

DEVELOPERS AGREEMENT

This AGREEMENT made on this 19th day of January, 2021 (the "Agreement") between the TOWNSHIP OF CLARK, a municipal corporation of the State of New Jersey, having its principal offices at 430 Westfield Avenue, Clark, New Jersey 07066, hereinafter called the "Township", and BROOKSIDE MANOR, LLC, a New Jersey corporation, having its principal office located 138 Westfield Avenue, Clark, New Jersey 07066, hereinafter called the "Developer".

WITNESSETH:

WHEREAS, the Developer received Site Plan Approval from the Township of Clark Planning Board (the "Board") on January 9, 2020 for the property designated as Block 63, Lots 46, 47, 49 and 51 (the "Property") on the Tax Maps of the Township of Clark, also known as 1019-1037 Raritan Road and 468 Westfield Avenue (the "Site Plan", "Site Plan Approval" or "Approval") as set forth in the Board Resolution dated February 6, 2020 ("Resolution") a copy of which is annexed hereto as Exhibit A; and

WHEREAS, the Site Plan approval was based in part on the application and plans described in the Resolution (the "Application Documents"); and

WHEREAS, the approval was granted subject to the execution of an Agreement between the Township and the Developer and compliance by Developer with other conditions as more fully set forth in the Resolution of said Board, as well as compliance of the Developer with the ordinances of the Township of Clark and the laws of the State of New Jersey regarding development, and

WHEREAS, the contents of this Agreement apply to Developer's improvements, the repair and ongoing maintenance issues between the Developer and the Township and other obligations of the Developer; and

NOW THEREFORE, in consideration of the foregoing and payment of the sum of One (\$1.00) Dollar lawful money of the United States of America, each to the other in hand paid, at or before the signing of this Agreement, the receipt whereof is hereby acknowledged by each party, and in consideration for the mutual covenants, agreements, conditions, understandings and undertakings hereinafter contained and set forth, the parties hereto hereby agree as follows:

1. APPLICATION OF AGREEMENT. The terms and conditions of this Agreement shall be applicable to the Property, as herein described above, and any and all improvements included in the Approval.

2. DEVELOPER BOUND. The Developer and Township agree to be bound by all representations, commitments, matters of fact and matters of law which constitute the file and record of the Board as contained in and circumscribed by the Resolution, which is made a part of this Agreement by reference hereto as though fully set forth herein, in this matter and it will faithfully discharge all of the obligations and commitments thereof.

3. CONSTRUCTION SUBJECT TO ORDINANCE. The Developer shall construct and design all improvements in accordance with the Resolution and the Land Use Ordinance of

the Township, in a manner satisfactory (within the intent expressed by the Board and as set forth in the Resolution) to the Township Engineer and in accordance with the improvements set forth on the approved Site Plan. Developer shall perform all work in full compliance and observation of all ordinances of the Township. The Developer shall be responsible for securing any and all permits required by law including, but not limited to, road opening permits and any and all other permits required by the ordinances of the Township and to pay the requisite fees called for under the appropriate fee schedules.

4. GUARANTEES: Guarantees shall be provided as required by the Township Code Article XII and NJSA 40:55D-53 et seq.

5. PERFORMANCE GUARANTEES. Prior to commencing construction, and the issuance of the initial construction permit, Developer shall provide construction cost estimates to the Township Engineer of the cost of installation of all public and private improvements required by the approval, as well as perimeter landscaping, to assist in calculations as required by NJSA 40:55D-54, such cost shall be used to calculating the applicable guarantees and inspection fees as provide for in NJSA 40:55D-53. the result of which is as follows:

a. A Performance Guarantee in the amount of \$28,242.00 for the installation of the improvements identified on the Site Plan, to be dedicated to the Township or other public entity and as permitted by N.J.S.A. 40:55D-53(1)(a) and required perimeter landscaping as provided for in N.J.S.A. 40:55D-53(1)(b) (the "Performance Guarantee"), as a guaranty for the installation of same. The Performance Guarantee may be released by Resolution of the Township, and in accordance with the terms of Section 53 of the Municipal Land Use Law (the "MLUL"), upon completion of construction, and the posting and acceptance of a maintenance bond(s), as may be required by the Township. The Performance Guarantee shall be comprised of cash or the following:

(1) A Letter Of Credit or Surety Bond in the amount of \$25,417.80 as a guaranty for the installation of the public improvements as part of the development project; and

(2) A cash deposit in the amount of \$2,824.20, constituting ten (10%) percent of the Performance Guarantee.

b. Inspection Fees in accordance with Paragraph 7 of this Agreement, captioned "Engineering Escrows and Legal Fees", in the amount of \$35,122.50, which includes inspection of installation of items subject to the Performance Guarantee and private engineering items required to be installed. These fees may be paid in installments in accordance with N.J.S.A. 40:55D-53; however, an Initial Deposit of \$10,000.00, which is 50% or 25% [per Section 53.h] as required.

The Performance Guarantee estimates set forth herein are effective only if approved bonds/letters of credit are posted and cash deposits made within twenty (20) days of the date of the execution of the within Agreement. Thereafter, the estimates are subject to revision. The cash deposit shall be released proportionately to the bonds/letters of credit by the Township. Every performance guaranty bond, whether cash or letter of credit, or surety, shall contain a clause to the effect that a determination made by the Township Engineer that the principal has

defaulted in the performance obligations shall be binding and conclusive upon the surety and the principal. The cash portion may be utilized by the Township upon default of the Developer and failure to cure any defect or breach under this Agreement. Sureties shall be required to indicate that the guarantee automatically continues if the work is not completed by the stated expiration date. In addition, all taxes, assessments, escrows and fees for the Property must be paid prior to the release of Performance Guarantee.

The Developer shall provide and file with the Township Engineer two (2) complete sets of as-built improvement plans and profiles, one (1) set of translucent prints and one (1) set of black-on-white paper prints, showing actual construction, as approved, prior to release of performance guarantees.

All of the above must be in a form acceptable to the Township Attorney, and in accordance with the estimates issued by the Township Engineer and attached hereto as Exhibit B and made a part hereof, which describes the improvements the completion of which is assured by the Performance Guarantee.

6. REPLACEMENT BOND. In the event that any insurance company, financial institution or other entity issuing a performance guarantee hereunder shall be subject to a reorganization, rehabilitation, other action whereby a state or federal agency has taken over management of the entity, or, if in the reasonable opinion of the Township, the circumstances and condition of the entity results in the Township declaring that it believes that its interests are jeopardized, within thirty (30) days of such written notification, the Developer shall replace the performance guarantee(s). If requested by the Developer, the Township shall adopt a resolution conditionally releasing the jeopardized performance guarantee(s) subject to the posting of satisfactory substitute guarantee(s).

In the event any Performance Guarantee shall lapse, be cancelled or withdrawn or otherwise not remain in full force and effect, the Developer, until an approved Replacement Guarantee has been deposited with the Township, will cease and desist any and all work unless the required improvements under the Board approval and this Agreement have been completed and approved by the Township Engineer.

7. ENGINEERING ESCROWS AND LEGAL FEES. The Developer has deposited with the Township the initial installment of inspection fees, in the amount of \$10,000.00, in accordance with the Township's written request therefore. Said escrow deposit shall be utilized to cover the legal costs associated with the Application, and for the review and preparation of this Agreement, and any necessary correspondences with Developer, Developer's professionals, the Township and or its professional personnel, including, but not limited to, the Township Engineer; and to cover the costs associated with services to be rendered by the Township Engineer or his/her authorized representatives or other approving authority in connection with the inspections of the improvements of the Project, through, and including the date of full execution hereof, and Developer's costs and fees going forward from the date of execution. The Township Attorney and the Township Engineer will bill the Developer at the same hourly rate and in the same manner as it bills the Township. Said monies will be held and administered in accordance with Section 53.1 and 53.2 of the MLUL.

