

CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Legislative and Legal Affairs Committee

Date: March 14, 2016

Time: 5:30 PM

Location: City Council Chamber, 2nd Floor, City Hall, 140 Main Street

Agenda Items to be addressed:

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2016 FEB 29 P 12:23

02-08-2016 – **Order No. 16-1006440**: Communication from City Solicitor Donald Rider, regarding Howe's Landing Subdivision, Proposed Acceptance of Deed of Open Space Lot and Parcel A, that the City Council of the City of Marlborough, pursuant to the provisions and conditions of M.G.L. c. 40, §8C, does hereby accept from Howe's Landing Developers, LLC, a Massachusetts limited liability company, a deed of the land in Marlborough, Middlesex County, Massachusetts shown as "OPEN SPACE LOT 2.84 Ac." and as "PARCEL A" on Sheet D2 of 2 in a plan entitled "Howe's Landing" a Definitive Subdivision Plan in Marlborough, Massachusetts, Date: August 11, 2014, Prepared for: Chris Christopher, Sage Investors Inc., Prepared by: Thomas DiPersio, Jr. & Associates Inc., which plan was last revised on November 26, 2014 and is recorded with the Middlesex South District Registry of Deeds as Plan No. 50 of 2015 (the "Plan") and to which reference may be had for a more particular description of said Lot and Parcel. Said Open Space Lot contains 2.84 acres, more or less, according to said Plan. Said Parcel A contains 0.0048 acres, more or less.

-REFER TO LEGISLATIVE AND LEGAL AFFAIRS

10-19-2015 – **Order No. 15-1006343A (X04/05-100439)**: Communication from City Solicitor Donald Rider, regarding Waters Edge Subdivision, Proposed Acceptance of Deed of Open Space Parcels Order No. X04/05-100439, that the City Council of the City of Marlborough (GRANTEE), pursuant to the provisions and conditions of M.G.L. c. 40, § 8C, does hereby accept from A.A. Farooq Ansari, Trustee of Waters Edge Realty Trust (GRANTOR), the open space in the City of Marlborough known as Open Space Parcel "A", Open Space Parcel "B", and Open Space Parcel "C", as shown on sheet 3 of a 3-page plan entitled "Plan of Acceptance of Easements, Open Space, Worster Drive, Beauregard Circle, Gaucher Circle and Perolman Drive, in Marlborough, MA," prepared by Thomas Land Surveyors and Engineering Consultants, Inc., 265 Washington Street, Hudson, MA 01749, prepared for Ansari Builders, 6 Edgewood Road, Westborough, MA., dated May 16, 2006 (on sheet 3), with latest revision date of February 2, 2012, Scale 1" = 80' (on sheet 3), as more fully described on the said plan which is to be recorded.

-REFER TO LEGISLATIVE AND LEGAL AFFAIRS AND CONSERVATION COMMISSION.

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

The public should take due notice that the Marlborough City Council may have a quorum in attendance due to Standing Committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the Standing Committee.

Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.

CITY OF MARLBOROUGH MEETING POSTING

02-08-2016 – **Order No. 16-1006458:** That the City Council work with the Building Commissioner, Code Enforcement Officer and City Solicitor on the drafting of an ordinance to ensure that prompt remedial action is taken after a devastating event. Such an ordinance would provide tools for the Code Officer and other municipal officials to work with insurance companies and/or other professionals to expedite insurance and legal matters associated with such losses. The Broad Street fire has shown the need for tighter controls when nearby residents also suffered after this tragic loss when the burnt out remains of the property stood long after the fire to become a blighted, rodent infested, odorous site. (Submitted by Councilors Juairé and Tunnera)

-REFER TO LEGISLATIVE AND LEGAL AFFAIRS

02-22-16 – **Order No. 16-1006466:** Communication from the Mayor regarding Assistant Building Commissioner position (Chapter 7, §76 – Ordinance pertinent to Building Department) be and is herewith refer as follows:

Be it ordained by the city council of the City of Marlborough that the city code of the City of Marlborough, as amended, be further amended by amending chapter 7, entitled “Building Department,” of Article XIV, as follows:

- A. Chapter 7 is hereby amended by deleting section 7-76 in its entirety and replacing it with the following:

§ 7-76 Assistant Building Commissioner; Appointment of Local Inspectors.

