

Board of Zoning Adjustment

Staff Report

March 18, 2024



Case No:	22-MCUP-0006
Project Name:	American Synthetic Rubber Company
Location:	4500 Camp Ground Rd.
Owner(s):	American Synthetic Rubber Company LLC
Applicant:	Paul Newcomb, Michelin North America Inc.
Representative:	Tanner Nichols, Frost Brown Todd LLC
Jurisdiction:	Louisville Metro
Council District:	1 – Tammy Hawkins
Case Manager:	Amy Brooks, Planner II

REQUEST(S)

- **Modified Conditional Use Permit** for potentially hazardous or nuisance uses (LDC 4.2.42)
- **Waivers:**
 1. **Waiver** from Land Development Code (LDC), Section 5.6.1.B.1.a to not provide animating features along 60% of the length of the façade (24-WAIVER-0030).
 2. **Waiver** from LDC, Section 5.9.2.1.b.i to omit the pedestrian connection from the adjacent public street along Camp Ground Rd (24-WAIVER-0030).

CASE SUMMARY/BACKGROUND

The applicant has requested a modification to an existing conditional use permit (CUP) for a potentially hazardous or nuisance use – operating a specialty chemical plant that produces synthetic rubber. Use of the subject site for the manufacturing of synthetic rubber pre-dates the approval of the first conditional use permit in 1995. The current modification on the 61-acre site calls for the removal of the existing powerhouse and replacement with a 14,586 square foot boiler house addition that will allow for the plant to eliminate the existing coal boilers and replace them with new natural gas boilers along with equipment. The modification will support the current use and production at the plant. The proposed addition will not increase the intensity of the hazardous use or lead to an increase in the number of employees or parking at the facility.

Associated Cases

B-57-95: CUP approved for expansion of existing chemical plant (hazardous use – section 21(2)); addition of building directly related to the production line. Approved on April 17, 1995

STAFF FINDING

The modified conditional use permit request and waivers are adequately justified for approval based on staff's analysis contained in the standard of review.

TECHNICAL REVIEW

- Potentially hazardous or nuisance uses are 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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR MODIFIED CONDITIONAL USE PERMIT

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

STAFF: The current proposal is consistent with the policies of the Comprehensive Plan. The proposal, does not appear to result in a direct increase in the intensity of the current use.

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

STAFF: The proposal does not increase conflict with the surrounding land uses and the general character of the area because the proposed improvements are internal to the existing development site.

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

STAFF: There are necessary public facilities and utilities present that are adequate to serve the proposed use.

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

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

STAFF: The proposed improvements on the subject site do not appear to conflict or violate the standards of the conditional use permit. The current proposal does not result in an enlargement of the area or intensity of the land use, including employment.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (#1-blank wall)

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

STAFF: The waiver will not adversely affect adjacent property owners as the elimination of windows and animating features along the proposed building's walls will be mitigated by the buffering of new and existing landscaping. This buffering will conceal much of the blank wall space that will face Camp Ground Road.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to 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. This is an industrial area where it is not uncommon for buildings to have limited windows and animating features. However, the height of the proposed tower on the building will alter the roof line adding some visual interest to the building mitigating the blank wall and lack of articulation in its overall design features.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. The applicant is preserving trees at the front of the subject site that will soften the appearance of the building's façade.

- (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 because the regulations require that all buildings, accessory or principal, of a certain size provide articulation along facades facing public streets even if the building is well removed from the property line. This building is setback more than one- hundred feet from the edge of pavement.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (#2- pedestrian connection)

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

STAFF: The waiver will not adversely affect adjacent property owners since the area is highly industrial. While pedestrian facilities should be encouraged within the Suburban Workplace form district, this area, at present, has no established pedestrian connections to the adjacent right-of-way.

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

STAFF: Mobility Goal 2, Policy 7.2 encourages proposals to be context sensitive by ensuring that they are compatible with the surrounding development and provide an aesthetically pleasing visual experience to the user and to adjacent areas. There are no existing sidewalks

along Camp Ground Road and adjacent properties that provide any pedestrian connections to the future Louisville Loop location within this area. Given the context of the area, not providing a connection makes the proposal more compatible with surrounding existing development.

- (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 since pedestrian connections are present within other areas of the site that provide safety to people and/or employees on-site who may be crossing from the parking area into the principal buildings.

