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November 15, 2013

Mr. Steve Hendrix  
Planning and Design Supervisor  
Louisville Metro Planning and Design Services  
444 S. 5<sup>th</sup> Street  
Louisville, KY 40202

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**RE: 4626 Preston Highway, Louisville, KY 40213  
Revised Detail District Development Plan, Sign Variance, and Landscaping Waiver**

Dear Mr. Hendrix:

Please be advised that Clean Energy is requesting approval of a Revised Detail District Development Plan, Sign Variance and Landscape Waiver for the proposed LNG Fueling Station at the above-referenced property. Clean Energy is the leading provider of natural gas fuel for transportation in North America and a global leader in the expansion and introduction of natural gas vehicles. As a result Clean Energy designs, builds, operates, and maintains natural gas fueling stations offering the latest in convenience, technology, and safety. Compared to diesel and gasoline, natural gas fuel is cheaper, cleaner, and greener. It is sourced domestically with supplies projected to last over 120 years. Clean Energy is committed to delivering the benefits of natural gas fuel to operators across America, at the same time Clean Energy is dedicated to protecting the environment by promoting sustainable clean-fuel transportation solutions.

Additionally, Clean Energy envisions a fueling network that enables trucks to operate on natural gas in all key markets across the Country. To make this goal a reality, Clean Energy is actively developing America's Natural Gas Highway, with LNG and CNG fueling stations at strategic locations along major interstate trucking corridors. Clean Energy respectfully requests the assistance of Louisville Metro to promote the benefits of natural gas by means of approving our requested Revised Detail District Development Plan Application for amendments to or deviations from the approved Plan Certain #09-087-85 and Case #B-90-87, Sign Variance to deviate from the maximum allowable sign area per façade, and Landscape Waiver to waive strict landscaping regulations pertaining to the subject zone. Below is a project background and details associated with our request.

The station will be located at 4626 Preston Highway. The proposed fueling facility would serve as a new use that is complementary to existing uses in the area which are travel and transit oriented. Clean Energy's application would be to develop this property to include a 900 square-foot canopy with signage, fueling dispensers, card readers, two 42.7' tall above ground storage tanks, associated controls, equipment pads, interconnecting piping, electrical, light standards and safety systems.

#### **Revised Detail District Development Plan**

Initial discussions with Louisville Metro Planning and Design staff regarding the proposed project identified two entitlement applications were previously approved for the subject property: (1) Plan

Certain #09-087-85, a rezone from R-5 (Residential District) Zone to C-1 (Commercial District) Zone; and (2) Case #B-90-87, a Variance request to allow the existing billboard located on the southeast corner of the subject property. During the Pre-Application Meeting held on May 28, 2013 regarding Clean Energy's proposal, staff indicated that any amendments to or deviations from the previously approved Plan Certain will require approval of a Revised Detailed District Development Plan. Clean Energy is not requesting deviations from any development standards or conditions placed on this property under the approved Plan Certain #09-087-85, however, Clean Energy's proposals introduces a new use to the property that was not part of the approved Plan Certain and will therefore require approval of a Revised Detail District Development Plan.

The proposed development will provide for safe and efficient vehicular transportation both within the development and the community. The onsite and offsite traffic patterns relative to the site will be maintained, however, Clean Energy will be utilizing new driveways for their proposed ingress and egress paths off Preston Highway and Grade Lane. Furthermore, the proposed development will utilize the large paved area onsite to conserve natural resources and provide open space, where feasible and/or practical. The overall site design and proposed land use is compatible with the intent and purpose of Land Development Code Section 5.3.2 Suburban Marketplace Corridor Form District (SMCFD) to promote high quality design and a more visually attractive environment in the SMCFD, accommodating relatively large volumes of traffic while providing for alternative travel modes. The LNG fueling facility is designed to accommodate future demands for LNG, an alternative (American) fuel.

