

Louisville Metro Planning Commission  
December 13, 2013

Docket No. 13ZONE1015

Change in zoning from R-5A to PRD, Revised Detailed District Development Plan,  
Major Subdivision and Sidewalk Waiver at the existing Spring Villa Condominium  
Community located at 6535 Villa Spring Drive



Attorneys: Bardenwerper Talbott & Roberts, PLLC  
Land Planners, Landscape Architects & Engineers: Mindel, Scott & Associates, Inc.

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1. LOJIC Zoning Map
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7. Statement of Compliance filed with the original zone change application with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan and Variance Justification
8. Proposed findings of fact pertaining to compliance with the Comprehensive Plan and Variance criteria



HURSTBOURNE PKY

R6

R4

Watsonson Trail

R5

R5A

VILLA SPRINGS DR  
VILLA SPRINGS DR  
VILLA SPRINGS DR

LUIHE

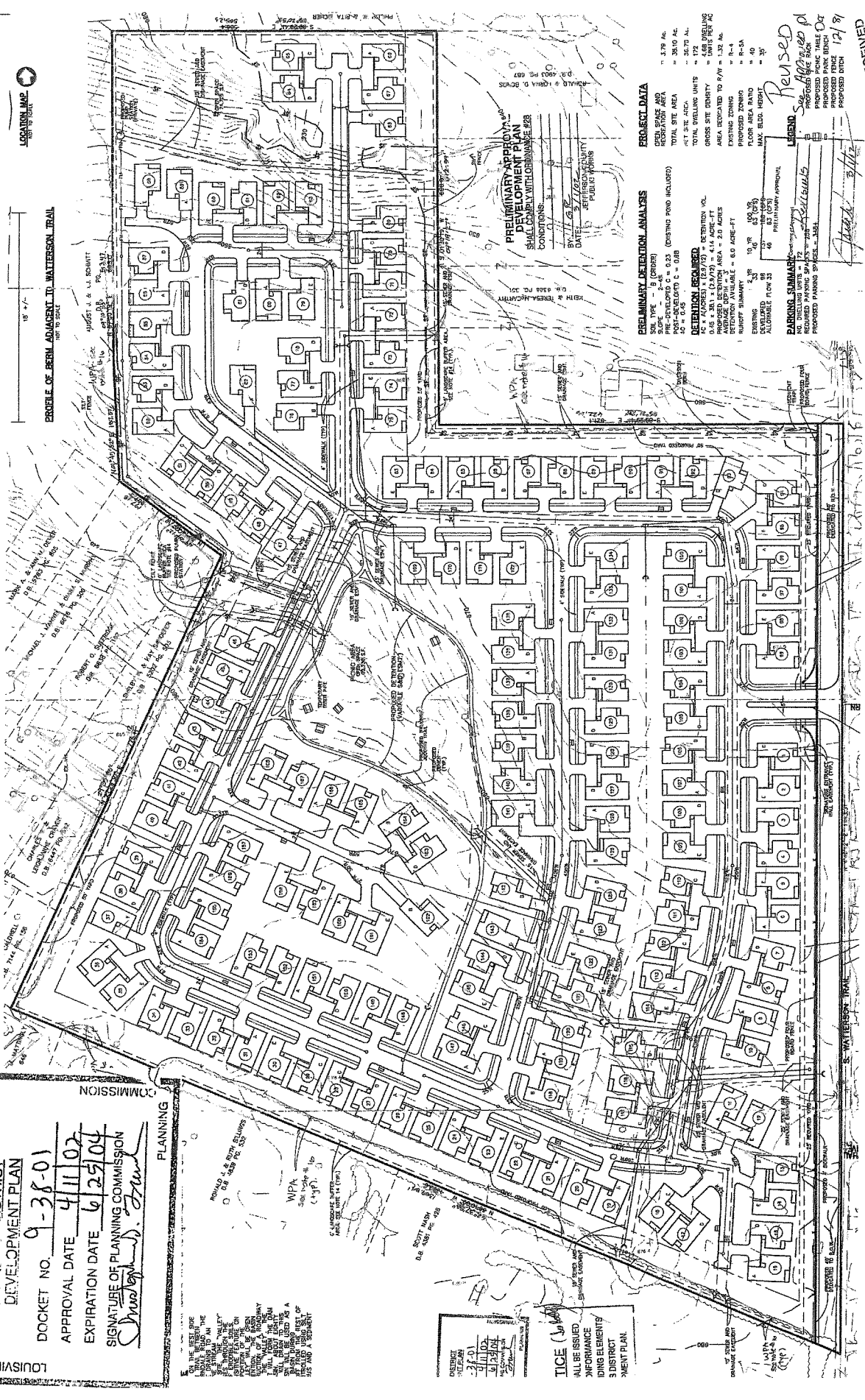
ST. BERNARD



Aerial view of the site as it exists today



PROJECT OF BERK ADJACENT TO WATKINSON TRAIL



PRELIMINARY APPROVAL DEVELOPMENT PLAN SHALL COMPLY WITH FOLLOWING CONDITIONS:  
BY: J. J. SCHWARTZ  
DATE: 4/11/02  
JEFFERSON COUNTY PUBLIC WORKS

**PROJECT DATA**  
TOTAL SITE AREA = 38.0 AC  
TOTAL BUILDING AREA = 357,711 SQ. FT.  
TOTAL DWELLING UNITS = 172  
GROSS SITE DENSITY = 4.5 UNITS PER AC  
AREA DEVOTED TO PAV = 132 AC  
EXISTING ZONING = R-4  
PROPOSED ZONING = R-4  
MAX. BLDG. HEIGHT = 40  
MAX. BLDG. HORIZ. = 30

**PRELIMINARY DETENTION ANALYSIS**  
SLOPE TYPE = B (GRASS)  
SLOPE = 0.05  
POST-DEVELOPMENT C = 0.05  
C = 0.05  
**DETECTION REQUIRED**  
PROPOSED DETENTION VOLUME = 4.14 ACRE-FT  
PROPOSED DETENTION AREA = 2.0 ACRES  
DETENTION AVAILABLE = 6.0 ACRE-FT  
**SUMMARY**  
EXISTING: 10.95 ACRE-FT  
REMOVED: 6.81 ACRE-FT  
ALLOWABLE: 17.76 ACRE-FT  
PRELIMINARY APPROVAL

