

**Planning Commission Minutes
December 19, 2013**

Public Hearing

Case No. 13ZONE1015

Project Name: Spring Villa

Location: Multiple addresses along S Watterson Trail, Villa Spring Dr, Parker Grant Ct, and Brett Frazier Dr. (Tax Block 0637, Lot 0004)

Owner/Applicant: Citizens Union Bank
Jim Long - Representative
P.O. Box 189
Shelbyville, KY

Representative: William B. Bardenwerper
Bardenwerper, Talbott & Roberts, PLLC
1000 North Hurstbourne Parkway Suite 200
Louisville, KY 40223

Architect/Engineer: David Mindel
Mindel, Scott & Associates
5151 Jefferson Boulevard
Louisville, KY 40219

Jurisdiction: Louisville Metro

Council District: 23 – James Peden

Case Manager: **Joseph Reverman, AICP, Planning Supervisor**

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Request:

- Change in Zoning from R-5A, Multi-Family Residential, to PRD, Planned Residential Development District on multiple addresses along S Watterson

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- Trail, Villa Spring Dr, Parker Grant Ct, and Brett Frazier Dr. (Tax Block 0637, Lot 0004) containing **29.66** acres
- Revised Detailed District Development Plan
- Major Preliminary Subdivision Plan
- Sidewalk Waiver of Chapter 5.8.1. of the Land Development Code to waive the requirement for sidewalks to be constructed along S Watterson Trail adjacent to the subject site

Agency Testimony:

01:25:48 Joseph Reverman presented the case and showed a Power Point presentation, which included maps and photos of the site and surrounding areas (see audio-visual recording for detailed presentation.) He made one correction to the staff report on page 1 (some decks did encroach into the 50-foot LBA on the approved 2005 plan.)

01:33:39 Commissioner Brown asked if the proposed 10-foot WPA is still on the plan. Mr. Reverman said it is, and it has been recorded already.

01:33:57 In response to a question from Commissioner Blake, Mr. Reverman said that PRD does not require a buffer. The PRD zoning district allows for smaller lots. There are currently between 20-40 existing structures on the site now. In response to a question from Commissioner Scheer, Mr. Reverman said that 172 total units are being proposed (includes what is existing and what is being proposed.) The applicant is proposing stub streets into adjacent properties.

01:35:51 Mr. Reverman said there were a couple of letters he received from concerned citizens after the staff report was sent out prior to today's hearing (one from the Apple Valley Property Owner's Association; the other from the Hollow Creek subdivision.) He distributed copies of those letters to the Commissioners.

The following spoke in favor of this request:

William B. Bardenwerper, Bardenwerper, Talbott & Roberts, PLLC, 1000 North Hurstbourne Parkway Suite 200, Louisville, KY 40223

Kathy Linares and David Mindel, Mindel, Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

C. Roger Costello, 6612 Casey Springs Way, Louisville, KY 40291

Summary of testimony of those in favor:

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01:37:05 William Bardenwerper, the applicant's representative, also showed a Power Point presentation which included zoning maps, the site plan, and photos of the site and surrounding areas (see audio-visual recording for detailed presentation.) He pointed out that this site was previously approved for 172 detached condominium units, the same number of units that are being proposed today.

01:41:18 He discussed a document included in the booklet, distributed to the Commissioners prior to today's hearing, titled "A Termination and Waiver of Master Deed of Horizontal Property Regime and Declaration of Covenants, Conditions and Restrictions" for the new subdivision. He said the new set of Covenants, Conditions and Restrictions was needed because there are residents living in the existing community who will be affected by the changes due to the new development. The developer worked with the current residents to make decisions (insurance, maintenance responsibilities, design of structures, etc.) Using the approved and proposed site plans, he discussed the differences between the two plans. He mentioned that the roads would become public roads, although they are now private streets under the old condominium regime.

01:49:26 Kathy Linares, an applicant's representative, first addressed the buffer requirements. She said that, even as an R-5A community / multi-family development, when it is developed as single family units, there is still an LBA requirement of either 20 feet or 15 feet with the tree multiplier. The actual hedge or any other type of buffering is not required. If a PRD-zoned property is next to it, there is no requirement for a landscape buffer. She said that, for the majority of the perimeter where this development is adjacent to single-family residential, there is a varying open-space area, which she pointed out on the proposed site plan. She reiterated that the WPAs have already been recorded and will remain.

