

# Planning Commission Staff Report

July 1, 2021



<b>Case No:</b>	21-ZONE-0051
<b>Project Name:</b>	Linley Properties
<b>Location:</b>	317 Wabasso Avenue; 4701 & 4719 Louisville Avenue; 306, 310 & 318 Woodlawn Avenue
<b>Owner(s):</b>	Linley Properties I, LLC
<b>Applicant:</b>	Linley Properties I, LLC
<b>Representative(s):</b>	Wyatt Tarrant & Combs, LLP – Jon Baker
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	21 – Nicole George
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

## REQUEST(S)

- **Change-in-Zoning** from R-6, CM & M-2 to EZ-1
- **Waiver** of Land Development Code (LDC), section 10.2 to omit the 15' vehicle use area landscape buffer area (VUA LBA)
- **District Development Plan**

## CASE SUMMARY

The proposal calls for a change in zoning from multi-zones to EZ-1. The site is in an industrial area immediately adjacent to the Muhammad Ali International Airport. No residential uses are within the immediate vicinity of the proposed zoning change. Residential zones that adjoin are owned by the Louisville Regional Airport Authority. No improvements or change in the use of the properties is proposed with this application. At the time of development or redevelopment, a detailed district development plan will be required.

## STAFF FINDING

The proposed change in zoning is in conformance with the land use and development policies of Plan 2040. The proposed district is appropriately located within the Suburban Workplace form district and concentrates industrial activities near the airport within the same zone.

## STANDARD OF REVIEW FOR ZONING AND FORM 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 AND FORM DISTRICT**

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 Suburban Workplace Form District**

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.

The proposed district is appropriately located within the Suburban Workplace form district adjacent to like zones and uses having necessary infrastructure and transportation facilities. It does not encroach upon residential areas or zones. No residential uses are located adjacent to or in the immediate vicinity. Residential zones that abut site to the north are mostly consolidated and owned by the Louisville Regional Airport Authority. No residences, schools, parks or vulnerable populations will be impacted by noises or traffic created within the proposed zone. The site is currently improved. It would not appear to contain natural resources that may be harmed as a result of development and MSD preliminary review and approval to ensure the safety and welfare of users within flood prone areas has been received.

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

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

STAFF: The waiver will not adversely affect adjacent property owners as the subject property is in a developed industrial area and site conditions presently encroach into the buffer.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The encroachment is a result of existing conditions and no improvements have been proposed which create greater non-compliance or worsen the impacts of the viewshed along this roadway having industrial on both sides.

- (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 encroachment is present and triggered by the requested change in zoning. Upon re-development of the subject site, landscape buffers and tree canopy may be required.

- (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: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as no development is being requested and the waiver is the result of existing encroachments.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR 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 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 will be provided. The subject property is developed and does not contain natural resources.

- 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. Sidewalks on Wabasso Avenue are available and serve primary entrances. No other improvements to the site are proposed.

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

STAFF: The development site is built-out and does not require open space.

- 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 provisions 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 with the overall character of the area and design of the form district. The development site is built out and concentrates industrial activities in an industrial area adjacent to the airport.

- 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 the Comprehensive Plan and all relief requested from the Land Development Code appears to be adequately justified.

**REQUIRED ACTIONS**

- **RECOMMEND** to the Louisville Metro Council that the change in zoning from **Change-in-Zoning** from R-6, CM & M-2 to EZ-1 on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the **Waiver** of Land Development Code (LDC), section 10.2 to omit the 15' vehicle use area landscape buffer area (VUA LBA)
- **APPROVE** or **DENY** the **District Development Plan**

