

**Development Review Committee**  
**Staff Report**  
October 5, 2022



<b>Case No:</b>	22-DDP-0054
<b>Project Name:</b>	Mike's Car Wash
<b>Location:</b>	10501/10511 Preston Highway
<b>Owner(s):</b>	291 Harbison LLC
<b>Applicant:</b>	Mike's Car Wash
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23-James Peden
<b>Case Manager:</b>	Julia Williams, AICP, Planning Supervisor

**REQUEST(S)**

- Waivers:
  1. Waiver from 10.2.4 to eliminate the LBA and plantings along the east property line (22-WAIVER-0089)
  2. Parking Waiver to exceed the maximum allowable parking (22-PARKWAIVER-0006)
- Detailed District Development plan

**CASE SUMMARY/BACKGROUND**

The subject site is located along Preston Highway north of the intersection with Interchange Drive and consists of three contiguous parcels. The applicant proposes to construct a car wash. A Thorntons gas station and convenience store and a drive-through restaurant are proposed to the north and south of the site.

Large lot single-family development is located to the east, with a commercial greenhouse to the south. Mixed single-family and institutional development is located across Preston Highway and Old Preston Highway to the west. Undeveloped parcels owned by the Commonwealth of Kentucky are located immediately to the north, with a Menards located farther to the north.

The property was rezoned in 2021 under case #21-ZONE-0081. A setback variance (22-VARIANCE-0112) was approved at the September 26, 2022 BOZA hearing.

**STAFF FINDING**

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

**TECHNICAL REVIEW**

Transportation Planning and MSD have preliminarily approved the proposal.

## **INTERESTED PARTY COMMENTS**

A letter from the adjacent property owner supporting the landscape waiver was submitted into the record for the previous zoning case as well as this current proposal.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4.**

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

STAFF: The waiver will not adversely affect adjacent property owners as the most affected property is undeveloped and the owner supports the waiver. A tree fee in lieu can be utilized for the trees that are being waived.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The adjacent property is likely to be redeveloped at some point at a similar density and intensity as the proposed use. A tree fee in lieu can be utilized for the trees that are being waived.

- (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 as the site is irregular in shape and the required plantings will be provided as a fee-in-lieu.

- (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 would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the access would have to be moved significantly into the development site to buffer an undeveloped parcel which is likely to be redeveloped in the future at a similar intensity as the proposed use.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR PARKING INCREASE WAIVER**

- (a) The Parking Waiver is in compliance with the Comprehensive Plan; and

STAFF: Mobility Goal 3 Policy 14 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking. The parking waiver is to increase the spaces from 2 to 5.



- (b) The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions; and

STAFF: The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions by arranging the parking on the site to maximize the provided parking. The parking study indicates a need for additional spaces by customers or employees.

- (c) The requirements found in Table 9.1.2 do not allow the provision of the number of parking spaces needed to accommodate the parking needs of the proposed use; and

STAFF: The parking studies provided for the site demonstrate that additional parking is necessary.

- (d) The requested increase is the minimum needed to do so.

STAFF: The requested parking will provide the minimum required to supply parking necessary for employee and customer parking for the car wash per the parking study performed.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP**

- (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: The site is mostly cleared and few natural resources exist on the site currently. Required tree canopy will be provided.

- (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 has approved the preliminary development plan.

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

STAFF: No open space provisions are pertinent to the request.

- (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 is in compliance with existing and planned future development in the area. The proposal would provide commercial development in a commercial corridor in a location anticipated for future commercial 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 requirements of the Land Development Code and Plan 2040 with the exception of the requested variance, waiver and parking waiver. The site plan generally complies with the policies and guidelines of the Comprehensive Plan.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Waiver from Chapter 10.2**
- **APPROVE** or **DENY** the **Parking Waiver**
- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Detailed District Development Plan**