- A. The Mayor may employ an Assistant Building Commissioner who shall assist in the performance of the duties of the Building Commissioner. The Assistant Building Commissioner shall be certified as a Building Commissioner or a Local Inspector, and shall meet the requirements and qualifications established by the Massachusetts Board of Building Regulations and Standards as defined by Section 3 of Chapter 143 of the Massachusetts General Laws.
- B. The Mayor shall employ local inspectors, as necessary, to support the mission and duties of the Building Department. Local inspectors shall be under the direction of the Building Commissioner and the Assistant Building Commissioner. Local inspectors shall meet the requirements and qualifications established by the Massachusetts Board of Building Regulations and Standards as defined by Section 3 of Chapter 143 of the Massachusetts General Laws.

-REFER TO LEGISLATIVE AND LEGAL AFFAIRS

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

The public should take due notice that the Marlborough City Council may have a quorum in attendance due to Standing Committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the Standing Committee.

Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.



IN CITY COUNCIL

FEBRUARY 8, 2016

Marlborough, Mass.,

ORDERED:

That the City Council of the City of Marlborough, pursuant to the provisions and conditions of Mass. Gen. Laws c. 40, § 8C, does hereby accept from Howe's Landing Developers, LLC, a Massachusetts limited liability company, a deed of the land in Marlborough, Middlesex County, Massachusetts shown as "OPEN SPACE LOT 2.84 Ac." and as "PARCEL A" on Sheet D2 of 2 in a plan entitled " 'Howe's Landing' a Definitive Subdivision Plan in Marlborough, Massachusetts, Date: August 11, 2014, Prepared for: Chris Christopher, Sage Investors Inc., Prepared by: Thomas DiPersio, Jr. & Associates Inc.," which plan was last revised on November 26, 2014 and is recorded with the Middlesex South District Registry of Deeds as Plan No. 50 of 2015 (the "Plan") and to which reference may be had for a more particular description of said Lot and Parcel. Said Open Space Lot contains 2.84 acres, more or less, according to said Plan. Said Parcel A contains 0.0048 acres, more or less.

In accordance with Condition 10.a of the "Certificate of Vote Definitive Subdivision Plan Howe's Landing Hudson Street" of the City of Marlborough Planning Board dated December 1, 2014 and recorded with said Registry in Book 64831, Page 355, said Open Space Lot is conveyed subject to the restriction that it shall remain as permanently protected open space. The Open Space Lot is conveyed to the City of Marlborough under the provisions of Mass. Gen. Laws c. 40, § 8C and is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation.

In accordance with Condition 10.c of the "Certificate of Vote Definitive Subdivision Plan Howe's Landing Hudson Street" of the City of Marlborough Planning Board dated December 1, 2014 and recorded with said Registry in Book 64831, Page 355, said Parcel A is conveyed subject to the restrictions 1) that the Grantor shall retain and grant to a homeowners association the right to access Parcel A in order for the home owners association, and not the City, to maintain and repair the force main, including the force main manhole located on Parcel A, which services Lots 7, 8, 9 and 10 on the westerly side of the proposed subdivision road; and 2) that the homeowners association, and not the City, shall maintain and repair the force main, including the force main manhole located on Lot 4, which services Lots 1, 2 and 3 on the easterly side of the proposed subdivision road.

