

Docket No. 19-ZONE-0087

Zone change from R-4 to R-6 to allow a 113-unit townhome-styled  
apartment community at  
9922, 9924 and 10000 Brentlinger Lane  
c/o D&K Holdings, LLC

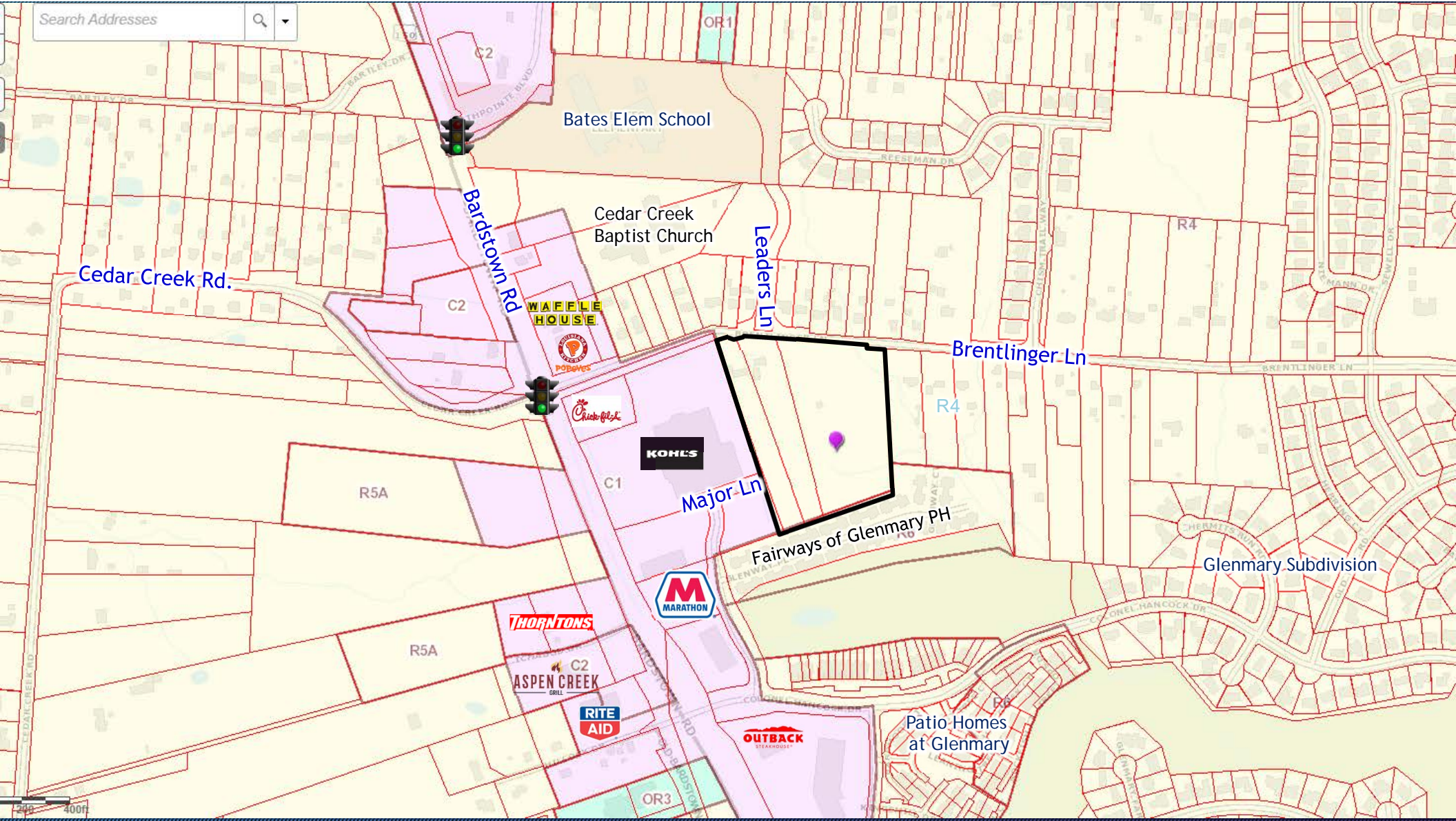
Index

1. LOJIC Zoning Maps
2. Aerial photographs of the site and surrounding area
3. Ground level photographs of the site and surrounding area
4. Neighborhood Meeting notice list map
5. Development Plan
6. Building elevations
7. Traffic Study
8. Agreement between developer and Fairways of Glenmary Condominiums Council of Co-Owners, Inc
9. Proposed Additional Binding Elements
10. Statement of Compliance filed with the original zone change application with all applicable Goals of the 2040 Plan
11. Proposed findings of fact pertaining to compliance with the 2040 Plan

Tab 1  
LOJIC Zoning Maps



Search Addresses



Bates Elem School

Cedar Creek Baptist Church

Cedar Creek Rd.