01:51:45 She discussed the sidewalk waiver and said that Metro Public Works did not request that the applicant provide a sidewalk in a different location. She said the applicant has no objection to providing a fee-in-lieu. She said it did not make sense to provide sidewalks on/around the site due to the topography and ditches. She said there are no other variances or waivers being requested.

01:53:18 David Mindel, an applicant's representative, discussed the issue of making the streets public instead of private. He also discussed the water system and fire services.

01:56:23 Mr. Bardenwerper discussed the PRD regulations and how the applicant meets the criteria to qualify. He also discussed affordable housing issues as related to this development, and explained why the applicant is not

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including the ADI component into the PRD request. A detailed statement of compliance has been included with the application [on file].

02:00:11 Roger Costello, a resident of the Spring Villa condominium association, said he spoke in support on behalf of other residents.

02:01:13 Commissioner Kirchdorfer asked about the maintenance of the private hydrants, and said he recalled some concerns in the past from the Highview Fire Department about this matter. Mr. Mindel said that, right now, the condominium association is maintaining the private water and fire systems; in the future, that maintenance (monthly fees) will be shared by all development residents. Commissioner Brown asked if some of these private water lines will be under public rights-of-way. Mr. Mindel said some of them would. Commissioner Brown said this is something that is typically done under a license agreement or maintenance agreement - if the HOA takes responsibility for this, if any repairs are needed, the HOA would be responsible for the road work, etc. Mr. Mindel said there would have to be an agreement with the HOA, which would be a cost to them.

02:04:03 Commissioner Tomes asked about sanitary sewer connections. Mr. Mindel said they would be individual.

02:04:57 In response to a question from Commissioner Turner, Mr. Mindel said that approximately 30 units would be under the public system. He said there is a possibility that more could be added, because the rear of the subdivision has stub streets – if those properties that are being stubbed into are developed first, then the back section would be public. He said he did not know of any plans at this time for those properties to be developed.

02:06:28 In response to another question from Commissioner Turner, Mr. Mindel gave the square footages of the proposed smaller units.

02:07:18 Commissioner Scheer asked if a traffic study was done when this development was initially approved for 172 units. He also asked for clarification as to why no sidewalks were being provided. Mr. Bardenwerper said the Councilman from this district [James Peden, District 23] wanted the money allocated to a different sidewalk project at another location. Mr. Mindel gave details about that project (on Fegenbush Lane.) He added that there is a bridge on Watterson Trail going north that prevents the continuation of a sidewalk from going any further. He added that sidewalks will be provided internally in the development, just not along Watterson Trail.

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02:09:39 Mr. Bardenwerper said that there was a traffic study done for the initial development. He reiterated that there are no more units being proposed. He said traffic counts were done this time, and those numbers were provided to Metro Public Works. He said the demographics in this area have changed; there are more older residents and the peak hour traffic counts have gone down. He said that, as part of the other plan, the applicant added a turn lane on Watterson Trail turning into the site. He said the current traffic projections "are nowhere close" to what had been anticipated.

02:10:50 Commissioner Kirchdorfer asked if there is an existing sidewalk on the opposite side of Watterson Trail. Mr. Bardenwerper said there is not, and made a closing statement justifying the proposed fee-in-lieu for the sidewalk. In response to a question from Commissioner Turner, Mr. Bardenwerper clarified that no proposed homes front onto Watterson Trail, they back up to it.

The following spoke either in opposition to, or as neither for nor against, this request:

Teresa McCarthy, 6408 South Watterson Trail, Louisville, KY 40291

John Torsky (representing Councilman James Peden), 601 West Jefferson Street, Louisville, KY 40202

Donna Goodin, 6604 Casey Springs Way, Louisville, KY 40291

Patricia E. O'Neil, 2517 Walbrook Drive, Louisville, KY 40222-6262

Summary of testimony of those either in opposition to, or neither for nor against, this request:

02:12:57 Teresa McCarthy spoke in opposition to this request. She read a letter of opposition from herself and some of the surrounding neighbors [on file]. She requested that the Commission keep the existing binding elements in place; specifically, the 50-foot setback, buffers, WPAs, and that the number of homes could not be increased beyond the proposed 172 units. She said if the applicant wants to build decks, they can build recessed decks that do not encroach into buffers/setbacks. No fences can be in the 50-foot setback. She discussed the six decks that were allowed to encroach into the 50-foot setback and why they were allowed; also, the agreement that was agreed to between the developers and the McCarthys. She requested the sidewalk along Watterson Trail and said it would receive use, particularly from surrounding residents. She said there is no way to connect to nearby homes/properties without driving, because South

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Watterson Trail is too dangerous for pedestrians without a sidewalk. She handed out copies of her letter and proof of the sewer easement agreement to the Commissioners, as well as minutes showing where the other decks were denied. A large Power Point presentation was also handed out and made part of the record.

