

**PLANNING COMMISSION MINUTES**  
**November 4, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0106**

Request: CONTINUED FROM 10/21/21 PC; ONLY HEARING CHANGES REGARDING ENTRANCE - Change in zoning from R-4 to R-7, with Detailed District Development Plan/Major Preliminary Subdivision and Binding Elements, and Sidewalk Waiver

Project Name: Springdale Apartments  
Location: 5217 Springdale Road  
Owner: Roy F McMahan III  
Applicant: LIV Development  
Representative: Bardenwerper Talbott & Roberts  
Jurisdiction: Louisville Metro  
Council District: 16 - Scott Reed  
**Case Manager: Dante St. Germain, AICP, Planner II**

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:18:25 Dante St. Germain presented the case and showed a Power Point presentation (see recording for detailed presentation.)

00:25:22 Laura Ferguson, Assistant County Attorney, said that there were three Commissioners who were not present for the October 21, 2021 Planning Commission hearing. Commissioners Brown and Seitz said they did review the video of that meeting and can vote on the case; Commissioner Clare said she had not reviewed the video and would recuse herself from voting.

00:26:36 In response to a question from Commissioner Brown, Ms. St. Germain said binding element #11 addresses the proposed emergency gates/gated access (located in the staff report.)

00:27:14 In response to a question from Commissioner Mims, Ms. St. Germain used the development plan to point out the location of the gated accesses.

**PLANNING COMMISSION MINUTES**  
**November 4, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0106**

00:28:40 In response to a request from Commissioner Carlson, Ms. St. Germain said the word "maintenance" would be added to binding element #11 ("...design, operation, and maintenance.")

00:29:10 In response to a question from Commissioner Lewis, Ms. St. Germain used the development plan to point out the location of the proposed sidewalk waiver.

**The following spoke in support of the request:**

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Michael Ramsey, LIV Development, 2204 Lakeshore Drive Suite 450, Birmingham, AL 35209

Doug Schultz (was present but did not speak)

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

**Summary of testimony of those in support:**

00:30:45 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:40:50 In response to a question from Commissioner Mims, Mr. Pregliasco discussed the changes to the plan and the sidewalk extending along the new Springdale right-of-way (see recording.)

00:42:30 Commissioner Brown said that, with the change to the primary access entrance, there is an existing sidewalk about 300 feet to the east. Would the applicant consider extending the new sidewalk to the existing sidewalk? Mr. Ramsey said yes, and further discussed the waiver request.

00:44:50 Steve Porter, representing the Asbury Park homeowner's association, said his clients now support the plan due to the new development plan, sidewalk waiver, and binding elements.

**The following spoke in opposition to the request:**

Harold Friedly, 7918 Albrecht Circle, Louisville, KY 40241

**PLANNING COMMISSION MINUTES**  
**November 4, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0106**

**Summary of testimony of those in opposition:**

00:48:01 Harold Friedly, who lives directly across the street from the northwest entrance, said his concerns are vehicle headlights shining into his home and property; accidents; and traffic. He asked if it was possible to eliminate the northwest entrance entirely. He said there are other subdivisions nearby which have only one entrance.

**The following spoke neither for nor against (“Other”):**

Ms. Pan Banchongmanie-Manadee, 122 Wilson Road, Nahant, MA 01908

**Summary of testimony of those neither for nor against:**

00:54:33 Pan Banchongmanie-Manadee said her family owns the property at 5004 Springdale Road and she is speaking on their behalf. She said the new entrance layout is much safer. She asked what is the building timeframe of the access road.

00:56:42 Commissioner Carlson asked Mr. Friedly if he would be willing to allow the applicant to plant trees on his property to block headlights from shining into his property. Mr. Friedly agreed.

**Rebuttal:**

00:58:28 Mr. Ramsey said the two driveways will be constructed at the same time as the apartments. He said the applicant is willing to install trees and /or landscaping to help block headlights from Mr. Friedly’s property. Mr. Pregliasco said it was not possible to eliminate one of the entrances. He stated that the applicant would be willing to extend the new sidewalk from this development to the east, to the current Springdale Baptist Church sidewalk so the two connect.

