

# Board of Zoning Adjustment

## Staff Report

June 7, 2021



<b>Case No:</b>	21-CUP-0035
<b>Project Name:</b>	Midwest Environmental Services
<b>Location:</b>	4185 Algonquin Parkway
<b>Owner(s):</b>	Univar, USA Inc.
<b>Applicant:</b>	Univar, USA Inc.
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	1 – Jessica Green
<b>Case Manager:</b>	Jon Crumbie, Planning & Design Coordinator

### **REQUEST(S)**

Conditional Use Permit to allow a potentially hazardous or nuisance use

### **CASE SUMMARY/BACKGROUND**

The applicant is proposing to use the existing building as an environmental management facility, providing used oil processing, wastewater separation, solidification, bulking facility and a service center for industrial cleaning and emergency response services.

### **STAFF FINDING / RECOMMENDATION**

The proposal meets all the listed requirements in 4.4.42. Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for a Conditional Use Permit.

## **RELATED CASES**

None

## **TECHNICAL REVIEW**

The property is located along a parkway and the applicant will be providing a multi-use path easement that will connect to the Louisville Loop along its front property line. Landscape and tree canopy plans will be submitted and approved before issuance of the building permit.

## **INTERESTED PARTY COMMENTS**

A neighborhood meeting was held on March 4, 2021 and at least three people attended not including the applicants. A second meeting was held on April 21, 2021 and at least two people attended not including the applicant.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT**

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

STAFF: The proposal meets all applicable policies of the Comprehensive Plan.

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

STAFF: When appropriately managed, the proposed use is compatible with surrounding development and land uses.

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

STAFF: The subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal.

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

### **4.2.42 Potentially Hazardous or Nuisance Uses**

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

A. The Comprehensive Plan;

STAFF: The proposal will be a re-use of the existing buildings and tanks on site without any expansion. It is compatible with the scale and site design of nearby existing development. Additionally, the applicant will be adding a multi-use path easement that will connect to the Louisville Loop along its front property line.

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

STAFF: The applicant will comply with all new and current federal, state, and local environmental and air pollution regulations. Most of the activity will take place indoors except for the truck traffic which is typically three trucks per hour.

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

STAFF: The existing structures on site will remain and no new construction will take place on site. Landscaping requirements will be met. There is a large tree buffer along the rear property line, which abuts railroad tracks.

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

STAFF: See applicant's compliance statement

A Conditional Use Permit under this section shall be issued only if the evidence shows the applicant's operation and associated nuisances will be properly managed and the public's health, safety and general welfare will be protected. The Board of Zoning Adjustment may impose additional conditions to protect surrounding properties. All Conditional Use Permits under this section shall be issued subject to the applicant also receiving all necessary permits from local, state and federal regulatory agencies.

### **EZ-1 and M-3**

Aluminum powder Brick, fireback, tile, clay products, including refractories: manufacturing, processing or treatment but not including storage

Cement, gypsum, lime, and plaster of paris (but not storage)

Charcoal, lampblack, carbon black, bone black, and fuel briquettes, including pulverizing

Chemicals, including acetylene, acids and derivatives, alcohol (industrial), ammonia, aniline dyes, carbide, caustic soda, cellulose and cellulose storage, chlorine, cleaning and polishing preparation (non-soap), dressings and blackings, creosote, dyestuffs, exterminating agents and poisons, hydrogen and oxygen, plastic materials, and synthetic resins, potash, pyroxylin, tar products, turpentine and resin, and solvent-extracting

Coal, coke, or tar products including fuel gas, and coke-oven products Distillation, manufacture, or refinement of coal, tar, asphalt, or asphalt products cupolas, and blooming mills (but not storage of metal products)

Minerals and earths (including sand-lime products), grinding, crushing, processing or storage

Paint manufacture, processing, or treatment (but not storage)

**Petroleum or petroleum products, refining, bulk storage, including gasoline or other petroleum products**

Plastic, manufacture, processing, treatment, or bulk storage

Radioactive materials

Steel works and rolling mills (ferrous) for steel, structural iron and steel fabrication, and structural products, including bars, cables, girders, rails, wire rope, or similar products

Waste paper and rag operations

Wood pulp or fiber, reduction or processing (including paper mill operations)

