

Development Review Committee

Staff Report

January 4, 2023



Case No:	22-DDP-0032
Project Name:	Speckman Retail Addition
Location:	719 & 721 Speckman Road
Owner(s):	Speckman Commercial LLC
Applicant:	Speckman Commercial LLC
Jurisdiction:	City of Middletown
Council District:	19- Anthony Piagentini
Case Manager:	Julia Williams, AICP, Planning Supervisor

REQUEST(S)

- Waivers:
 1. Waiver from 10.2.9 to not provide the 10' VUA LBA or the screening and planting along Speckman Road (22-WAIVER-0043)
 2. Waiver from 10.2.4 to not provide the 25'/35' LBA or the screening and planting along the northeast property line adjacent to the R-6 property
- Revised Detailed District Development plan

CASE SUMMARY/BACKGROUND

The proposal is for a 7,834 SF commercial building with access to the site from both Speckman Road and the private Rose Garden Road. A bank currently exists on the lot and will remain. The lot will be subdivided so that the bank and commercial buildings will be on separate lots. Parking between the commercial building and the adjacent commercial to the north will be shared. Cross access with the bank property will need to be provided.

The site was rezoned under docket #9-70-00.
17086- Revised Plan for the bank site
14DEVPLAN1145- DDP for the commercial center to the north

STAFF FINDING

Staff finds that the proposal meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code.

TECHNICAL REVIEW

Land Development Code (2006) Middletown

Transportation Planning and MSD have preliminarily approved the proposal.

BOZA will hear the proposed variance at the February 6, 2023 hearing.

INTERESTED PARTY COMMENTS

None received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

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

STAFF: The waiver will not adversely affect adjacent property because the situation is existing. There is no space on either side of the roadways to provide the plantings.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should 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. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer and homeowners. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. The comprehensive plan is being met because the situation is existing. There is no space on either side of the roadways to provide the plantings.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the situation is existing. There is no space on either side of the roadways to provide the plantings.

- (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: Strict application of the provisions of the regulation will deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the situation is existing. There is no space on either side of the roadways to provide the plantings.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP 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 do 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 vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan.

- 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 pertinent to the current proposal. Future multi-family development proposed on the subject site will be required to meet Land Development Code requirements.

- 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 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. Buildings and parking lots will meet all required setbacks.

- 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.

REQUIRED ACTIONS:

- **RECOMMEND** that the City of Middletown **APPROVE** or **DENY** the **Waivers**
- **RECOMMEND** that the City of Middletown **APPROVE** or **DENY** the **RDDP**