**NOTIFICATION**

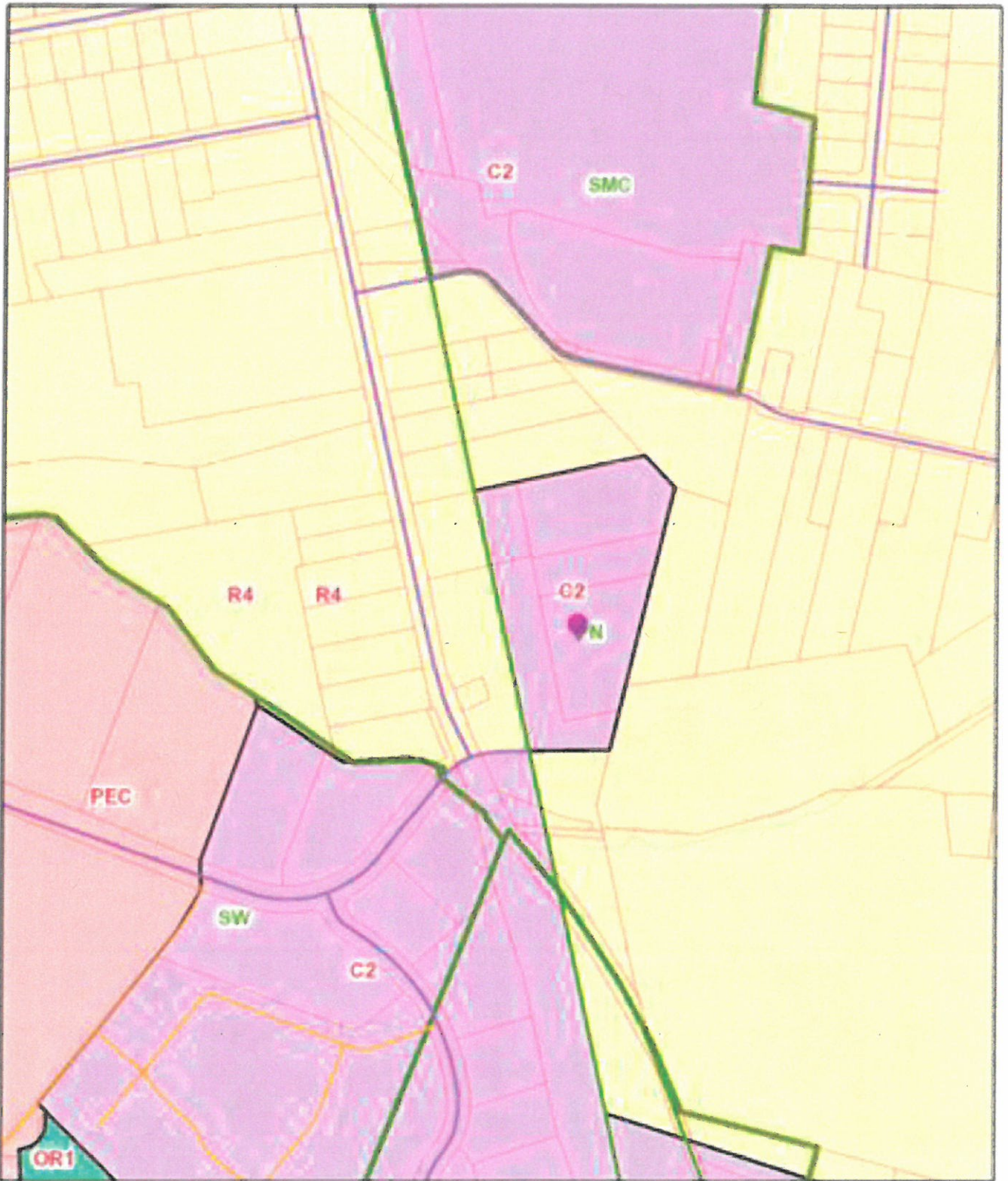
Date	Purpose of Notice	Recipients
8/19/22	Hearing before DRC on 8/31/22	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 23