Bardstown Rd

Waffle House



Kohls

Major Ln

Brentlinger Ln

R5A

R4



Fairways of Glenmary PH

Glenmary Subdivision

R5A

Thorntons

ASPEN CREEK GRILL

RITE AID

OUTBACK STEAKHOUSE

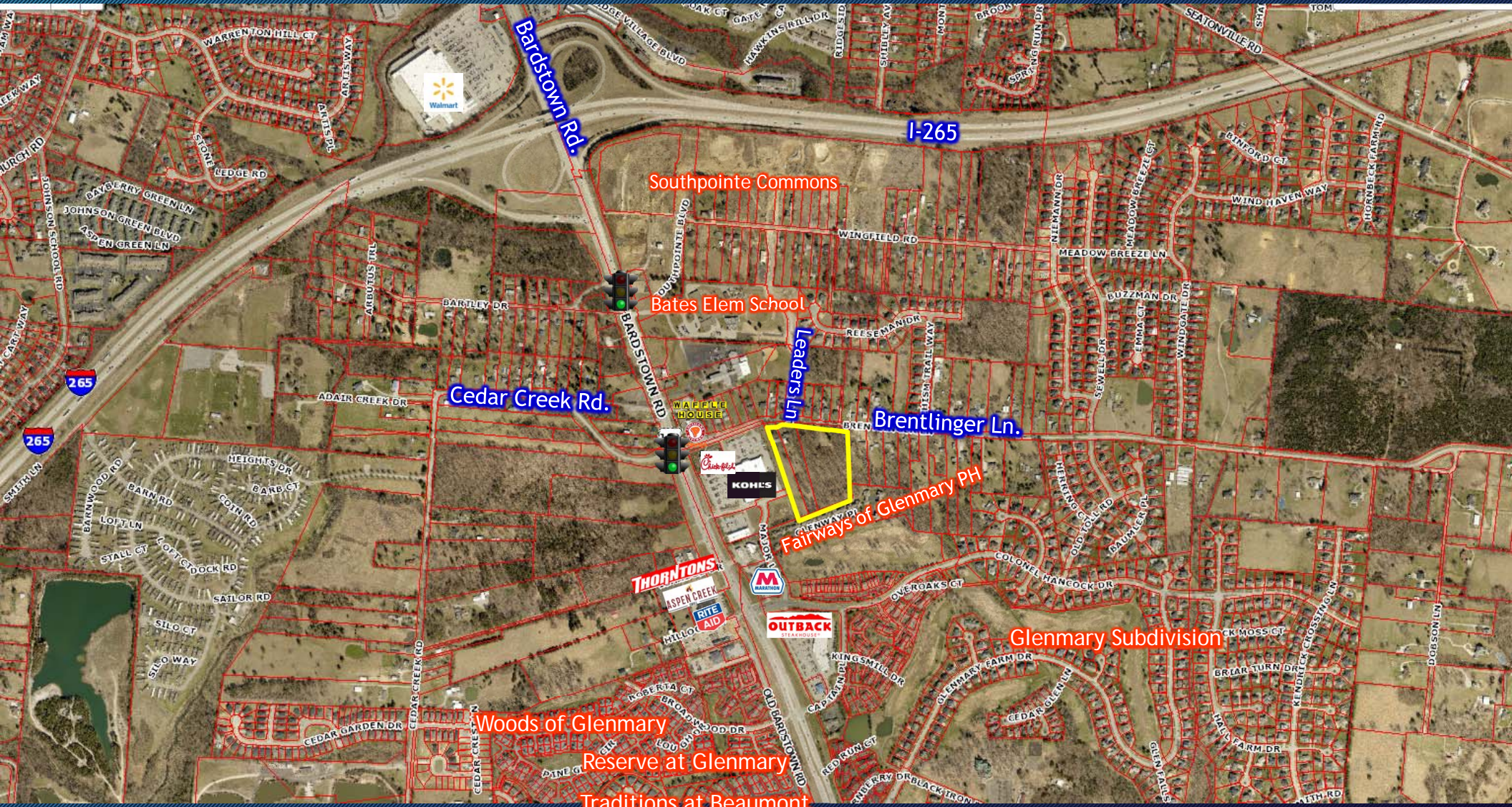
Patio Homes at Glenmary

OR3

0 400ft

Tab 2

Aerial photograph of the site and surrounding area



Bardstown Rd.

I-265

Southpointe Commons

Bates Elem School

Cedar Creek Rd.

Leaders Ln

Brentlinger Ln.

Fairways of Glenmary PH

Glenmary Subdivision

Woods of Glenmary

Reserve at Glenmary

Traditions at Beaumont





Bates Elem School

Cedar Creek Baptist Church

Cedar Creek Rd.

Waffle House

150

Chick-fil-e

KOHL'S

SITE

9922

9924

10000

Major Ln

Fairways of Glenmary PH

THORNTONS

ICHABOD DR

ASPEN CREEK

RITE AID

MILLOCK DR

MARATHON

OUTBACK STEAKHOUSE

Patio Homes at Glenmary

Glenmary Subdivision

ROBERTA GT

BR

OLD

CAPTAIN PL

KINGSMILL DR

GLENMARY FARM DR

GLEN LN

BARTLEY DR

ARDSTOWN RD

SO

50

REISEMAN DR

CHISM TRAIL WAY

SEWELL DR

BRENTLINGER LN

MERRING CT

OLD TOLL RD

BAL

COLLEL HANGOCK DR

OVEROAKS GT

Tab 3

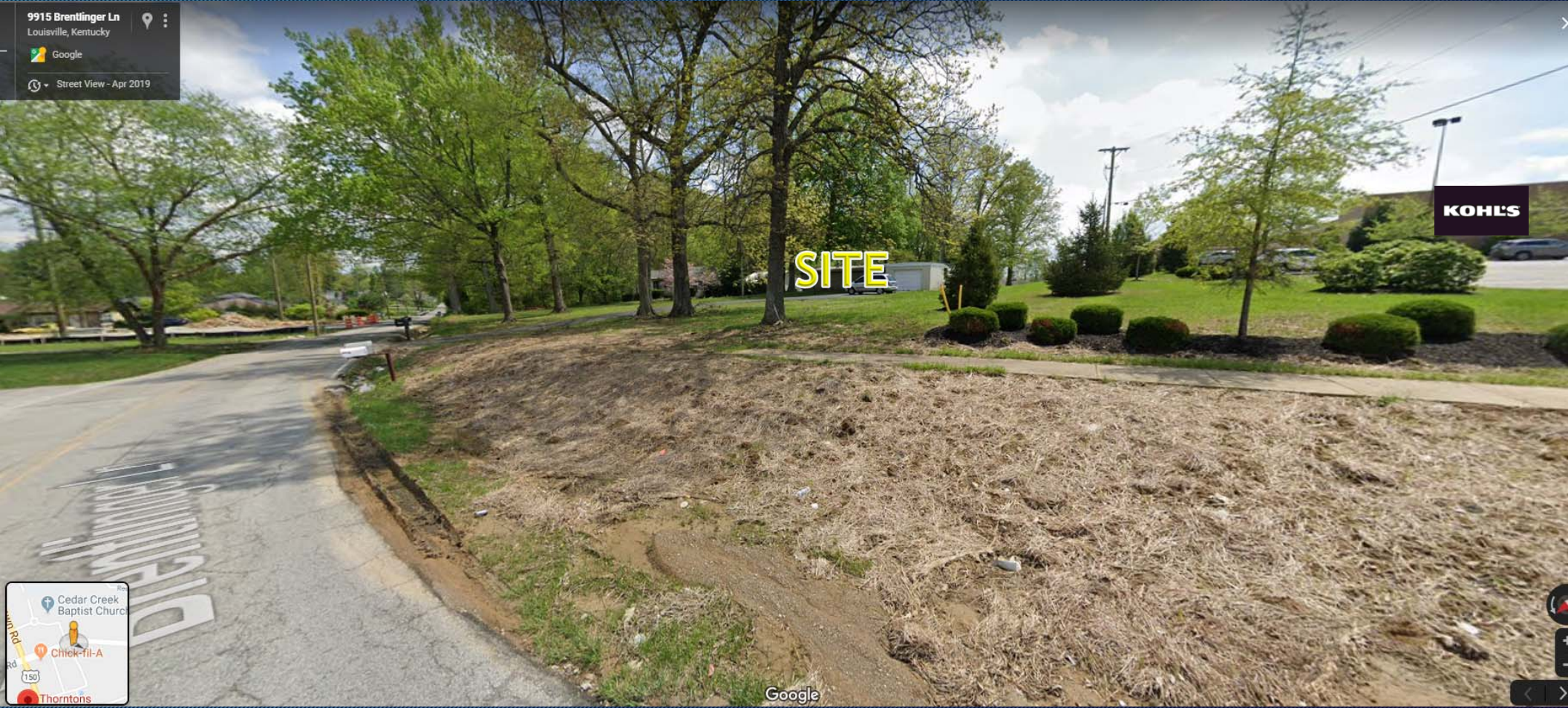
Ground level photographs of the site and  
surrounding area