Acceptance of this open space is subject to all terms and conditions of a special permit granted on or about June 16, 2014 by the Marlborough Planning Board and recorded at said Registry in Book 64065, Page 240, and a subdivision approval approved on or about December 1, 2014 by the Marlborough Planning Board and recorded at said Registry in Book 64831, Page 355, each of which is incorporated herein by reference, be and is herewith refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE.**

ADOPTED

ORDER NO. 16-1006440



City of Marlborough
Legal Department

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610

LEGAL@MARLBOROUGH-MA.GOV

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
DONALD V. RIDER, JR.
CITY SOLICITOR

2016 FEB -4 A
CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

ELLEN M. STAVROPOULOS
PARALEGAL

7

February 3, 2016

Edward Clancy
President
Marlborough City Council

RE: Howe's Landing Subdivision –
Proposed Acceptance of Deed of Open Space Lot and Parcel A

Dear President Clancy and Members:

In 2014, the Planning Board granted an open space special permit, as well as subdivision approval, to Sage Investors, Inc. for a proposed 10-home subdivision off Hudson Street. In 2015, the subdivision land was conveyed to Howe's Landing Developers, LLC.

Condition 4 of the Planning Board's special permit calls for the LLC to convey to the City, prior to the issuance of any building permits, a 2.84 parcel of land shown on the Concept Plan as "Open Space" which shall be preserved for conservation, passive recreational use, and preservation of open space.

The 2.84-acre parcel is shown as "Open Space Lot" on the enclosed Sheet D2 of the approved subdivision plan. Similarly, Condition 10.a of the Planning Board's subdivision approval specifies that the Open Space Lot is to be conveyed to the City as permanently protected open space.

In addition to the 2.84-acre Open Space Lot, the approved subdivision plan calls for a conveyance to the City of a very small parcel (233± s.f.) shown on the enclosed plan as "Parcel A." Condition 10.c of the Planning Board's subdivision approval specifies that Parcel A's conveyance is subject to 2 conditions:

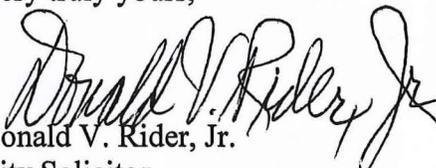
- [1] Applicant shall retain and grant to a home owners association the right to access Parcel A in order for the home owners association, and not the City, to maintain and repair the force main, including the force main manhole located on Parcel A, which services Lots 7, 8, 9 and 10 on the westerly side of the proposed subdivision road.
- [2] In addition, the homeowners association, and not the City, shall maintain and repair the force main, including the force main manhole located on Lot 4, which services Lots 1, 2 and 3 on the easterly side of the proposed subdivision road.

Accordingly, enclosed for your consideration is the LLC's unsigned deed for the 2.84-acre Open Space Lot and Parcel A. Also enclosed is a proposed order, along with the open space special

permit and the subdivision approval which are referenced in the order. A copy of the signed deed will be made available at the relevant committee meeting.

Thank you for your attention to this matter.

Very truly yours,



Donald V. Rider, Jr.
City Solicitor

Enclosures

cc: Paul V. Galvani, Esquire
Planning Board
Priscilla Ryder, Conservation Officer
Evan Pilachowski, City Engineer
Timothy Collins, Assistant City Engineer

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES & REGULATIONS OF THE REGISTRIES OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

DATE 11-14-14 REG. PROF. LAND SURVEYOR [Signature]

LEGEND

- DRILL HOLE FOUND
- FLAGGED WETLAND BORDER
- EXISTING STONE WALL
- GRANITE MONUMENT TO BE SET

I HEREBY CERTIFY THAT NO NOTICE OF APPEAL WAS RECEIVED DURING THE TWENTY DAYS NEXT AFTER RECEIPT & RECORDING OF NOTICE FROM THE PLANNING BOARD OF THE WITHIN PLAN.

DATE 11/15 CITY CLERK [Signature] DATE 11/15 CITY

SUBDIVISION APPROVED SUBJECT TO CONDITIONS CONTAINED IN THE COVENANT AND THE DECISION DOCUMENT, BOTH RECORDED HEREMETH.

