

# Planning Commission

## Staff Report

June 18, 2020



<b>Case No:</b>	19-ZONE-0087
<b>Project Name:</b>	Brentlinger Townhomes
<b>Location:</b>	9922 – 10000 Brentlinger Lane
<b>Owner(s):</b>	Chris & Angela Wilkerson, Jane Franklin, Shelly Stoyell
<b>Applicant:</b>	D&K Holdings LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	22 – Robin Engel
<b>Case Manager:</b>	Dante St. Germain, AICP, Planner II

### REQUESTS

- **Change in zoning** from R-4 Single Family Residential to R-6 Multi Family Residential
- **Detailed District Development Plan/Major Preliminary Subdivision** with Binding Elements

### CASE SUMMARY/BACKGROUND

The subject site is located along Brentlinger Lane near the intersection with Bardstown Road. The site consists of three contiguous parcels. Two of the parcels are currently developed with single-family residences, while the third parcel is undeveloped. The applicant proposes to rezone the site in order to construct a new 113-unit multi-family development.

Brentlinger Lane is a secondary collector at this location. Multi-family residential is located to the south of the site. Single-family residential development is located to the east and north. The Bardstown Road commercial corridor is located to the west. The site is located in the study area for the Southeast Regional Center Planning Study.

### STAFF FINDING

Staff finds that the proposal meets the guidelines of the Comprehensive Plan and the requirements of the Land Development Code.

### TECHNICAL REVIEW

Plan 2040

Land Development Code (2019) Louisville Metro

Southeast Metro Regional Center Planning Study

MSD and Transportation Planning have provided preliminary approval of the proposal. The Southeast Regional Center Planning Study recommended that this site be included in a Regional Center form district. However, it was not included and the form district remains Neighborhood. The site is not

adjacent to the existing Regional Center form district area and no form district change is recommended by staff at this time.

The applicant has worked with the adjoining multi-family community to the south and has proposed Binding Elements #8 through #23 to address concerns by that community. Staff has no objections to these binding elements.

### **INTERESTED PARTY COMMENTS**

Staff has received three emails in opposition to the rezoning request and several phone calls by interested neighbors.

### **STANDARD OF REVIEW FOR REZONING**

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

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

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

The site is located in the Neighborhood Form District

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

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

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

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

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

The site is adjacent to an existing commercial activity center along Bardstown Road, and would constitute an expansion of that center. The proposed zoning district would serve as a transition between higher-intensity commercial uses to the west and the lower-intensity single-family residential uses to the east. It would allow for an increased variety of housing options in the neighborhood, and higher variety of price points and ownership options. The proposed zoning district would support aging in place by allowing for multi-family residential development near a commercial activity center and transit corridor.

The proposed zoning district is generally in compliance with the plan elements of Plan 2040, and with the CHASE principles in the Comprehensive Plan.

All other agency comments should be addressed to demonstrate compliance with the remaining Goals, Objectives and Policies of Plan 2040.

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

#### **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: Tree canopy will be provided. The required buffer around a stream in the north-eastern corner of the site is being provided. No other natural resources appear to exist on the 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.

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

STAFF: Common and recreational open space requirements are being met with the proposed plan.

- (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. The site is a transition area between the more intensive commercial uses to the west and the less intensive single-family residential uses to the east. The proposed development plan would provide an appropriate transitional use between these two forms of development.

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

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

**REQUIRED ACTIONS**

- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4 to R-6
- **APPROVE** or **DENY** the **Detailed District Development Plan/Major Preliminary Subdivision** with **Binding Elements**

