

# Planning Commission

## Staff Report

May 11, 2023



<b>Case No:</b>	23-ZONE-0019
<b>Project Name:</b>	Bayus Millers Lane
<b>Location:</b>	Parcel ID 100400250002
<b>Owner(s):</b>	Pipe Fitters Joint Education and Training
<b>Applicant:</b>	Pipe Fitters Joint Education and Training
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	3 – Kumar Rashad
<b>Case Manager:</b>	Dante St. Germain, AICP, Planner II

### REQUESTS

- **Change in form district** from Traditional Neighborhood to Traditional Workplace
- **Change in zoning** from R-4 Single Family Residential to EZ-1 Enterprise Zone
- **Waiver** from 10.2.4 to permit encroachment into a required property perimeter Landscape Buffer Area (23-WAIVER-0055)
- **Detailed District Development Plan** with Binding Elements

### CASE SUMMARY/BACKGROUND

The subject site is located behind 2327 Millers Lane, near the intersection with Plantation Drive, and is part of a five-parcel site currently developed with a trades educational facility. The subject parcel is developed with the corner of an existing structure.

Industrial uses are located to the west along Millers Lane, and to the south and north. Residential uses are located to the east. Dixie Highway is located nearby to the east. The parcel to be rezoned is located within the Traditional Neighborhood Form District, but staff has recommended a form district change to Traditional Workplace to match the remainder of the site. The applicant is requesting this form district change.

### STAFF FINDING

Staff finds that the proposed form district change meets the guidelines of the Comprehensive Plan. The proposed zoning change is also in compliance with the Comprehensive Plan. The waiver is adequately justified and meets the standard of review. The site plan meets the requirements of the Land Development Code with the exception of the requested waiver, and generally 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**

No interested party comments have been received by staff.

## **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 applicant requests a form district change to 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.

Following is staff's analysis of the proposed rezoning against the Goals, Objectives and Policies of Plan 2040.

The requested zoning district would bring the subject parcel into conformance with the remainder of the overall site. The larger site is already zoned EZ-1 with no known adverse impact to the adjacent neighborhood. The applicant inadvertently encroached into a residentially-zoned parcel with a building, which necessitated the zoning change on the residential parcel. No changes to the use due to the zoning change are anticipated.

The overall site is in the Traditional Workplace form, and the form district of the subject parcel would be changed to match. This form is more appropriate for EZ-1 zoning than the Traditional Neighborhood form that is currently on the property.

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

STAFF: The waiver will not adversely affect adjacent property owners as the structure was built between 2000 and 2003 according to LOJIC aerial photographs, and it has caused no known adverse effects to the most affected adjacent properties.

- (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. Buffering can be provided despite the encroachment.

- (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 subject site is already developed with an existing structure, which is infeasible to be removed to make room for the required landscape buffer area.

- (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 landscape buffer area is impossible without removing the structure already on the lot. The structure has been in place for at least 20 years.

#### **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. The site is fully developed.

- (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. No new construction is proposed. The structure on the site already exists within its current context and is compatible with the surrounding 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 development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waiver. The site plan generally complies with the policies and guidelines of the Comprehensive Plan. The site plan would preserve an existing structure.

## **REQUIRED ACTIONS**

- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Form-District** from Traditional Neighborhood to Traditional Workplace
- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4 to EZ-1
- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Detailed District Development Plan with Binding Elements**

## **NOTIFICATION**

Date	Purpose of Notice	Recipients
03/31/2023	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 11
04/27/2023	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 11
04/24/2023	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal



## **ATTACHMENTS**

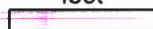
1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2040 Checklist
4. Proposed Binding Elements

1. Zoning Map



Bayus Millers Lane

feet



150

Map Created 1/4/2023



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



Bayus Millers Lane

feet

150

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### 3. Staff Plan 2040 Checklist

- + 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 proposal would not constitute an expansion of non-residential development into an existing residential area. The site is already developed non-residentially and the proposal would bring the zoning into compliance with the site development.
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 proposal would permit higher density and intensity uses. The site is close to transit along Dixie Highway and would expand an existing employment center.
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 proposal is for industrial zoning. Staff recommends a form district change to a Workplace form. The site is adjacent to Traditional Workplace form.
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 site is already developed and the proposal would not permit any more intensive uses than are already permitted on the larger site.