- (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 since there is an existing railroad that crosses across the front of the site that poses a challenge to constructing a pedestrian connection within the railroad's easement.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Modified Conditional Use Permit**
- **APPROVE** or **DENY** the **Waivers**.
 1. **Waiver** from Chapter 5.6.1.B.1.a to not provide animating features along no less than 60% of the length of the façade (24-WAIVER-0030).
 2. **Waiver** from Chapter 5.9.2.1.b.i to note provide a pedestrian from the adjacent public right-of-way adjacent to Camp Ground Road (24-WAIVER-0030).

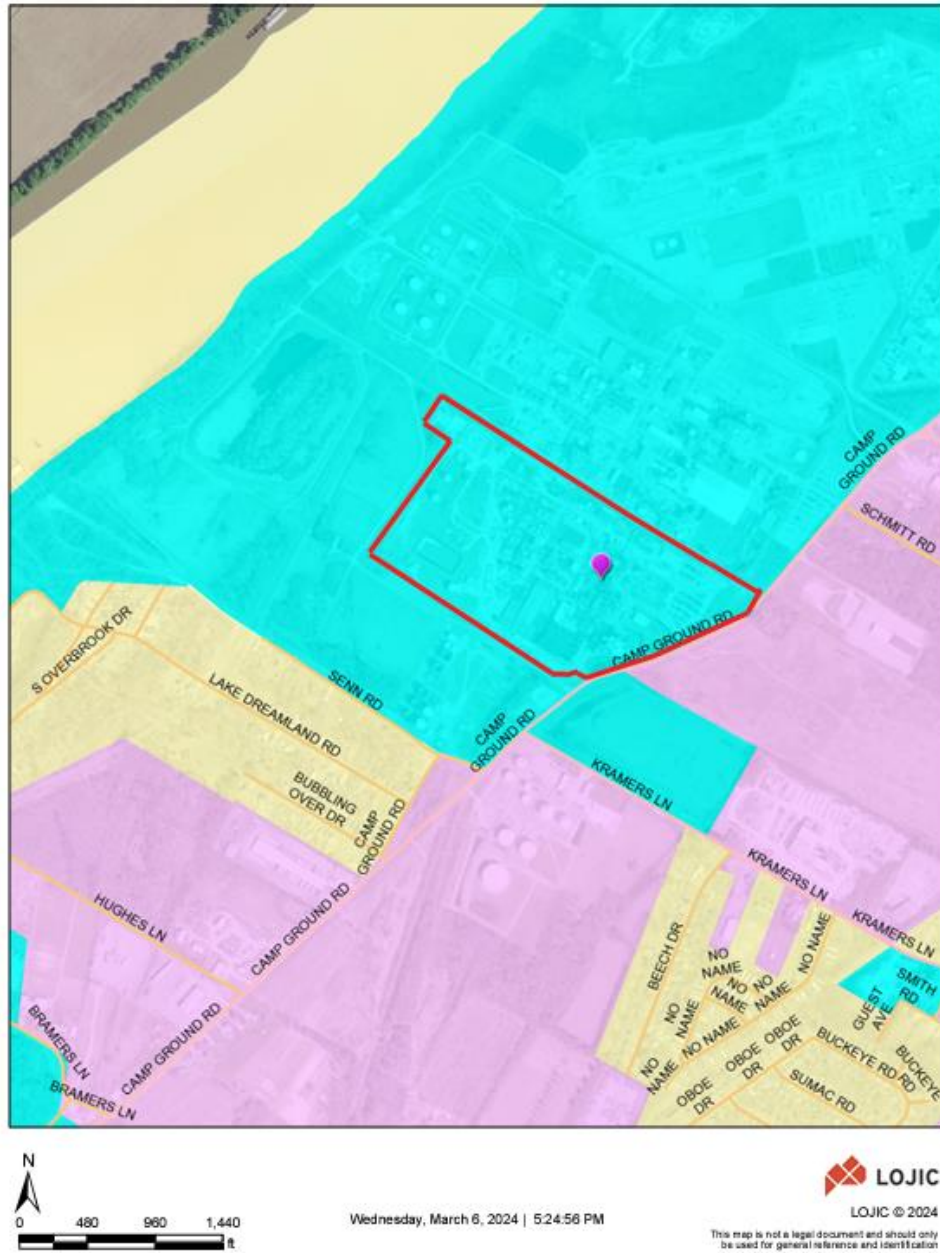
NOTIFICATION

Date	Purpose of Notice	Recipients
03/01/2024	Hearing before BOZA	1 st and 2 nd tier adjoining property owners and residents.
03/04/2024		Registered Neighborhood Groups in Council District 1
03/01/2024	Hearing before BOZA	Sign Posting on property

