

Planning Commission Staff Report

February 18, 2021



Case No:	20-ZONE-0111
Project Name:	Louisville Vegan Jerky
Location:	1311 S. Shelby Street
Owner(s):	Second Chance Grocers, LLC
Applicant:	Louisville Vegan Jerky
Representative(s):	Gregg Rochman
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Change-in-Zoning** from C-1, commercial to EZ-1, enterprise zoning
- **Revised Detailed District Development Plan** with review of an M-2 use within 200' of a residential use (LDC 2.6.1.A.1)

CASE SUMMARY

The applicant proposes to repurpose a vacant commercial structure and parking facilities for a proposed industrial tenant. The subject property was previously used for a grocery. It was rezoned in 2007 from M-3, industrial to C-1, commercial to allow for the grocery, docket 9412. The currently proposed EZ-1, enterprise zone district allows for all C-1 and C-2, commercial uses, along with all M-1, M-2, and M-3, industrial uses. The applicant's proposed use, food processing, requires M-2 zoning. The EZ-1 district will allow for future commercial reuse but also allows for industrial uses. The applicant has agreed to restrict through binding element that all M-1, M-2, and M-3 uses, except for the proposed use be prohibited.

The subject site is located between S. Shelby Street and Goss Avenue with primary access to the site at the intersection of Ormsby Avenue and S. Shelby Street. No expansion to the existing structure is proposed. Parking areas will be improved and broken-up though the use of interior landscape areas (ILA), specifically in the area nearest Goss Avenue. Landscape buffer areas along Goss Avenue will also be provided as required. Parking will be modified elsewhere to allow for truck maneuvering to the loading bay on the east side of the building.

STAFF FINDING

The proposal generally conforms to the land use and development policies of Plan 2040. The site is not an isolated industrial site and was formerly zoned for industrial use. It is adjacent to similar uses and districts to the north and south along the rail corridor within the workplace form district. The site is easily accessible and connected to the street, transit, and pedestrian network. The potential for harmful impacts from the variety of industrial uses permitted under the umbrella of the EZ-1 zoning district may be mitigated by binding elements restricting the use of the property and included in proposed binding elements 7, 8, and 9. Hard-surface parking areas will also be broken up with interior landscape areas. Because the development plan and rezoning appear to be adequately justified, the Planning Commission should relieve the M-2 use from the 200' setback provision of LDC 2.6.1.A.1.

TECHNICAL REVIEW

- The M-2, industrial zoning district is the lowest district available for the proposed use – Food Processing (jerky):

Food processing, including chewing gum, chocolate, cocoa and cocoa products; condensed and evaporated milk, processing and canning; flour, feed and grain (packaging, blending, and storage only); food products except slaughtering of meat or preparation of fish for packing; fruit and vegetable processing (including canning, preserving, drying, and freezing); gelatin products; glucose and dextrine; malt products; meat products, packing and processing (no slaughtering); yeast

- Binding Element #8 reads as follows:

The development site shall be limited to food processing as permitted in the M-1 and M-2 zoning districts, as well as all C-1 and C-2 commercial uses. All other uses permitted within the M-1, M-2, or M-3 districts shall be prohibited. The use of hexane for food processing shall be prohibited. Packing and processing of meat products shall also be prohibited.

- The binding elements of a detailed development plan run with the land. They are binding on the owner and applicant, their successors, heirs, or assigns. They may be amended by the Planning Commission in accordance with its By-laws, Policies and Procedures. Any building permits for improvement to the property are issued only in conformance with the binding elements and all other applicable regulations. Binding elements are enforceable in accordance with KRS100, local ordinances and Planning Commission Policy.
- The EZ-1 zoning district (LDC 2.6.1.A.1) provides that all uses other than uses permitted in the C-2 and M-1 districts shall observe a 200-foot setback from any residential use not zoned EZ-1 or to the first street intersection. The Planning Commission may amend this restriction if it finds, following a public hearing with notice to residential property owners within said distance, that the proposed use will conform to a general district development plan with binding elements and conforms to the Comprehensive Plan. Property owners required to receive notice per this regulation have received notice as part of the change in zoning. Residential uses are present within 200' of the use on the opposite side of the railroad right-of-way. The nearest use is roughly 60' from the rear of the building.

STANDARD OF REVIEW FOR ZONING DISTRICT CHANGES

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 Following is a summary of staff's analysis of the proposed rezoning against the Land Use and Development Policies of Plan 2040:

The site is in the Traditional Workplace Form District

A Traditional Workplace is a form characterized by predominantly small-to medium-scale industrial and employment uses. The streets are typically narrow, in a grid pattern and often have alleys. Buildings have little or no setback from the street. Traditional workplaces are often closely integrated with residential areas and allow a mixture of industrial, commercial and office uses. New housing opportunities should be allowed as well as civic and community uses.

