

Development Review Committee

Staff Report

June 15th, 2016



Case No:	15DEVPLAN1095
Request:	Revised Detailed District Development Plan and Landscape Waiver
Project Name:	Double Dogs
Location:	13307 Shelbyville Road
Owner:	Middletown Investment Partners, LLC
Applicant:	Jeff Arnold, Arnold Consulting
Representative:	Jeff Arnold, Arnold Consulting
Jurisdiction:	Middletown
Council District:	19 - Julie Denton
Case Manager:	Laura Mattingly, Planner I

REQUEST

- Revised Detailed District Development Plan
- Waiver of 10.2.10 to allow a sidewalk to encroach into the required 10' Vehicle Use Area Landscape Buffer Area

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing a 4,339 square foot restaurant in Middletown, located approximately 350 feet east of the intersection of Shelbyville Road and N. English Station Road. The site is currently vacant. The proposal includes an outdoor patio area, 64 parking spaces and 6 bike parking spaces. All aspects of the plan meet or exceed the code requirements with the exception of the Landscape Buffer Area on the north side of the property. This area has recently had road improvements along Shelbyville Road and has recently seen an increase in retail and restaurant development.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Vacant	C-1	SMC
Proposed	Restaurant	C-1	SMC
<i>Surrounding Properties</i>			
North	Retail	C-1	SMC
South	Retail	C-1	SMC/SW
East	Restaurant	C-1	SMC
West	Restaurant	C-1	SMC

PREVIOUS CASES ON SITE

10723: Change in zoning from R-4 and R-7 to C-1, Change in form district from Suburban Workplace to Suburban Marketplace Corridor, Conditional Use Permit for outdoor alcohol sales and consumption for restaurants in C-1, Variance for reducing required yard along the northern property line from 50 to 25 feet, and a detailed district development plan.

INTERESTED PARTY COMMENTS

None received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDP

- 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: This site has already been cleared due to the previous development plan. The proposal is exceeding the tree canopy requirement by nearly 10%.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided with access from Private Drives off of Shelbyville Road and North English Station Road, as well as sidewalk connections to the public sidewalks, throughout the development and to adjacent developments.

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

STAFF: There are no open space requirements with the current proposal.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

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

STAFF: The overall land use and building design are very compatible with surrounding development as this area has become a typical suburban commercial corridor.

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

STAFF: The development plan meets or exceeds all requirements of the Land Development Code with one exception and therefore is compliant with the Comprehensive Plan.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of 10.2.10 to
allow a sidewalk to encroach into the required 10' Vehicle Use Area Landscape
Buffer Area**

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

STAFF: The waiver will not adversely affect adjacent property owners as the LBA is located along a private roadway and all required plantings have been provided.

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. These policies are not violated as the required plantings are still being provided. These plantings provide an adequate transition due to adjacent development being very similar in intensity and character.

- (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 as the plan does provide all other LBAs and is constrained by the area needed for adequate parking.

- (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 the land or would create an unnecessary hardship on the applicant as the parking would have to be reconfigured in order to accommodate both the LBA and the sidewalk. The applicant has also exceeded the amount of landscaping on the plan than the LDC requires.

TECHNICAL REVIEW

- The proposed development plan is in order and has received preliminary approvals from Transportation Planning Review and the Metropolitan Sewer District.

STAFF CONCLUSIONS

The Revised Detailed District Development Plan meets the standard of review and the Landscape Waiver appears adequately justified based on staff analysis in the staff report.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Development Review Committee must determine if the proposal meets the standards for recommendation of approval of the RDDP and Landscape Waiver to the city of Middletown established in the Land Development Code.