If the escrow is paid in installments as provided for by NJSA 40:55D-53 (h) et seq. then before the escrow deposit dips below 10% the developer shall provide the next installment as certified by the Township Chief Financial Officer. Should the Developer fail to post funds for the escrow account sufficient to pay the costs of any invoice for professional services rendered, and continue to fail to post the required funds within 10 days after written notice to the Developer of such deficiency by the Township, the Township may issue a stop work order halting all work at the Property until such time as the Developer brings the escrow account balance current. Upon completion of all improvements at the Property, should any deposit monies be left over in escrow, the unused balance shall be paid in accordance with Section 53.2 of the MLUL.

Should the Township determine that the amount in escrow for the payment of inspection fees as calculated pursuant to NJSA 40:55D-53(h) is insufficient to cover the cost of additional required inspections, the Township may require the Developer to deposit additional funds in escrow provided the Township delivers to the Developer a written inspection escrow deposit request, signed by the Township Engineer, which informs the Developer of the need for additional inspections, details the items or undertakings that require inspection, estimates the time required for those inspections and estimates the cost of performing those inspections.

8. UTILITY CONNECTIONS. The Developer is to be solely responsible for all costs associated with the installation of any and all new utility connections to the Property. In addition to the extent that the building removed from the site had any utility connections the Developer, in accordance with the Site Plan, must disconnect and abandon all existing utilities in accord with applicable regulations and connect the new building to public utilities as shown on the approved Site Plan

9. OFF-TRACT IMPROVEMENTS. All sewer work and other utility work contemplated by the Resolution and Site Plan Approval, and all improvements to be made in any streets will be as required by the Township Engineer and shall be the obligation of the Developer. Any damage done to municipal or county roadways by the Developer shall be repaired at such party's expense.

10. ACCEPTANCE OF PUBLIC IMPROVEMENTS. The developer shall notify the Township upon completion of the public improvements as provided for in MLUL 40:55D-53 et seq. and the Township Engineer shall provide a report and the governing body shall vote on acceptance of all, part, or none of the improvements as provided for in that section.

11. RELEASE OF BOND AND MAINTENANCE GUARANTEES. After the completion of all required on-site, and off-site improvements, if any, and the posting of applicable Maintenance Guarantees, and the acceptance of public improvements and approval of applicable private improvements the Township shall release the bond(s) or letter(s) of credit posted by Developer. At the Developer's option the cash portion of the Performance Guarantee may be held as a Maintenance Guarantee or, Developer may post a suitable maintenance bond in accordance with the Municipal Land Use Law, whereupon the cash deposit shall be returned to Developer.

Developer shall post Maintenance Guarantees with the Township, in accordance with Section 53 of the MLUL, appropriately secured in form and amount satisfactory to the Township

Attorney, conditioned on the Developer maintaining all improvements, as set forth in the Resolution, for a period two (2) years therefrom. Upon posting and acceptance of said Maintenance Guarantee, the Performance Guarantee shall be released by the Township. A Maintenance Guarantee equal to 15% of the costs of the installation of the improvements which are being released shall be posted to cover all items dedicated to the public, and included in the Performance Guarantee including perimeter buffer landscaping, and shall be for a period of two years from the date of acceptance of the items by the governing body. In addition, a Maintenance Guarantee shall cover 15% of the cost of installation of private site improvements limited to stormwater management basins, in-flow and water quality structures within the basin, and the outflow pipes and structures of the stormwater management systems, if any. The private improvements shall be guaranteed for a period of two years from the date of approval by the Township Engineer of the improvements. The Maintenance Guarantees shall expire automatically after 2 years.

12. **TOWNSHIP STREETS.** The Developer agrees to keep any Township streets used by vehicles or equipment of the Developer, or its agents, broom clean and they also agree to use every effort to install approved material to prevent dust from blowing onto other properties in the Township during excavation and construction. Should the Developer fail or neglect to perform any item as stated in this Paragraph, upon twenty-four (24) hours written notice from the Township Engineer, Construction Official or Police Department informing it of failure to do so, and then further neglects to so perform, the Township may perform such work and Developer agrees to reimburse the Township for same. This Paragraph is not intended to relieve the Developer of duties or obligations under any existing municipal ordinance or approval but rather is intended to provide an additional remedy to the Township and to permit the Township to recover the costs of such compliance. If the Developer shall permit dirt, dust, debris, mud, rock, brush, branches, trees, construction materials or similar material to accumulate or remain upon any Township street at any time, in addition to being responsible for cleanup, it shall remain subject to action in the Municipal Court for violation of appropriate Township ordinances.

13. **BATHROOMS.** The Developer shall provide access to the bathrooms for the use of all persons employed in the construction of all of the aforesaid improvements. Developer agrees to provide easily accessible portable toilets. Such toilet facilities shall be installed immediately at the time required, and their use shall be regulated by the Board of Health and shall be terminated upon approval of the Board of Health within twenty-four (24) hours of the time work has been fully completed. Said portable toilet facilities shall be located and shall not otherwise interfere with or affect adjoining residential property as determined in the sole discretion of the Construction Official or Health Officer.

14. **BUILDING PERMITS.** The Developer shall not receive Building permits until the Developer has posted all items set forth in **sections 5, 7, 16 and 23** hereof and the Township Engineer has certified compliance with all of the other terms and conditions herein contained, set forth in the Resolution and contained in the terms of the Final Approval, unless a different time is specifically designated for compliance within this agreement.

15. **FUTURE TRANSFERS.** The Developer is hereby given the right and privilege to transfer its respective interests in this Agreement to the name of any individual, corporation, partnership or Limited Liability Company, who acquires title to the Property, and said new

owner shall have the rights and obligations afforded by this Agreement, and the right to transfer their interest(s) subject to the rights and obligations imposed on the Developer by this Agreement and the terms of the final Site Plan Approval. It is understood and agreed that, as part of any said transfer the grantee by acceptance of a deed to the Property shall be bound by all of the terms and conditions of this Agreement and agrees to assume all obligations hereunder. In the event that the Developer transfers or assigns less than its entire interest, the grantee shall nonetheless be liable to complete and/or comply with the obligations of the Developer herein. A partial transfer of the property shall not relieve the Developer or its successors or assigns of its obligations under this Agreement.

