

Planning Commission

Staff Report

September 21, 2017



Case No:	17ZONE1020
Request:	R-4 to R-6
Project Name:	Morat Avenue Apartments
Location:	1701 Alpha Avenue
Owner:	John & Holly Bartlett, Edward & Mary Allgeier, Darrell Metcalfe, Manuel Tapia
Applicant:	Continental Properties Company, LLC
Representative:	Bardenwerper, Talbott, & Roberts, PLLC
Jurisdiction:	Lyndon
Council District:	18 – Marilyn Parker
Case Manager:	Laura Mattingly, AICP, Planner II

REQUEST(S)

- Change in zoning from R-4 to R-6
- Sidewalk waiver of Section 5.8.1.B to not provide sidewalks along portions of Hurstbourne Parkway, Morat Ave and Alpha Ave
- Waiver of 10.3.5 to allow VUA encroachment into parkway setback and buffer
- Variance from 4.4.3 to allow fence to exceed maximum height of 4' by 2'
- Detailed District Development Plan

CASE SUMMARY/BACKGROUND

The applicant is proposing 244 dwelling units on 14.27 acres, with 11 two-story apartment buildings and 436 total parking spaces. The proposal also includes open space amenities such as two dog parks and a clubhouse with pool. The site lies just east of N Hurstbourne Parkway and south of the CSX railroad and LaGrange Road within the City of Lyndon. Currently, the site is divided into several single family lots, with most of these lots being vacant and a large parcel being used for agricultural purposes. The applicant has not provided the parkway buffer or setback along the northwest property line fronting N. Hurstbourne Pkwy. The applicant will also not be providing sidewalks along the frontage with Hurstbourne Pkwy along the northwestern property line, Morat Ave east of the emergency entrance or Alpha Ave north of the main entrance. The applicant has additionally proposed a fence along the southern and eastern property lines that is proposed to be 6' tall, all of which will require relief from the Land Development Code.

STAFF FINDING

Staff finds that the request for change in zoning is in compliance with the applicable guidelines of Cornerstone 2020, as the proposal provides for more housing choice in an area with a mix of services and uses nearby including a large activity center to the west. It is located near an arterial road and is improving the transit access for Morat Avenue by providing a pedestrian connection from the main entrance to the existing sidewalk along N. Hurstbourne Pkwy. The proposal also includes several amenities within the development which will potentially decrease trips out of the development and foster a sense of community for its residents. The proposed site design and building materials, as well as buffers and screening contribute to the development's compatibility in character to surrounding single family development. The proposal generally complies with the Land Development Code and the waivers and variance appear adequately justified.

TECHNICAL REVIEW

- The plan is in order and has received preliminary approvals from Transportation and MSD.
- The applicant has submitted a street closure application for Beta Avenue under case number 17STREETS1020 that is currently under review.
- The applicant has proposed the TARC recommendation of the construction of sidewalks up to the existing sidewalk at N. Hurstbourne Pkwy so the pedestrian infrastructure can support the eventual expansion of transit services to the Hurstbourne Pkwy corridor.
- Binding Elements 9-14 have been proposed by the applicant in order to address issues raised by concerned residents of the area and by members of the LD&T committee

INTERESTED PARTY COMMENTS

Staff has received several emails and letters in opposition from area residents, mainly citing concerns for traffic safety. Additionally, staff received a petition in opposition with 84 signatures. These were all received prior to the Land Development & Transportation Committee meeting.

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 Cornerstone 2020; 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 Cornerstone 2020 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR REZONING

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Cornerstone 2020.

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 and incomes. 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, neo-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 condominium-style or rental 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, bicycles and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to 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.

This proposal contributes to housing choice in an area dominated by single family homes and condominiums. It is near an activity center with offices, retail and institutional uses and is similar to another multi-family development to the west across Hurstbourne Pkwy in site design, density and massing.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of Section 5.8.1.B to not provide sidewalks along portions of Hurstbourne Parkway, Morat Ave and Alpha Ave

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

STAFF: The waiver not will adversely affect adjacent property owners as these streets do not connect to the east or north. A sidewalk is being provided from the entrance of the apartment complex along Alpha Ave and Morat to N. Hurstbourne Pkwy, in order to provide pedestrian access to the nearest transit stop.