**PARKING SUMMARY**  
REQUIRED PARKING SPACES = 172  
PROPOSED PARKING SPACES = 172  
PROPOSED PARKING SPACES = 172

Revised  
4/11/02  
12/18

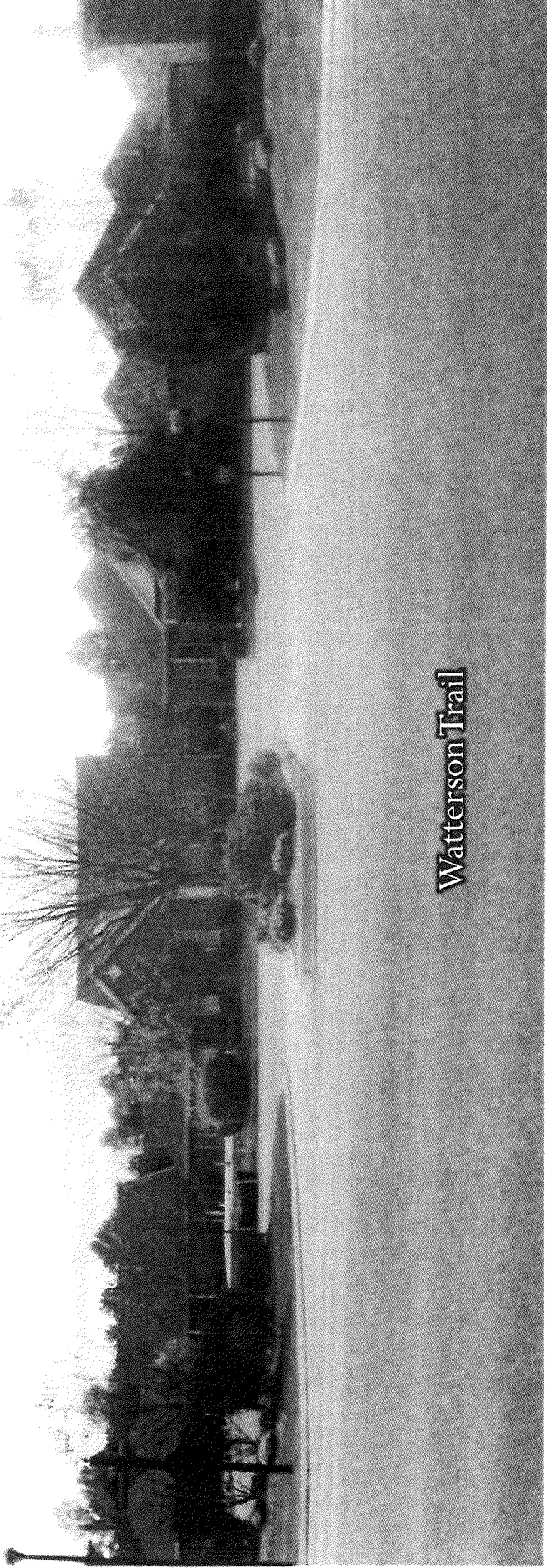
JEFFERSON COUNTY  
LOUISVILLE  
APPROVED DISTRICT DEVELOPMENT PLAN  
DOCKET NO. 9-38-01  
APPROVAL DATE 4/11/02  
EXPIRATION DATE 6/25/04  
SIGNATURE OF PLANNING COMMISSION  
*Christy...*

ON THE THESE ARE THE PLANS FOR THE PROJECT...  
WIPA  
REWARD & BENE...  
MUNICIPAL...  
MUNICIPAL...

ICE  
ALL BE ISSUED  
INFORMATION  
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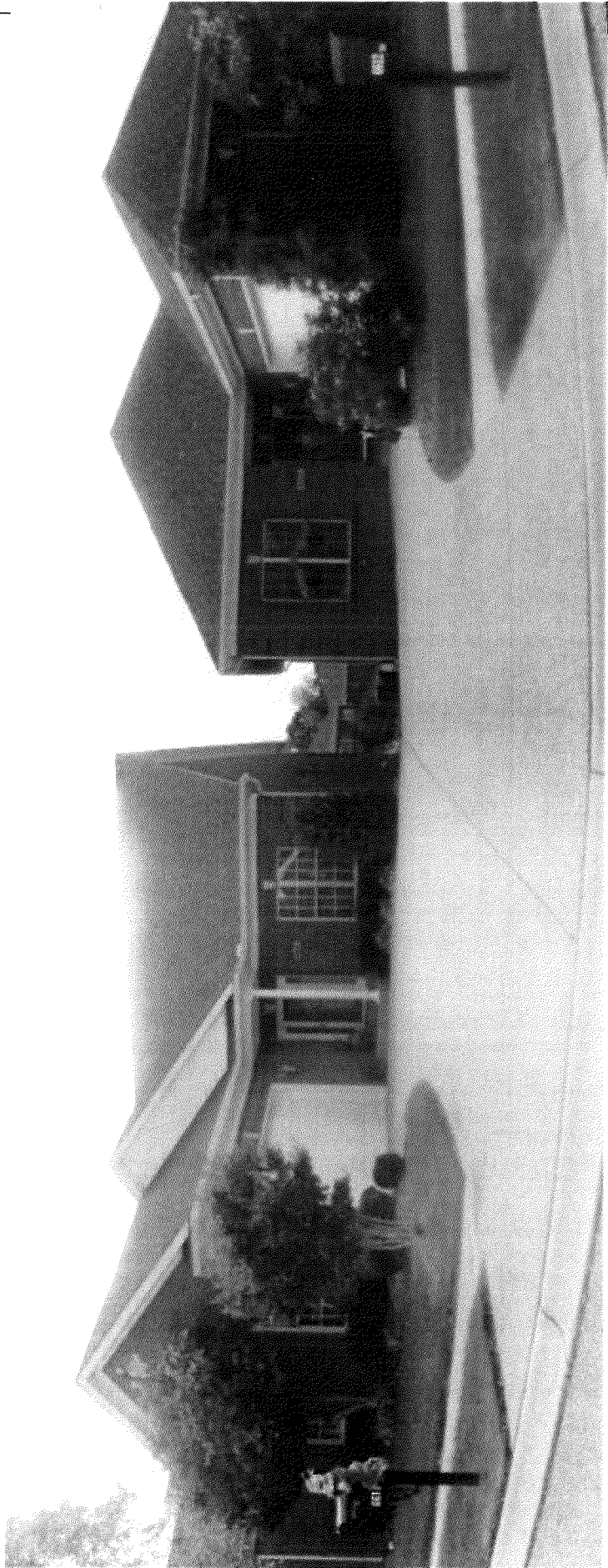
Currently Approved Condo Plan for 172 Condo Units

Watterson Trail



















**TERMINATION AND WAIVER OF  
MASTER DEED OF HORIZONTAL PROPERTY REGIME AND DECLARATION OF  
CONDOMINIUM OWNERSHIP CREATING AND ESTABLISHING A PLAN FOR  
CONDOMINIUM OWNERSHIP FOR SPRING VILLA CONDOMINIUMS  
AND**