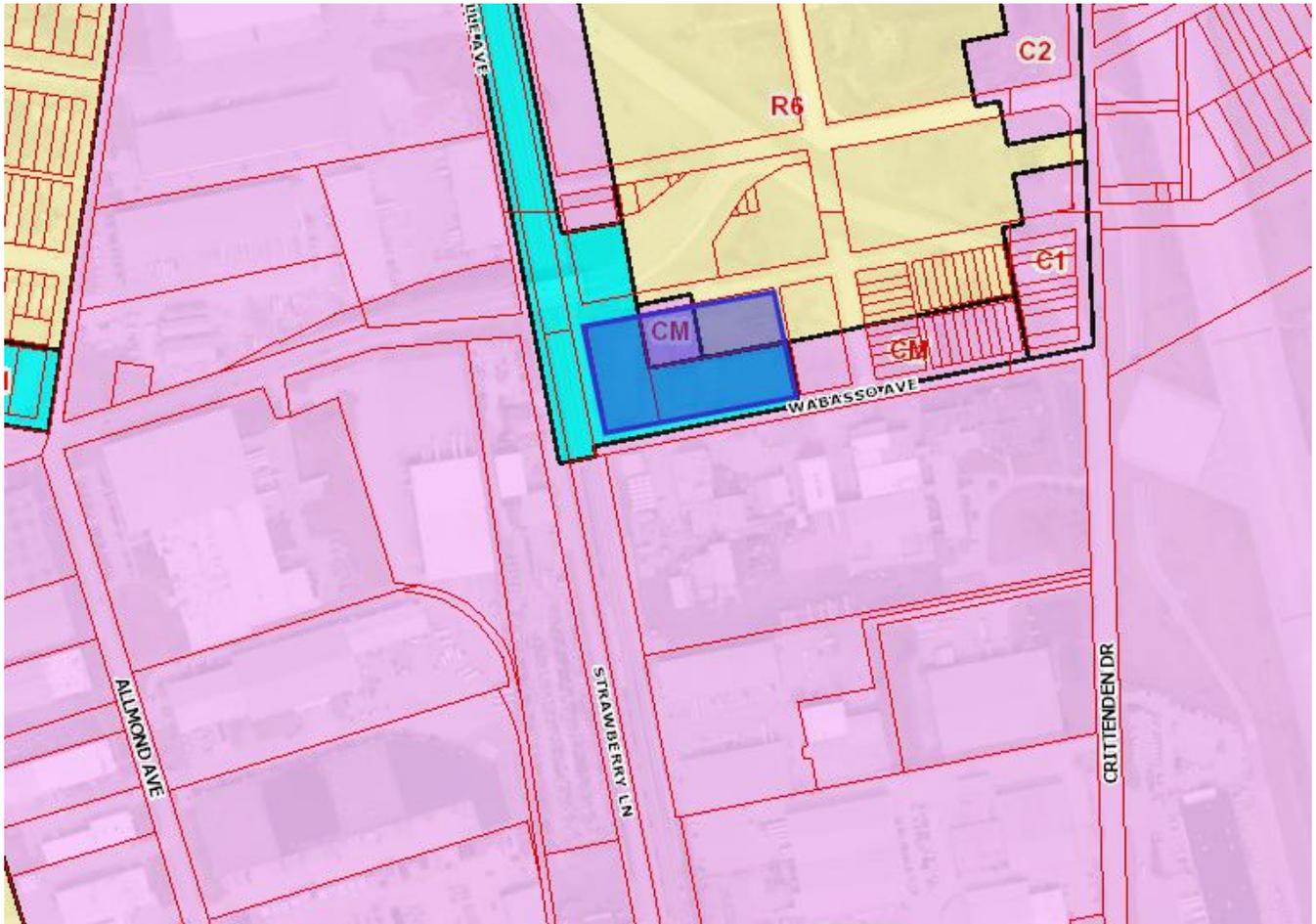
**NOTIFICATION**

Date	Purpose of Notice	Recipients
5/26/21	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 21
6/14/21	Hearing before Planning Commission	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 21
6/15/21	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. 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

#### Suburban Workplace: Non-Residential

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 1	<b>6.</b> 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 proposal does not encroach upon residential areas or zones. No residential uses are located adjacent to, or in the immediate vicinity. Residential zones that abut the site and located north of the site are mostly consolidated and owned by the Louisville Regional Airport Authority.
Community Form: Goal 1	<b>7.</b> 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 appropriately located adjacent to like zones and uses.
Community Form: Goal 1	<b>8.</b> 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 in a workplace form adjacent to similar and like industrial uses readily served by infrastructure and transportation facilities.
Community Form: Goal 1	<b>15.</b> When reviewing proposals for siting hazardous uses and uses with air, noise and light emissions, ensure disadvantaged populations are not disproportionately impacted.	✓	The proposal concentrates like uses and zones adjacent to the airport and no disadvantaged populations are within the immediate vicinity.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 site is concentrated in an industrial area adjacent to the airport. No residences, schools, parks or vulnerable populations will be impacted.
Community Form: Goal 1	<b>17.</b> Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Traffic entering the area will not need to pass through residential areas to access the interstate or arterial roadways.
Community Form: Goal 1	<b>18.</b> Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The site is concentrated in an industrial area adjacent to the airport. No residences, schools, parks or vulnerable populations will be impacted by noises created within the proposed zone.
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.	✓	The proposal is in a workplace form adjacent to similar and like industrial uses located away from residential areas.
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.	✓	The site is developed. It would not appear to contain natural resources that may be harmed as a result of development.
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.	✓	The site is developed. It would not appear to contain natural resources that may be harmed as a result of development.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 subject site is in a combined sewer flood prone area. No improvements are proposed. MSD preliminary review and approval to ensure the safety and welfare of users within flood prone areas has been received. .
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 proposal is in a workplace form adjacent to similar and like industrial uses readily served by infrastructure and transportation facilities to support transit-oriented development.
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 a workplace form adjacent to similar and like industrial uses readily served by infrastructure and transportation facilities. Housing is in nearby residential areas.
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 is in a workplace form adjacent to similar and like industrial uses readily served by infrastructure and transportation facilities.
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 proposal is in a workplace form adjacent to similar and like industrial uses readily served by infrastructure and transportation facilities. Development would have a limited impact on the transportation network.
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.	✓	The proposal is in a workplace form adjacent to similar and like industrial uses readily served by infrastructure and transportation facilities.
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.	✓	Upon development of the subject site, any improvements necessary to the transportation network will be made.
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 site is development and appears to be capable or is served by utilities.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 preliminary approval has been received to ensure adequate means of sewage treatment and disposal to protect public health and to protect water quality
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 is in a workplace form adjacent to similar and like industrial uses readily served by infrastructure and transportation facilities.
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 proposal is in a workplace form adjacent to similar and like industrial uses readily served by infrastructure and transportation facilities.
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 in a workplace form adjacent to similar and like industrial uses readily served by infrastructure and transportation facilities.
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.	✓	MSD preliminary approval has been received to mitigate negative development impacts to the integrity of the regulatory floodplain

**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. Prior to development (includes clearing and grading) or redevelopment of any portion of the site, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements
3. 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 Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, Bureau of Highways.
  - c. 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 prior to obtaining a building permit.
4. 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.
5. 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.
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.