

heather.pollock@louisvilleky.gov

Re: 21-MPLAT-0122, Ferguson Indian Hills Trail

Ms. Pollock:

We are a large group of taxpaying residents of the City of Indian Hills (“City”) who object to the proposed minor subdivision of the Ferguson property located at 125 Indian Hills Trail. It is our understanding that the IARC Committee is holding an inter-agency meeting on or about August 5, 2021, to review the minor plat application. Please be advised of the following concerns and include this letter in your official report. Also note that a petition of names is forthcoming. All named petitioners, as well as all City of Indian Hills council members, should receive notice of any and all meetings to be held concerning the application.

Indian Hills Has the Authority to Deny the Subdivision

The City of Indian Hills is a home rule city of Jefferson County, KRS 81.005, and is authorized to and has formed its own laws regarding land use and subdivision applications within its jurisdiction. Specifically, Section 15.10.11 of the City Code provides as follows:

§ 151.11 SUBDIVISION.

- (A) No existing lot may be subdivided or its lines altered without prior approval of the City Council, which approval shall be by ordinance.
- (B) Every lot resulting from the subdivision of an existing lot shall be no smaller than the average size of all lots abutting the lot being subdivided.
- (C) Once a lot is subdivided, the resulting lots cannot be subdivided again for a minimum of ten year.

While the Planning Committee’s approval of a minor plat may be ministerial upon the satisfaction of certain requirements of the Land Development Code, the City’s approval authority is discretionary and the Planning Committee’s procedures for examining this application must account for the City’s authority. No approval may be issued by the Planning Committee without first giving the City an opportunity to conduct a thorough review and issue its own decision.

The Subdivision Conflicts with the Neighborhood’s Essential Nature and Will Create a Dangerous Precedent for Future Development

In January, 1924, 200 acres of land now located within the City of Indian Hills was sold to the Louisville Country Club for its development and 300 acres were sold to a development group, which divided the acreage as Indian Hills - “The Home Community Adjoining the Louisville Country Club.” Frederick Law Olmsted’s firm was employed to design the development plan, which incorporated the renowned design features of Olmsted’s early work. Those features include: “sweeping, curvilinear streets and gently rounded intersections which follow the natural contours of the hilly terrain. Every effort was made to save existing trees and preserve each site’s natural beauty, while suggesting the planting of additional native trees and shrubs to strengthen the romantic character of the property. Building on Olmsted’s belief that nature has a positive effect on human behavior and that well-planned neighborhoods can help improve residents’ sense of well-being, expanses of green space were left open and layers of plant material and tree canopy were left undisturbed, not only for their beauty but also to promote a sense of community. To be sure, Indian Hills embodies the evolution of Olmsted’s

ideas about the relation of suburbs to the city—he envisioned the homeowner returning hot and tired from the city to homes “well shaded by handsome, umbrageous, permanently thrifty trees” in a neighborhood with a “pleasing rural, or, at least, semi-rural, character of scenery . . . to be permanently enjoyed.”

Before the sale in 1924, the original 300 acres of Indian Hills was the Indian Hill Stock Farm, owned by John Veech, for a time one of the largest horse farms in Kentucky. Veech’s Georgian-style home is the Ferguson house and the farm’s springhouse is located at 119 Arrowhead Road. Both structures have been approved for listing on the National Register of Historic Places. An 1877 Courier-Journal article reports that the Indian Hill name was acknowledging the hundreds of Indians who camped on the Ferguson property at the time of Louisville’s founding in 1778.

The Ferguson property is undeniably a historic piece of land, and it is the centerpiece property of Indian Hills. Allowing for its subdivision would set a dangerous precedent for future development: if the original homestead of Indian Hills can be subdivided into the unrecognizable, ordinary 2-tract development represented in the site plan, the ensuing subdivision and development of large-acre tracts throughout the City with less significant histories.

Indeed, there is no more “free” land in the City. The only developable areas are contained within these large-acre tracts. Their subdivision and development will fundamentally and permanently alter the special nature of this City. For this reason, the minor plat application should be denied.

