

Development Review Committee

Staff Report

May 10, 2023



Case No:	23-AMEND-0002
Project Name:	Middletown Station BE Amendment
Location:	12937 Shelbyville Rd
Owner(s):	Middletown Shops 1&2, LLC
Applicant:	Middletown Shops 1&2, LLC
Jurisdiction:	Middletown
Council District:	19 – Anthony Piagentini
Case Manager:	John Michael Lawler, Planner I

REQUEST(S)

- Amendment to Binding Elements

CASE SUMMARY/BACKGROUND

The applicant is wanting to occupy an existing retail space with a veterinary hospital in part of the Middletown Station development, approved under Docket # 9-82-78. Binding Element 1d under the general binding elements lists veterinary hospitals as a prohibited use. The applicant wants to modify the binding elements to strike “veterinary hospitals” from the prohibited use list. The general plan binding elements were last updated under Docket # 17DEVPLAN1008. No other binding elements conflict with this request.

STAFF FINDING

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

INTERESTED PARTY COMMENTS

Staff received no interested party comments.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR AMENDMENT TO BINDING ELEMENTS

- 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. No modifications are occurring 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 were provided when the development was originally approved.

- 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.

- 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 approved the development plan and ensured the provision of adequate drainage facilities on the subject site under the original plan approval.

- 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 proposed land use is compatible with existing and future development in the area.

- 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 amendment 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 Amendment to Binding Elements

