

Development Review Committee

Staff Report

February 6, 2019



Case No:	18DEVPLAN1172
Project Name:	Schumacher Homes Office
Location:	121 Huntington Ridge Drive
Owner(s):	Schumacher Homes of Kentucky Inc.
Applicant:	Schumacher Homes of Kentucky Inc.
Jurisdiction:	City of Middletown
Council District:	19 – Anthony Piagentini
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Waiver** from City of Middletown Land Development Code section 5.5.2.A.1 to allow structures to face other than the abutting street serving the lot or a focal point within the development
- **Revised Detailed District Development plan**

CASE SUMMARY/BACKGROUND

The subject property is currently undeveloped. The applicant proposes to construct a new 7,157 sf. sales office and three model homes. Two of the homes are proposed to be constructed immediately, with a third home constructed in a future phase. The property abuts the Gene Snyder Freeway right-of-way in the rear, where the ramp from Shelbyville Road to the Gene Snyder Freeway is located. The applicant proposes to construct the model homes facing the Gene Snyder Freeway ramp. City of Middletown Land Development Code section 5.5.2.A.1 requires principal structures to face the abutting street serving the development or an alternative focal point within the development. The applicant requests a waiver to allow the model homes to face the ramp.

This property was rezoned in 2008 from R-4 Single Family Residential to C-1 Commercial under docket 9-8419-07. This parcel was proposed at the time to be a hotel. There was some discussion at the Planning Commission hearing regarding tree canopy at the rear of the lots to be rezoned and the intention to preserve it. This canopy has since been removed on the subject property.

STAFF FINDING

Staff finds that the development plan generally meets the guidelines of the Comprehensive Plan and requirements of the City of Middletown Land Development Code. The applicant requests a waiver, and staff finds that the requested waiver is not adequately justified and does not meet the standard of review. The Development Review Committee is responsible for making recommendations to the City of Middletown.

TECHNICAL REVIEW

Land Development Code (2018) City of Middletown.

The plan has received preliminary approval from all applicable agencies.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 5.5.2.A.1

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

STAFF: The waiver will not adversely affect adjacent property owners as the area is in the process of developing, and the model homes are unlikely to cause an adverse effect if they face the Gene Snyder Freeway.

- (b) The waiver will violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will violate specific guidelines of Cornerstone 2020 as Goal G4: Site Design encourages the use of design to establish a specific character for workplaces and to ensure compatibility of new development. This guideline is violated because orienting the model homes to the Gene Snyder Freeway is not consistent with development patterns in the vicinity.

- (c) The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as the buildings could be oriented to Huntington Ridge Drive with no loss of use to the applicant.

- (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 applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived, and 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 because the model homes could be oriented toward Huntington Ridge Drive with no loss of use to the applicant.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP

- 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. The site is undeveloped and no natural resources appear to exist on the site. The tree canopy which previously existed on the site has been removed.

- 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. Louisville Metro Public Works has provided preliminary approval of the 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.

- 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. The subject site is located in an area with both developed and undeveloped parcels.

- 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 City of Middletown Land Development Code, with the exception of a requested waiver.

REQUIRED ACTIONS:

- **RECOMMEND** to the City of Middletown to **APPROVE** or **DENY** the **Waiver**
- **RECOMMEND** to the City of Middletown to **APPROVE** or **DENY** the **Revised Detailed District Development Plan and Proposed Binding Elements**