View of Bardstown Road and Brentlinger Lane intersection looking east down Brentlinger Lane.

9915 Brentlinger Ln  
Louisville, Kentucky  
Google  
Street View - Apr 2019



View of 9922 Brentlinger Lane looking east down Brentlinger Lane



View of 9922 and 9924 Brentlinger Lane looking further east down Brentlinger Lane



Looking further east down Brentlinger Lane. Site is to the right.



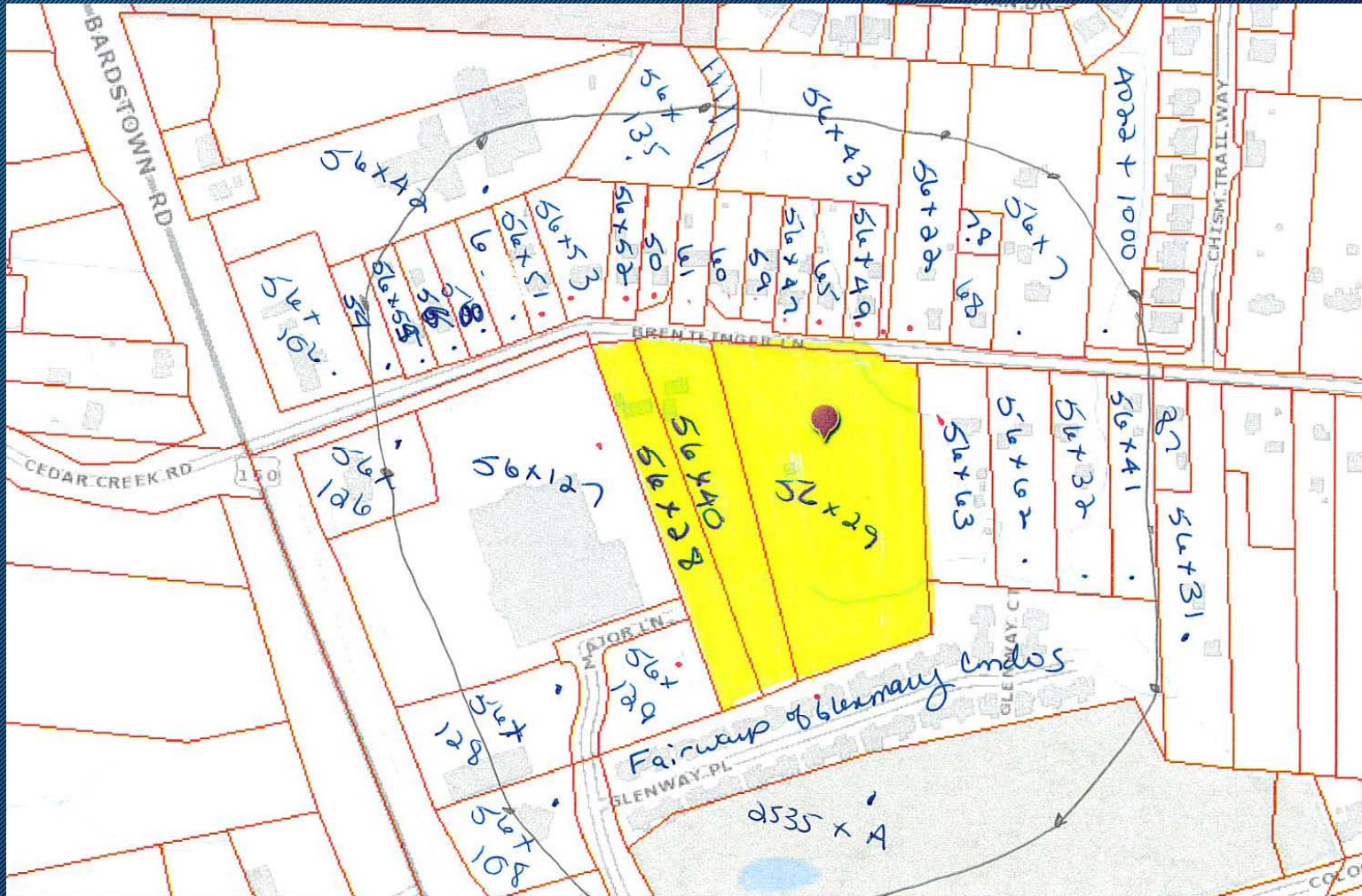
SITE

Looking west down Brentlinger Lane from the northeastern corner of the site at 10000 Brentlinger.

Tab 4

Neighborhood Meeting notice list map

Adjoining property owner notice list map wherein 51 neighbors plus those on the DPDS "interested party list" were invited to the neighborhood meeting and subsequent LD&T and Planning Commission public hearing.



Tab 5  
Development Plan





GENE SNYDER FWY

SOUTHPOINTE  
COMMONS PLAN

WINGFIELD ROAD

Proposed  
Leaders Lane

BATES  
ELEMENTAL  
SCHOOL

REESEMAN DR.

