

# Planning Commission Staff Report

November 4, 2021



<b>Case No:</b>	21-ZONE-0049
<b>Project Name:</b>	Holgate Apartments Rezoning
<b>Location:</b>	11405 Holgate Drive
<b>Owner(s):</b>	GM Property Investments, LLC
<b>Applicant:</b>	GM Property Investments, LLC
<b>Representative(s):</b>	GM Property Investments, LLC - Monika Thapa
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	13 – Mark Fox
<b>Case Manager:</b>	Joel P. Dock, AICP, Planning Coordinator

## REQUEST(S)

- **Change-in-Zoning** from R-4 to R-6, multi-family residential
- **Variance** from Land Development Code, section 5.3.1 to allow parking to encroach upon the 3' side property line (north)
- **Detailed District Development Plan**

## CASE SUMMARY

The subject property is located south of Interstate-265 at the County boundary. It is accessed via Holgate Drive from Preston Highway. The site is currently being used for off-street parking and refuse collection. A 2-story, 4 unit building with parking lot is proposed. A variance is needed to allow for the parking, which will be shared with adjacent residences, to encroach upon the side setback.

## STAFF FINDING

The proposed change in zoning conforms with the land use and development policies of Plan 2040. The proposed district allows for an appropriately located increase in residential occupancy where parking and refuse collection areas are currently present near existing multi-family uses. The variance and detailed plan have been adequately justified for approval based on staff's analysis contained in the standard of review.

## STANDARD OF REVIEW FOR ZONING DISTRICT CHANGES

Criteria for granting the proposed form district change/rezoning: *KRS Chapter 100.213*

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

## **STAFF ANALYSIS FOR CHANGE IN ZONING**

The Following is a summary of staff's analysis of the proposed rezoning against the Land Use and Development Policies of Plan 2040:

### **The site is located in the Neighborhood Form District**

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to, large lot single family developments with cul-de-sacs, traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high density multi-family housing. The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to support physical activity for all users and invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

The proposed district allows for an increase in residential occupancy where parking and refuse collection areas are currently present near existing multi-family uses. It promotes housing options and environments that support aging in place as senior, independent, and assisted living are permitted within the district. The proposed district is located within proximity to a major transportation corridor, employment center, and activity centers providing services and amenities. TARC service is available at Antle Drive and Preston Highway and along Standiford plaza within a nearby shopping center. These amenities and the proposed district also help support intergenerational and mixed-income development that is connected to the immediate neighborhood. The district further encourages fair and affordable housing by allowing a variety of ownership options and unit costs throughout Louisville Metro and expands opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable and accessible housing in dispersed locations throughout Louisville Metro.

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

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance allows for connected multi-family development sharing parking facilities and will not adversely impact adjacent owners for this reason.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as it will bring together two development to share parking facilities.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public the space will be used for shared parking.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposal achieves shared parking and connectivity between 2 multi-family developments.

### **ADDITIONAL CONSIDERATIONS:**

1. The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the area for the variance will contain share parking facilities between adjacent multi-family uses.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as relief in accordance with items 'a' through 'd' of the standard of review have been adequately justified.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR DETAILED DISTRICT DEVELOPMENT PLAN**

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. Landscaping and tree canopy will be provided as required.

- 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 are provided as the site shares parking with an adjacent multi-family development.

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

STAFF: Open space is not required on with this application. Tree canopy is preserved to the rear of the development area.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The proposed development is compatible with development in the area and the pattern of the form district. New construction is proposed.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The proposed development plan conforms to the Comprehensive Plan and all relief requested from the Land Development Code appears to be adequately justified.

**REQUIRED ACTIONS**

- **RECOMMEND** to the Louisville Metro Council that the **Change-in-Zoning** from R-4 to R-6, multi-family residential on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the requested **Variance** from Land Development Code, section 5.3.1 to allow parking to encroach upon the 3’ side property line (north)
- **APPROVE** or **DENY** the **Detailed District Development Plan**

