

Development Review Committee

Staff Report

December 3, 2014



Case No:	14MOD1013
Request:	Amendments to Binding Elements
Project Name:	Raising Cane's
Location:	6811 Bardstown Road
Owner:	PECO CANES-BARDSTOWN LLC
Applicant:	CRM Companies
Representative:	Tom Johnston
Jurisdiction:	Louisville Metro
Council District:	22- Robin Engel
Case Manager:	Julia Williams, AICP, Planner II

REQUEST

- Amendment to Binding Element #11, "The owner(s) shall retain **the 3** stone pillars along Bardstown Road"
- Elimination of Binding Element # 12, "The applicant shall replace the split rail fencing in the existing stone pillars on the property along Bardstown Road"

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-1
 Proposed Zoning District: C-1
 Existing Form District: N
 Existing Use: Restaurant
 Proposed Use: Restaurant
 Plan Certain Docket #: 11944

The proposal is for amendments to the binding elements for a 3,030 square foot restaurant with 27 parking spaces. Access to the site is from Cedarlook Drive. The western border of the site is located along the outer boundary of a floodplain. To the north of the site is an R-4 zoned utility office in the Town Center Form District. To the west of the site is a C-2 zoned shopping center. To the south and east of the site are R-6 zoned residential properties.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Restaurant	C-1	N
Proposed	Restaurant	C-1	N
<i>Surrounding Properties</i>			
North	Utility Office	R-4	TC
South	Residential	R-6	N
East		R-6	N
West	Commercial	C-2	TC

PREVIOUS CASES ON SITE

14PM25376- A Binding Element violation was issued due to the improper removal of one of the pillars.
14Devplan1083- Development Plan with waivers approved for a restaurant by the DRC on January 15, 2014.
13variance1058- Variance to reduce the side yard setback along the north property line from 15 feet to 5 feet. This case was heard at BOZA on January 13, 2014.
11944- Change in zoning from OR-3 to C-1. Approved by the Metro Council on August 13, 2009. A variance that permitted the encroachment of parking and a dumpster was granted by the Planning Commission under this case as well.
9-42-91- Change in zoning from R-6 to OR-3. Approved by the Planning Commission on November 7, 1991.

INTERESTED PARTY COMMENTS

None received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR 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.

- 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.

- 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 is being 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 amendments conform to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

TECHNICAL REVIEW

- All agency comments have been addressed.

STAFF CONCLUSIONS

Staff could not find any evidence in the previous case files as to why the binding elements regarding the pillars were placed on the property. They do not appear to be historic as that was never mentioned in any of the information in the previous case files.

The applicant has preserved 3 of the 4 existing pillars and has landscaped around them.

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 amendments to the binding elements established in the Land Development Code.

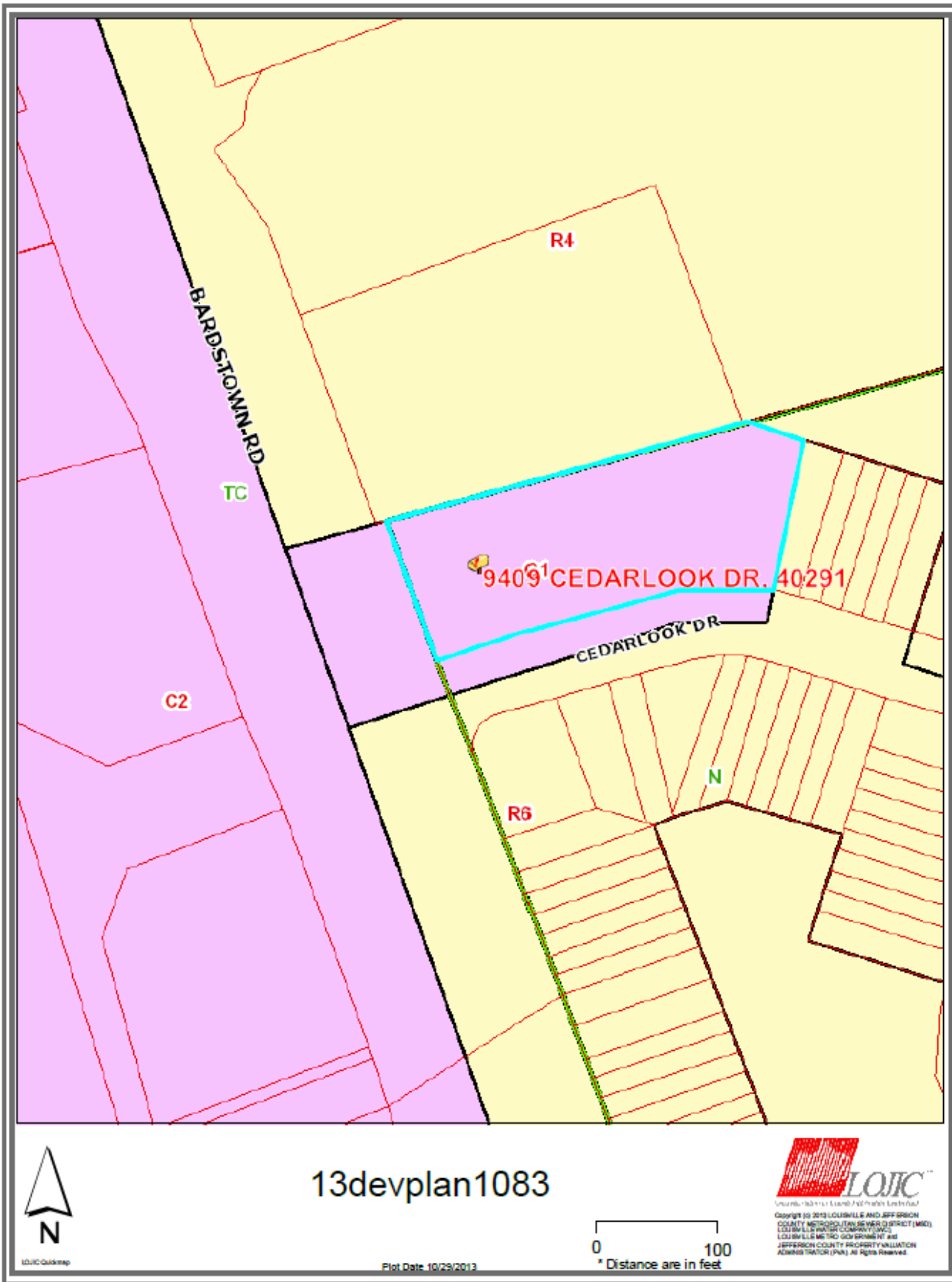
NOTIFICATION

Date	Purpose of Notice	Recipients
11/20/14	Hearing before DRC 12/3/14	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 22 Notification of Development Proposals

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Proposed Binding Elements/Conditions of Approval (for CUP)

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. The development shall not exceed 3,030 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. Before any permit including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The appropriate (variances (or conditional use permit) shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
 - d. 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.
6. 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.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 15, 2014 DRC meeting.
10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
11. The owner(s) shall retain **the 3** stone pillars along Bardstown Road.

~~12. The applicant shall replace the split rail fencing in the existing stone pillars on the property along Bardstown Road.~~