01:00:35 Ms. St. Germain discussed binding elements (see recording for detailed discussion.) The following proposed binding element was read into the record:

13. Developer shall plant evergreen shrubs or trees at the rear of the Friedly property, with permission from the property owner, in sufficient density to block light trespass from headlights, prior to obtaining the first certificate of occupancy.

She added that, if the sidewalk was extended to the church property to connect to it, this would help to mitigate this waiver. It is up to Public Works/Transportation to determine if the waiver is unnecessary.

**PLANNING COMMISSION MINUTES**  
**November 4, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0106**

01:03:18 Commissioner Brown discussed the sidewalk and the requested waiver. He said that the waiver is probably still necessary and should be acted upon.

01:04:50 Mr. Ramsey said the applicant agrees to install the off-site landscaping on Mr. Friedly's property.

01:07:07 Commissioner Carlson and Ms. St. Germain discussed the sidewalk waiver.

**Deliberations:**

01:09:04 Commissioners' deliberation.

**An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Zoning**

01:16:26 On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

**WHEREAS** the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the site is relatively close to an activity center at the N Hurstbourne Parkway and Brownsboro Road intersection; and the site is triangular in shape and is bordered on two sides by Springdale Road and on the third side by I-265; and

**WHEREAS** the Commission further finds that the proposal meets Community Form: Goal 2 because the proposal would allow new development providing residential uses; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because the trees along Springdale Road are a distinctive cultural feature which

PLANNING COMMISSION MINUTLS  
November 4, 2021

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0106**

is proposed to be preserved except for where curb cuts are required; and no historic assets are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the site is relatively close to an activity center at the N Hurstbourne Parkway and Brownsboro Road intersection; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 2 because access to the site is via Springdale Road, a primary collector at this location; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the site is easily accessible by car. It is more challenging to access by bicycle, transit, pedestrians and people with disabilities; Transportation Planning has approved the proposal; and no direct residential access to high-speed roadways is proposed; and

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

**WHEREAS** the Commission further finds that the proposal meets Livability: Goal 1 because tree canopy will be provided on the site; no karst features are evident on the site; and the site is not located in the regulatory floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 1 because 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; and the proposal would support aging in place by increasing the variety of ownership options and price points in the neighborhood; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 2 because the proposal would permit inter-generational mixed-income development by allowing multi-family in a mostly single-family neighborhood; and the site is relatively close to an activity center at the N Hurstbourne Parkway and Brownsboro Road intersection which provides neighborhood goods and services; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 3 because the proposal would encourage the provision of fair and affordable housing by increasing the variety of ownership options and unit costs throughout Louisville Metro; no existing residents will be displaced by the proposal; and the proposed zoning district would permit innovative methods of housing; now, therefore be it



**PLANNING COMMISSION MINUTES**  
**November 4, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0106**

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 Single Family Residential to R-7 Multi-Family Residential on property shown in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Seitz, Carlson, Howard, Brown, Mims, and Lewis.**

**ABSTAINING: Commissioner Clare.**

**ABSENT: Commissioners Peterson, Daniels, and Sistrunk.**

**Sidewalk Waiver**

01:17:52 On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution, based on evidence and testimony heard at today's hearing, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested waiver will not adversely affect adjacent property owners because there will be additional sidewalk constructed off-site, as discussed at today's Planning Commission hearing, along Springdale Road; and

**WHEREAS**, the Commission further finds that granting the waiver will result in a development in compliance with the intent of the Comprehensive Plan and the overall intent of the Land Development Code because they are extending the sidewalk as described off-site; and

**WHEREAS**, the Commission further finds that the applicant has reasonably complied with listed methods of compliance, specifically off-site sidewalk construction; and