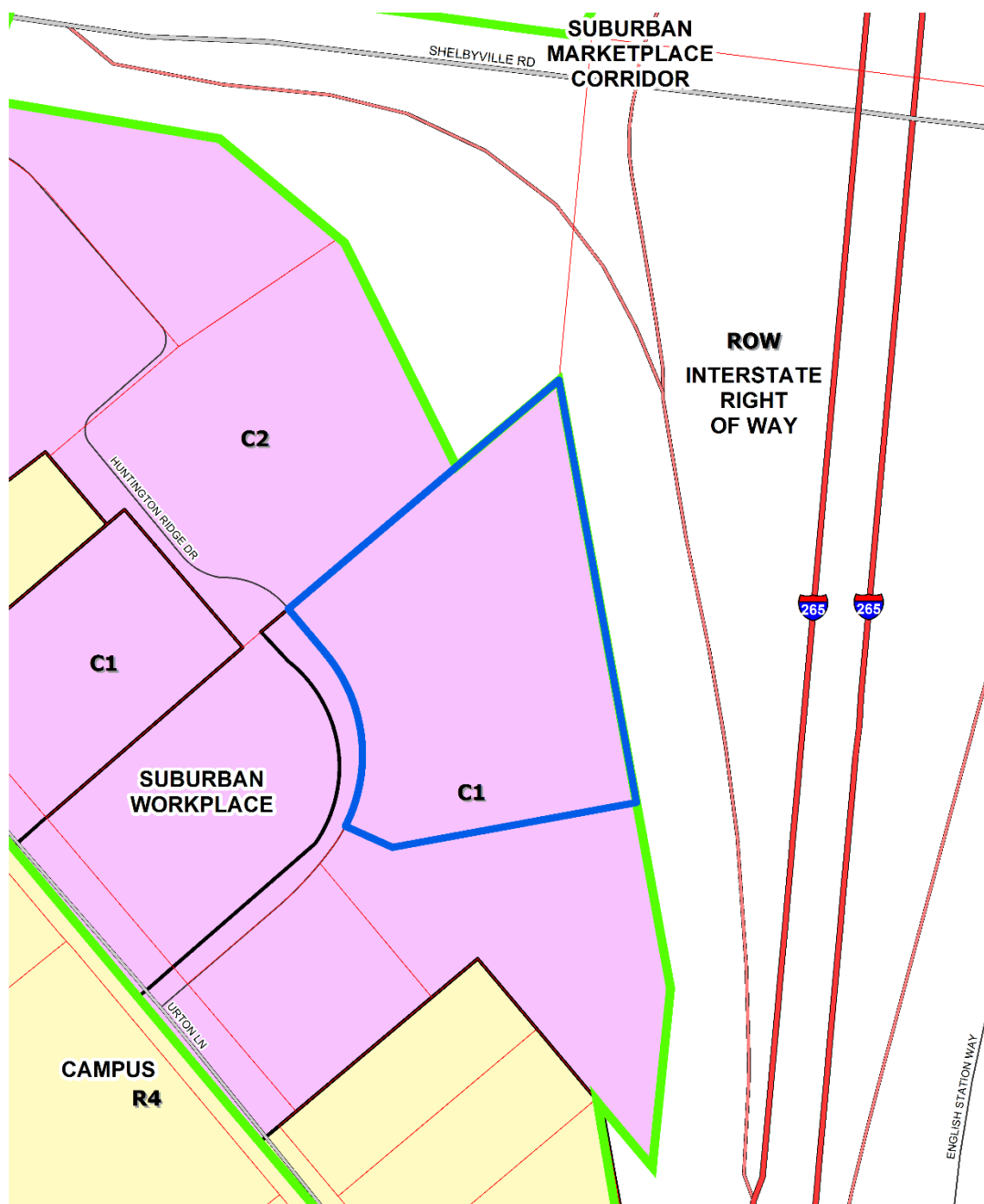
NOTIFICATION

Date	Purpose of Notice	Recipients
01/23/2019	DRC Public Meeting	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 19

ATTACHMENTS

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

1. Zoning Map



121 Huntington Ridge Drive

feet

140

Map Created: 1/23/2019



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2. Aerial Photograph



121 Huntington Ridge Drive
feet

140

Map Created: 1/23/2019



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LOUISVILLE WATER COMPANY (LWC),
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JEFFERSON COUNTY PROPERTY VALUATION
ADMINISTRATOR (PVA). All Rights Reserved.

3. Existing 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), or development plan revisions and all landscape plans 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 square footage of the development shall not exceed: 8,190 SF for the restaurant on Lot 1; 52,125 SF for the hotel on Lot 2; 16,800 SF for the offices on Lot 3; and 7,300 SF for the retail space on Lot 4. As to Tract 1, the applicant agrees that there shall be no uses allowed other than C-1 uses, with the sole addition that outdoor sale and consumption of alcoholic beverages in connection with sit-down restaurant use is allowed, but no other C-2 use will be allowed on Tract 1. Additionally, the Applicant agrees that no building permit for the restaurant (or any alternate structure or use on Lot 1) will be issued until the Applicant acquires sufficient additional right-of-way for the construction of a dedicated left-hand turn lane on Urton Avenue.~~
3. ~~The only access to the site will be provided from the curb cuts on Urton Lane as shown on the development plan.~~
4. ~~Signs shall be in accordance with Chapter 8, and shall be as shown on the approved development plan.~~
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. Construction fencing shall be erected with 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.
7. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, or demolition permit) is requested:
 - a. The development plan must receive full construction approval from 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. ~~A minor subdivision plat shall be recorded to create lot lines as shown on the development plan, and dedicating additional right-of-way to Urton Lane to provide a total of 50 feet from the centerline. 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.~~
 - d. The property owner/developer must obtain approval by the Planning Commission and the City of Middletown 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. There shall be no removal of the existing landscaping or required landscaping without City Commission approval. In the event any tree or other landscaping is removed without

