

# Pre-Application

## Staff Report

January 3, 2017



<b>Case No:</b>	16zone1074
<b>Request:</b>	R-4 and PRD to R-6
<b>Project Name:</b>	Avoca Road Apartments
<b>Location:</b>	12201 and 12207 Avoca Road
<b>Owner:</b>	Fetter Properties LLC.; Joseph and Karoll Foreman
<b>Applicant:</b>	LDG Development
<b>Representative:</b>	Mindel Scott and Assoc.; Dinsmore and Shohl
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	19-Julie Denton
<b>Case Manager:</b>	Julia Williams AICP, Planning Supervisor

### REQUEST

- Change in zoning from R-4 and PRD to R-6
- District Development plan

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposal is for 408 apartment units on 28.46 acres of land. 83% of the site is in existing tree canopy with 7% proposed to remain. The site is located adjacent to Berrytown Park to the west and an existing industrial activity center to the east.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Vacant/Single Family Residential	PRD/R-4	N
<b>Proposed</b>	Multi-Family Residential	R-6	N
<b>Surrounding Properties</b>			
<b>North</b>	Single and Multi-Family Residential	R-4/R-5A,	N
<b>South</b>	Railroad/Single Family Residential	R-4	N
<b>East</b>	Fire Station/Industrial	R-4/M-2	N/SW
<b>West</b>	Park	R-4	N

### PREVIOUS CASES ON SITE

14extension1001- Extension of expiration date, approved March 2014  
13848- R-5A to PRD approved July 2010  
12328- Extension of expiration date, approved March 2009  
9-18-06- R-4 to R-5A approved January 2007

## INTERESTED PARTY COMMENTS

We attended the meeting of LDG Multifamily, LLC to discuss the development they are planning for 12201 and 12207 Avoca Road properties, on Monday, December 19, 2016. We have several concerns that we want on record. We do not feel that notes or recording of concerns, of those in attendance, were recorded. We have three major concerns about the 408 unit apartment complex that they are wanting to be developed at the above Avoca Road address.

1. The exercising of the Easement across the north end of our property next to our building at 1314 N. English Station Road is our first concern. That easement was acquired from the previous owner of the property. When he built the two north buildings 1304 and 1310 N. English Station Road, the location of the buildings made that easement for the road very narrow. There is a mandatory green space between the Middletown Fire Department Training Center and our north buildings which makes the easement for the road within several feet of the building's north wall. This means any person walking out of the walk through doors or using the overhead doors will be struck by a vehicle driving through the easement. Our entranceway for the our parking lot, which will become a road if the easement is used is very steep and has a strange curve before the exit/entrance onto North English Station Road. On the west side of the easement, at our west property line, going onto the project property, there is a creek in a deep gully which is about 40 feet below the ground level, which will make it necessary to build a bridge or some sort of elevation to get across the creek through that easement. That is going to be very expensive to build. With 408 apartment units, assuming that each apartment has two vehicles, there will be the possible traffic flow of 816 vehicles, or more over that road, the easement, several times a day. We think the best entrance/exit for the apartments would be better placed on Heafer Road, where there is no creek to cross or buildings other than their own apartment buildings.
2. Our second concern is Avoca Road. Avoca Road is currently closed where it crosses the railroad tracks just west of North English Station Road and only serves one residence at this time and they have offered to buy that property. As the first property owner along Avoca we are going to be required to widen Avoca Road and build a sidewalk across our property, which will necessitate a large amount of fill along Avoca which is the south end of our Parker Hollow LLC property. More than anything with the Jefferson County concern about the tree canopy, we will have to remove a large number of old growth trees in order to widen the road. With the current plan for the apartment development, they will turn into the approximate driveway from the only house on Avoca Road, which they are purchasing. The road continues a long distance past that driveway to the west to the road closure. Avoca road going west becomes very narrow and is impossible for a semi, a large truck or even an SUV to turn around where the road is dead end. The road closed sign is very far into the Avoca entrance so vehicles are already committed to needing to turn around upon entering the road. Many need to back out of the road onto N. English Station Road and North English Station road is heavily traveled with vehicles. The solution to this would be to make a cul-de-sac west of the apartment entrance on Avoca Road and the remainder of Avoca torn up and removed. To widen Avoca Road on the railroad side would eliminate the need to remove a great many old growth trees and eliminate the need for excessive fill on the north side of Avoca Road. My concern is that we are going to have to pay for the Avoca road widening and sidewalk for a project that we have nothing to do with and is going to increase the vehicle and foot traffic on all sides of our property. We are opposed to paying to widen Avoca Road and installing a side walk for their project through no fault of our own.
3. With 408 apartments planned for their project and the lengthy joint west property line we are concerned that there could be as many as 1000 to 1200 plus people living in this project that a short cut to English Station Road or Old Henry Road would be across our property and through our commercial buildings and parking lots creating traffic and security issues for our tenants . We would like to require a fence built along our common property line from the north end to the south end at their expense. A large portion of this property line is already fenced by us. We are concerned about the vehicle traffic through a possible entrance/exit road across the easement at the north end of our property, will make our building virtually impossible to rent and an extreme safety hazard by the apartment complex using that easement. Currently our building is fully leased by an electrical contractor/HVAC company with van trucks entering and exiting the building on the north end to restock their trucks, and also an

