

# Planning Commission

## Staff Report

September 1, 2022



<b>Case No:</b>	21-ZONE-0161
<b>Project Name:</b>	Southside Drive Rezoning
<b>Location:</b>	6101 – 6107 Southside Drive, 101 – 111 Steedly Drive
<b>Owner(s):</b>	Teresa Nguyen & Justin Dihn
<b>Applicant:</b>	Teresa Nguyen & Justin Dihn
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	25 – Amy Holton Stewart
<b>Case Manager:</b>	Dante St. Germain, AICP, Planner II

### REQUESTS

- **Change in zoning** from R-5 Single Family Residential to C-M Commercial Manufacturing
- **Waiver** from 5.9.2.A.1.b.ii to not provide vehicular and pedestrian connections to the east and south adjoining properties (22-WAIVER-0012)
- **Detailed District Development Plan** with Binding Elements

### CASE SUMMARY/BACKGROUND

The subject site is located on Southside Drive at the intersection with Steedly Drive. It consists of eight contiguous parcels, which are partially vacant and partially developed with a single-family residence. The applicant proposes to rezone the site in order to construct a new 67,500 square foot commercial development, with contractors shops, general commercial, and potentially a restaurant.

To the north of the site is vacant industrially-zoned property, with industrial uses located to the east and farther to the north. The site to the immediate east is in industrial use. Residential property is located to the south-east, along with an LG&E site. To the west and south-west are single-family residential properties.

### STAFF FINDING

Staff finds that the proposed zoning change meets the guidelines of the Comprehensive Plan. The waiver is adequately justified and meets the standard of review. The site plan meets the requirements of the Land Development Code with the exception of the requested waiver, and generally meets the guidelines of the Comprehensive Plan.

### TECHNICAL REVIEW

Plan 2040

Land Development Code (Louisville Metro)

MSD and Transportation Planning have provided preliminary approval of the proposal.

Councilwoman Amy Holton Stewart has requested that the following binding elements be included, in addition to the binding elements proposed by staff in Attachment 4:

The following uses shall be prohibited on site:  
Package Liquor Store  
Smoking Retail Store  
Quick Loan or Payday Loan Businesses

Any significant changes or alterations to the proposed structures (e.g. building height, number of units, number of buildings), any increase in density on the property, any changes in use on the property, and/or any amendments to the binding elements shall be reviewed before the Planning Commission with final action to be determined by Metro Council.

If adopted, these binding elements would be #10 and #11.

### **INTERESTED PARTY COMMENTS**

Staff has received numerous interested party comments in support of the request, and numerous comments in opposition.

### **STANDARD OF REVIEW FOR REZONING**

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

### **STAFF ANALYSIS FOR CHANGE IN ZONING**

The site is located in the Suburban Workplace Form District

A Suburban Workplace is a form characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban Workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district.

In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. Walkways to workplace-serving uses are encouraged for workplace employees. Development within Suburban Workplace Form Districts may need significant buffering from abutting uses.

Following is staff's analysis of the proposed rezoning against the Goals, Objectives and Policies of Plan 2040.

The proposed zoning district would provide an appropriate transition between the industrial uses to the east of the site, and the residential uses to the west and south-west of the site across Southside Drive and Steedly Drive. The site is located in the Suburban Workplace Form, and industrial uses are generally appropriate in this Form. The uses permitted in C-M zoning include lighter industrial (uses permitted in the M-1 district) and medium- to high-intensity commercial (uses permitted in the C-2

district). C-M would therefore permit an appropriate step-down in intensity from the uses permitted in EZ-1 to the north and east, transitioning to the residential uses located to the west and south-west.

The proposed zoning district is in compliance with the CHASE principles of Plan 2040. The site is Connected with the surrounding community, with access to Southside Drive. A signalized intersection with crosswalks is located a block to the north at Rochester Drive. The proposal would promote a Healthy community, as the proposed zoning district would provide a step-down in intensity from the industrial development to the east, buffering the residential development from adverse impacts from the heavy EZ-1 industrial. The proposed zoning district would permit a mix of light industrial and medium- to high-intensity commercial on the same site, and allow for the creation of a community-serving commercial center within walking distance of an existing residential community. The proposal would permit Authentic development, allowing development that serves a heavily minority and foreign-born community in the neighborhood. The proposed zoning district would permit Sustainable development, providing additional tree canopy and energy-efficient new construction. The proposal is Equitable, as it would permit neighborhood-serving commercial development to buffer EZ-1-zoned properties in heavy industrial use from nearby residences. Heavier industrial uses or uses which handle hazardous materials are not permitted in C-M zoning.