**ESTABLISHMENT OF NEW DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR**

**SPRING VILLA SUBDIVISION**

Plat and Subdivision Book \_\_\_\_\_, Page \_\_\_\_\_  
Jefferson County, Kentucky

**THIS TERMINATION AND WAIVER OF MASTER DEED OF HORIZONTAL PROPERTY REGIME AND DECLARATION OF CONDOMINIUM OWNERSHIP CREATING AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP FOR SPRING VILLA CONDOMINIUMS AND ESTABLISHMENT OF NEW DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SPRING VILLA SUBDIVISION ("Declaration") is simultaneously made, imposed and declared on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and among: CITIZENS UNION BANK, whose mailing address is PO Box 189, Shelbyville, KY 40066 (the "Declarant"); CITIZENS UNION BANK, whose mailing address is PO Box 189, Shelbyville, KY 40066; WOODIE M. McELVANEY & JANICE H. McELVANEY, husband and wife, whose mailing address is 8201 Parker Grant Court, Louisville, KY 40291; BRENDA DILLER, widow, whose mailing address is 8207 Parker Grant Court, Louisville, KY 40291; THOMAS V. BARKER, JR. & MARY ANN BARKER, husband and wife, whose mailing address is 8209 Parker Grant Court, Louisville, KY 40291; SANDRA LEFFEL, unmarried, whose mailing address is 7112 Brett Frazier Drive, Louisville, KY 40291; WALTER H. ENLOW & KAREN S. ENLOW, husband and wife, whose mailing address is 7114 Brett Frazier Drive Louisville, KY 40291; GWENDOLYN LAMBERT, widow, whose mailing address is 7120 Brett Frazier Drive, Louisville, KY 40291; MARY CAMILLE ERWIN, unmarried, whose mailing address is 7124 Brett Frazier Drive, Louisville, KY 40291; RICHARD ISCRIGG & ROBERTA D. ISCRIGG, husband and wife, whose mailing address is 6502 Villa Spring Drive, Louisville, KY 40291; CAROLYN E. WOODSON & CATHERINE J. WOODSON, both unmarried, whose mailing address is 6517 Villa Spring Drive, Louisville, KY 40291; TERRI L. HARRAL, unmarried, whose mailing address is 6519 Villa Spring Drive, Louisville, KY 40291; CHRISTINE A. WOJOWICZ, unmarried, whose mailing address is 6521 Villa Springs Drive, #92, Louisville, KY 40291; GEORGE FREEMAN & VALERIE FREEMAN TRUST under Agreement dated December 18, 2006, whose mailing address is 6523 Villa Spring Drive, Louisville, KY 40291; JOSEPH K. MITZLAFF & KAREN A. MITZLAFF, husband and wife, whose mailing address is 6533 Villa Springs Drive, Louisville, KY 40291; STANLEY W. SALYARDS, unmarried, whose mailing address is 6534 Villa Springs Drive, Louisville, KY 40291; CARMEN K. BARROW & RICHARD M. HARRIS, unmarried, whose mailing address is 6536 Villa Springs Drive, Louisville, KY 40291; PATRICIA A. MOON, MICHAEL L. MILLER & MARVIN E. MILLER, whose mailing address is 6613 Downs Branch Road, Louisville, KY 40228; HAROLD L. ADKINS & CHARLENE B. ADKINS, husband and wife, whose mailing address is 6603 Villa Spring Drive, Louisville, KY 40291; JACK W. SEYMOUR & NANCY E. SEYMOUR, husband and wife, whose mailing address is 6511 Villa Springs Drive, Louisville, KY 40291; TERI LYNN SCHNEIDER, unmarried, whose mailing address is 6513**

Villa Springs Drive, Unit #88, Louisville, KY 40291; **BARBARA J. CURRY**, unmarried, whose mailing address is 6515 Villa Spring Drive, Louisville, KY 40291; **BETTIE L. McCORMICK**, whose mailing address is 6603 Casey Springs Way, Louisville, KY 40291; **ROGER E. GOODIN, SR. & DONNA E. SMITH-GOODIN REVOCABLE LIVING TRUST, DATED AUGUST 14, 2006, ROGER E. GOODIN, SR. AND DONNA E. SMITH-GOODIN, CO-TRUSTEES, DATED AUGUST 14, 2006**, husband and wife, whose mailing address is 6604 Casey Springs Way, Louisville, KY 40291; **MARIE TOLLY**, unmarried, whose mailing address is 6605 Casey Springs Way, Louisville, KY 40291; **LOUIS HARBSMEIER & BARBARA M. HARBSMEIER**, husband and wife, whose mailing address is 6606 Casey Springs Way, Louisville, KY 40291; **BARBARA J. SHEEHAN**, unmarried, whose mailing address is 6607 Casey Springs Way, Louisville, KY 40291; **DAVID L. ROYALL**, unmarried, whose mailing address is 6608 Casey Springs Way, Louisville, KY 40291; **BOBBY C. LANHAM & BARBARA S. LANHAM**, husband and wife, whose mailing address is 6609 Casey Springs Way, Louisville, KY 40291; **DEBRA J. SIMMS**, unmarried, whose mailing address is 6610 Casey Springs Way, Louisville, KY 40291; **LOUIS KERN & PATRICIA G. KERN**, husband and wife, whose mailing address is 6611 Casey Springs Way, Louisville, KY 40291; **CHARLES COSTELLO & DONNA COSTELLO**, husband and wife, whose mailing address is 6612 Casey Springs Way, Louisville, KY 40291; **C. NELL FREEMAN AND KEITH C. FREEMAN in their capacities as Co-Trustees under the C. NELL FREEMAN LIVING TRUST dated January 15, 1992**, whose mailing address is 6613 Casey Springs Way, Louisville, KY 40291; **KENDRIX COMBS & PATRICIA COMBS**, husband & wife, whose mailing address is 6614 Casey Springs Way, Louisville, KY 40291; **STEPHEN B. TONG**, unmarried, whose mailing address is 6616 Casey Springs Way, Louisville, KY 40291; **DAVID B HALL & JUDY HALL**, husband and wife, whose mailing address is 6617 Casey Springs Way, Louisville, KY 40291; and **JOHN P. ZOLL & SHERRY D. ZOLL**, husband and wife, 6622 Casey Springs Way, Louisville, KY 40291; **J. E. VAN BOGAERT TRUST dated August 8, 1990**, whose mailing address is 6615 Casey Springs Drive, Louisville, KY (collectively, the "Owners").