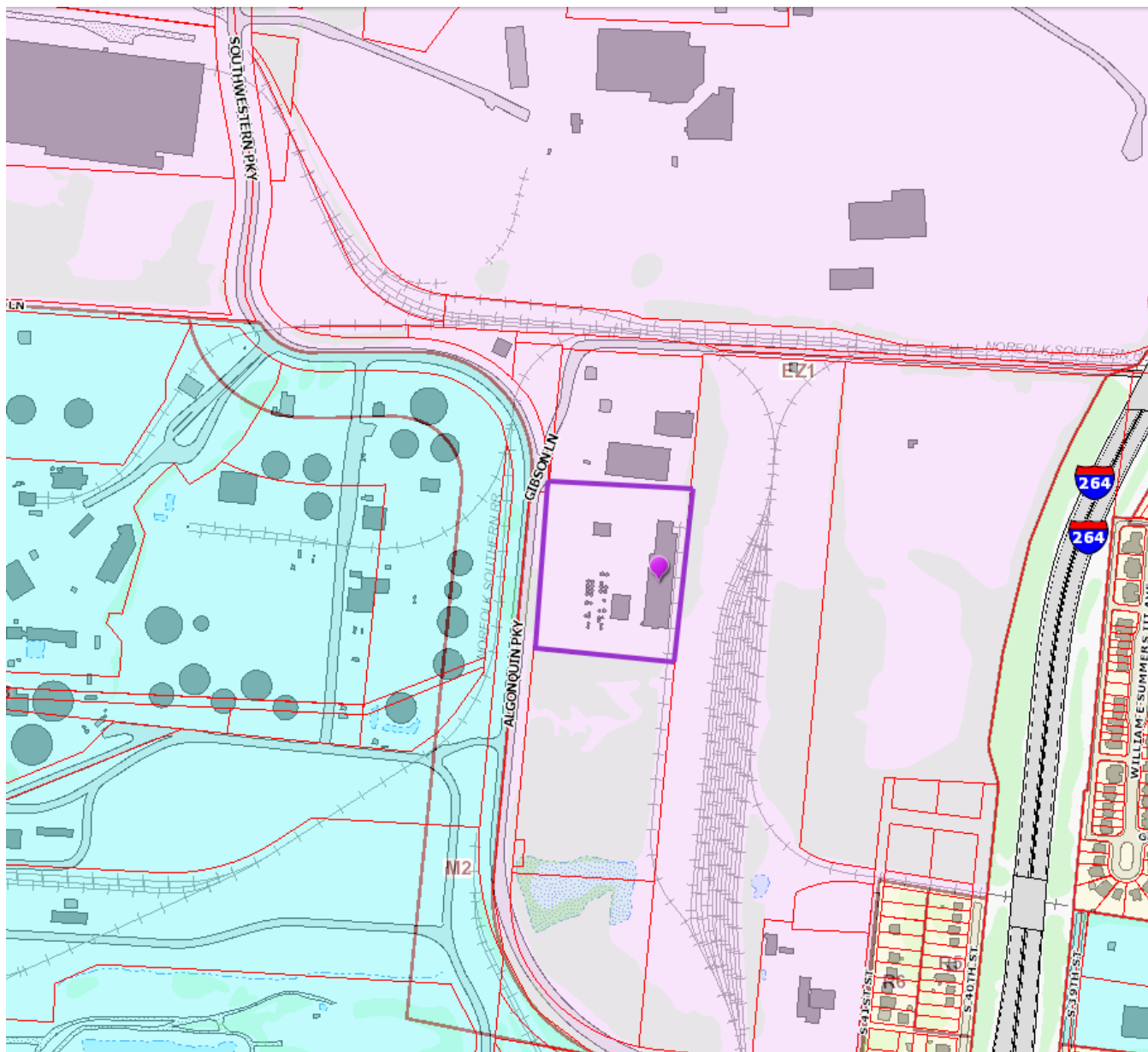
#### **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
5/21/2021	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 1
5/24/2021	Hearing before BOZA	Sign Posting

