

# Planning Commission

## Staff Report

April 20, 2023



<b>Case No:</b>	21-ZONE-0155
<b>Project Name:</b>	Franklin Lofts
<b>Location:</b>	943 Franklin Street
<b>Owner(s):</b>	Franklin Lofts LLC
<b>Applicant:</b>	Franklin Lofts LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	4 – Jecorey Arthur
<b>Case Manager:</b>	Dante St. Germain, AICP, Planner II

### REQUESTS

- **Change in zoning** from R-6 Multi-Family Residential to C-2 Commercial
- **Waivers**
  - **#1:** from 10.2.4 to allow structures to encroach into to the required property perimeter Landscape Buffer Area (23-WAIVER-0002)
  - **#2:** from 5.5.3 to not provide a required 3' masonry wall along Franklin Street to screen parking (22-WAIVER-0225)
- **Detailed District Development Plan** with Binding Elements

### CASE SUMMARY/BACKGROUND

The subject site is located on Franklin Street near the intersection with N Wenzel Street, and consists of one parcel developed with multi-family dwelling units within a pre-existing industrial building. The applicant proposes to rezone the site in order to permit some or all of the dwelling units to be used as short-term rentals.

The general vicinity is characterized by a mix of commercial, single-family residential, multi-family residential and industrial uses. The site is located within the study area for the Butchertown, Phoenix Hill, & NuLu Neighborhood Plan. It is within the Western Residential Core character area. The neighborhood plan recommended that R-6 zoned properties be reclassified in an areawide rezoning to UN Urban Neighborhood in recommendation LU1. Additionally, recommendation LU16 promotes the re-use and rehabilitation of existing industrial buildings into office, retail, mixed-use or multi-family development when industrial uses are no longer viable.

The site was previously in use as a pool supply company, and received nonconforming rights verification in 2018 under docket 18NONCONFORM1017. The Board of Zoning Adjustment allowed for a change of nonconformance from the previous pool supply use to 8 units of residential and commercial space under docket 18NONCONFORM1028, also in 2018. In 2020, the applicant applied for, and obtained from the Board of Zoning Adjustment in 2021, approval of a change of nonconformance to 16 units of residential space and no commercial space.

### STAFF FINDING

Staff finds that the proposed zoning change meets the guidelines of the Comprehensive Plan. The waivers are adequately justified and meet the standard of review. The site plan meets the

requirements of the Land Development Code with the exception of the requested waivers, and generally meets the guidelines of the Comprehensive Plan.

### **TECHNICAL REVIEW**

Plan 2040

Land Development Code (Louisville Metro)

Butchertown, Phoenix Hill, & NuLu Neighborhood Plan (2022)

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

### **INTERESTED PARTY COMMENTS**

One interested party comment was received by staff requesting more information about the proposal.

### **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 Traditional Neighborhood Form District

This form is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings. Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are 50 to 120 years old, the Traditional Neighborhood Form may be used when establishing new developments and redevelopments. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) in the case of new developments or redevelopments using traditional building scales and site layouts, (c) the preservation of the existing or establishing a new grid pattern of streets and alleys, and (d) preservation of or creation of new public open spaces.

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

The requested C-2 zoning is appropriate for the site, as the neighborhood of the site is generally mixed-use and mixed-zoning. To the rear of the site, across the alley, is EZ-1 zoning. The site was in non-residential use previously. This resulted in no known adverse impacts on the neighborhood. The proposal to rezone the site to commercial zoning would permit uses similar in intensity to the previous non-residential use.

The proposed zoning district is generally in compliance with the plan elements and CHASE principles of Plan 2040. All other agency comments should be addressed to demonstrate compliance with the remaining Goals, Objectives and Policies of Plan 2040.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4**

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

STAFF: The waiver will not adversely affect adjacent property owners as the LBAs are required due to a change in zoning and the encroachment is by a building that was previously in non-residential use with no known adverse impacts.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The proposed use of the property is similar to how it is used today and less intense than the non-residential uses of the past.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the subject site is already developed with structures, which are infeasible to be removed to make room for the required landscape buffer area.

