



Attorneys:

Bardenwerper Talbott & Roberts, PLLC

Land Planners, Landscape Architects &  
Engineers:

Land Design & Development, Inc.

Louisville Metro Planning Commission

Public Hearing – April 6, 2017

Louisville Metro LD&T – 03/9/17

Neighborhood Meeting – 12/6/16

Docket No. 16ZONE1077

Zone change from R-5A to R-6 in order to address a floor-area ratio issue to allow the public dedication of certain roads in the Signature Point Condominium Development that the condominium owners maintain, whereas the rest of the development contains publicly dedicated streets. Property located at 1102-1110 Rose Hill Lane, 1101-1111 Tulip Hill Way and 14501-14515 Signature Point Drive

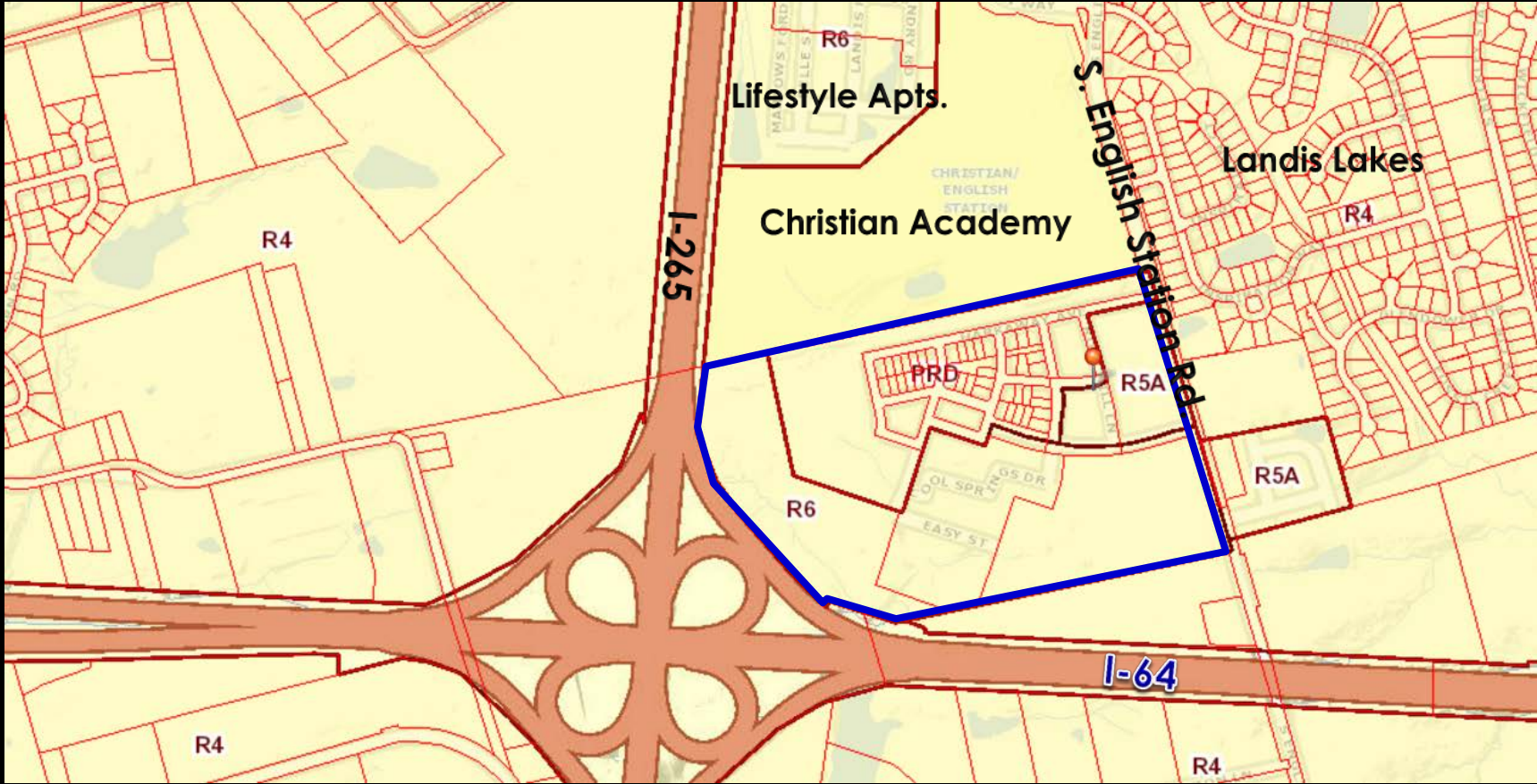
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# Tab 1 LOJIC Zoning Map

