

Development Review Committee

Staff Report

February 19, 2020



Case No:	19-DDP-0045/19-WAIVER-0092
Project Name:	422 E Main St Development
Location:	410, 412, 414, 416, 418, 436 and 438 E Main St and 110 S Jackson St
Owner(s):	JPJ Main St, LLC.
Applicant:	JPJ Main St, LLC.
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Jay Lockett, AICP, Planner I

REQUEST(S)

- **Waivers:**
 1. Waiver from 5.9.2.D.1 (19-Waiver-0092) to allow a loading dock to be accessed directly from Jackson St where alley access is available
- **Revised Detailed District Development Plan** with revisions to binding elements

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct an 8-story structure with 343 multifamily units, 11,360 SF of first floor retail space, and an internal parking garage. The subject site is approximately 1.96 acres and is in Downtown Louisville at the intersection of E Main St and S Jackson St. The site is within the East Main-Market Review Overlay District and was rezoned to C-3 under docket 9987. The development plan approved along with the rezoning was for a proposed 18-story office and retail development. A subsequent revised plan was approved under docket 14173 and the historic structures on the subject site were demolished to construct a surface parking lot.

STAFF FINDING

The proposed uses and general layout of the development are in keeping with the development patterns of the area while providing additional housing options in the urban core. However, the development proposes an excess of curb cuts that could cause unsafe conflicts with pedestrians as well as other traffic on the surrounding public streets. For this reason, the Revised Detailed District Development Plan conflicts with provisions in the Comprehensive Plan and does not meet the standards of review. The waiver request conflicts with provisions of the Comprehensive Plan with respect to loading area location in the Downtown form district, as alley access is available to serve the subject site. The Comprehensive Plan states that site design should incorporate the needs of all road users, and that loading and parking areas in the Downtown form district should be located at the rear of sites and accessed via existing alley networks.

TECHNICAL REVIEW

Transportation planning staff expressed multiple areas of concern regarding the project in an email dated 11-7-19. They have recommended that a loading dock facing S Jackson St only be allowed if usage is restricted to hours outside peak traffic times. Proposed binding element #7 would restrict loading dock hours. Concern was also expressed regarding a proposed access point from E Market St, which has been removed after KYTC indicated that it would not be permitted. The email also expressed concern that the new curb cut on E Main St nearest the intersection would conflict with access management policies and traffic engineering best practices. Concerns that excess curb cuts could conflict with traffic on the public streets have not been addressed by the applicant.

The development proposal was approved by the Downtown Development Review Overlay under docket 19-OVERLAY-0013 on December 4, 2019.

Historic resources have been documented on the subject site, and the applicant has completed archaeological review as required by the existing binding elements.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this request.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will adversely affect adjacent property owners, as it would create an unsafe traffic situation near a major intersection.

- b. The waiver will not violate specific guidelines of the Comprehensive Plan; and

STAFF: The waiver will violate specific guidelines of the Comprehensive Plan. Community Form Goal 1, Policy 12 encourages the use of alleys to access parking and loading areas, particularly in the Downtown form district. Community Form Goal 1, Policy 13 says to integrate parking garage facilities into their surroundings and provide an active inviting street-level appearance. Community Form Goal 2, Policy 14 says that we should encourage adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Mobility Goal 1, Policy states that new development and redevelopment should provide for the movement of pedestrians, bicyclists and transit users. Mobility Goal 2, Policy 1 says to provide transportation facilities and systems that accommodate all users and allow for context-sensitive solutions that recognize the distinguishing characteristics of each of the Form Districts. Granting of the waiver would create potential conflicts and safety concerns for traffic in the surrounding public streets, especially for pedestrians and bicyclists. Alley access is available to serve the development and is the preferred method of access for parking and loading facilities in the Downtown form district.

- 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 is not the minimum necessary to afford relief to the applicant, as existing alleys and curb cuts could be utilized for access to the 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 not deprive the applicant of the reasonable use of the land, as access is available through the existing alley network.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and 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 on the subject site. The site is a known archeological site known as the Lewis Pottery site. The applicant has completed archaeological study of the site and a full report of findings has been provided. Tree canopy requirements of the Land Development Code will be provided 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 not been provided. Staff has concerns about excess curb cuts proposed near the intersection of two arterial roadways in the Downtown form district, which will negatively impact safe circulation for all road users around the subject site. KYTC has indicated that they would permit site access as proposed.

