

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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

William B. Bardenwerper
Direct dial: 426-0388, ext. 135
Email: WBB@BARDLAW.NET

February 22, 2018

Joel Dock, Case Manager
Louisville Metro Planning & Design Services
444 S. Fifth Street, 3rd Floor
Louisville, Kentucky 40202

Re: Docket No. 17SUBDIV1021; Brookstone Homes/Flat Rock Road (aka "Manor Creek")
Conservation Subdivision

Dear Joel:

This letter is submitted along with our Planning Commission Public Hearing Exhibit Book, which contains, among other things, the environmental resources maps and the colored-up subdivision plan. We have attached hereto a draft set of applicable Declaration of Covenants and Restrictions ("CCRs") provisions relating to open spaces and protection of certain environmental features. This and the following are submitted in order to demonstrate compliance with LDC Section 7.11.5.B.9.

- a. Describe how the existing natural features of the site are being preserved and incorporated into the layout.

The existing natural features on the site are being preserved and incorporated into the subdivision layout. There is an existing intermittent stream and pond on site. The exiting tree mass on the west side of the property is being preserved along with preservation in the center of the property, which is approximately 12.2 acres of open space in these areas. The open space to the rear of the property also abuts a wooded portion of the adjoining single family neighborhood adding to the aesthetics of the area in the adjoining subdivision. 22% of the tree canopy is anticipated to be preserved, and the intermittent stream channel on site and is also anticipated to be maintained.

This application for a conservation subdivision is located on 100.8 acres located off Flat Rock Road, nestled between Polo Fields, Southfields at Polo Fields and Flat Rock Ridge Subdivisions. Lots have been arranged towards the edges of the site, leaving the existing tree canopy in the center and leaving 17.5 acres of open space along the front of the property at Flat Rock Road.

- b. Explain how clustering of dwelling units will:
 - i. Minimize disturbance of woodlands, wetlands, grasslands, mature trees and steep slopes

Lots have been located to try to preserve the existing stream corridor. The stream corridor overlaps some of the wooded areas and steep slopes on site. This is demonstrated on the accompanying “Existing Resources & Site Analysis Plan” and as described above.

- ii. Prevent downstream impacts due to runoff through storm water techniques including minimizing impermeable areas, using bio swales, rain gardens, permeable pavements, small-scale, infiltration and green roofs.

Conceptual stormwater strategies include a combination of bio-swales, a green dry basin and water quality units for the treatment of stormwater runoff. Final designs will be determined at the time of construction plan approval and will meet all MSD requirements.

- iii. Protect views of open land from existing adjacent roadways through practices such as orienting structures to align with topographic character of land, tucking structures behind tree lines or knolls, using vegetation as a backdrop to reduce prominence of the structures, varying setbacks, setting aside required conservation land as a visual amenity into and within the development site, or any combination of these practices.

The frontage along Flat Rock Road includes an open space with 17.5 acres of open space. This large open space area will allow for a landscaped signature entrance. This is demonstrated on the accompanying “Existing Resources & Site Analysis Plan” in combination with the submitted Conservation Subdivision Plan and as described above.

- iv. Protect archaeological site and existing historic buildings or incorporate them through adaptive reuse.

No known archaeological features or historic structures exist on this site.

- v. Avoid encroaching on sensitive areas such as rare plant communities, high quality habitats, or endangered species habitats identified by the Kentucky Department for Natural Resources.

22% of the sites tree canopy is being preserved on site. No endangered species or rare plants have been identified. This is demonstrated on the accompanying “Existing Resources & Site Analysis Plan” in combination with the submitted Conservation Subdivision Plan and as described above.

- c. Explain how the design and location of buildable lots will ensure compatibility with existing adjacent development.

This is demonstrated in the Public Hearing exhibit books to be presented to the Planning Commission and also accompanies this letter.

- d. Justification must be provided for any cases where proposed open space areas within the development will not abut existing open space areas on adjoining parcels.

To the extent that open space exists on adjoining properties, open spaces shown on the submitted Conservation Subdivision Plan will connect.

Please let us know if you need anything other than this letter and the attachments hereto.

Sincerely,



William B. Bardenwerper

Cc: Shannon Lachenman, applicant, Brookstone Homes
Sarah Beth Sammons, land planner with Land Design & Development

DRAFT

Applicable Declaration of Covenants and Restrictions (“CCRs”) provisions
relating to open spaces and protection of certain environmental features

Section 1.03 Open Space Lots

Anything to the contrary herein notwithstanding, _____ Homeowners Association, Inc., a Kentucky non-profit corporation (the “Association”), which shall be organized with the Kentucky Secretary of State prior to the filing of this Declaration, shall be responsible for the maintenance of all open space lots, Private Streets, islands in the right-of-way, and signature entrances, so long as the Subdivision is used as a residential subdivision or until properly dedicated to a unit of local government. In addition to the foregoing, the Association shall also be responsible for maintenance and repair of the noise barriers, if any, required as a condition of approval in docket no. _____. Declarant may dedicate utility service or drainage easements upon, through or under same at its sole discretion so long as there is in existence the Class B membership in accordance with Article VII, Section 7.02. When Class B membership ceases, this right of Declarant shall automatically pass to the Board of Directors of the Association. The restriction contained in this Section 1.03 shall not be amended without approval from the Louisville Metro Planning Commission.

Section 7.03 Rights and Obligations of the Association.

The Association shall maintain, operate and keep in good repair, unless such obligations are assumed by any municipal or governmental agency, authority or utility having jurisdiction thereof, those items specifically set forth in Article III and Article IV, the common areas, including, without limitation, any open spaces, Private Streets, entrance signs, entranceways, storm drains, common drainage swales, basins, and landscaping located therein. The Association shall also perform the other duties prescribed by this instrument or the Association's rules and regulations, which duties may include, among other things, collection of garbage (if not collected by a municipality). All rights reserved by Declarant in this Declaration shall automatically pass to the Association when Class B membership ceases pursuant to Section 7.02 above, and thereafter any reference to Declarant shall be construed to mean the Association. Prior to the Class B membership interests ceasing pursuant to Section 7.02 above, the Declarant shall ensure that all road, drainage, sanitary sewer, water service, required landscaping, and other required infrastructure are installed by the Declarant.