CEDAR CREEK  
CHURCH

CHRISM TRAIL WAY

BRENTLINGER LANE

BARDSTON ROAD

KOHL'S

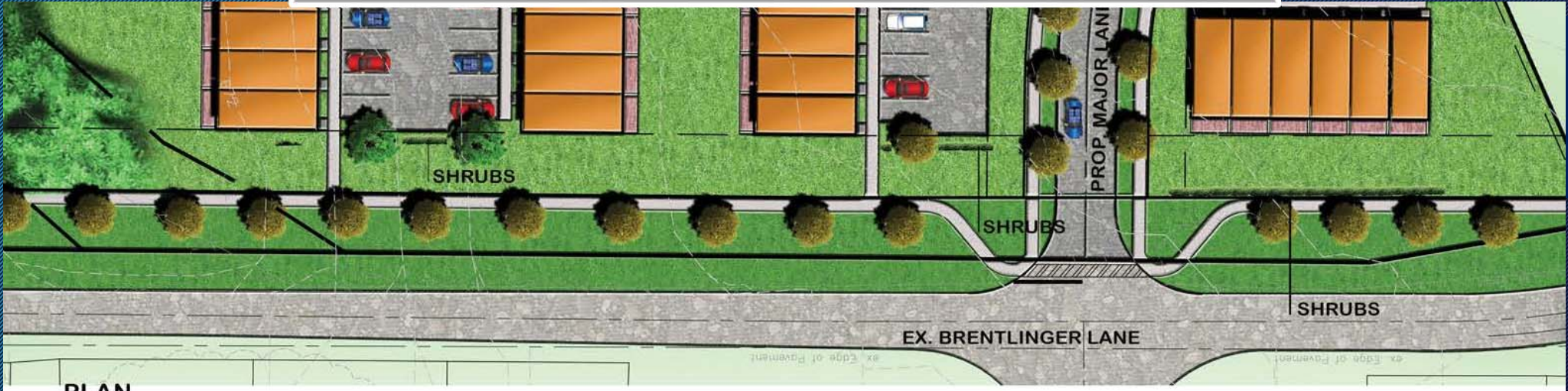
GLENWAY PL

COLONEL HANCOCK DR.

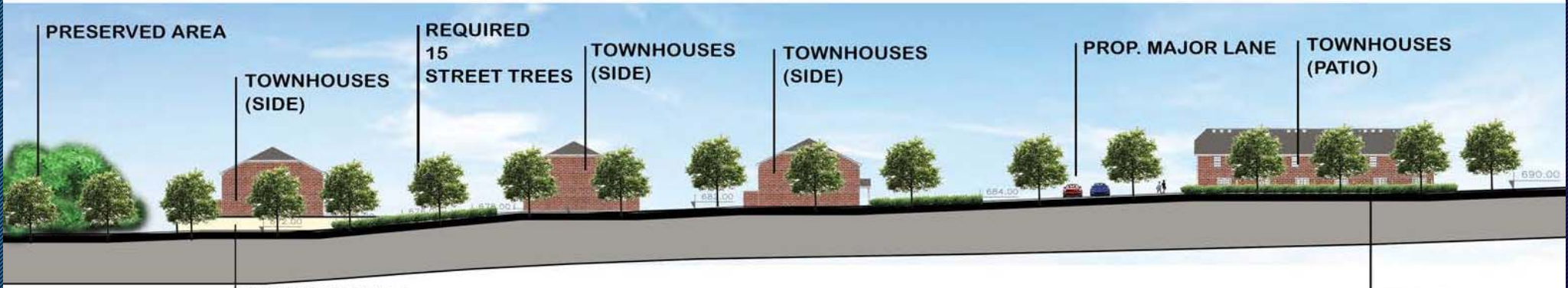
MAJOR LN



# Screening Along Brentlinger Lane Frontage



**PLAN**



**ELEVATION**

Tab 6  
Building Elevations



Similar style and design of townhomes built at Avalon Springs, on Beulah Church Road.



Similar style and design of townhomes built at Avalon Springs, on Beulah Church Road.



Similar style and design of townhomes built at Avalon Springs, on Beulah Church Road.

Tab 7  
Traffic Study



final report

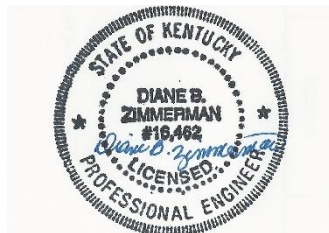
January 14, 2020

## Traffic Impact Study

9922 Brentlinger Lane  
Louisville, KY 40059

Prepared for

**Louisville Metro Planning Commission**



## Table of Contents

INTRODUCTION .....	2
Figure 1. Site Map.....	2
EXISTING CONDITIONS .....	2
Figure 2. Existing Peak Hour Volumes.....	3
FUTURE CONDITIONS .....	3
Figure 3. 2022 No Build Peak Hour Volumes.....	3
TRIP GENERATION .....	3
Table 1. Peak Hour Trips Generated by Site.....	4
Figure 4. Trip Distribution Percentages.....	4
Figure 5. Peak Hour Trips Generated by Site.....	5
Figure 6. 2022 Build Peak Hour Volumes .....	5
ANALYSIS .....	5
Table 2. Peak Hour Level of Service.....	6
CONCLUSIONS .....	6
APPENDIX .....	7

## INTRODUCTION

The development plan for 9922 Brentlinger Lane in Louisville, KY shows 116 multi-family units. **Figure 1** displays a map of the site. Access to the development will be from an entrance on Brentlinger Lane and Major Lane. The purpose of this study is to examine the traffic impacts of the development upon the adjacent highway system. For this study, the impact area was defined to be the intersection of Brentlinger Lane with Leaders Lane.



**Figure 1. Site Map**

## EXISTING CONDITIONS

Brentlinger Lane is maintained by Louisville Metro with an estimated 2019 Average Annual Daily Traffic (AADT) volume of 3,200 vehicles per day between Bardstown Road and Broad Run Road, as estimated by the Kentucky Transportation Cabinet count station 318. The road has two lanes of nine feet and one-foot shoulders through study area. The speed limit is 35 mph. There are no sidewalks along the property. There are sidewalks along the adjacent property to the west. The intersection with Leaders Lane is controlled with a stop sign on Leaders Lane.

Peak hour traffic counts for the intersections were obtained on Thursday, October 17, 2019. The a.m. peak hour occurred between 8:00 and 9:00 and the p.m. peak hour was 4:45 to 5:45. **Figure 2** illustrates the existing a.m. and p.m. peak hour traffic volumes. The Appendix contains the full count data for the intersection.

