

Development Review Committee Staff Report

March 5, 2014



Case No:	13DEVPLAN1113
Request:	Revised Detailed District Development Plan with Landscape Waivers
Project Name:	LNG Fueling Station
Location:	4626 Preston Highway
Owner:	Pelco Associates, Inc.
Applicant:	Clean Energy
Representative:	Fiedler Group
Jurisdiction:	Louisville
Council District:	21 – Dan Johnson
Case Manager:	Christopher Brown, Planner II

REQUEST

- Waiver #1: Landscape waiver from Chapter 10.2.4B of the Land Development Code to allow an overlap of more than 50% of the landscape buffers and utility easements
- Waiver #2: Landscape waiver from Chapter 10.2.7 of the Land Development Code to allow pavement to encroach into the required 20' landscape buffer along the I-65 ROW
- Revised Detailed District Development Plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-1, Commercial
Existing Form District: SMC, Suburban Marketplace Corridor
Existing Use: Vacant
Proposed Use: Fuel Station
Minimum Parking Spaces Required: 0
Parking Spaces Proposed: 0
Plan Certain Docket #: 9-87-85

The applicant is proposing to construct a 900 SF gas canopy with fueling dispensers and two 42.7' tall above ground storage tanks on the subject site. The required sidewalks will be provided along Preston Highway and Grade Lane. The required vehicular use landscape buffer will be provided along the adjacent street frontage. To the rear of the site, a 20' landscape buffer is required adjacent to the I-65 Expressway ROW. The buffer will be provided with pavement encroachments at the center point. It will be reduced to 5' at its shortest width. All screening and planting materials will be provided. The utility easements will also overlap portions of the required buffers by more than 50% but the screening and plantings will still be able to be provided as required by the Land Development Code. The existing binding elements on the property will be updated for the proposed use.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	C-1	SMC
Proposed	Fueling Station	C-1	SMC
Surrounding Properties			
North	Restaurant	C-1	SMC
South	Restaurant Hotel	C-1 C-2	SMC
East	Cemetery	R-1 C-1	N SMC
West	I-65 ROW		

PREVIOUS CASES ON SITE

- 9-87-85: The subject property was rezoned from R-5, residential, to C-1, commercial.
- B-90-87: Variance approved to allow a billboard on the subject site to exceed the maximum permitted height.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO 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 vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development 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 with 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 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. Buildings and parking lots will meet all required setbacks.

- 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 Land Development Code with the exception of the requested variance and waivers which meet the standards of review.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

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

STAFF: The waivers will not adversely affect adjacent property owners since the intent of the required buffering will be met with the screening and planting materials to be provided on the site.

- (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. All required screening and plantings will be provided on the site along the adjacent roadways and within the

overlapping utility easements; therefore, the waiver will not violate specific guidelines of Cornerstone 2020.

- (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 needed utility easements and vehicular use area for proper administration of the use on the site while providing the required screening and planting materials.

- (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 eliminating a portion of the vehicular use area needed for access to the pumps and to the curb cut on Grade Lane.

TECHNICAL REVIEW

- The Board of Zoning Adjustment approved variances for their attached canopy signage to exceed the maximum square footage permitted by the Land Development Code.

STAFF CONCLUSIONS

The standard of review is met for the requested landscape waivers and revised plan on the subject site. The compatibility intent of Cornerstone 2020 will be met with the landscaping proposed to be provided on the site. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Development Review Committee must determine if the proposal meets the standards for granting a landscape waivers and a revised detailed district development plan as established in the Land Development Code.