Sewer System Already Overloaded

The subdivision and development of the Ferguson property and, inevitably, the other large-acre tracts throughout the City, will add significantly to an already-overloaded sewer system, of which MSD is well-aware. City officials have attempted for years to work with MSD to solve these problems, yet they remain. It is impossible to overstate the overwhelming burden that new development will impose on a system that is already insufficient. For this reason, the minor plat application should be denied.

Stormwater Management

Property owners of land adjacent to the proposed subdivision report extensive stormwater management issues that currently originate in and would be exacerbated by additional development on the Ferguson property. One such resident reports that “[t]he building of [another] home would add additional water issues to an already overburdened water removal system. The steps that the previous owner [of our home] took jointly with MSD engineers provided for the installation of an in-ground pump system intended to collect all the storm water that rushes down from higher elevations into our driveway and redirect it to our front yard. It was determined that it was insufficient since we had two basement flooding incidents within the first year of owning our house. We have since adjusted our landscaping to try and create another pathway for the water and had to reinforce our stone walls to aid that process. Despite these efforts the problem still persists. Any movement of land in the proposed development would add tremendous stress to our property and those of our adjoining neighbors. The removal of the tree canopy would eliminate an essential stabilizing force which would exacerbate the water issue even more.”

Another such resident reports that “our house has experienced water intrusion in the past caused by

runoff from the Ferguson parcel. Our house is built on a slab and we have been told that it was built that way because there is an underground spring. While anecdotal, this was mentioned by the nephew of the couple . . . that built the house in 1954. The back of the house is actually a couple of feet below grade. The previous owner installed a French drain system which has been successful in mitigating the runoff issue. However, we are very concerned that any change to the status quo would cause a return of the water intrusion or otherwise negatively impact our property.”

Removal of Open Space and Increased Traffic

The Ferguson property includes an area of land that extends from the property to Council Road. This would be part of the new Tract 2, according to the minor plat plan. Neighbors report that that “are greatly concerned that the extension would be used as access to Tract 2 via a new driveway which neighbors object to for a number of reasons:

- *The grading and preparation of the land would alter the existing topography potentially creating flooding and runoff issues.
- *The introduction of any impervious material to build the driveway would exacerbate the drainage issues.
- *Any reduction in the tree canopy to clear the land for the driveway would negatively impact our property.
- *Usage of the driveway at night would cause headlights to shine directly on our house.
- *A curb cut for the driveway would be effectively abutting the [one resident’s] circular driveway and relatively close to [another] driveway.
- *The curb cut for the driveway would be directly opposite a triangular traffic island and on a curve creating a dangerous and unwieldy traffic situation.

For these reasons, IF there is additional development of the Ferguson property, we believe the most logical and least disruptive course of action would be to require an easement or a driveway agreement for the existing driveway to Indian Hills Trail.”

The Ferguson Property Potentially Contains Valuable Native Artifacts

The remains of prehistoric and historic cultures are a part of our heritage. When artifacts are unknowingly destroyed, we lose important clues about the past, forever. The residents understand that no law protects against the accidental destruction of Native artifacts on private land, we remain committed to doing all that we can to protect against this possibility and ask the Committee to require an investigation of the property for the identification and protection of these artifacts.

Conclusion

For the reasons set forth above, the minor plat application should be denied. We are a large group of taxpaying residents of Indian Hills, and we expect that our City’s ordinances and the expectations of its residents will be duly considered. At the very least, a decision on the minor plat application

should be stayed until the City has an opportunity to review and make its own independent determination pursuant to Section 151.111.