16. COMPLIANCE WITH RESOLUTION CONDITIONS AND APPLICABLE LAWS. It is further understood and agreed between the parties hereto, subject to the terms and provisions of the Resolution, as follows:

a. The Developer shall comply with the Revised General Ordinances of the Township and all other applicable laws.

b. Developer agrees to place any new utilities required by the Site Plan underground as directed by any relevant utility companies.

c. In the event any road excavation or grading operations are required by the Site Plan, same shall be in accordance with plans prepared by a licensed professional engineer, and approved by the Township Engineer, to ensure that rainfall run-off will not create problems of erosion, flooding or the deposit of mud and debris on abutting properties. Said engineer shall advise the Developer's Engineer of the measures to be taken which will afford this protection and all plans shall be approved by the Township Engineer and the Office of the Somerset-Union Soil Conservation District.

d. All garbage and recycling removal shall be the responsibility of the Developer and its successors or assigns.

e. The Developer shall pay ~~\$31,500.00~~ ^{\$22,500.00} for connection to the sanitary sewer system and \$32,100.00 in flow right fees per the Rahway Valley Sewerage Authority provisions.

f. The Developer shall apply to the Township Council for title 39 jurisdiction on the property prior to the issuance of a Construction Permit.

g. The Developer shall add a fire hydrant at the property to be located at a place designated in consultation with the Fire Chief.

h. The stormwater plan and details shall be updated to the satisfaction of the Township Engineer.

i. The Developer shall install irrigation for all landscaping installed a part of the approved project.

j. The Developer shall provide additional traffic circulation plans, internal way finding signs, stop sign and stop bar details as requested by the Township's Engineer and modifications shall be made where required including the turn from Raritan driveway into the under building parking. All modifications shall be included on the updated plans and shall be made to the satisfaction of the Township Engineer.

k. An updated lighting plan that is designed to reduce spillage and glare will be added to the plans to the satisfaction of the Township Engineer and the Township shall review the lighting after instillation and the Developer shall make any reasonable alterations requested.

l. The Developer shall work with the Township Engineer and Planner to design a second monument sign to be located near the Westfield Avenue driveway. The sign shall not be larger than the one proposed on Detail Sheet 7 of 9 for the Raritan driveway, and if practical the Westfield sign shall be smaller.

m. The Property owner shall be responsible for snow removal and if 8 inches or more of snow accumulate in one weeks time the snow shall be removed from the Property, this obligation shall run with the land.

n. The Developer shall file a deed of consolidation for all of the lots that are part of this project. The consolidated lot and block shall be as designated by the Tax Assessor.

o. The Developer shall construct the architectural improvements in compliance with the testimony provided at the Planning Board hearing and as further identified in the colored rendering presented as Exhibit A-2 at the hearing.

p. The Developer shall pay all taxes, fees and required escrow deposits, that may be due and owing prior to the issuance of any building permits.

q. The Developer shall be required to obtain any and all other approvals, licenses and permits required by any other board, agency or entity having jurisdiction over the application or over the Property; including but not limited to Union County Planning Board Approval, Union County Road Opening Permits, Somerset Union Soil Conservation District, Rahway Valley Sewerage Authority, and NJDEP.

r. All conditions of the Resolution of the Planning Board dated February 6, 2020 shall be complied with and acted upon by the Developer unless otherwise amended by formal action of the Planning Board.

17. **AFFORDABLE HOUSING COMPLIANCE.** The Applicant shall comply with the Township's Affordable Housing Ordinances as codified at Chapter 66. The Applicant shall provide a minimum of 6 units of affordable housing. As required by ordinance, 50% of the affordable units shall be low income, including 13% very low income, and the rest may be moderate income units. The Applicant shall also comply with all other requirements of the Affordable Housing Ordinance including; no more than 20% of the affordable units shall be one bedroom units, the affordable units shall be disbursed throughout the building and the appropriate deed restrictions shall be filed after review and approval by the Township Attorney. The Applicant shall also comply with all applicable income restrictions and rental guidelines promulgated by the Township of Clark, the State of New Jersey and the Courts in creating, maintaining and leasing the affordable units.

18. **DRAINAGE AND GRADING.** The drainage and grading of the Property shall be constructed substantially in accordance with the approved Site Plan and as required by NJDEP.

19. **COMPLETION OF IMPROVEMENTS.** All improvements contemplated in this Agreement and in the Resolution shall be performed and completed to the satisfaction of the Township Engineer and Construction Code Official within a period of two (2) years from the date of the issuance of the first building permit or site disturbance, or such additional periods of time as may be granted by the Township in accordance with Section 53 of the MLUL, pursuant to the terms and conditions of the Approval. In the event of an extension, the Township may annually review the amount of the Performance Guarantee with regard to its sufficiency to insure faithful completion of remaining required improvements and if found insufficient, may require the Developer to increase the amount of the Performance Guarantee. In the event the aforesaid

improvements are not completed within that period, the Township reserves the right to not issue any certificate(s) of occupancy or building permit(s) for the subject property, and the Developer hereby authorizes the Township to utilize so much of the Performance Guarantee deposited herewith to complete all of the improvements described in Exhibit B in accordance with the applicable ordinances, rules, regulations, standards and specifications of the Township. In the event the cost of completing said improvements exceed the amount deposited herewith, the Developer shall be liable to the Township for any such excess and its obligations under the within Agreement shall continue in full force and effect until full payment is made. The issuance of a certificate of occupancy by the Township within the two (2) year period shall not be deemed a waiver for defects ascertained during said period or subsequent thereto.

20. **ON-SITE SUPERVISION.** The Developer shall appoint a job superintendent, whose name, office phone number, mobile phone number, beeper number, home address and home phone number shall be furnished to the Township Engineer, Public Works Department, Fire and Rescue Department and Police Department for emergencies of a health or safety nature. The Developer or its job superintendent or designated agent shall respond to any said emergency within one-half (1/2) hour from notification, twenty-four (24) hours per day, seven (7) days per week.

21. **PROJECT MEETING.** Prior to the commencement of site work, the Developer shall meet with the Township Engineer and the Construction Official for a pre-construction conference to discuss the anticipated construction schedule, procedures of construction, and any particular requirements of the Engineer and Construction Official, which shall be subject to the satisfaction and approval of the Township Engineer and Construction Official.

22. **INSPECTION BY TOWNSHIP.** The Township, its consultants, employees and agents shall be given free access to the site, and among other items, to observe construction, landscaping for buffer areas and all improvements associated with the approved Site Plan. The purpose of such observations shall be limited to providing the Township with an opportunity to determine that such improvements will be constructed in accordance with the Developer's Approved Site Plan and the Resolution. The Township or its representatives, consultants, employees or agents shall not supervise, direct or have control over the Developer's work during such observations or as a result thereof, nor shall they have responsibility and/or liability for the means, methods, techniques, sequences or procedures of construction selected by the Developer for safety precautions and programs incident to the work of either or for any failure of either to comply with applicable laws, rules, regulations, ordinances, code or orders.

23. **INSURANCE REQUIREMENTS:**

a. **Commercial General Liability Insurance.** During the life of this Agreement the Developers shall procure and maintain Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability \$1,000,000.00 insurance per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following (i) Contractual Liability; (ii) Products and Completed Operation; (iii) Independent Contractors Coverage; (iv) Broad Form General Liability Extensions or equivalent; (v) Deletion of all Explosion, Collapse, and Underground (vi) Exclusions; (vii) Per contract aggregate.

b. Motor Vehicle Liability Insurance. During the life of this Agreement the Developer shall procure and maintain Motor Vehicle Liability Insurance, including applicable No-Fault coverage, with limits of liability of \$1,000,000.00 per occurrence per accident combined single limit bodily injury and Property Damage of \$1,000,000.00. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

c. Notice of Cancellation. Commercial General Liability Insurance, Motor Vehicle Insurance and Workers Compensation Insurance, as described above, shall include an endorsement stating the following:

"Sixty (60) days advance written notice of cancellation, non-renewal, reduction and/or material change shall be sent to the Township Manager, Township of Clark, 430 Westfield Road, Clark, New Jersey 07066. If an insurance notice is sent indicating the lapse in coverage or cancellation of coverage and no substitute policies have been provided, all work shall immediately cease until same is rectified to the satisfaction of the Township Business Administrator and its attorney."

d. Proof of Insurance Coverage. The Developer shall provide the Township at the time the Agreement is executed, Certificates of Insurance and/or policies acceptable to the Township as listed below:

- Two copies of Certificates of Insurance for Commercial General Liability and Workers Compensation.

e. Continuation of Coverage. If any of the above coverages expire during the term of this Agreement, the Developer shall deliver renewal Certificates and/or policies to the Township at least ten (10) days prior to the expiration of this Contract.

f. Workmen's Compensation. The Developer agrees to obtain Worker's Compensation Insurance with a minimum \$1,000,000.00 insurance coverage.

g. For the purposes of this Insurance Requirements section of the agreement the Developer may designate the General Contractor to secure and provide the required insurance protections in forms suitable to the Township however, the Developer shall remain obligated to ensure that such insurance is maintained throughout the term of the agreement, and should the General Contractor fail to procure or maintain the required insurance Developer shall be required to provide same.

