

# Planning Commission

## Staff Report

August 31, 2023



<b>Case No:</b>	22-ZONE-0096
<b>Project Name:</b>	Mini Warehouses
<b>Location:</b>	6212 & 6220 Shepherdsville Rd, 5700 Janies Way, Parcel ID 063402420000
<b>Owner(s):</b>	AL CAT LLC
<b>Applicant:</b>	AL CAT LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	2 – Barbara Shanklin
<b>Case Manager:</b>	Dante St. Germain, AICP, Planner II

### REQUESTS

- **Change in zoning** from R-4 Single Family Residential, C-1 Commercial and C-M Commercial Manufacturing to C-M Commercial Manufacturing
- **Waivers:**
  - #1: from 10.2.4.A to permit omission of required plantings within a required property perimeter Landscape Buffer Area (LBA) and move the plantings to another location on the site (22-WAIVER-0199)
  - #2: from 10.2.4.B.3 to permit greater than 50% overlap between a required property perimeter LBA and a utility easement (23-WAIVER-0100)
- **Revised Detailed District Development Plan** with Binding Elements

### CASE SUMMARY/BACKGROUND

The subject site is located along Shepherdsville Road north of the intersection with Fern Valley Road, and consists of three parcels and a portion of a fourth parcel. One parcel is undeveloped, one parcel is partially developed with an office structure, one parcel is developed with a restaurant, and the fourth is a portion of a parcel developed with a bowling alley. The applicant proposes to rezone the R-4 and C-1 portions of the site in order to construct 86,199 sf of mini-warehouse space.

Commercial and commercial/industrial uses abut the site to the north and south. A multi-family development abuts the site to the south-west. Commercial uses are located across Shepherdsville Road to the east, and multi-family development is located across Fern Valley Road to the south.

The undeveloped parcel is Tract 2 on a development plan associated with docket 21-ZONE-0072. On that plan, Tract 2 was not proposed for development, with the exception of a proposed detention basin. Tract 1 on that plan is part of the current proposal as that plan is being altered to provide a sidewalk. A portion of the bowling alley parcel is part of the current proposal in order to provide parking for the mini-warehouses. That site is plan certain under docket 9-130-85.

### STAFF FINDING

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

## **INTERESTED PARTY COMMENTS**

Staff received one interested party comment requesting more information regarding the case.

## **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 requested zoning district is compatible with the Suburban Workplace form, and is generally compatible with surrounding development. The existence of the detention basin, which is already constructed, buffers industrial uses on the site from the adjacent multi-family residential development adjacent to the site. C-M zoning is prevalent in the area, and the site is within a commercial and industrial corridor at this location along Shepherdsville Road.

The proposed zoning district is generally in compliance with the plan elements and CHASE principles of Plan 2040. 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 10.2.4.A**

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

STAFF: The waiver will not adversely affect adjacent property owners as the plantings will still be provided outside the required LBA.

- (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 buffering and transitions between uses that are significantly different in density or intensity. The adjacent property will be buffered with an extended area of open space occupied by a detention basin, and the plantings will still be provided.

- (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 detention basin already exists and would be infeasible to move.

- (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 plantings within the LBA is not possible with the high degree of overlap between the LBA and the detention basin easement.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4.B.3**

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

STAFF: The waiver will not adversely affect adjacent property owners as necessary buffering between uses on the site and the adjacent residential uses will still be provided.

- (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 buffering and transitions between uses that are significantly different in density or intensity. The adjacent property will be buffered with an extended area of open space occupied by a detention basin, and the plantings will still be provided.

- (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 detention basin already exists and would be infeasible to move.

- (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 the detention basin exists and would be infeasible to move. The plantings will still be provided outside the required LBA.

#### **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. Required tree canopy will be provided.

- (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 proposal is for mini-warehouses, which are generally low-traffic uses. Most of the site is adjacent to existing commercial development, while the multi-family development to the west will be buffered with an existing detention basin and plantings outside the required LBA.



- (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 waivers. The site plan complies with the policies and guidelines of the Comprehensive Plan. The proposal would provide low-intensity commercial/industrial development in a commercial and industrial corridor.