WALTER L. CATO, JR.*
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*†Kentucky
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August 19, 2021

Louisville Metro Planning and Design Services
444 S. Fifth Street, Suite 300
Louisville, Kentucky 40202
Attn: Heather Pollock – Case Manager

RE: City of Indian Hills, 125 Indian Hills Trail and Ordinance 13-04, Ordinance Relating to Building Restrictions & Requirements; Addition of Chapter 15.10 to Title 15 of the Indian Hills Code of Ordinances

Dear Ms. Pollock,

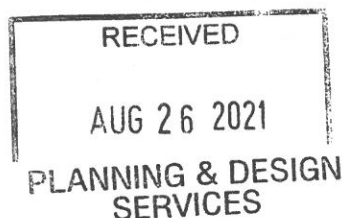
In my capacity as counsel for the City of Indian Hills and on behalf of the Mayor and City Council, I am forwarding you a copy of the above ordinance, passed and approved by the Indian Hills City Council on October 17, 2013.

As reflected in the ordinance, subdivision of lots in the City of Indian Hills requires prior approval from the City Council, which approval shall be by ordinance.

Specifically, City of Indian Hills Ordinance 13-04, Title 15, Section 15.10.110, entitled Subdivision, provides the following:

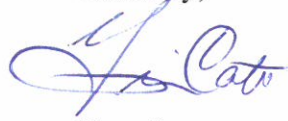
- A. No existing lot may be subdivided or its lines altered without prior approval of the City Council, which approval shall be by ordinance.
- B. Every lot resulting from the subdivision of an existing lot shall be no smaller than the average size of all lots abutting the lot being subdivided.
- C. Once a lot is subdivided, the resulting lots cannot be subdivided again for a minimum of ten (10) years.

Please kindly file this as a matter of record, and I appreciate your attention to this matter.



21-MPLAT-0122

Sincerely,



Finn Cato
Counsel, Indian Hills

Enclosure

cc: Chip Hancock, Mayor
City Council
Donna M. Sinkhorn, City Clerk
Jim Graven, Director of Public Works
Kelly Spratt, Chief of Police



21-MPLAT-0122

CITY OF INDIAN HILLS, KENTUCKY

ORDINANCE 13-04

AN ORDINANCE RELATING TO BUILDING RESTRICTIONS & REQUIREMENTS; ADDITION OF CHAPTER 15.10 TO TITLE 15 OF THE INDIAN HILLS CODE OF ORDINANCES

WHEREAS, it is the duty of the City to preserve the health, safety, and general welfare of the public in general, and city residents in particular, by protecting each homeowner's investment through architectural, aesthetic, and development standards in such a way as to maintain the character of community and its de facto standards; and

WHEREAS, the city environment as it exists is a key factor in every homeowner's decision to invest in this community, and preserving this environment and investment is an appropriate governmental concern; now, therefore,

BE IT ORDAINED BY THE CITY OF INDIAN HILLS,

Section 1. The City of Indian Hills does hereby add the following Chapter 15.10 to Title 15 of the Code of Ordinances:

Chapter 15.10

BUILDING RESTRICTIONS & REQUIREMENTS

Sections:

- 15.10.010 Definitions
- 15.10.020 Primary Use
- 15.10.030 Restrictions That Run With The Land
- 15.10.040 Appearance
- 15.10.050 Square Footage
- 15.10.060 Levels and Height
- 15.10.070 Materials
- 15.10.080 Garages and Other Structures
- 15.10.090 Utilities
- 15.10.100 Construction Hours
- 15.10.110 Subdivision
- 15.10.150 Permits and Appeals

15.10.010 Definitions

"Attached structure" is defined as an adjacent structure of equivalent construction as the main structure, which connects to the main structure via a doorway, or via a structure of equivalent construction of no more than twenty (20) feet in length. In addition to being of equivalent construction, an attaching structure must be totally enclosed.

"Half story" is defined as a top finished floor level without a vertical exterior wall on the front of the building which contains less than 75% of the square footage that the building

footprint would accommodate. The exterior front wall of such level would consist of sloped roofing which may or may not contain window dormers. A half story is also defined as a basement or crawl space with an exterior front wall vertical exposure that is between eighteen inches and four feet above finished grade.

"Immediate area" as used in this chapter is defined to include all lots with any portion thereof within 1500 feet of any point on the proposed building's lot.