#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 proposal would permit uses generating noxious odors, particulates and emissions. The site is already developed non-residentially and the proposal would bring the site zoning into compliance with the current development.
6	Community Form: Goal 1	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Access to the site is via Millers Lane, a minor arterial at this location.
7	Community Form: Goal 1	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	Screening will be provided by the applicant to mitigate any noise impacts.
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.	✓	The proposed zoning district would not permit junkyards, landfills or quarries.
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 site is located adjacent to an existing activity/employment center and would expand the center to correct the zoning on an already-developed parcel.
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 would permit retail development. The site is located adjacent to an existing activity/employment center.
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 would permit a more compact pattern of development.
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 proposed zoning district would permit a mixture of compatible land uses.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
13	Land Use & Development Goal 2: Community Form	8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	NA	The proposed zoning district would not permit residential uses.
14	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal would permit new development providing commercial/industrial uses.
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.	NA	The proposal does not include underutilized parking lots.
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.	✓	No natural features are evident on the site.
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.	✓	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	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 site is not located in the Ohio 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.	✓	No karst terrain or flood-prone areas are evident on the site.
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.	✓	No historic assets are evident on the site.
21	Community Form: Goal 4	2. 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	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 site is adjacent to an existing employment center with transit located nearby.

#	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 proposed zoning district would permit a mixture of compatible land uses. The site is easily accessible by car and bicycle, and transit is located nearby. Accessibility by pedestrians and people with disabilities would be improved by the development.
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.	✓	Transit is located close to the site. The proposal would encourage higher density mixed-use development.
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 responsible 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 proposed zoning district would permit land uses compatible with the recommended Workplace form.
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 adjacent to existing industry.

#	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.	✓	No additional traffic would be anticipated to be generated by the zoning change. The site is already developed.
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 adjacent to an existing industrial subdivision and would have access to a minor arterial at Milers Lane.
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 terrain is 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.	✓	No floodplain is evident on the site.
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.	✓	No floodplain is evident on the site.



#	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.	NA	Housing would not be permitted by the proposed zoning district.
42	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	NA	Housing would not be permitted by the proposed zoning district.
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.	NA	Housing would not be permitted by the proposed zoning district.
44	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No existing residents would be displaced by the proposal.
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.	NA	Housing would not be permitted by the proposed zoning district.

#### 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. 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 minor plat or legal instrument shall be recorded consolidating the property with the 2329 Millers Lane lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
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.



# Land Development and Transportation Committee Staff Report April 13, 2023



<b>Case No:</b>	23-ZONE-0019
<b>Project Name:</b>	Bayus Millers Lane
<b>Location:</b>	Parcel ID 100400250002
<b>Owner(s):</b>	Pipe Fitters Joint Education and Training
<b>Applicant:</b>	Pipe Fitters Joint Education and Training
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	3 – Kumar Rashad
<b>Case Manager:</b>	Dante St. Germain, AICP, Planner II

## **REQUESTS**

- **Change in form district** from Traditional Neighborhood to Traditional Workplace
- **Change in zoning** from R-4 Single Family Residential to EZ-1 Enterprise Zone
- **Waiver** from 10.2.4 to permit encroachment into a required property perimeter Landscape Buffer Area (23-WAIVER-0055)
- **Detailed District Development Plan** with Binding Elements

## **CASE SUMMARY/BACKGROUND**

The subject site is located behind 2327 Millers Lane, near the intersection with Plantation Drive, and is part of a five-parcel site currently developed with a trades educational facility. The subject parcel is developed with the corner of an existing structure.

Industrial uses are located to the west along Millers Lane, and to the south and north. Residential uses are located to the east. Dixie Highway is located nearby to the east. The parcel to be rezoned is located within the Traditional Neighborhood Form District, but staff has recommended a form district change to Traditional Workplace to match the remainder of the site. The applicant is requesting this form district change.

## **STAFF FINDING**

The proposal is ready for a public hearing date to be set.

## **TECHNICAL REVIEW**

MSD and Transportation Planning have provided preliminary approval of the proposal.

## **INTERESTED PARTY COMMENTS**

No interested party comments have been received by staff.

## **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**

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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.

## **REQUIRED ACTIONS**

- **Set** the public hearing date.

## **NOTIFICATION**

Date	Purpose of Notice	Recipients
03/31/2023	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 11
	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 11
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Proposed Binding Elements

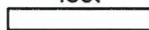


1. Zoning Map



Bayus Millers Lane

feet



150

Map Created: 1/4/2023



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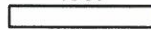


2. Aerial Photograph



Bayus Millers Lane

feet



150

Map Created: 1/4/2023



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### **3. 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. 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 minor plat or legal instrument shall be recorded consolidating the property with the 2329 Millers Lane lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
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.

# Pre-Application Staff Report December 28, 2022



<b>Case No:</b>	22-ZONEPA-0168
<b>Project Name:</b>	Bayus Millers Lane
<b>Location:</b>	Parcel ID 100400250002
<b>Owner(s):</b>	Pipe Fitters Joint Education and Training
<b>Applicant:</b>	Pipe Fitters Joint Education and Training
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	3 – Keisha Dorsey
<b>Case Manager:</b>	Dante St. Germain, AICP, Planner II

## **REQUEST**

- **Change in zoning** from R-4 Single Family Residential to EZ-1 Enterprise Zone

## **CASE SUMMARY/BACKGROUND**

The subject site is located behind 2327 Millers Lane, near the intersection with Plantation Drive, and is part of a five-parcel site currently developed with a trades educational facility. The subject parcel is developed with the corner of an existing structure.