(b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: Guideline 2, Policy 16 encourages encourage activity centers to be easily accessible by bicycle, car, transit, and for pedestrians and people with disabilities. Large activity centers should be considered for designation as transit nodes. Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 7, Policy 3 provides that development should be evaluated for their ability to promote mass transit and pedestrian use. Encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 7, Policy 4 encourages provisions for transportation services and facilities to promote and accommodate growth and change in activity centers rather than in a linear pattern. Provide walking and bicycling opportunities to enable activity centers to minimize single-occupant vehicle travel. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. These guidelines are not violated, as the applicant is mitigating for not providing sidewalks along Morat Ave and Alpha Ave north of the development's entrance by providing sidewalks from the entrance of the development to N. Hurstbourne which will give better access to transit for the occupants of the apartments.

(c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant as sidewalks along both Alpha Ave heading north and Morat Ave heading east would lead to dead ends and more appropriate sidewalks are being provided.

(d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived as they are providing sidewalks along Alpha and Morat that are not required that lead to a connection with the existing sidewalk along N. Hurstbourne.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 10.3.5 to allow VUA encroachment into parkway setback and buffer

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

STAFF: The waiver will not adversely affect adjacent property owners as the requested encroachments are along only a small portion of the parkway and are set at a lower elevation than the parkway itself.

(b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, Policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 7 calls for protection of the character of parkways and scenic byways and corridors through standards for buffers, landscape treatment, lighting and signs. The intent of parkway development standards is to protect existing scenic and aesthetic qualities, to ensure a quality visual experience on developing corridors and to protect and improve the visual experience on established corridors. These guidelines are not violated, as there is existing vegetation that will remain and provide a visual buffer within this small frontage along the parkway.

(c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the shared frontage with N. Hurstbourne Pkwy is minimal in relation to the size of the project.

(d) Either:

- (i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
- (ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as the site plan would have to be significantly changed and parking decreased in order to accommodate the buffer area.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE from 4.4.3 to allow fence to exceed maximum height of 4' by 2', for a total height of 6';

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

STAFF: The requested variance will not adversely affect public health safety or welfare as the fence will not block any vehicular visibility from the public right of way, most notably at the corner of Morat Ave and Alpha Avenue.

- (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 as the additional height was requested by the neighboring community on Morat Avenue with the intention of aiding in the transition between multi-family and single family homes and condominiums.

- (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 as no part of the fencing will obstruct visibility of drivers from the public right of way.

- (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 zoning regulations as the additional height is meant to address security and aesthetic concerns from the neighboring community.

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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the additional height is being requested as a compromise between the developer and the neighboring communities.

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 deprive the applicant of reasonable use of the land as they applicant would not be able to provide the security and aesthetic value that has been requested of them by neighboring citizens.

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.

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: Karst and hydric soils were found on site. The applicant has taken all required steps, performed a Karst survey, and will complete a Wetlands Delineation prior to construction approval. 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 has been provided, and Metro Public Works has approved the preliminary development plan. The applicant has also proposed improvements to N. Hurstbourne Parkway at Morat Avenue to aide in safety at this intersection.

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

STAFF: The proposal exceeds the open space requirement and includes a dog park and community center.

- 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 will meet all required setbacks.

- 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 generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTIONS

- **RECOMMEND APPROVAL or DENIAL** to the City of Lyndon for change in zoning from R-4 to R-6
- **APPROVE or DENY** the sidewalk waiver of Section 5.8.1.B to not provide sidewalks along portions of Hurstbourne Parkway, Morat Ave and Alpha Ave
- **APPROVE or DENY** the waiver of 10.3.5 to allow VUA encroachment into parkway setback and buffer
- **APPROVE or DENY** the variance from 4.4.3 to allow fence to exceed maximum height of 4' by 2'
- **APPROVE or DENY** the Detailed District Development Plan