Traditional workplaces should be served by public transportation. Because of the close proximity to residential areas, parking should be encouraged to be located mostly off-street and behind buildings. There should be adequate buffering of nearby neighbors from noise, odors, lighting and similar conditions.

In order to encourage reinvestment, rehabilitation and redevelopment in these areas, flexible and creative site design should be encouraged along with a respect for the traditional pattern of development in the surrounding area.

The proposed non-residential use is located on a parcel of land that is currently zoned for commercial use and was previously zoned for industrial use, docket 9412; therefore, the proposal does not constitute a non-residential expansion into a residential area. Further, it is located along a rail corridor where industrial uses are present to the north and south. The subject site does not immediately abut a residential use, but residential uses are present in the area. It is well-connected to transit, near similar intensities, and where adequate infrastructure is present. The specific route to access major transportation facilities (I-65) may result in the use of roadways containing residences, specifically Ormsby Ave to Jackson Street interchange. However, alternative routes to access the interstate are available through industrial areas using Meriwether Avenue and Hill Street to Floyd Street. Additionally, it is in a workplace form district along an arterial roadway. It is not an isolated industrial site and is easily accessible by bicycle, car, transit, and pedestrians.

The proposed EZ-1 district does allow for uses that produce greater amounts of noise, emissions, and light than currently allowed on-site or proposed with the specific use in this rezoning request. Such noxious uses may result in a negative impact on nearby neighborhoods that are vulnerable to environmental change from industry. Potentially hazardous or nuisance uses as defined by the Land Development Code are eligible for a conditional use permit within the proposed district. This requires review and approval in accordance with Land Development Code chapter 11, part 5. Certain hazardous or flammable uses that are not defined as potential nuisances may also be permitted as a component of the processing or manufacturing of products within the EZ-1 district.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DETAILED DISTRICT DEVELOPMENT PLAN

- 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: The site does not contain natural resources. Interior landscape areas will be provided to break up hard-surface parking areas.

- 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 will be provided as public sidewalks are currently available and the site is easily accessible by transit.

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

STAFF: The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided by interior landscape areas. Parks and amenities are also located nearby for employees.

- 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 proposal is compatible within the scale and site design of nearby existing development and with the form district's pattern of development as compliance with the Land Development Code has been demonstrated on the revised detailed district development.

- 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 proposed development plan conforms to Plan 2040 and the Land Development Code as no waivers or variances have been requested and the site is in a walkable and well-connected area along a rail corridor abutting industrial uses. Residential and commercial uses are also located within proximity. Many factors of concern regarding the industrial use of the property and the proposed zoning district are mitigated by the proposed binding elements restricting the use of the property, shipping and delivery, and idling of heavy trucks.

REQUIRED ACTIONS

- **RECOMMEND** to the Louisville Metro Council that the **Change-in-Zoning** from C-1, commercial to EZ-1, enterprise zoning on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan** containing an M-2 use within 200' of a residential use (LDC 2.6.1.A.1) subject to the abandonment of binding elements in docket 9412 and the adoption of the proposed binding elements