MARLBOROUGH PLANNING BOARD

[Signature]
[Signature]
[Signature]
[Signature]

DATE 11/15/14



THOMAS DIPERSIO SR., P.L.S.
LICENSE #28964



THOMAS DIPERSIO JR., P.E.
LICENSE #40077

| No. | Date | Description |
|-----|----------|--------------------------|
| 2 | 11/14/14 | Engineering Dept. review |
| 1 | 10/24/14 | Engineering Dept. review |
| No. | Date | Description |

Prepared by:
CHRIS CHRISTOPHER SAGE INVESTORS INC.
440 MAIN STREET
WORCESTER, MA
508-294-8781

Property of:
DWIGHT HOWE JR., DEBORAH SAVELLE, MAY HOWE SCHWARTZ, ELLEN BURTON
PROB.#8693948EP

Prepared by:
THOMAS DIPERSIO, JR. & ASSOCIATES, INC.
LAND SURVEYORS & CIVIL ENGINEERS
401 COMMERCIAL STREET, MARLBOROUGH, MA 01501

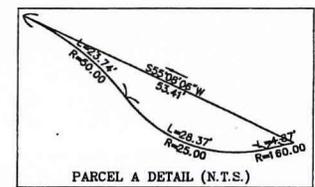
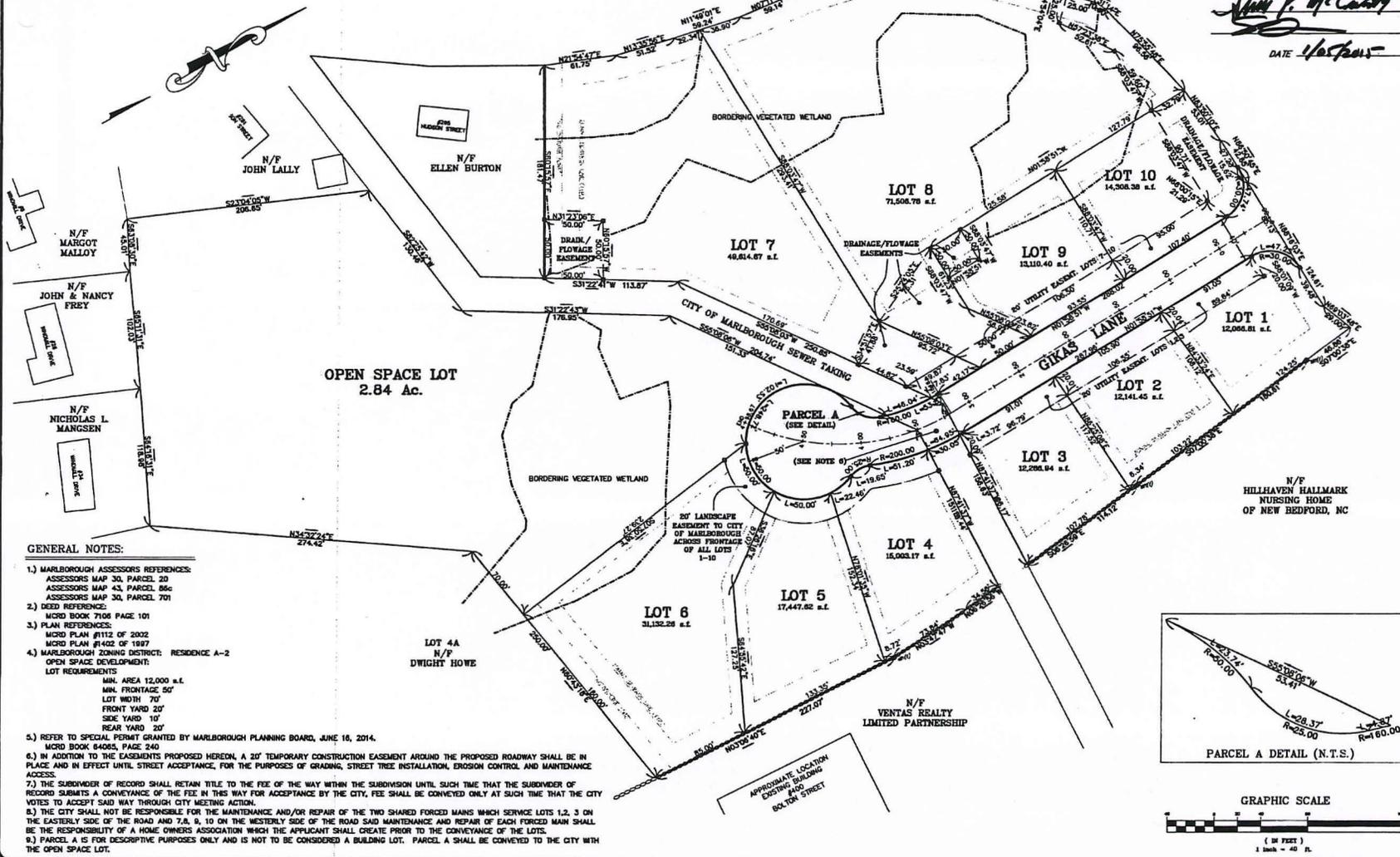
The **LOTTING PLAN DEFINITIVE PLAN OF "HOWE'S LANDING"** MARLBOROUGH, MA

