

Development Review Committee

Staff Report

September 2, 2020



Case No:	20-DDP-0030
Project Name:	Stone Creek Parkway Apartments
Location:	700 Stone Creek Parkway
Owner(s):	NTS Realty Holdings Limited Partners
Applicant:	NTS Realty Holdings Limited Partners
Jurisdiction:	City of Jeffersontown
Council District:	18 – Marilyn Parker
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Waivers:**
 - **#1:** from 10.2.4.B to allow a utility easement to overlap a required property perimeter Landscape Buffer Area (LBA) by more than 50% (20-WAIVER-0043)
 - **#2:** from 10.2.11 to omit required Interior Landscape Areas (ILAs) on the upper deck of the parking structure (20-WAIVER-0064)
 - **#3:** from 10.2.11 to not provide required total ILA area on the site (20-WAIVER-0082)
- **Amendment of General Plan Binding Elements**
- **Revised Detailed District Development Plan** with replacement of existing Detailed Plan Binding Elements

CASE SUMMARY/BACKGROUND

The subject property is currently undeveloped and is located on Stone Creek Parkway near the intersection with S Hurstbourne Parkway. The applicant proposes a new 105-unit multi-family development on the site, with a two-level parking structure. The applicant requests waivers from the City of Jeffersontown Land Development Code to not provide the required ILAs on the top level of the parking structure, and to not provide total required ILA area on the site. The applicant also requests a waiver to overlap a required LBA by more than 50% with a utility easement.

The site was rezoned in 1983 under docket number 09-65-82, from R-6 and R-7 Multi-Family Residential, to R-9 Apartments (currently OR-3 Office Residential) for a multi-family development. The general plan was amended in 1994 to allow a portion of the overall site to be zoned C-1 and C-2 for commercial development. The subject property was not affected by this change, but the amended general plan binding elements were applied to the subject property.

The subject property was proposed to be an apartment hotel in 1998. This plan underwent several revisions and was ultimately never built. A proposal for office buildings was made in 2008, which was also not built. This proposal was made under case number 9042.

A variance for building height to exceed 45' in a form district transition zone was approved by the City of Jeffersontown Board of Adjustments on 07-08-2020, under docket 20-0011-VARIANCE.

STAFF FINDING

Staff finds that the development plan generally meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code, with the exception of the requested waivers. Staff finds that the requested waivers are adequately justified and meet the standard of review.

TECHNICAL REVIEW

Plan 2040

Land Development Code (2004) City of Jeffersontown

The plan has received preliminary approval from all applicable agencies.

INTERESTED PARTY COMMENTS

Neighbor Phil Mason has been in contact with staff to request additional information regarding the development. Mr. Mason has not expressed support or opposition to the request.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1:

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

STAFF: The waiver will not adversely affect adjacent property owners as the planting requirements will still be met.

- (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 transitions between adjacent residential areas in different density categories. The appropriate transition will be provided as the required plantings are not proposed to be waived.

- (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 neither the LBA nor the easement can be easily moved.

- (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 deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the lot is irregular in shape and constrained by the grade changes which would make relocating the easement or expanding the LBA problematic.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2:

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

STAFF: The waiver will not adversely affect adjacent property owners as adjacent property owners are unlikely to notice the lack of required ILAs.

- (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 design elements that address the urban heat island effect and energy efficiency, such as the planting and preservation of trees, cool roofs and green infrastructure, for new development. This guideline is not violated as the pavement around the missing ILAs is proposed to be concrete and a light color, and the site is using cool roofs.

- (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 providing the required ILAs on the second level of the parking structure would require the installation of landscaping wells which would increase the engineering challenges of the parking structure and increase cost such that the project would no longer be feasible.

- (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 deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the installation of landscaping wells would increase the cost of the development such that it would make the project infeasible.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #3:

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

STAFF: The waiver will not adversely affect adjacent property owners as the tree requirements for the LBA adjacent to where the ILA would have been placed shall be increased to 150% of LDC requirements, mitigating the heat island effect created by the missing ILA.

- (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 design elements that address the urban heat island effect and energy efficiency, such as the planting and preservation of trees, cool roofs and green infrastructure, for new development. This guideline is not violated because the shading effects of the extra tree plantings in the VUA LBA will mitigate the lack of the ILA and compensate for it.

- (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 site is constrained in shape and topography, and the omission of the required ILA will allow the applicant to provide additional parking to the residents.

- (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 applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived, as the applicant has agreed to increase the planting density in the VUA LBA to 150% in order to compensate for the lack of the ILA.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP

- 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. The site is undeveloped, and no natural resources appear to exist on the 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. Louisville Metro Public Works has provided preliminary approval of the plan.