# LOJIC Zoning Map





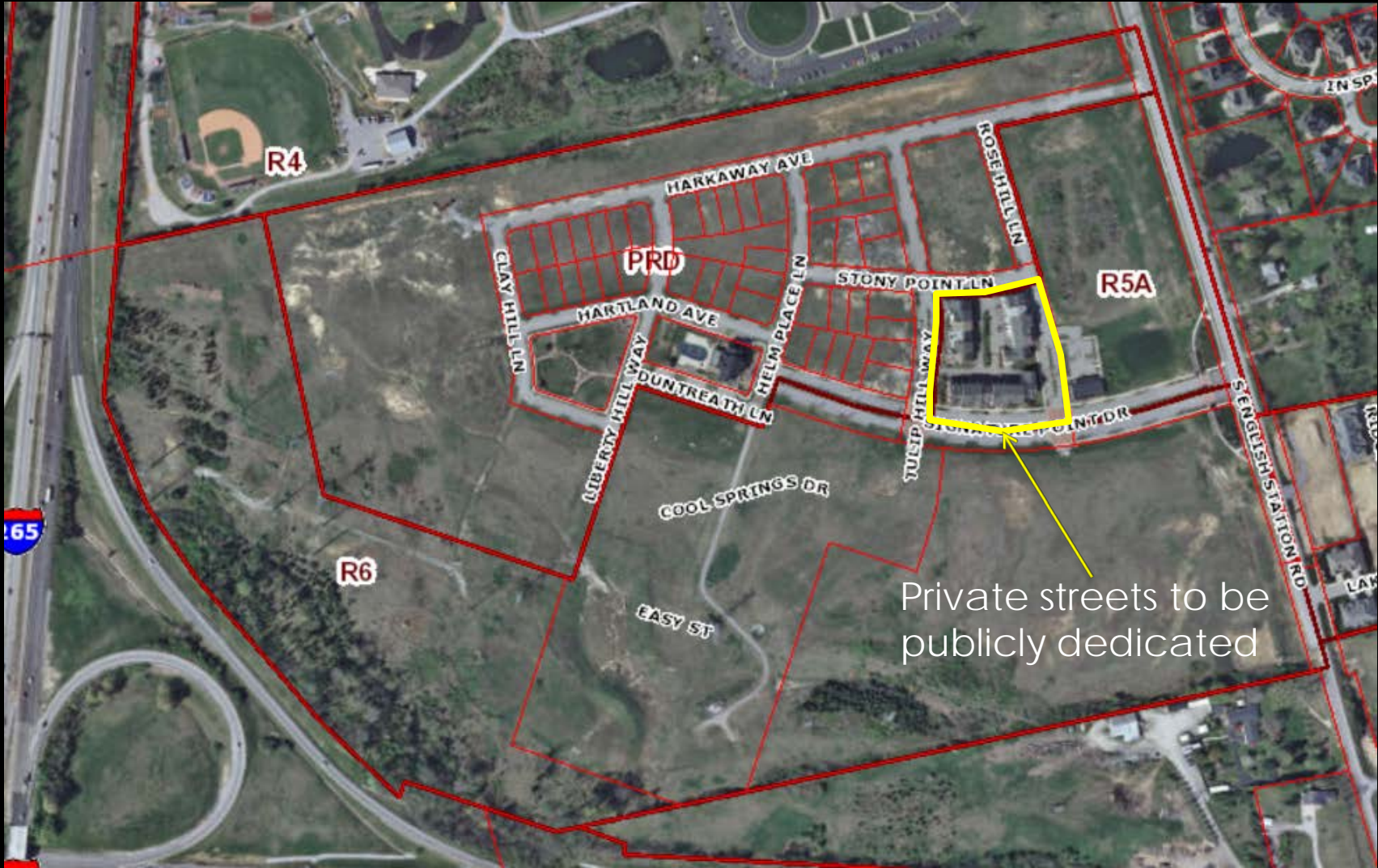
Tab 2

Aerial photograph of the site and  
surrounding area

LOJIC aerial of the overall site and surrounding properties



# Area to be rezoned





Tab 3

Ground level photographs of the  
site and surrounding area



Existing Condos constructed  
based on the 2002 plan



Existing Condos constructed  
based on the 2002 plan



Existing Condos constructed  
based on the 2002 plan

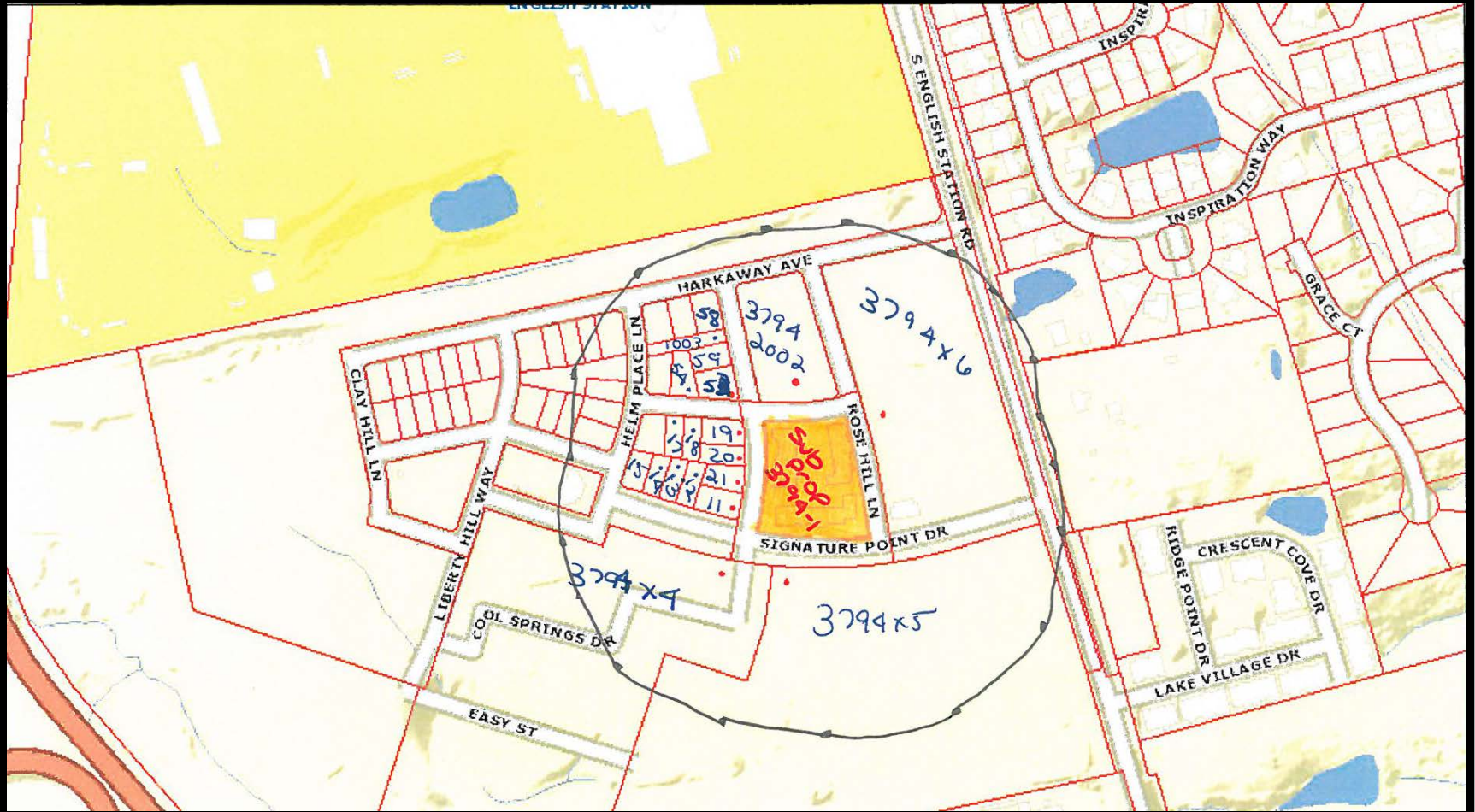




## Tab 4

Neighborhood Meeting notice list  
map, letter to neighbors inviting  
them to the meeting and summary  
of meeting

Adjoining property owner notice list map wherein 30 neighbors were invited to the various neighborhood meetings and the subsequent LD&T and Planning Commission public hearing.



# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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Nicholas R. Pregliasco  
Direct dial: 426-0388, ext. 139  
Email: NRP@BARDLAW.NET

November 22, 2016

Dear Neighbor,

**RE: Proposed change in zoning from R-5A to R-6 for the sole purpose of removing the roads surrounding the existing Signature Point Condominiums from the Condominium Regime and dedicating same as Right of Way ("ROW") on property located at the northwest corner of Rose Hill Lane and Signature Point Drive**

We are writing to invite you to a meeting we have scheduled to present neighbors with our rezoning plan to remove the portions of Signature Point Drive, Stony Point Lane, Tulip Hill Way and Rose Hill Lane from the condominium regime, which has the corresponding benefits of eliminating any future maintenance obligations. No other change to the existing condominium regime is proposed.

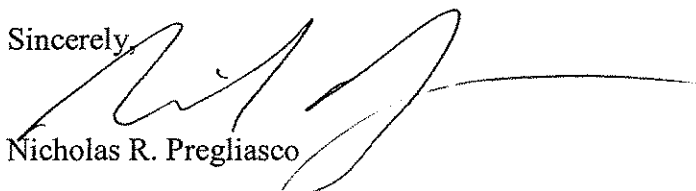
Accordingly, we will soon be filing a plan for pre-application review with the Division of Planning and Design Services (DPDS) that will be assigned a case manager, and case number. We would like to show and explain to neighbors this plan so that we might hear what thoughts, issues and perhaps even concerns you may have.