**ATTACHMENTS**

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

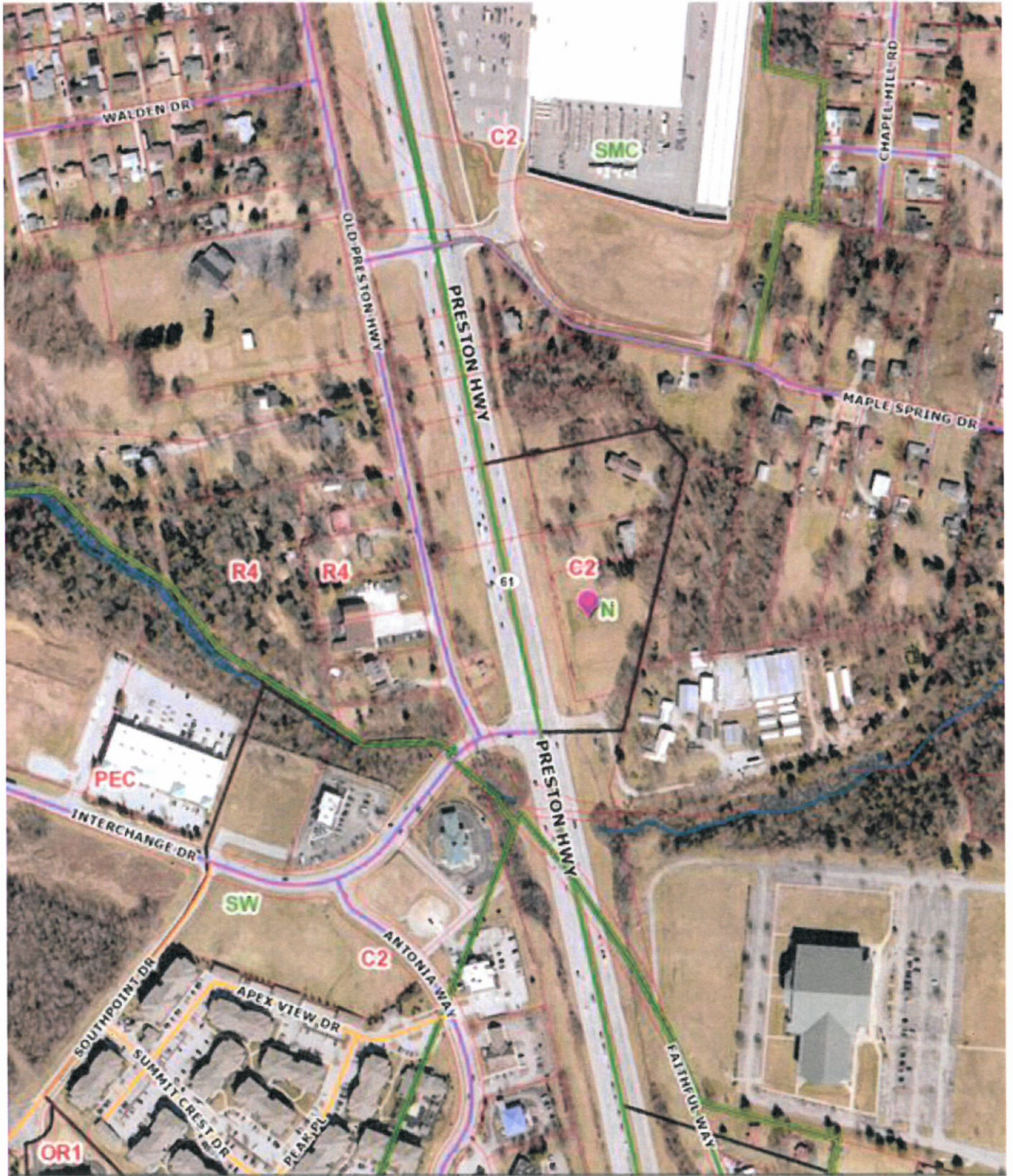


1. Zoning Map





2. Aerial Photograph





3. **Existing Binding Elements with proposed changes**

1. The development shall be in accordance with the approved district development plan, 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 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 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.
4. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - d. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - e. A defined reciprocal access easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the subject property and the two Mercer properties to the east and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; a copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the three subject property lots and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; a copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - g. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 18, 2021 Planning Commission meeting **and the October 6, 2022 Planning Commission meeting**. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or

outdoor PA system audible beyond the property line.

6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. 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.
8. 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.
9. Should Kentucky Transportation Cabinet approval of the right-in-right-out on Preston Highway not be provided, the applicant shall revise the plan and return to the Development Review Committee for approval of a revised plan.
10. The applicant shall reimburse the Okolona Fire Protection District, Station 2 (the "Fire Station"), located at 10508 Old Preston Highway (the "Site") up to \$10,000 for an intersection control device, provided the Fire Station still remains at the Site and has not made plans to relocate from Site once the certificates of occupancy are issued for Chick-Fil-A and Thorntons.
11. The applicant shall complete off-site right-of-way improvements once construction permits are issued and they must be complete before any certificates of occupancy are issued for Chick-Fil-A and Thorntons, provided same are required by KYTC (pursuant to KYTC standards), for (1) the southbound left turn lane at the intersection of Preston Hwy. and Interchange Drive,(2) the right deceleration lane on the northbound right-in/right-out on Preston Hwy., and (3) the northbound right-turn lane at the intersection of Preston Hwy. and Interchange Drive.
12. Fuel tanker trucks shall enter and exit the site, and fill the underground tanks, as demonstrated at the 11/18/21 Planning Commission public hearing.
13. Any significant changes or alterations to the proposed structures (e.g. building height, number of units, number of buildings), any increase in density on the property, any changes in use on the property, and/or any amendments to the binding elements shall be reviewed before the Planning Commission with final action to be determined by Metro Council.