- (d) Either:

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

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

STAFF: Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because provision of the required landscape buffer area is impossible without removing the structures already on the lot.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 5.5.3**

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

STAFF: The waiver will not adversely affect adjacent property owners as the parking area already exists and no wall is currently in place with no known adverse impacts.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address screening of parking except along designated parkways and scenic corridors.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the subject site is already developed and there is no room on the site for a masonry wall. The location where the wall would otherwise be placed is already used for a decorative fence.

- (d) Either:

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

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

STAFF: Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because provision of the required wall would require the removal of the existing fence, which is not permitted by the terms of the applicant's historic tax credits.

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

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

STAFF: No natural resources are evident on the site. The site is fully developed.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan.

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

STAFF: The site is nonconforming with respect to open space provisions.

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

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

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

STAFF: The overall site design is in compliance with existing and planned future development in the area. No new construction is proposed. The structures on the site already exist within their current context and are compatible with the surrounding development.

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

STAFF: The development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waivers. The site plan generally complies with the policies and guidelines of the Comprehensive Plan. The site plan would preserve an existing structure which is part of the fabric of the neighborhood.

## **REQUIRED ACTIONS**

- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-6 to C-2
- **APPROVE** or **DENY** the **Waivers**
- **APPROVE** or **DENY** the **Detailed District Development Plan** with **Binding Elements**

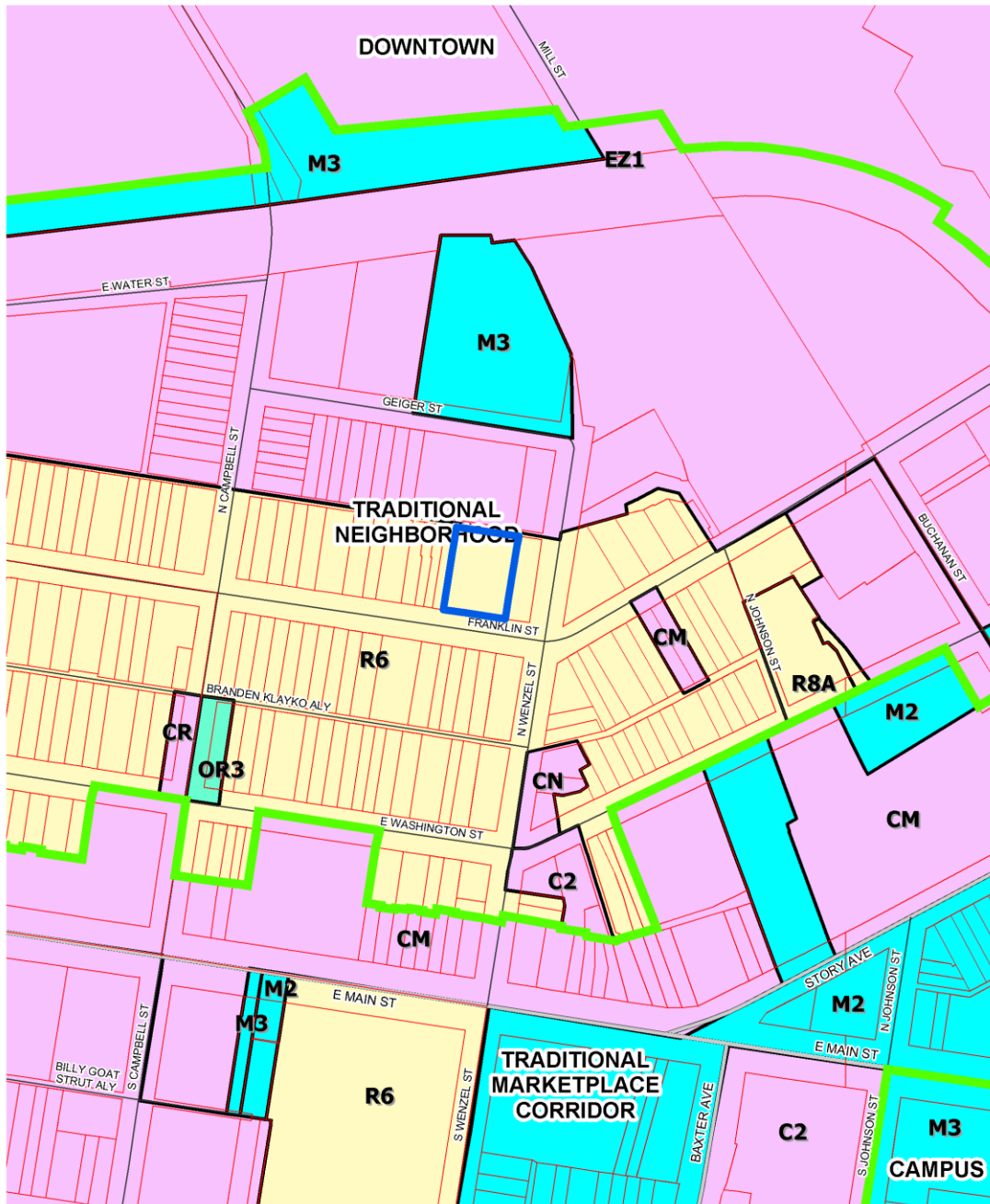
## **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>03/09/2023</b>	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners & current residents Registered Neighborhood Groups in Council District 4
<b>04/06/2023</b>	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners & current residents Registered Neighborhood Groups in Council District 4
<b>03/27/2023</b>	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

