

**Development Review Committee
Staff Report**
June 2, 2021



Case No:	21-DDP-0043
Project Name:	11701 Gateworth Way
Location:	11701 Gateworth Way
Owner(s):	Bennett Realty, LLC
Applicant:	Drake Real Estate Services – Jon Hauser
Jurisdiction:	City of Middletown
Council District:	20 – Stuart Benson
Case Manager:	Joel Dock, AICP, Planner II

REQUEST(S)

- **Amendment to Binding Elements**
- **Revised Detailed District Development Plan**

CASE SUMMARY

The proposal will convert an existing motorcycle dealership to an electric vehicle dealership and expand the current areas for parking and display onto an abutting vacant tract of land. The subject property is on the north side of Interstate-64 and abuts the west-bound entrance from Blankenbaker Parkway. It is accessed from a private street. With this revised plan, the applicant has also requested to amend several binding elements to meet the needs of the future tenant and remove binding elements 10.c, d, & e; and 21. Additional amendments to maintain consistency with standard language for binding elements and the Land Development Code have been incorporated. The applicant’s proposed amendments are as follows:

2. *Use of the subject site shall be limited to car dealerships selling new and pre-owned automobiles and motorcycle dealerships and the maintenance and repair of new and pre-owned electric automobiles as permitted within the C-2 zoning district and the charging of electric automobiles, along with other uses permitted in the C-1 district including the retail sale and/or display of alternative energy products such as electric vehicle batteries or solar panels. There shall be no other use of the property unless prior approval is obtained from the Planning Commission and the City of Middletown. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission’s policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.*

3. *The development shall not exceed 31,000 sq. ft. of gross floor area for Lot one ~~and~~ 8,224 s.f. of gross floor area for Lot two.*

18. *Hours of operation shall be limited as follows:*
 - i. Monday thru Saturday: 8 a.m. to 8 p.m.; and*
 - ii. Sunday: 12 noon to 5 p.m.**Monday thru Sunday 7:00 a.m. to 10:00 p.m.*

19. *All servicing of motorcycles and automobiles shall be done indoors. Noise shall be kept to a minimum and customers making excessive noise shall be advised of this binding element.*

Variances to permit proposed parking areas to encroach upon the front setback for Gateworth Way, a private access easement, and expressway setback required for development within the campus form district will be heard by the Board of Zoning Adjustment June 7, 2021.

Associated cases

9-63-00: Change in Zoning from C-1 to C-2 (approved 11/02/20); Revised detailed district development plan with amendment to binding elements (approved 08/22/02)

STAFF FINDING

The revised detailed district development plan and amendment to binding elements has been adequately justified based on staff's analysis contained in the standard of review.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR REVISED DETAILED DISTRICT DEVELOPMENT PLAN & 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: 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 is provided as the development will provide all required landscape buffers, interior landscape areas, and tree planting. No adverse impacts to natural resources are apparent.

- 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 will be provided. No improvements to the transportation network were required of the proposal.

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

STAFF: Open space was not required by the proposal and the minimum requirements for tree canopy will be 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 will ensure 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.

- 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 a motorcycle dealership has been a tenant at this location for nearly 20 years, the site is served by a private roadway at the intersection of a major arterial roadway and Interstate-64, and the proposed use may decrease noise levels upon adjacent hotel guests.

- 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 and amendment to binding elements conform to applicable guidelines and policies of the Comprehensive Plan. The proposed amendments do not create conflict with permitted uses within the current zoning district.

REQUIRED ACTIONS:

- **RECOMMEND** to the City of Middletown that the **Amendment to Binding Elements** be **APPROVED** or **DENIED**
- **RECOMMEND** to the City of Middletown that the **Revised Detailed District Development Plan** be **APPROVED** or **DENIED**