| | |
|-------------|--------------------------------|
| SCALE: | 1"=40' |
| DRAWN: | TD |
| CHECKED: | TD |
| FILE NAME: | \\SSD\eng\Subdivision\Plan.dwg |
| PLOTTED: | |
| ISSUE DATE: | AUGUST 11, 2014 |
| JOB NO.: | 2580 |

SHEET D2 OF 2

PLANNING 50-2-2 OF 2015

FOR REGISTRY USE



GENERAL NOTES:

- 1.) MARLBOROUGH ASSESSORS REFERENCES:
ASSESSORS MAP 30, PARCEL 20
ASSESSORS MAP 43, PARCEL 88c
ASSESSORS MAP 30, PARCEL 701
- 2.) DEED REFERENCES:
MCD BOOK 7168 PAGE 101
MCD BOOK 8408, PAGE 240
- 3.) PLAN REFERENCES:
MCD PLAN #1112 OF 2002
MCD PLAN #1402 OF 1997
- 4.) MARLBOROUGH ZONING DISTRICT: RESIDENCE A-2
OPEN SPACE DEVELOPMENT:
LOT REQUIREMENTS
MIN. AREA 12,000 s.f.
MIN. FRONTAGE 50'
LOT WIDTH 70'
FRONT YARD 20'
SIDE YARD 10'
REAR YARD 20'
- 5.) REFER TO SPECIAL PERMIT GRANTED BY MARLBOROUGH PLANNING BOARD, JUNE 16, 2014.
- 6.) IN ADDITION TO THE EASEMENTS PROPOSED HEREON, A 20' TEMPORARY CONSTRUCTION EASEMENT AROUND THE PROPOSED ROADWAY SHALL BE IN PLACE AND IN EFFECT UNTIL STREET ACCEPTANCE, FOR THE PURPOSES OF GRADING, STREET TREE INSTALLATION, EROSION CONTROL AND MAINTENANCE ACCESS.
- 7.) THE SUBDIVIDER OF RECORD SHALL RETAIN TITLE TO THE FEE OF THE WAY WITHIN THE SUBDIVISION UNTIL SUCH TIME THAT THE SUBDIVIDER OF RECORD SUBMITS A CONVEYANCE OF THE FEE IN THIS WAY FOR ACCEPTANCE BY THE CITY, FEE SHALL BE CONVEYED ONLY AT SUCH TIME THAT THE CITY VOTES TO ACCEPT SAID WAY THROUGH CITY MEETING ACTION.
- 8.) THE CITY SHALL NOT BE RESPONSIBLE FOR THE MAINTENANCE AND/OR REPAIR OF THE TWO SHARED FORCED MAINS WHICH SERVICE LOTS 2, 3 ON THE EASTERLY SIDE OF THE ROAD AND 7, 8, 9, 10 ON THE WESTERLY SIDE OF THE ROAD SAID MAINTENANCE AND REPAIR OF EACH FORCED MAIN SHALL BE THE RESPONSIBILITY OF A HOME OWNERS ASSOCIATION WHICH THE APPLICANT SHALL CREATE PRIOR TO THE CONVEYANCE OF THE LOTS.
- 9.) PARCEL A IS FOR DESCRIPTIVE PURPOSES ONLY AND IS NOT TO BE CONSIDERED A BUILDING LOT. PARCEL A SHALL BE CONVEYED TO THE CITY WITH THE OPEN SPACE LOT.