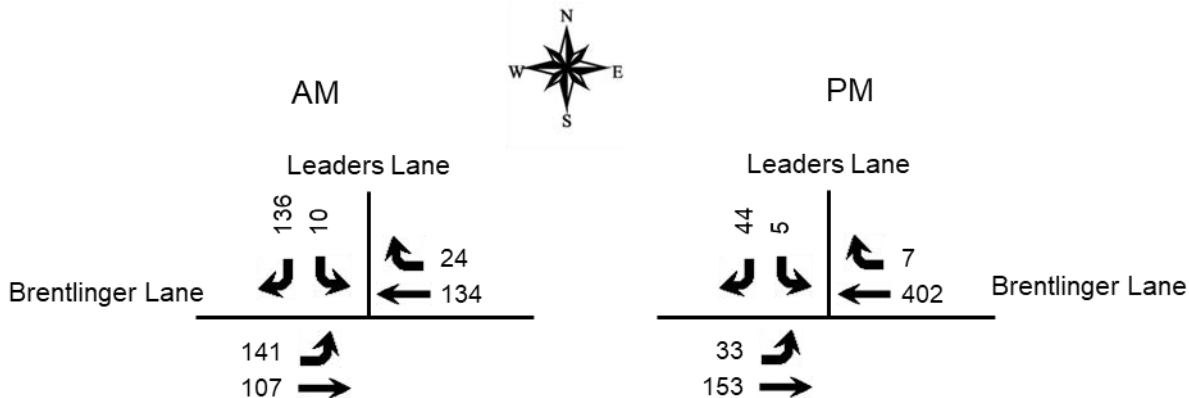


Figure 2. Existing Peak Hour Volumes

### FUTURE CONDITIONS

The project completion date is 2022. An annual growth rate of 2.0 percent was applied to the through volumes on Brentlinger Lane. The trips generated by the proposed Southpointe Commons from their traffic study were included on Leaders Lane. A left-turn lane on eastbound Brentlinger Lane is currently in the design phase. **Figure 3** displays the 2022 No Build peak hour volumes.

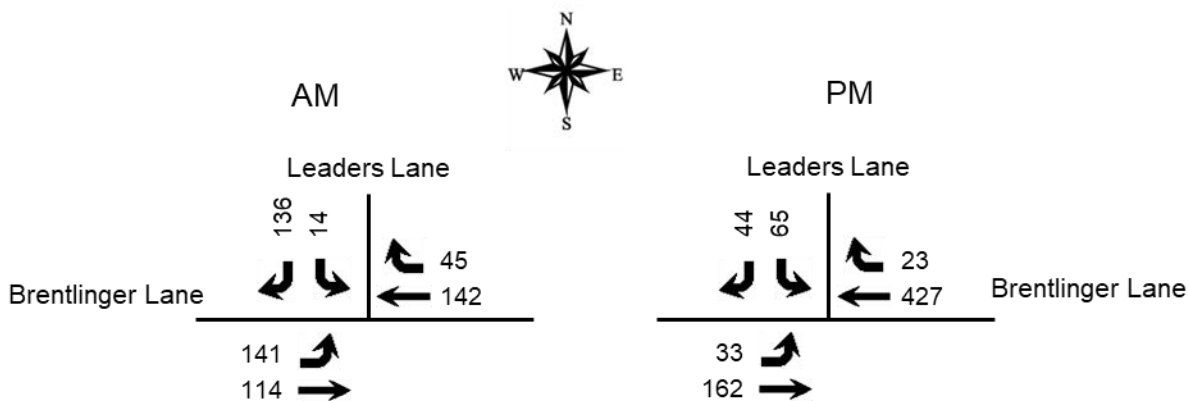


Figure 3. 2022 No Build Peak Hour Volumes

### TRIP GENERATION

The Institute of Transportation Engineers [Trip Generation Manual](#), 10<sup>th</sup> Edition contains trip generation rates for a wide range of developments. The land uses of “Multi-Family (Low-Rise) (220)” was reviewed and determined to be the best match. The trip generation results are listed in **Table 1**. The trips were assigned to the highway network with the percentages shown in **Figure 4**. **Figure 5** shows the trips generated by this development and distributed throughout the road network during the peak hours. **Figure 6** displays the individual turning movements for the peak hours when the development is completed.

**Table 1. Peak Hour Trips Generated by Site**

Land Use	A.M. Peak Hour			P.M. Peak Hour		
	Trips	In	Out	Trips	In	Out
Multi-Family (116 units)	55	13	42	67	42	35