In that regard, a meeting will be held on **Tuesday, December 6<sup>th</sup> at 6:30 p.m.** at the **Signature Point Clubhouse** located at **1200 Helm Place Lane**.

If you cannot attend the meeting but have questions or concerns, please call me at 426-6688 or the land planning and engineering firm representatives Kevin Young or Ann Richard at 426-9374.

We look forward to seeing you.

Sincerely,

  
Nicholas R. Pregliasco

cc: Hon. Stuart Benson, Councilman, District 20  
Brian Davis, Planning Supervisor with Metro Division of Planning & Design Services  
Jim Mims, Elite Built Homes, Inc.  
Kevin Young & Ann Richard, engineer and land planners with Land Design & Development, Inc.

## Neighborhood Meeting Summary

A neighborhood meeting was held on Tuesday, December 6th at 6:30 p.m. at the Signature Point Clubhouse located at 1200 Helm Place Lane. Those in attendance included the applicant's representatives, Nick Pregliasco, attorney and Jim Mims on behalf of Elite Homes. Nick explained the reason for the proposed rezoning is simply to dedicate the streets surrounding the remaining condominium regime. To do so, Nick explained the history of the project and how the Northern portion of the overall property was included in the condominium regime. After the real estate recession and the condominium market stalled, Elite Homes worked with the 20 condominium owners to partition and remove the remainder of the property from the condominium regime such that it could be developed as a PRD subdivision. As part of the condominium regime, all streets were proposed as private streets, but once converted to a subdivision, the remaining streets were converted to publicly dedicated streets. At the time, the only streets that could not be publicly dedicated were the ones immediately surrounding the condominium regime as such a dedication would cause the condominium regime to violate the required Floor Area Ratio of the zoning district which cannot be waived. As a result, in order to dedicate these streets, this rezoning is required.