### Sign Variance Request

During review of the Sign Regulations in Code Section 8.3.2 of the Louisville Metro Land Development Code, Clean Energy found that its proposal will exceed the allowable sign area allotment. Clean Energy is proposing to construct and install its standard vertical tanks and canopy over the fueling area and incorporate its company name, logo and informational/directional verbiage on the canopy and tanks to aid in identifying the LNG product/facility. The proposed signs on the two above ground storage tanks will be considered attached signage (as defined in Land Development Code Section 8.1.2) and is permitted under Land Development Code Section 8.3.3 and Table 8.3.2. However, the prototypical package exceeds the allowable maximum sign area and will result in the need to obtain approval of the variance requested.

It is our understanding per Land Development Code Section 8.3.3.A (Permanent On-premise Signs for Non-residential Uses for Attached, Awning, Canopy and Marquee Signs) and Table 8.3.2, that for buildings with a façade area of less than 500 square feet, a maximum of (3) signs may be located on any one façade so long as the sign surface area of all signs on each facade does not exceed twenty (20) percent of the façade area of the building wall to which the sign is attached.

This would allow a total of 58.2 square feet of signage on the canopy and 109.6 square feet of signage on the two above ground storage tanks, for an overall total of 167.8 square feet of allowable signage for the project.

The total Clean Energy signage proposed is 193.2 square feet which includes 58.2 square feet of permitted canopy signage, 25.4 square feet of additional canopy signage, 54.8 square feet of allowable signage on Tank 1, and 54.8 square feet of allowable signage on Tank 2. Although Clean Energy intends to submit a sign application for the signs that are permitted by right, Clean Energy is seeking a variance for additional signage to assure fuel type identification to both consumers and emergency responders.

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Please note that Clean Energy is not requesting approval of any prohibited signs as described in Land Development Code Section 8.1.9 or any stand-alone ground or pole (freestanding) signs as described in Land Development Code Section 8.3.3.B (Permanent On-premise Signs for Non-residential Uses for Freestanding On-premise Signs). Furthermore, Clean Energy's request is not for signage associated with fuel price advertisement as with a traditional gasoline or automobile service station. The request is associated with fuel type identification and availability only.

Furthermore, Clean Energy is requesting approval to install vinyl applique signs on its canopy and tanks at the locations as indicated, with two illuminated signs mounted to the face of the canopy where noted. As per the attached Signage plan, please note the precise locations as referenced below:

**On the North Side Elevation of the Canopy:**

- Vinyl Logo & "Clean Energy" Vinyl Letter Set 18 Square Feet Advertising and "Natural Gas For Vehicles" 12.6 Square Feet Directional Vinyl Letter Set  
(Total of 31.4 Square Feet proposed)
  - 21.6 Square Feet is allowed per Land Development Code Section 8.3.3 and Table 8.3.2
  - 9.8 Square Feet of additional canopy signage is requested

**On the South Side Elevation of the Canopy:**

- Illuminated Logo & "Clean Energy" Vinyl Letter Set 19.8 Square Feet Advertising and "Natural Gas For Vehicles" 12.6 Square Feet Directional Vinyl Letter Set  
(Total of 32.4 Square Feet)
  - 21.6 Square Feet is allowed per Land Development Code Section 8.3.3 and Table 8.3.2
  - 10.8 Square Feet of additional canopy signage is requested

**On the West Side Elevation of the Canopy:**

- Illuminated Logo & "Clean Energy" Vinyl Letter Set  
(Total of 19.8 Square Feet)
  - 15 Square Feet is allowed per Land Development Code Section 8.3.3 and Table 8.3.2
  - 4.8 Square Feet of additional canopy signage is requested

**On the East Elevation of Tank 1:**

- Vinyl Logo and "Clean Energy" Vinyl Letter Set  
(Total of 27.4 Square Feet)
  - 27.4 Square Feet (Up to 85.4 Square Feet) is allowed per Land Development Code Section 8.3.3 and Table 8.3.2

**On the East Elevation of Tank 2 (to be installed in 2-3 years when demand increases):**

- Vinyl Logo and "Clean Energy" Vinyl Letter Set  
(Total of 27.4 Square Feet)
  - 27.4 Square Feet (Up to 85.4 Square Feet) is allowed per Land Development Code Section 8.3.3 and Table 8.3.2