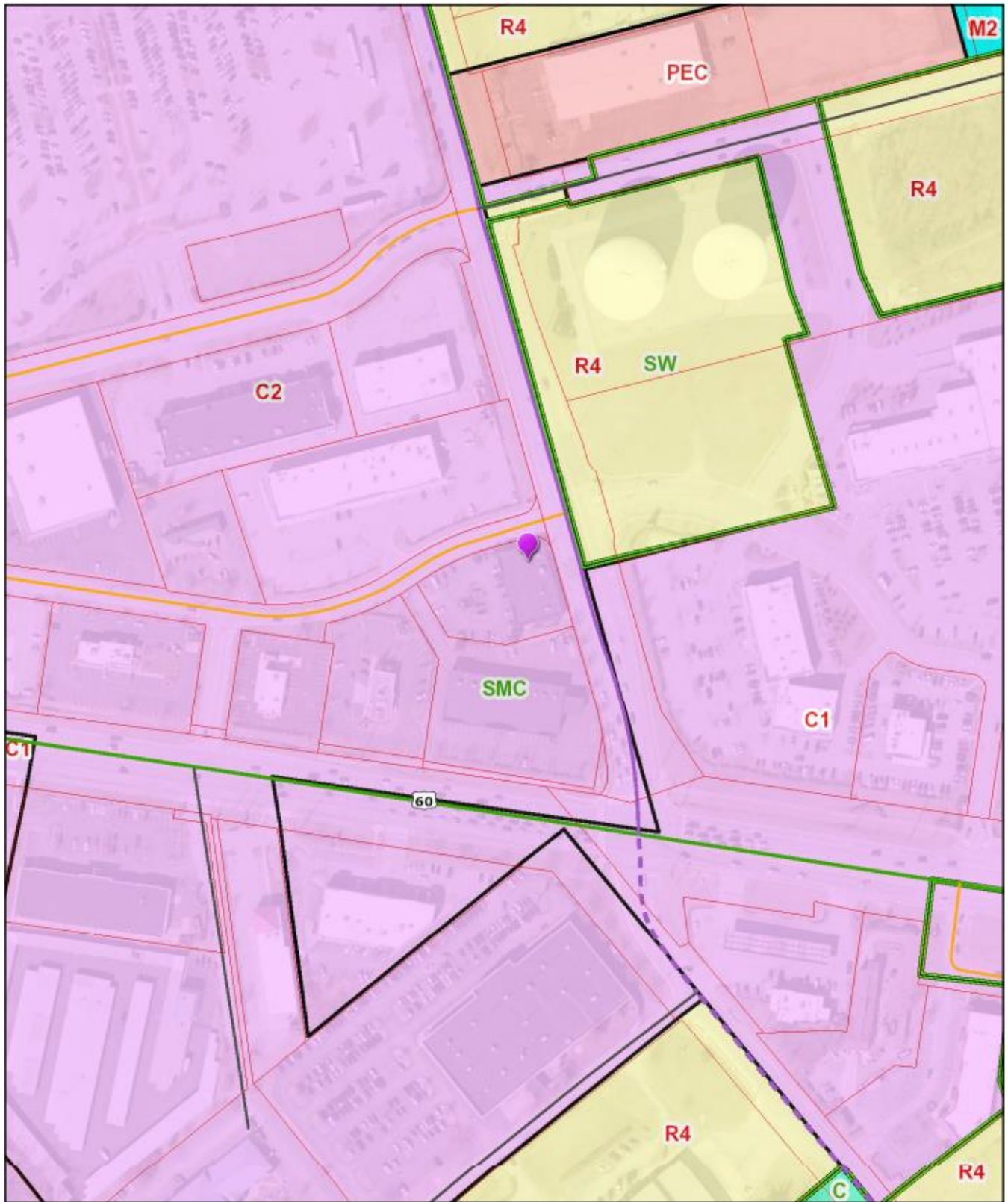
NOTIFICATION

Date	Purpose of Notice	Recipients
4/27/2023	Hearing before DRC on May 10, 2023	1 st and 2 nd tier adjoining property owners and current residents 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 Modifications

1. Zoning Map



2. Aerial Photograph



3. Existing Binding Elements with Modifications

1. The following uses permitted in a C-2 district will not be allowed in any phase of Middletown Station Center:
 - (a) Bowling Alleys
 - (b) Ice Storage Houses
 - (c) Funeral Homes
 - ~~(d) Veterinary Hospitals~~
 - (e) Automobile Garages and used Car Sales Area, except as part of a new automobile sales agency.
 - (f) Dance Halls
 - (g) Kennels
 - (h) Monument Sales
 - (i) Plumbing and Heating Shops
 - (j) Refrigerated Lockers
 - (k) Sign Painting
 - (l) Skating Rinks
 - (m) Storage Garages
 - (n) Trade Schools
 - (o) Upholstery and Furniture Repair Shops
2. The development shall not exceed 730,245 of gross floor area. (Tract A to have 537,981 sf retail and 1,738 non-retail; Tract B to have 36,040 sf retail; Tract B to have 5,875 sf of restaurant and 16,525 sf of retail in a single 22,400 sf building, and Tract D to have 17,500 sf office. The remaining square footage is taken up by outlots.) Prior to the submittal of any detailed plan for tracts A, B and D, an updated traffic study shall be submitted at the direction of Planning and Design staff.
3. The only permitted development identification signs shall be located as shown on the approved general district development plan. The primary entrance sign shall not exceed 255 square feet in area per side and 40 feet in height. The secondary entrance signs (2) shall not exceed 71 square feet in area per side and 10 feet in height. No sign shall have more than two sides.
4. The size and location of any proposed freestanding sign must be approved by the Planning Commission and the City of Middletown. The Planning Commission or the City of Middletown may require that the signs be smaller than would otherwise be permitted by the Zoning District regulations.
5. There shall be no direct vehicular access from outlots to Shelbyville Road.
6. There shall be no further creation of outlots along Shelbyville Road. Outlots are subject to all original binding elements.
7. 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.
8. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
9. 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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - (b) The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
 - (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 reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
10. 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.
11. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
12. 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.
13. The materials and design of the proposed Wal-Mart shall be substantially the same as depicted in the rendering as presented at the November 29, 2006 Development Review Committee meeting. The materials and design of the proposed Target shall be substantially the same as depicted in the rendering as presented at the June 18, 2008 Development Review Committee meeting.
14. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
15. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
16. The developer shall contribute up to 50% of the cost of signal installation at Aiken Rd and N. English Station Rd., not to exceed \$35,000. This shall be paid within 30 days of the request by the Director of Metro Public Works. The request shall be made to the developer when Metro Public Works obtains the balance of the cost of installation, no sooner than construction plan approval of the Target building.