### **REQUIRED ACTIONS**

- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4, C-1 and C-M to C-M
- **APPROVE** or **DENY** the **Waivers**
- **APPROVE** or **DENY** the **Detailed District Development Plan with Binding Elements**

### **NOTIFICATION**

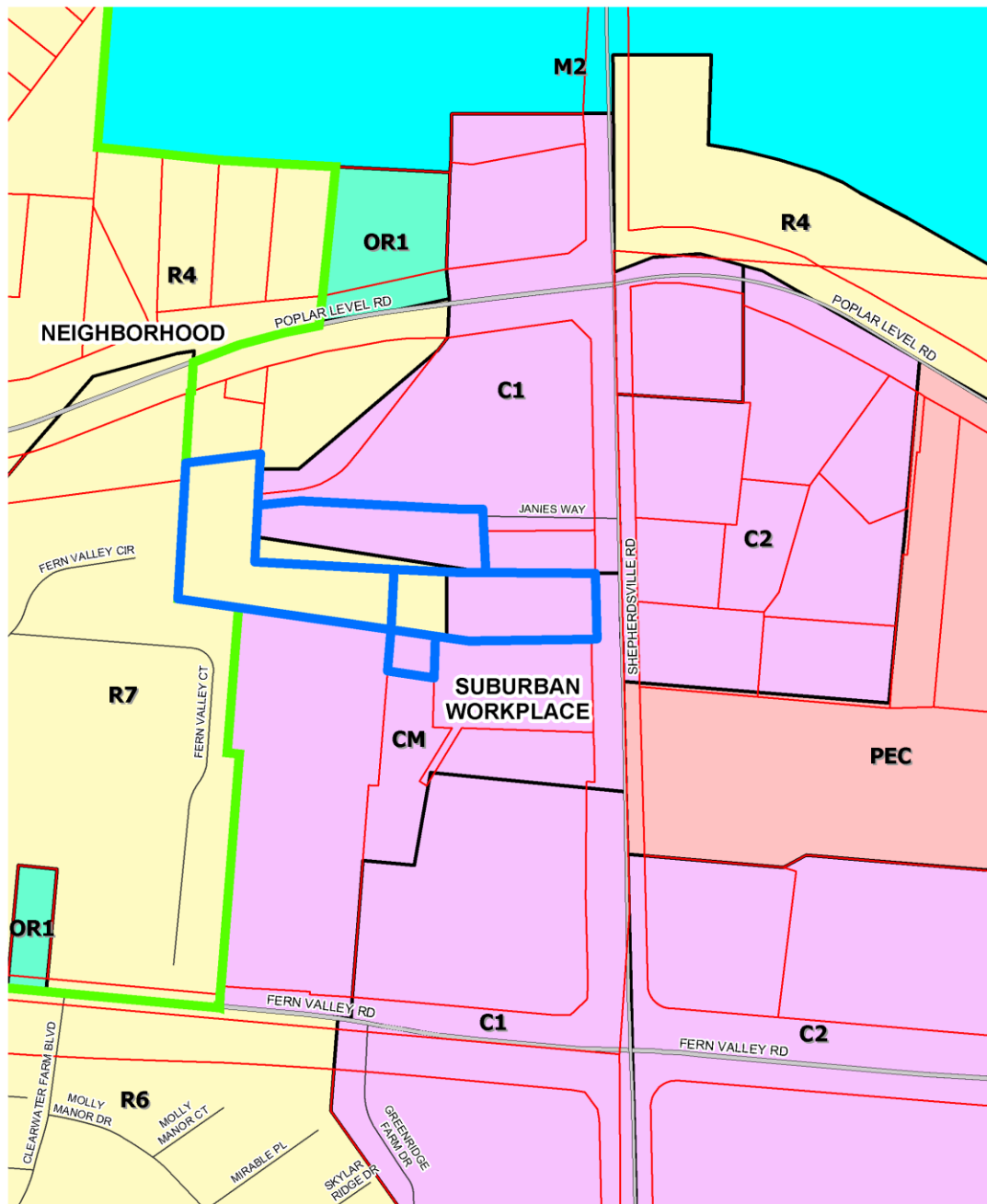
Date	Purpose of Notice	Recipients
06/30/2023	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 2, 21, 24
08/16/2023	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 2, 21, 24
08/14/2023	Hearing before PC	Sign Posting on property
08/20/2023	Hearing before PC	Legal Advertisement in the Courier-Journal

