

Development Review Committee

Staff Report

June 17, 2015



Case No:	15MOD1011
Project Name:	Christian Brothers Automotive – Middletown Station
Location:	12965 Aiken Road
Owners:	Middletown Partners, LLC
Applicant:	Middletown Partners, LLC
Representative:	Bardenwerper Talbott & Roberts PLLC
Existing Zoning District:	C-2 Commercial
Existing Form District:	SMC, Suburban Marketplace Corridor
Jurisdiction:	City of Middletown
Council District:	19 – Julie Denton
Case Manager:	Brian Davis, AICP, Planning Supervisor

REQUEST

- Amendment to Binding Element

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The subject sites are plan certain under Docket 9-82-78 and located in the City of Middletown. The applicant is proposing to purchase and development a 0.68 acre area of the tract identified as Tract B1 on the Middletown Station development plan, located on Development Way immediately east of the existing car wash operation.

The applicant requests to delete a portion of binding element 1, item e, which currently reads as follows:

- 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

The applicant would like to delete the reference to “Automobile Garages” so as to allow Christian Brothers Automotive. The applicant’s letter of application states “Christian Brothers provides many similar services to the nearby Walmart Automotive Center, including oil changes and tire services, however they provide many services Walmart cannot offer like air conditioning service, engine and transmission repair, as well as many other services.”

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant Commercial	C-2	SMC
Proposed	Commercial	C-2	SMC
Surrounding Properties			
North	Commercial	C-2	SMC
South	Commercial	C-2	SMC
East	Vacant Commercial	C-2	SMC
West	Commercial	C-2	SMC

PREVIOUS CASES ON SITE

9-82-78: The original zoning map amendment was a change from R-4 Residential and C-1 Commercial to C-2 Commercial. The Planning Commission recommended approval of the change in zoning on March 1, 1979. Jefferson County Fiscal Court approved the change in zoning on April 26, 1979. There have been multiple changes and detailed plans reviewed under this docket number since its original approval.

INTERESTED PARTY COMMENTS

N/A

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR AN AMENDMENT TO BINDING ELEMENT

- 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: See applicant's justification statement.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: See applicant's justification statement.

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

STAFF: See applicant's justification statement.

- 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: See applicant's justification statement.

- 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: See applicant's justification statement.

- 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: See applicant's justification statement.

TECHNICAL REVIEW

The applicant did not provide a detailed district development plan for the site. If the binding element amendment is approved, the applicant will be required to submit a detailed district development plan for review.

All other binding elements from Docket Number 9-82-78 are to remain.

STAFF CONCLUSIONS

- The proposed amendment appears to be adequately justified based on staff analysis in the staff report.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee must determine if the proposal meets the standards established in the LDC for approving the Amendment to Binding Element.

REQUIRED ACTION

- **RECOMMEND** that the City of Middletown **APPROVE** or **DENY** the Amendment to Binding Element.

