

SAMPLE INITIAL STRATEGY ANALYSIS

SMITHBURG GAS STATION PROJECT

Note that actual place names have been fictionalized

STRATEGY RECOMMENDATIONS

The gas station project will be heard by the City of Smithburg Planning Commission at some point in the future. Those aggrieved by the Planning Commission decision can appeal to the City Council. Zoning regulation 106.72.030, requires that the aggrieved party must appear at the Planning Commission hearing. This regulation further states that:

“An appeal shall be submitted in writing and filed with the Department or City Clerk, as applicable, on a City application form, within 10 calendar days of the date of the decision. The appeal shall state the pertinent facts and the basis for the appeal. Appeals addressed to the Commission shall be filed with the Department; appeals addressed to the Council shall be filed with the City Clerk. An appeal shall be accompanied by the required filing fee.”

Prior to the Planning Commission hearing advice from an attorney should be sought regarding the preceding lay interpretation as well as recommendations contained throughout this document, including the following. I contacted a number of California environmental and land use advocacy groups who recommended the following attorney who has a good reputation for representing folks concerned about projects like the proposed gas station: Jane Smith, 530-555-5555.

Following are issues constituting conflicts with the requirements for approving the proposed gas station. Zoning Regulation 106.72.030.D, implies that new evidence can be presented at the City Council hearing. I've sent an inquiry to the Smithburg Planning Manager asking if this is correct. If it is then I recommend reserving these issues for the City Council hearing should the Planning Commission approve the project. Raising these issues before the Planning Commission may allow the applicant to prepare counter-arguments for the City Council appeal hearing.

1. The project fails to comply with Zoning Regulation 106.42.020.B which requires a minimum separation of 500 feet between alcoholic beverage sale locations and schools or playgrounds. The nearest school 360-feet distant and has a playground which is 450 feet from the proposed store entrance.
2. The project fails to comply with Zoning Regulation 106.31.060.A.1.a, which requires that:

“the site should be designed to accommodate anticipated car and truck (including fuel delivery truck) circulation patterns and minimize paving.”

I had one of the traffic engineers in the CEDS network take a look at the truck circulation pattern shown on the Preliminary Site Plan. His off-the-cuff opinion was that the plan shows that delivery trucks would clip cars beneath the southwest corner of the canopy

though he also thought this might be resolved by shifting the path closer to the proposed car wash. Our traffic engineer thought that the design truck may be shorter than those that actually service gas stations. He asked if measurements could be obtained of the delivery trucks.

3. The project fails to comply with Zoning Regulation 106.31.060.A.1.d, which requires that:

“Fuel pump islands and canopies should be screened by the main building structure. The retail market/office building should be placed at the street frontage with a pedestrian entrance from, and display windows along the sidewalk, to encourage pedestrian use.”

The Preliminary Site Plan shows that the pedestrian entrance and display windows would NOT be along the sidewalks adjacent to Smith Boulevard and Samuel Drive.

4. The project fails to comply with Zoning Regulation 106.62.050.F.2, which requires that:

“The proposed use is consistent with the General Plan and any applicable specific plan.”

General Plan Policy 14.1 states:

“Retain and expand the City’s base of retail jobs and sales tax revenue.”

Action D of this policy states:

“Use Redevelopment and other available City resources to leverage, reinforce and assist property owner efforts to retain and attract retail clients.”

The section on need below shows that the population within the market area is not sufficient to support the proposed gas station. Should the City approve the gas station then it would draw customers away from other retail businesses in the area.

5. The project fails to comply with Zoning Regulation 106.62.050.F.5, which requires that:

“Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.”

Allowing a gas station within the required 500-foot setback between alcoholic beverage off-sale locations and schools and playgrounds would pose a threat to public health and safety. Additionally, the California Air Resources Board [*Air Quality and Land Use Handbook*](#) shows an elevated health risk for schools and other sensitive uses located within 500 feet of a high-volume gas station. The proposed gas station would likely pump 2.5- to 3.0 million gallons

per year which puts it in the range of a high-volume gas station. Schools are a sensitive use. A school is just 360 feet distant. These facts exacerbate the detrimental effect to public health posed by the gas station to school children and conflicts with this regulation.

