

Board of Zoning Adjustment
Staff Report
May 2, 2022



Case No:	22-VARIANCE-0022
Project Name:	Shepherd Springs
Location:	8016 Shepherdsville Road
Owner(s):	Utica Investments LLC
Applicant:	Denton Floyd Real Estate Group
Jurisdiction:	Louisville Metro
Council District:	24- Madonna Flood
Case Manager:	Julia Williams, AICP, Planning Supervisor

REQUEST(S)

- Variance from 5.3.1.C to eliminate the 15' setback required adjacent to the 24' private access easement

CASE SUMMARY/BACKGROUND

The proposal is for 260 multi-family units on 18.09 acres (14.37 du/ac). 496 parking spaces are proposed for the units. The existing access easement is being expanded from 15' to 24' to accommodate two way traffic. Access will not be restricted.

The site was rezoned in 2016 (16zone1027).

The Detailed Development Plan 22-DDP-0001 was heard at the April 21, 2022 Planning Commission hearing.

STAFF FINDING

Staff finds that the proposal meets the standard of review for granting the variance.

TECHNICAL REVIEW

Transportation Planning and MSD have preliminarily approved the proposal.

INTERESTED PARTY COMMENTS

See attached citizen letters

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The variance will not adversely affect the public health, safety or welfare because the private access easement acts as a driveway to both the adjacent property and is proposed as a drivlane for the proposed development.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity because the private access easement acts as a driveway to both the adjacent property and is proposed as a drivlane for the proposed development.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public because the private access easement acts as a driveway to both the adjacent property and is proposed as a drivlane for the proposed development.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations because the access easement exists to provide access to an adjacent property and that access will remain and be modified to provide 24' and allow two way traffic.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does arise from a special circumstances because the site has an existing access easement to an adjacent property. That access will remain and be expanded to a 24' access easement. It is unusual for a site to have an existing access easement and in order to utilize the site per the zoning it is necessary to both keep the access but allow the site to use the access further as a driveway/drivlane.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because not allowing the encroachments into the setbacks off of the easement would eliminate the parking necessary for the site and buildings it serves.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant is not responsible for the existing access easement location but would like to expand it to serve both the subject property and the adjacent property.

REQUIRED ACTIONS:

- APPROVE or DENY the variance

NOTIFICATION

Date	Purpose of Notice	Recipients
4/13/22	Hearing before BOZA on 5/2/22	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 23 and 24

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**



2. Aerial Photograph



Planning Commission
Staff Report
April 21, 2022



Case No:	22-DDP-0001
Project Name:	Shepherd Springs
Location:	8016 Shepherdsville Road
Owner(s):	Utica Investments LLC
Applicant:	Denton Floyd Real Estate Group
Jurisdiction:	Louisville Metro
Council District:	24- Madonna Flood
Case Manager:	Julia Williams, AICP, Planning Supervisor

REQUEST(S)

- Alternate Plan for access from the existing stub streets (Cedar Brook Drive & Red Cedar Way)
- District Development Plan with Binding Elements

CASE SUMMARY/BACKGROUND

The proposal is for 260 multi-family units on 18.09 acres (14.37 du/ac). There are 13 proposed buildings, 6 1/2 buildings are 2 stories and 6 1/2 are 3 stories. The 3 story buildings accommodate 24 units while the 2 story buildings have 16 units each. The 2 story structures are located along Shepherdsville Road and along the rear of the lot. 496 parking spaces are proposed for the units. The site does not have any distinguishable natural features in or around the area proposed to be developed.

There are no proposed connections to Cedar Brook Drive and Red Cedar Way. A shared access drive that leads to the Shields property will remain.

A variance to allow parking to encroach into the setbacks off of an access easement will be heard at the May 2, 2022 BOZA hearing.

STAFF FINDING

Staff finds that the proposal meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code with the exception of the lack of connection to the existing stub roads.

