

# **21-NONCONFORM-0011**

## **1231 Durrett Lane**



**Louisville Metro Board of Zoning Adjustment  
Public Hearing**

**Priscilla Bowman, Associate Planner  
July 12, 2021**

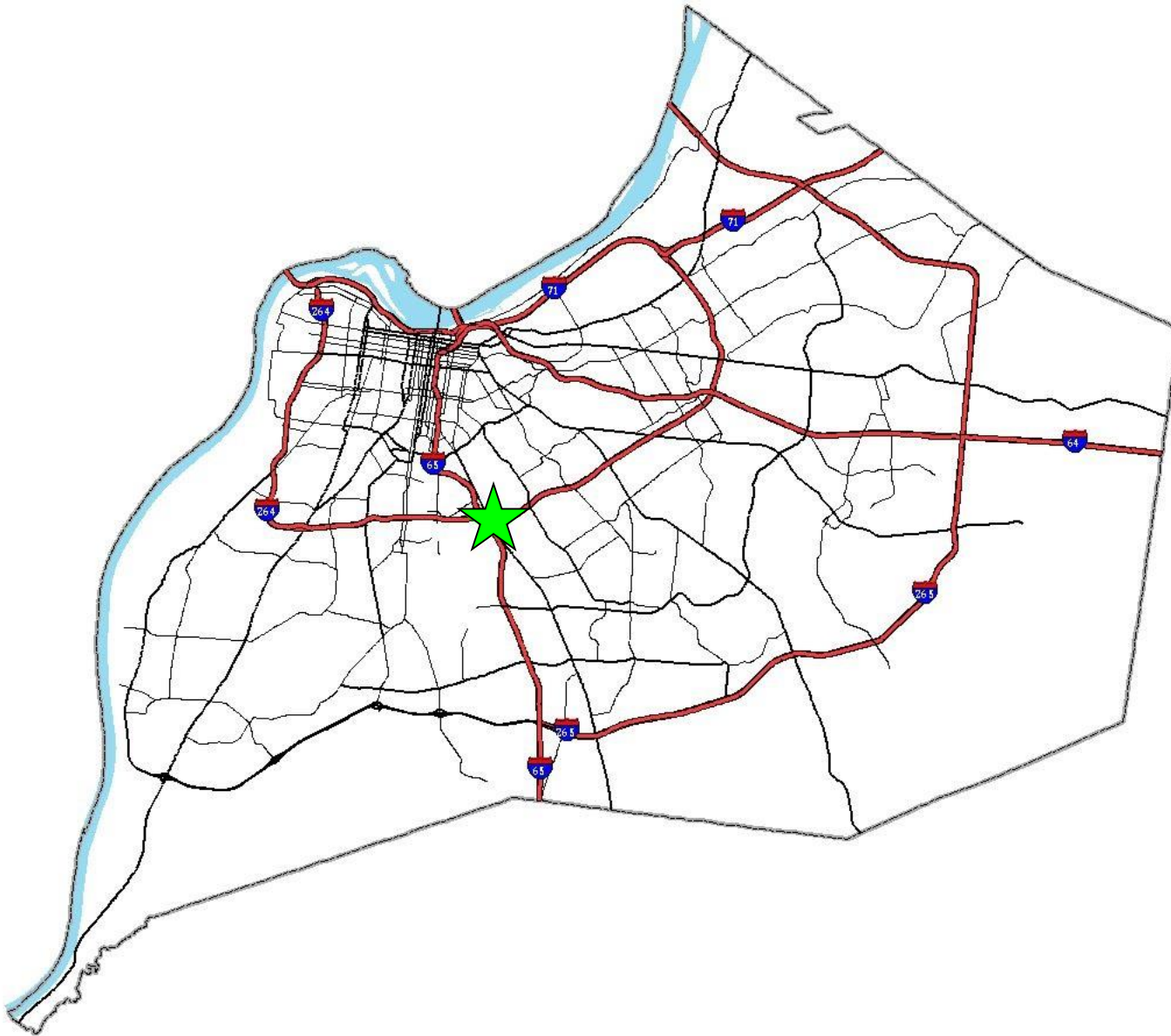
# Request

- Change in Nonconformance: Change in nonconforming rights for the change in location of off-premises signage (outdoor advertising sign).