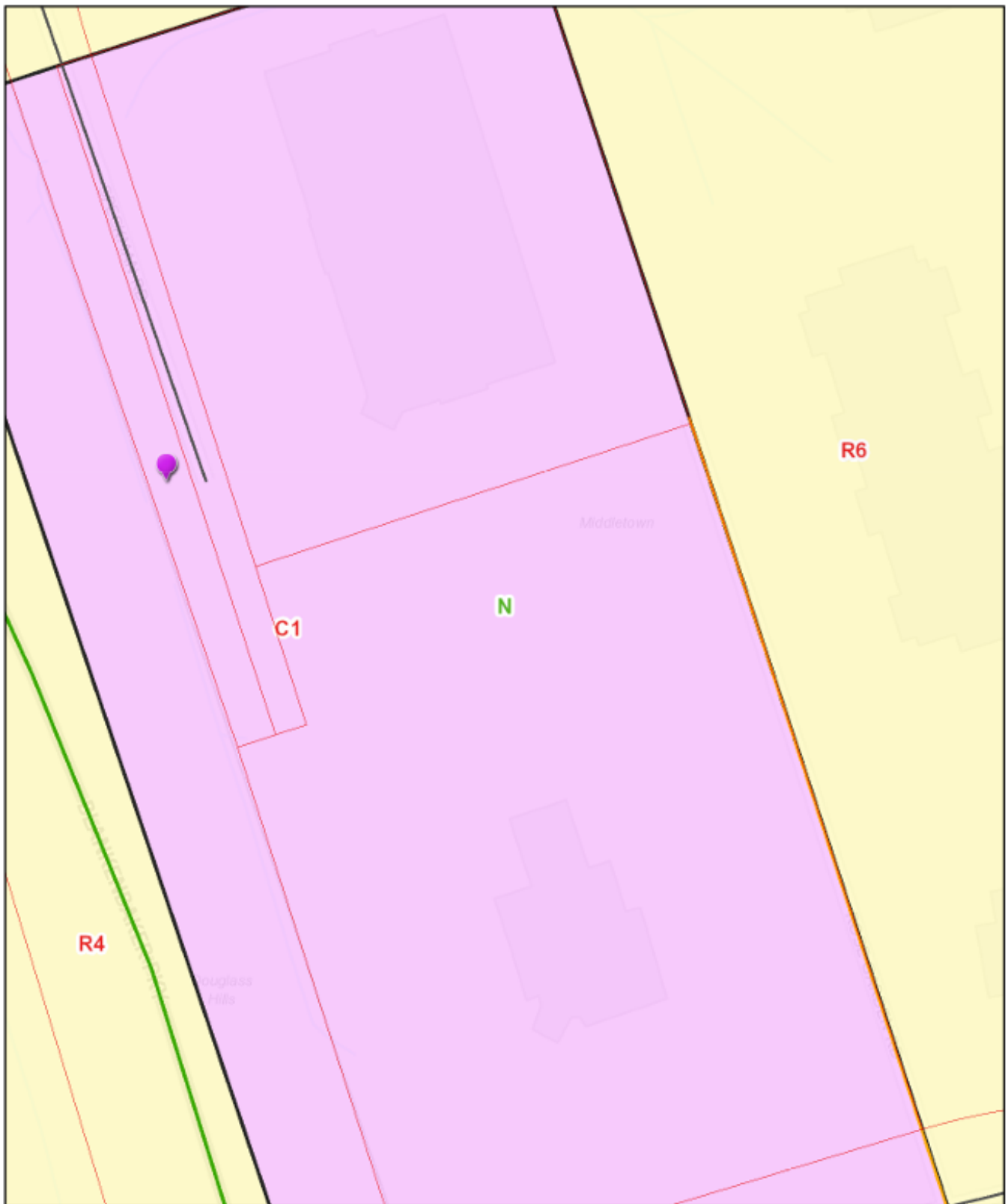
NOTIFICATION

Date	Purpose of Notice	Recipients
12/21/22	Hearing before DRC on 1/4/23	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 19