**Figure 4. Trip Distribution Percentages**

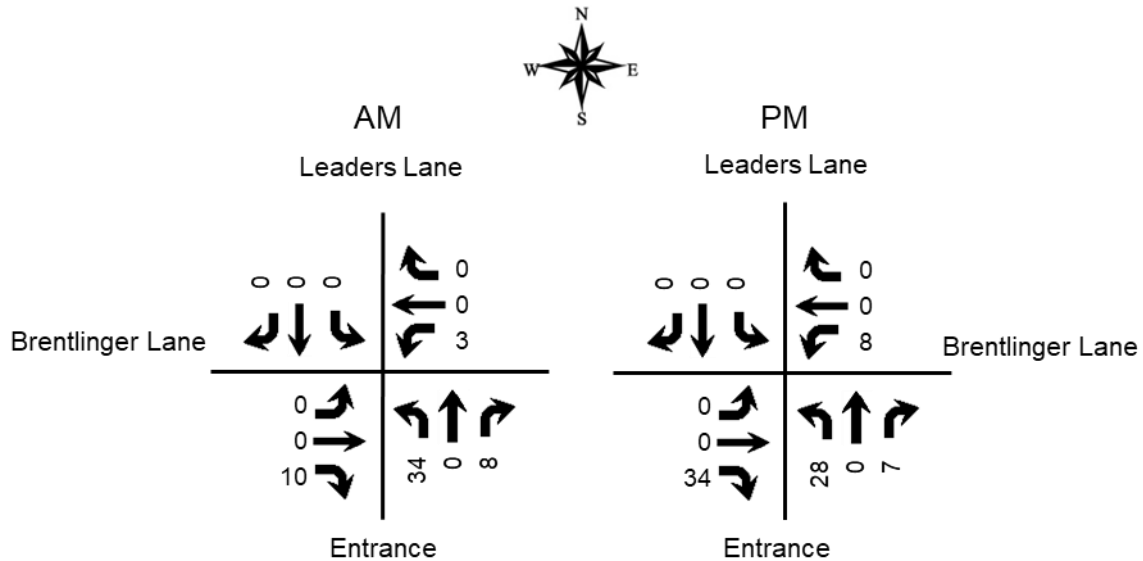


Figure 5. Peak Hour Trips Generated by Site

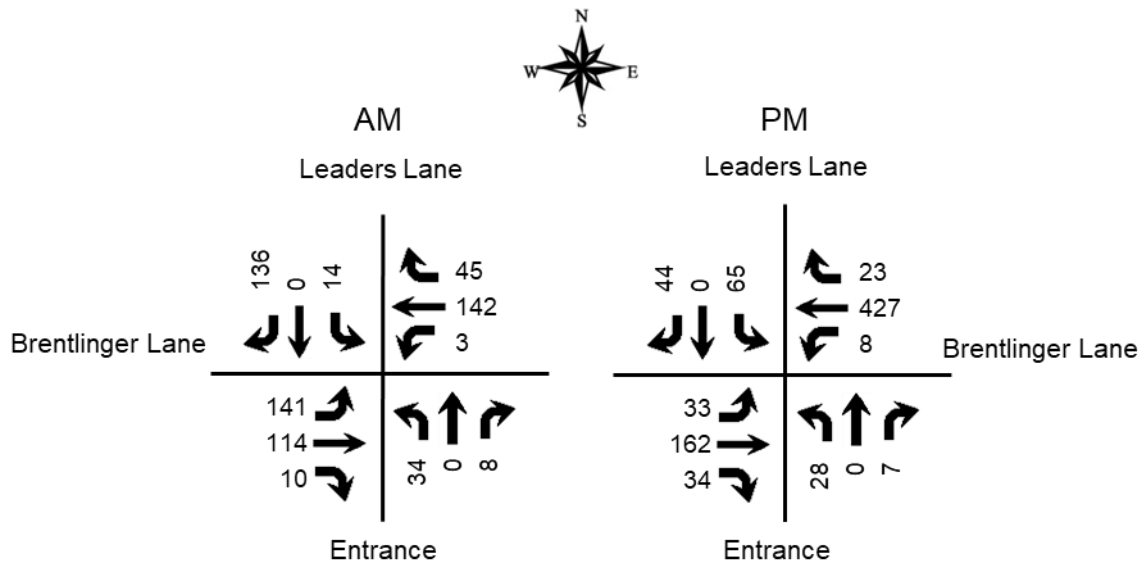


Figure 6. 2022 Build Peak Hour Volumes

## ANALYSIS

The qualitative measure of operation for a roadway facility or intersection is evaluated by assigning a “Level of Service”. Level of Service is a ranking scale from A through F, “A” is the best operating condition and “F” is the worst. Level of Service results depend upon the facility that is analyzed. In this case, the Level of Service is based upon the total delay experienced for lanes at stop-controlled intersections.

To evaluate the impact of the proposed development, the vehicle delays at the intersections were determined using procedures detailed in the Highway Capacity Manual, 6<sup>th</sup> edition. Future delays and Level of Service were determined

for the intersections using the HCS Streets (version 7.8.5) software. The delays and Level of Service are summarized in **Table 2**.

**Table 2. Peak Hour Level of Service**

Approach	A.M.			P.M.		
	2019 Existing	2022 No Build	2022 Build	2019 Existing	2022 No Build	2022 Build
<b>Brentlinger Lane at Leaders Lane</b>						
Brentlinger Lane Eastbound (Left turn)	A 8.1	A 8.3	A 8.3	A 8.3	A 8.4	A 8.4
Brentlinger Lane Westbound (Left turn)			A 7.6			A 7.6
Entrance Northbound			C 21.5			B 14.3
Leaders Lane Southbound	B 11.7	B 12.6	B 12.2	B 11.7	C 15.8	B 14.9

*Key: Level of Service, Delay in seconds per vehicle*

The intersection of Brentlinger Lane at the entrance was evaluated for turn lanes using the Kentucky Transportation Cabinet Highway Design Guidance Manual dated March, 2017. Using the volumes in Figure 6, no turn lanes will be required for the entrance.

## CONCLUSIONS

Based upon the volume of traffic generated by the development and the amount of traffic forecasted for the year 2022, there will be a minor impact to the existing highway network. No improvements are required for this development.

Tab 8

Agreement between developer and Fairways of  
Glenmary Condominiums Council of Co-Owners, Inc



## AGREEMENT

**THIS AGREEMENT** (“Agreement”) is made, entered into and effective as of the execution date set forth below, by and between the **FAIRWAYS OF GLENMARY CONDOMINIUMS COUNCIL OF CO-OWNERS, INC.**, a Kentucky non-profit corporation, with an address of 10801 Glenway Place, Louisville, Kentucky 40291 (the “Council”), and **ST. JAMES CROSSING, LLC**, with an address of 7935 Zelma Fields Avenue, Louisville, Kentucky 40228 (“Developer”) (collectively referred to as the “Parties” or individually as a “Party”).

### RECITALS:

**WHEREAS**, Developer has entered into contracts to purchase the real properties generally known as 9922, 9924 and 10000 Brentlinger Lane, Louisville, Kentucky, collectively consisting of approximately 9.6 acres (the “Subject Property”), the sale of which is conditional on the Subject Property being rezoned from R-4 to R-6, amongst other conditions set forth in the purchase contracts;

**WHEREAS**, Council is the condominium association for Fairways of Glenmary Condominiums, a residential condominium community located to the south of the Subject Property (“Fairways Property”);

**WHEREAS**, Developer filed a Change in Zoning application with Louisville Metro Planning and Design Services (“DPDS”) on or about November 25, 2019 for the Subject Property to change the zoning from R-4 to R-6 for a 116 unit townhome style apartment community, as more specifically set forth in Case No. 19-ZONE-0087 (the “Rezoning”) and as set forth on the proposed detailed district development plan filed therewith (“DDDP”);

**WHEREAS**, pursuant to the discussions between Developer and Council about the potential impacts of the Rezoning, Developer agrees to: (1) make a one-time payment of \$40,000.00 to the Council in exchange for a sanitary sewer easement for sanitary sewer service for the Subject Property; (2) develop the Subject Property only in accordance with certain agreements set forth herein; and (3) develop the Subject Property substantially the same as shown on the DDDP, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference; and

**WHEREAS**, the Council has agreed to endorse the Rezoning and DDDP on the Subject Property, provided Developer agrees to the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants set forth herein, and for good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, and with the intent to be legally bound, the Parties hereby agree as follows:

**1. RECITALS:** The Recitals set forth hereinabove are incorporated and made a part of this Agreement as if set forth in whole in this Section 1 of the Agreement.