**On the West Side Elevation of Tank 1:**

- Vinyl Logo and "Clean Energy" Vinyl Letter Set  
(Total of 27.4 Square Feet)
  - 27.4 Square Feet (Up to 85.4 Square Feet) is allowed per Land Development Code Section 8.3.3 and Table 8.3.2

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On the West Side Elevation of Tank 2 (to be installed in 2-3 years when demand increases):

- Vinyl Logo and "Clean Energy" Vinyl Letter Set  
(Total of 27.4 Square Feet)
  - 27.4 Square Feet (Up to 85.4 Square Feet) is allowed per Land Development Code Section 8.3.3 and Table 8.3.2

The total signage being proposed includes 58.2 square feet of permitted canopy signage, 25.4 square feet of additional canopy signage, 27.4 square feet of allowable signage on the offloading elevation of Tank 1, 27.4 square feet of allowable signage on the offloading elevation of Tank 2, 27.4 square feet of allowable signage on the fueling side elevation of Tank 1, and 27.4 square feet of allowable signage on the fueling side elevation of Tank 2, for a total of 193.2 square feet of onsite signage.

Pursuant to Section 11.5B.1.B (Considerations for Variances) of the Louisville Metro Land Development Code, a variance may be granted by the Board of Zoning Adjustment when two criteria have been met. In this particular case, Clean Energy believes these two criteria as described in Land Development Code Section 11.5B.1.B have been met by the proposed signage package as it relates to the site and the use to be established on said site.

**Variance Criteria 1 – Reasons that the granting of the variance:**

**a) *Will not adversely affect the public health, safety or welfare.***

The granting of the variance will not adversely affect the public health, safety or welfare of the community. The variance will actually result in substantial justice and improvement to the public safety and welfare because LNG vehicles emit up to 30% less greenhouse gas emissions than gasoline or diesel vehicles, thereby improving local air quality. The surrounding area is zoned for commercial and general business uses which are typical at exits off of the national interstate system. Additionally, LNG engines can reduce noise by as much as 50% compared to diesel engines. Truck traffic and transportation of goods is common along this corridor and adjoining streets. Furthermore, the variance request for additional sign area is compatible with Guideline 3.A.28 of the Cornerstone 2020 Comprehensive Plan Goal to "Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety". Therefore, the granting of the requested sign variance for the proposed LNG fueling station would not adversely affect the public health, safety or welfare of the Louisville Metro community. The additional signage will allow for quick identification of the facility for both potential patrons and emergency responders.

**b) *Will not alter the essential character of the general vicinity.***

The granting of the variance will not alter the essential character of the general vicinity. This Variance request will be in harmony with the purpose and intent of Guideline 3.A.28 of the Cornerstone 2020 Comprehensive Plan to encourage signs that are integrated with or attached to structures wherever feasible and limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. The area inclusive of the subject site is characterized by larger parcels of land that are primarily accessed by a highly traversed, higher-speed roadway. The request for increased sign area on the canopy is necessary to ensure efficient communication with potential patrons of the fueling facility, as well as assist emergency responders with quickly identifying the location of the LNG facility. It should be noted the increased area not only provides better identification, but accommodates the directional statement "Natural Gas For Vehicles" which is approximately twelve square feet. This statement enhances communication and allows potential patrons to quickly identify the site as an alternative fueling

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facility. In addition, the increased sign area will not appear out of scale with the canopy and overall development of the site. The increased signage is compatible with the neighborhood inasmuch as the canopy structure will comply with all required setbacks upholding the visual integrity of the roadway corridor.

The request is to allow additional area for vinyl applique identification on a code-compliant canopy structure and said additional area will not introduce a visual incompatibility to the neighborhood. Furthermore, the provisions of Land Development Code Section 5.3.2 Suburban Marketplace Corridor Form District (SMCFD) are intended to promote high quality design and a more visually attractive environment in the SMCFD, accommodating relatively large volumes of traffic while providing for alternative travel modes. Clean Energy will support the intent of the SMCFD by providing a high-quality and attractive facility design that will maintain visual compatibility with the neighboring uses. Although Clean Energy's proposal will not provide a direct alternative mode of travel, it will allow for more diverse transportation methods and means in this community by providing LNG as a new alternative fuel option. Furthermore, the subject site is located on Preston Highway and is adjacent to the Interstate system (I-65/Dr. Martin Luther King, Jr. Expressway), both of which serves a high volume of commercial vehicles that can directly benefit from the use of an alternative (American) fuel. Therefore, the proposed LNG fueling station would be compatible with the area and not alter the essential character of the community.