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

STAFF: All relevant open space provisions have been met for this proposal.

- 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 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. Buildings and parking lots will meet all required setbacks. The Downtown Development Review Overlay has approved the building and site design.

- 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 does not conform to applicable guidelines and policies of the Comprehensive Plan. Community Form Goal 1, Policy 12 encourages the use of alleys to access parking and loading areas, particularly in the Downtown form district. Community Form Goal 1, Policy 13 says to integrate parking garage facilities into their surroundings and provide and active inviting street-level appearance. Mobility Goal 1, Policy states that new development and redevelopment should provide for the movement of pedestrians, bicyclists and transit users.

Mobility Goal 2, Policy 1 says to provide transportation facilities and systems that accommodate all users and allow for context-sensitive solutions that recognize the distinguishing characteristics of each of the Form Districts. The development as presented does not adequately accommodate all road users, as pedestrian safety is compromised by excessive curb cuts for vehicular traffic and loading areas.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan**

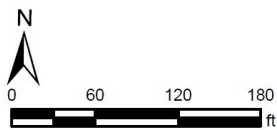
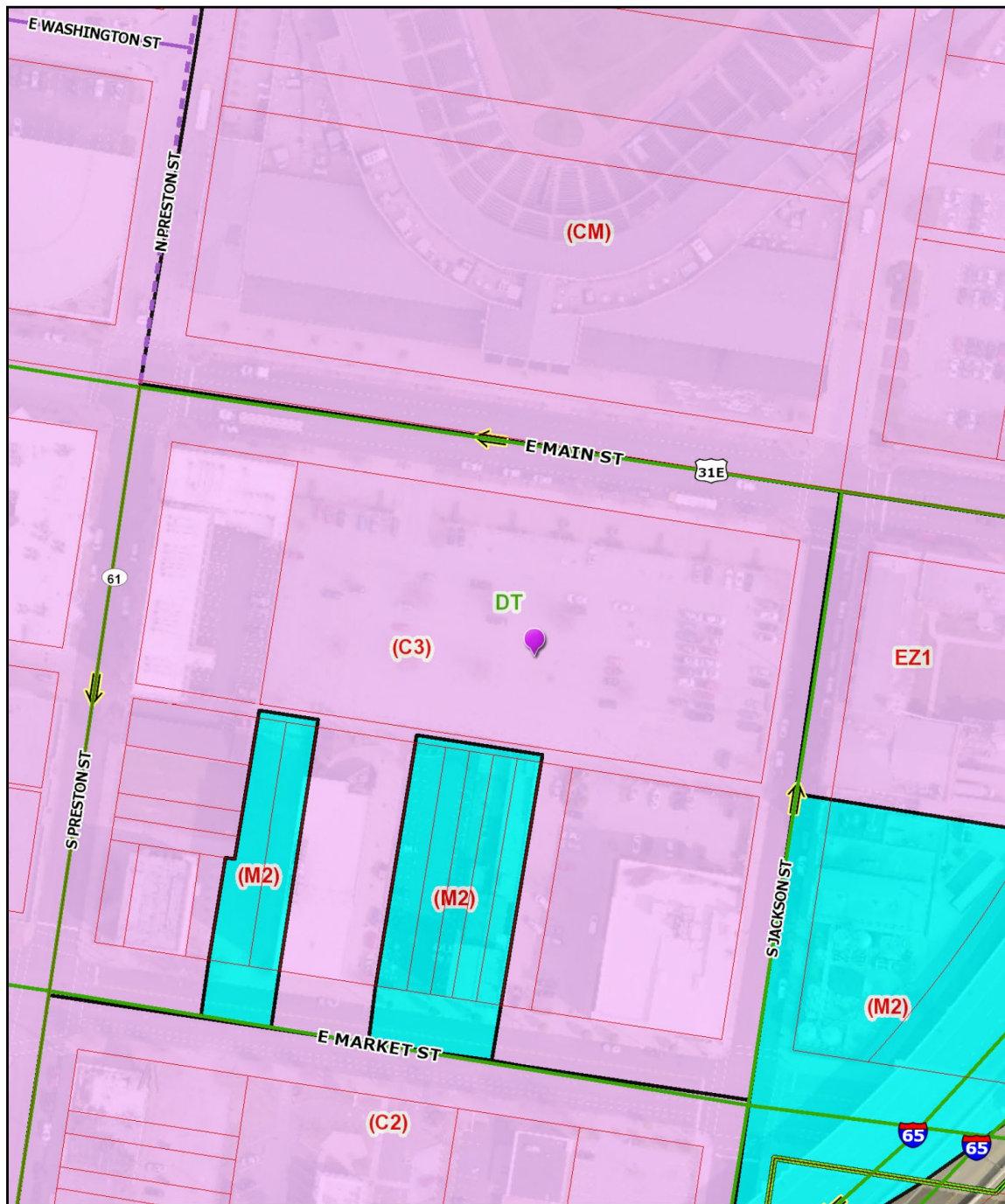
NOTIFICATION