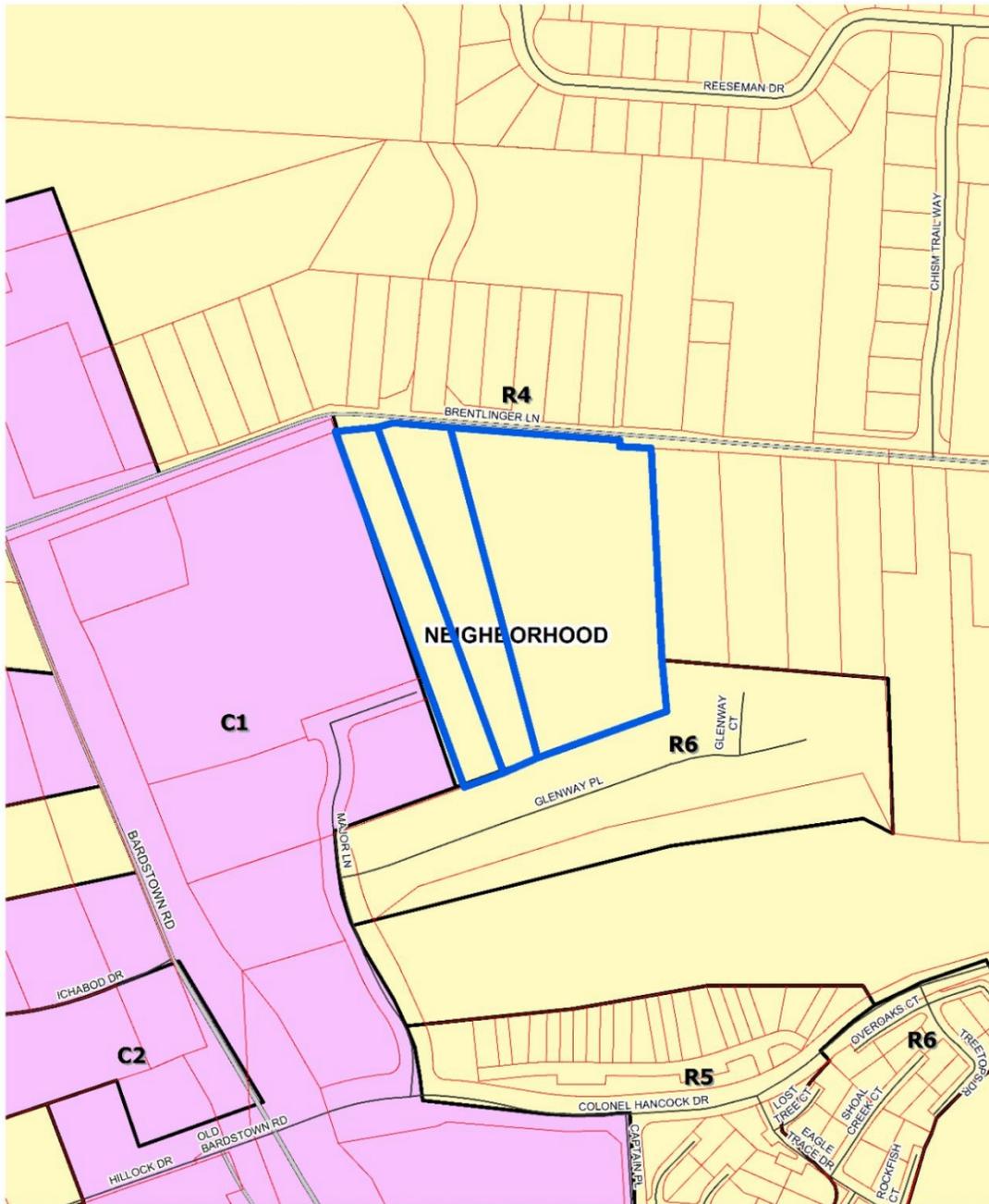
**NOTIFICATION**

Date	Purpose of Notice	Recipients
01/16/2020	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 22
06/04/2020	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 22
06/03/2020	Hearing before PC	Sign Posting on property
03/06/2020	Hearing before PC	Legal Advertisement in the Courier-Journal

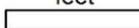
**ATTACHMENTS**

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

1. Zoning Map



9922 - 10000 Brentlinger Lane  
feet



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Map Created: 11/4/2019



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2. Aerial Photograph



9922 - 10000 Brentlinger Lane  
feet



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Map Created: 11/4/2019



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### 3. Staff Plan 2040 Checklist

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

#### Neighborhood: Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Community Form: Goal 1	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The subject site is located relatively close to Bardstown Road, a major transit and commercial corridor.
2	Community Form: Goal 1	9. Ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.	✓	The required buffer yards will be provided.
3	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	-	The existing structures on the site are not proposed to be preserved.
4	Community Form: Goal 3	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	No wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site.
5	Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The existing structures on the site are not proposed to be preserved. The structures are not distinctive cultural features.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
6	Community Form: Goal 4	3. Encourage preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies.	-	The structures on the site are eligible for the National Register of Historic Places and are not proposed to be preserved.
7	Mobility: Goal 1	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The subject site is located adjacent to existing activity center along Bardstown Road.
8	Mobility: Goal 2	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the development will be achieved principally from Brentlinger Lane, a secondary collector at this location, near Bardstown Road, a major arterial.
9	Mobility: Goal 3	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The proposed zoning district would encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities.
10	Mobility: Goal 3	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	Transportation Planning has approved the proposal.
11	Mobility: Goal 3	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	Transportation Planning has approved the proposal.
12	Mobility: Goal 3	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Transportation Planning has approved the proposal.