02:18:39 She said that John Torsky, legislative assistant to Councilman James Peden, was present at the LD&T Committee meeting and that he stated that Councilman Peden had requested the sidewalk along Watterson Trail and would not agree to a waiver.

02:19:52 Donna Goodin, a resident of Casey Springs Way, said some residents are in favor of this proposal because they believe that a completed subdivision will restore their equity lost during the housing crisis. She said that is not true, and gave what she said are examples. She said other Casey Springs residents like the idea of having their own land; however, this means changing from a condominium association to a homeowner's association. She said residents are concerned because Citizens Union Bank will be, in essence, the board of the HOA, and gave instances of the bank authorized expenditures and enacted business rules which she said no residents' committee would have agreed to. She said she and her family are not opposing the zoning change; however, she does oppose the management of the HOA under the bank, instead of the residents.

02:26:09 Patricia O'Neil, representing both herself and her mother, said her mother's property adjoins this site along the north side. She said the traffic along South Watterson Trail is dangerous due to speeders and traffic volume. She said she has seen pedestrians along this stretch of road and wants to see a sidewalk put in here. She said the area alongside her mother's property does not show any buffer or setback. She asked that a landscape buffer be shown that is not pine trees. She asked that everything else included in the previous binding elements remain unchanged.

02:30:29 John Torsky, speaking on behalf of Councilman James Peden, said the Councilman is not in favor of amending the binding element related to landscaping. He is also concerned that the same building materials and designs be used for the new structures that there are for the older units. Regarding the sidewalk, Mr. Torsky said there are no known plans to connect anything along that area of South Watterson Trail.

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02:32:45 Commissioner Proffitt pointed out that Item #22 in the original binding elements states that the building materials be essentially the same as that used for the previously-built condominium units.

02:33:09 Commissioner Tomes discussed requests by some opponents that they would like sidewalks here. Mr. Torsky said there are no sidewalks anywhere along South Watterson Trail.

02:34:15 In response to a question from Commissioner Kirchdorfer, Ms. McCarthy gave a brief history of her/her family's property ownership in this area. She said a sidewalk would connect neighbors who are otherwise separated by this development. She reiterated the dangers of South Watterson Trail.

02:36:01 Commissioner Scheer asked Ms. McCarthy if there was a possibility of building a sidewalk there, because the shoulder is so narrow and slopes away. He and Ms. McCarthy discussed this, and she said the neighbors are asking for a sidewalk in front of Spring Villa, not in front of her house.

02:37:19 In response to a question from Commissioner Jarboe, Mr. Reverman clarified the buffer requirements for PRD-zoned property as opposed to R-5A property. Commissioner Jarboe asked Ms. McCarthy what her objection is to having decks on the backs of the proposed units. Ms. McCarty said she had no objection to decks, she just did not want the 50-foot buffer area encroached upon.

02:39:45 Commissioner Proffitt said he looked in the binding elements (both existing and revised) and there is nothing mentioned there about the 50-foot LBA. Mr. Reverman said that there was never a binding element requiring a 50-foot LBA; however, it was shown on the approved development plan. Binding element #1 states that the site shall be developed according to the approved development plan.

02:41:05 In repose to a question from Commissioner Proffitt, Mr. Bardenwerper said that the decks on the units are a selling point which is necessary to revive a "moribund community". Also, the developer has negotiated with the residents to make the building designs and materials substantially the same as the previously-built units; removing the decks would change that. He added that Ms. McCarthy lives one property removed from the site property line and would not be affected by this buffer area. He said the developer would be able to leave a 30-foot buffer along those property lines.