"Neutral color" is defined to mean white, shades from white to medium grey, medium brown, or medium green, shades that match the natural color of brick, and other colors that are generally recognized as earth tones reflective of natural building materials. Colors that are bright, attract attention, or not in harmony with surroundings are not neutral colors.

"Square footage" of a building shall be calculated using the exterior measurements of the building at each finished floor level, including only finished spaces that are usable year-round. Exclude the square footage of any space that is not finished or heated like the main body of the house. Exclude garage space even if finished and/or heated. Exclude finished basement areas.

"Zoning", except as may be specifically defined elsewhere in this code, means the zoning classification as set forth in the Zoning District Map for Jefferson County, Kentucky; and zoning classification requirements and restrictions as set forth in the Land Development Code; both of which may be found in the offices of the Planning and Zoning Commission of Metro Louisville/Jefferson County, Kentucky.

15.10.020 Primary Use

A. No lot shall be used for any purpose other than that allowed by the zoning for Jefferson County, Kentucky as described in the Land Development Code, latest addition.

B. No structure of a temporary character shall be permitted on any lot except temporary tool sheds or field offices used by a builder or developer, which shall be removed within thirty (30) days from the time when construction or development is completed.

C. No outbuilding, trailer, basement, tent, shack, garage, barn or structure other than the main residence erected on a lot shall be used as a residence, temporarily or permanently.

15.10.030 Restrictions That Run With The Land

A. Nearly all properties within the City are covered by and were developed in accordance with deeds of restrictions that are recorded in the office of the County Clerk of Jefferson County, Kentucky. The City reiterates and declares to be in full force and effect all such regulations and restrictions on land use, buildings, planning and subdivision of lots.

B. As part of all applications for a building permit, it shall be the responsibility of the applicant to provide an affidavit certifying that the proposed construction is in accordance with all deed restrictions on file with the County Clerk of Jefferson County, Kentucky. Such affidavit shall include reference to the Deed book and page number of the deed of restrictions.

C. The City shall not knowingly issue a permit for any type of construction, re-construction, remodeling, or subdivision that is inconsistent with or violates a recorded deed restriction.

D. In any instance where a deed restriction and a City requirement are not the same, the more restrictive requirement shall take precedence.

15.10.040 Appearance

A. No building shall be constructed within the boundaries of the City unless the character, style, and construction thereof shall be equal to and consistent with the existing residences in the immediate area of proposed building and unless the proposed building is suitable to the site and in harmony with the surroundings. This provision includes grading, landscaping, planting, trees, driveways, walks, screenings, and fences.

B. Unless prevented by weather, the front and side yards of every lot shall be finish graded and sodded prior to occupancy. When weather prevents timely completion, this work shall be completed at the first available opportunity. An appropriate portion of any construction bond may be withheld until this work is completed, regardless of the issuance of a certificate of occupancy.

C. Upon construction of a new, primary building, where sidewalks adjacent and parallel to the street exist on an abutting lot, a connecting sidewalk of matching size and construction shall be provided on all streets which abut the lot for the width of the lot.

15.10.050 Square Footage

The square footage of any proposed residence shall be equal to or greater than the square footage of the smallest residential structure within the immediate area. The maximum square footage of any proposed building may be restricted by the requirements of Section 15.10.040 regards suitability to the site and surroundings. The maximum square footage may also be restricted by the applicable zoning classification's maximum Floor Area Ratio (FAR = total building square footage divided by total lot square footage).

15.10.060 Levels and Height

A. No building shall exceed 2 1/2 stories, or 35 feet in height. Height shall be measured from the level of the lowest finished grade on the entire perimeter of the building to the highest roof peak.

B. Any building level below the first floor and on, or wholly or partially below, the finished grade level (e.g., a basement or crawl space) shall not be counted as a story provided its exterior wall wherever it appears at the front of the building does not extend more than 18 inches above the finished grade there. If its exterior wall extends more than 18 inches above the finished grade at the front of the building, but less than 4 feet above the finished grade, it shall be counted as a half story. If its exterior wall extends more than 4 feet above the finished grade at the front of the building, it shall be counted as a story.

