

Land Development & Transportation Staff Report

May 22nd, 2014



Case No:	14DEVPLAN1017
Request:	Detailed District Development Plan with Landscape Waivers
Project Name:	Texas Roadhouse
Location:	13321 Shelbyville Rd
Owner:	Middletown Investment Partners
Applicant:	Texas Roadhouse
Representative:	Greenberg Farrow
Jurisdiction:	Middletown
Council District:	19 – Jerry Miller
Case Manager:	Christopher Brown, Planner II

Case continued from May 8th, 2014 LD&T Committee meeting

REQUEST

- Waiver #1: Landscape waiver from Chapter 10.3.6 and 10.3.7 of the 2004 Land Development Code to allow a reduction in the required number of trees along Gene Snyder Freeway corridor buffer
- Waiver #2: Landscape waiver from Chapter 10.3.7.A.1 of the 2004 Land Development Code to allow the VUA to encroach into the required 50' Gene Snyder Freeway buffer along the eastern property perimeter
- 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 Spaces Required: 60
Maximum Spaces Allowed: 149
Parking Spaces Proposed: 128
Plan Certain Docket #: 10723

The applicant is proposing to construct a 7,441 SF Texas Roadhouse restaurant on Outlot F of the previously approved shopping center known as Middletown Commons. The building setback will follow the approved setback from the general plan. All required parking and multi-modal transportation will be provided on the site with bicycle parking and full pedestrian connectivity. The building follows the color pallet established within the Development Design Guidelines and Pattern Book. Any proposed signage on the site will follow the signage limitations imposed along the Gene Snyder Freeway within the City of Middletown. The plan meets the landscaping requirements on the site with 20% tree canopy provided and 7.5% of the VUA SF in interior landscaping. The proposed development will encroach into the Gene Snyder Freeway 50' buffer with the proposed parking area. A 20' buffer will be provided on the Gene Snyder Freeway at its closest points. The applicant is proposing to reduce the tree planting requirement along Gene Snyder but still maintain the required tree canopy for the entire site.

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	Vacant	C-1	SMC
South	Vacant	C-2	SW
East	Gene Snyder	N/A	N/A
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 plan was approved by the Land Development & Transportation Committee and the City of Middletown for the Middletown Commons shopping center. Several landscape waivers were approved in conjunction with the plan. Setback variances for the main lot (Lot 1) were approved by the Board of Zoning Adjustment.

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 (Tree Plantings)

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

STAFF: The waiver will adversely affect adjacent property owners since the reduction in tree plantings will interrupt the intent of the scenic corridors established along both Shelbyville Road and the Gene Snyder Freeway.

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

STAFF: Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to 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. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The intent will not be met with the reduction in the required tree plantings. The character of the roadways and corridors will be affected and no mitigation is being provided for the potential visual intrusions along the scenic corridors.

- (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 not minimum necessary to afford relief to the applicant since the required tree plantings could be provided within the reduced landscape buffer areas along both Shelbyville Road and the Gene Snyder Freeway.

- (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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by since the buffer area would not need to be enlarged to incorporate the required tree plantings and it would have no adverse effect upon the building or parking areas.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (Gene Snyder Buffer)

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

STAFF: The waiver will not adversely affect adjacent property owners since the intent of the buffer will be met with the area being provided on the plan.

- (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 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to 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. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 7 calls for protection of the character of parkways and scenic byways and corridors through standards for

buffers, landscape treatment, lighting and signs. The intent of Gene Snyder Freeway development standards is to protect existing scenic and aesthetic qualities, to ensure a quality visual experience on developing corridors and to protect and improve the visual experience on established corridors. The waiver will not violate these specific guideline policies since the scenic and aesthetic qualities will be maintained through the use of the required screening with only minor intrusions due to parking will occur.

- (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 to allow the required parking on the lot and the needed circulation pattern for the development.

- (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 requiring an extension of the buffer into the lot which would eliminate areas of parking and circulation needed for proper movement to, through and around the property.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DEVELOPMENT PLAN and 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 by the applicant.

- 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 building will follow the approved pattern book for the Middletown Commons development.

- 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. The requested waiver to reduce the Gene Snyder Freeway buffer follows the intent of the Comprehensive Plan while the tree planting reduction waiver does not follow the guidelines.