All other agency comments should be addressed to demonstrate compliance with the remaining Goals, Objectives and Policies of Plan 2040.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 5.9.2.A.1.b.ii**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the most affected properties are a secured industrial facility and an LG&T substation, neither of which would benefit from vehicular and pedestrian circulation.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate mobility provisions, but the most affected properties would not benefit from circulation.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the provision of circulation between the site and the adjacent non-residential development would not provide public benefits. Circulation is provided for to the site to the north should it develop in a manner that is commercial in nature.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because provision of the required circulation would require the applicant to stub into fenced-in properties, providing no benefit to the affected properties or the public.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP**

- (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: No natural resources are evident on the site. The site is mostly undeveloped but is mostly cleared.

- (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, and Metro Public Works has approved the preliminary development plan.

- (c) The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: No open space provisions are pertinent to the request.

- (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 and will ensure 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.

- (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 is in compliance with existing and planned future development in the area. The applicant proposes to have the heavier uses – the contractors shops – located to the east, close to the existing industrial development, and more public-serving uses – the commercial/restaurant businesses – located close to Southside Drive. The site design would therefore provide an appropriate transition between the heavy industrial uses to the east, and the residential uses to the west and south-west.

- (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 development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waiver. The site plan generally complies with the policies and guidelines of the Comprehensive Plan. The site plan would provide appropriate transitions between the existing industrial development and the existing residential development, by providing a step-down in intensity. The proposed site plan would provide regional-serving uses to the rear, and more neighborhood-serving uses to the front, permitting a mix of compatible land uses on the edge of the Suburban Workplace Form.

**REQUIRED ACTIONS**

- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-5 to C-M
- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Detailed District Development Plan** with **Binding Elements**