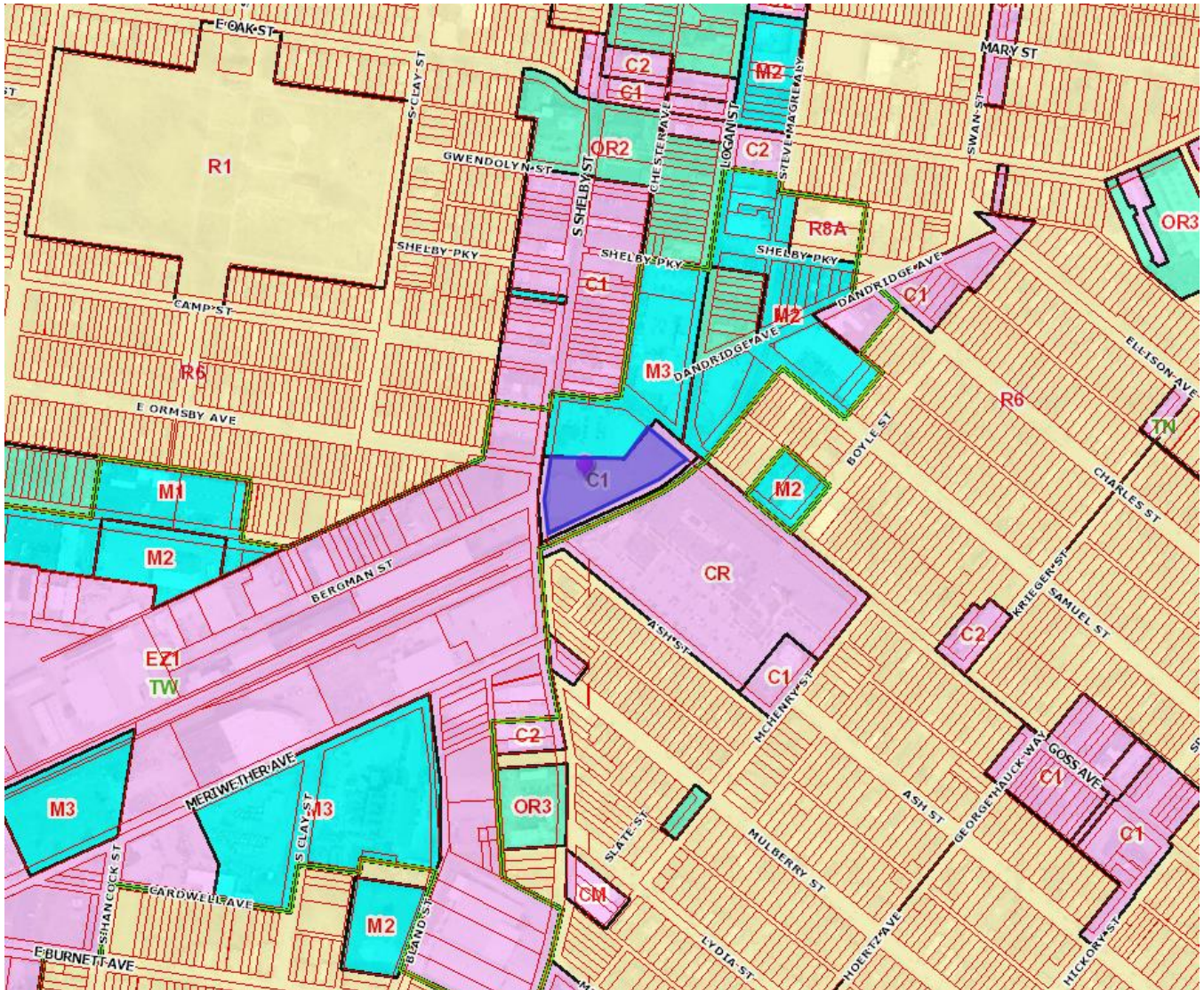
NOTIFICATION

Date	Purpose of Notice	Recipients
1/14/21	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 4
2/4/21	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 4
2/4/21	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

