

Development Review Committee

Staff Report

February 28, 2018



Case No:	17DEVPLAN1211
Project Name:	Krispy Kreme
Location:	13319 Shelbyville Road
Owner(s):	Krispy Kreme Doughnut Corporation
Applicant:	Krispy Kreme Doughnut Corporation
Representative(s):	Commercial Site Design, PLLC
Jurisdiction:	City of Middletown
Council District:	19 – Julie Denton
Case Manager:	Joel P. Dock, Planner II

REQUEST(S)

- **Detailed District Development Plan**
- **Landscape Waiver** of Land Development Code, section 10.2.9 to reduce required 10' VUA LBA to 5' adjacent to Shelbyville Road
- **Landscape Waiver** of Land Development Code, section 10.2.4 to allow a retaining wall within the required LBA adjacent to Shelbyville Road
- **Landscape Waiver** of Land Development Code, section 10.3.6 to reduce the required 25' scenic corridor LBA to 5' adjacent to Shelbyville Road

CASE SUMMARY

The applicant proposes to construct a 2,939 square foot doughnut shop within the Middletown Commons retail development adjacent to Shelbyville Road and Interstate-265 in the City of Middletown. The proposed development is located on an out-lot adjacent to similarly designed uses and structures. Pedestrian access is proposed to Shelbyville Road and all vehicle access is provided via internal roadways to the shopping center. Several landscape waivers have been requested to maintain a consistent pattern of design with adjacent uses.

Previous Cases

- 10723: Change in zoning from R-4 and R-7 to C-1, change in form district from SW to SMC, CUP to allow outdoor alcohol service, and variance
- 13DEVPLAN1051: Revised general/detailed district development plan with waivers and variances
- 14MOD1004: Amendment to Binding Element #20 of 13DEVPLAN1051
- 14DEVPLAN1075: Revised general/detailed district development plan with waivers
- 17ZONE1041: Change in zoning from C-1 to C-2 (denied by City of Middletown 2/11/16)

STAFF FINDING

The detailed district development plan and landscape waivers appear to be adequately justified based on the standard of review and staff analysis. The proposed improvements are consistent and compatible with adjacent development.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- 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 do not appear to be any natural resources or significant historic features on the 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 vehicular and pedestrian transportation within and around the development and the community have been provided as vehicular access is internal to the development site and pedestrian access to the public sidewalk is being provided.

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

STAFF: While there are no open space requirements for the proposal, the plan provides outdoor dining spaces along Shelbyville Road.

- 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 as adjacent sites have previously been developed in a manner consistent and compatible with the requested development plan and associated landscape waivers..

- 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 and to requirements of the Land Development Code as the proposed retail development is located within an existing activity center, does not adversely impact traffic, promotes the safe and efficient movement of pedestrians and vehicles, and is designed to be compatible with surrounding uses that meet form district design standards.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER(S)

Section 10.2.9 to reduce required 10' VUA LBA to 5' adjacent to Shelbyville Road, section 10.2.4 to allow a retaining wall within the required LBA adjacent to Shelbyville Road, and section 10.3.6 to reduce the required 25' scenic corridor LBA to 5' adjacent to Shelbyville Road

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

STAFF: The waivers will not adversely affect adjacent property owners as adjacent uses and development is consistent and compatible with the improvements proposed on this development site. The edges of pavement for parking areas nearest Shelbyville Road on adjacent uses are located similarly to the requested 5' landscape buffer area. Topography necessitates that a retaining wall be provided to remain consistent with adjacent uses as the parking areas move east.

- (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 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The waiver will not violate these specific guidelines as the proposed encroachments are in keeping with the established buffer of the adjacent development. No intrusions upon public spaces or streets are created and the proposed encroachment allows the structure to be developed in a compatible manner with existing surrounding uses.

- (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 minimum parking standards demand spaces along the frontage of Shelbyville Road and the location of this parking requires a retaining wall and 5' minimum buffer in order to remain compatible with adjacent uses.

- (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 adjacent users are similarly designed and topography demands a retaining wall. Providing a greater buffer meeting the requirements of the Land Development code would create incompatibility with adjacent development.