exercise/baseball practice facility with many children and families coming and going seven days a week. Our requirement to pay to widen Avoca Road as a result of no change of the usage of our property is extremely expensive for no benefit to us.

This whole apartment project appears to be going to inflict a great financial burden on Parker Hollow LLC.

Parker Hollow LLC

Owners:

Jane E Dobbins

Innes W Dobbins III

PO Box 230

Scottsburg, Indiana 47170

1-812-752-6820

Parker Hollow LLC is the following Louisville, KY addresses:

1525-1535 Parker Hollow Road

1520 Parker Hollow Road

1540 Parker Hollow Road

1300-1302 N. English Station Road

1304-1306-1308 N. English Station Road

1310-1312-1314-1316 N. English Station Road

### APPLICABLE PLANS AND POLICIES

Cornerstone 2020

Land Development Code

### 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.

The proposal is a high density residential use surrounded by the Neighborhood Form District and Suburban Workplace. High density would provide an additional housing choice for the neighborhood and area. The proposal is for high density development located along both a local level road and a collector. The proposal is located adjacent to a workplace activity center, a fire house, and a park. Access to the site is from collector level roadways. Transit is available along Heafer and N. English Station. The proposal is located adjacent to a workplace activity center, a fire house, and a park. The proposal is a higher density residential use adjacent to an activity center that has been created in the N. English Station Road, Avoca Road, Old Henry Road area. The proposal is roughly at the intersection of 2 collectors where an industrial use separates the site from that intersection.

Residential is proposed as a standalone use not associated with commercial. A single housing type is being proposed.

Pedestrian access to the available transit in the area as well as to the adjacent park needs to be shown on the plan. Existing trees on the site should be preserved to the maximum extent possible.

All other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

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.

#### **TECHNICAL REVIEW**

- See agency comments for development plan review comments.

#### **STAFF CONCLUSIONS**

The proposal is ready for formal application once the staff technical review comments have been addressed.

