

Planning Commission
Staff Report
September 3, 2020



Case No:	19-ZONE-0086
Project Name:	South Park Road Apartments
Location:	4011 & 4201 South Park Road, 9007 Blue Lick Road
Owner(s):	Joseph & Jacinta Kenney LDG Development LLC LDG Land Holdings LLC
Applicant:	LDG Development LLC
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Change in zoning** from R-4 Single Family Residential and OR-1 Office Residential to R-6 Multi-Family Residential and OR-1 Office Residential
- **Variance** from LDC Table 5.3.1 to allow a building height of 38' to exceed the maximum of 35' (19-VARIANCE-0072)
- **Alternative Plan for Connectivity**
- **Detailed District Development Plan** with Binding Elements

CASE SUMMARY/BACKGROUND

The subject site is located near the intersection of Blue Lick Road and South Park Road and consists of three contiguous parcels. One parcel is developed with a single-family residence while the other two are undeveloped. The applicant proposes to rezone the R-4 portion of the site to R-6, leaving the OR-1 portion as it is, in order to construct a new 312 unit multi-family development.

Multi-family and commercial uses are located at the intersection of Blue Lick Road and South Park Road. An existing quarry is located across South Park Road. Fishpool Creek runs through an adjacent parcel to the east of the site.

This case was previously heard on July 30, 2020. The case was continued in order to give the applicant time to revise the plan. The previous site plan depicted gated access to the development with no connectivity to Blue Lick Road, South Park Road, or Delee Way. The new plan retains the gate along the access point to Blue Lick Road, but provides connectivity to Delee Way and South Park Road via private drives.

STAFF FINDING

Staff finds that the rezoning proposal generally meets the guidelines of the Comprehensive Plan. The proposed development plan generally meets the requirements of the Land Development Code. Staff finds that the requested variance is adequately justified and meets the standard of review.

TECHNICAL REVIEW

Plan 2040

Land Development Code (Louisville Metro)

MSD and Transportation Planning have provided preliminary approval of the proposal. The site plan does not provide connectivity to Blue Lick Road and does not provide a public connection from Delee Way to South Park Road. The applicant has proposed an alternative plan for connectivity in accordance with 5.9.2.A.1.a.i for legislative consideration. The alternative plan for connectivity is to provide partial connectivity via private drives from Delee Way to South Park Road.

INTERESTED PARTY COMMENTS

Three interested party emails were received in opposition to the request. Several neighbors spoke in opposition at the Land Development and Transportation Committee meeting. Several neighbors spoke in opposition at the July 30, 2020 Planning Commission hearing.

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 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.

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

The proposed R-6 zoning district would provide an appropriate transition between the commercial development at the intersection and the lower-intensity residential development to the east and to the north of the intersection. The lack of public connectivity is problematic. The applicant has proposed an alternative plan for connectivity which provides private connectivity between Delee Way and South Park Road. The site is adjacent to an existing activity center, and is within ½ mile of Preston Highway, a major commercial and transit corridor.

The proposed zoning district is generally in compliance with the plan elements of Plan 2040, and with the CHASE principles in the Comprehensive Plan.

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 VARIANCE FROM TABLE 5.3.1

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

STAFF: The requested variance will not adversely affect public health, safety or welfare as the increase in building height will not affect sight lines or provide any other public health, safety or welfare issues.

- (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 the variance requested is relatively small and unlikely to be apparent to the public.

- (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 as the increase in height is relatively small and unlikely to be visible to the public.

- (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 zoning regulations as the requested variance is relatively small and is needed to provide an extra foot of interior height for each floor to provide higher ceilings.

ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the variance is needed for a design choice on the part of the developer and not due to unique characteristics of the lot.

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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the building height is a design choice to improve the look of the interior rooms and the buildings could be shorter with more standard ceiling heights without depriving the applicant of the use of the land or creating an unnecessary hardship.

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 construction has yet taken place and the variance is being sought at this time.

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 steep slopes, water courses, flood plains, soils, air quality, scenic views or historic sites are evident on the subject site. The tree canopy is not proposed to be preserved but tree canopy requirements will be met on the site.

