

# Development Review Committee

## Staff Report

June 1, 2022



<b>Case No:</b>	22-DDP-0010
<b>Project Name:</b>	Hurstbourne Pointe
<b>Location:</b>	8308 Watterson Trail
<b>Owner(s):</b>	Hurstbourne Point LLC
<b>Applicant:</b>	Hurstbourne Point LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	26 – Brent Ackerson
<b>Case Manager:</b>	Dante St. Germain, AICP, Planner II

### **REQUESTS**

- **Revised Detailed District Development Plan** and revised Binding Elements

### **CASE SUMMARY**

The subject site is located on Watterson Trail at the intersection with Hurstbourne Pointe Drive and Wattbourne Lane, and consists of one parcel which is partially developed with roadways but no buildings at this time. The applicant proposes to construct a new 48-unit multi-family development.

The site was rezoned under docket 9-29-88 from R-4 to OR-3, as part of a larger zoning change. Minor changes to the general plan binding elements were made from time to time, and general plan binding elements are in effect from this docket. No changes to the general plan binding elements are proposed with this development. This site, along with an adjacent site to the west, was proposed for 80 apartment units in 2006, under the general docket 9-29-88. The adjacent site was later developed with non-residential uses. The subject site was proposed to be developed with 48 multi-family units under docket 16865, in 2011. Some infrastructure was placed in accordance with this plan, but the buildings were not constructed. The current proposal has the same number of units and a similar layout to what was proposed under 16865.

The requested plan requires a variance, which will be heard on June 27, 2022, by the Board of Zoning Adjustment, under docket 22-VARIANCE-0051. The proposed plan, if approved, would be contingent upon obtaining the required variance.

### **STAFF FINDING**

Staff finds that the RDDDP is adequately justified and meets the standard of review.

### **TECHNICAL REVIEW**

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

### **INTERESTED PARTY COMMENTS**

No interested party comments have been received by staff.

## **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: The site is located adjacent to Fern Creek. The protected waterway buffer is being provided. Tree canopy will be provided on site, partially in a Woodland Protection Area. No historic assets are evident 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: Open space is being provided in accordance with the requirements of the Land Development Code.

- 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 would be compatible with the existing and future development of the area. A very similar proposal for the site was previously approved in 2011.

- 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.

## **REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Revised Detailed District Development Plan** with revised Binding Elements