24. SEWER MAINTENANCE. The Township shall maintain all storm and sanitary sewers within the right-of-way. The Developer, its successors and assigns, will maintain the storm and sanitary sewers on site, as well as above ground basins, underground detention systems and storm filter systems, and all stormwater facilities as shown on the Site Plan. The Developer shall provide an operations and maintenance manual for its stormwater facilities to the Township Engineer for review. The Developer, its successor heirs and assigns, shall responsible for maintenance and operation of the stormwater facilities in compliance with same and maintenance of the sanitary sewer facilities in accord with all applicable standards. The Township retains the right to inspect and maintain such facilities but has no obligation to do so. The Developer, its successors and/or assigns agree to reimburse the Township for any costs incurred should the Township exercise its right to maintain these facilities in the event the

Developer fails to adequately maintain these facilities. The Developer and/or its successors or assigns will be responsible for reimbursement of all costs so incurred by the Township. Should the Developer and/or its successors or assigns fail to reimburse the Township for any such costs, at the Township's discretion, they be charged to the Property as a tax lien.

25. COMPLIANCE. The Developer and/or its successors and/or assigns shall be responsible for compliance with all applicable Township Ordinances and for compliance with the Resolution of approval, including all conditions thereof.

26. REIMBURSEMENT. The reimbursement provisions of this Agreement shall reflect reasonable actual costs incurred by the Township including attorneys' fees and costs.

27. COMPLIANCE WITH APPLICABLE LAWS AND ENVIRONMENTAL MATTERS. The Developer shall comply with all laws and regulations of the State of New Jersey, County of Union and Township of Clark. DEVELOPER WAIVES ANY AND ALL CLAIMS AGAINST THE TOWNSHIP FOR ENVIRONMENTAL HAZARDS, AND AGREE TO BE RESPONSIBLE FOR SAME IN ACCORDANCE WITH ITS OWNERSHIP OF THE PROPERTY. DEVELOPER WILL COMPLY WITH ALL ENVIRONMENTAL LAWS APPLICABLE TO THE PROPERTY. Failure to comply with these laws and any violations thereof shall be deemed to be a breach of this Agreement. To the extent the Township must bring an action for compliance with this Agreement, defend or participate in any litigation with regard to said laws or regulations related to the Property and/or actions, whether purposeful or negligent, any such action shall be subject to the provisions set forth in section 29 below.

28. DEVELOPER'S DEFAULT. In the event that the Developer defaults under its obligations as set forth herein, the Township Engineer shall send written notice to the Developer advising of its failure to comply. If the Developer has neither complied with the notice to correct, nor taken affirmative steps toward correcting such default, within forty-eight (48) hours following receipt of the written notice (excluding Saturdays and Sundays), the Township may perform the necessary work to achieve compliance (excluding completion of improvements to the Property that are not subject to the Performance Guarantee), and Developer shall reimburse the Township for the cost to perform such work. Developer authorizes the Township to deduct from the sums posted to secure performance hereunder the reasonable Court costs and attorneys' fees incurred by Township as a result of such default. In the event that said Court costs and attorney's fees exceed the amount deposited herewith, the Developer shall be liable to the Township for any such excess and the Developer's obligations under the within Agreement shall continue in full force and effect until payment is made.

29. RELEASE OF PLANS. Subject to issuance of building permits pursuant to section 11 any payments, posting of bonds or other financial obligation required to be performed by the Developer in this Agreement, unless specifically set forth herein otherwise, shall be done and/or performed prior to the signing of the Plans for release to the Developer.

30. OWNERSHIP/INDIVIDUALS OF INTEREST. The Developer has acquired title to the Property. The Developer shall consolidate the lots into one lot.

31. INDEMNIFICATION AND ATTORNEY'S FEES. Developer agrees to indemnify and hold harmless the Township, its officials, officers, agents, servants,

representatives, employees and the Township Engineer, and its officers, employees, agents and servants, from and against any and all claims, liabilities, fees, damages, judgments, penalties, costs or expenses of every kind and nature, including, but not limited to court costs and attorneys fees, arising from Developer's performance of its obligations pursuant to this Agreement, the failure by Developer to perform such obligations, any action or failure to act by the Developer with respect to the project to which this Agreement is applicable or in connection with any allegation of any of the foregoing. Such indemnification and/or hold harmless obligation shall extend not only to any damages but to costs and expenses of litigation, including, but not limited to, expenses and fees in connection with the engagement or utilization of any fact or expert witnesses court costs and attorney's fees, except where the Township, or its agents including all professionals hired or employed by the Township, shall be determined to be at fault. When requested by the Township, the Developer agrees to aid and/or defend the Township, its officials, officers, agents, servants, representatives and employees, in the event any or all of same are named as a defendant or defendants in any action relating to activities or obligations of the Developer arising under this Agreement or in connection with the project to which this Agreement applies. In the event the Township is involved in any litigation, or other similar action, whether initiated by the Township or others, which action relates in any way to the terms of this Agreement or the Developer's performance hereunder, the Developer agrees to pay and reimburse the Township for any and all costs and expenses, including, but not limited to, attorney's fees, court costs and expert witness fees, except where the Township, or its agents including all professionals hired or employed by the Township, shall be determined to be at fault. The Township shall have the option of having such fees taxed in the underlying action, or maintaining a separate action for same. This stipulation shall not apply to any actions or litigation filed against the Township where the litigation is attributable to wrongful acts or omissions on the part of itself, its agents or employees. The within indemnification shall not be binding on a successor owner of the Property as to claims arising out of events occurring prior to the transfer of ownership.

32. RELIANCE OF TOWNSHIP. The Developer further acknowledges and understands all of the conditions contained in this Agreement and the record of the proceedings in this matter, as incorporated in the Resolution and the Site Plan, are hereby deemed to be essential to the Township's decision to enter into this Agreement. A breach of any such conditions, the failure of the Developer to adhere to the terms of any agreement incorporated within the Resolution or this Agreement or any deviation from the Board-Approved Plans, except where same has been agreed to between the parties, shall be deemed a material breach of this Agreement and shall terminate the right of the Developer to obtain additional construction permits, certificates of occupancy or any and all other governmental authorizations in order to continue developing the project until such time as such material breach has been remedied.

33. RECORDING OF THIS AGREEMENT. After full execution by the Developer and the Township, the Township Attorney shall record this Agreement in the Union County Clerk's Office. All recording costs shall be borne by the Developer.

34. SEVERABILITY. If any terms or conditions herein are determined invalid by a court of competent jurisdiction, the remainder shall remain in full force and effect.

35. INTERPRETATION OF LAW. This Agreement shall be interpreted under and governed by the laws of the State of New Jersey.

36. NOTICES. All notices required or permitted under this Agreement shall be in writing by certified mail, return receipt requested, to the addresses set forth herein or as otherwise designated by the parties in writing.