TECHNICAL REVIEW

- Actions require final approval by the City of Middletown based upon recommendations by the Land Development & Transportation Committee.

STAFF CONCLUSIONS

The standard of review for the requested landscape waivers has been met with the exception of the tree planting reduction along the scenic corridor buffer and Gene Snyder Freeway. The Committee needs to consider requiring the tree plantings in these areas to meet the intent of the corridors and the guidelines of the Comprehensive Plan. The development plan follows all other Land Development Code requirements as well as the binding elements of the Middletown Commons general plan and pattern book. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Land Development & Transportation Committee must determine if the proposal meets the standards for granting landscape waivers and a detailed district development plan as established in the Land Development Code.

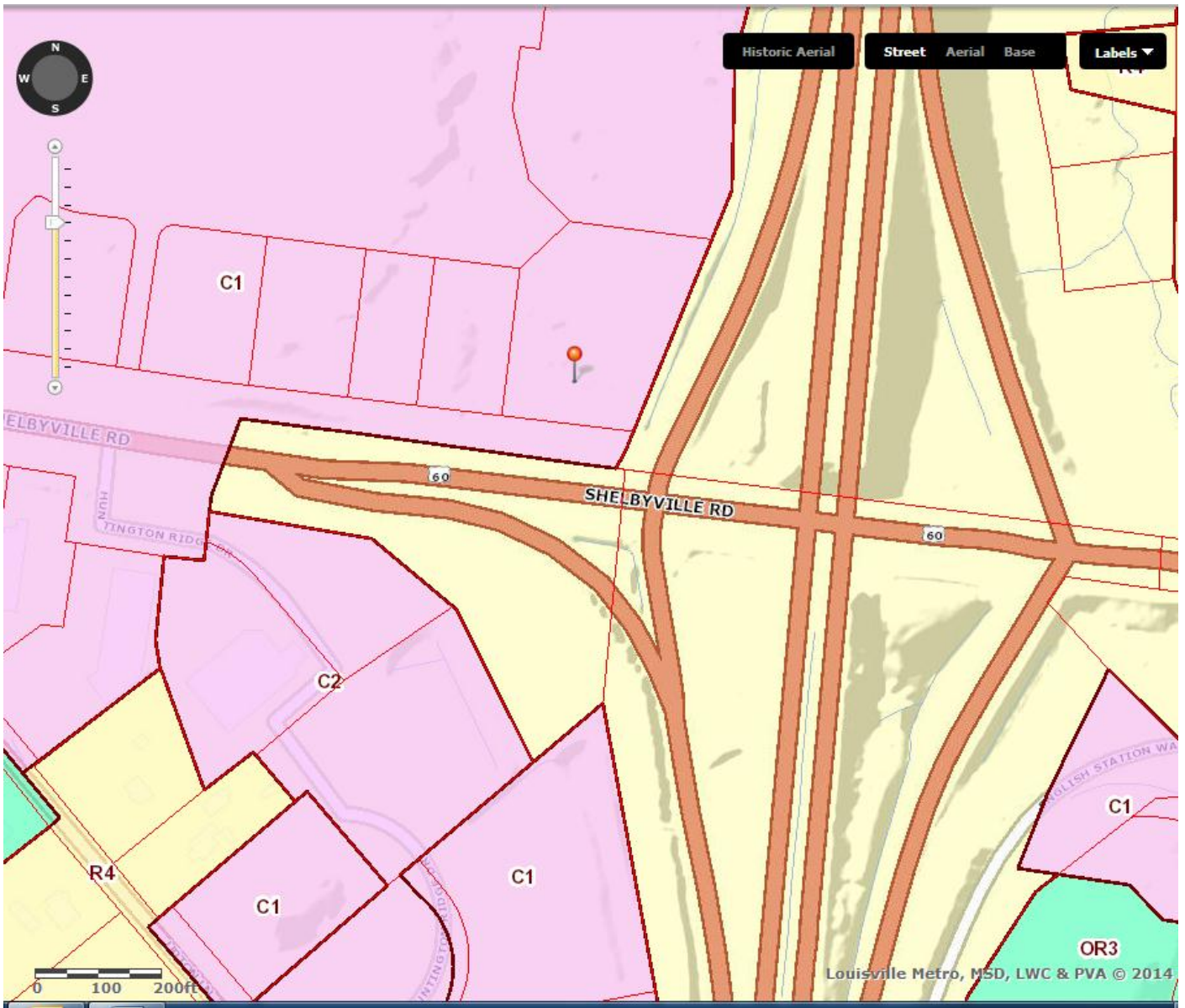
NOTIFICATION

Date	Purpose of Notice	Recipients
4/23/14	Hearing before LD&T	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups (CD 19)