ISSUES

Following is a summary of CEDS research regarding impacts of the proposed gas station and convenience store.

Need

Increasing miles per gallon and changes in driving habits has caused gasoline sales to decline. As a result the number of gas stations in the U.S. has declined from more than 200,000 in 1994 to just slightly more than 150,000.¹ This ongoing trend means that every time a new station is opened an existing business within the same market area will likely close.

Following is a preliminary analysis of the effect of the proposed gas station on existing gas stations in the area.

Smithburg is located in Smithburg County. In 2015, Smithburg County had a population of 1,465,832. According to the [U.S. Census Bureau Business Patterns database](#), there were 271 gas stations in Smithburg County as of 2014. Based on these figures a population of 5,409 is needed to support one gas station in Smithburg County. Several data sources indicate that there are three gas stations within one mile of the proposed site. To accommodate a fourth station a population of (4 x 5,409) of 21,636 would need to exist within the market area, which generally extends one mile from a station.

With a population of 83,406 and an area of 14.2 square miles, the City of Smithburg has a population density of 5,861 persons per square mile. A circle with a one mile radius from the site would encompass a population of 18,404. As stated above, a minimum population of 21,636 residents must exist within the market area. Since the actual population within this area is only 18,404 residents a need does NOT exist for another gas station.

Health Effects

The California Air Resources Board [Air Quality and Land Use Handbook](#) shows an elevated health risk for schools and other sensitive uses located within 500 feet of a high-volume gas station. The proposed gas station would likely pump 2.5- to 3.0 million gallons per year which puts it in the range of a high-volume gas station. A school is just 360 feet from the site. Because of this, the proposed gas station poses a significant health risk to school children.

Traffic Safety

I had one of the traffic engineers in our network take a look at the truck circulation pattern shown on the Preliminary Site Plan. His off-the-cuff opinion was that the plan shows that delivery trucks

¹ See: http://www.nacsonline.com/YourBusiness/FuelsReports/2015/Documents/2015-NACS-Fuels-Report_full.pdf

would clip cars beneath the southwest corner of the canopy though he also thought this might be resolved by shifting the path closer to the proposed car wash. Our traffic engineer thought that the design truck may be shorter than those that actually service gas stations. He asked if measurements could be obtained of the delivery trucks.

ISSUES & ZONING REGULATION COMPLIANCE

This section addresses various portions of the City of Smithburg Zoning Code relevant to the gas station project. Comments are provided below with regard to whether the project meets these regulations. **Red** text in this section highlights issues which may prevent approval of this project. **Green** text reflects the findings of CEDS research, but which did not reveal an issue.

According to the City of Smithburg Planning Division Projects Under Review webpage, the applicant proposes to:

“Demolish an existing 2-story office building and construct a 24 hour gas station, AM/PM convenience store (3,180 square feet) & car wash bay. Additionally, development application proposes sale of beer and wine (type 20 license) in convenience store.”

Section 106.26.030 - Commercial and Industrial District Land Uses and Permit Requirements

Table 2-5, lists the permits required for each of the allowed uses. The site is zoned Shopping Center (SC). Following are the permits required for each of the uses listed in the preceding paragraph.

USE	PERMIT REQUIRED
Alcoholic beverage sales	Permit requirement set by Specific Use Regulations
Convenience store	Permit requirement set by Specific Use Regulations
Service station	Conditional Use Permit

106.42.020 - Alcoholic Beverage Sales

A. Purpose. Establishments that serve alcoholic beverages receive special attention from the City because of their potential to create problems, such as littering, loitering, public intoxication and disturbances. The City shall review all establishments selling alcoholic beverages.

