

**PLANNING COMMISSION MINUTES**  
**June 18, 2020**

**BUSINESS SESSION**

**CASE NO. 19-ZONE-0087**

Request: Change in zoning from R-4 to R-6, with Detailed District Development Plan/Major Preliminary Subdivision and Binding Elements

Project Name: Brentlinger Townhomes

Location: 9922 – 10000 Brentlinger Lane

Owner: Chris & Angela Wilkerson, Jane Franklin, Shelly Stoyell

Applicant: D&K Holdings LLC

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

**Case Manager: Dante St. Germain, AICP, Planner II**

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

05:26:18 Dante St. Germain detailed the case via Power Point slide show (see staff report and recording for detailed presentation.) Dante detailed the case summary, site photos, development plan, and staff findings. She noted voiced concerns regarding traffic on Brentlinger at the Land Development and Transportation meeting.

05:32:56 Commissioner Carlson asked for the timeframe for the connection of Leaders Lane. Dante St. Germain stated she is unsure as there is a school that is blocking a portion of Leaders Lane

05:33:57 Commissioner Brown stated the connection of Leaders to Brentlinger is completed but the timeline is based on the signal installation for the private development.

**The following spoke in favor of this request:**

Bill Bardenwerper, 1000 N Hurstbourne Pkwy, Louisville, KY 40223

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Kevin Young, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Diane Zimmerman, 12803 High Meadows Pike, Prospect, Kentucky, 40059

**Summary of testimony of those in favor:**

05:34:57 Bill Bardenwerper, representing the applicant, presented a Power Point slide show (see recording for detailed presentation.) Mr. Bardenwerper detailed the traffic signal, development plan, elevations from Brentlinger Lane, traffic impact study, and proposed binding elements (see recording for detailed presentation.)

05:50:45 Mr. Young noted the left turn lane connection at the intersection of Major Lane and Leaders Lane. He detailed the discussion with Public Works to create safer conditions on Brentlinger Lane (see recording for detailed presentation.) Kevin Young stated he is present for questions.

05:54:12 Bill Bardenwerper stated he would like to discuss binding elements related to construction on Brentlinger Lane.

05:55:02 Commissioner Carlson asked for clarification regarding the Traffic Study Table 1 and 2 of the Traffic Study for the am and pm peak hours. Bill Bardenwerper stated Diane Zimmerman will be able to answer questions for Table 1 and 2.

05:58:13 Diane Zimmerman stated the typo in Table 1 p.m. Peak Hour Out trips should be 25 instead of 35. Ms. Zimmerman noted those numbers can be verified in Figure 4. Diane stated in Table 2 the p.m. peak for Leaders Lane left turn lane would be constructed by 2022 in the build condition.

05:59:21 Commissioner Jarboe stated road improvements would be on the developments side. Bill Bardenwerper read the binding element for the road improvements in the right-of-way (see recording for detailed presentation.)

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

Betty Overstreet, 9919 Brentlinger Lane, Louisville, Kentucky

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

06:02:40 Betty Overstreet stated she submitted photos of traffic during peak hours. She stated concerns with additional traffic and the impact to sewers and other utilities on homes on Brentlinger Lane. Ms. Overstreet stated the expansion

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plan for Brentlinger will also be on her side of the road as well. The road must be improved before the development is completed.

06:05:56 Bill Bardenwerper stated they will be dedicating on the developments side the right of way needed to improve the road with additional pavement, curb, gutter, and sidewalk. Kevin Young discussed the process for future construction for the road opposite of this development (see recording for detailed presentation.)

06:09:52 Diane Zimmerman stated this development generates a minimal amount of traffic. Ms. Zimmerman noted it is Louisville Metro's decision to ask LG&E to move the gas line.

06:12:41 Commissioner Carlson and Dianne Zimmerman discussed the roads that will become available after construction of the development to alleviate traffic on Brentlinger Lane (see recording for detailed presentation.)

**The following spoke neither for nor against the request:**

Rose Straub, 1009 Brentlinger Lane, Louisville, Kentucky,

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

06:16:06 Rose Straub stated the traffic on Brentlinger Lane to Bardstown Road will not be alleviated with the road improvements. Ms. Straub noted the Traffic Study should include traffic counts while school is in session (see recording for detailed presentation.)

06:18:19 Commissioner Jarboe read into the record comments made in Webex Chat from Suzie Poskae regarding the removal of landscaping for development, change in adjacent residences property values, and concerns with increased crime rate (see recording for detailed presentation.)

**Rebuttal**

06:19:28 Bill Bardenwerper stated the traffic counts was made during school session in October 2019. He noted they addressed the screening and buffering for impact mitigation for the Fairways of Glenmary Condos.