**WITNESSETH:**

**WHEREAS**, pursuant to that certain Master Deed of Horizontal Property Regime and Declaration of Condominium Ownership Creating and Establishing a Plan for Condominium Ownership for Spring Villa Condominiums dated January 4, 2005, of record in Deed Book 8549, Page 930, as rerecorded in Deed Book 8556, Page 318, both in the Office of the Clerk of Jefferson County, Kentucky, CARL R. COX, LLC, a Kentucky limited liability company, and LARRY F. AND MARY ANN OGLE, LLC, a Kentucky limited liability company (collectively, the "Original Developer") as the original developer of certain property in Jefferson County, Kentucky established a condominium regime titled "SPRING VILLA CONDOMINIUMS" (the "Condominium Regime") on that certain real property, as more particularly described on Exhibit A attached hereto and made a part hereof (the "Condominium Property"), as amended by that certain First Amendment to Master Deed of Spring Villa Condominiums, dated March 3, 2005, of record in Deed Book 8580, Page 688 in the Office of the Clerk of Jefferson County, Kentucky, as further amended by that certain Second Amendment to Master Deed of Spring Villa Condominiums, dated April 21, 2005, of record in Deed Book 8612, Page 325 in the Office of the Clerk of Jefferson County, Kentucky, as further amended by that certain Third Amendment to Master Deed of Spring Villa Condominiums, dated July 20, 2005, of record in Deed Book 8661, Page 889 in the Office of the Clerk of Jefferson County, Kentucky, as further

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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## STATEMENT OF COMPLIANCE WITH THE APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

<u>Owner:</u>	Citizen Union Bank
<u>Applicant:</u>	Citizen Union Bank
<u>Project Name:</u>	Spring Villa
<u>Current Zoning and Use:</u>	R-5A Condominiums
<u>Proposed Zoning:</u>	Planned Residential District (PRD)
<u>Proposed Use:</u>	Single family
<u>Engineers, Land Planners &amp; L.A.s</u>	Mindel, Scott & Associates, Inc.
<u>Attorneys:</u>	Bardenwerper, Talbott & Roberts, PLLC

### INTRODUCTION

The Spring Villa residential community dates back to before the formation of Louisville Metro Government, when the Planning Commission and Fiscal Court approved a 172-unit condominium community on this property. No greater number of homes is planned now than the number of condo units approved and set forth in the binding elements found in the Planning Commission's April 11, 2002 minutes.

This application is intended to save the Spring Villa condominium community that has most of the infrastructure already installed but where condominium patio home construction came to a screeching halt when the catastrophic housing Recession occurred, which largely lingers to this day. The developer/builder ended up losing its development rights to its lender, at which point the lender tried various ways to find new builders to complete Spring Villa as a condominium community. However, that was just about impossible, in large part because the problem with condominium construction today is with federal lending rules that apply nationwide, not just in those states (such as Florida, Arizona and Nevada) where the real condominium crisis occurred. It was in those states, especially Florida, where lots of high rise condominium projects were built, where lenders ended up as the "owners" of unfinished high-rise buildings (e.g., Florida) or large tracts of patio home-style condominium homes where no buyers existed (e.g., Arizona and Nevada). Federal rules established strict presale requirements before FHA, Fannie Mae or Freddie Mac lending support would be allowed. And this occurred at the same time that private loans dried up, while the markets turned to the federal government for loan support. With few condominium buyers, lenders were unwilling to loan developers the money to complete the construction of their projects. The housing Recession, which resulted in something like a 70% decrease locally in home sales, also took down a similar percentage of builders and developers. People left living in these communities were more or less stranded, as they are at this one, in a development that, but for the extraordinary efforts of this lender and its special purpose entity that now owns the property, combined with the builder/developer that is

considering completing the project, are now looking to this Planning Commission to do its part to help revive this moribund Cedar Point development, to turn it into the thriving community it was expected to be for the original home buyers, and generate permit fees and property taxes to benefit all of Metro Louisville.

This lender has paid a large cost in terms of its original willingness to contribute to the growth and development of Louisville Metro and more recently has paid considerable fees to negotiate new agreements with the condominium unit owners so that they can terminate their condominium regime and reestablish their community as a standard subdivision. Over a period of many months, every word of the condominium documents has been negotiated and drafted and redrafted to try to get every last condominium unit owner on the same page with the lender's entity and potential new builder. Just about everyone, possibly everyone, now seems content with what has occurred and seems optimistic about the future of their community.

The efforts to negotiate these documents, changing this community from a condominium regime to a subdivision and to devise a new plan, with the number of lots with setbacks, street systems, open spaces and so forth all now determined, is at its end. The bank has approved this, the regulators are on board, as are all, or just about all, of the current condominium residents.

Because very little changes in what is now being presented to the Planning Commission over what was originally approved, the modest concessions that are being requested in terms of rezoning, lot count, and necessary variances, represent no negative impacts on the greater community or anyone living nearby. Complete demonstration with all applicable Guidelines and Policies of the Comprehensive Plan is being fully demonstrated, as further evidenced by the revised district development and preliminary subdivision plans filed with this application and as will further be explained at the LD&T meeting and the Public Hearing in this case.

As part of this discussion, it is important again to know that the number of homes currently under consideration at Spring Villa are the same as the number of condo units originally approved, and the traffic and transportation analysis approved at the time, considering existing infrastructure, can still accommodate both what is approved and what is proposed.

### **PRD DEVELOPMENT STANDARDS**

The PRD District is intended to provide flexibility in residential design. PRD subdivisions must meet two of five listed criteria. Because this application will not be reserving ten percent of proposed dwelling units for "affordable" housing, as described in the ADI guidelines, that also must be justified.

This application satisfies two of the five criteria as explained in this Compliance Statement – those being its contribution to the variety of housing styles serving the needs of people of different ages and incomes in this area and in the community as a whole and also being its expansion of the diversity of housing types available in the neighborhood. As said, this Compliance Statement elsewhere more fully explains exactly how this is accomplished. As to the lack of commitment to a certain percentage of "affordable" housing units, the diversity and style of housing on small single-family lots offered by this maintenance-free community compensates for that lack of technical affordability requirement. Within the context of the greater Louisville community and nearby neighborhoods, these proposed houses will be affordable, relatively speaking, and mostly a move-down in size but not price or amenity for mostly empty-nesters currently residing in mostly larger homes on larger lots.



design; mitigating impacts such as traffic, lighting and visual nuisances; promoting a variety of housing types, including mixtures of densities up to higher densities; assuring accessibility and provision of housing for elderly people and those with disabilities; assuring appropriate/inclusive housing; and making sure that transitions, buffers, setbacks, lot dimensions and building heights are appropriate to their surroundings.