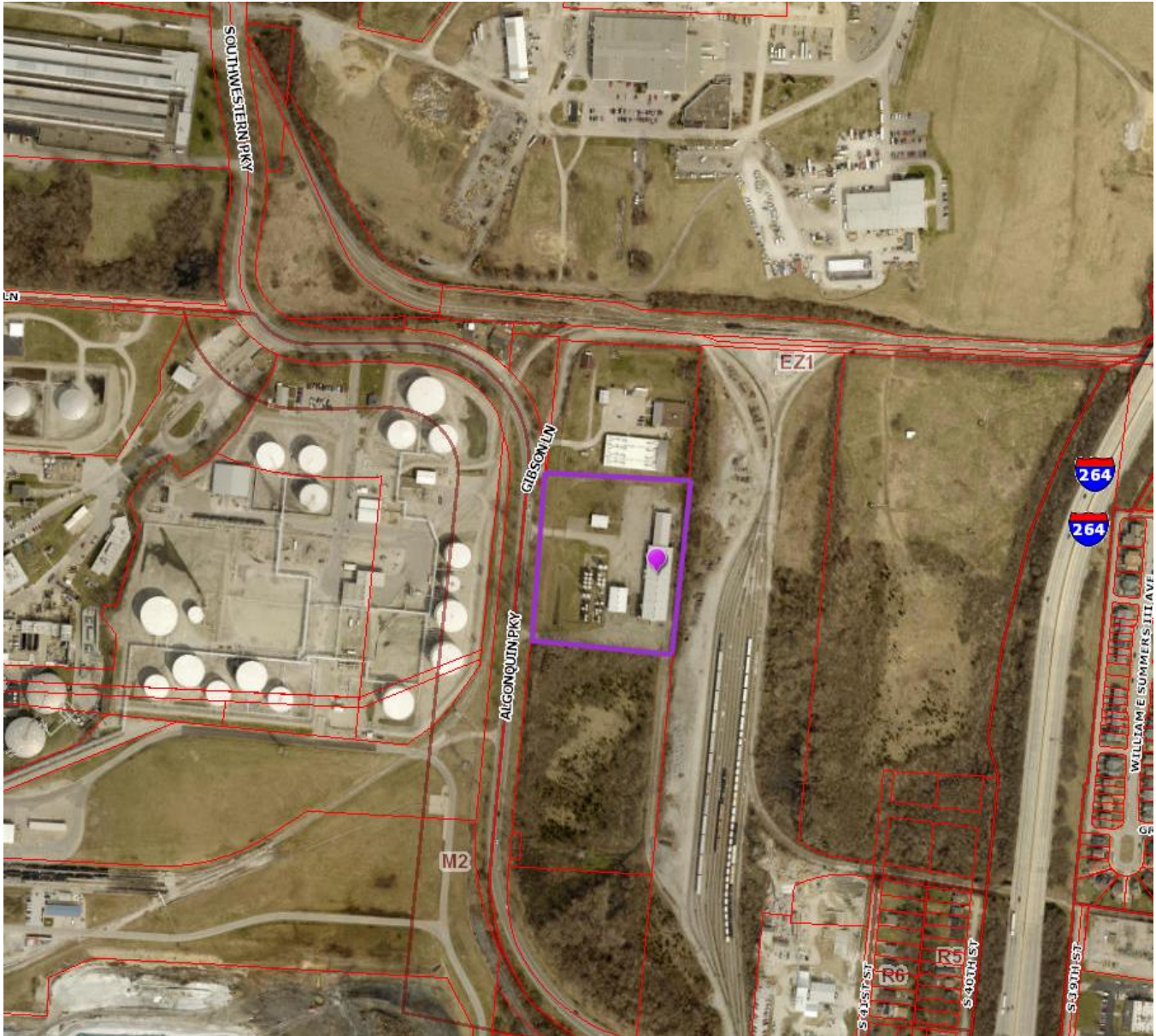
#### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. 2040 Checklist
4. Conditions of Approval

1. **Zoning Map**



## 2. Aerial Photograph



### 3. 2040 Checklist

#### Conditional Use Permit Checklist

+ Meet policy

- Does not meet policy

+/- Meets/Does not meet some portion of policy

NA – Not applicable

NIS – Information needed

Policy#	Element	Staff Finding	Comments
Community Form – Goal 1			
4.	Ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects.	+	The applicant is proposing to use the existing structures and repurpose them to a potentially hazardous or nuisance uses (Environmental Management Facility)
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	+	The applicant is proposing to use the existing structures and repurpose them to a potentially hazardous or nuisance uses (Environmental Management Facility). The existing structure have been in place for several years.
12.	Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes.	+	Transportation Planning has reviewed and approved the proposal.

Policy#	Element	Staff Finding	Comments
14.	Ensure that signs are compatible with the Form District pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern. For freestanding signs in multi-lot, the number of signs by including signage for each establishment on the same support structure and encourage consistent design (size, style, and materials).	+	All signage will be Land Development Code compliant.
17.	Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	+	Transportation Planning has reviewed and approved the proposal.
18.	Mitigate adverse impacts of noise from proposed development on existing communities.	+	Generally normal business hours are as follows: 7:00 a.m. - 5:00 p.m., Monday through Friday 9:00 a.m. – 2:00 p.m., Saturday
19.	Mitigate adverse impacts of lighting from proposed development on nearby properties, and on the night sky.	+	Lighting will be Land Development Code compliant.
Goal 2 Community Facilities			
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 reviewed and the proposal and has no comments.

#### 4. Conditions of Approval



1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a potentially hazardous or nuisance uses (Environmental Management Facility) until further review and approval by the Board.