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

STAFF: Required open space and recreational open space are being provided.

- 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. The scale of the proposed structure is similar to the scale of adjacent development. A variance for building height has already been approved by the City of Jeffersontown Board of Adjustments.

- 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 Land Development Code, with the exception of a requested waivers.

REQUIRED ACTIONS:

- **RECOMMEND** to the City of Jeffersontown to **APPROVE** or **DENY** the **Waivers**
- **RECOMMEND** to the City of Jeffersontown to **APPROVE** or **DENY** the **Amendment to General Plan Binding Elements**
- **RECOMMEND** to the City of Jeffersontown to **APPROVE** or **DENY** the **Revised Detailed District Development Plan and Amended Binding Elements**

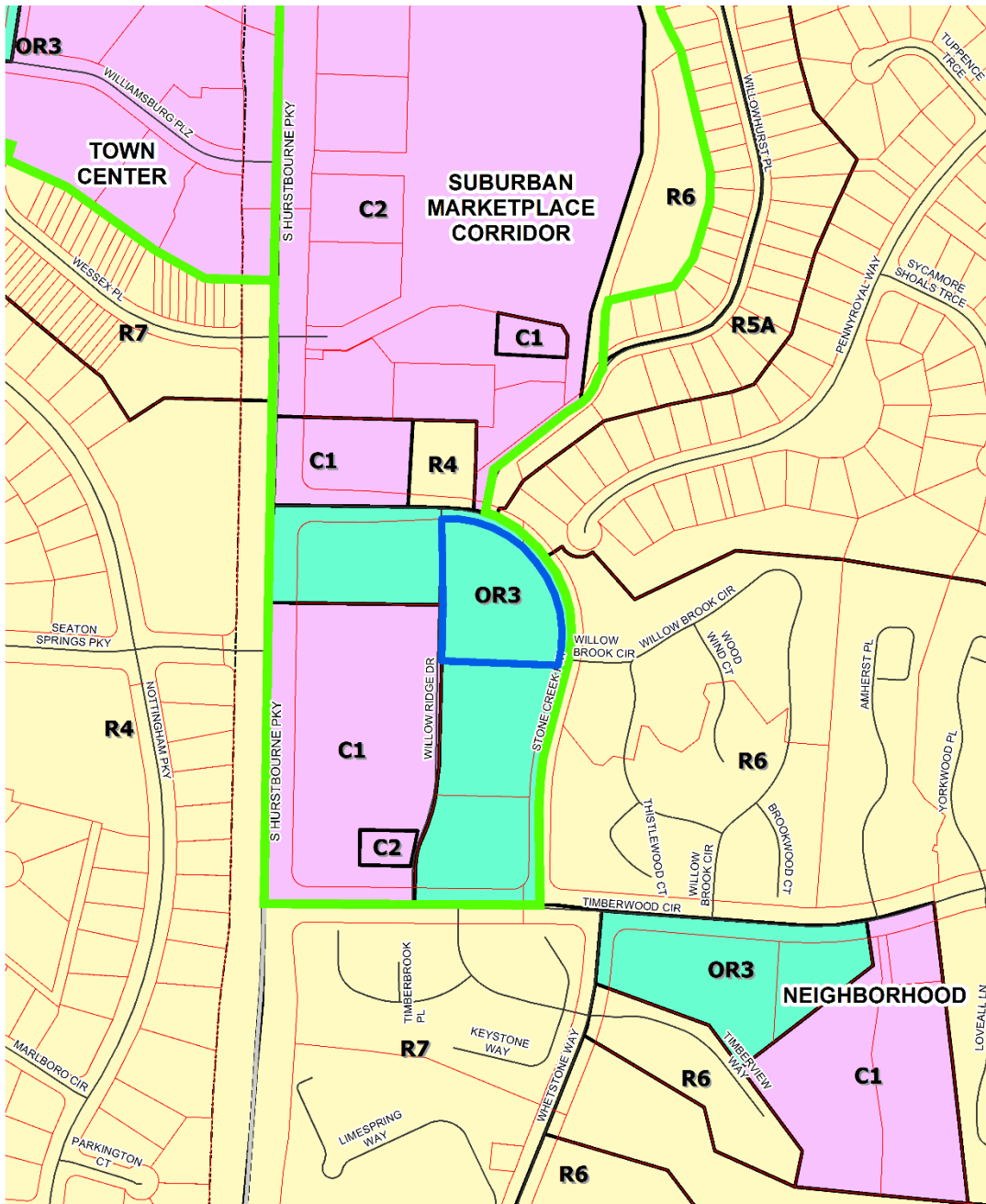
NOTIFICATION

Date	Purpose of Notice	Recipients
08/19/2020	DRC Public Meeting	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 18