REQUIRED ACTIONS

- **RECOMMEND** that the City of Middletown **APPROVE or DENY** the **Detailed District Development Plan**
- **APPROVE or DENY** the **Landscape Waiver** of Land Development Code, section 10.2.9 to reduce required 10' VUA LBA to 5' adjacent to Shelbyville Road
- **APPROVE or DENY** the **Landscape Waiver** of Land Development Code, section 10.2.4 to allow a retaining wall within the required LBA adjacent to Shelbyville Road
- **APPROVE or DENY** the **Landscape Waiver** of Land Development Code, section 10.3.6 to reduce the required 25' scenic corridor LBA to 5' adjacent to Shelbyville Road

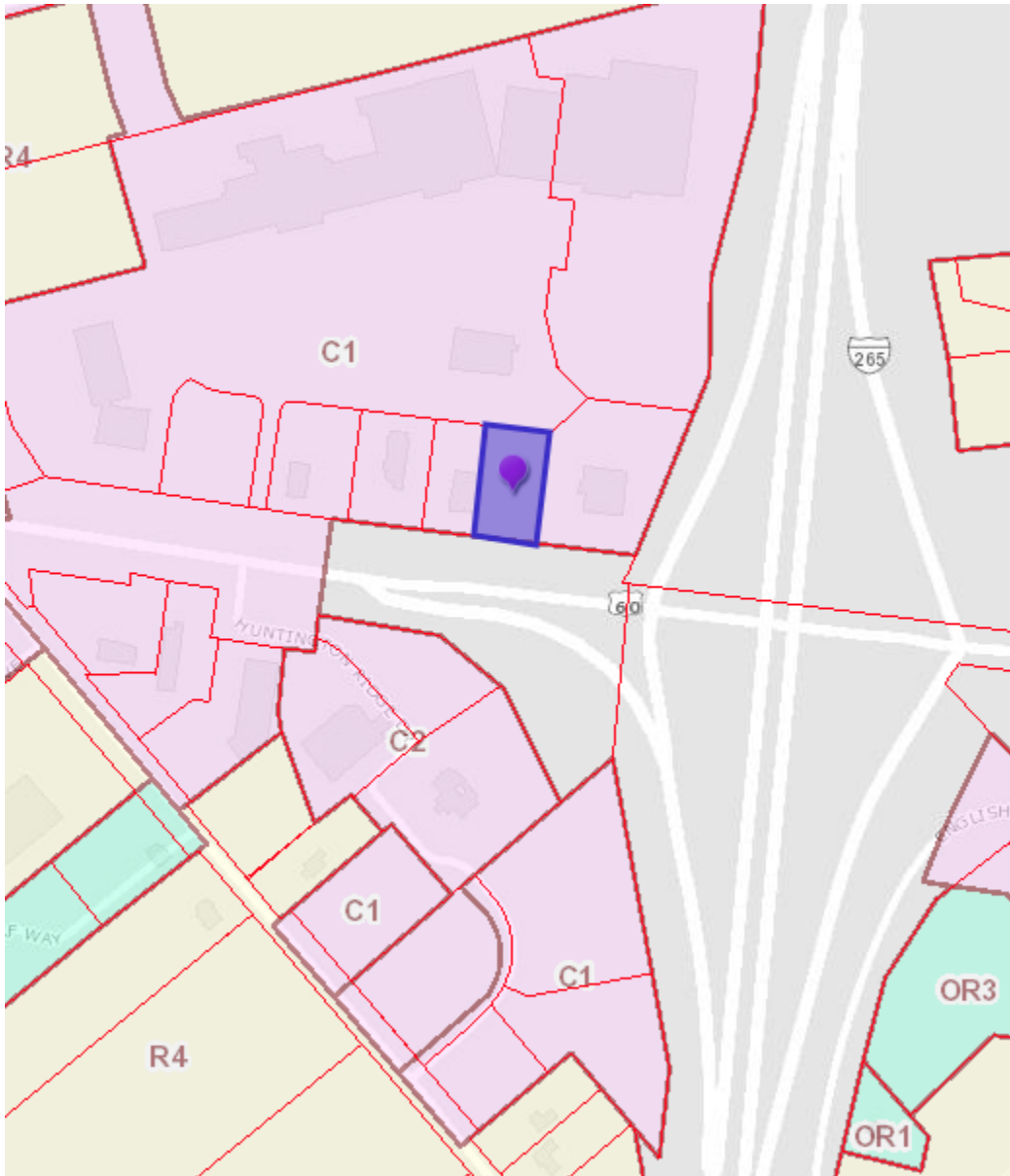
NOTIFICATION

Date	Purpose of Notice	Recipients
2/15/18	Hearing before PC	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 19