written consent of the City, the City may require the owner/applicant to replace with a tree of similar size and age (when cut), or as approved by the City Commission. Any replacement tree or trees shall be as are deemed adequate by the City to mitigate the impact.

- e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - f. Unless a building permit or a clearing and grading permit is issued within two years from the date of the City of Middletown's approval herein, then the development plan must return to the Planning Commission and the City of Middletown for re-approval before any work can commence.
- 8. 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 the City of Middletown.
 - 9. 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 the 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.
 - 10. The materials and design of proposed structures shall be the same as depicted in the ~~photographs as presented at the May 15 and July 3, 2008 Planning Commission Public Hearings.~~
 - 11. 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.
 - 12. ~~At the time that construction plans are submitted for approval, if funding is not in place for the US 60/Snyder Freeway interchange to commence concurrent with construction, as contemplated in the traffic analysis prepared by BTM Engineering, Inc., then, prior to approval of those construction plans, Metro Works may require that further traffic analysis be done by the developer in order to demonstrate the impact of this approved development and the possibility of phasing and/or delay in construction plan approval in the event that the referenced intersection improvements are not funded as contemplated.~~
 - 13. ~~The developer shall construct Urton Lane Road improvements and Shelbyville Road right-turn lane as per the approved schematic and Kentucky Transportation Cabinet and Metro Public Works standards and requirements. The developer shall be responsible for utility relocation (if required), final surface overlay, signage, stumping and signal modifications associated with road improvements. Construction plans, bond, and encroachment permits shall be obtained prior to construction approval by metro Public Works. The developer shall not request a Certificate of Occupancy until improvements are complete.~~
 - 14. All street signs shall be installed by the Developer, and shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) requirements and shall be of the same type and quality as the standard Middletown street signage. Street signs shall be installed prior to the recording of the

~~subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy.~~

- ~~15. If within 5 years of the date of this approval, an application for rezoning, "Plan Certain" development or other discretionary development review is received and thereafter approved for any of the subject properties (i.e., 201, 203, 205, 118 and the rear portion of 108 Urton Lane, and 13404 and 13406 Shelbyville Road as show on the map attached hearto), the developer of this project shall be entitled, through cost-sharing, to recapture a portion of the costs of its non-frontage-related road improvements required as part of this development plan approval. Such recapture shall only occur to the extent that Public Works and the Planning Commission require from such future developer(s) a contribution to the cost of the road improvement project in this case. To the extent that such contribution is required, it is anticipated that such cost-sharing contribution shall be calculated on the basis of the acreage that each new project contributes to the total acreage of all projects (i.e., those referenced above plus 114, 211, 213, 215 rear and 217 Urton Lane). Metro Works shall collect the required cost-sharing contribution and remit same to the developer in this case. Neither the Planning Commission nor Metro Public Works shall bear any liability to the applicant, developer and/or land owner in this case to collect such amounts or make such payments, this being only a statement of intent and anticipation.~~

4. 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), or development plan revisions and all landscape plans 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected with 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.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, or demolition permit) is requested:
 - a. The development plan must receive full construction approval from 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 by the Planning Commission and the City of Middletown 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. There shall be no removal of the existing landscaping or required landscaping without City Commission approval. In the event any tree or other landscaping is removed without written consent of the City, the City may require the owner/applicant to replace with a

tree of similar size and age (when cut), or as approved by the City Commission. Any replacement tree or trees shall be as are deemed adequate by the City to mitigate the impact.

- d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. Unless a building permit or a clearing and grading permit is issued within two years from the date of the City of Middletown's approval herein, then the development plan must return to the Planning Commission and the City of Middletown for re-approval before any work can commence.
- 5. 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 the City of Middletown.
 - 6. 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 the 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.
 - 7. The materials and design of proposed structures shall be the same as depicted at the February 6, 2019 meeting of the Development Review Committee.
 - 8. 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.
 - 9. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.