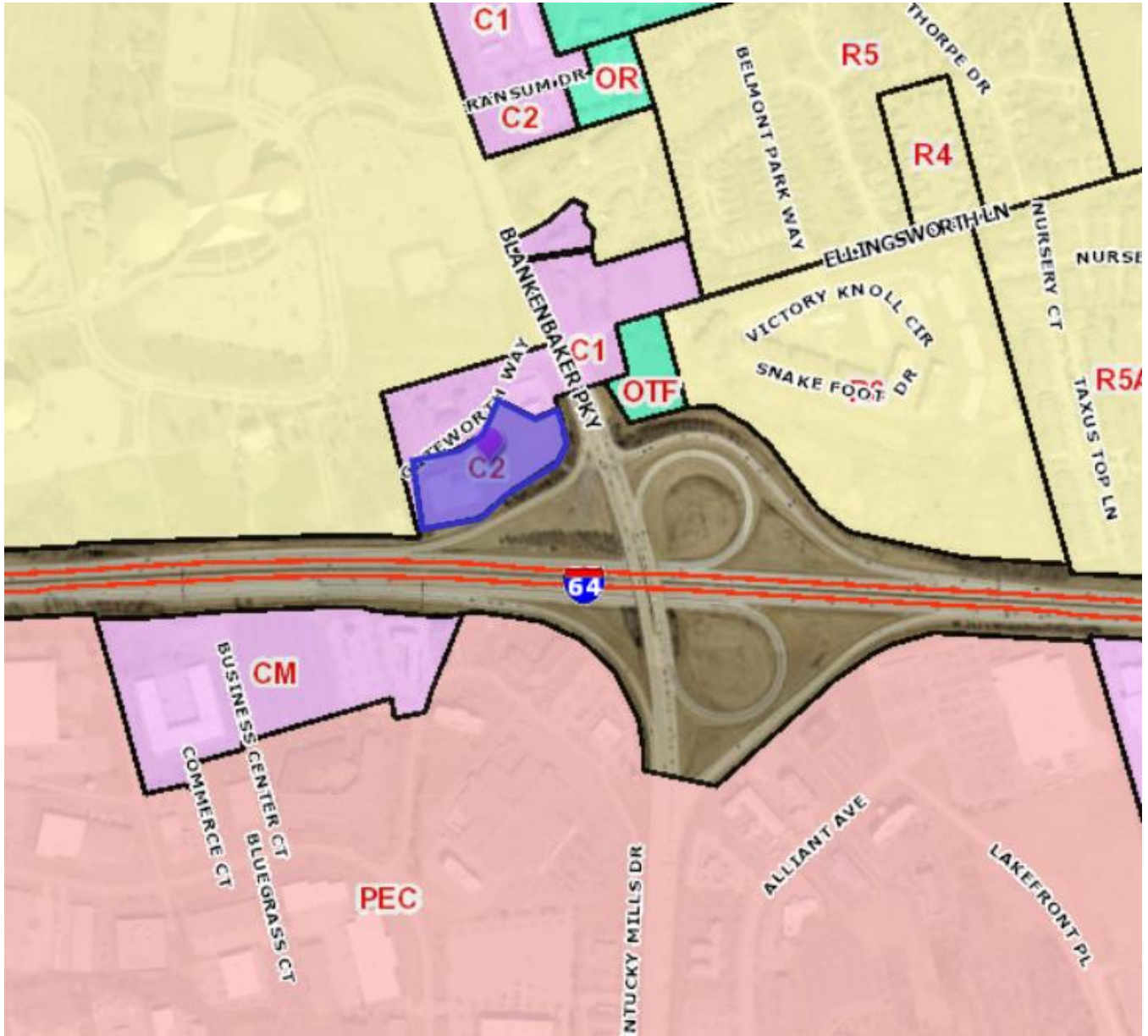
NOTIFICATION

Date	Purpose of Notice	Recipients
5/21/21	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 20

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements (9-63-00)
4. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Existing Binding Elements 9-63-00

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes, additions, or alterations of any binding element(s) shall be submitted to the Planning Commission and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. use of the subject site shall be limited to car dealership and motorcycle dealership and other uses permitted in the C-1 district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission and the City of Middletown. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.
3. The development shall not exceed 31,000 square feet of gross floor area for Lot one and 8,224 square feet of gross floor area for Lot two.
4. There shall be no direct vehicular access to Blankenbaker Parkway.
5. The only permitted freestanding signs shall be located as shown on the approved development plan/sign plan. No portion of the signs, including the leading edge of the sign frame, shall be closer than 5 feet to front property line. The sign adjacent to Blankenbaker Parkway shall not exceed 60 square feet in area per side and 23 feet in height. The sign adjacent to Gateworth Way shall not exceed 60 square feet in area per side and 6 feet in height. No sign shall have more than two sides. All such signs shall conform to City of Middletown ordinances.
6. No outdoor advertising signs (billboards), small free-standing signs (temporary), pennants, balloons, or banners shall be permitted on the site.
7. There shall be no outdoor storage on the site.
8. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-site.
9. 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.
10. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 and in conformance with the Parkway

Policy (unless a waiver is granted by the Planning Commission and the City of Middletown) prior to requesting a building permit. Such plan shall be subject to review and approval by the City of Middletown and shall be implemented prior to occupancy of the site and shall be maintained thereafter.