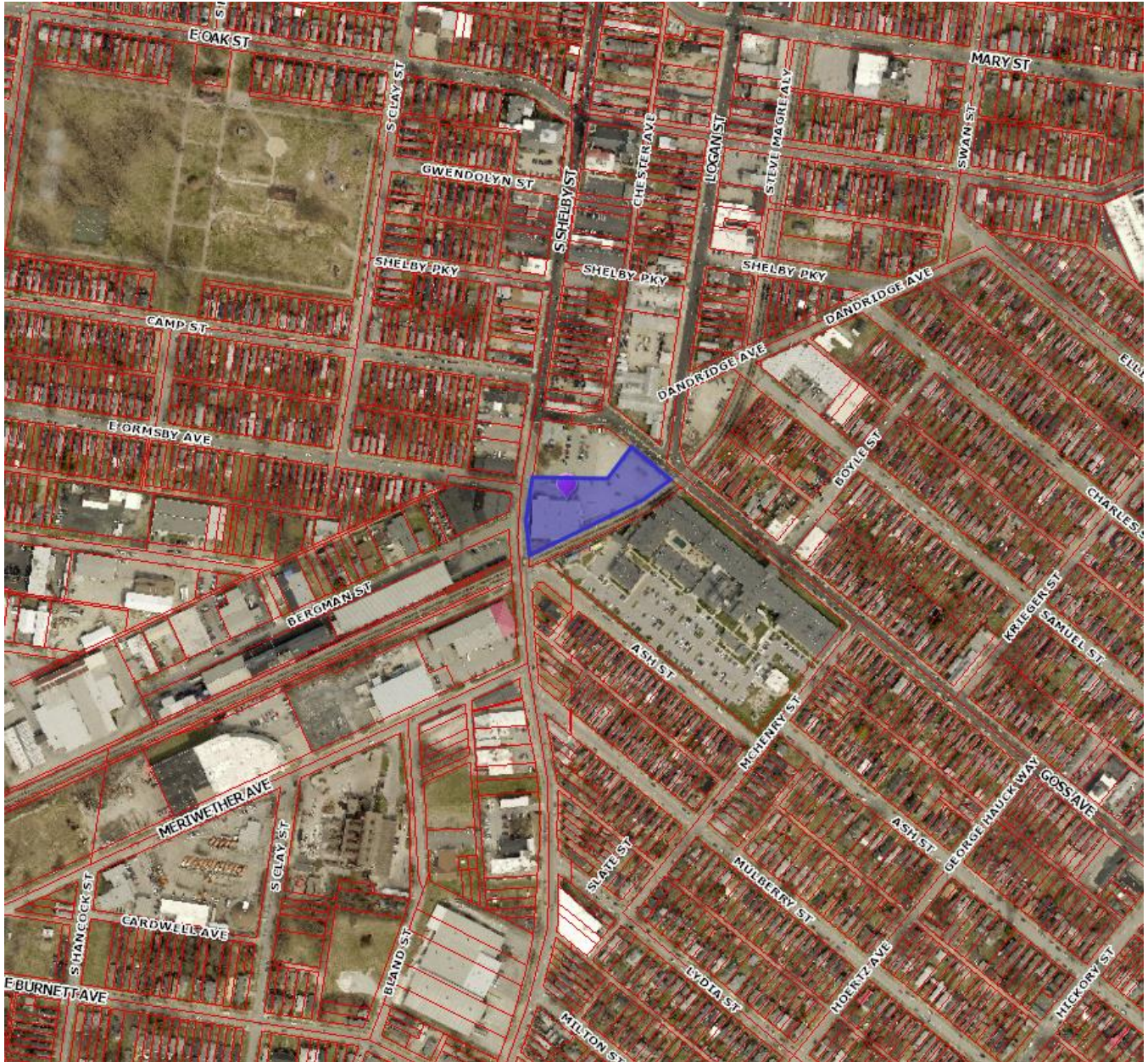
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Staff Analysis
4. Existing Binding Elements
5. Proposed Binding Elements

