

Development Review Committee

Staff Report

June 4th, 2014



Case No:	14DEVPLAN1018
Request:	Detailed District Development Plan with pedestrian connection and landscape waivers
Project Name:	Chick-Fil-A
Location:	13313 Shelbyville Road
Owner:	Middletown Investment Partners LLC
Applicant:	GBC Design Inc
Representative:	Gary Rouse
Jurisdiction:	Middletown
Council District:	19 – Jerry Miller
Case Manager:	Christopher Brown, Planner II

REQUEST

- Waiver #1: Waiver from Chapter 5.9.2.A.1.b.i of the 2004 Land Development Code to not provide the required pedestrian connection from Shelbyville Road to proposed building
- Waiver #2: Landscape waiver from Chapter 10.2.10 of the 2004 Land Development Code to eliminate the required 10' VUA LBA adjacent to the access road along the rear of the property
- Waiver #3: Landscape waiver from Chapter 10.2.11 of the 2004 Land Development Code to reduce the planting requirements from 3 trees to 1 tree
- Waiver #4: Landscape waiver from Chapter 10.2.12 to reduce the required interior landscape areas from 7.5% to 5.7%
- Detailed District Development Plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Zoning District: C-1, Commercial
Form District: SMC, Suburban Marketplace Corridor
Existing Use: Vacant
Proposed Use: Restaurant
Minimum Parking Required: 41
Maximum Parking Spaces Permitted: 103
Parking Spaces Provided: 41
Plan Certain Docket #: 10723

The applicant is proposing to construct a 4,390 SF Chick-Fil-A restaurant with a 640 SF patio for outdoor dining. Access to the site will be located to the rear from the drive within the Middletown Commons shopping center. All building and parking setbacks will be followed with the previously approved waivers to allow encroachments into the scenic corridor buffer and setback. The minimum number of parking spaces will be provided on the site. Sidewalks will be provided along the Shelbyville Road frontage. The applicant has request to waive the requirement to provide a connection from their sidewalk to the primary building entrance. Pedestrian connections will be provided from the shopping center sidewalk along the rear of the lot to the building entrance. Landscaping will be provided along the street frontage as well as within the interior of the site but the applicant has requested several landscape waivers. Along the rear of the property between the access drive and parking area, the applicant has requested to eliminate the required 10' VUA LBA as well as

reduce the required number of trees from 3 to 1. The 10' VUA LBA would eliminate circulation to the rear of the proposed building and require removal of needed parking to accommodate the relocation of the dumpster enclosure. The elimination of the VUA LBA also allows for the construction of a pedestrian connection along the rear of the site. The tree reduction will be mitigated by an additional tree being planted along the easterly and westerly perimeters. In the interior of the site, the applicant is requesting to reduce the required ILA from 1,908 SF to 1,442 SF. The required number of large or medium tree plantings will be met within the interior despite the reduction. The reduction in ILA also allows the minimum parking requirement to be met.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	C-1	SMC
Proposed	Restaurant	C-1	SMC
Surrounding Properties			
North	Mixed Commercial	C-1	SMC
South	ROW/Mixed Commercial	C-1	SMC
East	Vacant	C-1	SMC
West	Vacant	C-1	SMC

PREVIOUS CASES ON SITE

10723: The Planning Commission and City of Middletown approved a change in zoning from R-4 and R-7, residential, to C-1, commercial, a change in form district from Suburban Workplace to Suburban Marketplace Corridor, a conditional use permit for outdoor alcohol sale and consumption for restaurants in C-1 zoning, a variance to reduce the required yard along the northern property line from 50' to 25' and approval of a detailed district development plan.

13DEVPLAN1051: A revised general and detailed district development plan was approved for the Middletown Commons commercial shopping center with several landscape waivers, setback variances and amendments to the previously existing binding elements.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
2004 Land Development Code (Middletown)

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS
(Internal Pedestrian Connection)**

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

STAFF: The waiver will not adversely affect adjacent property owners since internal connectivity for the site will be provided from the Shelbyville Road sidewalk at the nearby Middletown Commons shopping center entrance and connect at the rear of the site

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

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 by since multi-modal access to the site will be provided in the most reasonable means due to grade issues along the street frontage for this property and potential ADA compliance issues with slope.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since a connection will be created along the rear of the property that will connect to the larger shopping center and Shelbyville Road at the shopping center entrance.

(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 t deprive the applicant of the reasonable use of the land and would not create an unnecessary hardship on the applicant since the pedestrian connection construction has grading and slope issues to achieve ADA accessibility and not reduce the required parking along the front of the property to meet the minimum parking requirement for the use.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (VUA LBA/Plantings)

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

STAFF: The waiver will not adversely affect adjacent property owners since the landscape buffer is to the rear of the site at an internal access road.

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

STAFF: The waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. The location is internal to the larger shopping center and the reduction in tree plantings will be offset on other portions of the property.

(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 LBA would reduce the parking, require relocation of the dumpster and pedestrian access as well as impede circulation to the rear of the building. The tree planting reduction along this property perimeter is offset with additional plantings to the east and west.