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Rebuttal:

02:45:38 Mr. Bardenwerper said that, if the Planning Commission wants the developer to build a sidewalk along the Watterson Trail frontage, they are willing to do that. He said the idea to build the sidewalks elsewhere/pay a fee-in-lieu was brought to the bank, it was not promoted by the bank. He said the applicant could not have filed the application until everyone who lives in this development had signed the application, even though it was understood that more negotiations might have to take place. He said the applicant would like to reduce the former 50-foot buffer to 30 feet, because it's in excess of what is required. He said some decks do encroach, and the applicant would like to be able to build houses of the substantially similar style and design and allow buyers who want a deck or patio to be able to build one.

02:50:04 During a discussion between Mr. Bardenwerper and Commissioner Proffitt, Mr. Bardenwerper stated that a revised plan has been filed, and the 30-foot, as opposed to the 50-foot, buffer is part of that plan.

02:50:17 Commissioner Tomes asked Mr. Bardenwerper if the seven decks were built when the property to the north (the McCarthy property) was subdivided. Ms. McCarthy said the decks were built before that property was subdivided.

02:51:38 In response to a question from Commissioner White, Ms. McCarthy said she had just put in a swimming pool in her yard and complained that the development "keeps moving closer". She wants the original 50-foot buffer agreed to by the developer.

02:54:49 Commissioner Kirchdorfer asked Mr. Reverman if an owner would be able to put in a patio on grade, if the 50-foot buffer remains. Mr. Reverman said no structures are permitted within a LBA; a concrete patio could be permitted, as long as it was not considered a "structure". He said there is no specific LDC requirement for screening or trees. A fence is allowed on the property line or within the LBA.

02:58:17 Commissioner Scheer asked Mr. Bardenwerper if there had been any conversation with residents about the possibility of putting up a non-see-through privacy fence (vinyl, wood, stone, etc.) between the development property and the residents to the north. Ms. Linares said she did not think there had been any discussion regarding that, but there are existing trees and vegetation along those property lines that are proposed for preservation (WPAs). She said a fence through that area would disturb the vegetation. Commissioner Blake said it appeared, from looking at the minutes, that the 50-foot buffer was

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an offer from the applicant during the hearing/s for the first approved plan. Ms. Linares said it was only later that it came up how important the decks, patios and porches were to the buildings. The applicant couldn't make the buildings any larger with all the setbacks. She said even a recessed deck would make the livable space in the building smaller.

03:02:30 Mr. Bardenwerper said the builder's original intent was to keep the building away from the property line. He said a deck "keeps the living close to the home" and reins in the lawn furniture, etc. from the yard.

03:04:28 In response to a question from Commissioner Kirchdorfer, Mr. Bardenwerper said the irrigation system and common lawn maintenance for the condominiums would be carried on as it is presently.

03:05:11 Ms. Goodin asked Mr. Bardenwerper about a buffer not shown on the current plan. Mr. Bardenwerper pointed out the area and said this will remain as 20 feet. In response to a question from Commissioner Proffitt, Ms. Linares traced the property lines and explained what the proposed buffer areas are for each (see audio-visual recording.)

03:11:04 Commissioner Tomes said that, just because there is no buffer, does not mean that a building can be built along the lot line. Ms. Linares said that is correct, and that building setbacks do apply; also, along one portion of the property that does not have a buffer, there is a recorded WPA there.

03:13:24 Mr. Bardenwerper clarified the difference between a "buffer" and a LBA.

03:16:08 Commissioner Proffitt said that, if the property lines were not extended all the way to the property boundary, how can anything be built back there anyway? He and Mr. Bardenwerper further discussed these open space areas.

03:18:00 Commissioner White proposed a binding element regarding single-story, uncovered decks. The Commissioners, Ms. Linares, and Mr. Bardenwerper then discussed this.

03:19:06 Commissioner Blake asked Ms. Linares about putting in a fence along the current 50-foot LBA area. Ms. Linares said that is a WPA and vegetation cannot be removed in a WPA.

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03:20:00 In response to a question by Ms. McCarthy, Mr. Bardenwerper said the applicant would agree that any decks along these two property lines would be uncovered, and would also agree to a binding element regarding this.

03:22:18 In response to a question from Ms. Goodin, Mr. Bardenwerper again pointed out the 20-foot open space areas where nothing could be built.

03:23:50 Commissioner Brown asked if there was a planting requirement in the 50-foot LBA that wouldn't be required in an open space. Mr. Reverman clarified the LBA issues (see audio-visual recording for detailed discussion.)