Industrial uses are located to the west along Millers Lane, and to the south and north. Residential uses are located to the east. Dixie Highway is located nearby to the east. The parcel to be rezoned is located within the Traditional Neighborhood Form District, but staff recommends a form district change to Traditional Workplace to match the remainder of the site.

## **STAFF FINDING**

The proposed zoning district appears to be appropriate given the site context and location. Staff recommends a change of form district to Traditional Workplace. The applicant must conduct a neighborhood meeting to prepare for the formal filing.

## **TECHNICAL REVIEW**

Land Development Code (2022) Louisville Metro

Please see detailed agency review comments.

## **INTERESTED PARTY COMMENTS**

No interested party comments have been received by staff.



## **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**

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Plan 2040.

### Staff recommends a form district change to 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 proposal would not constitute an expansion of non-residential development into an existing residential area. The site is already developed non-residentially and the proposal would bring the zoning into compliance with the site development. The proposal would permit higher density and intensity uses. The site is close to transit along Dixie Highway and would expand an existing employment center. The proposal is for industrial zoning. Staff recommends a form district change to a Workplace form. The site is adjacent to Traditional Workplace form. The site is already developed and the proposal would not permit any more intensive uses than are already permitted on the larger site. The proposal would permit uses generating noxious odors, particulates and emissions. The site is already developed non-residentially and the proposal would bring the site zoning into compliance with the current development. Access to the site is via Millers Lane, a minor arterial at this location. More information is needed from the applicant regarding how noise impacts will be mitigated. The proposed zoning district would not permit junkyards, landfills or quarries.

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.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
	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 3
	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 3
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2040 Checklist

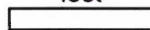


1. Zoning Map



Bayus Millers Lane

feet



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Map Created 1/4/2023



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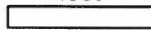


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### 3. Staff Plan 2040 Checklist

- + 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 proposal would not constitute an expansion of non-residential development into an existing residential area. The site is already developed non-residentially and the proposal would bring the zoning into compliance with the site development.
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 proposal would permit higher density and intensity uses. The site is close to transit along Dixie Highway and would expand an existing employment center.
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 proposal is for industrial zoning. Staff recommends a form district change to a Workplace form. The site is adjacent to Traditional Workplace form.
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 site is already developed and the proposal would not permit any more intensive uses than are already permitted on the larger site.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 proposal would permit uses generating noxious odors, particulates and emissions. The site is already developed non-residentially and the proposal would bring the site zoning into compliance with the current development.
6	Community Form: Goal 1	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Access to the site is via Millers Lane, a minor arterial at this location.
7	Community Form: Goal 1	18. Mitigate adverse impacts of noise from proposed development on existing communities.	+/-	More information is needed from the applicant regarding how noise impacts will be mitigated.
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.	✓	The proposed zoning district would not permit junkyards, landfills or quarries.
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 site is located adjacent to an existing activity/employment center and would expand the center to correct the zoning on an already-developed parcel.
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 would permit retail development. The site is located adjacent to an existing activity/employment center.
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 would permit a more compact pattern of development.
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 proposed zoning district would permit a mixture of compatible land uses.



#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
13	Land Use & Development Goal 2: Community Form	8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	NA	The proposed zoning district would not permit residential uses.
14	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal would permit new development providing commercial/industrial uses.
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.	NA	The proposal does not include underutilized parking lots.
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.	✓	No natural features are evident on the site.
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.	✓	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	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 site is not located in the Ohio 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.	✓	No karst terrain or flood-prone areas are evident on the site.
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.	✓	No historic assets are evident on the site.
21	Community Form: Goal 4	2. 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	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 site is adjacent to an existing employment center with transit located nearby.



#	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 proposed zoning district would permit a mixture of compatible land uses. The site is easily accessible by car and bicycle, and transit is located nearby. Accessibility by pedestrians and people with disabilities would be improved by the development.
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.	✓	Transit is located close to the site. The proposal would encourage higher density mixed-use development.
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 is reviewing 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 is reviewing 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 is reviewing 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 is reviewing 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 is reviewing 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 responsible utilities are reviewing 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 is reviewing 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 is reviewing 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 proposed zoning district would permit land uses compatible with the recommended Workplace form.
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 adjacent to existing industry.



#	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.	✓	No additional traffic would be anticipated to be generated by the zoning change. The site is already developed.
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 adjacent to an existing industrial subdivision and would have access to a minor arterial at Milers Lane.
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 terrain is 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.	✓	No floodplain is evident on the site.
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.	✓	No floodplain is evident on the site.

#	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.	NA	Housing would not be permitted by the proposed zoning district.
42	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	NA	Housing would not be permitted by the proposed zoning district.
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.	NA	Housing would not be permitted by the proposed zoning district.
44	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No existing residents would be displaced by the proposal.
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.	NA	Housing would not be permitted by the proposed zoning district.