### **ATTACHMENTS**

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

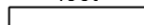


1. Zoning Map



Shepherdsville Rd Mini-Warehouses

feet



230

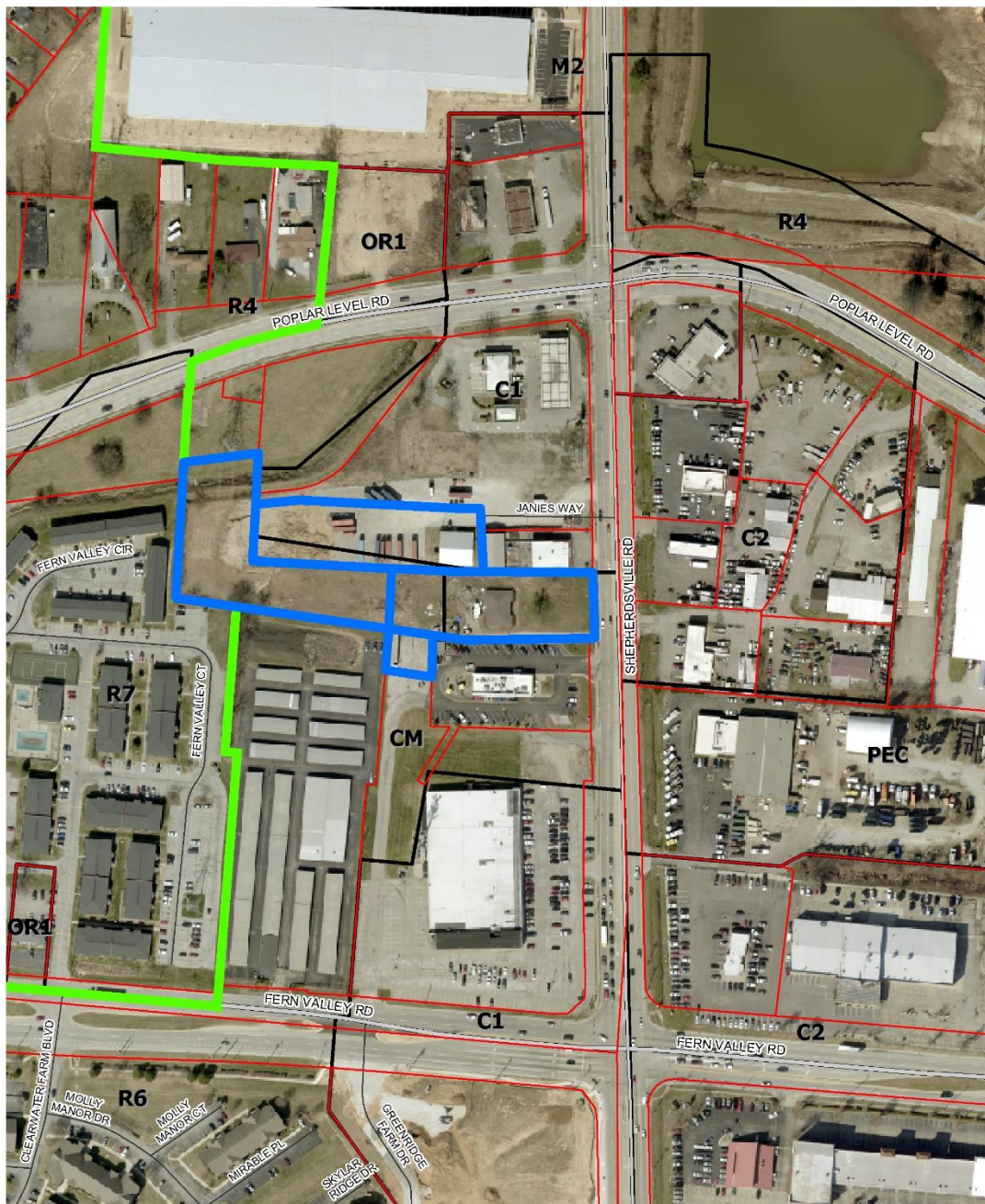
Map Created: 6/30/2023



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COUNTY METROPOLITAN SEWER DISTRICT (MSD),  
LOUISVILLE WATER COMPANY (LWC),  
LOUISVILLE METRO GOVERNMENT and  
JEFFERSON COUNTY PROPERTY VALUATION  
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## 2. Aerial Photograph