**2. DEVELOPMENT:** Upon approval of the Rezoning and construction of the project, Developer shall:

(a) repair or replace to existing condition, or substantial equivalent, any and all damages to buildings, decks/porches, and/or streets caused by the proposed development/construction on

the Subject Property, and/or caused by Developer's work on the sanitary sewer connection pursuant to the sanitary sewer easement being granted. The portion of Glenway Court that will be removed and damaged as part of the sanitary sewer connection work shall be completely repaved with asphalt and not re-patched in strips;

(b) repair or replace any damage to the Fairways Property irrigation system caused by the Developer's construction activities, including, but not limited to, damages to the sprinkler heads and controller wiring;

(c) re-fill with top soil and re-sod all damages to the lawns and/or landscaping on the Fairways Property caused by Developer's construction activities (replaced with sod and not merely grading and sowing of grass seed);

(c) maintain in perpetuity the sanitary sewer connection to the existing sanitary sewer line on the Fairways Property from and to serve the Subject Property, to the extent same is not maintained by the Metropolitan Sewer District ("MSD");

(d) 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 Property common property line with the Subject Property (in the approximate area of the existing wood fence – which is to be removed), to be constructed three (3) feet to the North of the common property line for future maintenance, designed to prevent walking traffic from/to the Subject Property through the Fairway Property), and Developer, its successors and assigns, shall thereafter maintain the fence in perpetuity;

(e) protect the trees on the Fairways Property from damage, except where storm pipes exit the detention basin;

(f) locate any portable toilets in the northwest or northeast corner of the Subject Property construction site;

(g) 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 Property so as not to adversely affect property of neighboring residents;

(h) prohibit construction personnel vehicles, construction vehicles, and equipment from parking on the Fairways Property, unless specific written permission is granted for the purpose of sanitary sewer connections;

(i) periodically clean the Subject Property construction site for dirt and mud buildup;

(j) keep operation of construction equipment to the hours between 9:00 am – sundown;

(k) provide the Council, through its Board of Directors with an up-to-date list of the general contractor and supervisor personnel and apartment community business owner telephone numbers to report complaints, which shall be updated at least annually;

(l) be responsible for any and all costs of repair and clean-up resulting from any sewage back-up until MSD accepts maintenance responsibility for same which may occur in the

residential units in Fairways 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;

(m) provide general screening of dumpsters and service structures for aesthetics, health and odor issues; and

(n) cause any and all lighting along the common property line with the Fairways Property to be directed down and away from the Fairways Property, with the minimum amount of lumens practical.

(o) Developer shall construct where the existing grades permit a 2 foot to 3 foot earthen berm along the common property line between the Fairways Property and the Subject Property. The berm will be completely covered with sod. The berm shall be planted with Green Giant Arborvitae and other evergreen trees along the top of the berm to act as a buffer. The Arborvitae and evergreen trees shall be a minimum of 4 foot to 5 foot at planting. The Developer and or their successor and assigns shall maintain the berm and replace any dead evergreen trees.

(p) Developer to reimburse the Council for its legal fees incurred and payable to Hebel & Hornung, PSC for the handling of this matter, up to a maximum amount of \$1,000.

**3. DEVELOPER CONSIDERATION:** Developer agrees to the following: (a) to impose the conditions hereof as Binding Elements in the Rezoning; and (b) make the \$40,000 payment if, and when, a sewer connection is constructed.

**4. ENFORCEMENT OF THE BINDING ELEMENTS:** The Binding Elements are enforceable through the action of DPDS and its enforcement division or related entity.

**5. COUNCIL CONSIDERATION.** As a result of the consideration of Developer as set forth herein, the Council agrees to continue to express support of and not oppose the Rezoning and DDDP.

**6. AGREEMENT CONDITIONAL:** This Agreement is conditional on (a) the Planning Commission and Metro Council approving the Rezoning and DDDP, with the Binding Elements. In the event the Rezoning and DDDP are not approved, this Agreement shall be considered null and void.

**7. GOVERNING LAW:** The provisions of this Agreement shall be construed, enforced and governed by and in accordance with the laws of the Commonwealth of Kentucky without regard to conflicts of laws principles.

**8. LANGUAGE OF THIS AGREEMENT:** This Agreement has been reviewed by the Parties and by such attorneys as the Parties chose to consult, if any. No Party hereto, nor any attorney of any Party, shall be deemed to be the drafter of this Agreement for purposes of interpreting or construing any portion of its provisions. This Agreement shall be interpreted in accordance with its fair meaning and not strictly for or against either of the Parties.

**9. BINDING AGREEMENT:** The Parties agree that this Agreement shall be binding on and inure to the benefit of the Parties hereto, their legal representatives, heirs,

successors, and assigns. In entering into this Agreement, the Parties acknowledge that they had the right and opportunity to obtain legal counsel to assist them, and that the terms of this Agreement are fully understood and voluntarily accepted by them.

**10. COUNTERPARTS:** This Agreement may be executed in counterparts, and facsimile or electronic signatures, delivered via email on this Agreement shall be effective as original signatures.

**11. CONDITIONAL:** This Agreement is conditional on, and no rights, releases or waivers shall be effective, until all parties have signed hereinbelow.

**12. MODIFICATION:** This Agreement may not be amended or modified except by agreement set forth in the written memorandum executed by all of the Parties hereto.

**13. ENFORCEMENT:** In the event either party defaults in any of its obligations arising out of this Agreement after prior written notice to cure any alleged violation or deficiency, the defaulting party shall be responsible for all court costs and reasonable attorney's fees incurred by the non-defaulting party in any legal proceedings necessary to enforce the terms of this Agreement. Further, Developer shall reimburse the Council for legal fees incurred in enforcing the terms of this Agreement, even if same is resolved prior to the filing of a lawsuit against Developer.

*[End of the Agreement with signatures to follow on the next page.]*

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

**ST. JAMES CROSSING, LLC**  
a Kentucky limited liability company

By: Ken Blacketer

Name: Ken Blacketer

Title: member

Date: 3-3-2020

**FAIRWAYS OF GLENMARY CONDOMINIUMS COUNCIL OF CO-OWNERS, INC.**  
a Kentucky corporation

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

**ST. JAMES CROSSING, LLC**  
a Kentucky limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**FAIRWAYS OF GLENMARY CONDOMINIUMS COUNCIL OF CO-OWNERS, INC.**  
a Kentucky corporation

*Michael C Malone* (CO-PRESIDENT)

*Jay A Samuel* (SECRETARY)

\_\_\_\_\_

Date: *4/2/2020*

Tab 9

# Proposed Additional Binding Elements

## Proposed Additional Binding Elements

- 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.
- 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.
- 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.
- 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).
- 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").
- 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.
- Developer shall protect the trees on the Fairways of Glenmary Condominiums property from damage, except where storm pipes exit the detention basin.
- Developer shall locate any portable toilets in the northwest or northeast corner of the subject property construction site.