Condominium owners and noticed neighbors in attendance asked questions about the changes that would result as a publicly dedicated street and it was explained that this relieves them of future maintenance obligations once accepted as a public road. Answer questions as to why the parking areas and driveways inside the condominium regime cannot be dedicated and the variance and waiver issues that would result. Jim answered questions as to Elites development of the subdivision and their bonding obligations. No party in attendance voiced an objection to the proposed rezoning.



Tab 5

Previous Development Plans



# 11/7/13 DDDP for PRD portion of property



Private streets to be publicly dedicated

12/14/16 approved Revised  
Subdivision and RDDDP plan



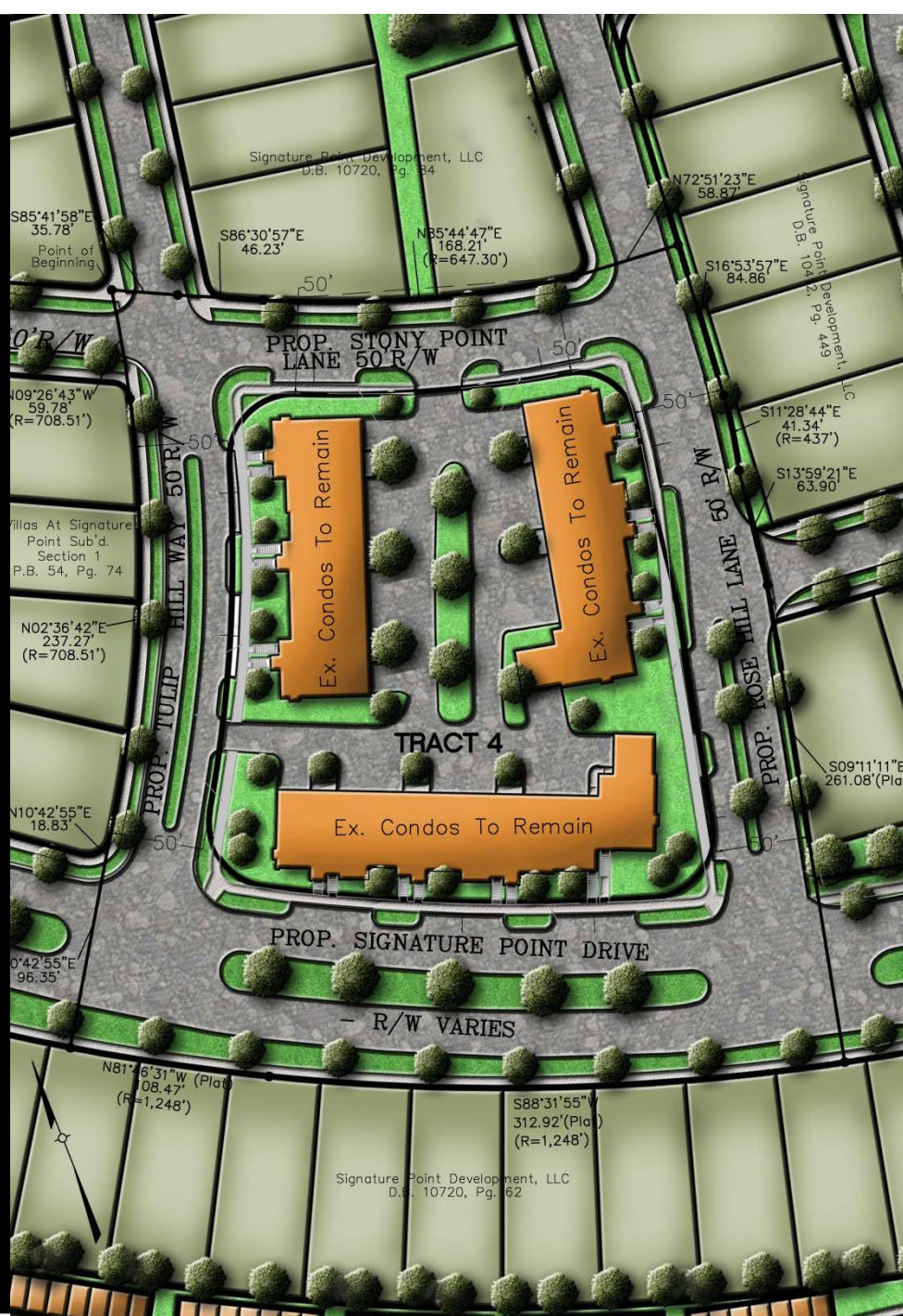


Tab 6

# Current Development Plan

Portion of the development to be rezoned outlined in pink







Tab 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

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

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

<u>Owner:</u>	Signature Point Condominium Council, Inc.
<u>Applicant:</u>	Elite Homes, Inc.
<u>Project Name:</u>	Signature Point
<u>Current Zoning:</u>	R-5A
<u>Proposed Zoning:</u>	R-6
<u>Proposed Use:</u>	Multi-Family Residential
<u>Engineers, Land Planners &amp; L.A.s</u>	Land Design & Development, Inc.
<u>Attorneys:</u>	Bardenwerper, Talbott & Roberts, PLLC

### **INTRODUCTION**

The existing condos are zoned R-5A, but the applicant is proposing to change the zoning to R-6 in order to dedicate the last remaining private streets in the development as public streets. The rezoning is required so that after dedication, the remaining existing condominium property complies with the floor-area ratio requirements of the zoning district.