- (b) The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Metro Public Works has approved the preliminary development plan. However, provisions for safe and efficient vehicular and pedestrian transportation have not been provided, as there is no public connectivity proposed. Private connectivity is being provided between Delee Way and South Park Road. The applicant has requested an alternative plan for connectivity.

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

STAFF: Sufficient open space as required by the Land Development Code is being provided to meet the needs of the proposed development.

- (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 compatible with the existing and future development of the area. The proposal provides connectivity between Delee Way and South Park Road via private drives.

- (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 generally conforms to applicable guidelines and policies of the Land Development Code, as the site design provides no public connectivity but does provide connectivity via private drives, and the applicant is requesting an alternative plan for connectivity.

REQUIRED ACTIONS

- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4 to R-6
- **APPROVE** or **DENY** the **Variance**
- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Alternative Plan for Connectivity**
- **APPROVE** or **DENY** the **Detailed District Development Plan with Binding Elements**

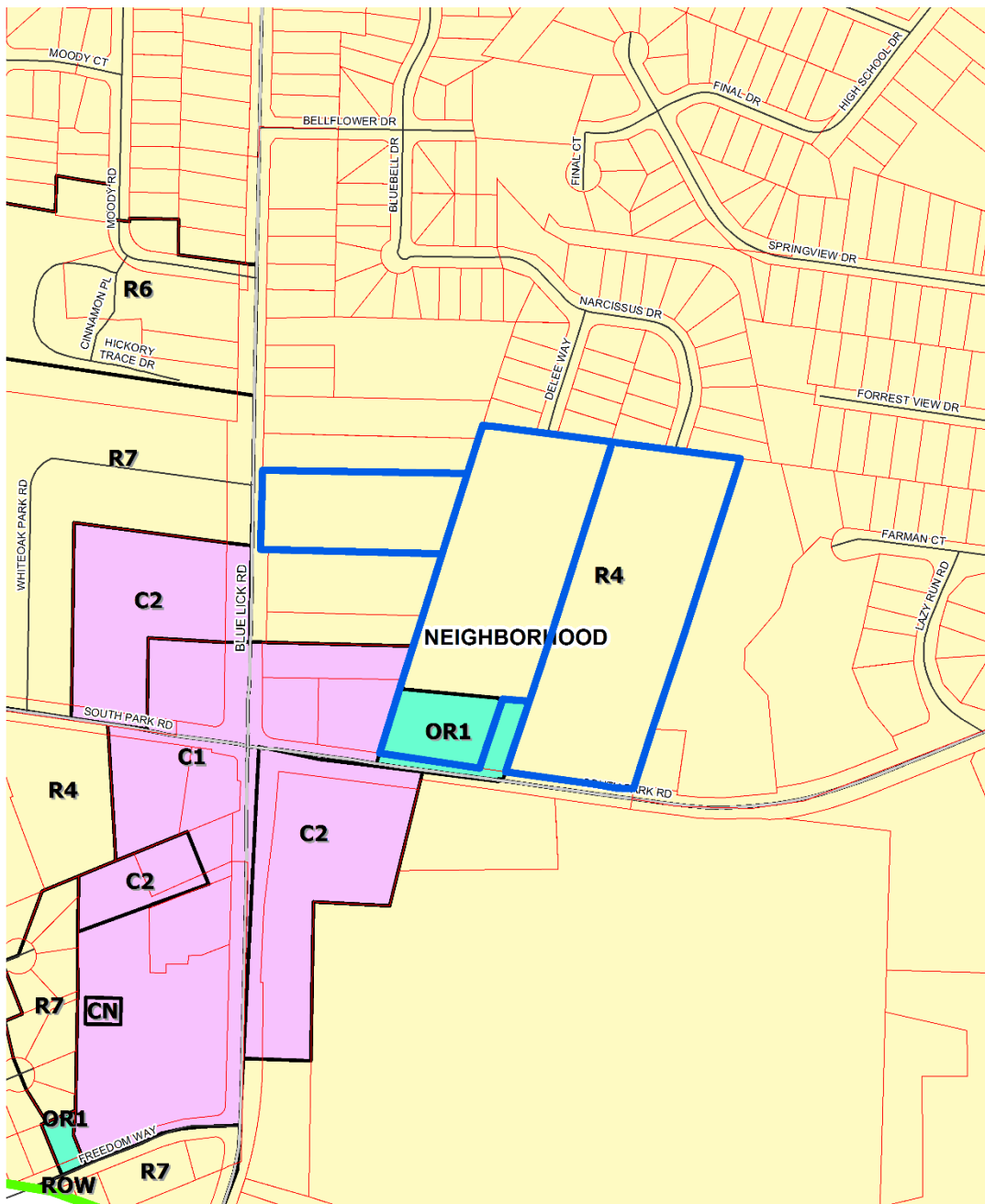
NOTIFICATION

Date	Purpose of Notice	Recipients
06/10/2020	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 24
07/15/2020	Hearing before PC	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 24
07/13/2020	Hearing before PC	Sign Posting on property
07/18/2020	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

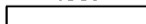
1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2040 Checklist
4. Proposed Binding Elements

1. Zoning Map



4011 South Park Road

feet



370

Map Created: 10/23/2019



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2. Aerial Photograph



4011 South Park Road

feet



370

Map Created: 10/23/2019



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3. Staff Plan 2040 Checklist

- + 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	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 proposed zoning district would allow higher density and intensity uses. The subject site is located adjacent to an existing activity center.
2	Community Form: Goal 1	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.	✓	The proposed zoning district would provide an appropriate transition between the more intensive zoning districts at the intersection and the less intensive residential districts farther from the intersection. The required buffer yards will be provided.
3	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 residential buildings.
4	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.
5	Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The structures that exist on the site are eligible for the National Register of Historic Places and are not proposed to be preserved. These structures are not distinctive cultural features.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
6	Community Form: Goal 4	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 existing structures on the lots are eligible for the National Register of Historic Places and are not proposed to be preserved.
7	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 proposed zoning district would allow higher density and intensity uses. The subject site is located adjacent to an existing activity center.