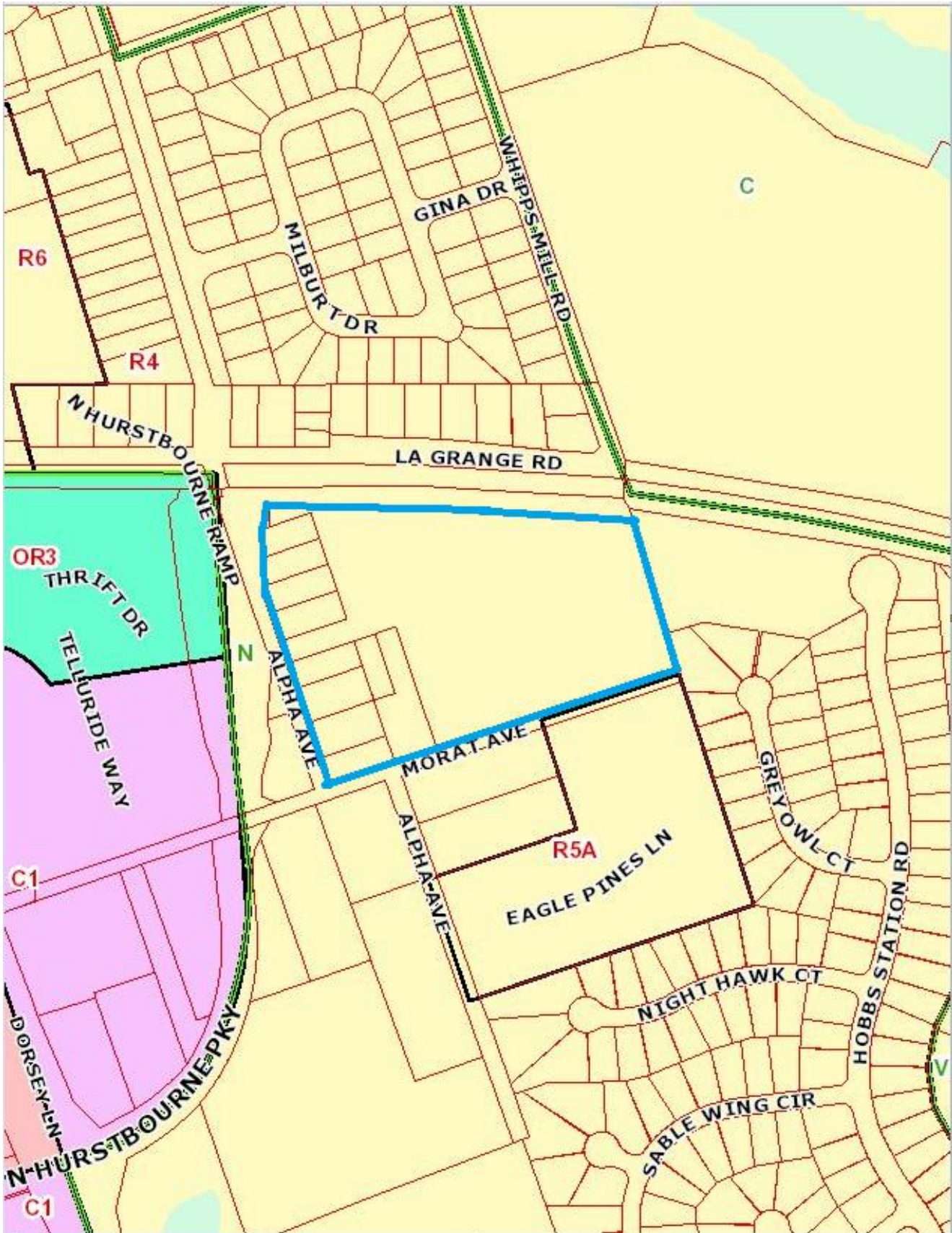
NOTIFICATION

Date	Purpose of Notice	Recipients
07/12/17	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 18 Notification of Development Proposals
9/7/17	Hearing before PC	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 18 Notification of Development Proposals
9/7/17	Hearing before PC	Sign Posting on property
9/9/17	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Checklist
4. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Cornerstone 2020 Checklist

