

VARIANCE JUSTIFICATION STATEMENT

**UTICA INVESTMENTS, LLC
Shepherd Springs Apartments**

**Revised Detailed District Development Plan Under Case No. 22-DDP-0001:
8016 Shepherdsville Road
Variance from LDC Section 5.3.1.C.2/Table 5.3.1**

The applicant, Utica Investments, LLC, has filed an application for approval of a revised detailed district development plan ("RDDDP"), wherein the applicant has requested changes to the detailed district development plan initially submitted as part of zoning application Case No. 16ZONE1027. In Case No. 16ZONE1027, the Louisville Metro Council ("Council"), via Ordinance No. 239, Series 2018 ("Initial DDDP"), upheld the Louisville Metro Planning Commission's ("Commission") recommendation of approval for R-6, Multi-Family Residential and C-1, Commercial zoning for the property located at 8016 Shepherdsville Road, Louisville, KY 40219 ("Property"). The RDDDP the applicant now submits largely keeps intact the site design as it was first approved on the Initial DDDP, but also seeks to significantly upgrade the multi-family structures thereon approved by consolidating a number of the building footprints depicted on the Initial DDDP, thereby lessening the number of buildings proposed on site, as well as improving the architectural features and building materials of such buildings. As part of the RDDDP, the applicant is asking to allow parking for some of its proposed multi-family buildings to encroach into the setback of an access easement (*not* to encroach into the easement itself) that traverses the Property; the applicant has designed the site so that the access easement aligns perfectly with the drive aisle vehicular use area on the RDDDP. As a result, the applicant is requesting variance relief from dimensional standards established in the Land Development Code ("LDC") for residential development within suburban form districts (the Property is within the Neighborhood Form).

As it relates to required yard setback standards for residential development within suburban form districts, the LDC does not distinguish between a street side yard setback and setback from access easements, even if the access easement is for a driveway to one property rather than a private street serving numerous properties. Consequently, in that regard, a private access easement serving one property is the same in the eyes of the LDC as a street. Accordingly, the applicant is requesting a fifteen foot (15') variance from LDC Section 5.3.1.C.2/Table 5.3.1 to permit parking spaces on the site to be within the setback from the access easement (the "Variance"), as reflected on the RDDDP. The Variance of fifteen (15') from the minimum street side yard requirement/private access easement complies with KRS 100.243, as more fully explained herein and, therefore, should be approved. Additionally, the applicant herein incorporates the justification it set forth in its

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Letter of Explanation, dated January 3, 2022, in support of its RDDDP application as if such justification were herein stated.

The Variance will not adversely affect the public health, safety, or welfare or alter the essential character of the general vicinity because the vehicular access across the Property will remain undisturbed and preserved, only upgraded in standard, which will provide a safer condition to traverse the Property. The dimensional relief being requested is internal to the Property and along a drive aisle which serves the development and a neighboring property with vehicular access, thereby having no external effect to the essential character of the general vicinity.

The Variance will not cause a hazard or nuisance to the public because as mentioned, the dimensional relief the applicant requests is typically applied to a private access easement that functions more akin to a roadway serving multiple properties whereas the relief the applicant requests here is from an access easement that functions as a driveway for one property and said access will be upgraded from gravel to pavement and maintained so that it remains safe for vehicular access. Additionally, the vehicular access is for private use and not open to the public, thereby preventing any hazard or nuisance to the public.

The requested variance does not allow for an unreasonable circumvention of the requirements of the zoning regulation because the dimensional relief being requested relates to parking spaces located outside of the easement area and the vehicular movement within the easement will be unaffected by any encroachment of parking spaces within the setback area. The requested variance arises from a special set of circumstances because a private vehicular access easement traverses the Property and the applicant has designed the site to accommodate vehicular access for the benefitting property owner as well as the future residents of the Shepherd Springs Apartments. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because the Plan as proposed today preserves the vehicular access. The circumstances are the result of the actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought and, accordingly, the applicant has filed for the Variance relief to address it. Consequently, the Variance of fifteen feet (15') from the minimum street side yard requirement complies with KRS 100.243 and, as a result, warrants approval.

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