This application complies with all of these Intents and applicable Policies of this Guideline for all of the reasons described in the Introduction and other Guideline discussions above. As originally designed, Spring Villa complies with all of these Intents and Policies of this Guideline, because the Cornerstone 2020 Comprehensive Plan was already in place at that point in time. But today, over ten years later, from all of the development that has occurred, which is attractive, well connected and highly popular for those and lots of other reasons, Spring Villa now, even more so, clearly fits with all of the Intents and Policies of this Guideline. And the redesign for this PRD rezoning with individual lots is an especially good idea because, although this overall area includes a wide variety of housing types of various sizes in various ownership forms with various designs, the proposed PRD development of small single-family lots will be something unique. It is proposed to be high quality and mid-range as a price point, but affordable in the overall context of the much larger Louisville community where some homes are double or triple the price of those proposed in this particular PRD community. It will also include a certain level of maintenance free living, which should be especially attractive to many empty-nesters who often times want to move into an area where larger standard single-family lot communities exist so that parents can reside closer to their kids and grandparents closer to their grandchildren. Building materials will be high quality, comparable to those in other nearby communities and exactly as previously approved for and already existing in this community as it currently exists. Designs will be innovative and more fully explained at the Planning Commission's LD&T Committee meeting and eventual Public Hearing.

#### **GUIDELINES 4, 5 and 13 - OPEN SPACE; NATURAL AREAS; LANDSCAPING**

The Intents and applicable Policies 1, 3, 6 and 7 of Guideline 4, applicable Policy 6 of Guideline 5 and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 all promote enhancing the quality of life in Metro Louisville through the provision of accessible and functional open spaces that are well landscaped and appropriately aesthetically designed. These Intents and Policies also encourage open spaces and the maintenance of them; restrict developments in areas where soils and slopes will adversely impact new development; and assure that landscape materials include native plants of high quality design, protection or planting or adequate tree canopy, and the provision of buffers where uses may be incompatible one with the other.

This application complies with all of these Intents and applicable Policies of these Guidelines for reasons clearly evident on the revised detailed district development and preliminary subdivision plans filed with this PRD rezoning application. In addition, a concept landscape plan shows on the colored plan filed with the application. More detail will be available on this subject at the time of the LD&T Committee meeting and Planning Commission Public Hearing.

Also, because the streets are all connected, the ability to move about through this community via alternate modes of transportation, notably by walking and bicycle, will be both available and encouraged.

#### **GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY**

The Intents and applicable Policies 2, 5, 6 and 11 of this Guideline are to ensure the availability of necessary usable land to facilitate all forms of development, including residential; to reduce public and private cost for land development; to locate activity centers near places where people live; to assure good access; and to provide opportunities for adaptive reuse.

This application complies with the Intents and applicable Policies of this Guideline because, as explained hereinabove, Spring Villa became a moribund development after the housing recession. It has remained in a state of non-development since the time that much of the infrastructure was installed. When you drive through the community today, what you see is 38 finished condominium units with lots of street and related infrastructure installed but no other housing being built. The development just stalled. CUB Bank has proposed a PRD form of development utilizing much of the infrastructure as it already exists, altering it only slightly as necessary to accommodate the locations of homes on the proposed new lots, thus taking advantage of the unused infrastructure and previous approvals that exist, while providing a new living environment with a form of housing that appears to be in great demand.

### **GUIDELINES 7 AND 8 – CIRCULATION AND TRANSPORTATION FACILITY DESIGN**

The Intents and applicable Policies 1, 2, 4, 9, 10, 11, 13, 14, 15 and 16 of Guideline 7 and applicable Policies 4, 5, 8, 9, 10 and 11 Guideline 8 all seek to assure the provision for safe and proper functioning of streets; that new developments do not exceed the carrying capacity of streets; that internal and external circulation provide for safe and efficient travel movements; that air quality always be addressed; that new developments be evaluated for their impacts on existing streets and roadway systems; and that new developments assure adequate right-of-way, sufficient parking, good corner clearances, connectivity, appropriate driveway design, good site distances and safe internal circulation.

This application complies with all of the Intents and applicable Policies of these Guidelines for reasons evident on the detailed development plan and preliminary subdivision plan filed with this application. Also, although this is a PRD rezoning application to transform part of an already approved condominium community to a new form of residential subdivision, the street systems mostly already exist. Also, off-site transportation improvements were previously made when the original Spring Villa development was constructed, including road improvements along S. Watterson Trail. The biggest question as respects this particular development proposal probably has to do with the proposed conversion of some internal private streets to public ones. In the course of the Metro Public Works and Transportation Planning reviews of this proposal, those existing private streets will be evaluated in terms of the quality of original construction as well as the amounts of available right-of-way and widths. Also, the lot sizes and location of homes will be evaluated in terms of the lengths of driveways to assure that sidewalks are not impeded with driveway parking. Prior to review by the LD&T Committee and in Public Hearing, this application will require the preliminary stamp of approval from appropriate Metro Public Works and Transportation agencies.

### **GUIDELINE 9- BICYCLE, PEDESTRIAN AND TRANSIT**

The Intents and applicable Policies 1, 3 and 4 of this Guideline all encourage alternate forms of transportation, which in this area means bicycle and pedestrian traffic capabilities.