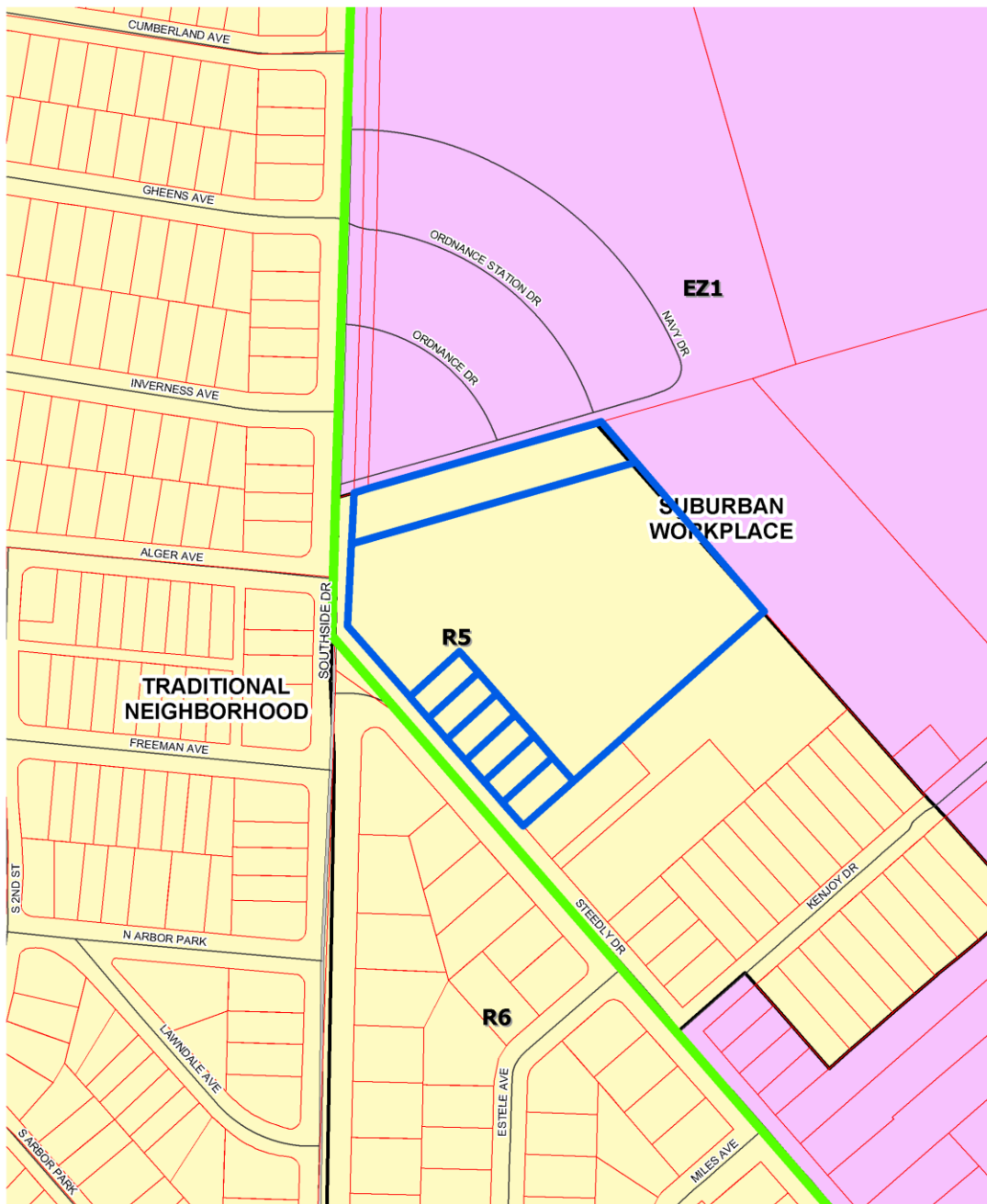
**NOTIFICATION**

Date	Purpose of Notice	Recipients
07/29/2022	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners & current residents Registered Neighborhood Groups in Council District 25 & 21
08/18/2022	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners & current residents Registered Neighborhood Groups in Council District 25 & 21
08/15/2022	Hearing before PC	Sign Posting on property
08/19/2022	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2040 Checklist
4. Proposed Binding Elements

1. Zoning Map



6105 Southside Drive

feet



230

Map Created: 10/14/2021



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2. Aerial Photograph



6105 Southside Drive

feet



230

Map Created: 10/14/2021



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### 3. Staff Plan 2040 Checklist

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

#### Suburban Workplace: Non-Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Community Form: Goal 1	6. Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.	✓	The proposed zoning district would not constitute a non-residential expansion into an existing residential area. The area is mostly industrial and the proposal would extend an existing industrial employment center.
2	Community Form: Goal 1	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The site is located adjacent to an existing employment center.
3	Community Form: Goal 1	8. Encourage industries to locate in workplace Form Districts or in areas readily served by infrastructure and transportation facilities, including transit, rather than isolated industrial sites.	✓	The proposal is for industrial zoning. The site is located in the Suburban Workplace form.
4	Community Form: Goal 1	15. When reviewing proposals for siting hazardous uses and uses with air, noise and light emissions, ensure disadvantaged populations are not disproportionately impacted.	✓	No hazardous uses would be permitted by the proposed zoning district. Uses with air, noise and light emissions must comply with LMCO and LDC restrictions.