ATTACHMENTS

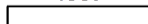
1. Zoning Map
2. Aerial Photograph
3. Existing General Plan Binding Elements 09-65-82 (to be amended)
4. Existing Detailed Plan Binding Elements 9042 (to be removed)
5. Proposed Detailed Plan Binding Elements

1. Zoning Map



700 Stone Creek Parkway

feet



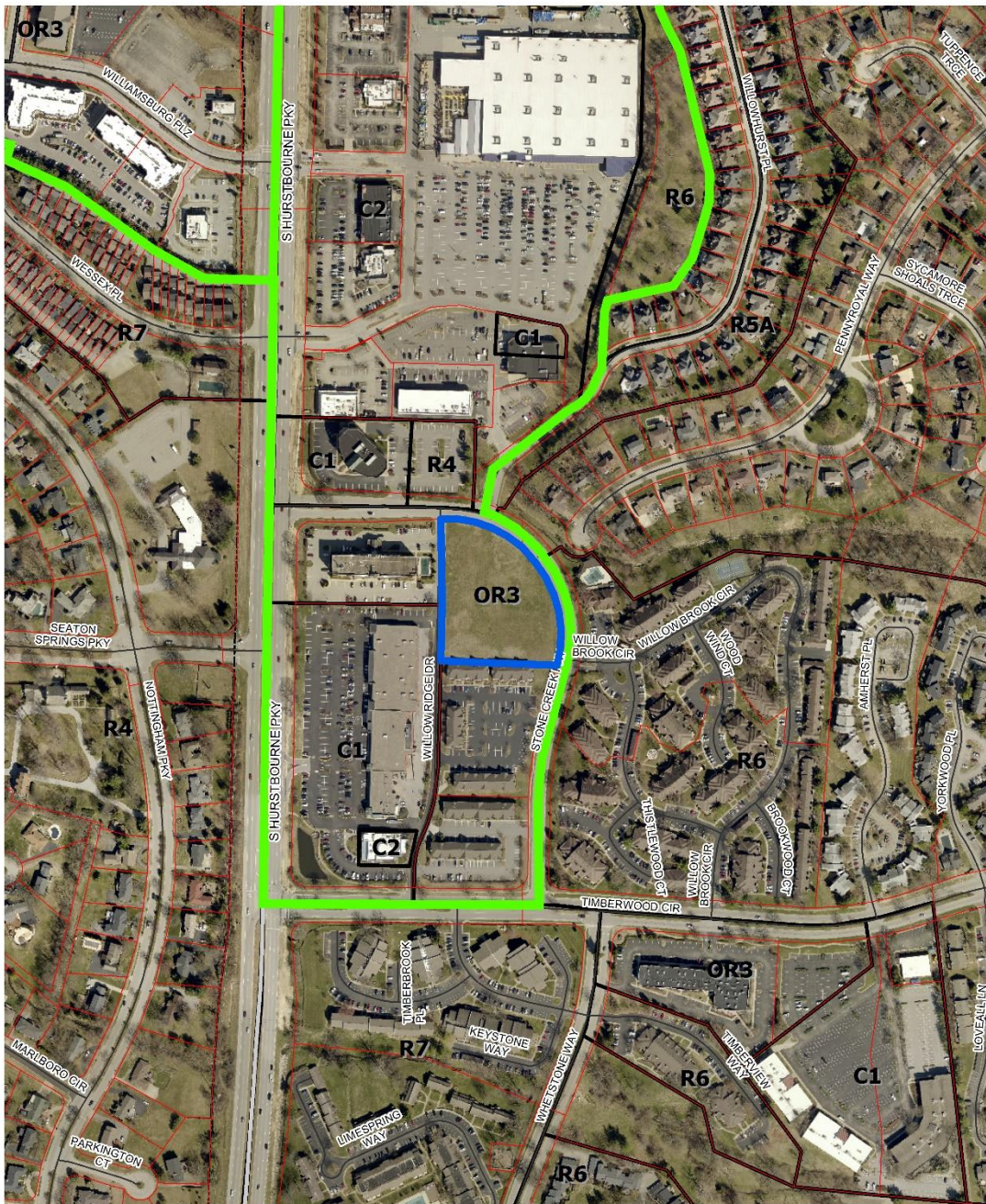
370

Map Created: 8/10/2020



Copyright (c) 2020, 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



700 Stone Creek Parkway

feet



370

Map Created: 8/10/2020



Copyright (c) 2020, 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. Existing General Plan Binding Elements 09-65-82 (to be amended)