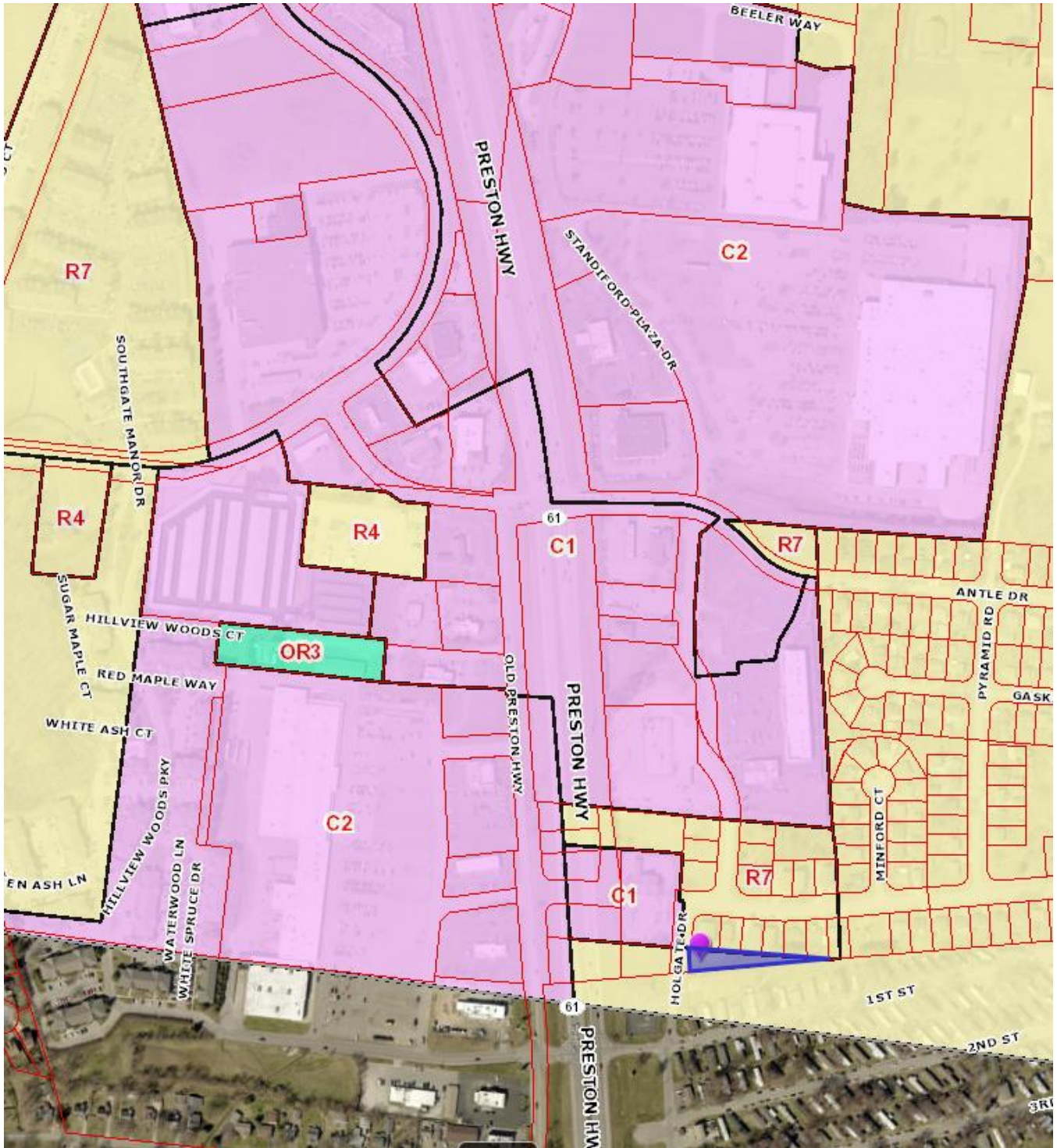
**NOTIFICATION**

Date	Purpose of Notice	Recipients
9/9/21	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 13
10/21/21	Hearing before Planning Commission	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 13
10/12/21	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

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

1. Zoning Map



2. Aerial Photograph



### 3. Plan 2040 Staff Analysis

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

#### Neighborhood: Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Land Use & Development Goal 1: Community Form	<b>7.</b> Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The proposed district is located within proximity to a major transportation corridor, employment center, and activity centers providing services and amenities. TARC service is available at Antle Drive and Preston Highway and along Standiford plaza within a nearby shopping center.
2	Land Use & Development Goal 1: Community Form	<b>9.</b> Ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.	✓	Appropriate transition is assured as the proposed district abuts similar uses, densities, and districts.
3	Land Use & Development Goal 2: Community Form	<b>9.</b> Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The land is currently occupied by parking facilities and refuse collection. The proposed district will result in residential development.
4	Land Use & Development Goal 3: Community Form	<b>10.</b> Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	The site does not appear to possess any issues related to wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.
5	Land Use & Development Goal 4: Community Form	<b>2.</b> Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The site does not appear to contain distinctive cultural features.



