

**Binding Elements**  
**Case No. 19-ZONE-0087**

**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.
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 backups 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.