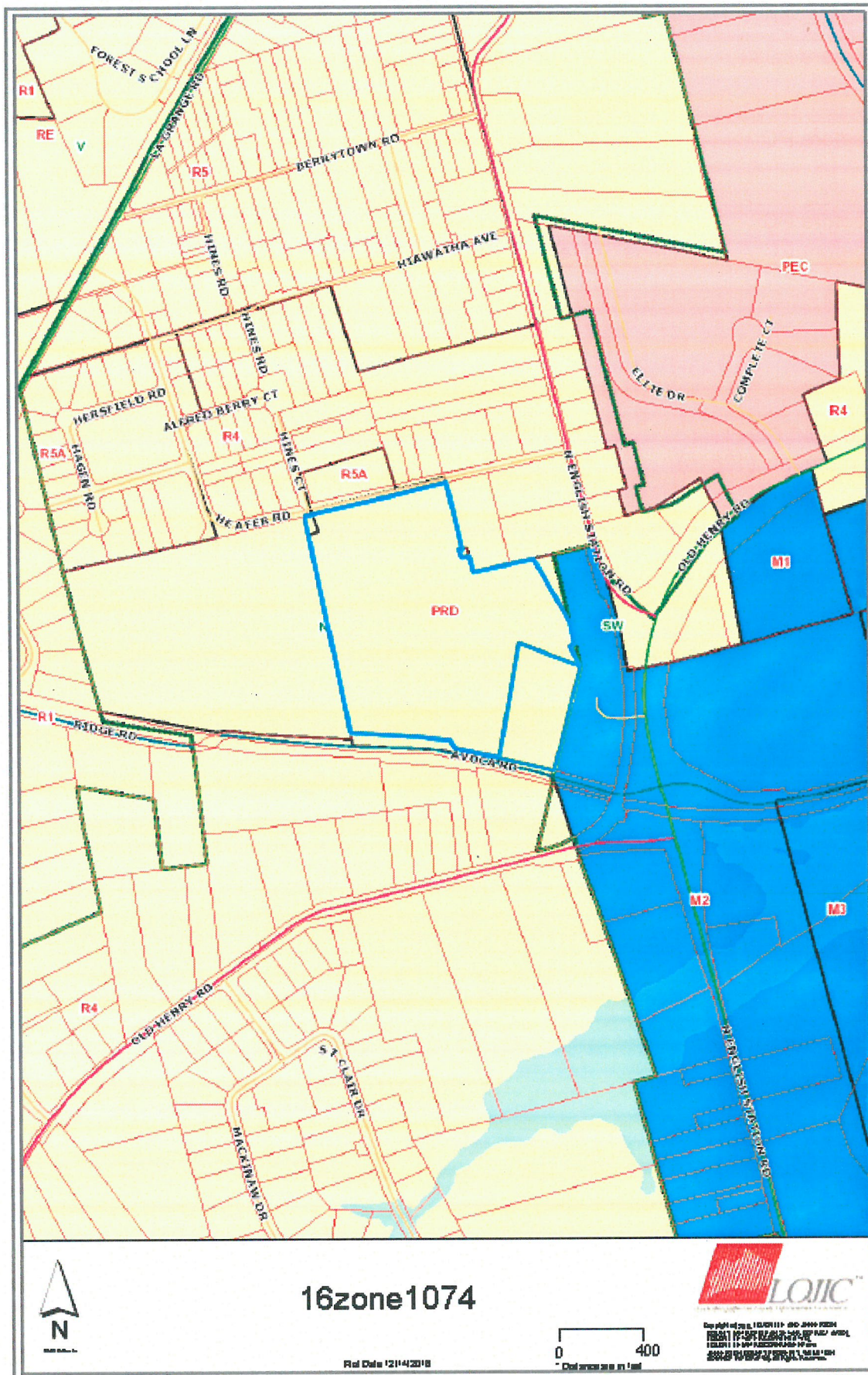
## NOTIFICATION

Date	Purpose of Notice	Recipients
	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 19 Notification of Development Proposals
	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 19 Notification of Development Proposals
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

## ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Existing Binding Elements (13848)

1. **Zoning Map**



2. **Aerial Photograph**



**3. Cornerstone 2020 Staff 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 a high density residential use surrounded by the Neighborhood Form District and Suburban Workplace. High density would provide an additional housing choice for the neighborhood and 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 for high density development located along both a local level road and a collector. The proposal is located adjacent to a workplace activity center, a fire house, and a park. Access to the site is from collector level roadways. Transit is available along Heafer and N. English Station.
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 proposal is located adjacent to a workplace activity center, a fire house, and a park.
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.	+/-	Internal pedestrian circulation on the site is well connected. Transit is available along N. English Station where an access easement is provided but no sidewalk to link the site to the available transit. More information on sidewalks is needed.
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.	✓	The proposal is a higher density residential use adjacent to an activity center that has been created in the N. English Station Road, Avoca Road, Old Henry Road area. The proposal is roughly at the intersection of 2 collectors where an industrial use separates the site from that intersection.



#	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	The proposal is not a mixed use or non-residential use.
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.	+/-	More information is necessary.
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.	+/-	The existing non-residential in the area will be served by the high density residential proposed. Transit is available. More information is needed on pedestrian connections.
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.	-	Residential is proposed as a standalone use not associated with commercial.
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.	✓	The proposal is a new development with a single high density residential use.
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.	+/-	The proposal is not for a center in the NFD as there is an existing workplace center adjacent to the site and nearby which will provide employment opportunities for residents of the area.
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	Not applicable to current proposal.