**c) Will not cause a hazard or a nuisance to the public.**

The granting of the variance will not cause a hazard or a nuisance to the public. As indicated previously, the granting of the variance will actually result in substantial justice and improvement to the public safety and welfare because LNG vehicles emit up to 30% less greenhouse gas emissions than gasoline or diesel vehicles, thereby improving local air quality and are 50% quieter reducing noise pollution. Clean Energy's standard signage is designed to tastefully identify the site/use in a manner that will preserve property values by preventing unsightly and chaotic signage that has a blighting influence on the city. Furthermore, the additional signage will not cause a hazard or a nuisance to the public and is only intended to allow for quick identification of the facility for potential patrons and, more importantly, emergency responders.

**d) Will not allow an unreasonable circumvention of the requirements of the zoning regulations.**

The granting of the requested zoning variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. It will, actually, allow for the establishment of an atypical use for alternative fuel which is consistent with the intent of the Zoning Regulations. Clean Energy is only requesting a variance to allow for an additional 25.4 square feet of signage on their canopy structure to accommodate its company name, logo and informational/directional verbiage on the canopy to aid in identifying the LNG product/facility. The distinctive design of the Clean Energy fueling facilities creates a particularly unique site condition in that there is no building on which to locate signage as would be typical of other business types, thus creating an unparalleled hardship limiting this facility to a minimal signage allowance on the canopy as well as on the two tanks. Several other properties within the same zoning district are developed with storefront businesses that are afforded more identification due to the presence of actual building wall, monument and freestanding signage.

If the proposed development had an actual building, the dimensions on the CNG Equipment Side Elevation façade of the canopy could be 19' x 36' (presuming the building was the same size as the canopy in length and equal in height). In that instance, the allowed sign area on that façade of

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that building would be  $(19 \times 36) \cdot 2 = 136.8$  square feet. However, since the canopy is only 3' high in "wall area" and is 36' long, the allowed sign area is only  $(3 \times 36) \cdot 2 = 21.6$  square feet. On the CNG Equipment Side Elevation of the canopy we are requesting 31.4 square feet, well within the allowable 136.8 square feet which would be permitted a standard business on the main elevation facing the street (if our business had a full wall).

Clean Energy is not proposing off-site or freestanding signage, therefore, the proposed signage on the canopy and tanks are the only signage that would provide any sort of identification for the facility. Given the unique design of the fueling facility, the granting of this variance will not result in advantages or special privileges to Clean Energy, but merely allow for adequate visibility, identification, and communication – all of which are enjoyed by the neighboring properties in the same district.

**Variance Criteria 2 – Additional consideration:**

**a) *Whether the variance arises from special circumstances, which do not generally apply to land in the general vicinity.***

The granting of this variance to allow Clean Energy's deviation from the maximum allowable sign area in the C-1 (Commercial District) Zone per Land Development Code Section 8.3.3(B) (Permanent On-premise Signs for Non-residential Uses for Freestanding On-premise Signs) and Table 8.3.2 are due to special circumstances or conditions that do not apply generally to the land in the general vicinity. A literal interpretation of said provisions would deprive Clean Energy of rights commonly enjoyed by other properties of the same zoning district and in the same vicinity in which the property is located.

The distinctive design of the Clean Energy fueling facilities creates a particularly unique site condition in that there is no building on which to locate signage as would be typical, thus creating an unparalleled hardship limiting this facility to minimal signage allowance of the canopy locations totaling 58.2 square feet. Several other properties within the same zoning district are developed with storefront businesses that are afforded substantially more identification due to the presence of building wall and freestanding signage. Given the unique design of Clean Energy's LNG fueling facility, strict application of the zoning code precludes adequate visibility, identification, and communication – all of which are enjoyed by other properties within the same zoning district. It is for these unique hardships that Clean Energy seeks a variance to utilize greater than the maximum allowable space on the canopy as has been indicated on the signage plan.