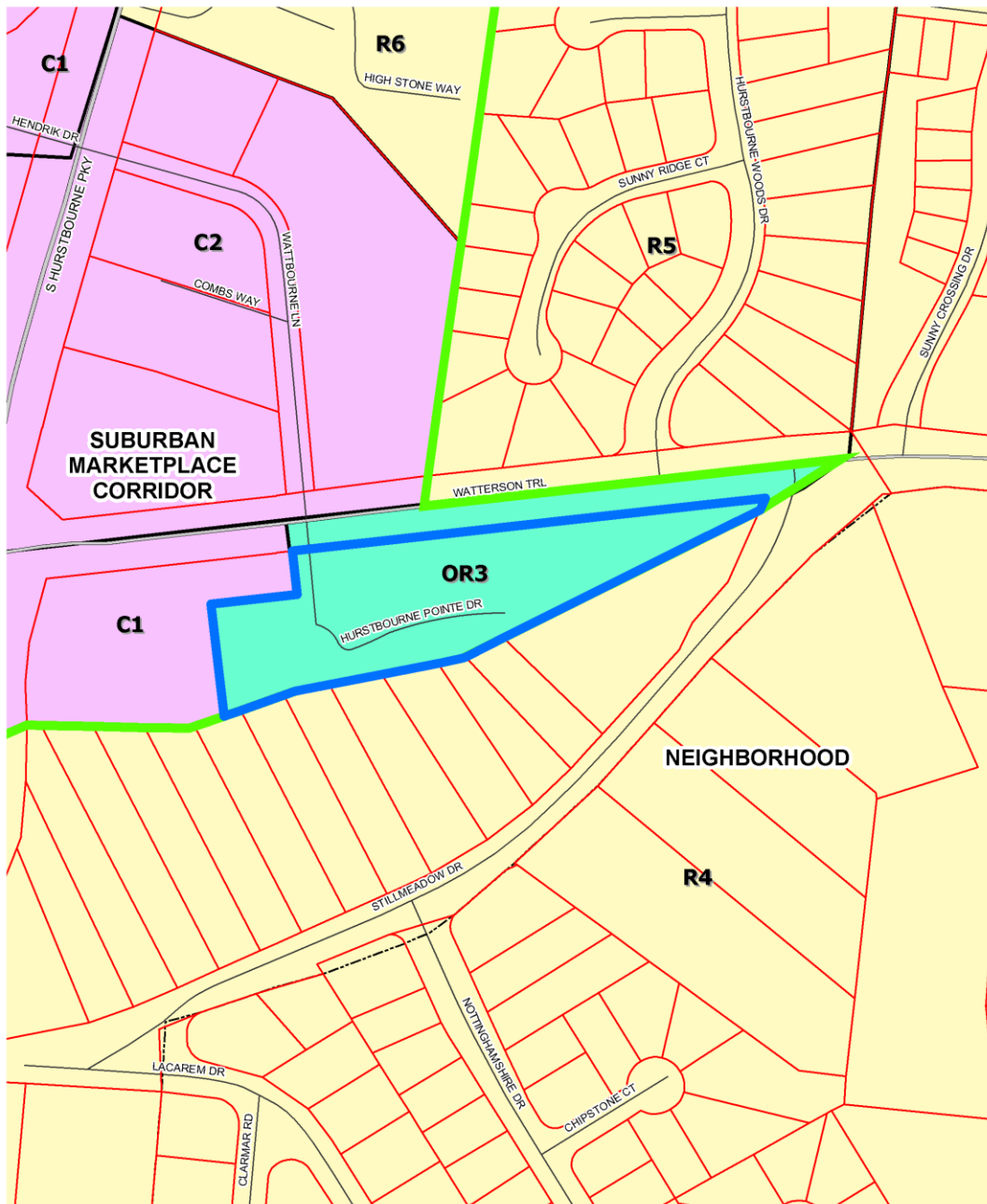
**NOTIFICATION**

Date	Purpose of Notice	Recipients
05/20/2022	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 26

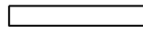
**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing General Plan Binding Elements
4. Existing Binding Elements (to be replaced)
5. Proposed Binding Elements

