

Planning Commission Staff Report

October 6, 2022



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| Case No: | 22-ZONE-0077 |
| Project Name: | Chenoweth Apartments |
| Location: | 236 and 238 Chenoweth Ln |
| Owner(s): | ML Thieneman LLC |
| Applicant: | ML Thieneman LLC |
| Representative(s): | Tanner Nichols –Frost Brown Todd |
| Council District: | 9 – Bill Hollander |
| Jurisdiction: | St Matthews |
| Case Manager: | Jay Lockett, AICP, Planner II |

REQUEST(S)

- **Change-in-Zoning** from R-5 Single-family Residential and R-7 Multi-family residential to R-7 Multi-family residential
- **Waiver** of St Matthews Development Code section 4.12.C.8.1 to permit two buildings on the same lot to be less than 25 feet apart.
- **District Development Plan**

CASE SUMMARY

The applicant is proposing to construct 4 additional multifamily dwelling units in a single structure. The subject site is located in St Matthews along Chenoweth Ln. 4 Dwelling units are under construction on the R-7 portion on the subject site and the proposed new building will share parking and access on the combined site. The total development would include 8 dwellings in two buildings on approximately .46 acres.

STAFF FINDING

The proposed zoning district generally conforms to the land use and development policies of Plan 2040 and will allow for a variety of housing options and types. The subject site is well served by a multimodal transportation network and is near services and amenities. The waiver is adequately justified and meets 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 zoning change would permit the construction of additional housing options in an area with ready access to services, amenities and employment opportunities. The site is within the Neighborhood form district in an area with a variety residential zoning districts and housing types.

The proposed zoning district is generally in compliance with the 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 City of St Matthews regarding the appropriateness of this zoning map amendment. The City of St Matthews has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners as all required setbacks and buffers will be provided around the site.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040 as adequate screening and planting will be provided, including the preservation of mature trees within the buffer area.

- (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 applicant will meet all other requirements of the Development Code on the subject site.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

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

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to separate the lots and not share parking between the structures, resulting in a less efficient development pattern.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP and/or AMENDMENT TO BINDING ELEMENTS

- (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: There do not appear to be any environmental constraints or historic resources on the subject site.

- (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: The site meets all open space requirements of the Development Code including recreational open space requirements.

- (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 and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways.

- (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 guidelines and policies of the Comprehensive Plan and to requirements of the Development Code.

REQUIRED ACTIONS

- **RECOMMEND** that the City of St Matthews **APPROVE** or **DENY** the **Change-in-Zoning** from R-5 and to R-7
- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Detailed District Development Plan with Binding Elements**

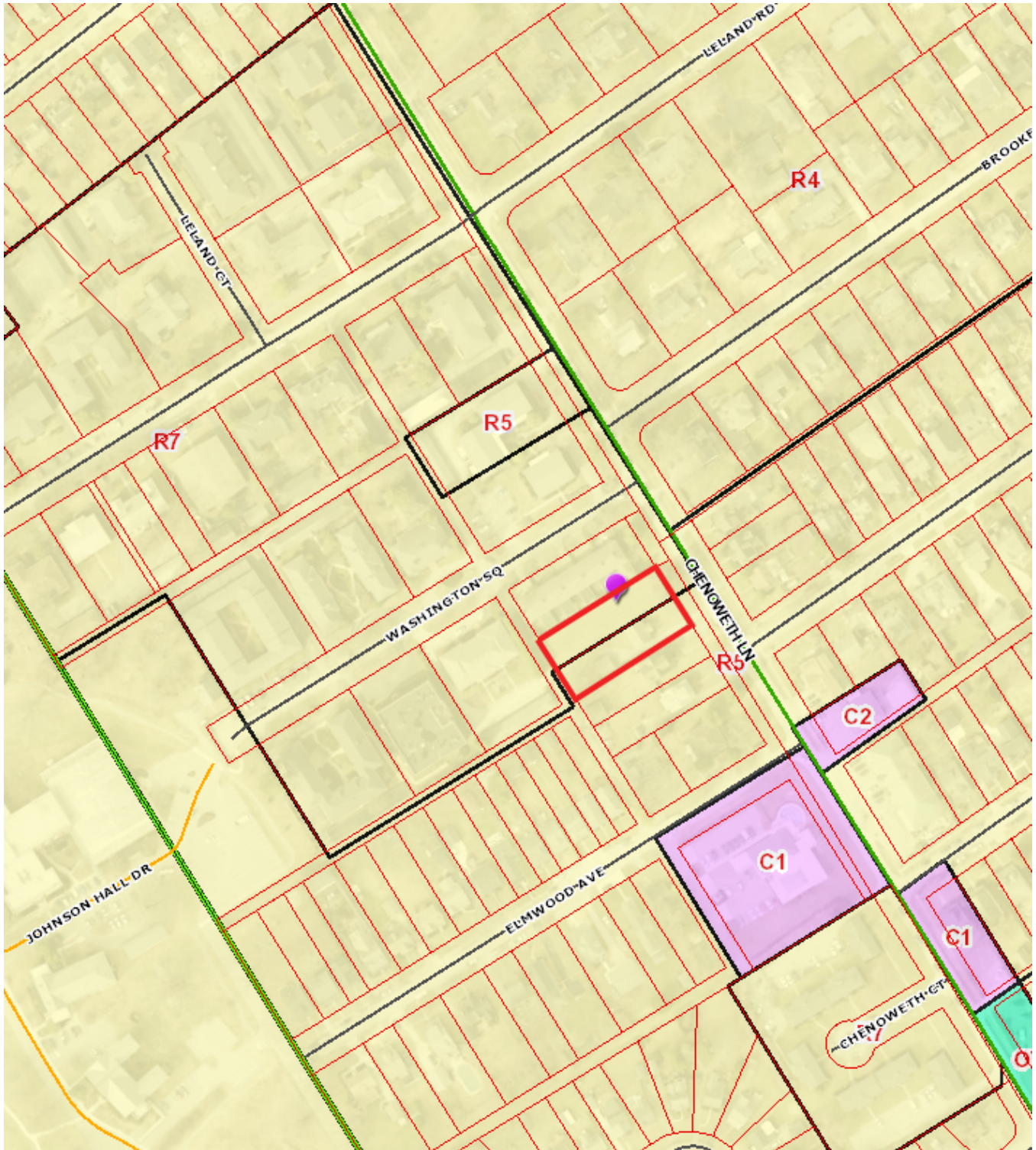
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|---------|------------------------------------|--|
| 8-22-22 | Hearing before LD&T | 1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 9 |
| 9-19-22 | Hearing before Planning Commission | 1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 9 |
| 9-19-22 | Hearing before PC | Sign Posting on property |
| | Hearing before PC | Legal Advertisement in the Courier-Journal |