**b) *Whether the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of land or would create an unnecessary hardship.***

Strict application of the provisions of Land Development Code Section 8.3.3(B) (Permanent On-premise Signs for Non-residential Uses for Freestanding On-premise Signs) and Table 8.3.2 would deprive Clean Energy of any reasonable use of this land as an LNG fueling station and would create an unnecessary hardship as it would preclude adequate visibility, identification, and communication. The distinctive design of the Clean Energy fueling facilities creates a particularly unique site condition in that there is no building on which to locate signage as would be typical, thus creating an unparalleled hardship limiting this facility to a minimal signage allowance of 58.2 square feet on the canopy and 109.6 square feet on the two tanks. Several other properties within the same zoning district are developed with storefront businesses that are afforded substantially more identification due to the presence of actual building wall, and freestanding signage. Clean Energy is not proposing off-site or freestanding signage, therefore,

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the proposed signage on the canopy and tanks are the only signage that would provide any sort of identification for the facility. If Clean Energy complies with the prescribed signage regulations, Clean Energy will be deprived of beneficial use of the land and will make no reasonable use of this property as an LNG fueling facility, therefore, the subject property will be eliminated as a viable candidate for this project.

c) *Whether the circumstances are the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought.*

The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought. The characteristics of the subject site and proposed use of LNG fueling are unique and cannot be practically corrected. Due to the limited space available on the property, odd configuration of the lot, and existing onsite and offsite conditions, no reasonable improvements or alterations to the existing site will accommodate the installation of the LNG facility without exceeding the maximum sign area for the canopy. These existing conditions and unique characteristics of the site and use are not induced by any action of the applicant. The proposed sign variance is required to allow for the use of an alternative fuel with adequate signage for identification, and not for displaying fuel price advertisement. The LNG fueling station and tanks are designed to best fit within the existing operation and with a minimum impact to the site. Thus, allowing the additional sign area is the minimum relief necessary to allow for an LNG fueling station. This is in no means the result of an action of the applicant, it is rather the result of new technology related to an alternative (American) fuel.

### Landscape Waiver Request

During review of the Landscape Regulations in Code Section Chapter 10, Part 1 and Part 2 of the Louisville Metro Land Development Code, Clean Energy found that its proposal will not meet the minimum tree canopy and landscape design requirements for the proposed development. This was later confirmed at the May 28, 2013 Pre-Application Meeting, where staff indicated a Landscape Waiver will be required for relief from the interior landscaping requirements after review of the preliminary site plan provide by the Clean Energy representative.

It is our understanding per Land Development Code Chapter 10, Part 1 and Part 2, that: (a) any development site on which there is an increase in building area or impervious surface area by more than fifty (50) percent or where a structure has been demolished and a new structure has been built in its place shall fully comply with the tree canopy requirements set forth in this Part; and (b) No site development, building or structure shall be constructed nor vehicular use area (VUA) created unless landscaping is provided as required by the provisions of this part. In addition, Chapter 10, Part 2 states that any building, structure or VUA that in its entirety is removed and reconstructed, or relocated to a new on-site location, shall be considered new development.

As described in Chapter 10, Part 2, Clean Energy's proposal will be considered "new development" and, as a result, will be subject to strict tree canopy and landscape design regulations. According to Land Development Code Section 10.1.2.B.1 and Table 10.1.1, a Class C Tree Canopy Category is required for new commercial development in the Suburban Marketplace Corridor Form District. Considering almost the entire parcel is paved, the site currently has 0%-40% existing tree canopy coverage area and will be subject to a 20% tree canopy coverage area. However, if we only review the project in terms of increased impervious area, then the tree canopy coverage area will not be required as according to the code, any development site on which there is an increase in impervious surface area by twenty (20) percent or less shall not be required to provide the tree canopy required (Section 10.1.2.B.3)

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