Case No. 17SUBDIV1006 Binding Elements and Conditions of Approval

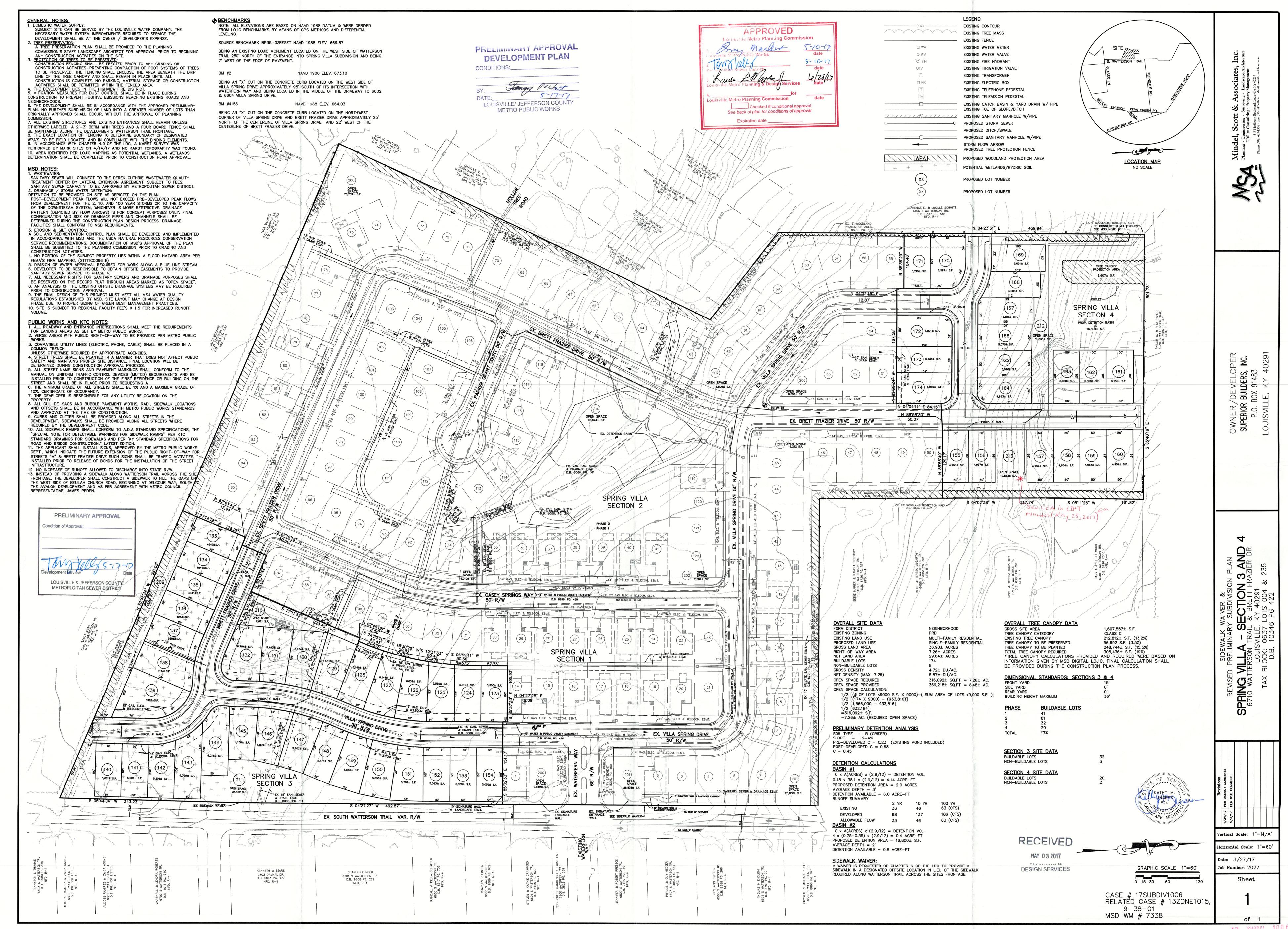
RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the requested Revised Major Preliminary Subdivision Plan and a Sidewalk Waiver of Chapter 5.8.1. of the Land Development Code to waive the requirement for sidewalks to be constructed along S Watterson Trail adjacent to the subject site, **ON CONDITION** that the applicant shall provide an access easement and provide a four-foot concrete sidewalk on Lot 213 to serve the McCarthy lot, and then provide about 750 feet of five-foot wide concrete sidewalk on Beulah Church Road as presented today, with the required encroachment permit from KYTC, and all sidewalk work shall be completed by January 1, 2018, **SUBJECT** to the following binding elements and Conditions of Approval:

- 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.
- 2. The density of the development shall not exceed **5.87** dwelling units per acre (**174** 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.
- 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:
 - a. The development plan must receive full construction approval from Develop Louisville and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- 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. There 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.
- 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.
- 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 13ZONE1 015. The property lines will be substantially the same as shown on the Preliminary Subdivision Plan, plus or minus 5 feet.



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