B. Distance requirements. No on-sale or off-sale liquor establishment shall be maintained within 500 feet of any other on-sale or off-sale liquor establishment, or within 500 feet from the following "consideration points":

1. Schools (public or private);
2. Churches or other places of worship;
3. Hospitals, clinics, or other health care facilities; and
4. Public parks and playgrounds and other similar uses.

The distance of 500 feet shall be measured between the nearest entrances used by patrons of the establishments along the shortest route intended and available for public passage to other establishments, or to the nearest property line of any of the consideration points.

The nearest school is 360 feet distant and has a playground which is 450 feet from the proposed store entrance. Smithburg Park is the nearest public park. If the measurement is from the site boundary then the distance is slightly less than 500 feet. If the measurement is from the proposed location of the convenience store main entry doors then the distance is greater than 500 feet. CEDS has sent an inquiry to the Smithburg Planning Manager regarding the point of measurement. The nearest place of worship appears to be Smithburg UMC are well in excess of 500 feet distant.

6. Convenience Stores (with or without associated gasoline sales) shall not sell:
 - a. Wine in bottles or containers less than 750 ml except for wine based coolers;
 - b. Wine coolers, whether made of wine or malt products, in quantities of less than a factory four-pack;
 - c. Beer and/or malt beverages not in original factory package;
 - d. Beer in single containers less than 32 ounces;
 - e. Distilled spirits in containers less than 375 ml; and
 - f. Distilled spirits at convenience stores that sell gasoline.

The uses requested by the applicant appear consistent with this regulation.

106.31.060 - Specific Commercial Uses

The following design standards apply to the specific commercial uses identified.

A. Service stations. A service station (with or without a car wash) is an intensive auto-oriented use with large areas of pavement that requires particular design attention to be an attractive neighbor.

1. Site planning. Service station site plans should incorporate the following features.

- a. The site should be designed to accommodate anticipated car and truck (including fuel delivery truck) circulation patterns and minimize paving.

I had one of the traffic engineers in our network take a look at the truck circulation pattern shown on the Preliminary Site Plan. His off-the-cuff opinion was that the plan shows that delivery trucks would clip cars beneath the southwest corner of the canopy though he also thought this might be resolved by shifting the path closer to the proposed car wash. Our traffic engineer thought that the design truck may be shorter than those that actually service gas stations. He asked if measurements could be obtained of the delivery trucks.

- b. Driveway cuts should be limited to two per site, unless otherwise allowed by the City Engineer for valid circulation reasons.

A comparison of the existing driveway cuts visible on Google Earth and those shown on the Preliminary Site Plan indicate that two existing cuts will be utilized.

c. Service and wash bays should not face streets or residential properties. The visibility of service and wash bays otherwise should be minimized.

The Preliminary Site Plan shows that the car wash will be located at the southeast corner and would not face streets or residential properties.

d. Fuel pump islands and canopies should be screened by the main building structure. The retail market/office building should be placed at the street frontage with a pedestrian entrance from, and display windows along the sidewalk, to encourage pedestrian use.

The Preliminary Site Plan shows that the pedestrian entrance and display windows would *NOT* be along the sidewalks adjacent to Smith Boulevard and Samuel Drive.

2. Building design. Service station buildings should be designed to comply with the following guidelines.

a. Site specific architectural design is encouraged. Corporate or franchise "stock" design solutions are discouraged.

b. Each structure on the site should be architecturally consistent and related to an overall architectural theme.

c. High quality building materials are encouraged. Reflective, glossy, and florescent surfaces are discouraged.

d. The roof design of all structures, including pump canopies, should incorporate pitched roof treatments with a low to moderate pitch. Flat or mansard roofs are discouraged unless they are consistent with an established and attractive architectural theme in the site vicinity.

e. Fuel pump canopies should not be internally illuminated. Light fixtures shall be completely recessed into the canopy so that the light source is concealed.

f. Each pump island should include stacking for at least two vehicles (40 feet) on-site, or at least at one end of the pump island.

Our traffic engineer also took a look the Preliminary Site Plan for compliance with the stacking requirement. His off-the-cuff opinion was that...