**Board of Zoning Adjustment**  
**Staff Report**  
September 26, 2022



<b>Case No:</b>	22-VARIANCE-0112
<b>Project Name:</b>	Mike's Car Wash
<b>Location:</b>	10501/10511 Preston Highway
<b>Owner(s):</b>	291 Harbison LLC
<b>Applicant:</b>	Mike's Car Wash
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23-James Peden
<b>Case Manager:</b>	Julia Williams, AICP, Planning Supervisor

**REQUEST(S)**

- Variance to exceed the maximum 80' setback

**CASE SUMMARY/BACKGROUND**

The subject site is located along Preston Highway north of the intersection with Interchange Drive and consists of three contiguous parcels. The applicant proposes to construct a car wash. A Thorntons gas station and convenience store and a drive-through restaurant are proposed to the north and south of the site.

Large lot single-family development is located to the east, with a commercial greenhouse to the south. Mixed single-family and institutional development is located across Preston Highway and Old Preston Highway to the west. Undeveloped parcels owned by the Commonwealth of Kentucky are located immediately to the north, with a Menards located farther to the north.

The property was rezoned in 2021 under case #21-ZONE-0081. A development plan (22-DDP-0054) is being requested and will be heard at the October 5, 2022 DRC meeting.

**STAFF FINDING**

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

**TECHNICAL REVIEW**

Transportation Planning and MSD have preliminarily approved the proposal.

**INTERESTED PARTY COMMENTS**

A letter from the adjacent property owner supporting the landscape waiver was submitted into the record for the previous zoning case as well as this current proposal.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare since the building will be located to allow for maneuvering out to the frontage road.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity since the building will be located to allow for maneuvering out to the frontage road and is located between the setbacks of the proposed structures to the north and south.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public since the building will be located to allow for maneuvering out to the frontage road.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations welfare since the building will be located to allow for maneuvering out to the frontage road and the building will be located to allow for maneuvering out to the frontage road and is located between the setbacks of the proposed structures to the north and south.

#### ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The special circumstance is that the proposal has a frontage road along Preston Highway that is causing the need for the variance.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or 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 create an unnecessary hardship on the applicant since the frontage road is necessary to funnel traffic for the development off of Preston Highway. The frontage road along Preston Highway and the proposed land use are causing the need for the variance.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

#### REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Variance**

#### NOTIFICATION

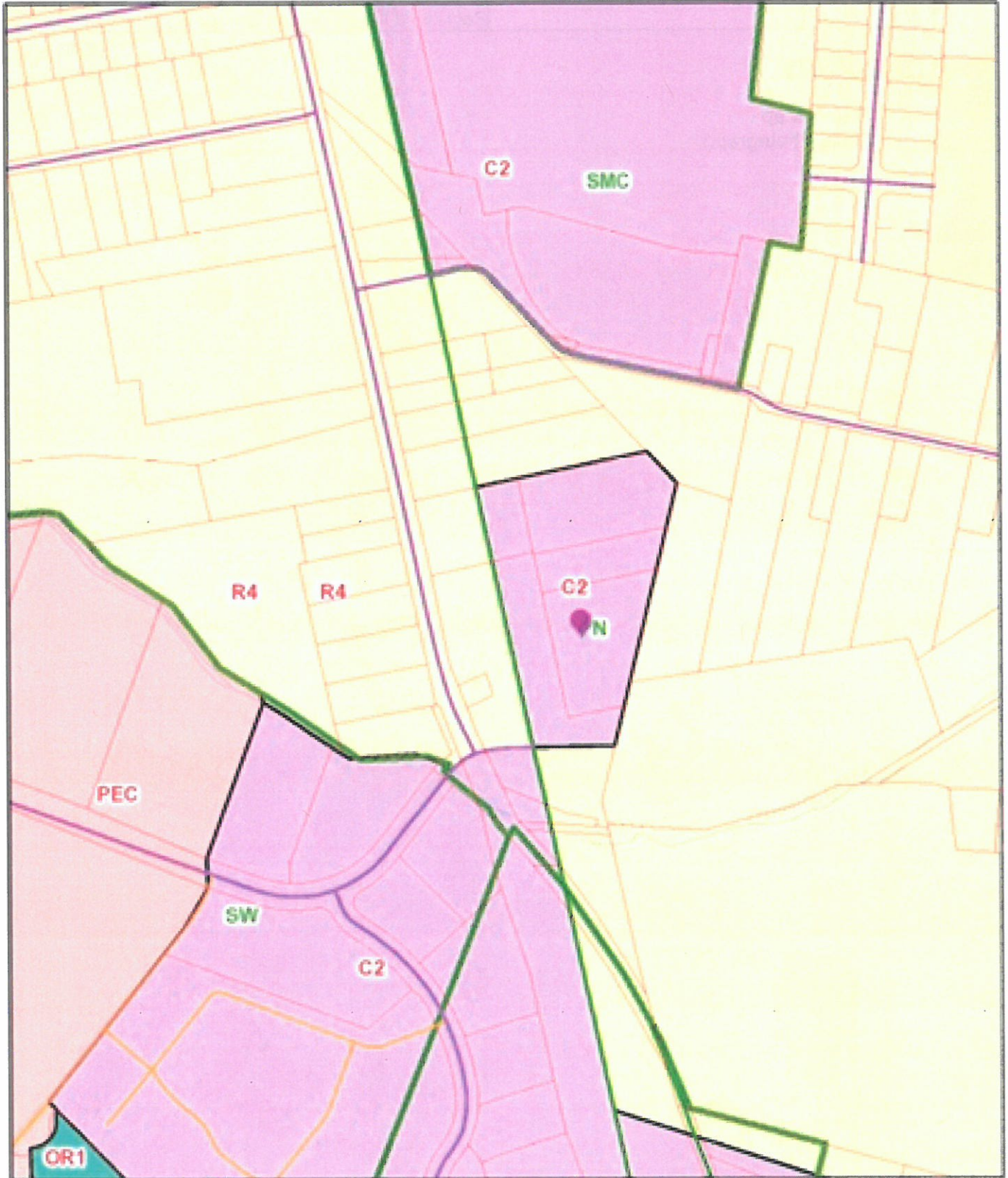


Date	Purpose of Notice	Recipients
9/16/22	Hearing before BOZA on 9/26/22	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 23

