

Board of Zoning Adjustment Staff Report

August 29, 2022



Case No:	22-MCUP-0004
Project Name:	DOW Chemical Company
Location:	4300 Camp Ground Road
Owner(s):	Rohm, & Haas Chemicals LLC
Applicant:	DOW Chemical Company
Jurisdiction:	Louisville Metro
Council District:	1 – Angela Bowens
Case Manager:	Joel Dock, AICP, Planning Coordinator

REQUEST(S)

- **Modified Conditional Use Permit** for potentially hazardous or nuisance uses (LDC 4.2.42)

CASE SUMMARY

The applicant has requested a modification to a conditional use permit (CUP) for a potentially hazardous or nuisance use – chemical manufacturing plant. Use of the subject site for the manufacturing of chemicals pre-dates the approval of the first conditional use permit in 1972. The current modification on the 134-acre site calls for the addition of 2 support structures and equipment. One structure will support new water filtration equipment that provides water to be used on site. The existing filtration system has aged-out and needs replacement. The second supports electrical equipment. The modification will support the current use and production at the plant. The applicant has indicated that “neither of these two support structures support a new expansion on the site.”

Associated Cases

- B-117-72: CUP approved for expansion of existing chemical plant (hazardous use – section 21(2)); modification approved March 21, 2000 for warehouse expansion
- 20-MCUP-0010: Modification approved for lab and offices (LDC 4.2.42 – potentially hazardous or nuisance use)

STAFF FINDING

The modified conditional use permit is adequately justified for approval based on staff’s analysis contained in the standard of review.

TECHNICAL REVIEW

- **Potentially hazardous or nuisance uses** are uses (manufacture, processing, treatment, or storage unless otherwise specified), having accompanying hazards such as fire, explosion, noise, vibration, dust, or the emission of smoke, odor, or toxic gases may, if not in conflict with other laws or ordinances, be located in industrial zones.

- BOZA Bylaws & Policies: 5.17 Modified conditional use permits not requiring a public hearing.
 - 5.17.01 The Board may approve the following modifications to conditional use permits without a public hearing:
 - a) Decreases in intensity of development such as square footage, number of occupants, or number of beds.
 - b) Increases in intensity of development such as square footage, number of occupants, or number of beds by less than 10 percent.
 - c) Deletions or modifications to conditions of approval that do not impact landscape and screening requirements, parking requirements, or architectural design.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR MODIFIED CONDITIONAL USE PERMIT

1. Is the proposal consistent with applicable policies of the Comprehensive Plan?

STAFF: The proposal, which predates the approval of the 1972 conditional use permit, does not appear to conflict with the land use and development policies of Plan 2040 as the improvements support the current use of the subject site.

2. Is the proposal compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance?

STAFF: No improvements are being made that reduce compatibility with surrounding land uses.

3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use?

STAFF: The subject property is served by existing public utilities and facilities.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

The following uses (manufacture, processing, treatment, or storage unless otherwise specified), having accompanying hazards such as fire, explosion, noise, vibration, dust, or the emission of smoke, odor, or toxic gases may, if not in conflict with other laws or ordinances, be located in industrial zones as indicated below by Conditional Use Permit after the location and nature of such use shall have been approved by the Board of Zoning Adjustment. In reviewing an application for a CUP, the Board of Zoning Adjustment shall review the plan and statements of the applicant and the following:

A. The Comprehensive Plan;

B. Environmental and health related concerns raised by the operation and the applicant's proposal to mitigate any adverse effects to the public's health, safety and general welfare;

C. The applicant's site design, buffering, and security measures and their adequacy to mitigate any adverse effects to the public's health, safety and general welfare;

D. Any other evidence submitted by the applicant and any other party addressing the issues.

Staff: The proposed improvements on the subject site do not appear to conflict or violate the standards listed above.