8	Mobility: Goal 2	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 via Blue Lick Road and South Park Road. This access is unlikely to create significant nuisances. Additional access from Delee Way is not likely to be heavily utilized.
9	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 increase the mixture of compatible land uses adjacent to an existing activity center.
10	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.	-	No provision for public connectivity is proposed. The transportation network is negatively impacted by the lack of public connectivity.
11	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.
12	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.	-	No provision for public connectivity is proposed. Two stub streets connect to the development site, and neither is proposed to be continued through the development site as public roads. Connectivity is provided via private drives. Improvements to the street network with this development are possible but not proposed.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
13	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.	-	Two stub streets connect to the proposed development site. Neither is proposed to be carried through the site to South Park Road as a public street.
14	Mobility: Goal 3	21. Prevent safety hazards caused by direct residential access to high speed roadways.	✓	No direct residential access to high-speed roadways is proposed.
15	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 relevant utilities have approved the proposal.
16	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.
17	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.
18	Livability: Goal 1	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.	✓	Tree canopy requirements will be met on the site.
19	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.	✓	The site is located on karst terrain. No karst features are evident on the site.
20	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.	✓	The site is not located in the regulatory floodplain.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
21	Housing: Goal 1	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 district would permit a variety of housing types on the subject site.
22	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.	✓	The proposed zoning district would support ageing in place by increasing the variety of housing options in the neighborhood and providing multi-family development close to an existing activity center.
23	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposed zoning district would permit inter-generational, mixed-income development that is connected to the neighborhood and surrounding area.
24	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.	✓	The subject site is located approximately ½ mile from Preston Highway, a multi-modal transportation corridor.
25	Housing: Goal 3	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 district would encourage the provision of fair and affordable housing by increasing the variety of ownership options throughout Louisville Metro.
26	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	-	Residents of the existing structures will be displaced.
27	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.	✓	The proposed zoning district would allow innovative methods of 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 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.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 3, 2020 Planning Commission hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
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.