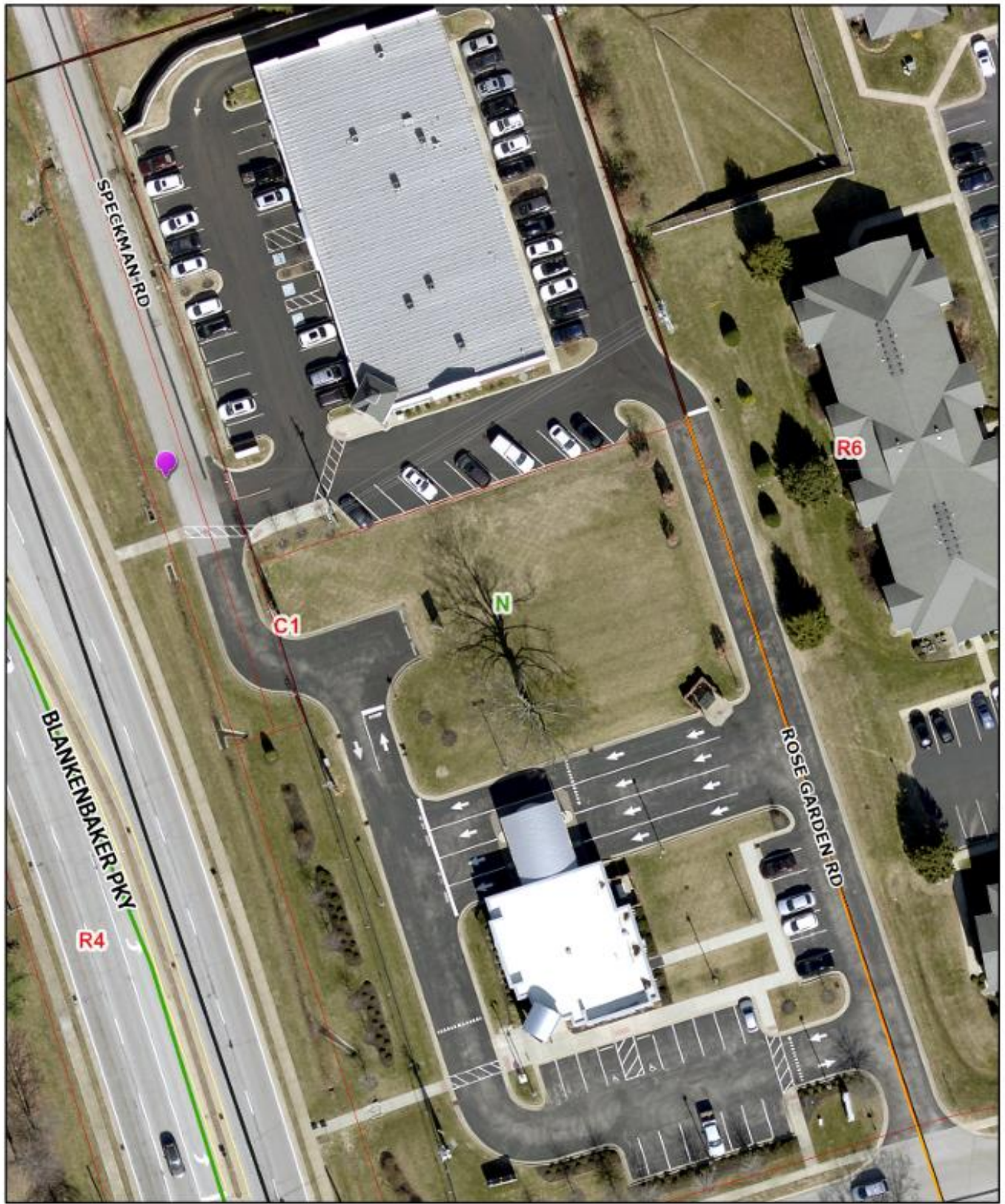
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements with proposed changes

1. Zoning Map



2. Aerial Photograph



3. Existing Binding Elements with proposed changes

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/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.
- 1a. Prior to development of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan from the Planning Commission. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:
 - a. screening, buffering, landscaping, tree preservation
 - b. density, floor area, size and height of buildings
 - c. points of access and site layout with respect to on-site circulation
 - d. land uses
 - e. signage
 - f. loading berths
 - g. parking
 - h. sidewalks
 - i. site design elements relating to alternative transportation modes
 - j. outdoor lighting
 - k. minor subdivision plat approval
 - l. air pollution
 - m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
 - n. dumpsters
2. The density of the development shall not exceed 15.94 dwelling units per acre (176 units on 11.04 acres).
- ~~3. The development shall not exceed 15,500 square feet of gross floor area for Tracts One and two combined.~~
4. There shall be no direct vehicular access to Blankenbaker Parkway.
5. The only permitted freestanding signs shall be monument style signs, located as shown on the approved detailed district development plan. Each commercial out lot is permitted one, 60 square foot and six feet tall monument sign. Except as permitted under Section 9.1 of the Development Code regarding signature entrance walks. The apartment lot is allowed one, six square foot and six feet tall monument sign. The signs shall not be closer than five feet to the front property lines. No sign shall have more than two sides.
6. No outdoor advertising signs, small free-standing signs, 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. Light levels due to lighting on the subject site shall not

exceed two foot candles measured at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter. Lighting fixtures shall be bollard style fixtures only, not to exceed four feet in height.

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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. 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.
 - d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - e. A **joint parking and** access/crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
11. 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 and City of Middletown.
13. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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. 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.

16. The dumpster shall not be emptied between the hours of 11 p.m. and 7 a.m.
17. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the **April 4, 2012 Development Review Committee** meeting **for the Bank site and the January 4, 2023 Development Review Committee for the commercial building** . City of Middletown shall make the final determination as to conformity with structure design elements set forth in this binding element.
18. The above binding elements may be amended as provided for in the Zoning District Regulations, upon approval of the City Commission.