Originally, the entire northern portion of the overall Signature Point development property was included in the condominium regime. After the real estate recession and the condominium market stalled, Elite Homes worked with the 20 condominium owners to partition and remove the remainder of the property from the condominium regime such that it could be developed as a Planned Residential District subdivision. Elite is actively building and selling new homes reinvigorating this development. At the creation of the condominium regime, all streets were proposed as private streets, but once converted to a subdivision, the remaining streets were converted to publicly dedicated streets. At the time, the only streets that could not be publicly dedicated were the ones immediately surrounding the existing condominium regime as a dedication would cause the condominium regime to violate the required Floor Area Ratio of the zoning district which cannot be waived. As a result, in order to dedicate these streets, this rezoning is required. There is no other proposed development or change to the existing condominium regime property other than the dedication of the private streets.

In that regard, the rezoning plan includes dedicating the portions of Signature Point Drive, Stony Point Lane, Tulip Hill Way and Rose Hill Lane, which has the corresponding benefit to the condominium owners of eliminating any future maintenance obligations. No other change to the existing condominium regime is proposed.

## **GUIDELINE - 1 COMMUNITY FORM**

The subject property lies within the Neighborhood Form District and is located at the northwest corner of Rose Hill Lane and Signature Point Drive.

No proposed changes are being made to the existing townhome style condominium units built over 10 years ago, which will remain as is. These 2-story buildings have garages. Gross density will be on the low side of the high density range. The current buildings are constructed with attractive durable building materials and feature high-end architectural details. The existing buildings blend compatibly with the remainder of the Signature Point development. The rezoning will not result in any additional residential units from the 20 condominium units currently existing on the property.

Perimeter setbacks and landscape buffer areas are provided along all property lines as required by the Land Development Code (LDC). All buffering and other compatibility issues were addressed during the original development plan approval as part of the original rezoning and as constructed.

## **GUIDELINE – 2 CENTERS**

The application complies with the overall Intents of and specifically with Policies 1, 4, 5, 7, 11, 13, 14 and 15 of Guideline 2 of the for all the reasons listed above and because there is no changes proposed to the existing condominium regime property as built and as approved as part of the original rezoning of this property. Further, dedicating the streets to public use will make efficient use of available property that lies within the Neighborhood Form District. This existing development is located in an extremely popular, very robust new residential development where residents currently seek new housing options that have easy access to the Shelbyville Road commercial center and such nearby Workplace Areas as along North English Station Road and Hurstbourne Parkway. Future residents will also support the businesses and services in nearby activity centers east and these also nearby west of the Snyder Freeway along Shelbyville Road. Parking is compact and shared, and walking and biking are convenient. Internal open space focal points are included on the development plan.

## **GUIDELINE – 3 COMPATIBILITY**

The existing condominium community conforms with the overall Intents of and specifically with Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, and 28 of Guideline 3 for all the reasons described above and because this existing condominium community is in a density range and design comparable to other nearby apartment communities and the balance of the Signature Point development. Buildings were constructed with attractive building materials comparable to residential communities in the area. Buildings are oriented toward the street.

Sidewalks are provided where required, and accommodations are made for pedestrian and bicycle transportation as well as the handicapped and elderly. Odors won't exist as in commercial industrial developments, and air quality concerns related to traffic congestion or delay will be mitigated by the fact that this is an existing residential development and that roads and sidewalks in the overall Signature Point development are efficiently organized to control traffic flow and prevent delays. Refuse is picked up on a regular basis. Lighting is residential in character and directed down and away from adjoining properties in conformance with LDC regulations. All signage is and will be in conformance with LDC regulations.



**GUIDELINES – 4 and 5 OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES**

The existing condominium community conforms with the overall Intents of and specifically with Policies 1, 3, 5, 6 & 7 of Guideline 4 and with the Intents of Guideline 5 for all the reasons described above and because it features open space for this development as part of the overall Signature Point development with a pool, clubhouse, dog park, etc. for which the condominium owners have access and contribute toward monthly. That open space area is available for the passive recreational enjoyment by residents and serves as a gathering and recreation area by the residents. Landscaping is also provided and trees installed around the buildings. Setbacks and buffers along property lines will ensure good transitions between the proposed community and existing land uses. Maintenance of landscaping, natural and open space areas will be performed by the condominium association on behalf of the condominium owners as set forth in the Master Deed for the condominium community. The common Signature Point development community features are maintained by a master association created to maintain same. This maintenance arrangement results in a higher and more consistent level of maintenance of the open spaces.