106.62.040 - Design Review

D. Findings and decision. The review authority shall approve or disapprove an application for Design Review approval concurrently with the approval or disapproval of any other planning permit (i.e., Use Permit, Minor Use Permit, Variance or Minor Variance, Zoning Clearance, or subdivision map) required for the project, if the Design Review application is filed with the City at the same time. Design Review approval shall require that the review authority first find that the project, as proposed or with changes resulting from the review process and/or conditions of approval:

The gas station project requires a Use Permit and other planning permits, therefore Design Review is required.

1. Complies with this Section and all other applicable provisions of this Zoning Code;

The project fails to comply with the 500 foot setback between alcoholic beverage off-sale locations and schools and playgrounds.

The Preliminary Site Plan shows that the pedestrian entrance and display windows would *NOT* be along the sidewalks adjacent to Smith Boulevard and Samuel Drive.

2. Provides architectural design, building massing and scale, and street and lot layout in the case of a subdivision, that are appropriate to and compatible with the site surroundings and the community;

3. Provides attractive and desirable site layout and design, including building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc.;

4. Provides safe and efficient public access, circulation and parking, including bicycle and pedestrian accommodations where appropriate;

Our traffic engineer's off-the-cuff opinion was that the plan shows that delivery trucks would clip cars beneath the southwest corner of the canopy though he also thought this might be resolved by shifting the path closer to the proposed car wash. Our traffic engineer thought that the design truck may be shorter than those that actually service gas stations. He asked if measurements could be obtained of the delivery trucks.

5. Provides appropriate open space and landscaping, including the use of water efficient landscaping;

6. Is consistent with the General Plan, any applicable specific plan, development agreement, and/or any previously approved planning permit; and

General Plan Policy 14.1 calls for “Retain and expand the City’s base of retail jobs and sales tax revenue.” Action D of this policy states: “Use Redevelopment and other available City resources to leverage, reinforce and assist property owner efforts to retain and attract retail clients.”

The section on need above showed that the population within the market area is not sufficient to support the proposed gas station. Should the City allow the gas station to be built then it would draw customers away from other retail businesses in the area.

7. Complies with all applicable design standards in Chapter 106.31 (Design Standards), and/or other applicable City design guidelines and policies.

106.62.050 - Use Permit and Minor Use Permit 106.62.050

F. Findings and decision. The review authority may approve or disapprove an application for Use Permit or Minor Use Permit approval. The review authority shall record the decision and the findings on which the decision is based. The review authority may approve the permit only after first finding all of the following:

1. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;

The project fails to comply with Zoning Code requirement of a 500 foot separation between alcoholic beverage off-sale locations and schools-playgrounds.

The Preliminary Site Plan shows that the pedestrian entrance and display windows would NOT comply with Zoning Code requirement that they be along the sidewalks adjacent to Smith Boulevard and Samuel Drive.

2. The proposed use is consistent with the General Plan and any applicable specific plan;

General Plan Policy 14.1 calls for “Retain and expand the City’s base of retail jobs and sales tax revenue.” Action D of this policy states: “Use Redevelopment and other available City resources to leverage, reinforce and assist property owner efforts to retain and attract retail clients.”

The section on need above showed that the population within the market area is not sufficient to support the proposed gas station. Should the City allow the gas station to be built then it would draw customers away from other retail businesses in the area.

3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;

4. The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints; and

5. Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.

Allowing a gas station within the required 500-foot setback between alcoholic beverage off-sale locations and schools or playgrounds would pose a threat to public health and safety. Additionally, the California Air Resources Board [Air Quality and Land Use Handbook](#) shows an elevated health risk for schools and other sensitive uses located within 500 feet of a high-volume gas station. The proposed gas station would likely pump 2.5- to 3.0 million gallons per year which puts it in the range of a high-volume gas station. A school is just 360 feet distant. These facts exacerbate the detrimental effect to public health posed by the gas station to school children and conflicts with this regulation.

Richard Klein
Community & Environmental Defense Services
410-654-3021 Rklein@ceds.org ceds.org
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