37. SUCCESSORS. This Agreement shall inure to the benefit of and shall be binding upon any successors and assigns of the respective parties hereto.

38. VOLUNTARY PAYMENTS. Developer herein represents that it has voluntarily entered this Agreement. Accordingly, Developer herein covenants and agrees that it will not bring any action against the Township with respect to the obligations assumed by Developer under this Agreement which has been mutually negotiated between the parties, except as otherwise provided by law.

39. NON-RELIANCE. Developer acknowledges that it has not relied upon any cost estimates or opinions furnished by the Township, including the Township Engineer or Consulting Engineer(s), if applicable, and the Developer has satisfied itself as to the anticipated construction costs of the improvements set forth herein prior to the execution of this Agreement.

40. ESTOPPEL. It is understood and agreed that the obligations imposed upon the Developer under this Agreement shall not constitute an estoppel against the Board, the Township or the Township Council nor relieve the Developer from complying with all other federal, state, county and local requirements including any and all requirements of the Rahway Valley Sewer Authority or the Clark Board of Health.

41. APPLICABILITY. This Agreement is intended to govern approved development within the Township whether such approval was in the form of preliminary and/or final major subdivision and/or preliminary and/or final site plan, and such terms are to be freely substituted for each other where the context and the nature of the approvals require.

42. EXHIBITS. The following exhibits are attached hereto and made a part of this Agreement:

Exhibit A – Township of Clark Planning Board Resolution

Exhibit B – Township of Clark Engineer's Cost Estimate

43. CERTIFICATION. In connection with the sale, financing or lease of the Property by Developer or its successors, the Township agrees that it shall within a reasonable time of written request from Developer, or its successors, provide a written statement directed to the Developer, prospective purchaser, mortgagee or tenant of the Property as may be requested, a statement of compliance or non-compliance with the terms of this agreement including a summary of any known claims for funds due to the Township or for indemnity and confirmation that such claims have not been asserted or are not known to exist except as disclosed.

44. ENTIRE AGREEMENT. This instrument contains the entire agreement between the parties hereto and no statement, promises or endorsement made by any party hereto, or agent of any party hereto, which is not contained in this written contract or the instruments incorporated herein by reference shall be valid and binding. This Agreement may not be enlarged, modified or altered except in writing, signed by the parties and endorsed thereon.

Nothing herein shall be deemed a waiver of other existing municipal construction requirements or any conditions contained in the Resolution of Site Plan Approval of the Clark Zoning Board of Adjustment.

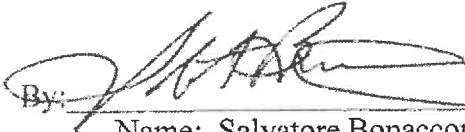
IN WITNESS WHEREOF, the Township and Developer have caused these presents to be signed and attested by their respective corporate officers and their respective seals to be affixed hereto the day and year first above written.

ATTEST:

TOWNSHIP OF CLARK



Name: Edith L. Merkel
Title: Township Clerk

By: 

Name: Salvatore Bonaccorso
Title: Mayor

Dated: January 13, 2021

STATE OF NEW JERSEY}

} ss.:

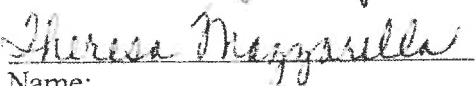
COUNTY OF UNION }

I CERTIFY that on January 13, 2021, Edith L. Merkel personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Clerk of the TOWNSHIP OF CLARK, the municipal corporation named in the attached document;
- (b) this person is the attesting witness to the signing of this document by the proper municipal officer who is Salvatore Bonaccorso, Mayor of the municipal corporation;
- (c) this document was signed and delivered by the municipal corporation as its duly authorized voluntary act;
- (d) this person knows the proper seal of the municipal corporation which was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.


Name: Edith L. Merkel

Signed and sworn to before me on
this 13th day of January, 2021.



Name:
Notary Public of the State of New Jersey
My Commission expires on 4/22/2025

WITNESS:


Name: Betty Rodriguez
Title: Admin
Dated: January 19, 2021

BROOKSIDE MANOR, LLC


By: George Sangiuliano
Name: George Sangiuliano
Title: Managing Member

STATE OF NEW JERSEY }

) ss.:

COUNTY OF Union }

Be it remembered, that on this 19 day of Jan., 2021, before the undersigned, personally appeared George Sangiuliano, to me known to be the individual who executed the foregoing instrument and, who, being duly sworn to me did depose and say that he/she is the Managing Member of Brookside Manor, LLC, that he/she executed the foregoing instrument in the name of Brookside Manor, LLC, that he/she had the authority to execute same, for the Limited Liability Company named in and on whose behalf he/she executed the within instrument on behalf of the Limited Liability Company.

Signed and sworn to before me on
this 19 day of Jan., 2021.



Name:
A Notary Public of New Jersey
My Commission Expires: _____

GREGG MELE
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 8/23/2022

Exhibit A

Township of Clark Planning Board Resolution of Approval

Dated: February 6, 2020

TOWNSHIP OF CLARK PLANNING BOARD

RESOLUTION

BROOKSIDE MANOR, LLC

MEETING DATE: January 9, 2020
RESOLUTION DATE: February 6, 2020

WHEREAS, pursuant to the applicable provisions of the Ordinance (herein defined as "The Code of the Township of Clark, Chapter 195 Land Use and Development), an application has been submitted to the Township of Clark Planning Board (the "Board") by Brookside Manor, LLC (the "Applicant") for Site Plan approval with "c" variances to construct a three story 42 unit apartment building, including 6 affordable units, with parking, and related site improvements, at the property identified as Block 63, Lots 46, 47, 49 and 51, also known as 1019-1037 Raritan Road and 468 Westfield Avenue in the Township of Clark and situated in the R-B 16 Multi Family Residential Zone District (the "Property"); and

WHEREAS, the Property currently contains several unoccupied structures all of which will be removed; and

WHEREAS, the Application reviewed by the Board consisted of the following plans and/or reports:

<u>Description of Plan/Report</u>	<u>Date of Plan/Report</u>
Report of Township Engineer, Richard O'Connor, P.E., P.P., C.M.E.	July 23, 2019, January 8, 2020
Report of Kevin O'Brien, P.P. Township Planner	January 6, 2020
Memos from Frank J. Cerasa, Fire Chief/ Fire Official	August 14, 2019 January 6, 2020
Memo from Traffic Bureau Supervisor, Det. Sgt. Lott	December 16, 2019
Memo to American Water from Chief Cerasa	January 6, 2020
Site Plan "Site Plan 1019-1037 Raritan Road, 468 Westfield Avenue, Block 63, Lots 46,47,49& 51, Sheet #27, Township of Clark, Union County, New	

Jersey", prepared by Edward S. Dec, P.E., PLS of
Guarriello & Dec Associates, LLC, consisting of 9 sheets

June 21, 2019, last rev.
December 23, 2019

Architectural Plan "Proposed New Building for Brookside
Manor, 1019-1037 Raritan Road, Clark, New Jersey",
prepared by Michael V. Testa, II, NJAI,
consisting of 7 sheets

June 27, 2019 last rev.
December 30, 2019

"Drainage Report, 1019-1037 Raritan Road &
468 Westfield Avenue, Block 63, Lots 45,46,49&51,
Township of Clark, Union County, NJ", prepared by
Edward S. Dec, P.E., PLS of
Guarriello & Dec Associates, LLC

May 2, 2019, last rev.
December 23, 2019

Existing and Proposed Time of Concentration and
Drainage Area Plans

December 23, 2019

Planning Board Application and Schedules ; and

WHEREAS, the following exhibits were marked, introduced into evidence, and considered by the Board as part of this Application:

<u>Description</u>	<u>Exhibit No.</u>
Site Plan page 4 of 9 marked with green marker at the 100 year flood line	A-1
Colored rendering of elevation viewed from Raritan Road	A-2
	A-3; and

WHEREAS, the Applicant is requesting the following variances in connection with the site plan:

<u>Description</u>	<u>Required</u>	<u>Proposed</u>
Front Yard Set Back	50 feet (Raritan Rd.)	25 feet
Side Yard Set Back	50 feet	18.52 ft. (south side)
	50 feet	37.20 ft. (north side)
Height	40 feet	43.65 ft.
Length of building	120 feet	200 ft. (Raritan Rd. side)
Monument signs	None	1 on Raritan Rd. 1 on Westfield Ave.