**GUIDELINE – 6 MARKETPLACE**

The existing condominium community conforms with the overall Intents of and specifically with Policies 1, 2 and 6 of Guideline 6 because, as noted above, the existing residents support the businesses, services, schools and churches in and around the nearby activity center of the very robust City of Middletown, an increasingly popular place to work, live and play. This proposal will create a unified system of public streets in the overall development instead of having four private streets in a development with all public streets. The current situation provides serious issues and concerns as to maintenance and access rights that will be solved with this rezoning and the dedication as public streets. The applicant will bond the remaining work to be performed on the streets prior to dedication and acceptance of same. This development has easy access to Shelbyville Road and I-265 and several other roads in the area, and from there to other Louisville employment and commercial centers.

**GUIDELINES – 7 (CIRCULATION), 8 (TRANSPORTATION FACILITY DESIGN), and 9 (BICYCLE, PEDESTRIAN AND TRANSIT)**

The existing condominium community conforms with the overall Intents and applicable Policies of Guidelines 7, 8 and 9 because the proposed Detailed District Development Plan (DDDP) has been designed in conformance with all Metro Public Works and Transportation Planning design policies. Good internal circulation, appropriate access, sight distances, corner clearances and parking are provided and have been built for some time. S. English Station and Shelbyville Roads have adequate traffic-carrying capacity, which will be demonstrated upon completion, and Metro Transportation's approval of, the Jacobs Engineering-commissioned traffic study at the time this project was originally approved.

**GUIDELINES – 10, 11 and 12 - FLOODING AND STORMWATER, WATER QUALITY and AIR QUALITY**

The existing condominium community conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 because, all drainage will run to internal catch basins and then to a sufficiently sized detention basin, and from there to an existing drainage channel and in that way will comply with all MSD storm water management requirements. This DDDP must receive the

preliminary stamped of approval by MSD prior to docketing for LD&T review. Louisville Water Company provides water to the site. MSD water quality regulatory requirements have been addressed. Air quality is addressed by virtue of the referenced shorter commuting distances explained hereinabove.

### **GUIDELINE 13 – LANDSCAPE CHARACTER**

The existing condominium community conforms with the overall Intents and applicable Policies of Guideline 13 for all the reasons described above and because landscaping has been installed and trees planted. Open space is preserved for a positive natural appearance and for passive recreational enjoyment by residents. Tree canopy requirements have been met as part of the overall development of the site.

### **GUIDELINE 14 – INFRASTRUCTURE**

The existing condominium community conforms with the overall Intents and applicable Policies of Guideline 14 because, as noted above, water, sewer, electric, phone and cable service connections are available by nearby connection to ensure a reduced cost for infrastructure.

\*\*\*\*\*

For all these reasons those set forth in the applicant's detailed Statement of Compliance with the Cornerstone 2020 Comprehensive Plan, and as evidenced by the DDDP and other evidence submitted with this application and to be presented at LD&T and Planning Commission meetings, the community complies with the specific Intents, Policies and Guidelines of Comprehensive Plan.

Respectfully submitted,

---

Nick Pregliasco  
Bardenwerper Talbott & Roberts, PLLC  
1000 N. Hurstbourne Parkway, Second Floor  
Louisville, KY 40223

### **Variance Justification:**

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of: Section 5.3.1.C, Table 5.3.1 to vary the front and street side setbacks of the existing buildings on Tract 4

1. The variance will not adversely affect the public health, safety or welfare because this is an existing condominium community that was previously approved. The only change now is to allow the existing condominium townhome building to remain only under a different zoning regulation for the sole purpose of dedicating the last remaining private streets in the overall development. The variance is only required due to the creation of a lot line that wouldn't exist if the streets remain private.
2. The variance will not alter the essential character of the general vicinity because as stated above, the development will remain the same, utilizing the infrastructure and buildings already in place. There are no proposed changes to the buildings, layout, etc. only to dedicate the streets.
3. The variance will not cause a hazard or a nuisance to the public because this variance does not involve a hazard or nuisance issue, but rather involves the same buildings remain as they have been since they were originally constructed as the first buildings in the development.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because as stated, this application pertains to use of a different regulation to address a floor-area ratio issue which prohibits the roads being publicly dedicated. Once publicly dedicated the remaining condominium property would violate the existing zoning floor area ratio, which cannot be waived. And the sole purpose is to dedicate the private streets around the buildings to avoid future issues with maintenance, snow removal, etc. By rezoning this small, existing development within Signature Point and removing the portions of Signature Point Drive, Stony Point Lane, Tulip Hill Way and Rose Hill Lane from the condominium regime, the benefit of which eliminates any future maintenance obligations by the condominium regime, whereas the remaining roads are publicly dedicated. These roads would be bonded by the applicant to ensure they are completed. And no other change to the existing condominium regime is proposed.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because as stated, this project involves rezoning the existing multi-family zoned condominiums in order to address a floor-area ratio issue that otherwise maintains a short stretch of roads as private where the rest are public.
2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant would otherwise be unable to dedicate the only remaining privately maintained streets within the entire Signature Point development.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather is the result of addressing the floor-area ratio issue that by rezoning this small portion of the overall development, removes Signature Point Drive, Stony Point Lane, Tulip Hill Way and Rose Hill Lane from the condominium regime, which has the corresponding benefits of eliminating any future maintenance obligations of the owners.