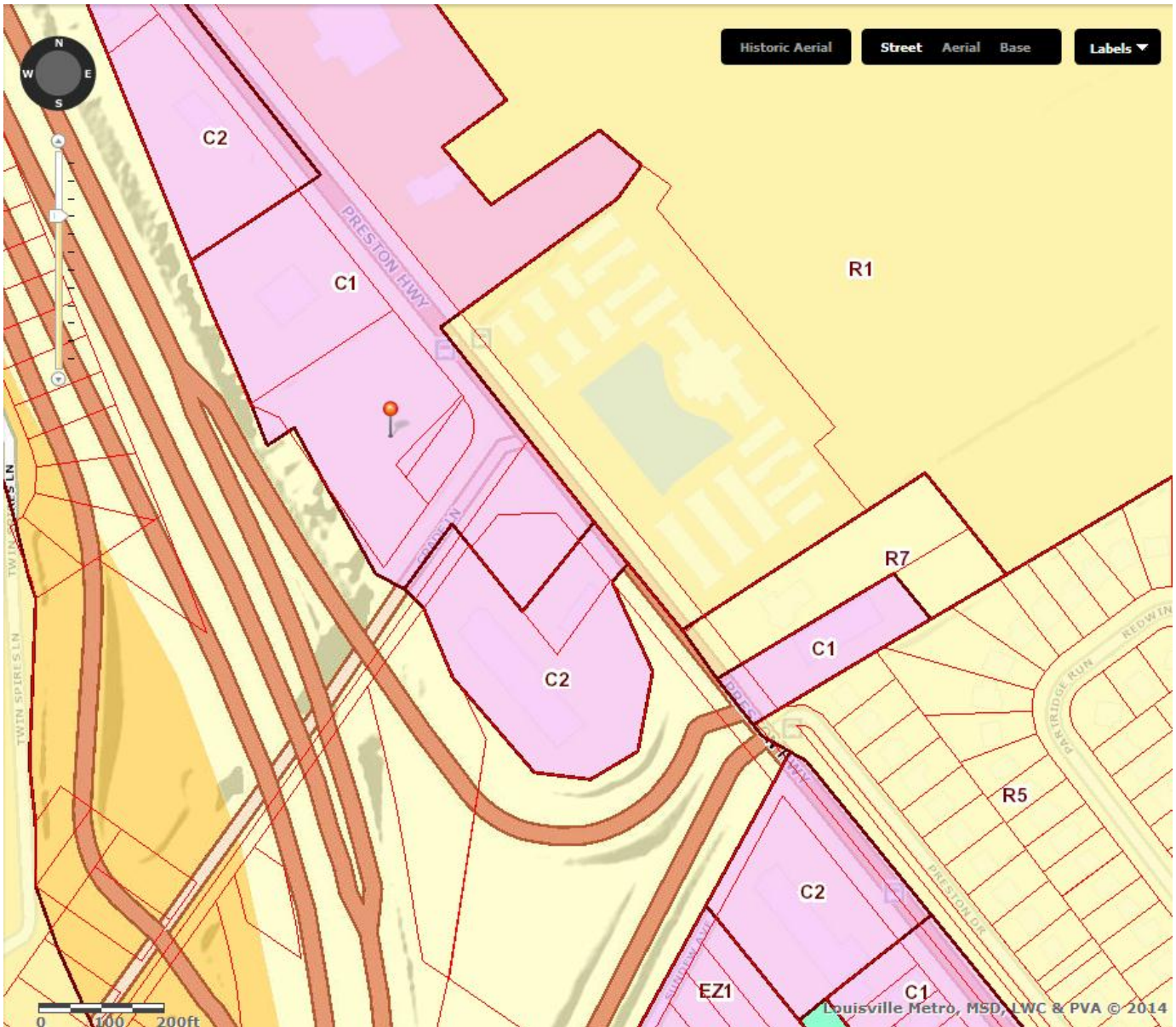
NOTIFICATION

Date	Purpose of Notice	Recipients
2/21/14	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 21 Notification of Development Proposals