#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
5	Community Form: Goal 1	<b>16.</b> Consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected.	✓	The proposed zoning district would permit uses with noxious odors, particulates and emissions, and the site is in proximity to residential uses. The proposal would buffer any adverse impacts by providing commercial development between the industrial development and nearby residences.
6	Community Form: Goal 1	<b>17.</b> Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Access to the site is via Southside Drive, a minor arterial at this location.
7	Community Form: Goal 1	<b>18.</b> Mitigate adverse impacts of noise from proposed development on existing communities.	✓	Adverse impacts from noise would be mitigated by situating the contractors shops farther from the residences, with intervening commercial to buffer any noise.
8	Community Form: Goal 1	<b>21.</b> Require that industries which handle hazardous or flammable materials or are potentially offensive such as junkyards, landfills and quarries are sited to protect public health, safety and welfare and are located away from residential areas and population centers.	✓	Junkyards, landfills and quarries would not be permitted in the proposed zoning district. No hazardous or flammable materials are permitted within the proposed zoning district.
9	Community Form: Goal 2	<b>1.</b> Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The proposal would be appropriate for the Suburban Workplace form.
10	Community Form: Goal 2	<b>5.</b> Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.	✓	Retail would be permitted by the proposed zoning district. The site is located in an existing employment center and close to housing.
11	Community Form: Goal 2	<b>6.</b> Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The proposed zoning district would permit a more compact pattern of development in an existing activity center.
12	Community Form: Goal 2	<b>7.</b> Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The site is in an existing activity center and the proposal would permit a mixture of compatible land uses.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
13	Community Form: Goal 2	<b>8.</b> Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	NA	The proposed zoning district does not permit housing.
14	Community Form: Goal 2	<b>9.</b> Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal would provide new development of commercial uses.
15	Community Form: Goal 2	<b>10.</b> Encourage outlot development in underutilized parking lots of existing development to promote utilization of existing infrastructure provided specific criteria for elements such as location, scale, signs, parking, lighting, and landscaping are met. Outlot development shall encourage street-level retail with residential units above.	✓	The proposal does not include underutilized parking lots.
16	Community Form: Goal 3	<b>9.</b> Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	No natural features are evident on the site.
17	Community Form: Goal 3	<b>10.</b> Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	No wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
18	Community Form: Goal 3	11. Encourage land uses within the Ohio River Corridor that are appropriate for and related to river corridor activities and that are consistent with the goals and objectives of the Ohio River Corridor Master Plan. Reserve appropriate riverfront sites such as the Upper River Road industrial area for river-related development. Allow development of commercial leisure businesses related to the river, such as boating services and restaurants in appropriate locations. Encourage new development in the Ohio River corridor and along key greenway and street connections to provide for public access in new riverfront development and to maintain views of the river from public rights-of-way.	NA	The site is not located in the Ohio River Corridor.
19	Community Form: Goal 3	12. When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	✓	The site is not in a flood prone area. The site is not located on karst terrain.
20	Community Form: Goal 4	1. Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	✓	The potentially historic structure on the site is under review via LMCO 150.110.
21	Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	No distinctive cultural features are evident on the site. The potentially historic structure on the site is under view via LMCO 150.110.
22	Mobility: Goal 1	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The site is located in a Workplace form and adjacent to an existing employment center.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
23	Mobility: Goal 3	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities.
24	Mobility: Goal 3	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	The site is accessible by pedestrians and the proposal would encourage higher density mixed-use developments.
25	Mobility: Goal 3	4. Encourage development of walkable centers to connect different modes of travel. Siting of these multi-modal centers shall consider the effects of the following: 4.1. nodal connections identified by Move Louisville; 4.2. impact on freight routes; 4.3. time of operation of facilities; 4.4. safety; 4.5. appropriate linkages between neighborhoods and employment; and 4.6. the potential for reducing travel times and vehicle miles traveled.	✓	Transportation Planning has approved the proposal.
26	Mobility: Goal 3	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	Transportation Planning has approved the proposal.
27	Mobility: Goal 3	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	Transportation Planning has approved the proposal.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
28	Mobility: Goal 3	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Transportation Planning has approved the proposal.
29	Mobility: Goal 3	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Transportation Planning has approved the proposal.
30	Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The relevant utilities have approved the proposal.
31	Community Facilities: Goal 2	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	Louisville Water Company has approved the proposal.
32	Community Facilities: Goal 2	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	MSD has approved the proposal.
33	Economic Development: Goal 1	1. Limit land uses in workplace Form Districts to compatible uses that meet the needs of the industrial subdivision or workplace district and their employees.	✓	The proposal would meet the needs of a Workplace form.
34	Economic Development: Goal 1	2. Encourage industries, to the extent possible, to locate in industrial subdivisions or adjacent to an existing industry to take advantage of special infrastructure needs.	✓	The proposed zoning district would permit industrial uses in a Workplace form and adjacent to existing industry.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
35	Economic Development: Goal 1	3. Locate commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, or at a location with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas.	✓	The proposal would permit commercial uses generating high volumes of traffic. The site has adequate access to Southside Drive, a minor arterial at this location. Transportation Planning has reviewed the traffic study and determined that adverse impacts to the adjacent areas are insufficient to warrant improvements to the road network.
36	Economic Development: Goal 1	4. Utilize industrial sites near the airport and the Ohio River to support the growth and development of uses whose infrastructure and production needs require such a location or for land uses that support airport-oriented or river-oriented industrial uses.	NA	The site is not located near the airport or the Ohio River.
37	Economic Development: Goal 1	5. Require industrial developments to locate with the appropriate transportation connectivity, near an arterial street or within existing industrial subdivisions.	✓	The proposal is for industrial zoning. The site is located in an industrial subdivision.
38	Livability: Goal 1	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	No karst terrain is evident on the site.
39	Livability: Goal 1	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	NA	The site is not located in the floodplain.
40	Livability: Goal 1	24. Ensure, to the extent feasible, that critical facilities and those that store or use hazardous wastes are located outside the regulatory floodplain. Where essential community facilities must be located within a floodplain (e.g., pumping stations), ensure that these facilities are designed, located and operated in a manner that minimizes loss of services during flood events as well as limits, to the extent possible, floodplain disturbance.	NA	The site is not located in the floodplain.



#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
41	Housing: Goal 1	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposed zoning district would not permit housing. The proposal would support aging in place by permitting the development of a commercial center in proximity to existing residential.
42	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	NA	The proposed zoning district would not permit housing.
43	Housing: Goal 2	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	The proposed zoning district would not permit housing. The proposal would permit development of a commercial center in proximity to existing residential, providing safe and convenient access to employment opportunities and amenities providing neighborhood goods and services.
44	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No existing residents would be displaced by the proposal.
45	Housing: Goal 3	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	NA	The proposed zoning district would not permit housing.

#### 4. Proposed Binding Elements

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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. 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.

4. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet for any work in the Southside Drive right-of-way.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 1, 2022 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
  - f. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. 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.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. 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.
8. The owner/developer will construct a 5X15 foot wide boarding area on Southside Drive as shown on the development plan between the sidewalk curve/edge of pavement and install upon it a bench and trash receptacle. The owner/developer will maintain the transit stop and empty the trash receptacle on an as needed basis.
9. No power equipment that will cause a noise disturbance will be run between the hours of 10 p.m. and 6 a.m.