

# Planning Commission

## Staff Report

November 4, 2021



<b>Case No:</b>	21-ZONE-0106
<b>Project Name:</b>	Springdale Apartments
<b>Location:</b>	5217 Springdale Road
<b>Owner(s):</b>	Roy F McMahan III
<b>Applicant:</b>	LIV Development
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	16 – Scott Reed
<b>Case Manager:</b>	Dante St. Germain, AICP, Planner II

### REQUESTS

- **Change in zoning** from R-4 Single Family Residential to R-7 Multi-Family Residential
- **Sidewalk Waiver**
- **Detailed District Development Plan/Major Preliminary Subdivision** with Binding Elements

### CASE SUMMARY/BACKGROUND

The subject site is located along Springdale Road near the intersection of I-71 and I-265. The applicant proposes to rezone the property in order to construct a new 302-unit multi-family development.

Single-family development is located across Springdale Road to the west and south-east, with large-lot single-family/agricultural development located to the south-west. I-265 abuts the site to the north.

This case was heard at the October 21, 2021 Planning Commission hearing, and was continued to November 4, 2021 to address access and the proposed binding elements. Proposed binding elements have been included as an attachment. A new site plan with proposed new access points off of the straightened Springdale Road has not yet been provided as of the publication date of this staff report.

### STAFF FINDING

Staff finds that the proposed zoning change meets the guidelines of the Comprehensive Plan. The sidewalk waiver does not appear to be adequately justified and does not meet the standard of review. The site plan meets the requirements of the Land Development Code, with the exception of the requested waiver, and generally meets the guidelines of the Comprehensive Plan.

### TECHNICAL REVIEW

Plan 2040

Land Development Code (Louisville Metro)

MSD and Transportation Planning have provided preliminary approval of the proposal.

### INTERESTED PARTY COMMENTS

Staff received six interested party comments in opposition to the request. Attorney Steve Porter has suggested additional binding elements be added to the site in order to address neighbor concerns.

## **STANDARD OF REVIEW FOR REZONING**

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

## **STAFF ANALYSIS FOR CHANGE IN ZONING**

The site is located in the Neighborhood Form District

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to, large lot single family developments with cul-de-sacs, traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high density multi-family housing.

The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to support physical activity for all users and invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

Following is staff's analysis of the proposed rezoning against the Goals, Objectives and Policies of Plan 2040.

The proposal is for residential zoning in a generally residential area. The proposed zoning district would increase the variety of housing types, ownership options and price points in an existing residential area. Multi-family development would encourage aging in place by permitting existing residents to downsize without leaving the neighborhood, and would encourage multi-generational mixed-income development in the area. The proposal would also require the applicant to dedicate right-of-way for the straightening of Springdale Road, which currently has a dangerous curve and two additional sharp turns, improving mobility in the neighborhood and increasing safety.

The proposed zoning district is generally in compliance with the plan elements and CHASE principles of Plan 2040. All other agency comments should be addressed to demonstrate compliance with the remaining Goals, Objectives and Policies of Plan 2040.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 5.8.1.B. to not provide a sidewalk along the existing Springdale Road:**

(a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver would adversely affect adjacent property owners by not improving the existing sidewalk network while adding residents who may want to walk along the existing Springdale Road.

(b) Granting the waiver will result in a development in compliance with the Comprehensive Plan and the overall intent of this Land Development Code; and

STAFF: Mobility Goal 1 Policy 1 calls to promote healthy lifestyles and reduce congestion, new development and redevelopment should provide for the movement of pedestrians, bicyclists and transit users. Mobility Goal 1 Policy 6 calls for developments meeting established thresholds, provide facilities that support an efficient public transportation system such as convenient access to and across pedestrian, bicycle and roadway facilities. Mobility Goal 2 Policy 1 calls to provide transportation facilities and systems that accommodate all users and allow for context-sensitive solutions that recognize the distinguishing characteristics of each of the Form Districts. Mobility Goal 3 Policy 9 states that when existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location. Mobility Goal 3 Policy 11 calls to provide street improvements and/or transit solutions to mitigate the impacts of development and redevelopment. Improvements may include, but not be limited to, the following: on-site road system construction; off-site shoulder improvements and pavement widening; addition of acceleration and deceleration lanes; addition of turn lanes or traffic signals on streets bordering the site to street; intersection widening completely off-site; right-of-way donation; addition and/or widening of on-site or off-site sidewalks; installation of bicycle facilities; installation of new transit stops and amenities; and improvement of existing transit stops and amenities. Livability Goal 1 Policy 35 calls to ensure critical connections are built and maintained in the pedestrian and bicycle networks including the development of sidewalks, bike lanes, shared use paths and walkways to promote the use of multi-modal transportation options. The overall development is not in compliance with the Comprehensive Plan without the sidewalks as Plan 2040 strongly encourages connectivity in pedestrian walkability.

(c) The applicant cannot reasonably comply with one of the listed methods of compliance; and

STAFF: The applicant could reasonably comply with one of the listed methods of compliance as the sidewalk network could be provided within the subject property in an easement, provide a fee-in-lieu, or build off-site sidewalk.

- (d) Strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

STAFF: Strict application of the provision of the regulation would not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because fee-in-lieu or off-site sidewalk construction are both options for the applicant.