**WHEREAS** the Commission further finds that the strict application of regulation would deprive the applicant of the reasonable use of the land, and it would create an unnecessary hardship on the applicant because there are constraints for sidewalk construction, and that the amount of sidewalk that would be necessary is excessive in regard to the off-site improvements that they are offering to make; and

**WHEREAS**, the Commission further finds that there are site constraints that make sidewalk construction impractical and there is little likelihood of dealing with those site constraints in the future; now therefore be it

PLANNING COMMISSION MINUTES  
November 4, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0106

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested sidewalk waiver **ON CONDITION** that the off-site sidewalk construction be made where the sidewalk terminates adjacent to the Springdale Baptist Church up to where the applicant will begin the sidewalk for their property.

The vote was as follows:

**YES: Commissioners Seitz, Carlson, Howard, Brown, Mims, and Lewis.**

**ABSTAINING: Commissioner Clare.**

**ABSENT: Commissioners Peterson, Daniels, and Sistrunk.**

**Detailed District Development Plan/Major Preliminary Subdivision with Binding Elements**

01:21:28 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that 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; 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 Public Works has approved the preliminary development plan; and

**WHEREAS**, the Commission further finds that required open space, both common and recreational, is being provided on the site; and

**WHEREAS**, the Commission further finds that 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; and

**WHEREAS**, the Commission further finds that the overall site design is in compliance with existing and planned future development in the area. The proposal would provide

PLANNING COMMISSION MINUTES  
November 4, 2021

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0106**

an increase in the variety of housing in the neighborhood by permitting new development which is different from the existing development in the area; and

**WHEREAS**, the Commission further finds that 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; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan/Major Preliminary Subdivision with Binding Elements; **SUBJECT** to the following 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.



PLANNING COMMISSION MINUTES  
November 4, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0106

- 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.
- 8. **Lighting**
  - a. All exterior lighting, whether freestanding or attached to any structure, including street lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground, with the following exceptions:
    - i. Partly shielded or unshielded decorative wall sconces shall be permitted on buildings 6, 7 and 8 at a front entry to a residence if the total output in lumens does not exceed 2000 lumens.

**PLANNING COMMISSION MINUTES**  
**November 4, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0106**

- ii. Low voltage landscape lighting aimed away from adjacent properties and not exceeding 2000 lumens in output shall be permitted.
- b. No lighting shall have a correlated color temperature (CCT) exceeding 2700 degrees Kelvin.
- c. No parking lot or street light fixtures shall be more than fourteen feet high, measured from ground level.
- 9. The developer shall fund \$75,000 to Louisville Metro for final design plans for a new Springdale Road extension (straightening), due at issuance of building permit.
- 10. A detailed landscaping plan shall be developed in conjunction with advice from Asbury Home Owners Association, Inc. and its arborist and a Louisville Metro landscape architect and shall be submitted for approval to PDS staff prior to issuance of any building permit.
- 11. Owner/Developer shall coordinate with the appropriate emergency response agencies to ensure that the design, operation and maintenance of gated entrances complies with emergency access gate requirements.
- 12. All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur and be offered pre-blast surveys. Any homeowners who opt to have a pre-blast survey conducted shall be provided with copies of all materials resulting from that survey, including any photos and/or videos. Any blast surveys shall be done in a manner consistent with Kentucky Blasting Regulations.
- 13. Developer shall plant evergreen shrubs or trees at the rear of the Friedly property, with permission from the property owner, in sufficient density to block light trespass from headlights, prior to obtaining the first certificate of occupancy.
- 14. The applicant/developer shall construct an off-site sidewalk as described in the Condition of Approval of the sidewalk waiver as voted on today.

**The vote was as follows:**

**YES: Commissioners Seitz, Carlson, Howard, Brown, Mims, and Lewis.**

**ABSTAINING: Commissioner Clare.**

**PLANNING COMMISSION MINUTES**  
**November 4, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0106**

**ABSENT: Commissioners Peterson, Daniels, and Sistrunk.**