1. **Zoning Map**



2. Aerial Photograph



3. Plan 2040 Staff Analysis

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

Traditional 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 non-residential use is located on a parcel of land that is currently zoned for commercial use and was previously zoned for industrial use, docket 9412; therefore, the proposal does not constitute a non-residential expansion into a residential area. Further, it is located along a rail corridor where industrial uses are present to the north and south. The subject site does not immediately abut a residential use, but residential uses are present in the area.
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 proposed district is in an area that is well-connected to transit, near similar intensities, and where adequate infrastructure is present. The specific route to access major transportation facilities (I-65) may result in the use of roadways containing residences, specifically Ormsby Ave to Jackson Street interchange. However, alternative routes to access the interstate are available through industrial areas using Meriwether Avenue and Hill Street to Floyd Street.
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 proposed district is in a workplace form district and is not an isolated industrial site.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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.	-	The proposed EZ-1 district allows for uses that produce greater amounts of noise, emissions, and light than currently allowed on-site or proposed with the specific use in this rezoning request. Such noxious uses may result in a negative impact on nearby neighborhoods that are vulnerable to environmental change from industry.
5	Community Form: Goal 1	16. 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 EZ-1 district allows for uses that produce greater amounts of noise, emissions, and light than currently allowed on-site or proposed with the specific use in this rezoning request. Such noxious uses may result in a negative impact on nearby neighborhoods that are vulnerable to environmental change from industry.
6	Community Form: Goal 1	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	The proposed district is in an area that is well-connected to transit, near similar intensities, and where adequate infrastructure is present. The specific route to access major transportation facilities (I-65) may result in the use of roadways containing residences, specifically Ormsby Ave to Jackson Street interchange. However, alternative routes to access the interstate are available through industrial areas using Meriwether Avenue and Hill Street to Floyd Street.
7	Community Form: Goal 1	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The approved detailed district development plan and binding elements will aid to mitigate any negative impacts from noise.
8	Community Form: Goal 1	21. 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.	-	Potentially hazardous or nuisance uses as defined by the Land Development Code are eligible for a conditional use permit within the proposed district. This requires review and approval in accordance with Land Development Code chapter 11, part 5. Certain hazardous or flammable uses that are not defined as potential nuisances may be permitted as a component of the processing or manufacturing of products within the EZ-1 district.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
9	Community Form: Goal 2	1. 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 proposed district is located with the workplace form district. A Traditional Workplace is a form characterized by predominantly small-to medium-scale industrial and employment uses Workplace
10	Community Form: Goal 2	5. Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.	✓	The proposal allows for commercial uses by-right in an area that can support commercial uses.
11	Community Form: Goal 2	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The proposal results in a cost-effective infrastructure investment as the site is previously development and will be repurposed.
12	Community Form: Goal 2	7. 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 proposal allows for a mixture of commercial activity in an area that is walkable and connected to transit.
13	Community Form: Goal 2	8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	✓	Residential use of the property in conjunction with an industrial use is discouraged, except for caretakers.
14	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal results in the reuse of existing buildings and parking areas.
15	Community Form: Goal 2	10. 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 results in the reuse of existing buildings and parking areas.
16	Community Form: Goal 3	9. 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.	✓	The proposal results in the reuse of existing facilities where natural features are not present.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
17	Community Form: Goal 3	10. 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.	✓	The proposal results in the reuse of existing facilities where wet or highly permeable soils, severe, steep or unstable slopes are not present.
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 property is not within the 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 proposal results in the reuse of existing facilities that are not located in the floodplain or combined sewer flood prone area as identified by LOJIC.
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 proposal results in the reuse of existing facilities that are not recognized as having historic or architectural value.
21	Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The proposal results in the reuse of existing facilities that are not recognized as having historic or architectural value.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 proposed higher intensity use is located in an area of varying intensity and density, and supported by transit and a connected pedestrian network.
23	Mobility: Goal 2	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the subject site does not require access through areas of lower intensity that might result in nuisances.
24	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 proposal is in an area that is easily accessible by bicycle, car, transit, pedestrians and people with disabilities.
25	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 proposal allows for employees from nearby neighborhoods that may access the site by foot or transit.
26	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.	✓	The proposal allows for employees from nearby neighborhoods that may access the site by foot or transit. The proposed district allows for the concentration of commercial services on site as well as the proposed industrial use.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
27	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.	✓	The proposed district is in an area that is well-connected to transit, near similar intensities, and where adequate infrastructure is present. The specific route to access major transportation facilities (I-65) may result in the use of roadways containing residences, specifically Ormsby Ave to Jackson Street interchange. However, alternative routes to access the interstate are available through industrial areas using Meriwether Avenue and Hill Street to Floyd Street.
28	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.	✓	Any improvements made necessary by the proposed development will be made to the transportation network.
29	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.	✓	Existing transportation facilities appear to be in adequate condition to support a variety of uses.
30	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.	✓	Any improvements made necessary by the proposed development will be made to the transportation network.
31	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 proposal will be served by existing or proposed utilities.
32	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.	✓	An adequate supply of potable water and water for fire-fighting purposes will be available.
33	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).	✓	An adequate means of sewage treatment and disposal to protect public health and to protect water quality will be provided. MSD preliminary plan approval has been received for the development site.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
34	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 proposed district is consistent with adjacent district in the workplace form. The proposed land use, food processing, appears to be consistent with the area as well and its impacts will be limited.
35	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 industry is located within the workplace form adjacent to similar or the same zone. The site and district are located along a rail corridor where industrial uses are present to the north and south. The subject site does not immediately abut a residential use, but residential uses are present in the area.
36	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 propose district allows for commercial reuse and the location of activity centers in a well-connected area served by transit along an arterial roadway.
37	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	Not within the Ohio River corridor
38	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 proposed district is located along an arterial roadway. Access to I-65 is within proximity to the subject site.

4. Existing 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. ~~The square footage shall be limited to 19,560 square feet.~~
3. ~~Signs shall be in accordance with Chapter 8.~~
4. ~~No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
5. ~~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.~~
6. ~~Before any permit (including but not limited to building, parking lot, change of use, or site disturbance 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. ~~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.~~
 - c. ~~A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.~~
7. ~~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.~~
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 March 16, 2006 Planning Commission meeting.~~
10. ~~The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.~~
11. ~~At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.~~
12. ~~The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.~~

5. 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) and tree canopy as described in Chapter 10 prior to requesting a building permit or certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
3. 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.
4. 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.
5. 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.
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
7. No idling of trucks shall take place within 200 feet of a residence. No overnight idling of trucks shall be permitted.
8. The development site shall be limited to food processing as permitted in the M-1 and M-2 zoning districts, as well as all C-1 and C-2 commercial uses. All other uses permitted within the M-1, M-2, or M-3 districts shall be prohibited. The use of hexane for food processing shall be prohibited. Packing and processing of meat products shall also be prohibited.
9. Shipping and receiving utilizing heavy trucks shall be prohibited from 7 PM to 7 AM.