The monument sign, on Raritan Road will be two sided and not larger than 4 foot 4 inches in height and 6 foot 8 inches in length as provided for on page 7 of 9 of the Site Plan, Detail Sheet. The monument sign on Westfield Avenue will be similar to and not larger than, the 4 foot 4 inch and 6 foot 8 inch sign proposed on Detail Sheet 7 of 9. The Applicant will work with the Board's

Engineer to design the Westfield Avenue sign, including designating the exact location near the entrance drive and, if practical, the Westfield Avenue sign will be smaller than the Raritan Road sign; and

WHEREAS, the Applicant provided notice of the public hearing pursuant to and in full satisfaction of N.J.S.A. 40:55D-12; and

WHEREAS, the Board, after reviewing the evidence presented, as well as considering the testimony presented makes the following findings:

FINDINGS

1. Mr. Robert Renaud, Esq. represented the Applicant and introduced the application. The Applicant is requesting site plan approval for a 42 unit residential building located on both Raritan Road and Westfield Avenue. The property wraps around the back of the Bank property located at the corner. The project complies with the permitted density, and exceeds the parking but requires some variances due to environmental constraints on the Property.

2. Edward Dec P.E. was sworn and qualified as a professional Engineer. He testified to the variances required, height, set back, length of building and signs. He reviewed the existing conditions and structures on the Property. The structures will all be removed. He also discussed the neighboring properties, which are all commercial businesses except for the Township fields and recreation building to the rear.

3. Mr. Dec described the environmental constraints on the Property. There is a an unnamed stream with a riparian buffer, that runs across the rear, the 100 year flood plain extends into the Property at varying distances, there are also two areas of isolated wetlands. The buildings were designed and located to be outside of the 100 year floor plain, a majority of the parking is also outside of the flood plain. The Applicant has applied for a permit to fill the isolated wetlands but does not intend to fill any more than necessary. The parking lot will take about 1/3 of the octagonal shaped wet land but they will leave the rest. The other small wetland area near the Westfield entrance will also be impacted, but about half will remain. They will provide stormwater detention and treatment and the water retention will be improved after the project is complete. There will be more capacity to store water than there is now. There will be zero soil added or extracted from the Property. All soils will remain.

4. Mr. Dec identified the circulation pattern and the two parking areas, 46 spaces under the building and 50 spaces in the open parking areas. RSIS requires 83 total parking spaces, and they have provided 96 spaces. There will be two driveways, a right in and right out driveway onto Raritan Road and a full motion driveway onto Westfield Avenue.

5. Mr. Dec explained the calculation on building height. The permitted height is 40 feet and under the Township's definition for height the building will be 43.65 feet. This is less than a 10% increase and requires a "c" variance. The extra height allows them to provide a

residential style roof with peaks and dormer type accents. If they used a flat roof no variance would be required.

6. Mr. Dec identified where the proposed monument sign will be on Raritan Road. He testified that the Detail Sheet 7 of 9 has the correct details for the proposed sign but the sign will now be two sided and internally illuminated. It will sit perpendicular to the Road so it can be read from both sides. He also testified that the lighting plan will be update to shield the lights from off site spillage and glare and irrigation will be provided for the landscaping. The rear of the property will be left natural.

7. Mr. Dec testified that the Applicant can comply with all of the items n the Engineering review and Mr. O'Connor, the Board's Engineer, concurred that the remaining items in his report could all be accommodated on the site. Mr. Dec also testified that the Planning review letter would be complied with and Mr. O'Brien did not have any additional comments. Mr. Dec also indicated that they will comply with the Fire Chief's memo and a fire hydrant will be provided in consultation with the Chief.

8. The Board asked why the building could not be setback more to meet the setbacks. Mr. Dec identified the 100 year flood line with a green marker on Exhibit A-1, page 4 of 9 of the site plan. The flood line runs about halfway across the Property except for an area where the parking lot is proposed, there a very thin area pushes toward Raritan Road another 60 feet. This area could not be built on and forced the buildings shape and location.

9. Mr. Michael V. Testa, A.I. was sworn and qualified as a professional architect. He introduced Exhibit A-2 a colored rendering of the elevation of the proposed building from the Raritan Road view. He testified that the building colors and treatments would be as shown on the rendering. He described the architecture of the building and the lobby entrance with elevator that is located in the under the building parking area, there is also an entrance from the outside to the first floor lobby. The trash area is next to the elevator in the lobby and there is a trash chute in each floor. There are stairwells at the end of each hallway. The stairs will all exit to the outside of the building. There are three floors, the second and third are very similar, the first floor is slightly different because of the entrance area. There are 14 units per floor, consisting of mostly two bedroom units with 3 one bedrooms on the first floor and 2 one bedrooms on the second and third floors. The unit sizes range from about 850 SF to about 1,230 SF. He explained that the building will look like 4 stories from the rear but 3 stories from the front at Raritan Road. The grading of the land allows the back of the underground parking to be walk out but in the front it is underground.

10. Mr. Testa explained that each unit will have a 'magic pack' for heating and cooling, they will not need outside condensers. He also testified to the aesthetic advantage of the hip and gable roof. They slope of the roof is as low as it can be while still allowing this added architectural feature. The roof deck is at 36 feet, well within the height requirement, but a flat roof on a residential building is not attractive. The gables along the front help break up the façade and add interest. The Board asked if the building could be lowered. The answer was no because they still have the flood plain to avoid. They must stay above elevation 57.65. The Board asked how trash removal would work and if there was a compactor. Mr. Testa explained that the garbage chute from each floor will go to one location in the underground parking area

where roll out carts will be stored. Private trash pick up will be schedule two to three times per week as needed. There is no current plan for a compactor, but they could install one if needed.

11. Mr. Renaud confirmed that the Applicant would be providing 6 affordable housing units in the building and would comply with the Township's Affordable Housing Ordinance.

12. Mr. Joseph Staigar, P.E., P.P. was sworn and qualified as a Professional Planner and Traffic Engineer. He testified to the circulation on the site, the unusual driveway locations on two streets, the parking count and the trip generation for the site. He testified that the ITE predicts 14 trips per hour at the peak hour for this residential development, and that Raritan Road sees at least 3,000 trips through that intersection in the peak hour. The traffic from this sight is not significant. The commercial uses in the area have a much greater traffic impact than this site will have. He explained that each unit will have one assigned parking space under the building and that the outside spaces will not be assigned. They have 13 additional spaces over the requirement, that is plenty for any guests. He testified that they did truck circulation studies and small trucks as well as fire and emergency vehicles can all circulate on site. He agreed to work with the Board Engineer to verify that all of the circulation works, to provide any way finding signage, stop bars or stop signs that may be needed and to reexamine the turn from the Raritan entrance into the underground parking and to adjust that design that as may be needed.