## **ATTACHMENTS**

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

1. Zoning Map



943 Franklin Street

feet



230

Map Created: 12/8/2021



Copyright (c) 2021, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA). All Rights Reserved.

2. Aerial Photograph



943 Franklin Street

feet



230

Map Created: 12/8/2021



Copyright (c) 2021, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA). All Rights Reserved.

### 3. Staff Plan 2040 Checklist

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

#### Traditional 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 site is located relatively close to E Main Street, a major transportation and transit corridor, and activity corridor. It is also relatively close to employment centers in the neighborhood.
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 site has been in industrial use in the past and the proposal is less intensive than the prior industrial development. The proposed zoning district would not be substantially different in scale and intensity compared with what was previously on the site.
3	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal would re-use an existing structure for multi-family uses and/or short-term rental uses.
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.	✓	No distinctive cultural features are evident on the site.
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 proposal would re-use an existing structure.



#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 site is located relatively close to E Main Street, an existing marketplace corridor.
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 through areas of similar intensity and density.
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 site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities.
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.	✓	Transportation Planning has approved the proposal.
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.	✓	Transportation Planning has approved the proposal.
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.	✓	Transportation Planning has approved the proposal.
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.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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.	✓	Required street trees will be provided. No other landscape types or native plant communities are evident 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.	NA	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.	NA	The site is not located in the regulatory floodplain.
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 proposal would permit a variety of housing types and would increase the variety of housing in Louisville Metro and in the neighborhood.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 proposal would support aging in place. The provision of multi-family units and short-term rental units would encourage housing close to E Main Street, a commercial and transit corridor. The proposed zoning district would also permit commercial uses in an existing neighborhood.
23	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposal would permit inter-generational mixed-income and mixed-use development. The site 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 proposal would provide housing within proximity to E Main Street, a multi-modal transportation corridor, and/or commercial uses providing neighborhood goods and services near existing housing.
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 proposal would increase the variety of ownership options and unit costs in Louisville Metro.
26	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No existing residents will be displaced by the proposal.
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 proposal would permit 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.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. 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.
7. 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.
8. The gate at the front of the property shall remain open at all times.