

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

Request: Change in zoning from R-6 to C-1, with Detailed District Development Plan and Binding Elements and associated Variances and Waiver

Project Name: E. Washington Street Carriage House

Location: 1300 East Washington Street

Owner: J5E LLC

Applicant: J5E LLC

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 4 – Barbara Sexton Smith

Case Manager: Dante St. Germain, AICP, Planner II

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:40:38 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

00:49:45 Commissioner Lewis asked if staff finds the lot appropriate for a commercial use. Ms. St. Germain said yes, it's a corner lot and adjacent to an existing commercial lot and the Neighborhood Plan encourages a mix of commercial and residential uses in the central residential core.

Commissioner Lewis also asked if the carriage house is taking up parking spaces that were available for the duplex or where they using street parking? Ms. St. Germain said she doesn't know where anyone is parking for the duplex as there is no parking pad in the rear (grass). The house is being renovated.

00:51:27 Chair Jarboe asked if there are other short-term rentals nearby and too close to be approved for a CUP. Ms. St. Germain answered, a CUP is only required for a residential zoning district. If this goes to commercial, it can have short-term by right (no CUP necessary).

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00:52:53 Commissioner Seitz asked how many parking spaces will be placed in the area of the bricked driveway. Ms. St. Germain said there will be a total of 7 spaces (including the back).

**The following spoke in favor of this request:**

Paul Whitty, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

**Summary of testimony of those in favor:**

00:53:24 Mr. Whitty gave a power point presentation and stated the home is being saved with an addition of a carriage house. It's a middle-house that was previously discussed. The site is walkable, sustainable, equitable and within a mixed-use neighborhood. The historical character of the house will be maintained as it adds charm to the area.

Mr. Whitty said he didn't know about the opposition and can't address those comments.

Mr. Whitty provided elevations. Also, the parking issue is caused by the Swift Co.

01:04:46 Commissioner Carlson asked Mr. Whitty if they would bind out some of the commercial uses. Mr. Whitty said some of those uses aren't feasible. Commissioner Carlson is worried about what might happen in the future. Could you bind out automobile service stations with service bays and the package liquor stores? Mr. Whitty agreed.

01:07:43 Commissioner Mims asked, are there garages underneath the carriage house? Mr. Whitty said no, it's just the look of a carriage house.

01:10:40 Commissioner Lewis asked if all 4 units could be short-term rentals. Mr. Whitty said the plan is for 2 to be long-term and 2 short-term.

**The following spoke in opposition to this request:**

Tim Stephens, 1318 East Washington Street, Louisville, Ky.

**Summary of testimony of those in opposition:**

01:12:10 Mr. Stephens is a member of the Butchertown ARC. He said the proposed property has never operated as a duplex and he's lived there almost 30 years. Recently property values have gone up because there are less rentals in the

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neighborhood. There are some parking issues with Swift and the noticing process for this case was an issue as well.

**Rebuttal**

01:20:04 Mr. Whitty stated he relies on the PVA records for noticing and the notices should have gone out. The opposition had plenty of time to express their concerns. Mr. Whitty said he has no control of Swift parking on the street or trash issues. This proposal promotes equity/inclusion and diversity of housing styles. The carriage house will look like single family as required by Historical Preservation (front door and foyer).

**Deliberation**

01:23:13 Commissioner Carlson wants to bind out some uses – automobile service stations and liquor store.

01:24:17 Commissioner Howard stated it's a corner lot in a mixed used area and the character of the property will remain with rehabilitation of the existing historic home. When does the applicant have to apply for short-term rental registration? Ms. St. Germain said they can register whenever they want unless you impose a binding element.

01:26:53 Commissioner Daniels likes the character of the building.

01:27:31 Commissioner Lewis said the proposal gives the diversity as discussed at the beginning of this meeting. The applicant is offering additional parking.

01:29:25 Commissioner Seitz said it's an innovative idea and fits well on the corner lot.

01:29:52 Commissioner Peterson stated the design is very well thought out and the character of the neighborhood will be preserved.

01:30:32 Commissioner Mims supports the plan and binding out certain uses.

01:30:50 Chair Jarboe said the short-term rental doesn't help with diversity as far as equity.

**An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

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**Change in zoning from R-6 Multi Family Residential to C-1 Commercial**

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Applicant's Findings and the Plan 2040 Staff Analysis was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed zoning district will not constitute a non-residential expansion into an existing residential area. The site is adjacent to an existing activity center; the proposed zoning district would permit higher density and intensity uses; the site is located approximately 1 block from Story Avenue, a transportation corridor; the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with restrictions in the Louisville Metro Ordinances and the Land Development Code; the proposed zoning district would not permit uses with noxious odors, particulates or emissions; the site is located close to Story Avenue, a major arterial street; and it is unlikely that adverse impacts from noise will be generated by the proposal.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the subject site is adjacent to an existing activity center; the site is close to Story Avenue, a major arterial, and has appropriate access and connectivity; the proposed zoning district would permit retail development. The site is located adjacent to an existing activity center; the proposed zoning district would encourage a more compact development pattern in the activity center; the proposed zoning district would permit a mixture of compatible land uses. The site is located near a transit corridor; the proposed zoning district would permit residential and office uses above retail and other mixed-use multi-story retail buildings; the proposal re-uses the existing structure on the lot; the proposal does not include any underutilized parking lots; and the proposal re-uses an existing structure which is compatible with nearby residences. The proposal includes a carriage house which is not unusual for the neighborhood and must comply with Traditional Form limitations on size.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no natural features or natural systems are evident on the subject site; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is not located in the Ohio River Corridor; the subject site is not located in a flood-prone area. No karst features are evident on the site.