13. Mr. Staigar then addressed the planning testimony. He testified that the set back, and building width variances requested qualify for the c(1) hardship criteria. The Property is oddly shaped and is encumbered by a stream, riparian buffer, wetlands and the 100 year flood line. The bulk variances requested were the direct result of designing around those hardships on the Property. The height and sign variances qualify for the c(2) criteria in that the height needed for a more attractive residential style roof and the safety factor in providing identifying signs for the driveways on both roads are better planning alternatives than strictly complying with the ordinance provisions. He testified that the use is appropriate to the zone plan and the master plan and that the provision of affordable housing on site is a particular benefit to the Township as a whole. There are no negatives only positives to the granting of the variances.

14. The hearing was opened to the public Mr. Walsh from Kent Place came forward to express his concern about an increase in traffic.

15. The Board then reviewed the application. Board members commented that this property has had various plans for improvements and for over 19 years and nothing has been built. This is an unsightly area in the center of town and the Board is glad it will finally be cleaned up. This is one of the properties the Township identified in its Fair Share Housing Settlement and the Town determined this was one of the better places left in Town to put new housing. This will help fulfill the affordable housing need and it will also help with the flooding in that area. The Board also agreed that the second sign should be placed at the Westfield driveway to identify the Property. The Board found the testimony of Applicant's Experts and its own Experts to be credible and persuasive and voted to approve the application, with the conditions discussed.

WHEREAS, the Board took action on this Application at its meeting of January 9, 2020 this Resolution constitutes a memorialization of that action in accordance with N.J.S.A. 40:55D-10(g).

NOW, THEREFORE, BE IT RESOLVED that the Township of Clark Planning Board makes the following conclusions:

1. The Board finds and concludes that the variances requested, and identified above, for front yard set back, side yard set backs and building length can be justified under the N.J.S.A. 40:55D-70c(1) criteria. The unusual shape of the Property together with the stream, riparian buffer, wetlands and 100 year flood line all create a hardship in placing a building on this lot. The use and density are permitted and the lot coverage is not exceeded, but the building needs to be placed closer to the Raritan Road frontage to keep it out of the 100 year flood line and that creates the bulk variances. The Applicant is providing 6 affordable units and therefore, does not want to reduce the unit count or go under the permitted density.
2. The Board finds and concludes that the variances requested, and identified above, for height and signs can be justified under N.J.S.A. 40:55D-70c(2) the flexible variance in that the more attractive residential style hip and gable roof is a better planning alternative than a flat roof and the signs are an important safety feature to help identify the entrances to the building. There are no negative impacts from these variances and the zone plan and ordinance are not violated. The proposed use and density are permitted in the area and the building mostly complies with the recently enacted R-B16 zone ordinance.
3. The Board finds and concludes that with the grating of the variances, the site plan otherwise substantially complies with the balance of the ordinances of the Township and can be approved.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Clark this 6th day of February 2020 that the Board hereby memorializes by the adoption of this Resolution the action taken by the Board on January 9, 2020 granting the Applicant's request for Preliminary and Final Major Site Plan Approval with "c" Variances, as more particularly set forth above, subject however to the following conditions:

1. The Applicant shall comply with the January 8, 2020 Report issued by the Township Engineer, Richard O'Connor, P.E.; the January 6, 2020 Report issued by the Township Planner, Kevin O'Brien, P.P.; and the August 14, 2019 and January 6, 2020 memos from Fire Chief Cerasa, the terms of which reports and memos are incorporated in this Resolution as if set forth herein at length. The Applicant shall update the plan sets to incorporate all changes addressed and agreed to at the hearing. The Applicant shall provide final signed sets of plans to the Township Engineer for review prior to the issuance of any building permits.

2. By way of example and not limitation the conditions discussed at the hearing include:

- a. The Applicant shall add a fire hydrant at the property to be located in at a place designated in consultation with the Fire Chief.
- b. The stormwater plan and details shall be updated to the satisfaction of the Board Engineer.
- c. Irrigation shall be provided for the landscaping.
- d. The Applicant shall provide addition traffic circulation plans, internal way finding signs, stop sign and stop bar details as requested by the Board's Engineer and modifications shall be made where required including the turn from Raritan driveway into the under building parking. All modifications shall be included on the updated plans and shall be made to the satisfaction of the Board Engineer.
- e. The updated lighting that is designed to reduce spillage and glare will be added to the plans to the satisfaction of the Board Engineer.
- f. The Applicant shall work with the Board Engineer and Planner to design a second monument sign to be located near the Westfield Avenue driveway. The sign shall not be larger than the one proposed on Detail Sheet 7 of 9 for the Raritan Driveway, and if practical the Westfield sign shall be smaller.

3. The Property owner shall be responsible for snow removal and if 8 inches or more of snow accumulate in one weeks time the snow shall be removed from the Property.

4. The Applicant shall file a deed of consolidation for all of the lots that are part of this project. The consolidated lot and block shall be as designated by the Tax Assessor.

5. The Applicant shall construct the architectural improvements in compliance with the testimony provided and as further identified in the colored rendering presented as Exhibit A-2 at the hearing.

6. The Applicant shall provide sewer calculations and shall pay sewer connection fees and purchase additional flow rights as required.

7. The Applicant shall provide construction cost estimate to the Township Engineer for review. Those estimates shall be used to facilitate the calculation of the appropriate performance bond, safety and stability bond, perimeter landscaping bond, inspection fees and any maintenance bonding. All applicable bonds and fees shall be provided prior to the issuance of building permits.

8. The Applicant shall comply with the Township's Affordable Housing Ordinances as codified at Chapter 66. The Applicant shall provide a minimum of 6 units of affordable

housing. As required by ordinance, 50% of the affordable units shall be low income, including 13% very low income, and the rest may be moderate income units. The Applicant shall also comply with all other requirements of the Affordable Housing Ordinance.

9. The Applicant shall enter a Developer's Agreement with the Township.

10. The Applicant shall pay all taxes, fees and required escrow deposits, that may be due and owing prior to the issuance of any building permits.

11. The Applicant shall be required to obtain any and all other approvals, licenses and permits required by any other board, agency or entity having jurisdiction over the application or over the Property; including but not limited to Union County Planning Board Approval, Union County Road Opening Permits, Somerset Union Soil Conservation District, Rahway Valley Sewerage Authority, and NJDEP.

BE IT FURTHER RESOLVED that all representations, commitments and agreements made by the Applicant or the representatives at the hearing in this matter or contained in any document, plat, sketch or submission submitted to the Board at anytime prior to this approval, including notes contained in original or revised submissions, are hereby incorporated into this Resolution by reference.

BE AND THE SAME IS HEREBY GRANTED

I hereby certify that the above Resolution is a true copy of the Resolution adopted by the Planning Board of the Township of Clark on February 6, 2020.