**ATTACHMENTS**

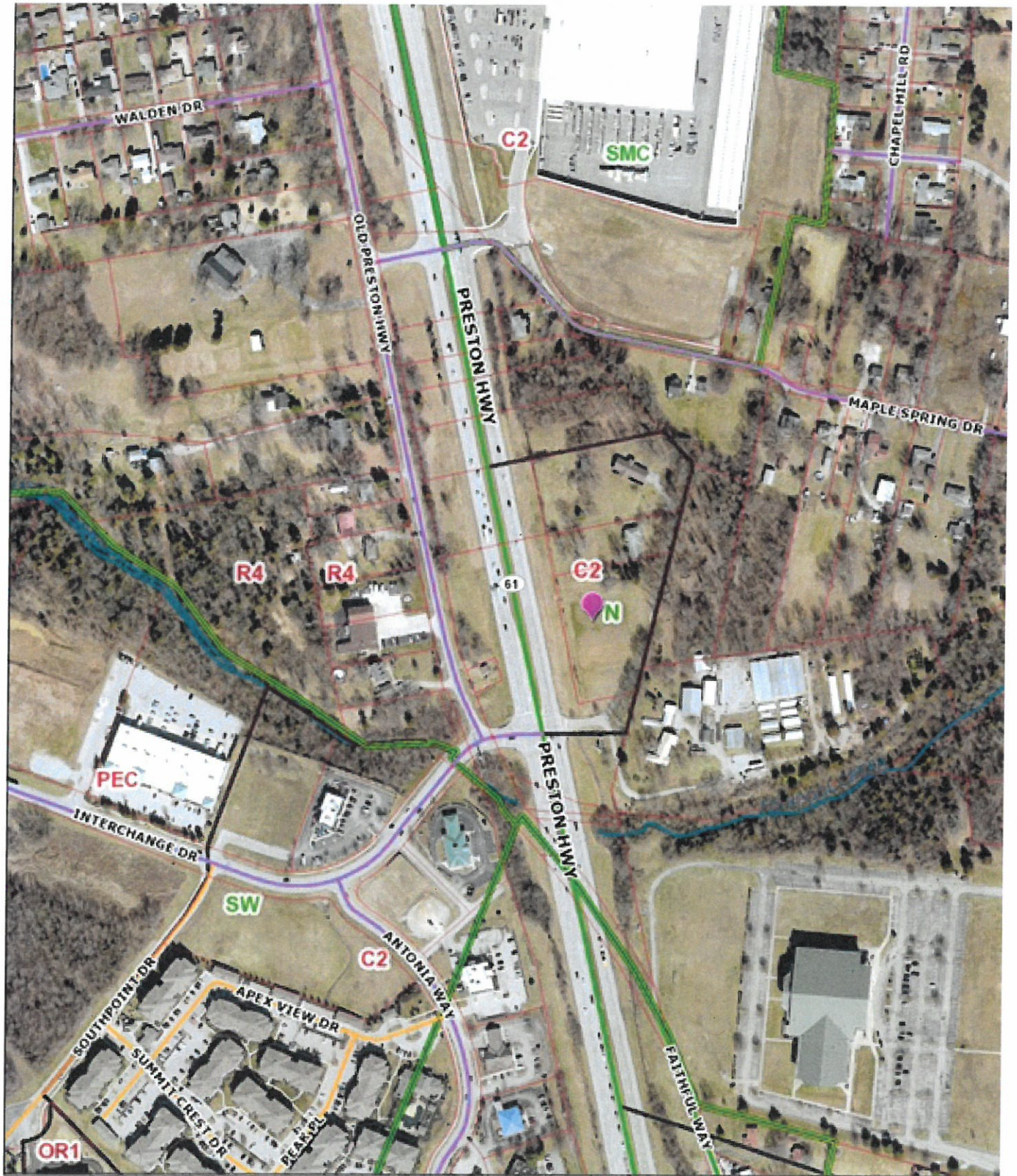
1. Zoning Map
2. Aerial Photograph

1. Zoning Map





2. Aerial Photograph





**Development Review Committee**  
**Staff Report**  
August 31, 2022



<b>Case No:</b>	22-DDP-0054
<b>Project Name:</b>	Mike's Car Wash
<b>Location:</b>	10501/10511 Preston Highway
<b>Owner(s):</b>	291 Harbison LLC
<b>Applicant:</b>	Mike's Car Wash
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23-James Peden
<b>Case Manager:</b>	Julia Williams, AICP, Planning Supervisor

**REQUEST(S)**

- Waivers:
  1. Waiver from 10.2.4 to eliminate the LBA and plantings along the east property line (22-WAIVER-0089)
  2. Parking Waiver to exceed the maximum allowable parking (22-PARKWAIVER-0006)
- Detailed District Development plan

**CASE SUMMARY/BACKGROUND**

The subject site is located along Preston Highway north of the intersection with Interchange Drive and consists of three contiguous parcels. The applicant proposes to construct a car wash. A Thorntons gas station and convenience store and a drive-through restaurant are proposed to the north and south of the site.

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The property was rezoned in 2021 under case #21-ZONE-0081. A setback variance (22-VARIANCE-0112) is being requested and will be heard at the September 26, 2022 BOZA hearing.

**STAFF FINDING**

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

**TECHNICAL REVIEW**

Transportation Planning and MSD have preliminarily approved the proposal.



## INTERESTED PARTY COMMENTS

A letter from the adjacent property owner supporting the landscape waiver was submitted into the record for the previous zoning case as well as this current proposal.

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4.

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

STAFF: The waiver will not adversely affect adjacent property owners as the most affected property is undeveloped and the owner supports the waiver. A tree fee in lieu can be utilized for the trees that are being waived.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The adjacent property is likely to be redeveloped at some point at a similar density and intensity as the proposed use. A tree fee in lieu can be utilized for the trees that are being waived.

- (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 as the site is irregular in shape and the required plantings will be provided as a fee-in-lieu.

- (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 would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the access would have to be moved significantly into the development site to buffer an undeveloped parcel which is likely to be redeveloped in the future at a similar intensity as the proposed use.

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR PARKING INCREASE WAIVER

- (a) The Parking Waiver is in compliance with the Comprehensive Plan; and

STAFF: Mobility Goal 3 Policy 14 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking. The parking waiver is to increase the spaces from 2 to 5.

- (b) The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions; and

STAFF: The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions by arranging the parking on the site to maximize the provided parking. The parking study indicates a need for additional spaces by customers or employees.

- (c) The requirements found in Table 9.1.2 do not allow the provision of the number of parking spaces needed to accommodate the parking needs of the proposed use; and

STAFF: The parking studies provided for the site demonstrate that additional parking is necessary.

- (d) The requested increase is the minimum needed to do so.

STAFF: The requested parking will provide the minimum required to supply parking necessary for employee and customer parking for the car wash per the parking study performed.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP**

- (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: The site is mostly cleared and few natural resources exist on the site currently. Required tree canopy will be provided.

- (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 has approved the preliminary development plan.

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

STAFF: No open space provisions are pertinent to the request.