- ~~1. The development shall not exceed 297,000 square feet in area. Building on all tracts except Tract 1A shall not exceed 3 stories in height. On Tract 1A the building height of the apartment hotel as measured from the first floor elevation to the roof line shall not exceed 46.5 feet, and building parapet walls may not extend more than 4.5 feet above the roof line. Gables and other architectural features may not extend above the top of the parapet wall in excess of 15% of the building perimeter and may not exceed 8.5 feet in height, as measured from the peak of the gable or feature, to the top of the parapet wall.~~
- ~~2. The development shall not contain medical offices. Any commercial uses proposed for this development shall be approved by the Planning Commission and the Jeffersontown City Council to assure that the use is customarily incidental to the primary use and for the convenience of the occupants.~~
3. The development shall not contain medical offices or apartment hotels. Any commercial uses proposed for this development shall be approved by the Planning Commission and the Jeffersontown City Council to assure that the use is customarily incidental to the primary use and for the convenience of the occupants.
4. Before building permits are issued:
 - a. The development plan must be reapproved by the Transportation Engineering, Water Management and Fire Safety Sections of the Jefferson County Department of Public Works and Transportation;
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways;
 - c. The record plat shall be recorded for creation of the streets and to create a cul-de-sac at the terminus of Pennyroyal Way;
 - d. The developer must obtain approval from the Planning Commission of a plan for screening (buffering/landscaping) of the property. Such plan shall reflect the planting strips along Hurstbourne Lane, Timberwood Circle and Street A as well as other general landscaping and buffering shown on the approved district development plan;
 - e. The size and location of all building and development identification signs must be approved by the City of Jeffersontown, Kentucky.
5. The screening plan shall be implemented and maintained by the property owner.
6. No building permits may be issued more than two years from the date of approval of the plan or rezoning whichever is late or the property shall not be used in any manner.
7. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use.
8. These binding elements may be amended as provided for in the Zoning District Regulations.

4. Existing Detailed Plan Binding Elements 9042 (to be removed)

- ~~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 to the City of Jeffersontown for review and approval; and changes/additions/alterations not so referred shall not be valid.

- ~~2. The development shall not exceed 40,172 square feet of gross floor area.~~
- ~~3. Signs shall be in accordance with the Jeffersontown Sign Ordinance in effect at this time and as shown on the development plan.~~
- ~~4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~5. 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.~~
- ~~6. 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 Public Works, the Metropolitan Sewer District, and the City of Jeffersontown~~
 - ~~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 building permit. 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.~~~~
- ~~7. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised detailed district development plan is approved or an extension is granted by the Planning Commission and the City of Jeffersontown.~~
- ~~8. 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 and the City of Jeffersontown.~~
- ~~9. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system.~~
- ~~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 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as submitted to the City of Jeffersontown on January 16, 2008.~~
- ~~12. 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 there after. 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.~~
- ~~13. The landscaping shall minimally be provided as shown on the site rendering dated October 24, 2007.~~
- ~~14. Additional landscaping shall be provided on the site to prevent patrons of Hurstbourne Office Plaza who may park in Plainview Office Park (phases I and II) from walking through the Plainview Office Park property to get to the Hurstbourne Office Plaza.~~
- ~~15. A landscape plan shall be submitted to the Jeffersontown City Council for approval prior to issuance of a certificate of occupancy.~~

5. Proposed Detailed Plan 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 to the City of Jeffersontown 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. Signs shall be in accordance with the City of Jeffersontown Sign Ordinance. Permits for signage shall be requested and obtained from the City of Jeffersontown.
4. 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.
5. Before any permit (including but not limited to building, parking lot, change of use is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works, the Metropolitan Sewer District and the City of Jeffersontown.
 - 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 building permit.

Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

- c. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 19, 2020 Development Review Committee meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
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 and the City of Jeffersontown.
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. If a building permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission and the City of Jeffersontown.
9. The roofs of all buildings shall be white or light in color, and in compliance with the requirements of the Cool Roof Rebate Program administered by the Louisville Metro Office of Advanced Planning and Sustainability, regardless of whether the rebate is claimed or awarded.
10. The upper deck of the parking structure shall be constructed of concrete as shown on the development plan. No asphalt shall be applied on top of the concrete, except for small amounts as required for maintenance and repairs. Under no circumstances shall the concrete be completely or substantially covered in asphalt.
11. The tree planting density for the portion of the southern 10' VUA LBA which is adjacent to the asphalt portion of the parking lot shall be 150% of Land Development Code requirements.