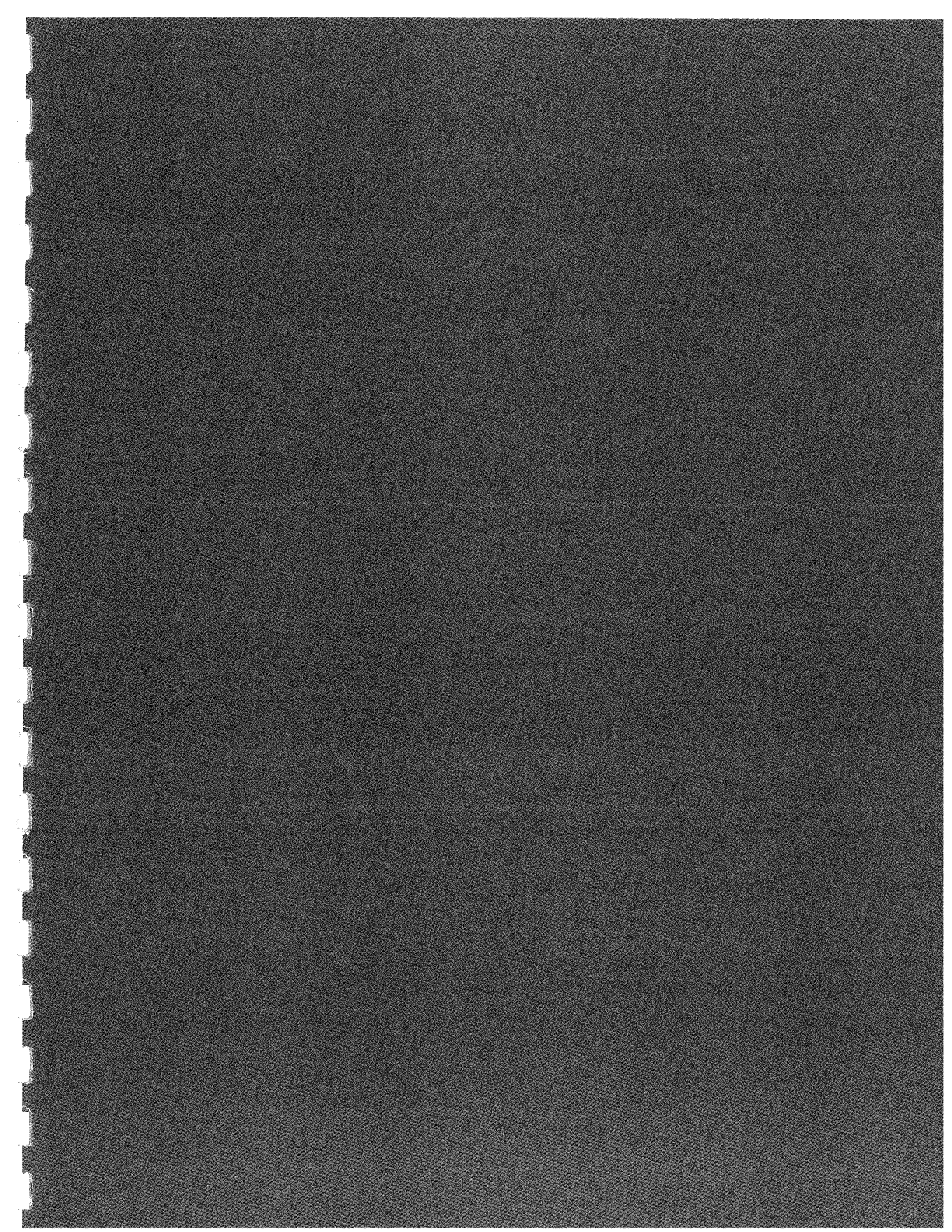
For all of these reasons and others to be explained at the LD&T Committee meeting and at the full Planning Commission Public Hearing, this PRD rezoning application and the accompanying detailed district development plan and preliminary subdivision plan comply with all of the applicable Intents and Policies of all Guidelines of the Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,

---

William B. Bardenwerper  
**BARDENWERPER, TALBOTT & ROBERTS PLLC**  
Home Builders Association of Louisville Building  
1000 N. Hurstbourne Parkway, Second Floor  
Louisville, KY 40223

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**Louisville Metro Planning & Design Services  
LAND DEVELOPMENT CODE WAIVER SUBMITTAL  
REQUIREMENTS**

**SUPPLEMENTAL INFORMATION SHEET**

**Application is hereby made for one or more of the following waivers of the Land Development Code**

- Waiver of Chapter 10, Part 2 Landscaping Design
- Waiver of Chapter 10, Part 1, Tree Canopy
- Sidewalk Waiver
- Other Waiver of the Land Development Code, briefly explain below:

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**Reason for Request:** Because there is a large ditch and this is an existing as built condition which will not accommodate the sidewalk as otherwise required.

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## **Louisville Metro Planning & Design Services**

### **LAND DEVELOPMENT CODE WAIVER SUBMITTAL REQUIREMENTS**

In order to justify approval of any waiver or modifications of standards, the Planning Commission considers four criteria. Please answer all of the following four items. (Use additional sheets, if needed.)

- A. The waiver will not adversely affect adjacent property owners because there aren't sidewalks along the frontages on either side of this subdivision for this sidewalk to connect.
- B. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.
- C. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this is the only place that the sidewalk waiver is being request.
- D. 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 building a sidewalk in this location, considering the fact that the infrastructure, including signature entrance, is already constructed would make building this sidewalk almost impossible and certainly detrimental to the existing subdivision frontage along Watterson Trail.

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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## PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE2020 COMPREHENSIVE PLAN

<u>Owner/Applicant:</u>	Citizen Union Bank
<u>Project Name:</u>	Spring Villa
<u>Current Zoning and Use:</u>	R-5A Condominiums
<u>Proposed Zoning:</u>	Planned Residential District (PRD)
<u>Proposed Use:</u>	Single family
<u>Engineers, Land Planners &amp; L.A.s</u>	Mindel, Scott & Associates, Inc.
<u>Attorneys:</u>	Bardenwerper, Talbott & Roberts, PLLC

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on December 19, 2013 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

### INTRODUCTORY STATEMENT

**WHEREAS**, the Spring Villa residential community dates back to before the formation of Louisville Metro Government, when the Planning Commission and Fiscal Court approved a 172-unit condominium community on this property; and no greater number of homes is planned now than the number of condo units approved and set forth in the binding elements found in the Planning Commission's April 11, 2002 minutes; and

**WHEREAS**, this application is intended to save the Spring Villa condominium community that has most of the infrastructure already installed but where condominium patio home construction came to a halt when the catastrophic housing Recession occurred, which lingers to this day; the developer/builder ended up losing its development rights to its lender, at which point the lender tried various ways to find new builders to complete Spring Villa as a condominium community; however, that was just about impossible, in large part because the problem with condominium construction today is with federal lending rules that apply nationwide, not just in those states (such as Florida, Arizona and Nevada) where the real condominium crisis occurred; it was in those states, especially Florida, where lots of high rise condominium projects were built, where lenders ended up as the "owners" of unfinished high-rise buildings (e.g., Florida) or large tracts of patio home-style condominium homes where no buyers existed (e.g., Arizona and Nevada); Federal rules established strict presale requirements before FHA, Fannie Mae or Freddie Mac lending support would be allowed; and this occurred at the same time that private loans dried up, while the markets turned to the federal government for loan support; with few condominium buyers, lenders were unwilling to loan developers the money to complete the construction of their projects; the housing Recession, which resulted in something like a 70% decrease locally in home sales, also took down a similar percentage of builders and developers; people left living in these communities were more or less

stranded, as they are at this one, in a development that, but for the efforts of this lender and its special purpose entity that now owns the property, combined with the builder/developer that is considering completing the project, are now looking to this Planning Commission to do its part to help revive this moribund development, to turn it into the thriving community it was expected to be for the original home buyers, and generate permit fees and property taxes to benefit all of Metro Louisville; and

**WHEREAS**, the efforts to negotiate these documents, changing this community from a condominium regime to a subdivision and to devise a new plan, with the number of lots with setbacks, street systems, open spaces and so forth all now determined, is near its end; and the bank has approved this, the regulators are on board, as are all, or just about all, of the current condominium residents; and