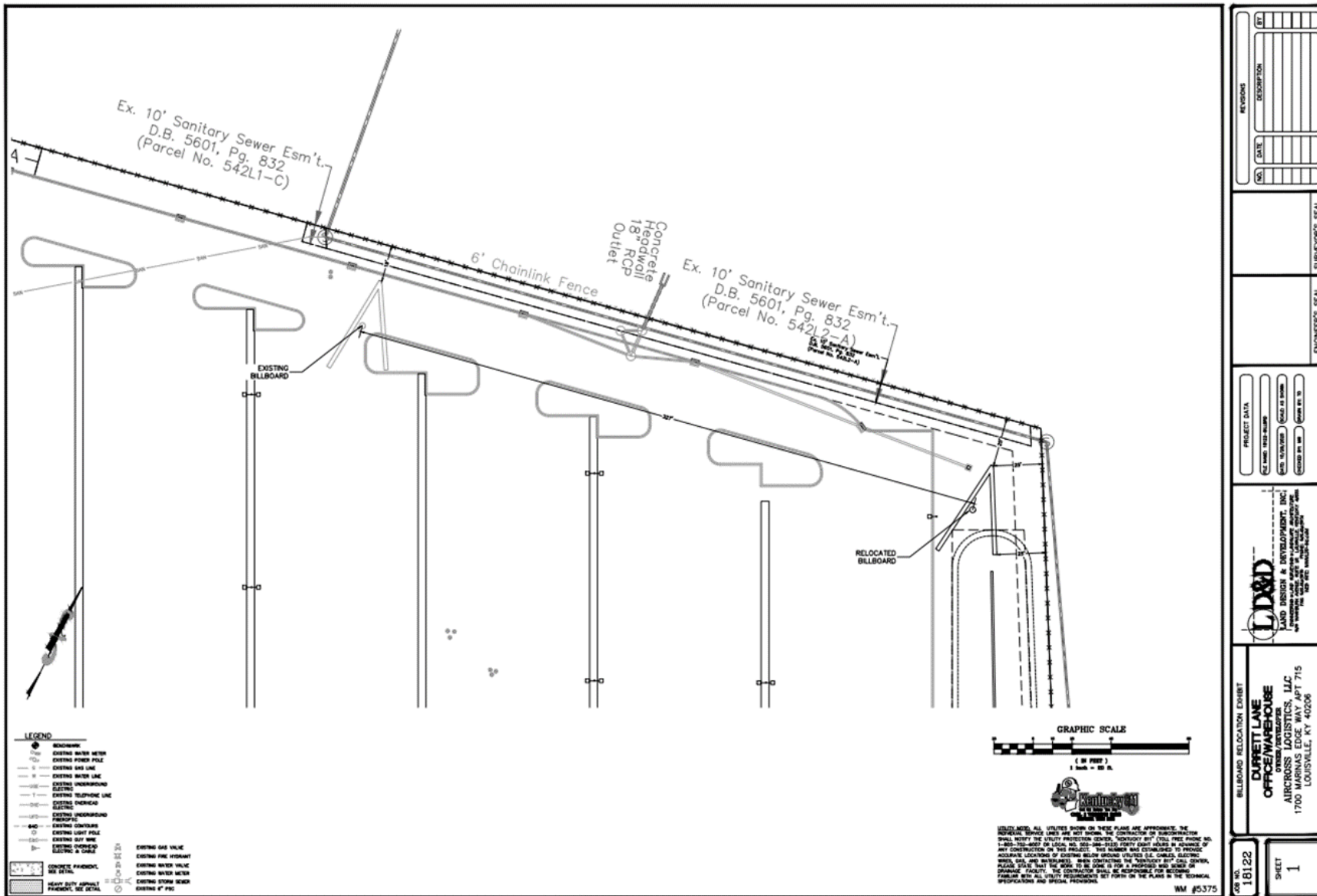
# Case Summary / Background

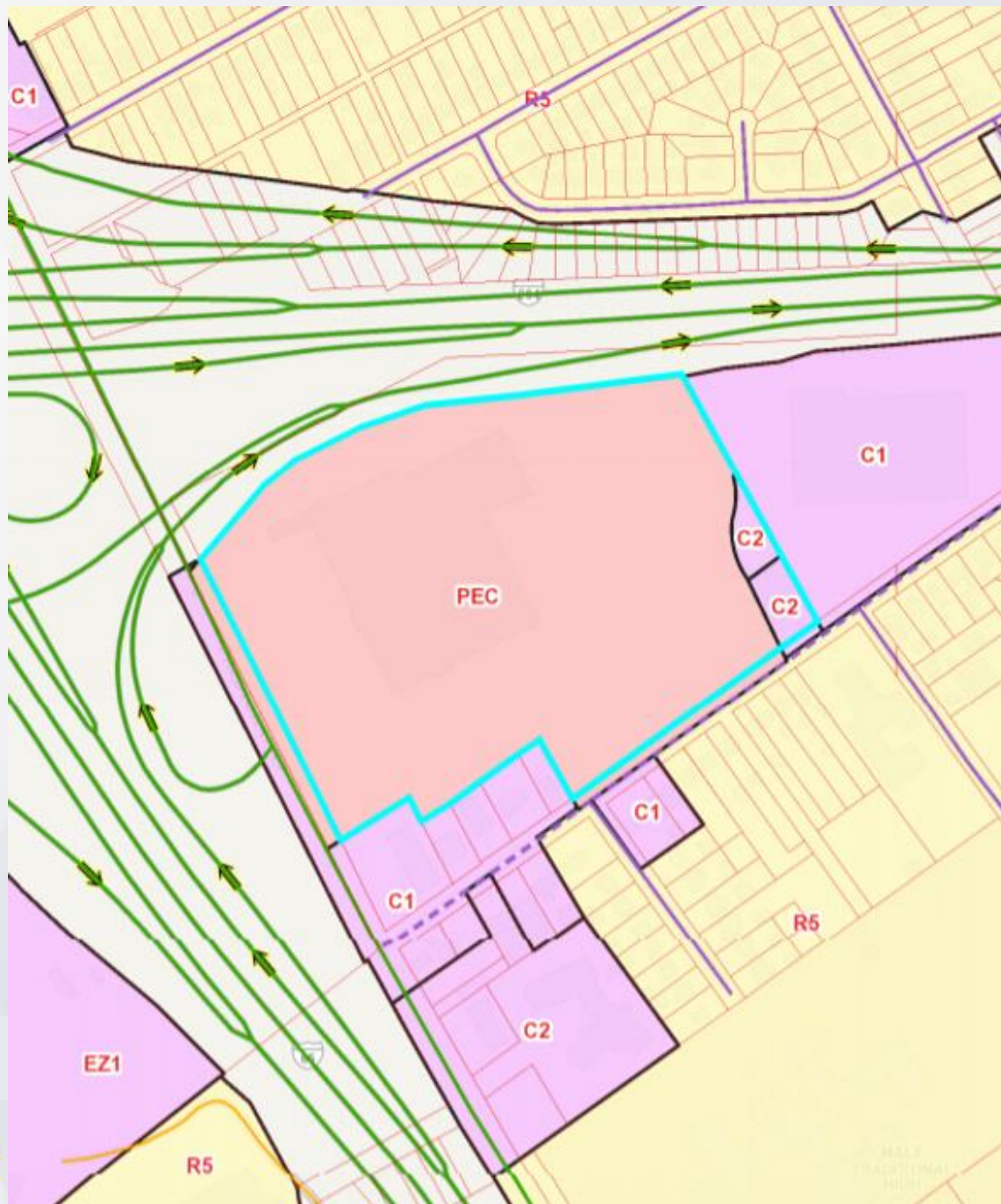
- The subject property is located within the PEC zoning district and the Suburban Marketplace Corridor form district.
- The use of off-premises signage was permitted prior to 2020, when the property was re-zoned from C-1 and C-2 Commercial to PEC Planned Employment Center, making the sign nonconforming.
- In December 2020, construction on the subject properties required that the sign be torn down. The applicant intends to re-build the sign within approximately 300 feet of the prior location
- The applicant intends to build the new sign 25 feet from the property line alongside Interstate 264, which would be 6 feet further away from the property line than the previous sign location. Additionally, the applicant intends to re-build the sign with new similar materials and with the same dimensions as the old sign. In addition, the rebuilt sign cannot include changing image components such as video display, LED display, trifold sign capability, or other similar means of movement. Based on information from the applicant the rebuilt sign will have a static sign face.