06:21:09 Tony Kelly, MSD, stated Binding Element 20 is difficult to determine who would be responsible for the sewer pipeline if back up problems would occur. Bill Bardenwerper, Kevin Young, and Tony Kelly discussed Binding Element 20 to determine that the developer will be taking responsibility for sewer backups (see recording for detailed presentation.)

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**Deliberation**

06:26:45 Planning Commission deliberation (see recording for detailed presentation.)

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

**Zoning Change from R-4 to R-6**

06:30:03 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Plan 2040 Staff Analysis, Staff Analysis, Applicant's Findings of Fact and testimony heard today was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the subject site is located relatively close to Bardstown Road, a major transit and commercial corridor, the required buffer yards will be provided; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because,

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the existing structures on the site are not proposed to be preserved. The structures are not distinctive cultural features,

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the subject site is located adjacent to existing activity center along Bardstown Road; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the development will

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be achieved principally from Brentlinger Lane, a secondary collector at this location, near Bardstown Road, a major arterial; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, 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, Transportation Planning has approved the proposal, No direct residential access to high speed roadways is proposed; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, Louisville Water Company has approved the proposal, MSD has approved the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because,

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, required tree canopy will be provided, the site is located on karst terrain. No karst features were located on the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would encourage a variety of housing types and increase the variety in the neighborhood, 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; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would permit inter-generational and mixed-income development, 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; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, 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

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and accessible housing in dispersed locations throughout Louisville Metro, no existing residents will be displaced by the proposal, the proposed zoning district would permit the use of innovative methods of housing; and

**Applicant's Justification**

**PLAN ELEMENT 4.1: COMMUNITY FORM**

This "Application Package" complies with Plan Element 4.1 , its 5 Goals and their Objectives plus the following Policies.

As to Goal 1, Policies 2, 2.1, 3.1.3, 4, 5, 6, 7, 9, 10, 11, 12 , 14, 16, 17, 18, 19 , 20 and 23, it complies as follows, in addition to the other ways set forth above and below: The site is located in the a Neighborhood Form District which encourages high density uses and a range of housing opportunities, notably including multi-family dwellings which can be rental apartments, which this plan proposes. Proposed density in this instance is barely outside the upper end of the medium range, as contemplated by these Policies. The 2-story townhome style of these proposed apartments, plus their design, square footages and rental rates are also contemplated by these Policies as appropriate for this Form District and specific neighborhood. Land Development Code required setbacks, height restrictions, both interior and perimeter landscaping, minimum parking and maximum lighting and signage will all be met without variances or waivers. Located as this proposed apartment community is adjacent to a commercial activity center and a very short distance from Bates elementary school and both existing and planned restaurant and major retail shopping opportunities, travel distances for these purposes are severely reduced, and walking and biking become very real possibilities. This helps contribute to improved air quality. The proposed all brick, townhouse style and design of these apartment buildings and associated freestanding garages are also design and density compatible with the south-adjointing patio home style condominium buildings. Landscaping, screening and buffering beyond the bare minimums also helps assure appropriateness for the neighborhood and compatibility with adjoining residential uses. Years ago when the adjoining Kohl's-anchored shopping center was proposed and approved, this site was actually contemplated as the site of a possible extension of that center, which might have proven an unwanted intrusion of added commercial into a residential neighborhood. Because of that, the existing retail center development stopped where it ends today, yet a connection point was placed on that development plan in order that whatever new development eventually occurred on this site would have easy pedestrian and vehicular access to that one. Despite that, the main point of access to this proposed apartment community is along Brentlinger Lane, not Major Lane. As a consequence of that and the fact that this is a proposed residential community, same as the north, east and south adjoining uses, noise will not prove a nuisance factor.

As to Goal 2, Policies 1, 2, 3, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16 and 17, it complies as

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follows, in addition to the other ways set forth above and below: The proposed apartment community is located in a Neighborhood Form District, adjacent to an already built restaurant and retail shopping center and across Brentlinger Lane from Bates elementary school and approved large regional center. As such, and with good pedestrian and vehicular access off Brentlinger Lane and Major Lane to and from all three of these, the proposed apartment community is part of an existing activity center. Also, as such, it will add to the opportunities existing and planned in this high growth area to reside in close and convenient proximity to places of employment, food, shopping and education. Given all that is proximate to and surrounds this particular site and particular design of this proposed apartment community makes this appear as though it was always planned this way.

As to Goal 3, Policies 1, 2, 3, 6, 9, 10 and 13, it complies as follows, in addition to the other ways set forth above and below: The detailed district development plan (DDDP) filed with the rezoning application for this proposed apartment community includes a community clubhouse and communal open space for use by residents. Those spaces will be maintained in perpetuity by the owner of the apartment community.

As to Goal 4, this is not a historic site with historic buildings.

As to Goal 5, this proposed apartment community is neither large nor public enough to include element of public art.