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the existing structure is proposed to be preserved.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed zoning district would permit higher density and intensity uses. The site is located adjacent to an existing marketplace corridor and activity center.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site does not pass through areas of significantly lower intensity or density development.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal would permit a mix of complementary neighborhood-serving businesses and services; the site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the proposed zoning district would permit higher density mixed-use development; and Transportation Planning has approved the proposal.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposed zoning district would permit commercial uses. The site is at a location with adequate access to a major arterial.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no karst features are evident on the site; and the subject site is not located in the regulatory floodplain.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would permit housing options and environments that support aging in place.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would permit inter-generational, mixed-income and mixed-use development that is connected

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to the neighborhood and surrounding area; and the site is within proximity to Story Avenue, a multi-modal transportation corridor.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no existing residents will be displaced by the proposal; and the proposed zoning district would permit the use of innovative methods of housing; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, guide the form and design of development to respond to distinctive physical, historic and cultural qualities. This proposed zone change complies with all of the applicable goals, objectives and policies 7 and 9 which requires 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 because the site is 2 blocks from a transit route on Story Avenue. The transition between uses that are substantially different in scale and intensity or density of development is not truly implicated as the longstanding residential use will remain unchanged and the area has a diversity of zoning classifications and uses including R-7, EZI, M3 and C-1; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: because, it encourages sustainable growth and density around mixed-use centers and corridors. This proposal complies with Policy 9 which encourages new developments and rehabilitation of buildings the provide commercial, office and/or residential uses because it will allow the financing of rehabilitating a beautiful and historic existing mixed-use building to be consistent with the residential use of the immediate area with easy access to mixed use corridors; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, it promotes and preserves the historic and archaeological resources that contribute to our authenticity. This proposal complies with Policy 2 which encourages the cultural features including landscapes, natural elements and built features as it enables the preservation and rehabilitation of a beautiful brick multi-use building built at the turn of the century. Its historic character and the associated yards will be maintained in its current form. Similarly this proposal complies with Policy 3 which encourages 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

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preservation agencies as it is an adaptive reuse of a classic live/work building characteristic of the older neighborhoods of Louisville; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, it Implements an accessible system of alternative transportation modes. Policy 4 encourages higher densities within or near existing marketplace corridors and existing and future and employment centers to support transit-oriented development and an efficient public transportation system which this proposal meets because it is within 2 blocks of a bus line and cyclists and pedestrians can easily access the central business district; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, it builds and maintains a safe, accessible and efficient transportation system. Policy 4 requires avoidance of access to development through areas of significantly lower intensity or density development if such access would create significant nuisances, however the proposed density is not significantly higher and four units is not significantly more intense than the surrounding area with commercial and office zones within blocks, all of which traverse the grid system of streets in the area; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, Goal 3- Encourage land use and transportation patterns that connect Louisville Metro and support future growth. To improve mobility, and reduce vehicle miles traveled and congestion, Policy 2 encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrian and people with disabilities. This proposal easily meets this policy with its location near to transit lines, within a walkable neighborhood with sidewalks. Policy 5 requires evaluation of developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality and this proposal would have no impact on these facilities as it would only allow two additional residential units. Policy 6 requires assurance that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. This proposal will have NO impact on these facilities or services and therefore is also consistent with Policies 9 and 10 because there is no impact that would require additional transportation improvements; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, it plans for community facilities to improve quality of life and meet anticipated growth.

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This proposal meets Policies 1, 2 and 3 all relevant utilities are and long have been available to the site and there are no native plant communities on the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, it protects and enhances the natural environment and integrate it with the built environment as development occurs. This proposal satisfies Policies 5, 17 and 21 since it is in a long-established built environment with no native plant species or karst features with no impact of groundwater resources or surface drainage and is not located in a regulatory floodplain; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, it expands and ensures a diverse range of housing choices. Policy 1 encourages a variety of housing types including multi-family and allows accessory residential structures and apartments and housing types must reflect the Form District pattern. This proposal clearly meets this policy because the proposal increases the diversity of housing styles and would allow only two more residential units than currently permitted characteristic of the Traditional Neighborhood Form. Policy 2 promotes housing options and environments that support aging in place. Encourages 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. This proposal is clearly compliant due to its convenient access to transportation to the medical district and downtown; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, it facilitates the development of connected, mixed-use neighborhoods. In accordance with Policies 1 and 2, this proposal encourages inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area because it would offer a housing choice that will enable both younger and older persons an affordable opportunity to live in this desirable neighborhood with access to all the amenities for shopping, services and entertainment a choice of multi-modal transportation that are available in this area. Affordable housing has increasingly become beyond the reach of the younger generation which, without a diversity of housing types, would be shut out from this area; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, it ensures long-term affordability



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and livable options in all neighborhoods. This proposal complies with Policies 1, 2 and 3 because it increases the variety of ownership options and unit costs throughout Louisville Metro, no existing residents will be displaced and permits the innovative housing methods. Insisting on maintaining a monolithic block of a single zoning classification would tend to create gentrification to the exclusion of persons of color and differing income levels.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-6, Multi-Family Residential to C-1, Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioner Brown**

**Variance from Table 5.2.2 to permit encroachment into the required street side yard setback by a proposed structure (required 3', request 2' 2", variance of 10") (20-VARIANCE-0032)**

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis and the Applicant's Testimony was adopted.