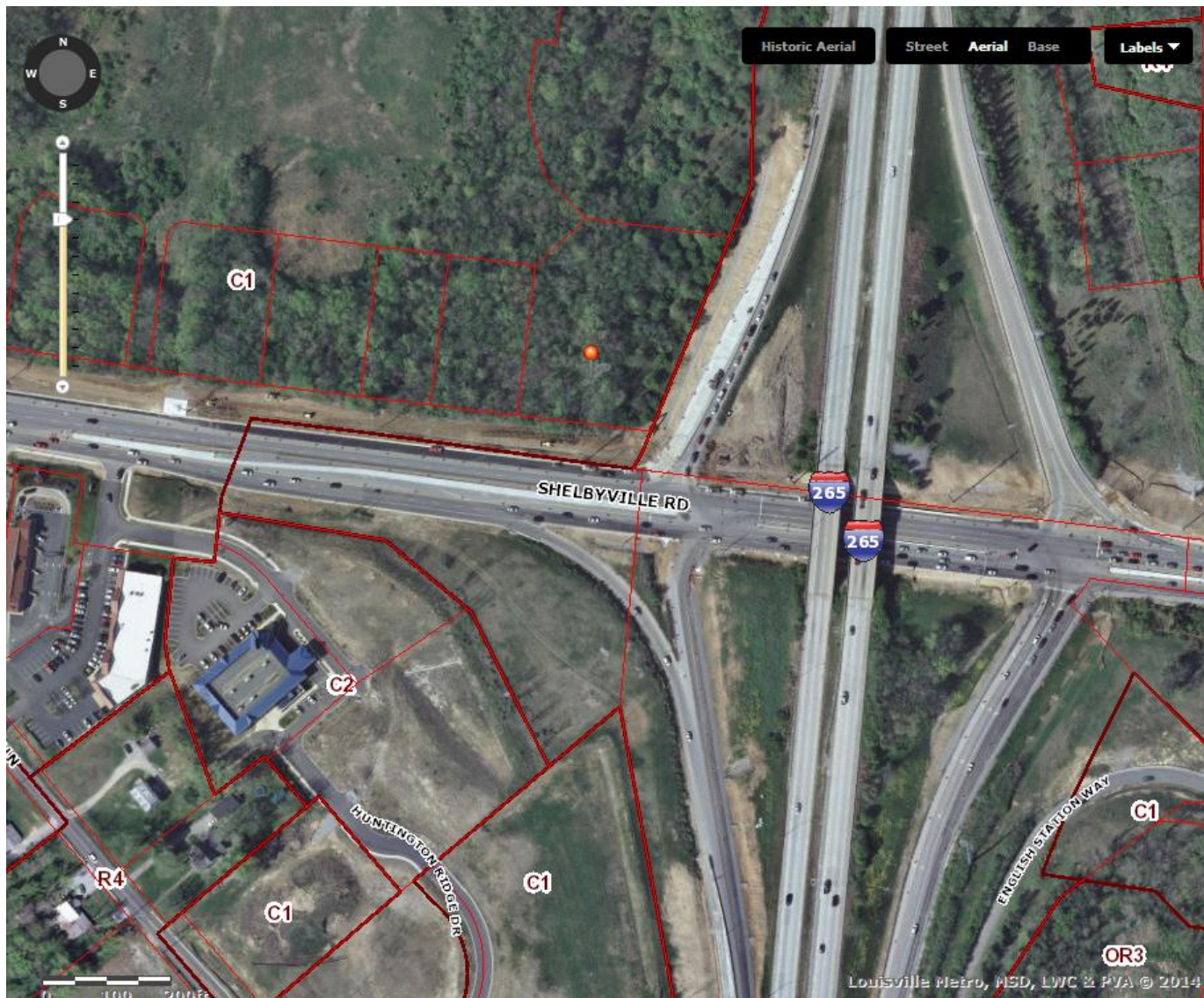
ATTACHMENTS

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 7,441 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.