Shepherdsville Rd Mini-Warehouses  LOJIC

feet  
230

Map Created: 6/30/2023

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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 site is located adjacent to existing commercial-manufacturing zoning and the proposed zoning district would permit new development in a similar intensity.
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 near the intersection of Fern Valley Road, a major arterial, and Shepherdsville Road, a minor arterial.
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 site is located in the Suburban Workplace form district.
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 under the proposed zoning district. Uses on the site 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.	✓	No noxious odors, particulates or emissions would be permitted by the proposed zoning district.
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 Shepherdsville Road, 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.	✓	Adequate buffering can be provided to mitigate any adverse noise impacts.
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.	✓	The proposed zoning district would not permit uses that handle hazardous or flammable materials, or permit junkyards, landfills, quarries or similar uses.
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 site is located in the Suburban Workplace form and the density and design permitted by the proposed zoning district would be compatible with the desired form, adjacent uses, and existing and planned infrastructure.
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.	✓	The proposed zoning district would permit retail uses. The site is located in an existing activity center with commercial uses in place.
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 development pattern 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 proposed zoning district would allow for a mixture of compatible land uses in an existing activity center.



#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
13	Land Use & Development Goal 2: Community Form	<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.	✓	The proposed zoning district would not permit single-family residential development. Multi-family development would be permitted.
14	Community Form: Goal 2	<b>9.</b> Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposed zoning district would permit commercial, office or multi-family residential 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.	NA	The proposal would 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. Required tree canopy will be provided.
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.	NA	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	<b>11.</b> 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	<b>12.</b> 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.	NA	The site is not located in a flood-prone area.
20	Community Form: Goal 4	<b>1.</b> 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.	✓	No buildings, sites, districts or landscapes having historic or architectural value are evident on the site.
21	Community Form: Goal 4	<b>2.</b> Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	No distinctive cultural features are evident on the site.
22	Mobility: Goal 1	<b>4.</b> 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 zoning district would allow higher density and intensity uses in an existing activity center and 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 and car. Redevelopment of the site to a more intensive zoning district may attract transit. Redevelopment of the site would improve accessibility by 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.	✓	Transportation Planning has approved the proposal.
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 is located in a workplace form district and the proposed zoning district would permit compatible uses that meet the needs of the workplace district.
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 site is located in an existing commercial and industrial activity center.



#	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 site is located on Fern Valley Road, a major arterial at this location.
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 site is located on an arterial street.
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 features are 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 regulatory 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 regulatory 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 permit a variety of uses near housing which would support aging in place.
42	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposed zoning district would permit multi-family residential, and inter-generational mixed-income and mixed-use development.
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 permit multi-family housing. The site is located near transit along Shepherdsville Road.
44	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No existing residents will be displaced from their community by the proposed zoning district change.
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.	✓	The proposed zoning district would permit innovative methods of housing.

#### 4. **Existing Binding Elements**

##### **21-ZONE-0072/22-DDP-0051 (to remain on Tract 2, to be replaced on Tract 1)**

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. Except for the clearing, grading and construction necessary for the implementation and maintenance thereafter of improvements related to sanitary sewer, storm sewer, detention basin, and roadway connection infrastructure, as depicted on the approved district development plan, no development on Tract 2 shall occur, unless developed in accordance with the Land Development Code. Prior to development (includes clearing and grading for development unrelated to the aforementioned exceptions herein) of Tract 2, 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 shall be recorded creating the lots as shown on the approved development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - d. 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.
  - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between tracts 1 and 2, and with the adjoining property owners and recorded.
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.

**9-130-85 General Plan Binding Elements (to remain on residual tract)**

1. The development will be in accordance with the approved district development plan. No further development will occur.
2. The development shall not exceed 89,000 square feet of gross floor area.
3. The signs shall not exceed 16 feet in height and 32 square feet in area as shown on the approved landscape and sign plan.
4. Before a building permit is issued:
  - a) The development plan must be reapproved by the Transportation Engineering, Water Management and Fire Safety Sections of the Jefferson County Public Works and Transportation Cabinet.



b) Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.

5. A minor plat or other legal instrument shall be recorded consolidating the lots to be rezoned. The deed book and page number of the legal instrument shall be submitted to the Planning Commission.

6. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

7. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements must be implemented prior to requesting issuance of the certificate.

8. The above binding elements may be amended as provided for in the Zoning District Regulations.

## **5. Proposed Binding Elements (for Tract 1)**

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. 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.
- 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.
- d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 31, 2023 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.

5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.



6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
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 applicant/developer/owner shall comply with any fire safety requirements from the Okolona Fire Protection District, or any other fire district having jurisdiction over the property, applicable to the construction and operation of the storage facility on the property.
10. In the event that Janies Way is reconstructed within the defined easement as shown on the development plan, or in the event the easement is relocated and reconstructed, the applicant/developer/owner shall connect to the pavement to complete the connection with Janies Way.