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

Neighborhood: Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.3: The proposal supports the creation of a mix of residential housing choices and densities for the neighborhood.	✓	The proposal is located on the edge of a commercial/office area and bounded by both single and multi-family residential. This proposal adds to the diversity of housing options in the area.
2	Community Form/Land Use Guideline 1: Community Form	B.3: If the proposal is classified as high density (greater than 12 dwelling units per acre), it is located on a major or minor arterial or in a location that has limited impact on adjacent low or moderate density developments.	✓	The proposal is located just east of N Hurstbourne Parkway, a major arterial.
3	Community Form/Land Use Guideline 1: Community Form	B.3: If the proposal introduces a new housing type to the neighborhood, it is designed to be compatible with nearby land uses.	✓	The scale and massing, as well as site layout is compatible with the surrounding single family uses and similar to a multi-family development to the west across N Hurstbourne Parkway
4	Community Form/Land Use Guideline 1: Community Form	B.3: Neighborhood streets are designed to invite human interaction and easy access through the use of connectivity, and design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets.	NA	This is a compact apartment development with no new streets being created.
5	Community Form/Land Use Guideline 2: Centers	A.1. Locate activity centers within the Neighborhood Form District at street intersections with at least one of the intersecting streets classified as a collector or higher, AND one of the corners containing an established non-residential use.	NA	This proposal is not an activity center.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
6	Community Form/Land Use Guideline 2: Centers	A.2: Develop non-residential and mixed uses only in designated activity centers except (a) where an existing center proposed to expand in a manner that is compatible with adjacent uses and in keeping with form district standards, (b) when a proposal is comparable in use, intensity, size and design to a designated center, (c) where a proposed use requires a particular location or does not fit well into a compact center, (d) where a commercial use mainly serves residents of a new planned or proposed development and is similar in character and intensity to the residential development, or (e) in older or redeveloping areas where the non-residential use is compatible with the surroundings and does not create a nuisance.	NA	This development is residential only.
7	Community Form/Land Use Guideline 2: Centers	A.4: Encourage a more compact development pattern that results in an efficient use of land and cost-effective infrastructure.	✓	The proposal displays efficient use of land with a compact layout of buildings.
8	Community Form/Land Use Guideline 2: Centers	A.5: Encourage a mix of compatible uses to reduce traffic by supporting combined trips, allow alternative modes of transportation and encourage vitality and sense of place.	✓	This development is located just east of an activity center that includes offices, retail and institutional uses.
9	Community Form/Land Use Guideline 2: Centers	A.6: Encourage residential uses in centers above retail and other mixed-use multi-story retail buildings.	NA	This residential use is not located in a center.
10	Community Form/Land Use Guideline 2: Centers	A.7: Encourage new developments and rehabilitation of buildings to provide residential uses alone or in combination with retail and office uses.	✓	This new development is near a mix of commercial uses.
11	Community Form/Land Use Guideline 2: Centers	A.8/11: Allow centers in the Neighborhood Form District that serve the daily needs of residents and that are designed to minimize impact on residents through appropriate scale, placement and design.	NA	This proposal is not a center.
12	Community Form/Land Use Guideline 2: Centers	A.10: Encourage outlot development in underutilized parking lots provided location, scale, signs, lighting, parking and landscaping standards are met. Such outlot development should provide street-level retail with residential units above.	NA	This proposal is not compatible with outlot development.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
13	Community Form/Land Use Guideline 2: Centers	A.12: Design large developments to be compact, multi-purpose centers organized around a central feature such as a public square, plaza or landscape element.	NA	This proposal is a multi-family development only and does not fit the definition of a large development.
14	Community Form/Land Use Guideline 2: Centers	A.13: Encourage sharing of entrance and parking facilities to reduce curb cuts and surface parking.	NA	This proposal has two access points for this development only, but a shared access in this location is not appropriate, due to the property being bounded by existing roadways and then a single family development to the east.
15	Community Form/Land Use Guideline 2: Centers	A.14: Design and locate utility easements to provide access for maintenance and to provide services in common for adjacent developments.	✓	MSD and other utility agencies have reviewed this plan and have no issues.
16	Community Form/Land Use Guideline 2: Centers	A.15: Encourage parking design and layout to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations.	✓	The parking is located in the most appropriate areas of the site, and a sidewalk is proposed in order to provide pedestrians a safe path to N. Hurstbourne Pkwy and transit access.
17	Community Form/Land Use Guideline 2: Centers	A.16: Encourage centers to be designed for easy access by alternative forms of transportation.	NA	This development is not an activity center.
18	Community Form/Land Use Guideline 3: Compatibility	A.1: The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development.	✓	The scale and massing, as well as site layout is compatible with the surrounding single family uses and similar to the multi-family development to the west.
19	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility. (Only for a new development in a residential infill context, or if consideration of building materials used in the proposal is specifically required by the Land Development Code.)	✓	Building elevations are Land Development Code compliant are two-story and will blend well with surrounding development.
20	Community Form/Land Use Guideline 3: Compatibility	A.3: The proposal is compatible with adjacent residential areas, and if it introduces a new type of density, the proposal is designed to be compatible with surrounding land uses through the use of techniques to mitigate nuisances and provide appropriate transitions between land uses. Examples of appropriate mitigation include vegetative buffers, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences.	✓	Building elevations are Land Development Code compliant are two-story and will blend well with surrounding development, as the appropriate buffers and screening are proposed adjacent to the single family homes to the east and Morat Avenue to the south.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
21	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	The traffic studies have indicated that the proposed use will have adverse impacts on traffic in nearby communities. The applicant has proposed improvements to N. Hurstbourne at Morat in order to mitigation any adverse impacts.
22	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	A note has been placed on the plan indication all lighting shall be directed downwards, in compliance with the LDC.
23	Community Form/Land Use Guideline 3: Compatibility	A.10: The proposal includes a variety of housing types, including, but not limited to, single family detached, single family attached, multi-family, zero lot line, average lot, cluster and accessory residential structures, that reflect the form district pattern.	✓	The proposal adds diversity in housing choices to the area by proposing multi-family in an area that offers predominantly single family homes and condominiums.
24	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	✓	The proposal is higher density and it is located near an activity center.
25	Community Form/Land Use Guideline 3: Compatibility	A.13: The proposal creates housing for the elderly or persons with disabilities, which is located close to shopping, transit routes, and medical facilities (if possible).	✓	This proposal could potentially be an opportunity for housing for the elderly and persons with disability, as it is located near an activity center and transit line, as well as a hospital.
26	Community Form/Land Use Guideline 3: Compatibility	A.14/15: The proposal creates appropriate/inclusive housing that is compatible with site and building design of nearby housing.	✓	The proposal is appropriate and inclusive in that it offers a different housing choice for those that may not be able to afford or prefer single family homes.
27	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	✓	Buffers and setbacks are in compliance with the exception of the parkway buffer which appears justified. Otherwise, the design, setbacks and buffers allow for appropriate transitions.
28	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	✓	The LBA along the east property line shared with a single family zone meets requirements.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
29	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	All setbacks and building heights are within LDC standards and are compatible with surrounding development.
30	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	+	Open space standards have been exceeded.
31	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	+	Open space standards have been exceeded and the design fits into the pattern of the Neighborhood form.
32	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	-	The proposal preserves none of the existing tree canopy.
33	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	-	The proposal preserves none of the existing tree canopy, although it does utilize the large agricultural area that has been previously cleared of trees.
34	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	NA	The site does not appear to have any historically significant structures or features.
35	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	✓	LOJIC delineated hydric soil on a portion of the site being developed but the applicant has performed a Karst survey and will take all appropriate measures indicated by the geotechnical report.
36	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	✓	Transportation has approved the plan.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
37	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	✓	The proposal has adequate access and is not required to connect to any other abutting use due to the lower intensity of uses surrounding the development.
38	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	✓	The recommended sidewalk from TARC has been proposed.
39	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	There are no private or public streets associated with this site.
40	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	This site is accessed directly from a local road that connects to an arterial approximately 200 feet to the west.
41	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	✓	By connecting to the existing street network, the appropriate linkages are made.
42	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	✓	The sidewalk waiver requested appears justified and mitigation has been provided by the proposal of the sidewalk to N. Hurstbourne Pkwy.
43	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	MSD has approved the plan.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
44	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	This area is developed and there does not appear to be an existing natural corridor.
45	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	There are existing utility connections on site.
46	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	There are existing public water connections.
47	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	There are existing MSD connections on site.