03:26:44 In response to a question from Commissioner Kirchdorfer, Mr. Reverman discussed the width of the existing WPAs. He reiterated that there is no proposal to change these, and that some TCPAs were located in these areas also.

03:27:53 Commissioner Proffitt and Mr. Reverman discussed the LBA lines and how they could affect the private properties. Commissioner Brown said that, if an LBA area was reduced from 50 feet to 30 feet, the Commission could require the applicant to increase the intensity of the plantings in that area to compensate.

03:34:47 Regarding sidewalks, Mr. Reverman clarified that it is up to Metro Public Works and Planning and Design Services to determine if a sidewalk is required here or not, or to offer a fee-in-lieu. The Planning Commission can state its opinion as to whether a fee-in-lieu should be provided, but has no authority to require that. The sidewalk waiver has been withdrawn.

Discussion:

03:36:36 Commissioner White said he had been opposed to a sidewalk waiver and agreed with the applicant that it should be withdrawn. He suggested that, as a condition, it should be recorded that the applicant can put nothing but an uncovered deck in the first 20 feet. No sheds, no pools, etc.

03:39:09 Commissioner Tomes said the only thing being considered today is a zoning change, and he said he had understood from the opposition that they were not opposed to the zoning change. He said he felt that the zoning change was appropriate, and a 30-foot buffer, provided where there used to be 50, was still adequate. The building materials and designs will be the same as that used in the other units, and the sidewalk waiver has been withdrawn. He said he felt it

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would be complicated to enforce a rule where only uncovered decks can be built in the 20-foot space, especially 20+ years from now.

03:41:34 Commissioner Jarboe said he agreed with Commissioner Tomes that the PRD zoning is appropriate. He said the applicant will not be able to build anything into the WPA, and felt that the DDDP should take care of any buffer issues by limiting what can be built in those areas.

03:42:25 Commissioner Scheer said he agreed with both Commissioners White and Tomes.

03:43:25 Commissioner Turner asked if what Commissioner White had proposed would require an additional binding element. Commissioner Blake said it would. Commissioner Turner said he was in favor of the proposal.

03:43:48 Commissioner Brown said the PRD zoning category is a more intense category than the R-4 to which it is adjacent, and he feels that more screening is appropriate. Either the 30-foot buffer or an LBA with a planting requirement would be satisfactory; however, he said he felt that either one meets the intent of the original 50-foot buffer. He added that the developer did a lot of improvements to mitigate the traffic impacts.

03:44:19 Commissioner Kirchdorfer said the future property owners of the individual lots should have the right to use their properties to build what they want to build in accordance with the development. He discussed enforcement issues and added that setbacks and property lines still have to be adhered to.

03:46:29 Commissioner Proffitt said he agreed with Commissioner Kirchdorfer regarding the covered vs. uncovered decks. He said the open space seems to resolve the buffer issue. He agreed that the sidewalk waiver should be withdrawn. He expressed concern that metes and bounds of the individual properties be shown. The property lines should stay substantially the same as those shown today. Mr. Reverman explained the record plat process, and suggested including a binding element to require a certain number of feet from the perimeter property line to the rear property lines. Screening and planting issues were discussed.

03:55:55 Commissioner Tomes said there are already some people in this development who have covered porches/decks. He was against regulating those features.

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An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the December 19, 2013 public hearing proceedings.

Zoning

On a motion by Commissioner Proffitt, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1 – Community Form**. 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

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2 – Activity Centers**. 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, the Commission further finds that this application with all of the Intents and applicable Policies of this Guideline because Spring Villa offers an 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

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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

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3 – Compatibility**. 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, the Commission further finds that 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

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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

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 4, 5, and 13 – Open Space, Natural Areas, and 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; and

WHEREAS, the Commission further finds that 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

WHEREAS, the Commission further finds that the proposal meets the intents of **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; and

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WHEREAS, the Commission further finds that 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

WHEREAS, the Commission further finds that the proposal meets the intents of **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; and

WHEREAS, the Commission further finds that 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

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Hearing, this application received the preliminary stamp of approval from appropriate Metro Public Works and Transportation agencies; and

WHEREAS, the Commission further finds that the proposal meets the intents of **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; and

WHEREAS, the Commission further finds that 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

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 10, 11, and 12 – Stormwater Management, Water Quality, and Air Quality**. 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, the Commission further finds that 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

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construction nowadays, soil erosion and sediment control measures are required as part of the construction plan; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guidelines 14 and 15 – Infrastructure, Community Facilities**. 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, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of Louisville Metro Government that the change in zoning from R-5A Multi-Family Residential to PRD Planned Residential Development, on property described in the attached legal description, be **APPROVED**.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Jarboe, Brown, Scheer, Kirchdorfer, White, Tomes, and Turner.