- (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 is in compliance with existing and planned future development in the area. The proposal would provide commercial development in a commercial corridor in a location anticipated for future commercial 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 requirements of the Land Development Code and Plan 2040 with the exception of the requested variance, waiver and parking waiver. The site plan generally complies with the policies and guidelines of the Comprehensive Plan.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Waiver from Chapter 10.2**
- **APPROVE** or **DENY** the **Parking Waiver**
- **APPROVE** or **DENY** the **Detailed District Development Plan**

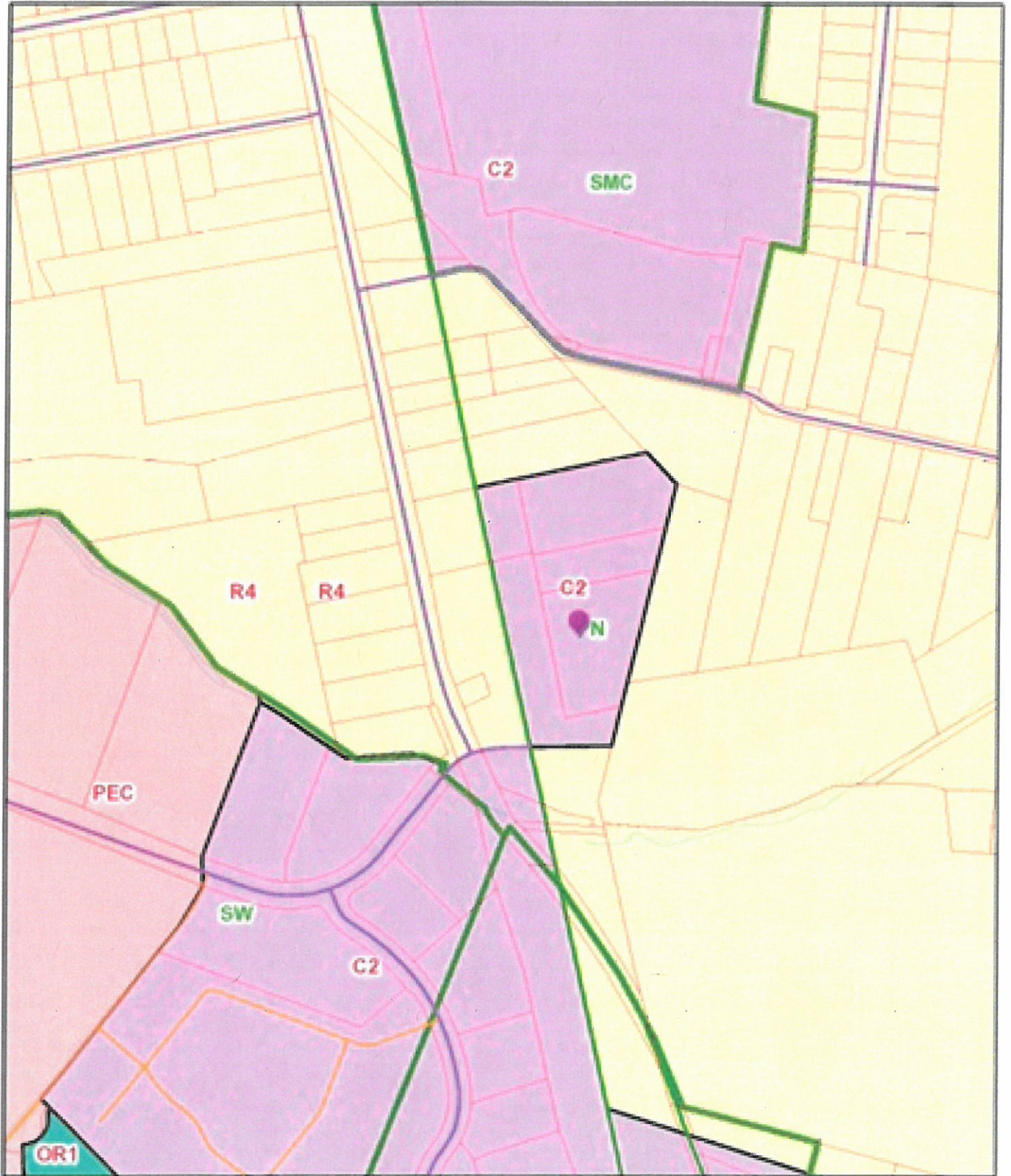
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>8/19/22</b>	Hearing before DRC on 8/31/22	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 23