**WHEREAS**, because very little changes in what is now being presented to the Planning Commission over what was originally approved, the modest concessions that are being requested in terms of rezoning, lot count, and necessary variances, represent no negative impacts on the greater community or anyone living nearby; compliance with all applicable Guidelines and Policies of the Comprehensive Plan is being fully demonstrated, as further evidenced by the revised district development and preliminary subdivision plans filed with this application and as will further be explained at the LD&T meeting and the Public Hearing in this case; and

**WHEREAS**, it is important to know that the number of homes currently under consideration at Spring Villa are the same as the number of condo units originally approved, and the traffic and transportation analysis approved at the time, considering existing infrastructure, can still accommodate both what is approved and what is proposed; and

### **PRD DEVELOPMENT STANDARDS**

**WHEREAS**, the PRD District is intended to provide flexibility in residential design; PRD subdivisions must meet two of five listed criteria; and because this application will not be reserving ten percent of proposed dwelling units for “affordable” housing, as described in the ADI guidelines, that also must be justified; and

**WHEREAS**, this application satisfies two of the five criteria as explained in this Compliance Statement – those being its contribution to the variety of housing styles serving the needs of people of different ages and incomes in this area and in the community as a whole and also being its expansion of the diversity of housing types available in the neighborhood; as to the lack of commitment to a certain percentage of “affordable” housing units, the diversity and style of housing on small single-family lots offered by this maintenance-free community compensates for that lack of technical affordability requirement; and within the context of the greater Louisville community and nearby neighborhoods, these proposed houses will be affordable, relatively speaking, and mostly a move-down in size but not price or amenity for mostly empty-nesters currently residing in mostly larger homes on larger lots; and

### **GUIDELINE 1 - COMMUNITY FORM**

**WHEREAS**, the Suburban Neighborhood Form District, in which this property is located, is characterized by predominantly residential uses that vary from low to high density and that blend compatibility and connectivity into the existing landscape in neighborhood areas; the Suburban Neighborhood Form narrative within the Comprehensive Plan contains other recitations of how the Suburban Neighborhood Form is characterized, but this opening sentence of this description really says it all as respects this application; whereas there is nothing wrong with forms of office, service



and retail development within the Suburban Neighborhood Form, some of which already exist nearby, this particular Spring Villa community is a residential one; this application complies with this Guideline because of the nature of the proposed housing, which is and also a mix when viewed in the larger context described overall; and roads are well designed for good circulation with significant internal road and sidewalk connectivity; and

### **GUIDELINE 2 – ACTIVITY CENTERS**

**WHEREAS**, the Intents and applicable Policies 4, 5, 8, 9, 14 and 16 of this Guideline all encourage the efficient use of land and investment in existing infrastructure; lowering utility costs by reducing the need for extension; reducing commuting time and transportation-related air pollution; increasing opportunities for mixed residential development that accommodates people of different ages and incomes; assuring neighborhoods near centers and marketplaces that include a diversity of goods and services; encouraging vitality and a sense of place; encouraging compact, mixed use developments; and encouraging alternative forms of transportation within these communities; and

**WHEREAS**, this application with all of the Intents and applicable Policies of this Guideline because, as generally explained in the Introduction above, Spring Villa, offers an attractive addition to the mix of different forms of housing -- from apartments to attached condominiums to detached homes on single-family lots, both large and small, in the larger area; every application like this has to be viewed in the larger context, not all by itself; and the larger context is that the overall area is a community of homes of varying sizes and varying price ranges, from apartments to condominiums to single-family lots with neighborhood serving commercial uses appropriately located nearby; also, because Spring Villa was never completed after its Planning Commission approval over a decade ago, infrastructure is already in place and mostly ready to be utilized as is, with some modification; thus, it makes great sense to finish this community out as a higher priority than starting something else on a brand new site, calling for all new infrastructure; and that is not to say that other developments will not continue to occur in this very popular, growing area, but completion of the Spring Villa development has to be a top community priority; and

### **GUIDELINE 3 - COMPATIBILITY**

**WHEREAS**, the Intents of applicable Policies 1, 2, 3, 6, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22 and 23 of this Guideline all call for allowing a mixture of land uses and densities near each other as long as they are designed to be compatible one with the other; prohibiting the location of sensitive land uses in areas where accepted standards for various kinds of uses are violated and where visual quality is significantly diminished; preserving the character of existing neighborhoods; assuring compatible design; mitigating impacts such as traffic, lighting and visual nuisances; promoting a variety of housing types, including mixtures of densities up to higher densities; assuring accessibility and provision of housing for elderly people and those with disabilities; assuring appropriate/inclusive housing; and making sure that transitions, buffers, setbacks, lot dimensions and building heights are appropriate to their surroundings; and

**WHEREAS**, this application complies with all of these Intents and applicable Policies of this Guideline for all of the reasons described in the Introduction and other Guideline discussions above; as originally designed, Spring Villa complies with all of these Intents and Policies of this Guideline, because the Cornerstone 2020 Comprehensive Plan was already in place at that point in time; but today, years later, Spring Villa now, as much or more so than before, clearly fits with all of the Intents and Policies of this Guideline; and the redesign for this PRD rezoning with individual lots is an especially good idea because, although this overall area includes a wide variety of housing types of

various sizes in various ownership forms with various designs, the proposed PRD development of small single-family lots will be something unique; it is proposed to be high quality and mid-range as a price point, but affordable in the overall context of the much larger Louisville community where some homes are double or triple the price of those proposed in this particular PRD community; it will also include a certain level of maintenance free living, which should be especially attractive to many empty-nesters who often times want to move into an area where larger standard single-family lot communities exist so that parents can reside closer to their kids and grandparents closer to their grandchildren; building materials will be high quality, comparable to those in other nearby communities and exactly as previously approved for and already existing in this community as it currently exists; and designs are innovative and were fully explained at the Planning Commission's LD&T Committee meeting and Public Hearing; and

#### **GUIDELINES 4, 5 and 13 - OPEN SPACE; NATURAL AREAS; LANDSCAPING**

**WHEREAS**, the Intents and applicable Policies 1, 3, 6 and 7 of Guideline 4, applicable Policy 6 of Guideline 5 and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 all promote enhancing the quality of life in Metro Louisville through the provision of accessible and functional open spaces that are well landscaped and appropriately aesthetically designed; these Intents and Policies also encourage open spaces and the maintenance of them; restrict developments in areas where soils and slopes will adversely impact new development; and assure that landscape materials include native plants of high quality design, protection or planting or adequate tree canopy, and the provision of buffers where uses may be incompatible one with the other; and