**PLAN ELEMENT 4.2: MOBILITY**

This Application Package complies with Plan Element 4.2, its 3 Goals and their Objectives plus the following Policies. As to Goal 1, Policies 1, 2, 3, 4 and 6; Goal 2, Policies 1, 2, 3, 4, 5, 6, 7 and 8; and Goal 3, Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 18, 19, 20 and 21, it complies as follows, in addition to the other ways set forth above and below: This proposed apartment community (located as it is within an existing and growing activity center, with good access off both arterial and local streets and thereby well connected as it is proposed to be adjoining Bates elementary school, restaurants, retail shopping and other residential developments and communities) is clearly part and parcel of good pedestrian, bicycle and road networks. Locating their development along and with access to and from those networks, the aforementioned developers will at their cost construct sidewalks and Brentlinger Lane right-of-way and deceleration and turn-lane pavement. In doing so, they will prepare construction plans that will assure safe access with good site distances and turning radii. Bike racks and handicapped parking spots will be installed as and where required near buildings. All drive lanes, parking spaces and stub connections will be designed in accordance with Metro Public Work and Transportation Planning (MPW &TP) requirements. These are preliminarily depicted on

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the DDDP filed with this application. Also a Traffic Impact Study (TIS), if required by MPW &TP will be prepared in accordance with its other requirements. T ARC service appears to be available nearby and reasonably accessible. All necessary utilities are located proximate to this site and accessible by it via public right of way or easements; and

**PLAN ELEMENT 4.3: COMMUNITY FACILITIES**

This Application Package complies with Plan Element 4.3, its 3 Goals and their Objectives plus the following Policies. As to Goal 2, Policies 1, 2 and 3, it complies as follows, in addition to the other ways set forth above and below: Bates elementary school is located across Brentlinger Lane with an access road to it situated directly across from the proposed principal point of access to this proposed apartment community. A fire and police substation is located a short distance away down South Bardstown Road. Public library and community center are located a short distance away in the heart of Fem Creek; and

**PLAN ELEMENT 4.4: ECONOMIC DEVELOPMENT**

This Application Package complies with Plan Element 4.4, its 2 Goals and their Objectives, plus the following Policies. As to Goal 2, Policies 1 and 3, it complies as follows, in addition to the other ways set forth above and below: As Louisville Metro's population continues to grow, so does demand for housing of all types. This proposed apartment community is part of a developer response to that demand, and as such both stabilizes and offers increased opportunities for employment in the building trades and associated industries. It also increases the tax base essential to the provision of government services; and

**PLAN ELEMENT 4.5: LIVEABILITY**

This Application Package complies with Plan Element 4.5, its 4 Goals and their Objectives plus the following Policies. As to Goal 1, Policies 5, 7, 8, 10, 11, 12, 13, 15, 16, 21, 23, 26, 27, 28, 29, 30, 31, 32, 33 and 35; and Goal 4, Policies 1 and 2, it complies as follows, in addition to the other ways set forth above and below: The DDDP filed with this application shows how storm water is proposed to be addressed, including where detention is anticipated to be located such that post development rates of run-off will not exceed pre-development conditions. Sanitary sewer service is available at the nearby Cedar Creek regional wastewater treatment plant. It can be accessed via lateral extension to and from an existing nearby manhole. There are no regulated streams or other protected waterways that are directly impacted by this proposed development, although measures will be taken to assure that erosion and sediment impacts are fully controlled and/ or mitigated. As mentioned above, given the location of this proposed apartment community in an existing and expanding activity center, air quality impacts will be minimized because vehicle miles travelled are reduced, and



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**PLAN ELEMENT 4.6: HOUSING**

This Application Package complies with Plan Element 4.6, its 3 Goals and their Objectives, plus the following Policies. As to Goal 1, Policies 1, 2 and 3; Goal 2, Policies 1, 2 and 3; and Goal 3, Policies 1, 3 and 4, it complies as follows, in addition to the other ways set forth above: Designed as it is as 2-story townhome, rental units, this proposed apartment community will serve a different role and purpose than some others. With the unit amenities expected at the rental rates contemplated, this apartment community probably fits the category of "workforce" housing, meaning primarily individuals and families currently in the workplace. Because of the number of bedrooms, it's indeed possible that some renters, taking advantage of proximity to the nearby Bates elementary school, will have children; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4 Single Family Residential to R-6 Multi Family Residential on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels and Mims.**

**Detailed District Development Plan and Binding Elements**

06:31:45 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds the tree canopy will be provided. The required buffer around a stream in the northeastern corner of the site is being provided. No other natural resources appear to exist on the site; and

**WHEREAS**, the Commission further finds Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

**WHEREAS**, the Commission further finds the Metropolitan Sewer District has approved

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the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

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

**WHEREAS**, the Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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.

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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

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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,

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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.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels and Mims**