NOTIFICATION

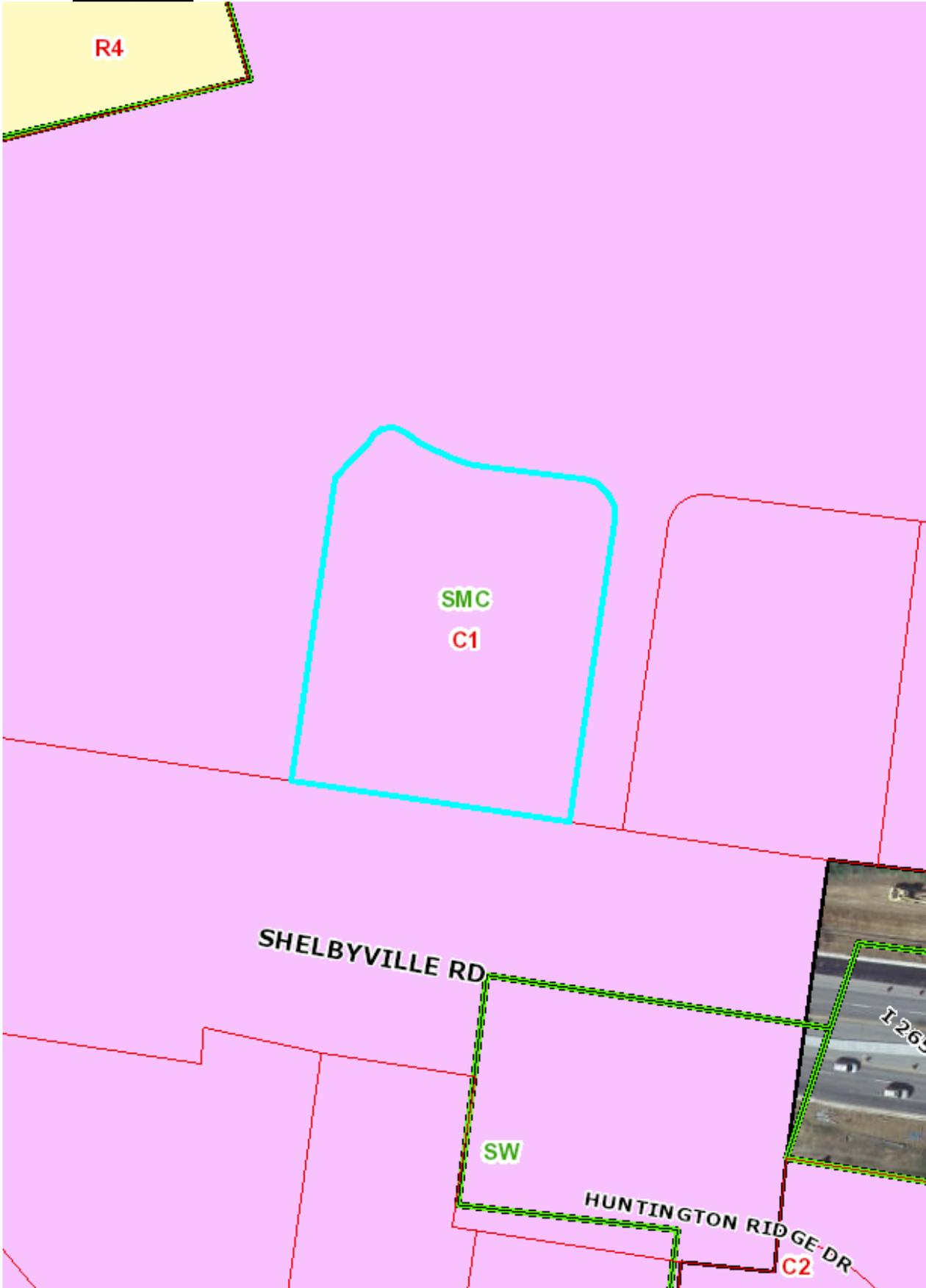
Date	Purpose of Notice	Recipients
6/01/2016	Public Hearing - DRC	Neighborhood notification recipients
6/02/2016	Public Hearing - DRC	1 st tier adjoining property owners
6/09/2016	Public Hearing – DRC Revised project description	Neighborhood notification recipients

ATTACHMENTS

1. Zoning Map
2. Proposed Binding Elements

* No aerial photo available that adequately displays current conditions

1. **Zoning Map**



2. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 4,339 square feet of gross floor area.
3. There shall be no direct vehicular access to Shelbyville Road.
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. 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.