Tab 8

Proposed findings of fact pertaining to compliance with the Comprehensive Plan and Variance criteria

# 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 CORNERSTONE 2020 COMPREHENSIVE PLAN

<u>Owner:</u>	Signature Point Condominium Council, Inc.
<u>Applicant:</u>	Elite Homes, Inc.
<u>Project Name:</u>	Signature Point
<u>Current Zoning:</u>	R-5A
<u>Proposed Zoning:</u>	R-6
<u>Proposed Use:</u>	Multi-Family Residential
<u>Engineers, Land Planners &amp; L.A.s</u>	Land Design & Development, Inc.

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on April 6, 2017 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

### INTRODUCTION

**WHEREAS**, the existing condos are zoned R-5A, but the applicant is proposing to change the zoning to R-6 in order to dedicate the last remaining private streets in the development as public streets; and the rezoning is required so that, after dedication, the remaining existing condominium property complies with the floor-area ratio requirements of the zoning district; and

**WHEREAS**, originally, the entire northern portion of the overall Signature Point development property was included in the condominium regime; after the real estate recession and the condominium market stalled, Elite Homes worked with the 20 condominium owners to partition and remove the remainder of the property from the condominium regime such that it could be developed as a Planned Residential District (PRD) subdivision; Elite is actively building and selling new homes, thus reinvigorating this overall development; at the creation of the condominium regime, all streets were proposed as private streets, but once converted to a subdivision, the remaining streets were converted to publicly dedicated streets; at the time, the only streets that could not be publicly dedicated were the ones immediately surrounding the existing condominium regime as a dedication would cause the condominium regime to violate the required Floor Area Ratio of the existing zoning district, which cannot be waived; and as a result, in order to dedicate these streets, this rezoning is required; and there is no other proposed development or change to the existing condominium regime property other than the dedication of the private streets; and

**WHEREAS**, the rezoning plan includes dedicating the portions of Signature Point Drive, Stony Point Lane, Tulip Hill Way and Rose Hill Lane, which has the corresponding benefit to the condominium owners of eliminating any future maintenance obligations; and no other change to the existing condominium regime is proposed; and

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

**WHEREAS**, the subject property lies within the Neighborhood Form District and is located at the northwest corner of Rose Hill Lane and Signature Point Drive; no proposed changes are being made to the existing townhome style condominium units built over 10 years ago, which will remain as is; these 2-story buildings have garages; gross density will be on the low side of the high density range; the current buildings are constructed with attractive durable building materials and feature high-end architectural details; the existing buildings blend compatibly with the remainder of the Signature Point development; and the rezoning will not result in any additional residential units from the 20 condominium units currently existing on the property; and

**WHEREAS**, perimeter setbacks and landscape buffer areas are provided along all property lines as required by the Land Development Code (LDC); and all buffering and other compatibility issues were addressed during the original development plan approval as part of the original rezoning and as constructed; and

### **GUIDELINE – 2 CENTERS**

**WHEREAS**, the application complies with the overall Intents of and specifically with Policies 1, 4, 5, 7, 11, 13, 14 and 15 of Guideline 2 of the for all the reasons listed above and because no changes are proposed to the existing condominium regime property as built and as approved as part of the original rezoning of this property; further, dedicating the streets to public use will make efficient use of available property that lies within the Neighborhood Form District; this existing development is located in an extremely popular, very robust new residential development where residents currently seek new housing options that have easy access to the Shelbyville Road commercial center and such nearby workplace areas as along Shelbyville Road and North English Station Road; future residents will also support the businesses and services in nearby activity centers east and these also nearby west of the Snyder Freeway along Shelbyville Road; parking is compact and shared, and walking and biking are convenient; and internal open space focal points are included on the overall development plan; and

### **GUIDELINE – 3 COMPATIBILITY**

**WHEREAS**, the existing condominium community conforms with the overall Intents of and specifically with Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, and 28 of Guideline 3 for all the reasons described above and because this existing condominium community is in a density range and design comparable to other nearby communities and the balance of the Signature Point development; buildings were constructed with attractive building materials comparable to residential communities in the area; and buildings are oriented toward the street; and

**WHEREAS**, sidewalks are provided where required, and accommodations are made for pedestrian and bicycle transportation as well as the handicapped and elderly; odors won't exist as

they might in a commercial or industrial development; air quality concerns related to traffic congestion or delay will be mitigated by the fact that this is an existing residential development and that roads and sidewalks in the overall Signature Point development are efficiently organized to control traffic flow and prevent delays; refuse is picked up on a regular basis; lighting is residential in character with LDC regulations; and all signage is and will be in conformance with LDC regulations; and

**GUIDELINES – 4 and 5 OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES**

**WHEREAS**, the existing condominium community conforms with the overall Intents of and specifically with Policies 1, 3, 5, 6 & 7 of Guideline 4 and with the Intents of Guideline 5 for all the reasons described above and because it features open space for this development as part of the overall Signature Point development with a pool, clubhouse, dog park, etc. for which the condominium owners have access and contribute monthly; that open space area is available for the passive recreational enjoyment by residents and serves as a gathering and recreation area by the residents; landscaping is also provided and trees installed around the buildings; setbacks and buffers along property lines will ensure good transitions between the proposed community and existing land uses; maintenance of landscaping, natural and open space areas will be performed by the condominium association on behalf of the condominium owners as set forth in the Master Deed for the condominium community; the common Signature Point development community features are maintained by a master association created to maintain same; and this maintenance arrangement results in a higher and more consistent level of maintenance of the open spaces; and