15.10.070 Materials

A. The exterior walls of all buildings shall extend to ground level and shall be composed of at least 80% brick, stone, brick veneer, stone veneer, finished stucco, or a combination thereof. Wood, wood products, metal, and plastic based materials shall be limited to trim for decorative effect, and shall not consist of more than 20% of the building exterior materials.

B. The dominant color of exterior walls will generally be that of the material used, i.e., brick or stone. In the case of painted brick or stucco, the color used shall be neutral. The

color(s) used for trim shall be complimentary to that of the dominant color and not incongruous, gaudy, or distracting.

C. Driveway pavement shall be of asphalt, concrete, or other durable, hard surface material in general use for such purpose.

15.10.080 Garages and Other Structures

A. Garages and outbuildings shall be for the sole use of occupants of the lot, and not for any commercial or other purpose.

B. Attached garages shall have vehicular entrances opening only to the side or rear yard, and shall be sized for not more than three vehicles.

C. Detached garages and outbuildings, where not prohibited by deed restrictions, and shall be positioned or screened so as to preclude or mitigate viewing from the street. They shall be of a scale and construction type equal to and consistent with the existing structures in the immediate area, suited for the site, and in harmony with the surroundings.

15.10.090 Utilities

A. For new construction, all utilities, telephony, and cable TV facilities shall be placed underground from the service providers' connection points to the building.

B. On the occasion of any addition or renovation which requires the replacement or relocation of a service entrance, all replaced or relocated utilities, telephony, or cable TV facilities shall be placed underground from the service providers' connection points to the building, unless not technically feasible or cost prohibitive.

C. No storm water drains, roof down spouts, ground water or runoff shall be introduced into the sanitary sewage system. No roof down spots, ground water, or runoff shall be introduced directly into the storm water drains without the written permission of The Louisville & Jefferson County Metropolitan Sewer District (MSD).

15.10.100 Construction Hours

A. Permissible hours during which construction activities may occur are as follows:

| | |
|-----------------------|-----------------------|
| Monday through Friday | 7:30am through 6:00pm |
| Saturday | 7:30am through 3:00pm |
| Sunday | None |

B. Construction hours apply to any work that may impose light, noise, airborne particulate matter or dust, or vapors on the surrounding properties, or any activity which infringes upon the use and enjoyment of surrounding property, residences, streets, sidewalks, or parks.

C. It is recognized that some interior work does not impose on surrounding properties as described in Part B above, and such work is permitted outside of "permissible construction hours".

D. Any construction work that infringes on the use of surrounding properties that must necessarily be done outside of "permissible construction hours" may be permitted with the prior approval of the Director of Public Works provided the activities and outside allowable hours are clearly defined. In such case the Director shall advise the Police Department of the scope and timing of this activity.

E. The construction hours restrictions set forth in this section shall not apply to a property owner doing work on his or her own property provided the property owner is physically doing the work him or herself and not overseeing the compensated work of others, either by themselves or with his or her assistance.

15.10.110 Subdivision

A. No existing lot may be subdivided or its lines altered without prior approval of the City Council, which approval shall be by ordinance.

B. Every lot resulting from the subdivision of an existing lot shall be no smaller than the average size of all lots abutting the lot being subdivided.

C. Once a lot is subdivided, the resulting lots cannot be subdivided again for a minimum of ten (10) years.

15.10.150 Permits and Appeals

A. Building permits shall be issued by the Director of Public Works per Chapter 15.08 when the submitted plans are found to be in compliance with all applicable deed restrictions, City ordinances, and Jefferson County and Commonwealth of Kentucky building requirements. A building permit shall not be issued by the Director of Public Works if plans are found to not be in compliance with any of these restrictions and regulations.

B. In the event a permit is denied by the Director of Public Works and the applicant believes a permit should be issued, the applicant may bring the case for a permit to the City Council for final determination. The Council will not ignore any deed restriction and cannot override any County or State requirement, however it will provide a final judgment as to a plan's compliance with City ordinance requirements.