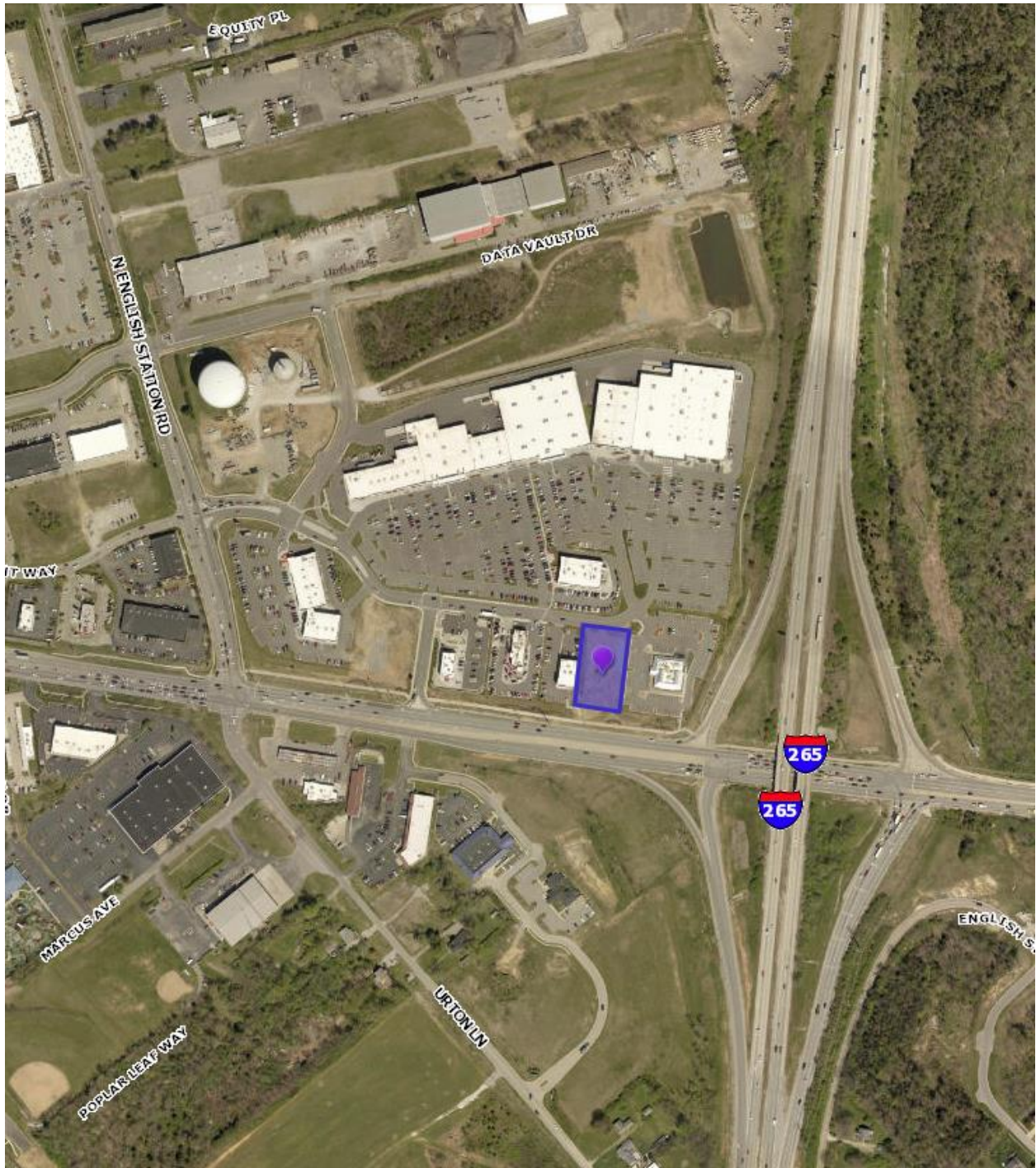
ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



3. Proposed Binding Elements

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

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.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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.