- c. The property owner, applicant, or developer shall submit to the Planning Commission and the Natural Resources and Environmental Protection Cabinet written procedures for tire/oil disposal that comply with applicable state and federal regulations. Said procedures shall be submitted prior to requesting a building permit and shall be followed for the duration of the use unless otherwise approved by the Planning Commission.
 - d. An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded at time of development of Lot 2. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services and to the City of Middletown; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services and to the City of Middletown; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
11. If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission and the City of Middletown.
 12. A certificate of occupancy must be received from the appropriate code enforcement office 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 r specifically waived by the Planning Commission and the City of Middletown.
 13. There shall be no outdoor music (live, piped, amplified) or outdoor entertainment or outdoor audible beyond the property.
 14. 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.
 15. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service Recommendations Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to commencement of any clearing, grading, or construction activities.

16. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
17. The dumpster shall not be emptied between the hours of 10 p.m. and 7 a.m. All areas containing commercial trash receptacles including dumpsters shall be individually enclosed and screened from public view.
18. Hours of operation shall be limited as follows:
 - i. Monday thru Saturday: 8 a.m. to 8. p.m.; and
 - ii. Sunday: 12 Noon to 5 p.m.
19. All servicing of motorcycles shall be done indoors. Noise shall be kept to a minimum and customers making excessive noise shall be advised of this binding element.
20. There shall be no road testing of motorcycles in residential " areas.
21. The materials and design of proposed structure shall be substantially the same as depicted in the rendering as presented at the August 22, 2002 Planning Commission meeting.
22. The above binding elements may be amended as provided for in the Zoning District Regulations, upon approval of the City of Middletown.

4. Proposed Binding Elements (21-DDP-0043)

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes, additions, or alterations of any binding element(s) shall be submitted to the Planning Commission and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Use of the subject site shall be limited to car dealerships selling new and pre-owned automobiles and motorcycle dealerships and the maintenance and repair of new and pre-owned electric automobiles as permitted within the C-2 zoning district and the charging of electric automobiles, along with other uses permitted in the C-1 district including the retail sale and/or display of alternative energy products such as electric vehicle batteries or solar panels. There shall be no other use of the property unless prior approval is obtained from the Planning Commission and the City of Middletown. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.
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6. No outdoor advertising signs (billboards), small free-standing signs (temporary), pennants, balloons, or banners shall be permitted on the site.
7. There shall be no outdoor storage on the site.
8. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-site.
9. 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.
10. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. ~~The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~ The development plan must receive full

construction approval from Construction Review, 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 Article 12 and in conformance with the Parkway Policy (unless a waiver is granted by the Planning Commission and the City of Middletown) prior to requesting a building permit. Such plan shall be subject to review and approval by the City of Middletown and shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~ 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
 - c. ~~The property owner, applicant, or developer shall submit to the Planning Commission and the Natural Resources and Environmental Protection Cabinet written procedures for tire/oil disposal that comply with applicable state and federal regulations. Said procedures shall be submitted prior to requesting a building permit and shall be followed for the duration of the use unless otherwise approved by the Planning Commission.~~
 - d.c. ~~An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded at time of development of Lot 2. A minor plat or legal instrument shall be recorded consolidating the property into one lot.~~ A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services and to the City of Middletown; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. ~~A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services and to the City of Middletown; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~
11. If a building permit is not issued within ~~one year~~ 2-years of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved, or an extension is granted by the Planning Commission and the City of Middletown.
 12. A certificate of occupancy must be received from the appropriate code enforcement office 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 r specifically waived by the Planning Commission and the City of Middletown.
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18. Hours of operation shall be limited as follows:
 - i. ~~Monday thru Saturday: 8 a.m. to 8. p.m.;~~ and
 - ii. ~~Sunday: 12 Noon to 5 p.m.~~
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