**GUIDELINE – 6 MARKETPLACE**

**WHEREAS**, the existing condominium community conforms with the overall Intents of and specifically with Policies 1, 2 and 6 of Guideline 6 because, as noted above, the existing residents support the businesses, services, schools and churches in and around the nearby activity center of the very robust City of Middletown, an increasingly popular place to work, live and play; this proposal will create a unified system of public streets in the overall development instead of having four private streets in a development with all public streets; the current situation provides serious issues and concerns as to maintenance and access rights that will be solved with this rezoning and the dedication as public streets; the applicant will bond the remaining work to be performed on the streets prior to dedication and acceptance of same; and this development has easy access to Shelbyville Road and I-265 and several other roads in the area, and from there to other Louisville employment and commercial centers; and

**GUIDELINES – 7 (CIRCULATION), 8 (TRANSPORTATION FACILITY DESIGN), and 9 (BICYCLE, PEDESTRIAN AND TRANSIT)**

**WHEREAS**, the existing condominium community conforms with the overall Intents and applicable Policies of Guidelines 7, 8 and 9 because the proposed Detailed District Development Plan (DDDP) has been designed in conformance with all Metro Public Works and Transportation Planning design policies; good internal circulation, appropriate access, sight distances, corner clearances and parking are provided and have been built for some time; and S. English Station and Shelbyville Roads continue to have adequate traffic-carrying capacity; and



**GUIDELINES – 10, 11 and 12 - FLOODING AND STORMWATER, WATER QUALITY and AIR QUALITY**

**WHEREAS**, the existing condominium community conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 because all drainage will run to internal catch basins and then to sufficiently sized detention basins, and from there to an existing drainage channel and in that way will comply with all MSD storm water management requirements; this DDDP received the preliminary stamp of approval by MSD prior to docketing for LD&T and Planning Commission review; Louisville Water Company provides water to the site; MSD water quality regulatory requirements have been addressed; and air quality is addressed by virtue of the referenced shorter commuting distances explained hereinabove; and

**GUIDELINE 13 – LANDSCAPE CHARACTER**

**WHEREAS**, the existing condominium community conforms with the overall Intents and applicable Policies of Guideline 13 for all the reasons described above and because landscaping has been installed and trees planted; open space within the larger development is preserved for a positive natural appearance and for passive recreational enjoyment by residents; and tree canopy requirements have been met as part of the overall development of the site; and

**GUIDELINE 14 – INFRASTRUCTURE**

**WHEREAS**, the existing condominium community conforms with the overall Intents and applicable Policies of Guideline 14 because, as noted above, water, sewer, electric, phone and cable service connections are available by nearby connection to ensure a reduced cost for infrastructure; 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 R-6 and approves the Detailed District Development Plan.

Variance Findings of Fact

Variance of Section 5.3.1.C, Table 5.3.1 to vary the front and street side setbacks of the existing buildings on Tract 4

**WHEREAS**, the variance will not adversely affect the public health, safety or welfare because this is an existing condominium community that was previously approved; the only change now is to allow the existing condominium townhome building to remain only under a different zoning regulation for the sole purpose of dedicating the last remaining private streets in the overall development; and the variance is only required due to the creation of a lot line that wouldn't exist if the streets remain private; and

**WHEREAS**, the variance will not alter the essential character of the general vicinity because as stated above, the development will remain the same, utilizing the infrastructure and buildings already in place; and there are no proposed changes to the buildings, layout, etc. only to dedicate the streets; and

**WHEREAS**, the variance will not cause a hazard or a nuisance to the public because this variance does not involve a hazard or nuisance issue, but rather involves the same buildings remain as they have been since they were originally constructed as the first buildings in the development; and

**WHEREAS**, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because as stated, this application pertains to use of a different regulation to address a floor-area ratio issue which prohibits the roads being publicly dedicated; once publicly dedicated the remaining condominium property would violate the existing zoning floor area ratio, which cannot be waived; and the sole purpose is to dedicate the private streets around the buildings to avoid future issues with maintenance, snow removal, etc.; rezoning this small, existing development within Signature Point and removing the portions of Signature Point Drive, Stony Point Lane, Tulip Hill Way and Rose Hill Lane from the condominium regime, eliminates future maintenance obligations by the condominium regime, whereas the remaining roads are publicly dedicated; and these roads will be bonded until completed; and no other change to the existing condominium regime is proposed; and

**WHEREAS**, the variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as stated, this project involves rezoning the existing multi-family zoned condominiums in order to address a floor-area ratio issue that otherwise maintains a short stretch of roads as private where the rest are public; and

**WHEREAS**, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant would otherwise be unable to dedicate the only remaining privately maintained streets within the entire Signature Point development; and

**WHEREAS**, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather is the result of addressing the floor-area ratio issue that by rezoning this small portion of the overall development, removes Signature Point Drive, Stony Point Lane, Tulip Hill Way and Rose Hill Lane from the condominium regime, which has the corresponding benefits of eliminating future maintenance obligations of the condo owners; and

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