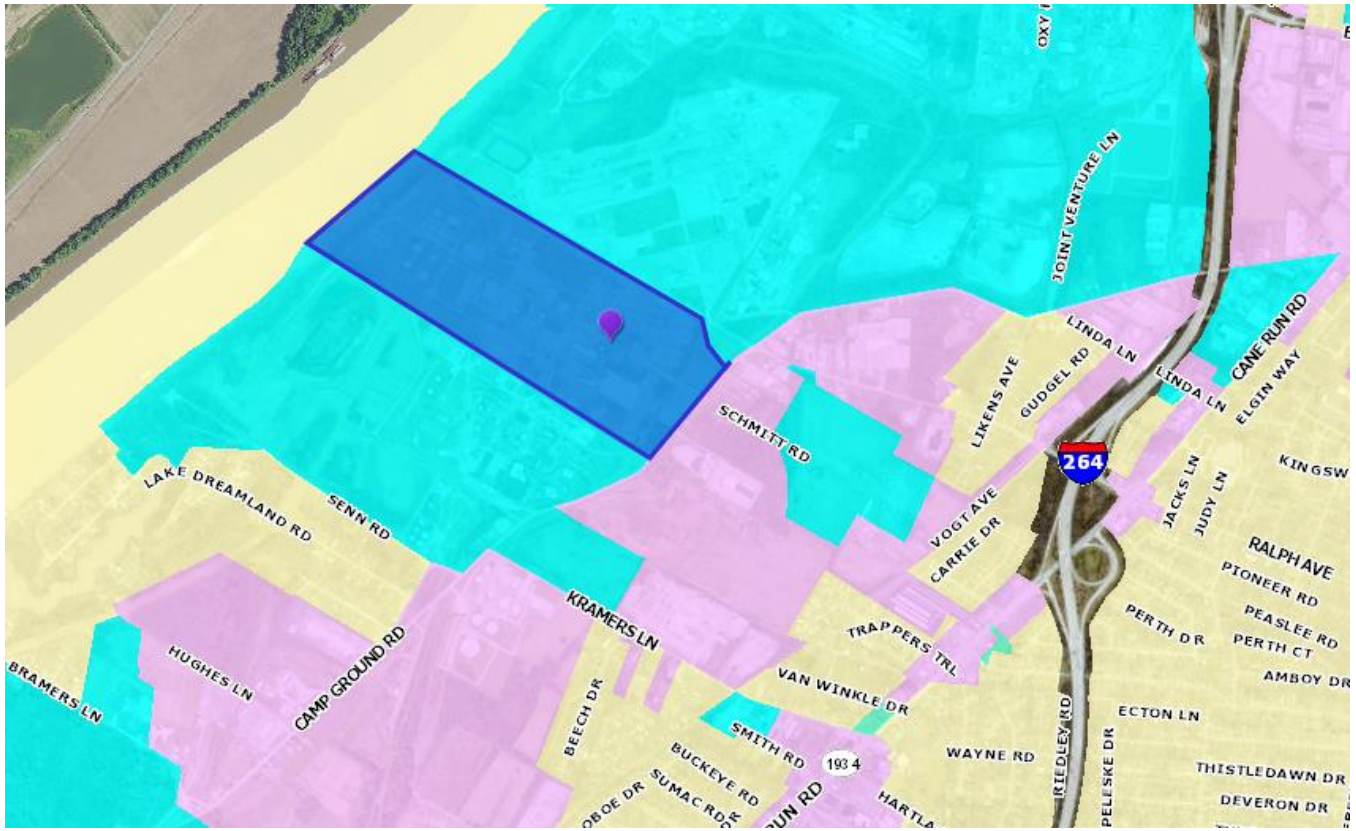
REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Modified Conditional Use Permit** for potentially hazardous or nuisance uses (LDC 4.2.42) subject to conditions of approval
-or-
- **Schedule a Public Hearing**

ATTACHMENTS

1. Zoning Map
2. Aerial Map
3. Conditions of Approval

1. **Zoning Map**



2. Aerial Map



3. **Conditions of Approval (proposed in BOLD)**

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for potentially hazardous or nuisance uses until further review and approval by the Board.
3. **A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way in the amount of 37.5 feet from centerline as presented for the approved administrative right-of-way waiver on July 19, 2022 prior to construction plan approval.**