**ATTACHMENTS**

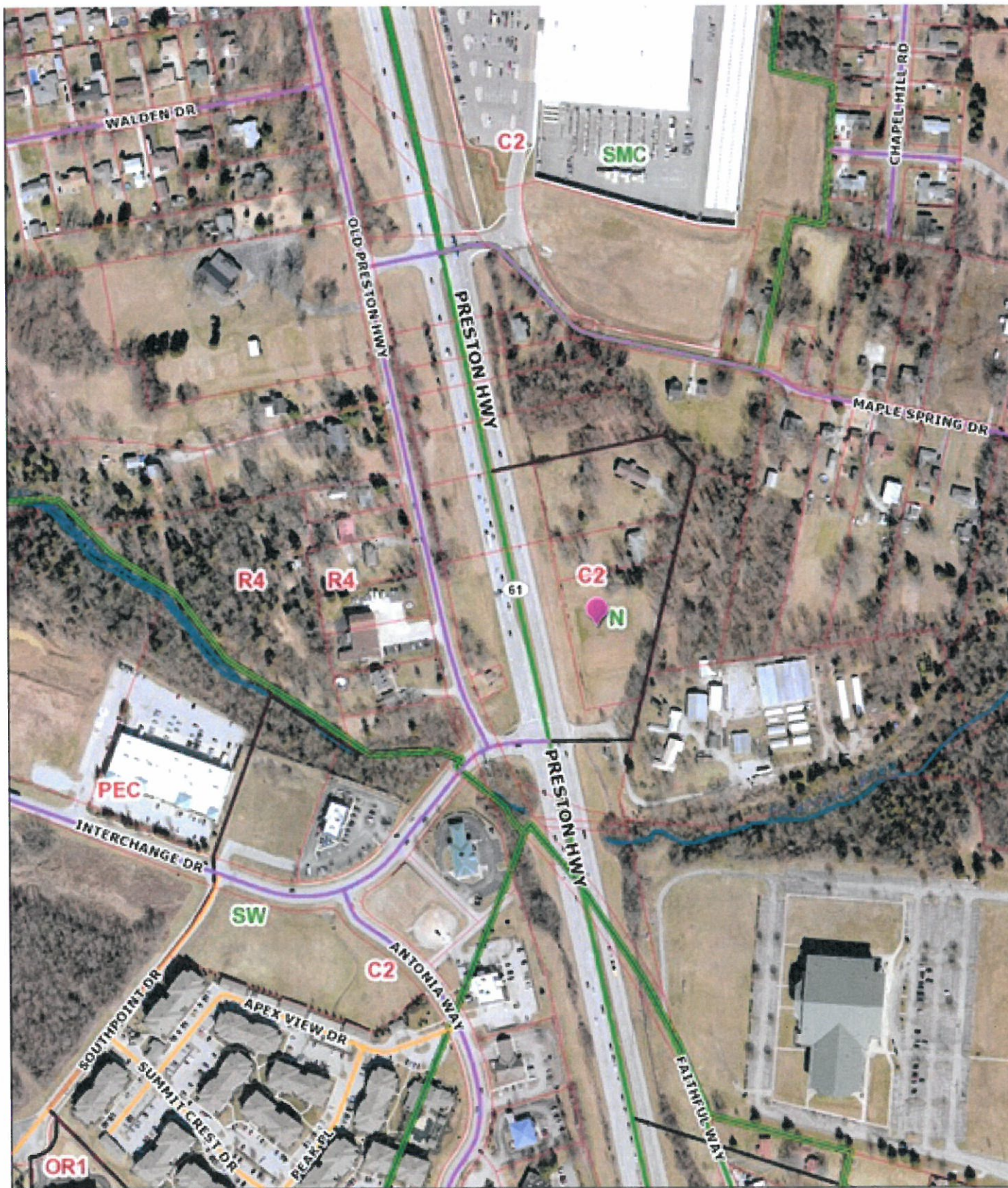
1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements with proposed changes

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, 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 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 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.
4. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - d. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - e. A defined reciprocal access easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the subject property and the two Mercer properties to the east and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; a copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the three subject property lots and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; a copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - g. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 18, 2021 Planning Commission meeting **and the August 31, 2022 Development Review Committee meeting**. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or



outdoor PA system audible beyond the property line.

6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. 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.
8. 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.
9. Should Kentucky Transportation Cabinet approval of the right-in-right-out on Preston Highway not be provided, the applicant shall revise the plan and return to the Development Review Committee for approval of a revised plan.
10. The applicant shall reimburse the Okolona Fire Protection District, Station 2 (the "Fire Station"), located at 10508 Old Preston Highway (the "Site") up to \$10,000 for an intersection control device, provided the Fire Station still remains at the Site and has not made plans to relocate from Site once the certificates of occupancy are issued for Chick-Fil-A and Thorntons.
11. The applicant shall complete off-site right-of-way improvements once construction permits are issued and they must be complete before any certificates of occupancy are issued for Chick-Fil-A and Thorntons, provided same are required by KYTC (pursuant to KYTC standards), for (1) the southbound left turn lane at the intersection of Preston Hwy. and Interchange Drive, (2) the right deceleration lane on the northbound right-in/right-out on Preston Hwy., and (3) the northbound right-turn lane at the intersection of Preston Hwy. and Interchange Drive.
12. Fuel tanker trucks shall enter and exit the site, and fill the underground tanks, as demonstrated at the 11/18/21 Planning Commission public hearing.