C. An appeal of a permit denial must be delivered to the Mayor or City Clerk within 45 days of the permit's denial. If the appeal is not delivered within this period and the applicant still wants to pursue a permit, a new permit must be applied for and will be subject to analysis and issuance or denial based on its merits.

Section 2. The provisions of this Ordinance shall be in force as of the effective date hereof.

Section 3. This ordinance shall take effect upon its passage and publication. First Reading held September 19, 2013. Second Reading, passed and approved October 17, 2013.


Thomas O. Eifler, Sr., Mayor

ATTEST


Donna M. Sinkhorn, City Clerk

Orig is attached to Ord #13-03

THE COURIER-JOURNAL - A GANNETT COMPANY

STATE OF KENTUCKY

County of Jefferson

Affidavit of Publication

I, Christine Manning, of COURIER-JOURNAL, Inbound Special Services Representative, general circulation printed and published at 525 West Broadway, Louisville, Kentucky, do solemnly swear that from my own personal knowledge, and reference to the files of said publication, the advertisement of:

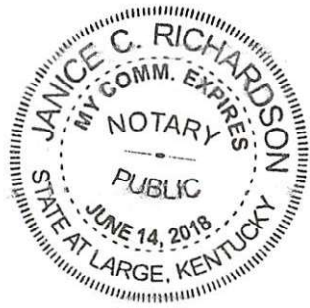
Title: Ord #13-03 and 13-04
Run Date(s): 8/27/2014 NEWSPAPER PRINT
Run Dates: 8/27-9/2/2014 ONLINE

Christine Manning, Inbound Special Services Represent

Signature of person making proof

Subscribed and sworn to before me this 27th day of August, 2014

Janice C. Richardson, Notary Public



CITY OF INDIAN HILLS, KENTUCKY ORDINANCE 13-03 AN ORDINANCE RELATING TO THE KEEPING AND/OR HOUSING OF ANIMALS; ADDITION OF CHAPTER 6.06 TO TITLE 6

Certified Summary of Ordinance The foregoing ordinance, adopted by the city council on September 19, 2013, adopts regulations on the keeping and/or housing of animals in the city adding Chapter 6.06 to the Indian Hills Code of Ordinances. The subjects covered are reproduced below. A full copy is available from the City Clerk and may be viewed during normal business hours.

- Chapter 6.06 ANIMAL RESTRICTIONS
6.06.010 Definitions
6.06.020 Animals Restricted
6.06.030 Animals Excepted
6.06.040 Violation - Penalty

"A. Any person who violates any provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) for each offense. Each day the violation exists shall constitute a separate offense."

This Certified Summary of Ordinance prepared by Foster L. Haunz, Attorney for City Indian Hills.

Foster L. Haunz, Attorney CITY OF INDIAN HILLS

CITY OF INDIAN HILLS, KENTUCKY ORDINANCE 13-04 AN ORDINANCE RELATING TO BUILDING RESTRICTIONS & REQUIREMENTS; ADDITION OF CHAPTER 15.10 TO TITLE 15 OF THE INDIAN HILLS CODE OF ORDINANCES

Certified Summary of Ordinance The foregoing ordinance, adopted by the city council on October 17, 2013, adopts changes to the building restrictions for the city. The subjects covered are reproduced below. A full copy is available from the City Clerk and may be viewed during normal business hours.

- BUILDING RESTRICTIONS & REQUIREMENTS
Sections:
15.10.010 Definitions
15.10.020 Primary Use
15.10.030 Restrictions That Run With The Land
15.10.040 Appearance
15.10.050 Square Footage
15.10.060 Levels and Height
15.10.070 Materials
15.10.080 Garages and Other Structures
15.10.090 Utilities
15.10.100 Construction Hours
15.10.110 Subdivision
15.10.130 Permits and Appeals

This Certified Summary of Ordinance prepared by Foster L. Haunz, Attorney for City of Indian Hills.

Foster L. Haunz, Attorney CITY OF INDIAN HILLS