# Site Location



# Site Plan







# Site Photos



# Site Photos



# Site Photos



# Standards of Review (1.3.1 A-D)

- A nonconforming use is an established activity which lawfully existed at the time of the enactment of any zoning regulation which would not permit such activity.
- A nonconforming use may be continued until it is abandoned notwithstanding the sale of the land parcel on which the nonconforming use exists; but a nonconforming use shall not be enlarged, expanded or changed except as expressly permitted by KRS 100.253 and by Chapter 1 Part 3.
- There shall be no increase in the floor area or the land area devoted to a nonconforming use or other enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation that made the use nonconforming was adopted.
- Subject to the limitations and restrictions imposed by items A through C of Chapter 1 Part 3, the Board of Zoning Adjustment may permit a change in the nonconforming use to another nonconforming use only if the new nonconforming use is in the same or more restrictive classification and upon finding that the new nonconforming use will be no more odious or offensive to surrounding properties than the first nonconforming use. When the Board of Zoning Adjustment permits a change from one nonconforming use to another nonconforming use pursuant to this paragraph, it may impose such conditions upon such new nonconforming use as it finds are necessary to preserve the character of the neighborhood, to minimize nuisances to surrounding properties, and to protect the value of surrounding properties.

# Conclusion

- The proposed nonconforming use, off-premises signage (outdoor advertising sign), is in the same classification as the original nonconforming use. Since off-premises signs are a principal land use the sign nonconforming rights section would not apply. In this case, off-premises signs are subject to the land use nonconforming rights provisions; removal of the sign would not be considered abandonment unless the off-premises sign was not reconstructed within one year of its removal.
- In regard to the change in nonconforming rights request, the movement of the sign location on the property does not increase the nonconformance of the off-premise sign, the primary nonconforming rights issue for this sign is based on the current zoning, PEC which does not permit off-premise signs. Therefore, staff believes the change in nonconformance conforms to the provisions of the LDC and recommends that the Board approve the request.
- The proposed nonconforming use in its new location is no more offense or odious than the nonconforming use in its previous location. The proposed location for the sign will have a similar impact on the surrounding community as the sign's previous location. In addition, it appears that the movement of the sign would not increase the nonconformance of the sign in terms of the special standards associated with off-premises signs listed in LDC Section 4.3.12.

# Required Action

Based upon the file of this case, this staff report, and the evidence and testimony submitted at the public hearing, the Board must determine:

1. Is the change in nonconformance in the same or more restrictive classification than the current nonconforming use ?
2. Will the change in nonconformance be no more odious or offensive to surrounding properties than the current nonconforming use ?

If the answer is yes to both of these questions, the Board may approve the change in nonconforming use.