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Checklist
4. 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 | 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 subject site is approximately 2200 feet from Westport Rd, Frankfort Ave and Shelbyville Rd which contains a high density of commercial uses, services and amenities as well as transit service. |
| 2 | Land Use & Development Goal 1: Community Form | 9. 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. | ✓ | All required buffers and setbacks will be provided around the subject site. |
| 3 | Land Use & Development Goal 2: Community Form | 9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses. | ✓ | The proposed zoning change would allow for additional housing options in the area. |
| 4 | Land Use & Development Goal 3: Community Form | 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. | ✓ | The site does not have potential for hydric soils. |
| 5 | Land Use & Development Goal 4: Community Form | 2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features. | ✓ | The subject site does not have any 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 subject site does not contain any historic resources. |
| 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. | ✓ | Transit service is available approximately 2200 feet to the south along Shelbyville Rd. The area around Shelbyville Rd, Westport Rd and Frankfort Ave provide access to a variety of employment opportunities and commercial options. |
| 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. | ✓ | The site proposes private access from an existing alley to the rear. |
| 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 zoning district would allow for additional housing options within an area near employment opportunities and a commercial corridor. |
| 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. | ✓ | Adequate roadways exist adjacent to and near the subject site. The applicant will need to provide sidewalks in the adjacent right-of-way. |
| 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. | ✓ | Adequate transportation facilities exist to serve the site. The applicant will construct sidewalks in the adjacent right-of-way. |
| 12 | Land Use & Development Goal 3: Mobility | 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. | ✓ | Adequate transportation facilities exist to serve the site. The applicant will need to construct sidewalks in the adjacent right-of-way. |

| # | Plan 2040 Plan Element | Land Use & Development Policy | Staff Finding | Staff Analysis |
|----|---|--|---------------|---|
| 13 | Land Use & Development Goal 3: Mobility | 10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel. | ✓ | The proposed zoning is compatible with existing and proposed transportation networks in the area. |
| 14 | Land Use & Development Goal 3: Mobility | 21. Prevent safety hazards caused by direct residential access to high speed roadways. | ✓ | The site is accessed via an alley. |
| 15 | Land Use & Development Goal 2: Community Facilities | 1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions. | ✓ | Utility services will be coordinated. |
| 16 | Land Use & Development Goal 2: Community Facilities | 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. | ✓ | Water service will need to be coordinated with appropriate agencies. |
| 17 | Land Use & Development Goal 2: Community Facilities | 3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD). | ✓ | MSD has approved the preliminary plan. |
| 18 | Land Use & Development Goal 1: Livability | 5. 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. | ✓ | The site does not have any distinctive landscape characteristics. |
| 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 is previously developed and no known karst features are present on site. |
| 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 subject site is not within floodplain areas. |

| # | Plan 2040 Plan Element | Land Use & Development Policy | Staff Finding | Staff Analysis |
|----|--|---|---------------|--|
| 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 zoning would allow for a variety of housing types. The development and will fit within the residential development pattern of the district, which has a variety of residential zoning districts, densities and housing types. |
| 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 zoning district will help promote aging in place by providing additional housing type options. The site is close to a variety of commercial uses. |
| 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 proposed zoning district would promote mixed income and intergenerational development by allowing for additional housing types in an area with access to a variety of commercial services, amenities and employment opportunities. |
| 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. | ✓ | Chenoweth Ln provides ready access to a transportation network that provides safe and convenient access to employment opportunities, services and amenities. |
| 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 zoning encourages the provision of fair and affordable housing by allowing for a variety of housing types, ownership options, lotting patterns and unit sizes. |
| 26 | Land Use & Development Goal 3: Housing | 2. As neighborhoods evolve, discourage displacement of existing residents from their community. | ✓ | The proposed zoning district would not displace current residents. |
| 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 zoning would allow for a variety of lotting patterns and unit types, allowing for production of fair and affordable housing. |

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 and the City of St Matthews for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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.
3. 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. A minor subdivision plat or legal instrument shall be recorded consolidating the development site into a single lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - 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.
4. 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.
5. 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.