(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 has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived by adding plantings to the east and west to mitigate the reduction to the north. 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 by requiring relocation of the pedestrian connection and a reduction in the parking below the minimum required for the use.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (ILA Reduction)

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

STAFF: The waiver will not adversely affect adjacent property owners since the required number of plantings will be met on the site.

- (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. The tree canopy needed for the interior will be provided on the site with the required number of large or medium trees.

- (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 additional interior landscape areas would reduce the parking below the minimum required.

- (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 by resulting in a loss of parking for the use.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DEVELOPMENT PLAN and AMENDMENT TO BINDING ELEMENTS

- 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: There does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site.

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

STAFF: Provisions for safe and efficient pedestrian transportation within and around the development and the community has been provided and the vehicular transportation needs have been evaluated and approved by both Metro Public Works and the Kentucky Transportation Cabinet. Pedestrian accessibility will be provided to the larger shopping center pedestrian network.

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

STAFF: The open spaces requirements of the site are met.

- 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 site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. The buildings will follow the proposed pattern book to incorporate the property into the larger Regional Center.

- 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 conforms to applicable guidelines and policies of the Comprehensive Plan with the proposed master plan pattern book that establishes a unique character for the development and unifies the appearance of the lots in their building, landscape and amenities area design. It meets the requirements of the Land Development Code with the exception of the requested waivers which meet the standards of review.

TECHNICAL REVIEW

- Actions require final approval by the City of Middletown.

STAFF CONCLUSIONS

The standards of review for the requested waivers have been met. The waivers result from balancing the building requirements, minimum parking requirements, grading issues, pedestrian connectivity and size of the lot. The VUA LBA and ILA would require removal of parking spaces below the minimum requirement. The applicant has mitigated these requests by meeting the tree requirements in alternative locations on the site. Pedestrian connectivity will be achieved in a safer manner through access at the main shopping center entrance and connections to the larger pedestrian network of the shopping center. Recommendations need to be made to the City of Middletown. 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 the binding element amendment as established in the Land Development Code.