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

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

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
  - 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
6. 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.
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. Developer shall repair or replace to existing condition, or substantial equivalent, any and all damages to buildings, decks/porches, and/or streets on the Fairways of Glenmary Condominiums property, (i) caused by the proposed development/construction on the subject property, and/or (ii) caused by developer's work on the sanitary sewer connection on the Fairways of Glenmary Condominiums property pursuant to the sanitary sewer easement being granted.
9. Developer shall repair or replace any damage to the Fairways of Glenmary Condominiums property irrigation system caused by the developer's construction activities, including, but not limited to, damages to the sprinkler heads and controller wiring.
10. Developer shall re-fill with top soil and re-sod all damages to the lawns and/or landscaping on the Fairways of Glenmary Condominiums property caused by developer's construction activities (being replaced with sod and not merely grading and sowing of grass seed).
11. Developer shall maintain the sanitary sewer connection to the existing sanitary sewer line on the Fairways of Glenmary Condominiums property leading to and from the subject property, to the extent same is not maintained by the metropolitan sewer district ("MSD").
12. Developer shall construct an eight (8) foot tall fence, being either an iron fence or a maintenance free shadow box fence with 6 inch x 6 inch posts, in the location from the southeast corner of the Kohl's property, along the Fairways of Glenmary Condominiums property common property line with the subject property (in the approximate area of the existing wood fence – which is to be removed), designed to prevent walking traffic from/to the subject property through the Fairways of Glenmary Condominiums property), and shall thereafter maintain the fence in perpetuity.
13. Developer shall protect the trees on the Fairways of Glenmary Condominiums property from damage, except where storm pipes exit the detention basin.
14. Developer shall locate any portable toilets in the northwest or northeast corner of the subject property construction site.
15. Developer shall direct storm water runoff during construction to be drained through a silt control basin before any storm water naturally flows onto any of the Fairways of Glenmary Condominiums property so as not to adversely affect the property of neighboring residents.
16. Developer shall prohibit construction personnel vehicles, construction vehicles, and equipment from parking on the Fairways of Glenmary Condominiums property, unless specific written permission is granted for the purpose of sanitary sewer connections.
17. Developer shall periodically clean the subject property construction site for dirt and mud buildup.
18. Operation of construction equipment on the subject property during construction thereof shall be during the hours between 9:00 am – sundown.
19. Developer shall provide first tier adjacent property owners with an up-to-date list of the general contractor and supervisor personnel, as well as the apartment community business owner telephone numbers, to report complaints, which shall be updated at least annually.
20. Developer shall be responsible for any and all costs of repair and clean-up on the Fairways of Glenmary Condominiums property resulting from any sewage back-ups until MSD accepts maintenance responsibility for the sanitary sewer connection to the Subject Property, which may occur in the residential units in the Fairways of Glenmary Condominiums property – if such damage

is determined to be the result of the aforementioned additional sewer connection to the existing residential sewer and the increase of sewage volume.

21. Developer shall provide general screening of dumpsters and service structures for aesthetics, health and odor issues.
22. Any and all lighting along the common property line with the Fairways of Glenmary Condominiums property shall be directed down and away from the Fairways of Glenmary Condominiums property, with the minimum amount of lumens practical.
23. Prior to issuance of a building permit, developer, its successors or assigns shall dedicate along its Brentlinger Lane frontage such additional right-of-way (ROW) as to assure a total ROW of 40 feet from centerline. And then prior to issuance of a Certificate of Occupancy (CO), on its side of Brentlinger Lane within that ROW, it shall construct (a) added drive-lane pavement to increase the south lane from 9 to 11 feet, (b) 2 feet curb and gutter, and (c) a 5 foot sidewalk.