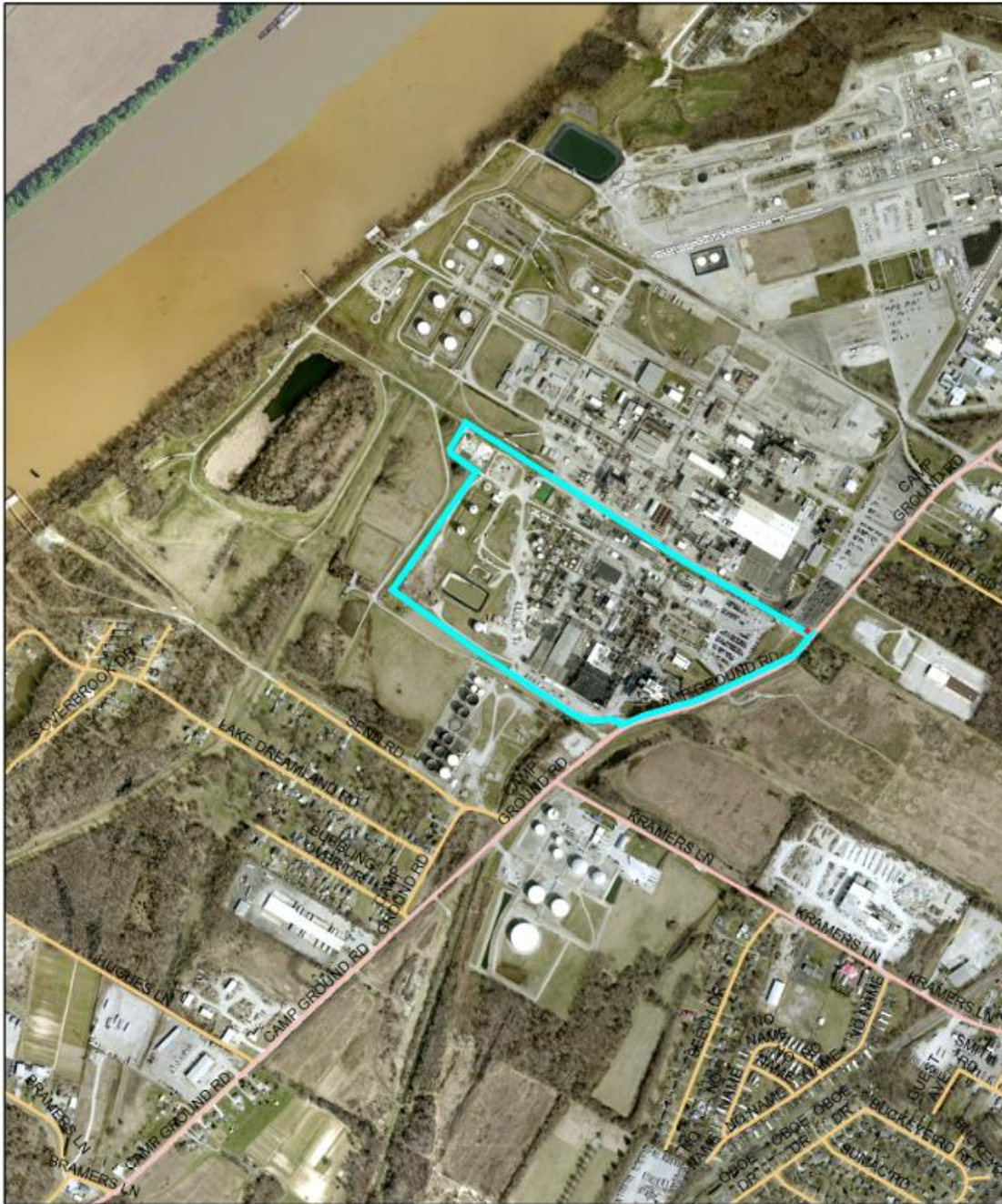
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Conditions of Approval

1. Zoning Map



2. Aerial Photograph



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3. 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 Hospital without further review and approval by the Board.