Kevin Koch
Planning Board Chairman


Donna Mazzucco
Planning Board Secretary

Motion to Approve Application: Brookside Manor, LLC

Township of Clark Planning Board DATE: January 9, 2020						
	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
S. Bonaccorso						X
Laezza	X		x			
Mazzarella		X	x			
Koch			X			
Tarantino			X			
Casey			X			
Altman			X			
Triola						X
Olear			X			
M. Bonaccorso						X

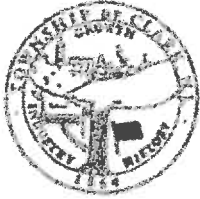
Motion to Approve Resolution: Brookside Manor, LLC

Township of Clark Planning Board DATE: February 6, 2020						
	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
S. Bonaccorso	X				X	
Laezza		X	X			
Mazzarella			X			
Koch			X			
Tarantino			X			
Casey			X			
Altman			X			
Triola			X			
Olear						X
M. Bonaccorso						X

Exhibit B

Township of Clark Engineer's Cost Estimate

Dated: December 22, 2020



TOWNSHIP OF

Clark NEW JERSEY

RICHARD O'CONNOR, P.E., P.P., C.M.E.
TOWNSHIP ENGINEER

430 Westfield Avenue
Clark, New Jersey 07066-1704
Tel: 732/428-8401
Fax: 732/386-3501

December 22, 2020

John Laezza, Business Administrator
Township of Clark
430 Westfield Avenue
Clark, NJ 07066

Re: Resolution Compliance Review No. 2
Preliminary & Final Site Plan Approval with Variances
1019-1037 Raritan Road & 468 Westfield Avenue
Block 63, Lots 45, 47, 49 & 51
Township of Clark, NJ
(Our file: CL-0298)

Dear Mr. Laezza,

We have reviewed the Applicants submitted Bond Estimate for both the On-Site and Off-Site work associated with Clark Walnut Developers, LLC, Township of Clark, Union County, NJ dated 10/15/20, prepared by Guarriello & Dec Associates (copies attached).

Based upon the estimates this Office has calculated the below bond and engineering/inspection escrow that is required to be posted with the Township.

Construction Estimate (On-Site)	\$ 561,840.00
Construction Estimate (Off-Site)	\$ 23,535.00
Construction Total	\$ 585,375.00
120% of Off-Site Estimate*	\$ 28,242.00
120% of Construction Total**	\$ 702,450.00
Off Site & Landscape Buffer Bonding*	
90% Bond / Letter of Credit/Cash	\$ 25,417.80
10 % Cash Bond	\$ 2,824.20
	\$ 28,242.00
Engineering/Inspection Escrow**	
5% Engineering / Inspection Escrow	\$ 35,122.50

Please note that the above items should be payable to the Township of Clark with separate checks and should be submitted before any building permits are issued.

Should you have any questions or comments do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard O'Connor", written in a cursive style.

Richard O'Connor, P.E., P.P., C.M.E.
Township Engineer

ROC/FF

CC: Salvatore Bonaccorso, Mayor
Kevin Koch, Planning Board Chairman
Donna Mazzucco, Planning Board Secretary
Brookside Manor Group, LLC, Applicant, 138 Westfield Avenue, Clark, NJ 07066
Robert Renaud, Applicants Attorney Esq., 190 North Avenue East, Cranford, NJ 07016
Ed Dec, P.E., Guarriello & Dec, 131 N. Michigan Avenue, Kenilworth, NJ 07033

BOND ESTIMATE
 "BROOKSIDE MANOR OFF SITE"
 1019-1037 RARITAN ROAD
 TOWNSHIP OF CLARK UNION COUNTY NJ

10/15/2020

DESCRIPTION	UNITS	QUANTITY	UNIT PRICE	AMOUNT
1 8" PVC SDR-35 SANITARY SEWER	LF	310	\$ 60.00	\$ 18,600.00
2 15" ADS STORM SEWER PIPE	LF	328	\$ 50.00	\$ 16,400.00
3 18" ADS STORM SEWER PIPE	LF	288	\$ 60.00	\$ 17,280.00
4 YARD DRAINS	UNITS	3	\$ 1,000.00	\$ 3,000.00
5 TYPE "B" INLET	UNITS	5	\$ 1,800.00	\$ 9,000.00
6 STORM SEWER MANHOLE	UNITS	2	\$ 1,800.00	\$ 3,600.00
7 DETENTION OUTLET STRUCTURE	UNITS	1	\$ 5,000.00	\$ 5,000.00
8 8" PVC ROOF DRAINAGE PIPING	LF	310	\$ 20.00	\$ 6,200.00
9 48" ADS PERF. DETENTION PIPE	LF	450	\$ 150.00	\$ 67,500.00
10 48" 90 DEGREE ELBOW	EACH	3	\$ 200.00	\$ 600.00
11 48" TEE	EACH	4	\$ 200.00	\$ 800.00
12 HEADWALL	LUMP SUM	1	\$ 6,000.00	\$ 6,000.00
13 CLEAN 2" STONE DETENTION BASIN	CY	348	\$ 20.00	\$ 6,960.00
14 DGA	CY	630	\$ 45.00	\$ 28,350.00
15 5" SUBBASE BITUMINOUS PAVEMENT	TONS	1040	\$ 80.00	\$ 83,200.00
16 1-1/2" TOP COURSE (TEMPORARY)	TONS	312	\$ 80.00	\$ 24,960.00
17 2" BITUMINOUS TOP (PERMANENT)	TONS	416	\$ 80.00	\$ 33,280.00
18 GRANITE BLOCK CURB	LF	2146	\$ 22.00	\$ 47,190.00
19 ALLAN BLOCK WALL	SF	1047	\$ 65.00	\$ 67,585.00
20 STREET LIGHTING	EACH	20	\$ 2,500.00	\$ 50,000.00
21 DUAL FILTERS	LUMP SUM	1	\$ 50,000.00	\$ 50,000.00
22 CONCRETE CURB	LF	405	\$ 22.00	\$ 8,910.00
LANDSCAPING				
23 OCTOBER GLORY RED MAPLE (10 TO 12')	EACH	10	\$ 250.00	\$ 2,500.00
24 THUNDERCLOUD FLOWERING PLUM (5 T 6')	EACH	18	\$ 200.00	\$ 3,600.00
25 AZALEA VARIOUS (18" TO 24")	EACH	18	\$ 25.00	\$ 450.00
26 OLD GLORY JUNIPER (2-2-1/2' -B&B)	EACH	10	\$ 35.00	\$ 350.00
27 ROBUST GREEN JUNIPER (6' B&B)	EACH	10	\$ 130.00	\$ 1,300.00
28 SLENDER HINOKI CYPRESS (3 TO 4' B&B)	EACH	15	\$ 80.00	\$ 1,200.00
29 VIUBRNUM (2 TO 3'- #2 CAN)	EACH	28	\$ 50.00	\$ 1,400.00
30 COMPACT JAPANESE HOLLY (18" to 24" #2 can)	EACH	49	\$ 25.00	\$ 1,225.00
31 DARK AMERICAN ARBORVITAE 8' TO 9' B&B	EACH	36	\$ 150.00	\$ 5,400.00
TOTAL				\$ 551,840.00

BOND ESTIMATE
 "BROOKSIDE MANOR ON SITE"
 1019-1037 RARITAN ROAD
 TOWNSHIP OF CLARK, UNION COUNTY, NJ

10/15/2020

DESCRIPTION	UNITS	QUANTITY	UNIT PRICE	AMOUNT
1 STANDARD SANITARY SEWER MANHOLE	UNITS	3	\$ 2,500.00	\$ 7,500.00
2 SANITARY SEWER CONNECTION TO EXISTING MH	LUMP SUM	1	\$ 1,500.00	\$ 1,500.00
3 DETECTABLE WARNING SURFACE	SF	96	\$ 25.00	\$ 2,400.00
4 CONCRETE SIDEWALK	SF	645	\$ 5.00	\$ 3,225.00
5 CONCRETE CURB	LF	405	\$ 22.00	\$ 8,910.00
TOTAL				\$ 23,535.00