Date	Purpose of Notice	Recipients
2-6-20	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 4

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements to be replaced.
4. Proposed Binding Elements

1. Zoning Map



19-DDP-0045

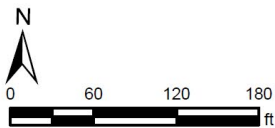
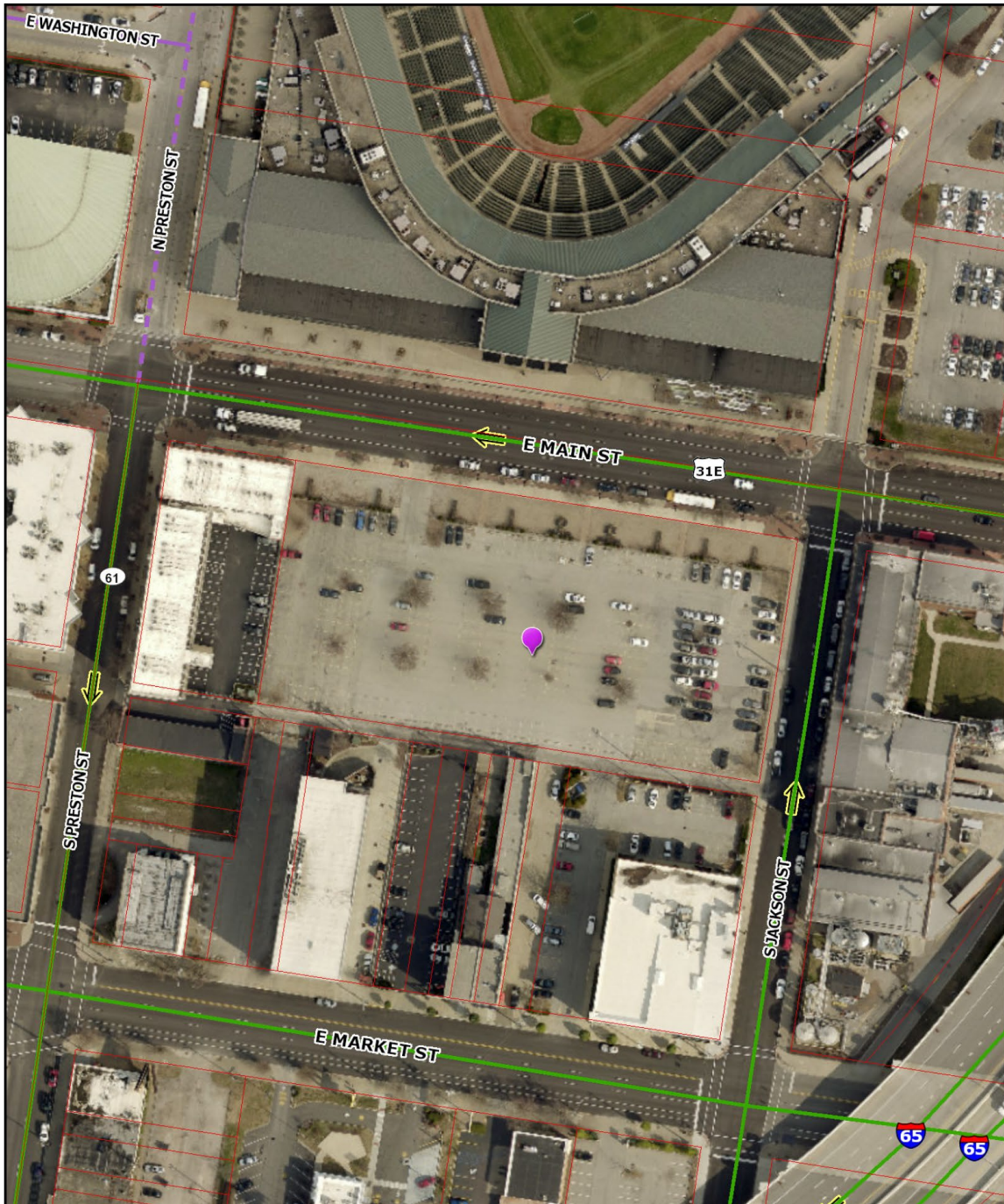
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This map is not a legal document and should only be used for general reference and identification