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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - 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.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
7. 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.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 21, 2017 Planning Commission meeting.

9. The freestanding and any attached apartment community identification signage shall not be back-lit but rather shall be lighted only by exterior down-lit fixtures.
10. The Owner/Developer shall fund and/or construct at its expense a restricted left-out traffic control device from Morat Avenue onto Hurstbourne Parkway, as shown on the drawing produced at the 9/21/17 Public Hearing, to the extent that public officials and the Pinehurst Green Board agree prior to issuance of the last certificate of occupancy for an apartment building that the Owner/Developer shall fund and/or construct that traffic control device. To the extent that, by that date, a decision is not made, or no decision is made, for the Owner/Developer to fund and/or construct the no-left turn device, the Owner/Developer shall be released from any continuing obligation to fund and/or construct such device.
11. A 6 foot high Simtek wall with enhanced landscaping, as shown on the imagery produced at the 9/21/17 public hearing, shall be installed along the east and portion of the south property lines where depicted on the Detailed District Development Plan.
12. The Owner/Developer shall work with KTC to reinstall the “hidden driveway” signage where presently missing.
13. Parking lot lighting shall be fully-shielded lights with no light spillover onto adjoining properties.
14. Construction traffic shall be limited to Alpha Ave and that portion of Morat Avenue between Alpha Ave and N. Hurstbourne Pkwy.