#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
6	Land Use & Development Goal 4: Community Form	3. Encourage preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies.	✓	The site does not contain structures having historic significance. It is occupied by parking and refuse collection.
7	Land Use & Development Goal 1: Mobility	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 proposed district is located immediately adjacent to the SMC form district. The district is located within proximity to a major transportation corridor, employment center, and activity centers for services and amenities. TARC service is available at Antle Drive and Preston Highway and along Standiford plaza within a nearby shopping center.
8	Land Use & Development Goal 2: Mobility	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the site is through areas of similar or higher density/intensity.
9	Land Use & Development Goal 3: Mobility	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 district encourages a mixture of compatible land uses and increasing density near employment centers, such as Commerce Crossing, to reduce vehicle miles traveled.
10	Land Use & Development Goal 3: Mobility	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	The development will provide for minimum improvements to the network to ensure that the site is accessible.
11	Land Use & Development Goal 3: Mobility	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	The development will provide for minimum improvements to the network to ensure that the site is accessible.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
12	Land Use & Development Goal 3: Mobility	<b>9.</b> 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.	✓	The development will provide for minimum improvements to the network to ensure that the site is accessible.
13	Land Use & Development Goal 3: Mobility	<b>10.</b> Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Right-of-way dedication will be provided as required.
14	Land Use & Development Goal 3: Mobility	<b>21.</b> Prevent safety hazards caused by direct residential access to high speed roadways.	✓	No direct access to high speed roadways is provided for individual units.
15	Land Use & Development Goal 2: Community Facilities	<b>1.</b> Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The proposal is in an area served by existing utilities or planned for utilities as evidenced by adjacent development.
16	Land Use & Development Goal 2: Community Facilities	<b>2.</b> 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.	✓	The proposal would appear to have access to an adequate supply of potable water and water for fire-fighting purposes as evidenced by adjacent development.
17	Land Use & Development Goal 2: Community Facilities	<b>3.</b> 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).	✓	Preliminary approval has been received by MSD to Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality
18	Land Use & Development Goal 1: Livability	<b>5.</b> Encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro.	✓	Tree canopy will be provided in compliance with all applicable regulations and ordinances.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
19	Land Use & Development Goal 1: Livability	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.	✓	The site does not appear to contain sensitive features as it is previously developed and contains parking and refuse collection facilities.
20	Land Use & Development Goal 1: Livability	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.	✓	The development site is not located in the floodplain.
21	Land Use & Development Goal 1: Housing	1. Encourage a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing. Allow for accessory residential structures and apartments. Housing types should reflect the Form District pattern.	✓	The proposed district encourages a variety of housing types to be concentrated near major transportation facilities within close proximity of single family district and adjoining similar densities. Development will reflect the pattern of the form district.
22	Land Use & Development Goal 1: Housing	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 district promotes housing options and environments that support aging in place as senior, independent, and assisted living are permitted within the district. The proposed district is located roughly within proximity to a major transportation corridor, employment center, and activity centers for services and amenities. TARC service is available at Antle Drive and Preston Highway and along Standiford plaza within a nearby shopping center.
23	Land Use & Development Goal 2: Housing	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposal district supports intergenerational and mixed-income development that is connected to the immediate neighborhood.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
24	Land Use & Development Goal 2: Housing	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 district is located within proximity to a major transportation corridor, employment center, and activity centers for services and amenities. TARC service is available at Antle Drive and Preston Highway and along Standiford plaza within a nearby shopping center. Minimum improvements along the development site will be provided to allow for ease of access.
25	Land Use & Development Goal 3: Housing	1. Encourage provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. Expand opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro.	✓	The proposed district encourages fair and affordable housing by allowing a variety of ownership options and unit costs throughout Louisville Metro. The district expands opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable and accessible housing in dispersed locations throughout Louisville Metro.
26	Land Use & Development Goal 3: Housing	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	The proposed district allows for an increase in residential occupancy where parking and refuse collection areas are currently present near existing multi-family uses.
27	Land Use & Development Goal 3: Housing	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 district encourages the use of innovative design methods by expanding the ability to provide a variety of housing types and styles. The proposed district better serves the needs to provide affordable housing than the current 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. 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. 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
  - c. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 4, 2021 Planning Commission public hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
  - d. A reciprocal access and shared parking agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance
3. 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.
4. 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.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.