

Development Review Committee Staff Report

November 02, 2016



Case No:	16WAIVER1042
Request:	Landscape Waiver
Project Name:	Middletown Commons
Location:	13403 Shelbyville Rd
Owner:	Middletown Investment Partners, LLC
Applicant:	GBT Realty Corporation
Representative:	Gresham, Smith and Partners
Jurisdiction:	City of Middletown
Council District:	19 – Julie Denton
Case Manager:	Jay Luckett, Planner I

REQUEST

- Waiver of Section 10.2.12.B to allow an internal vehicular use area to exceed 120'.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant has filed for waiver from the landscape requirements of LDC section 10.2.12.B to allow an internal vehicular use area to exceed 120'. This is an after the fact request to bring existing conditions into compliance with the approved development plan. This site was developed per the approved plan for 14DEVPLAN1075, except a single internal landscape area was installed incorrectly. This mistake resulted in a single 135' width VUA in one portion of the site.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Commercial Retail	C1	SMC
Proposed	Commercial Retail	C1	SMC
<i>Surrounding Properties</i>			
North	Public Utility	R4, C1	SW, SMC
South	Commercial Retail	C2	SW, SMC
East	Interstate 265	N/A	N/A
West	Commercial Retail	C-2	SMC

PREVIOUS CASES ON SITE

10723 – Change in zoning from R4 and R7 to C1 on 31.7 acres for retail development.

13DEVPLAN1051 – RDDDP with binding element modifications, variances and waivers.

14DEVPLAN1075 – RGDDP with waivers.

15CUP1017 - Conditional Use Permit for outdoor alcohol sales in C1.

14MOD1004 - Modification of a binding element for 13DEVPLAN1051.

INTERESTED PARTY COMMENTS

None received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR LANDSCAPE WAIVER of section 10.2.12.B to allow and internal vehicular use area to exceed 120'.

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

STAFF: The proposed waiver will not adversely affect adjacent property owners since the Vehicle Use Area is interior to the site, and does not affect the overall circulation of traffic. Proposed landscaping and tree canopy coverage will still meet minimum required under approved plan, and there is not any additional impervious surface area created as a result of granting this waiver.

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

STAFF: Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. This policy is not violated as the required tree canopy per approved plans has been met, and this waiver will not alter the approved amount of tree canopy or impervious surface of the site.

- (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 only this single Internal Landscaped Area is incorrectly constructed.

- (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 create an unnecessary hardship on the applicant as removal and reinstallation of the ILA would incur significant costs while not altering the overall tree coverage or impervious surface area of the site.

TECHNICAL REVIEW

Technical Review comments have been addressed.

STAFF CONCLUSIONS

The proposed Landscape Waiver to allow the Vehicle Use Area to exceed 120' generally meets the guidelines of the comprehensive plan, as the total VUA and tree canopy coverage are not altered. This is based on the standard of review and staff analysis.

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 granting the Waiver established in the Land Development Code.

REQUIRED ACTIONS

Recommend to the City of Middletown:

- **APPROVAL or DENIAL** of the Waiver of Section 10.2.12.B to allow an internal Vehicular Use Area to exceed 120'

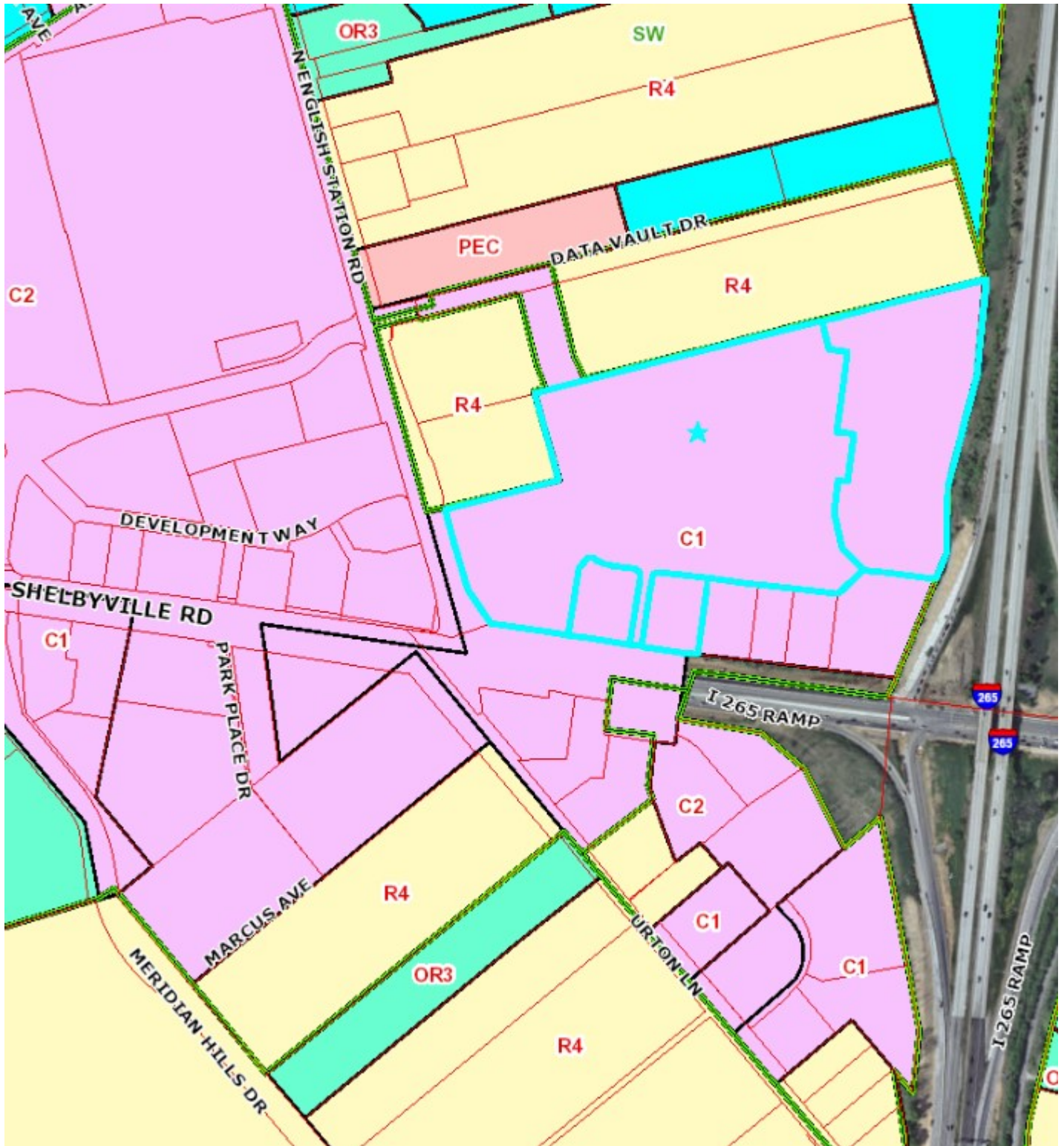
NOTIFICATION

Date	Purpose of Notice	Recipients
10/19/2016	Public Hearing - DRC	Neighborhood notification recipients
10/19/2016	Public Hearing - DRC	1 st tier adjoining property owners

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