1. Zoning Map



8303 Watterson Trail  
feet



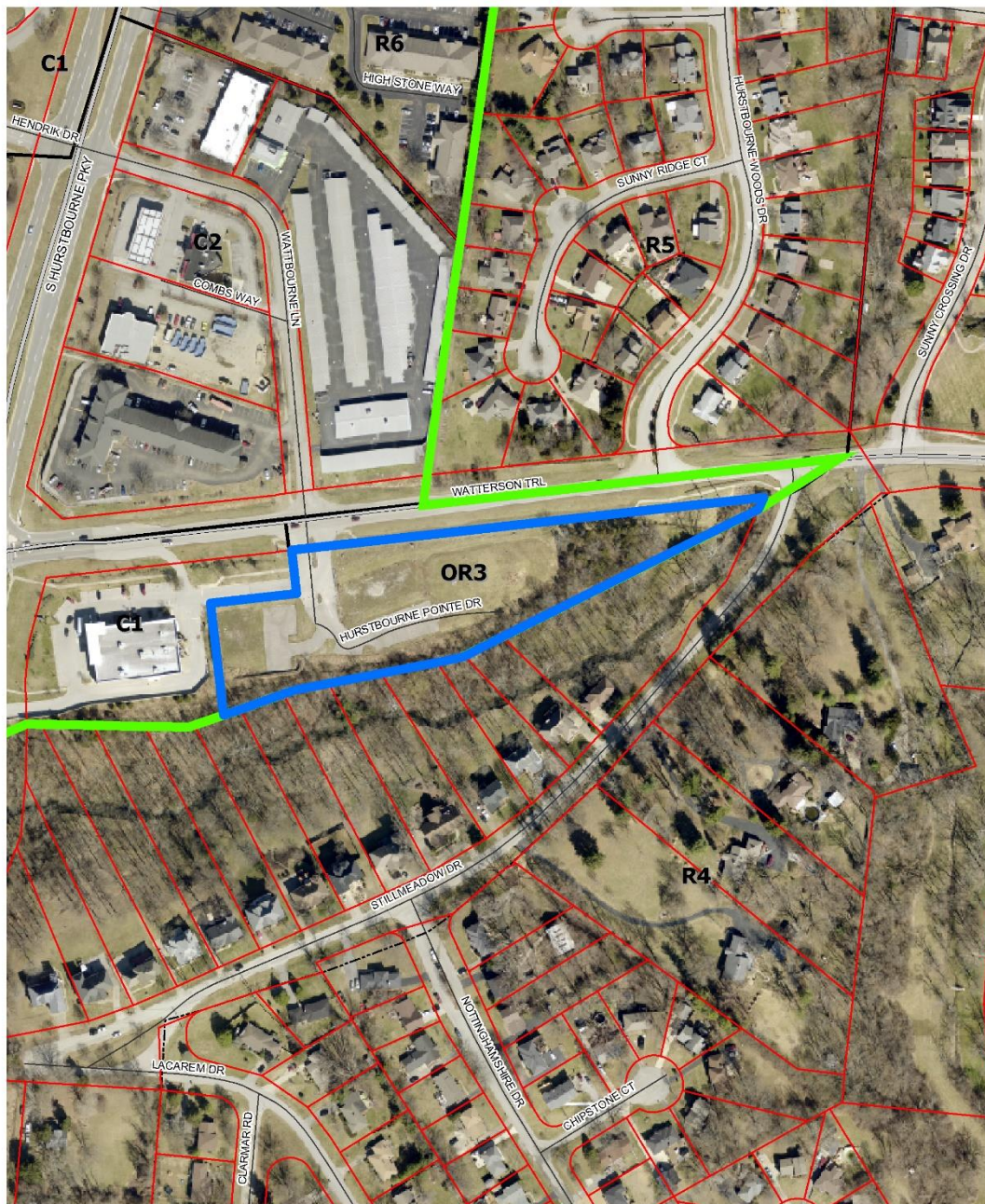
230

Map Created: 5/24/2022

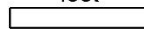


Copyright (c) 2022, LOUISVILLE AND JEFFERSON  
COUNTY METROPOLITAN SEWER DISTRICT (MSD),  
LOUISVILLE WATER COMPANY (LWC),  
LOUISVILLE METRO GOVERNMENT and  
JEFFERSON COUNTY PROPERTY VALUATION  
ADMINISTRATOR (PVA). All Rights Reserved.

## 2. Aerial Photograph



8303 Watterson Trail  
feet



Map Created: 5/24/2022



Copyright (c) 2022, 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

1. The development shall not exceed the following:
  - a) R-6 Apartment District 1,164 dwelling units (a density of 17.17 dwelling units per acre; 1,164 dwelling units on 67.81 acres)
  - b) OR-3 Office District 896,900 square feet
  - c) C-2 Commercial District 631,481 square feet

The following uses, although permitted generally in the C-2 Commercial District, are prohibited uses within the C-2 areas of Stony Brook South: adult entertainment, automobile repair garages, bookbinding facilities, dance halls, kennels, monument sales, plumbing and heating shops, sign painting, skating rinks, taverns, theaters, used car sales areas unless in connection with a new car sales dealership, advertising signs (billboards), with the exception of the property located at 4601 Wattbourne Lane, where kennels are not prohibited. The remainder of the C-2 Commercial uses (being those that are not also specifically listed in the C-1 district) shall be allowed in the C-2 areas of Stony Brook South, but only to the extent of one-third of the allowable commercial square footage allowed above ( $1/3 \times 631,481 = 210,494$  square feet).

2. Detailed district development plans shall be submitted for each site or phase of the development. Each plan shall be subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:
  - a) Screening, buffering, landscaping.
  - b) Points of access.
  - c) Density, floor area, size and height of buildings.
  - d) Land uses.
  - e) Signs.
3. Uses on tracts having their sole access from Hurstbourne Parkway shall not receive certificates of occupancy until Hurstbourne Parkway is dedicated to public use, substantially under construction, and the occupancy is approved by the Department of Public Works.
4. Signs shall be constructed only as shown on the approved sign guidelines submitted by developer. Advertising signs (billboards) shall be prohibited.
5. Building heights may be no higher than that shown on the approved General District Development Plan.
6. The western side of Lot 6 shall contain a buffer transition area 40 feet in width which shall contain a berm at least 6 feet in height and landscaping as approved by the Commission staff. This 40 foot buffer transition area shall remain in the R-4 district. Structures on Lot 6 shall be no more than one story, not to exceed 35 feet in height.
7. The eastern side of Lot 15 shall contain a 40 foot buffer transition area which shall contain a berm at least 6 feet in height. Landscaping shall be installed according to a plan approved by the Commission staff, which landscaping shall be located, as far as reasonably possible, to shield the view of office buildings from the location of houses in Springlake Farms Subdivision. No building shall be located closer to the east property line of Lot 15 than 190 feet. Structures on Lot 15 shall be no more than three stories, not to exceed 40 feet in height.