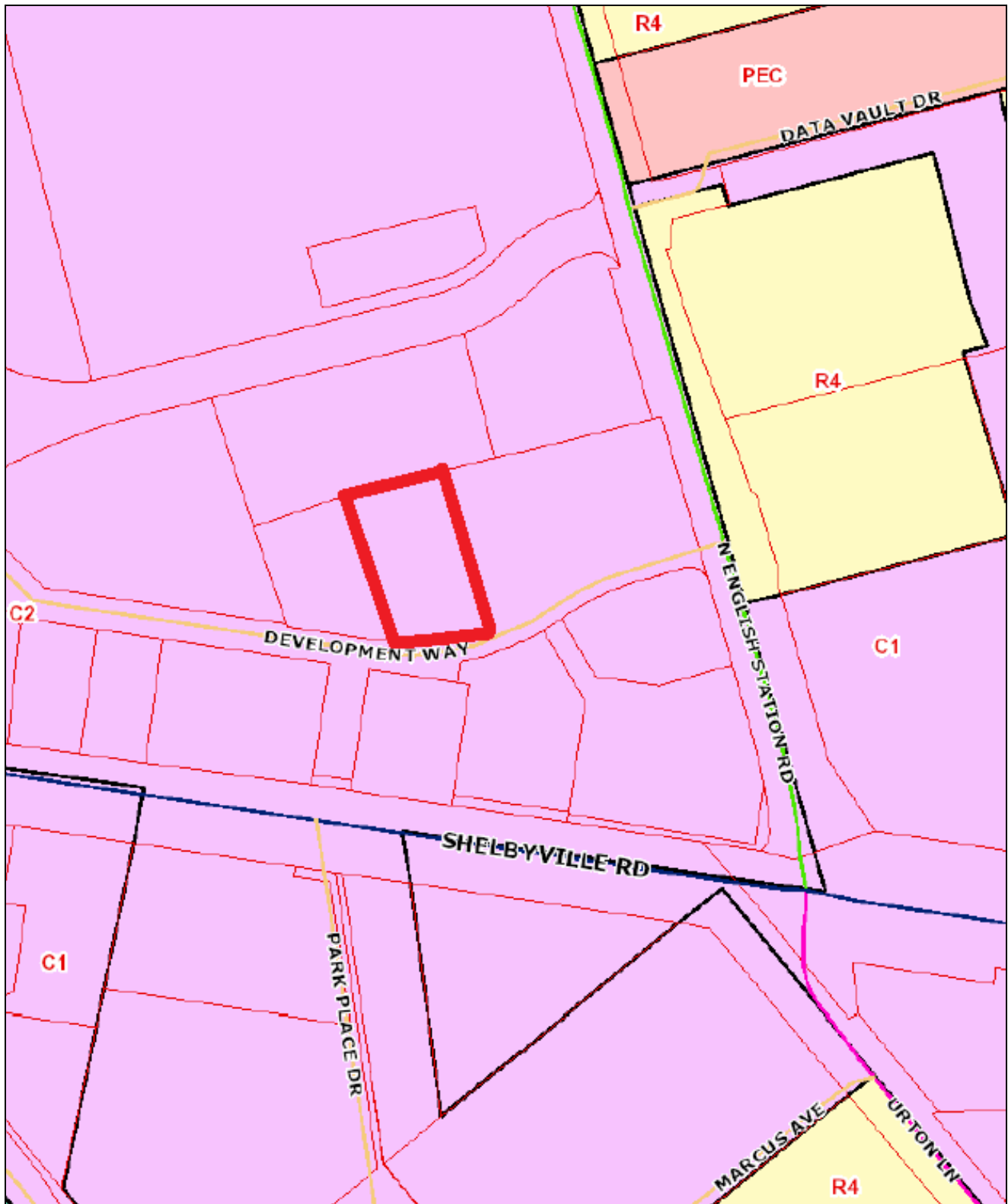
NOTIFICATION

Date	Purpose of Notice	Recipients
4/1/15	Hearing before DRC	1 st tier adjoining property owners Registered neighborhood groups – District 19