#	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.	✓	The large development is organized around courtyard spaces located throughout.
14	Community Form/Land Use Guideline 2: Centers	A.13: Encourage sharing of entrance and parking facilities to reduce curb cuts and surface parking.	✓	The proposal indicates an access easement through an adjacent property for access to N. English Station.
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.	+/-	More information is necessary.
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.	+/-	Parking is provided interior to the site. There is no access shown from the site to the roadways that have transit available (Heafer and N. English Station).
17	Community Form/Land Use Guideline 2: Centers	A.16: Encourage centers to be designed for easy access by alternative forms of transportation.	+/-	There is no access shown from the site to the roadways that have transit available (Heafer and N. English Station).
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 site design is generally compatible to the adjacent park and industrial development.
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.)	+/-	More information is necessary.
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.	✓	The proposal is a high density type of residential that is being introduced into the area. There are no residential uses directly adjacent to the site but are located across Heafer. Setbacks are being followed. The buildings are setback at further distances than required by the LDC.
21	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	+/-	More information is necessary.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	✓	Lighting will meet LDC requirements.
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.	-	A single housing type is being proposed.
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 directly along a transit corridor but with no sidewalk access to transit corridor. The proposal is located within an existing 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).	✓	The proposal could be housing for elderly or persons with disabilities.
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 adds a housing type that is not generally found in the area. The design is generally compatible with the nearby housing due to the setbacks.
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.	✓	The proposal is located directly adjacent to non-residential uses where the buffers and setbacks provided are sufficient. The buildings are located further than the required setbacks.
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 proposal is located directly adjacent to non-residential uses where the buffers provided are sufficient.
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.	+/-	Setbacks along all property lines are being followed. A tree canopy buffer is being provided between the site and the existing Heafer Road where there is lower density residential. More information on building heights in the area is necessary.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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 provided meets the requirements of the LDC and form district.
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 provided meets the requirements of the LDC and form district.
32	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	+/-	The site is 83% treed with only 7% remaining. More information is needed to determine if more tree canopy can remain on the site.
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 site is 83% treed with only 7% remaining. More information is needed to determine if more tree canopy can remain on the site.
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.	+/-	More information is necessary.
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.	✓	Soils are not an issue with the proposal.
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.	+/-	More information is necessary.

#	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.	+/-	More information is necessary.
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 proposal includes the dedication of ROW.
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	No new roadways are being created with this proposal.
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.	✓	Access to the site is through public roadway that serves more intense uses as well as lower intensity uses.
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.	NA	No new roadways are being created with this proposal.
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.	+/-	More information is necessary. Pedestrian access to Heafer and N. English Station Road needs to be made.
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 is reviewing the proposal.

#	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.	+/-	The site is 83% treed with only 7% remaining. More information is needed to determine if more tree canopy can remain on the site.
45	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	Existing and proposed utilities will serve the 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.	✓	An adequate water supply exists for the site.
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.	+/-	More information is necessary.

#### 4. Existing Binding Elements (13848)

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. The density of the development shall not exceed:  
Gross Density: 4.75 units per acre (118 units on 24.82 acres)  
Net Density: 5.88 units per acre (118 units on 24.42 acres)
3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. 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.
6. Before any permit (including but not limited to building, parking lot, change of use, or site disturbance permit is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
7. 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.
8. 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.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 18, 2007 and May 24, 2010 Planning Commission meetings.
10. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
11. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
12. As shown conceptually on the detailed district development plan and exhibits presented at the January 18, 2007 public hearing, an open space, park-like feature will be constructed in the upper corner of the development plan adjoining the park. This area will be separated from the park by a secured, gated, wrought-iron style fence, but there will be clear visibility to the park for residents to enjoy a park view. This area will have benches and a sidewalk connection to the remainder of the condominium community.
13. The property line parallel to Heafer Road shall be heavily screened to provide a good transition and privacy for condominium residents.
14. Buildings will be constructed primarily of brick and stone as shown on the renderings produced at the January 18, 2007 and May 24, 2010 public hearings. Other maintenance free materials may be used for dormers, gables and accents.
15. The developer shall grant an easement to MSD for future on-site sewer and drainage infrastructure. The location of the easement shall be determined by MSD and shall be granted at such time as that agency requests it.

16. The developer shall coordinate with the Kentucky Transportation Cabinet and Metro Public Works to ensure that the location of the proposed force-main sewer lines shall not interfere with future plans to widen North English Station Road.
17. The proposed buildings, patios, decks and sunrooms on Lots 1-14, 26-36 and 80-93 may consume up to but not more than 40% of the required rear yard area.
18. The approved landscaping plan shall provide for landscaping materials (3 Type A/B trees per 100 linear feet) within the designated landscape buffer areas as shown on the approved preliminary subdivision plan.
19. Covenants, Conditions and Restrictions ("CCRs") shall be prepared by the developer to be submitted to and reviewed and approved by Planning Commission legal counsel, prior to recording of the subdivision's Record Plat, for consistency with any binding elements that mandate inclusion in the CCRs of certain Planning Commission, Metro Works, MSD or other agency requirements. Among those CCR provisions shall be these requirements: (a) that all road, drainage, sanitary sewer, water, other necessary infrastructure and other required landscaping and facilities be installed by the developer prior to turn-over of maintenance responsibilities to the Home Owners Association ("HOA") /Condominium Association ; (b) that any shared water meters and property service connections for sanitary sewers be the sole responsibility of the HOA /Condo Association; (c) that any water, sewer and drainage facilities that cross lot lines be included in blanket easements for purposes of both lot owner and HOA access and maintenance; and (d) that attached residences shall have easements over the adjoining lots of those attached units for purposes of incidental encroachments and property maintenance and repair.