8. If building permits are 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.
9. 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. All binding elements must be implemented prior to requesting issuance of the certificate.
10. The above binding elements may be amended as provided for in the Zoning District Regulations.

#### **4. Existing Binding Elements (to be replaced)**

- ~~1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.~~
- ~~2. The density of the development shall not exceed 13.01 dwelling units per acre (48 units on 3.692 acres).~~
- ~~3. The only freestanding sign shall be located as shown on the approved detailed district development plan. The sign shall not exceed 30 square feet in area and six feet in height. No sign, including the leading edge of the sign shall be closer than 15 feet to street-side property line. No sign shall have more than two sides.~~
- ~~4. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~5. There shall be no outdoor storage on the site.~~
- ~~6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible offsite. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a building permit. Prior to requesting a certificate of occupancy for the site the applicant shall obtain certification by a qualified expert in measurement of lighting levels that the development does not to exceed .5 foot candles beyond the initial lighting measurement. Initial and final lighting measurements shall be provided to DPDS staff for placement in the development plan file.~~
- ~~7. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - ~~a. The development plan must receive full construction approval from Louisville Metro Department of Public Works and Transportation 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
  - ~~c. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.~~
  - ~~d. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the~~~~

Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

8. ~~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. 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.~~
9. ~~There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.~~
10. ~~The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.~~
11. ~~A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to grading and construction activities.~~
12. ~~If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.~~
13. ~~The site shall be developed in accordance with the woodland protection areas delineated on the site plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action. All plans setting out woodland protection areas must be in accordance with the following requirements:~~
  - a. ~~Woodland Protection Areas (WPAs) identified on this plan represent portions of the site that shall be permanently preserved existing vegetation outside of — existing utility easements shall be preserved." All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall take place within designated WPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat.~~
  - b. ~~Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.~~
  - c. ~~Tree protection fencing shall be erected around all WPAs prior to Site Disturbance Approval to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed.~~
  - d. ~~No parking, material storage or construction activities are permitted within the WPAs.~~
14. ~~The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of such restrictions shall be approved by Planning Commission counsel.~~



- ~~15. Buffers and plantings shall be provided in accordance with the Land Development Code (Chapter 10). The applicant shall work with DPDS staff to develop a continuous landscaped screen in excess of Chapter 10 adjacent to the single family residential properties to the rear of the site near Fern Creek. Perimeter screening and buffers shall be provided commensurate with any site clearing or construction activity where the adjacent property is zoned or used for residential purposes.~~
- ~~16. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 15, 2012 Development Review Committee meeting.~~
- ~~17. The property owner shall provide a cross over access easement if the property to the west is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.~~

## **5. Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.
2. The only freestanding sign shall be located as shown on the approved detailed district development plan. The sign shall not exceed 30 square feet in area and six feet in height. No sign, including the leading edge of the sign shall be closer than 15 feet to street-side property line. No sign shall have more than two sides.
3. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants balloons, or banners shall be permitted on the site.
4. There shall be no outdoor storage on the site.
5. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible offsite. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a building permit. Prior to requesting a certificate of occupancy for the site the applicant shall obtain certification by a qualified expert in measurement of lighting levels that the development does not to exceed .5 foot candles beyond the initial lighting measurement. Initial and final lighting measurements shall be provided to DPDS staff for placement in the development plan file.
6. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Public Works and Transportation 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

- e. A variance for the front yard setback shall be obtained from the Board of Zoning Adjustment.
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. 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.
8. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
9. 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.
10. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
11. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of the deed restrictions shall be approved by Planning Commission counsel. Deed Restrictions must be recorded prior to tree preservation approval. All plans setting out woodland preserved areas must contain the following notes:
  - a. Woodland Preserved Areas (WPAs) identified on this plan represent portions of the site on which all existing vegetation shall be permanently preserved. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall take place within designated WPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat. As trees are lost through natural causes new trees shall be planted in order to maintain minimum tree canopy as specified in Chapter 10, Part 1 of the LDC and as shown on the approved Tree Canopy/Landscape Plan.
  - b. The site shall be developed in accordance with the Woodland Preserved Areas delineated on the site plan and related notes. Any modification of Woodland Preserved Areas requires notification of adjoining property owners and LD&T action.
  - c. Prior to any site disturbance permit being issued and prior to any clearing, grading, or the issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
12. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 1, 2022 Development Review Committee meeting.
13. The mulch path shown in the WPA to the east of the site shall be field located upon construction in order to minimize tree removal and disturbance of the underbrush.