**WHEREAS**, the requested variance will not adversely affect public health safety or welfare as sight lines are unlikely to be affected by the small variance; and

**WHEREAS**, the requested variance will not alter the essential character of the general vicinity as the variance is relatively small and unlikely to be noticeable to neighbors; and

**WHEREAS**, the requested variance will not cause a hazard or nuisance to the public as the variance is relatively small and unlikely to cause sight line issues or other hazards or nuisances; and

**WHEREAS**, the requested variance will not allow an unreasonable circumvention of zoning regulations as the variance is relatively small and the lot is slightly irregular in shape, necessitating the variance; and

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**WHEREAS**, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the shape of the lot is slightly irregular, with the lot narrowing toward the rear; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to build a smaller carriage house; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the circumstances not are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no construction has yet taken place and the variance is being sought at this time.

**Variance from Section 5.4.1.D.3 to permit a private yard area to be less than the required 20% of the area of a lot (required 20%, requested 9%, variance of 11%) (20-VARIANCE-0032)**

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis and the Applicant's Testimony was adopted.

**WHEREAS**, the requested variance will not adversely affect public health safety or welfare as the private yard area will still be provided at a reduced percentage of the lot; and

**WHEREAS**, the requested variance will not alter the essential character of the general vicinity as the neighborhood is mixed-use and mixed-zoned and private yard area is not required of all uses in the vicinity; and

**WHEREAS**, the requested variance will not cause a hazard or nuisance to the public as the private yard is still provided, but at a reduced percentage of the yard; and

**WHEREAS**, the requested variance will not allow an unreasonable circumvention of zoning regulations as the variance is needed because the carriage house had to be moved forward on the lot to accommodate parking in the rear; and

**WHEREAS**, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the carriage house had to be moved forward on the lot to accommodate parking off the alley; and

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**WHEREAS**, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to build a smaller carriage house; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the circumstances not are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no construction has yet taken place and the variance is being sought at this time.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a Variance from Table 5.2.2 to permit encroachment into the required street side yard setback by a proposed structure (required 3', request 2' 2", variance of 10") (20-VARIANCE-0032) and a Variance from Section 5.4.1.D.3 to permit a private yard area to be less than the required 20% of the area of a lot (required 20%, requested 9%, variance of 11%) (20-VARIANCE-0032).

**The vote was as follows:**

**YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioner Brown**

**Waiver from Table 10.2.3 to permit encroachment into the required property perimeter Landscape Buffer Area by existing and proposed structures (20-WAIVER-0037)**

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis and the Applicant's Testimony was adopted.

**WAIVER**, the waiver will not adversely affect adjacent property owners as one of the structures encroaching into the buffer area already exists, and no known adverse impacts have occurred; and

**WAIVER**, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages the use of landscaped buffer areas to provide appropriate transitions between uses of substantially different scale or intensity. The proposed use of the subject site is similar in scale and intensity as the use of the adjacent property; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the required

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LBA extends almost halfway into the property and without the encroachment the property would not be usable; and

**WHEREAS**, the Louisville Metro Planning Commission further finds 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 because the width of the required landscape buffer area makes the property almost unusable without the allowed encroachment.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver from Table 10.2.3 to permit encroachment into the required property perimeter Landscape Buffer Area by existing and proposed structures (20-WAIVER-0037).

**The vote was as follows:**

**YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioner Brown**

**Detailed District Development Plan with Binding Elements**

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted.

**WHEREAS**, no natural resources are evident on the subject site. The existing structure is proposed to be preserved and used as it has been used in the past; and

**WHEREAS**, 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; and

**WHEREAS**, private yard area is being provided, although at a reduced percentage of the total lot than required by the Land Development Code. A variance is being requested for this reduction; and

**WHEREAS**, 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; and

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**WHEREAS**, the Louisville Metro Planning Commission finds, the overall site design is compatible with the existing and future development of the area. The proposal will permit the use of the site as a four-plex in a mixed-use mixed-zoning neighborhood; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code with the exception of the requested variances and waiver.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following Binding Elements:

**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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

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- d. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
  - e. A Certificate of Appropriateness for the proposed carriage house shall be requested and obtained.
5. 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.
  6. 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.
  7. The following uses shall not be allowed on the property: automobile rental agencies; automobile parking areas both public and private; automobile service stations; car washes; and package liquor stores.

**The vote was as follows:**

**YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioner Brown**