- 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.
- 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.
- Developer shall periodically clean the subject property construction site for dirt and mud buildup.
- Operation of construction equipment on the subject property during construction thereof shall be during the hours between 9:00 am – sundown.
- Developer shall provide first tier adjacent property owners, as well as the Fairways of Glenmary Condominiums Council through its Board of Directors with an up-to-date list of the general contractor and supervisor personnel and apartment community business owner telephone numbers to report complaints, which shall be updated at least annually.
- 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.
- Developer shall provide general screening of dumpsters and service structures for aesthetics, health and odor issues.
- 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.

Tab 10

Statement of Compliance filed with the original  
zone change application with all applicable  
Goals of the 2040 Plan

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

1000 N. HURSTBOURNE PARKWAY • BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG. • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223  
(502) 426-6688 • (502) 425-0561 (FAX) • WWW.BARDLAW.NET

## **STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GOALS, OBJECTIVES AND POLICIES OF THE “PLAN 2040” COMPREHENSIVE PLAN**

Applicant: D&K Holdings, LLC c/o Ken Blacketer & David Bright

Owner: Chris & Angela Wilkerson; Jane Ann Franklin; Shelly  
Dawn Stoyell

Project Name/Location: 9922, 9924, and 10000 Brentlinger Lane

Proposed Use: Multifamily Residential

Request: Zone change from R-4 to R-6

Engineers, Land Planners,  
Landscape Architects: Land Design & Development, Inc.

### **INTRODUCTION**

This apartment community is proposed by builders Ken Blacketer and David Bright who grew up in the Fern Creek area, in fact one of them along Brentlinger Lane, the road on which this development fronts and has its principal access. They have developed, constructed and currently own other apartment, condominium and office buildings in this area, including ones identical to this one. As such, they are sensitive to neighbor concerns and very much want to remain a respected part of the community in which they were raised and have invested much of their time, talent and resources.

### **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 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 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 an 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 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. TARC 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.

#### **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 Fern Creek.

#### **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.

#### **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.

#### **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.

\* \* \*

For all of the above-stated reasons, those shown on the detailed district development plan and those explained at the LD&T meeting and Planning Commission public hearing, this revised application complies with all other applicable Goals, Objectives and Policies of the “Plan 2040” Comprehensive Plan.

Respectfully submitted,

---

William B. Bardenwerper  
Bardenwerper, Talbott & Roberts, PLLC  
Building Industry Association of Greater Louisville Bldg.  
1000 N. Hurstbourne Parkway, Second Floor  
Louisville, KY 40223

Tab 11

Proposed findings of fact pertaining to  
compliance with the 2040 Plan

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

1000 N. HURSTBOURNE PARKWAY • BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG. • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223  
(502) 426-6688 • (502) 425-0561 (FAX) • WWW.BARDLAW.NET

## PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GOALS OF THE 2040 PLAN

Applicant: D&K Holdings, LLC c/o Ken Blacketer & David Bright

Owner: Chris & Angela Wilkerson; Jane Ann Franklin; Shelly Dawn Stoyell

Project Name/Location: 9922, 9924, and 10000 Brentlinger Lane

Proposed Use: Multifamily Residential

Request: Zone change from R-4 to R-6

Engineers, Land Planners, Landscape Architects: Land Design & Development, Inc.

Traffic Engineer: Diane B. Zimmerman Traffic Engineering, LLC

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on March 19, 2020 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

### **INTRODUCTION**

**WHEREAS**, this apartment community is proposed by builders Ken Blacketer and David Bright who grew up in the Fern Creek area, in fact one of them along Brentlinger Lane, the road on which this development fronts and has its principal access; they have developed, constructed and currently own other apartment, condominium and office buildings in this area, including ones identical to this one; and as such, they appear to have demonstrated sensitivity to remain a respected part of the community in which they were raised and have invested much of their time, talent and resources; and

### **PLAN ELEMENT 4.1: COMMUNITY FORM**

**WHEREAS**, this application complies with Plan Element 4.1, its 5 Goals and their Objectives plus the following Policies because, 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 because in addition to the other ways set forth above and below: the



site is located in the 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; and 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; and

**WHEREAS**, this application complies with Goal 2, Policies 1, 2, 3, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16 and 17 because, 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; 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; and 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; and

**WHEREAS**, this application complies with Goal 3, Policies 1, 2, 3, 6, 9, 10 and 13 because, 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; and those spaces will be maintained in perpetuity by the owner of the apartment community; and

**WHEREAS**, this application complies with Goal 4 because this is not a historic site with historic buildings; and

**WHEREAS**, this application complies with Goal 5 because this proposed apartment community is neither large nor public enough to include an element of public art; and

#### **PLAN ELEMENT 4.2: MOBILITY**

**WHEREAS**, this application complies with Plan Element 4.2, its 3 Goals and their Objectives plus the following Policies because, 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 other Brentlinger Lane road improvements; 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 the DDDP filed with this application; also a Traffic Impact Study (TIS) was prepared in accordance with its other requirements; TARC service appears to be available nearby and reasonably accessible; and 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**

**WHEREAS**, this application complies with Plan Element 4.3, its 3 Goals and their Objectives plus the following Policies because, 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 the Leaders Lane 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; and public library and community center are located a short distance away in the heart of Fern Creek; and

#### **PLAN ELEMENT 4.4: ECONOMIC DEVELOPMENT**

**WHEREAS**, this application complies with Plan Element 4.4, its 2 Goals and their Objectives, plus the following Policies because, 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; and it also increases the tax base essential to the provision of government services; and

#### **PLAN ELEMENT 4.5: LIVEABILITY**

**WHEREAS**, this application complies with Plan Element 4.5, its 4 Goals and their Objectives plus the following Policies because, 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

#### **PLAN ELEMENT 4.6: HOUSING**

**WHEREAS**, this application complies with Plan Element 4.6, its 3 Goals and their Objectives, plus the following Policies because, 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; and 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; and

\* \* \*

**WHEREAS**, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books, and on the approved detailed district development plan, this application also complies with all other applicable Goals of the 2040 Plan;

**NOW, THEREFORE**, the Louisville Metro Planning Commission hereby recommends to the Louisville Metro Council that it rezone the subject property from R-4 to R-6 and approves the Detailed District Development Plan.