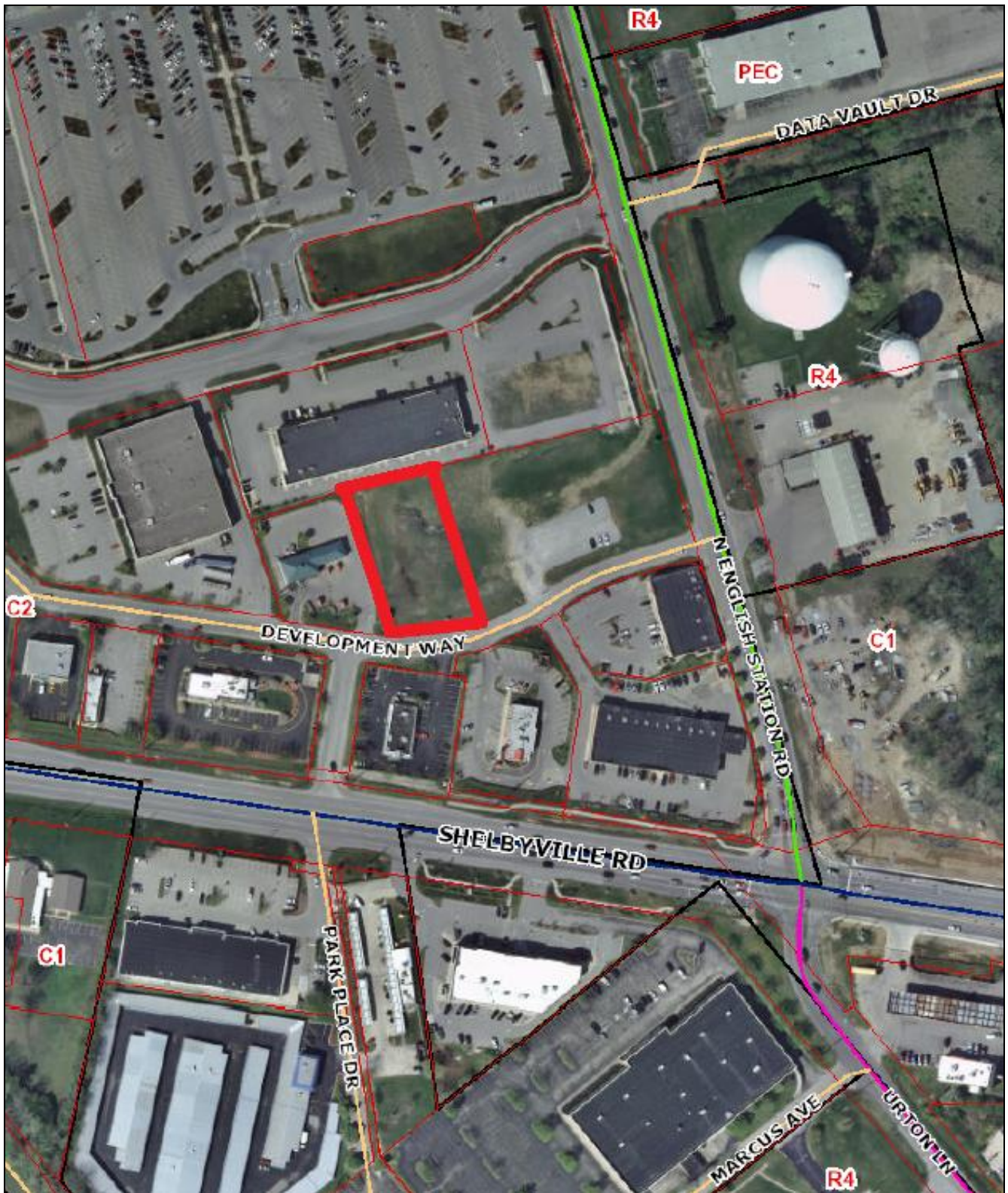
ATTACHMENTS

1. Zoning Map
2. Aerial
3. Existing Binding Elements
4. Proposed Change to Binding Elements

1. Zoning Map



2. Aerial



3. Existing Binding Elements

- 1) The following uses permitted in a C-2 district will not be allowed in any phase of Middletown Station Center:
 - (p) Bowling Alleys
 - (q) Ice Storage Houses
 - (r) Funeral Homes
 - (s) Veterinary Hospitals
 - (t) Automobile Garages and used Car Sales Area, except as part of a new automobile sales agency.
 - (u) Dance Halls
 - (v) Kennels
 - (w) Monument Sales
 - (x) Plumbing and Heating Shops
 - (y) Refrigerated Lockers
 - (z) Sign Painting
 - (aa) Skating Rinks
 - (bb) Storage Garages
 - (cc) Trade Schools
 - (dd) 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 B1 to have 8,450 sf restaurant; Tract B2 to have 5,450 sf restaurant/bank; 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 proposed structures shall be substantially the same as depicted in the rendering as presented at the November 29, 2006 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 there after. 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.

4. Proposed Change to Binding Elements

- 1) The following uses permitted in a C-2 district will not be allowed in any phase of Middletown Station Center:
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