2. Aerial Photograph



19-DDP-0045

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3. Existing Binding Elements to be replaced

1. ~~The development shall be in accordance with the approved detailed district development plan for the phase currently in effect, 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. ~~Phase II of the development shall be limited to office, retail and a parking garage and other uses permitted in the C-3 District. There shall be no other use of the property unless prior approval is obtained from the LD&T Committee. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The LD&T Committee may require a public hearing on the request to amend this binding element.~~
3. ~~Phase II of the development shall not exceed 1,258,073 square feet of gross floor area of the building.~~
4. ~~For Phases I and II of the development, signs shall be in accordance with Chapter 8 and the Overlay Permit No. 10216-MMD, or a subsequently Amended/approved Overlay Permit.~~
5. ~~For Phases I and II of the development, no outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
6. ~~At the time of construction under Phase II of the development, the existing access points to E. Main and S. Jackson Street are to be closed and access to the site be made from the new curb cuts as shown on the development plan for Phase II.~~
7. ~~For Phases I and II of the development, 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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.~~
 - b. ~~Encroachment must be obtained from the Kentucky Department of Transportation, Bureau of Highways.~~
 - c. ~~The property owner/developer must obtain approval of a detailed plan for landscaping/streetscape as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
 - 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.~~~~

- ~~8. For Phases I and II of the development, 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 for the applicable Phase must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.~~
- ~~9. For Phases I and II of the development, there shall be no outdoor music. (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line or permitted on the site.~~
- ~~10. 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 under Phases I and II 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.~~
- ~~11. For Phases I and II of the development, the materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 19, 2008 Planning Commission meeting.~~
- ~~12. For Phases I and II of the development, the facade elevations shall be in accordance with applicable form district standards and approved DDRO Overlay Permit.~~
- ~~13. For Phases I and II of the development, at the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.~~
- ~~14. For Phase II of the development, all street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.~~
- ~~15. Phase I of the development shall be in conformance with all conditions of the approved DDRO Overlay Permit No. 10216-MMD. Additional staff level review and approval will be required for exterior lighting, signage and way-finding elements, final landscaping and screening plan, and design details of the proposed Market Street garage ramp and entry structures as constructed with Phase II of the development.~~
- ~~16. Prior to commencing site disturbance work or building demolition, the applicant, developer or property owner shall contract with the Kentucky Archaeological Survey at a cost not to~~

~~exceed \$17,500.00 to perform archaeological mitigation and monitoring on the easterly portion of the site as outlined in the Proposed Scope of Work for the Archaeological Mitigation of the Lewis Pottery Site dated June 19, 2008 prepared by M. Jay Stottman.~~

- ~~17. Phase I of the development shall be in place until the earlier of December 31, 2011 or the commencement of construction of Phase II of the development.~~

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. 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. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as approved by the Downtown Development Review Overlay Committee hearing on December 4, 2019.
 - e. 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.
6. The development shall be in conformance with all conditions of the approved DDRO Overlay Permit No. 19-OVERLAY-0013.
7. The Jackson St loading dock shall not be used weekdays from 7 AM to 9 AM or 4 PM to 6 PM.