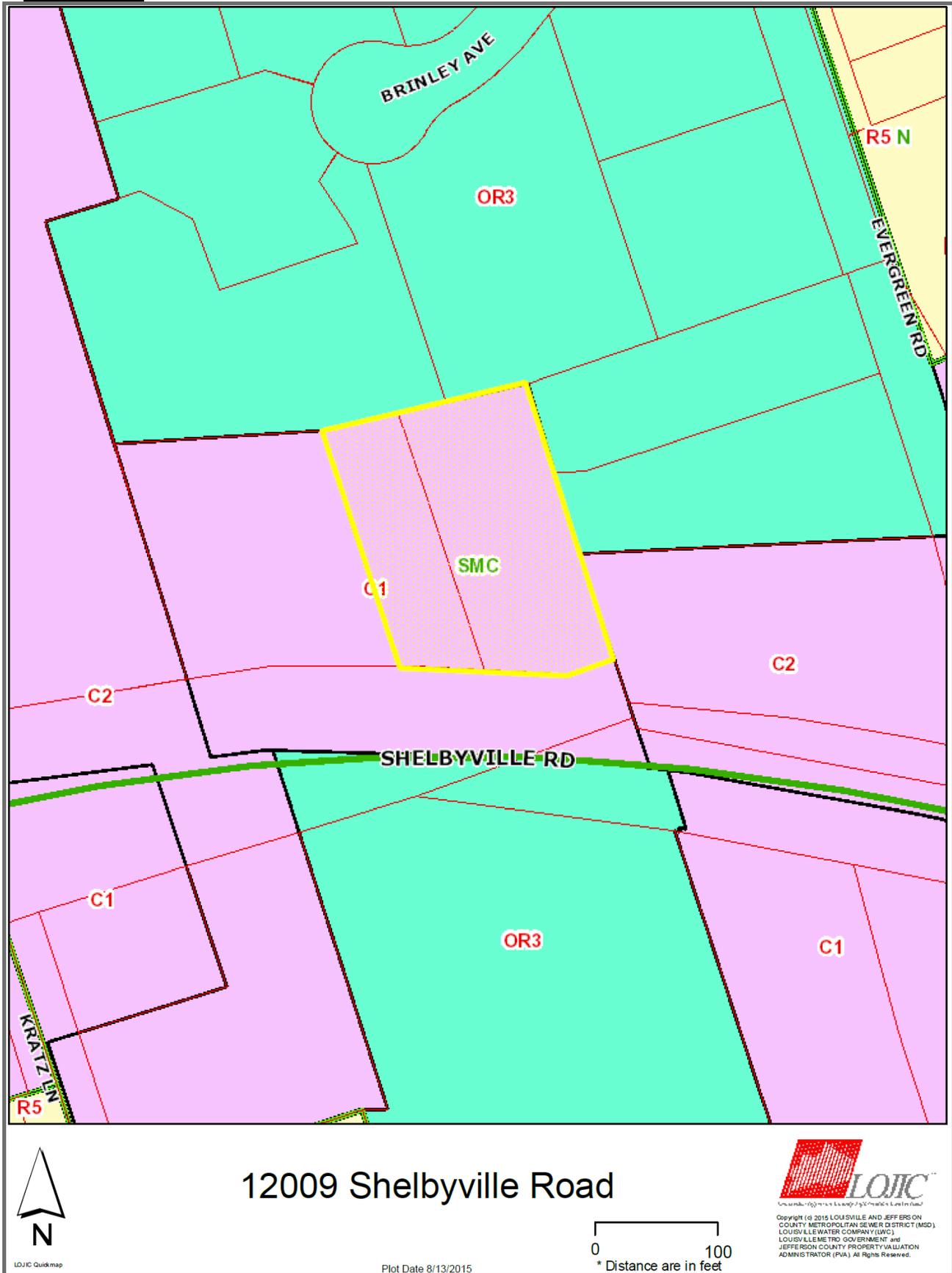
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|----------|--------------------|--|
| 08/04/15 | Hearing before DRC | 1 st tier adjoining property owners Registered neighborhood groups |

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**



2. Aerial Photograph