TECHNICAL REVIEW

Highview Neighborhood Plan (June 2015)

The subject site is located at the far west portion of the Highview Neighborhood Plan. There are no specific land use recommendations indicated for the site. The Plan recommends:

- Limiting multi-family residential to within or immediately adjacent to the Town Center and Neighborhood Activity Centers/Nodes
- Incorporate design principles for new development/redevelopment of multi-family residential:

To ensure a high-quality of multi-family development in Highview, design guidelines should be developed and adopted for all multi-family development. The design guidelines should incorporate the following design elements:

- New multi-family development should be designed to a scale (both height and mass) to be cohesively integrated into the surrounding existing development.
- Small sites should act as infill development and focus on design over density
- Medium-scaled sites should take advantage of opportunities for a variety of housing types and options
- Larger sites should provide a range of housing types with a centralized common open space or focal point, interconnected system to streets, sidewalks and paths to create a neighborhood feel
- New development should connect to surrounding neighborhoods through an integrated car, bike and pedestrian network with adequate and appropriately sited parking (i.e., not located between a building and public street).
- Both public and private open spaces (scaled appropriately for the design of the development) should be incorporated into the design. The orientation of buildings around common spaces should also be designed to face the public space or streets.
- Landscaping treatments, including trees, planting and other treatments, should be incorporated throughout the development with utilities and service structures screened from view.
- The architectural design of new multi-family developments should vary to create interest rather than duplicating the same facade or building design in a continuous row or in multiple locations. The scale of buildings should be pedestrian-friendly and highlight the entry to individual units. The buildings should have proportions and massing that creates a higher-density residential neighborhood (compared to a large apartment building with large parking lot). High-quality and durable materials, such as brick, stone, etc., should be used in all multi-family developments and changes in colors and materials should be encouraged.

Transportation Planning and MSD have preliminarily approved the proposal.

INTERESTED PARTY COMMENTS

Staff received several phone calls from Ken Shields concerning the access easement leading to his property. His concerns relate to the modification of the existing driveway and the potential for cars to block his access.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO BINDING ELEMENTS

- 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: There do not appear to be any environmental constraints or historic resources on the subject site being disturbed. Tree canopy requirements of the Land Development Code will be provided on the subject site.

- 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 have not been provided as a vehicular connection to both of the stub roads is not being provided.

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

STAFF: The multi-family development proposed on the subject site is meeting the Land Development Code requirements for open space.

- 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 and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots generally meet all required setbacks.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code.

STAFF: The development plan generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTIONS:

- **RECOMMEND** that the Louisville Metro Council **APPROVE** or **DENY** the **alternate plan for access**
- **RECOMMEND** that the Louisville Metro Council **APPROVE** or **DENY** the **RDDP**

NOTIFICATION

Date	Purpose of Notice	Recipients
3/31/22	Hearing before PC on 4/21/22	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 23 and 24

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements with proposed changes

1. Zoning Map



2. Aerial Photograph



3. Existing Binding Elements with proposed changes

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 or imposed binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall require a public hearing by the Planning Commission with final approval by Louisville Metro Council.
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) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to Shepherdsville Road to provide a total of 60 feet from the centerline and right-of-way dedication of Robbs Ln. as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - c. 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.
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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~October 9, 2018~~ **April 21, 2022** Planning Commission meeting.
8. There shall be enhanced landscaping as discussed during the testimony at the October 9, 2018 Planning Commission meeting for the variance located on the northern property line.

9. All exterior lighting on the property, whether attached or free-standing, is to be shielded and pointed downward.
10. The property owner shall maintain the fence and all landscaping areas and related plant material on the property.
11. Construction plans, bond and permit for a 5 foot sidewalk along either the east or west side of Robbs Lane between ~~the proposed location of the TARC Park and Ride on the development plan~~ **C-1 portion of the site** to the existing sidewalk along Robbs Lane frontage of 5100 Outer Loop shall be submitted prior to issuance of the first building permit. The ultimate location of the sidewalk will be determined in consultation with Public Works.
12. Sidewalk along Robbs Lane and turning lanes on Shepherdsville Road shall be installed and completed prior to issuance of certificate of occupancy.
13. There shall be no increase in density beyond what was shown and approved at the October 9, 2018 meeting of the Planning Commission.
14. There shall be no increase in building height beyond what was shown and approved at the October 9, 2018 meeting of the Planning Commission.
15. As testified to during the October 9, 2018 meeting of the Planning Commission, there shall be on-site management at ~~the Unity Place Apartments~~ **Shepherd Springs**. Management shall have the capability and procedures in place to contact emergency maintenance at all times.