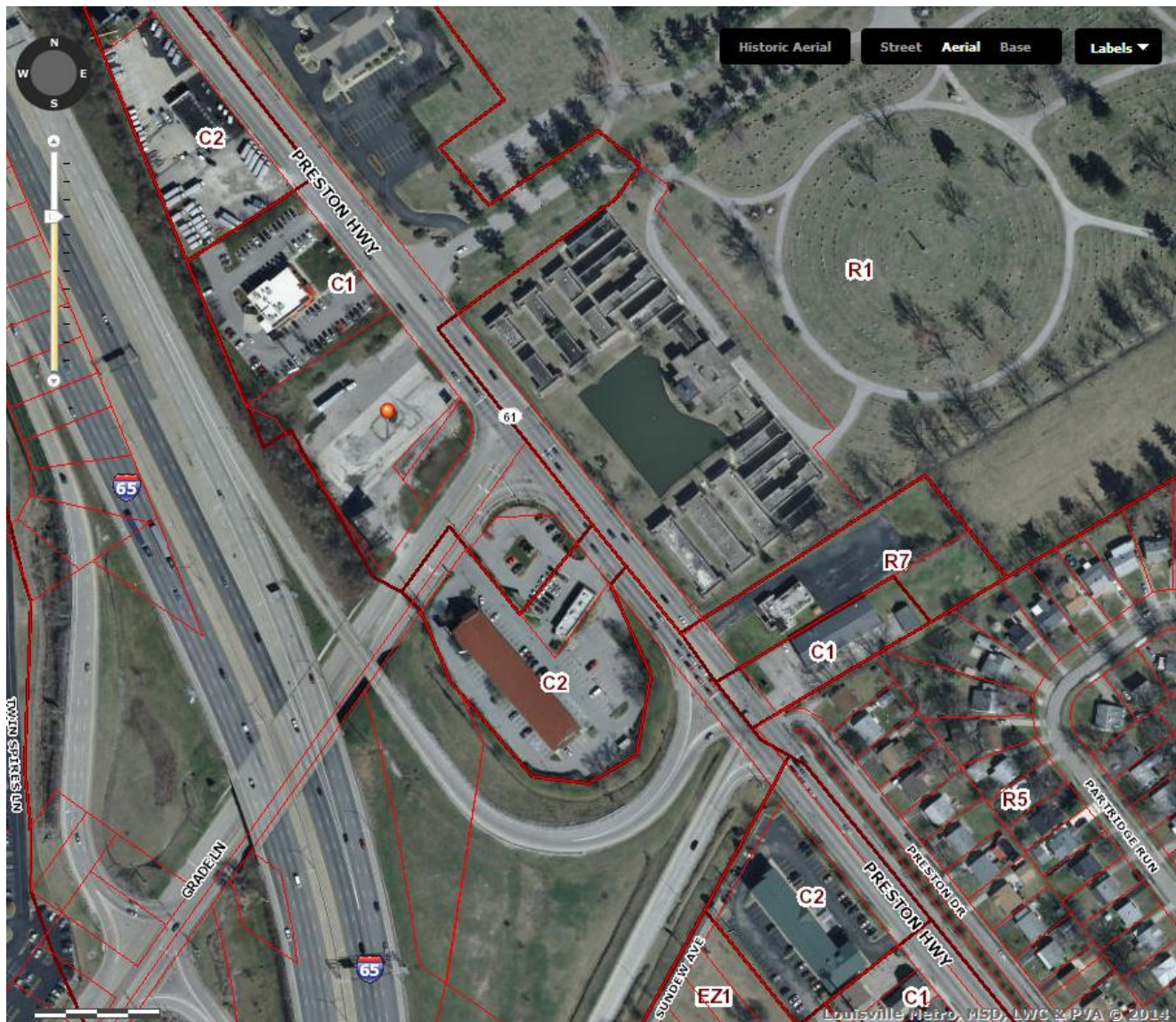
ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Existing Binding Elements

1. The development will be in accordance with the approved district development plan. No further development will occur.
2. The development shall not exceed 5,100 square feet of gross floor area.
3. Before a building permit is issued:
 - a. The plan must receive construction approval from the City of Louisville Department of Public Works and the Water Management Section of the Jefferson County Public Works and Transportation Cabinet.
 - b. The property owner must obtain approval of a plan for landscaping along Preston Highway. Such plan shall be implemented prior to occupancy and maintained thereafter.
4. Business signs may be located as shown on the approved district development plan. The free-standing signs shall not exceed 340 square feet in area. The freeway sign may be 65 feet in height if a variance is obtained from the Board of Zoning Adjustment.

5. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
6. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements must be implemented prior to requesting issuance of the certificate.
7. The above binding elements may be amended as provided for in the Zoning District Regulations.

4. Proposed Binding Elements

1. ~~The development will be in accordance with the approved district development plan. No further development will occur.~~ **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. The development shall not exceed ~~5,100~~ **6,000** square feet of gross floor area.
3. ~~Before a building permit is issued~~ **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 plan must receive construction approval from the City of Louisville Department of Public Works and the Water Management Section of the Jefferson County Public Works and Transportation Cabinet.~~ **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 property owner must obtain approval of a plan for landscaping along Preston Highway. Such plan shall be implemented prior to occupancy and maintained thereafter.~~ **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.**
 - c. **Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.**
 - d. **The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.**
5. If a building permit is not issued within ~~one~~ **two** years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
7. ~~The above binding elements may be amended as provided for in the Zoning District Regulations.~~
7. **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.**
8. **No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.**

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 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.**