**WHEREAS**, this application complies with all of these Intents and applicable Policies of these Guidelines for reasons clearly evident on the revised detailed district development and preliminary subdivision plans filed with this PRD rezoning application; in addition, a concept landscape plan shows on the colored plan filed with the application; and

**WHEREAS**, because streets are connected, the ability to move about through this community via alternate modes of transportation, notably by walking and bicycle, will be both available and encouraged; and

#### **GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY**

**WHEREAS**, the Intents and applicable Policies 2, 5, 6 and 11 of this Guideline are to ensure the availability of necessary usable land to facilitate all forms of development, including residential; to reduce public and private cost for land development; to locate activity centers near places where people live; to assure good access; and to provide opportunities for adaptive reuse; and

**WHEREAS**, this application complies with the Intents and applicable Policies of this Guideline because, as explained hereinabove, Spring Villa became a moribund development after the housing recession; it has remained in a state of non-development since the time that much of the infrastructure was installed; when you drive through the community today, what you see are a modest number of finished condominium units with lots of street and related infrastructure installed but no other housing being built but the development just stalled; CUB Bank has proposed a PRD form of development utilizing infrastructure as it already exists, altering it only slightly as necessary to accommodate the locations of homes on the proposed new lots, thus taking advantage of the unused infrastructure and previous approvals that exist, while providing a new living environment with a form of housing that appears to be in great demand; and

**GUIDELINES 7 AND 8 – CIRCULATION AND TRANSPORTATION  
FACILITY DESIGN**

**WHEREAS**, the Intents and applicable Policies 1, 2, 4, 9, 10, 11, 13, 14, 15 and 16 of Guideline 7 and applicable Policies 4, 5, 8, 9, 10 and 11 Guideline 8 all seek to assure the provision for safe and proper functioning of streets; that new developments do not exceed the carrying capacity of streets; that internal and external circulation provide for safe and efficient travel movements; that air quality always be addressed; that new developments be evaluated for their impacts on existing streets and roadway systems; and that new developments assure adequate right-of-way, sufficient parking, good corner clearances, connectivity, appropriate driveway design, good site distances and safe internal circulation; and

**WHEREAS**, this application complies with all of the Intents and applicable Policies of these Guidelines for reasons evident on the detailed development plan and preliminary subdivision plan filed with this application; also, although this is a PRD rezoning application to transform part of an already approved condominium community to a new form of residential subdivision, much of the street system already exists; also, off-site transportation improvements were previously made when the original Spring Villa development was constructed, including road improvements along S. Watterson Trail; the biggest question as respects this particular development proposal probably has to do with the proposed conversion of some internal private streets to public ones; in the course of the Metro Public Works and Transportation Planning reviews of this proposal, those existing private streets will be evaluated in terms of the quality of original construction as well as the amounts of available right-of-way and widths; also, the lot sizes and location of homes will be evaluated in terms of the lengths of driveways to assure that sidewalks are not impeded with driveway parking and prior to review by the LD&T Committee and in Public Hearing, this application received the preliminary stamp of approval from appropriate Metro Public Works and Transportation agencies; and

**GUIDELINE 9- BICYCLE, PEDESTRIAN AND TRANSIT**

**WHEREAS**, the Intents and applicable Policies 1, 3 and 4 of this Guideline all encourage alternate forms of transportation, which in this area means bicycle and pedestrian traffic capabilities; and

**WHEREAS**, this application complies with the Intents and applicable Policies of this Guideline because it was originally designed to assure, and this PRD rezoning application will further assure, that bicycles are adequately accommodated; and

**GUIDELINES 10, 11 & 12 – STORMWATER MANAGEMENT; WATER QUALITY; AND  
AIR QUALITY**

**WHEREAS**, the Intents and applicable Policies 6, 7, 10 and 11 of Guideline 10, applicable Policies 3, 5, 6, 7 and 8 of Guideline 11 and applicable Policies 1, 2, 4, 6, 7, 8 and 9 of Guideline 12 are all of the “environmental” Policies of the Comprehensive Plan; these Intents and Policies seek to assure that new developments will not have adverse effects on effectively managing stormwater and protecting water and air quality; and

**WHEREAS**, this application complies with all of the Intents and applicable Policies of these Guidelines because the original development plan approved for Spring Villa had to take all of these Intents and Policies of these Guidelines into account in the original layout and design of this overall Spring Villa development; as stated above, much of what is proposed is already evident today in

terms of the infrastructure that is already in place; most of that infrastructure will be reutilized exactly as is; to the extent that any of it is modified, it will continue to assure compliance with these Intents and Policies of these Guidelines as well as the specific Land Development Code and other agency requirements already complied with at the time that the original development's construction plans were approved; moreover, one of the overriding purposes assured when the original Spring Villa development was approved, which continues to this day with this new PRD rezoning application, is to assure development in close proximity to other development so that travel distances to the homes of neighbors, to places of shopping and to places of work are minimized, thus mitigating adverse impacts on air quality; also the overall drainage system was taken into account, and will continue to be, with the original and any new construction approvals for this development; and of course, in any construction nowadays, soil erosion and sediment control measures are required as part of the construction plan; and

**GUIDELINES 14 AND 15 – INFRASTRUCTURE; COMMUNITY FACILITIES**

**WHEREAS**, the Intents and applicable Policies 1, 2, 3, 4, 6 and 7 of Guideline 14 and applicable Policies 4, 7, 9, 12, 13, 14, 15, 16, 18 and 20 of Guideline 15 all seek to assure that all necessary infrastructure for new development is appropriately placed and that facilities such as fire service, public parks and so forth are available to new residents of new communities; this application complies with all of these applicable Policies of these Guidelines because, as previously explained, the infrastructure for this Spring Villa development was largely installed when the original Spring Villa development was approved and public services are located close enough nearby; and

\* \* \*

**WHEREAS**, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books, on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

**NOW, THEREFORE**, the Louisville Metro Planning Commission hereby recommends to the Louisville Metro Council that it rezone the subject property from R-5A to PRD.

PROPOSED FINDINGS OF FACT FOR THE SIDEWALK WAIVER

**WHEREAS**, because there is a large ditch and this is an existing as built condition which will not accommodate the sidewalk as otherwise required; and

**WHEREAS**, the waiver will not adversely affect adjacent property owners because there aren't sidewalks along the frontages on either side of this subdivision for this sidewalk to connect; and

**WHEREAS**, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application; and

**WHEREAS**, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this is the only place that the sidewalk waiver is being request; and

**WHEREAS**, 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 building a sidewalk in this location, considering the fact that the infrastructure, including signature entrance, is already constructed would make building this sidewalk almost impossible and certainly detrimental to the existing subdivision frontage along Watterson Trail; and

**NOW, THEREFORE**, the Louisville Metro Planning Commission hereby approves the Waiver.