- (e) There are site constraints that make sidewalk construction impracticable or sidewalks do not exist in the area and there is not a likelihood for sidewalks to be constructed in the future, except for areas where sidewalks are recommended within a Planning Commission or legislatively adopted plan recommending sidewalk construction.

STAFF: There are site constraints making sidewalk construction in the right-of-way impractical, as there are trees in the right-of-way which are important to the community and should be preserved, but would have to be removed to make room for the sidewalk. However, sidewalks could be provided on the site rather than in the right-of-way to avoid the trees. Sidewalks do exist nearby but the proposal will not connect to them.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP**

- (a) The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: No natural resources are evident on the site aside from tree canopy near the road. The trees near the road are important to the community and will be preserved except at curb cuts. Additional tree canopy will be provided on the site to meet LDC requirements.

- (b) The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan.

- (c) The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Required open space, both common and recreational, is being provided on the site.

- (d) The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- (e) The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design is in compliance with existing and planned future development in the area. The proposal would provide an increase in the variety of housing in the

neighborhood by permitting new development which is different from the existing development in the area.

- (f) Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040 with the exception of the requested sidewalk waiver.

### **REQUIRED ACTIONS**

- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4 to R-7
- **APPROVE** or **DENY** the **Sidewalk Waiver**
- **APPROVE** or **DENY** the **Detailed District Development Plan/Major Preliminary Subdivision** with **Binding Elements**

### **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>09/09/2021</b>	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 16
<b>10/06/2021</b>	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 16
<b>09/28/2021</b>	Hearing before PC	Sign Posting on property
<b>10/09/2021</b>	Hearing before PC	Legal Advertisement in the Courier-Journal

### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2040 Checklist
4. Proposed Binding Elements



2. Aerial Photograph



5217 Springdale Road

feet



770

Map Created: 6/21/2021



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### 3. Staff Plan 2040 Checklist

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

#### Neighborhood: Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Community Form: Goal 1	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The site is relatively close to an activity center at the N Hurstbourne Parkway and Brownsboro Road intersection.
2	Community Form: Goal 1	9. Ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.	✓	The site is triangular in shape and is bordered on two sides by Springdale Road and on the third side by I-265.
3	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal would allow new development providing residential uses.
4	Community Form: Goal 3	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	No wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site.
5	Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The trees along Springdale Road are a distinctive cultural feature which is proposed to be preserved except for where curb cuts are required.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
6	Community Form: Goal 4	3. Encourage preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies.	✓	No historic assets are evident on the site.
7	Mobility: Goal 1	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The site is relatively close to an activity center at the N Hurstbourne Parkway and Brownsboro Road intersection.
8	Mobility: Goal 2	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the site is via Springdale Road, a primary collector at this location.
9	Mobility: Goal 3	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	-	The site is easily accessible by car. It is more challenging to access by bicycle, transit, pedestrians and people with disabilities.
10	Mobility: Goal 3	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	Transportation Planning has approved the proposal.
11	Mobility: Goal 3	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	Transportation Planning has approved the proposal.
12	Mobility: Goal 3	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Transportation Planning has approved the proposal.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
13	Mobility: Goal 3	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Transportation Planning has approved the proposal.
14	Mobility: Goal 3	21. Prevent safety hazards caused by direct residential access to high speed roadways.	✓	No direct residential access to high-speed roadways is proposed.
15	Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The relevant utilities have approved the proposal.
16	Community Facilities: Goal 2	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	Louisville Water Company has approved the proposal.
17	Community Facilities: Goal 2	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	MSD has approved the proposal.
18	Livability: Goal 1	5. Encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro.	✓	Tree canopy will be provided on the site.
19	Livability: Goal 1	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	No karst features are evident on the site.
20	Livability: Goal 1	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	The site is not located in the regulatory floodplain.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
21	Housing: Goal 1	1. Encourage a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing. Allow for accessory residential structures and apartments. Housing types should reflect the Form District pattern.	✓	The proposal would increase the variety of housing the vicinity, by permitting multi-family residential in an area which is mostly single-family residential currently.
22	Housing: Goal 1	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposal would support aging in place by increasing the variety of ownership options and price points in the neighborhood.
23	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposal would permit inter-generational mixed-income development by allowing multi-family in a mostly single-family neighborhood.
24	Housing: Goal 2	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	The site is relatively close to an activity center at the N Hurstbourne Parkway and Brownsboro Road intersection which provides neighborhood goods and services.
25	Housing: Goal 3	1. Encourage provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. Expand opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro.	✓	The proposal would encourage the provision of fair and affordable housing by increasing the variety of ownership options and unit costs throughout Louisville Metro.
26	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No existing residents will be displaced by the proposal.
27	Housing: Goal 3	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The proposed zoning district would permit innovative methods of housing.

#### **4. Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. 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.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Construction Review, 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 Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 21, 2021 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. 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.
6. 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.
7. The Springdale Road extension to the north of the site shall be dedicated to public use with a major subdivision plat prior to issuance of building permits. The developer shall build the sidewalk shown in the new right-of-way and shall make the new right-of-way available to the

Department of Works for road building in perpetuity. Maintenance of the sidewalk and unused right-of-way shall be the responsibility of the developer/property owner until such time as the Department of Works builds a road in the right-of-way.