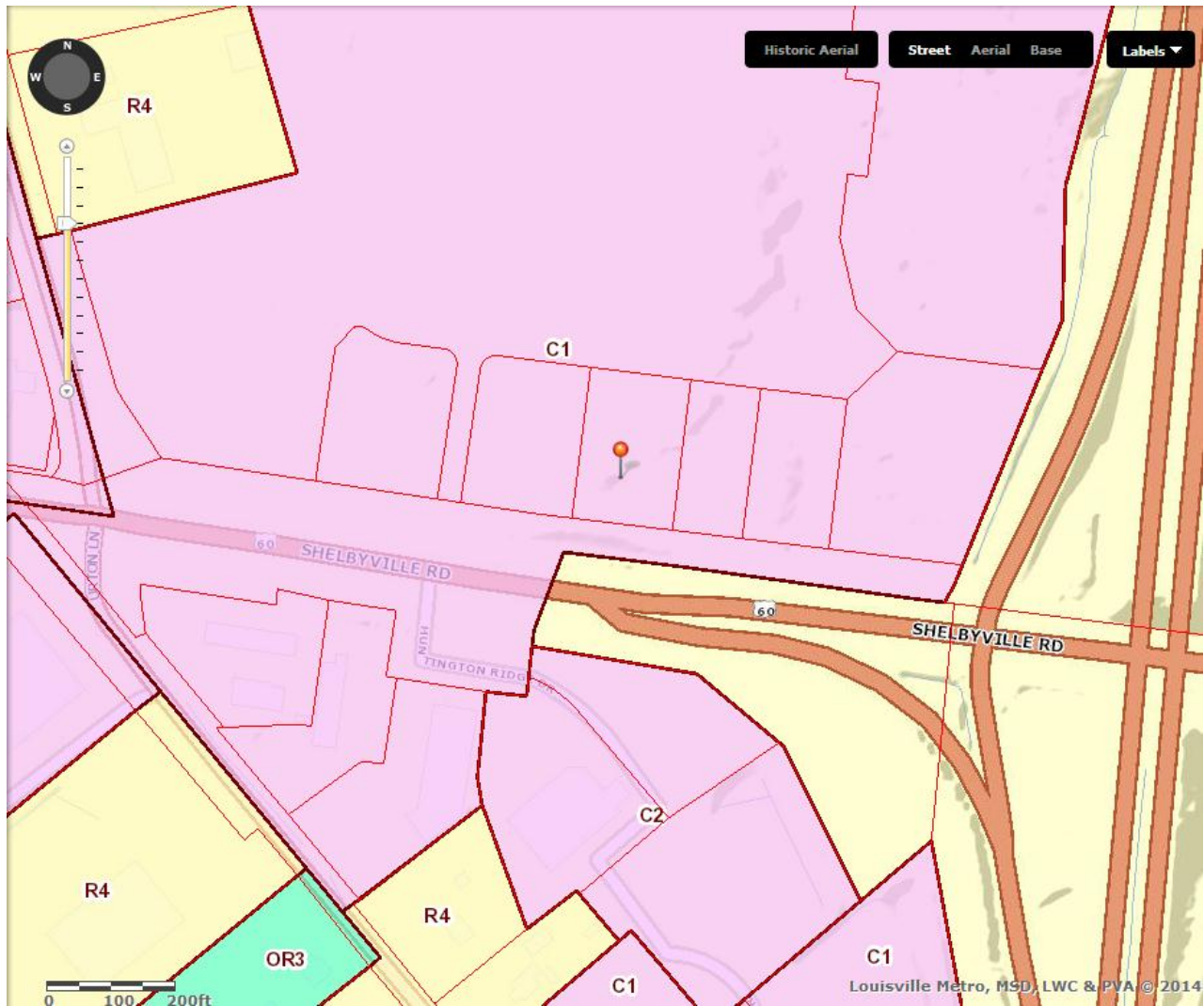
NOTIFICATION

Date	Purpose of Notice	Recipients
5/21/14	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Council District 19 individuals

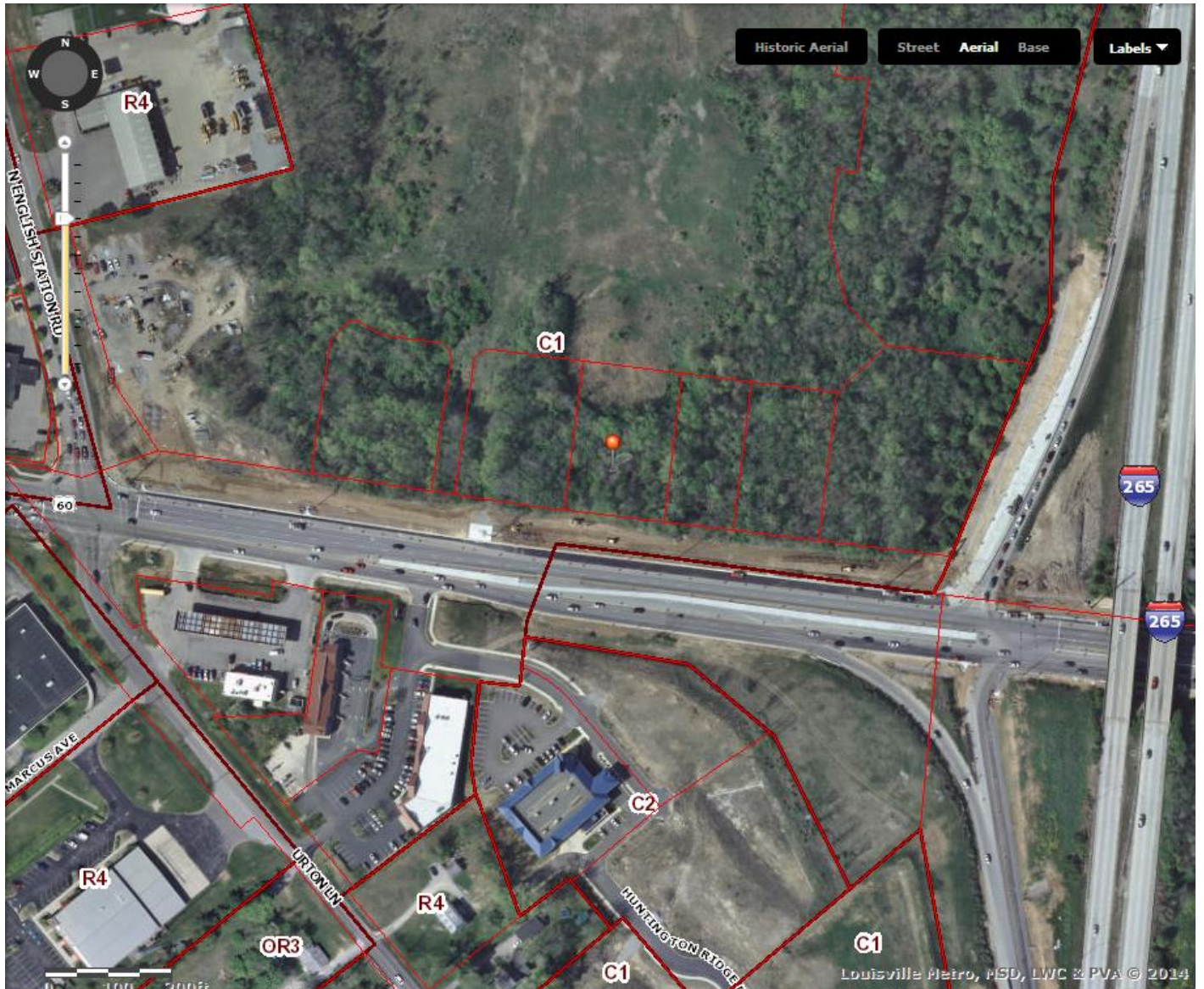
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Proposed Binding Elements

1. **Zoning Map**



2. Aerial Photograph



3. 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 5,030 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.