NO: No one.

NOT PRESENT: Commissioner Hughes.

ABSTAINING: No one.

Revised Detailed District Development Plan and Major Preliminary Subdivision Plan

On a motion by Commissioner Proffitt, the following resolution was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that there does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Transportation Planning has approved the preliminary development plan; and

WHEREAS, the Commission further finds that open space has been provided to meet requirements of the Land Development Code, and the needs of the community; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Louisville Metro Planning Commission finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOVLED, the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan and Major Preliminary Subdivision Plan for Spring Villa Subdivision, located at multiple addresses along South Watterson Trail, Villa Spring Drive, Parker Grant Court, and Brett Frazier Drive (Tax Block 0637, Lot 0004), **SUBJECT** to the following Binding Elements, including a binding element stating that the property lines of the individual pieces of property will be substantially the same, plus or minus five feet, as those shown on the development plan today, and **ON CONDITION** that a sidewalk be shown on the approved plan along S Watterson Trl or a fee in lieu paid.

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. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.

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2. The density of the development shall not exceed 5.80 dwelling units per acre (172 units on 29.66 acres).
3. A signature entrance may be provided at the main entrance(s) in accordance with the Land Development Code. Any freestanding signs in accordance with the parkway designation standards of the Land Development Code may be approved by Planning Commission staff.
4. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
5. The existing access point to the site is to be closed and access to the site be made from the new curb-cuts as shown on the development plan.
6. 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.
7. A Tree Preservation Plan (TPP) shall be approved by Planning Commission staff prior to transmittal to the office responsible for permit issuance. No clearing and/or grading activities may take place until a Tree Preservation Plan has been approved. The Tree Preservation Plan shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.
8. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.

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9. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection areas beyond what is outlined under Binding Element No. 10 below shall require notification of adjoining property owners and LD&T action.

10. 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 protection areas must contain the following notes:
 - A. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site that shall permanently preserve all existing vegetation within them. 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, except for work required in utility easements by the appropriate public utility.
 - 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.

11. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:

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- a. ~~The development plan must receive full construction approval from the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~
The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. ~~The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
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.
12. 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.
 13. 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.
 14. 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.

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15. 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.
16. All improvements along Watterson Trail as required by Jefferson County Public Works and Transportation shall be completed prior to the applicant requesting a certificate of occupancy.
17. Street lights shall be of the typical kind supplied by LG&E for residential subdivisions. All other types of lighting shall be directed down and away from surrounding single-family residential properties.
18. A mixture of evergreen and deciduous trees shall be provided along the perimeter of the site to supplement the existing vegetation to be preserved. Evergreen trees spaced 15 feet on center shall be planted along the perimeter where the proposed development is in close proximity to existing residences and as shown on the rendered concept plan presented at the March 21, 2002 public hearing.
19. The subject property frontage along Watterson Trail shall include landscaping treatments, including variable berm, four-board horse fence and trees, as depicted on the colored site plan and rendering presented at the public hearing on March 21, 2002.
20. Street trees shall be planted throughout the condominium community in accordance with the colored site plan presented at the public hearing on March, 21, 2002.
21. The property owner/developer shall construct buildings that are substantially all brick, except for minor accent treatments of other building materials. Buildings shall look substantially similar to renderings and floor plans introduced at the public hearing on March 21, 2002
22. No building that contains a walkout basement shall exceed one-story in height.
23. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded within one year of approval of this rezoning case number 13ZONE1015. The property lines will be substantially the same as shown on the Preliminary Subdivision Plan, plus or minus 5 feet.

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The vote was as follows:

YES: Commissioners Blake, Proffitt, Jarboe, Brown, Scheer, Kirchdorfer, White, Tomes, and Turner.

NO: No one.

NOT PRESENT: Commissioner Hughes.

ABSTAINING: No one.