502-2

Number of Pages: 2

Return to:

QUITCLAIM DEED

HOWE'S LANDING DEVELOPERS, LLC, a Massachusetts limited liability company with a principal place of business at 1881 Worcester Road, Suite 200, Framingham, Massachusetts 01701 ("Grantor"),

for consideration of less than ONE HUNDRED DOLLARS (\$100.00)

grants to the **CITY OF MARLBOROUGH**, a municipal corporation with offices at 140 Main Street, Marlborough, Massachusetts 01752 ("Grantee")

with **QUITCLAIM COVENANTS**,

the land in Marlborough, Middlesex County, Massachusetts shown as "OPEN SPACE LOT 2.84 Ac." and as "PARCEL A" on Sheet D2 of 2 in a plan entitled " 'Howe's Landing' a Definitive Subdivision Plan in Marlborough, Massachusetts, Date: August 11, 2014, Prepared for: Chris Christopher, Sage Investors Inc., Prepared by: Thomas DiPersio, Jr. & Associates Inc.," which plan was last revised on November 26, 2014 and is recorded with the Middlesex South District Registry of Deeds as Plan No. 50 of 2015 (the "Plan") and to which reference may be had for a more particular description of said Lot and Parcel.

Said Open Space Lot contains 2.84 acres, more or less, according to said Plan. Said Parcel A contains 0.0048 acres, more or less.

In accordance with Condition 10.a of the "Certificate of Vote Definitive Subdivision Plan Howe's Landing Hudson Street" of the City of Marlborough Planning Board dated December 1, 2014 and recorded with said Registry in Book 64831, Page 355, said Open Space Lot is conveyed subject to the restriction that it shall remain as permanently protected open space. The Open Space Lot is conveyed to the Grantee under the provisions of Mass. Gen. Laws c. 40, § 8C and is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation.

In accordance with Condition 10.c of the "Certificate of Vote Definitive Subdivision Plan Howe's Landing Hudson Street" of the City of Marlborough Planning Board dated December 1, 2014 and recorded with said Registry in Book 64831, Page 355, said Parcel A is conveyed subject to the restrictions 1) that the Grantor shall retain and grant to a homeowners association the right to access Parcel A in order for the homeowners association, and not the Grantee, to maintain and repair the force main, including the force main manhole located on Parcel A, which services Lots 7, 8, 9 and 10 on the westerly side of the proposed subdivision road; and 2) that the homeowners association, and not the Grantee, shall maintain and repair the force main, including the force main manhole located on Lot 4, which services Lots 1, 2 and 3 on the easterly side of the proposed subdivision road.

For title, see Deed from Sage Investors, Inc. to Grantor dated April 16, 2015 and recorded with said Registry on April 21, 2015 in Book 65244, Page 455.

Executed at Framingham, Massachusetts this ____ day of _____, 2016.

HOWE'S LANDING DEVELOPERS, LLC

By: _____
John R. Parsons, Jr., its manager

By: _____
Victor C. Galvani, its manager

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this ____ day of _____, 2016, before me, the undersigned Notary Public, personally appeared John R. Parsons, Jr. and Victor C. Galvani, managers as aforesaid, and proved to me through satisfactory evidence of identification, which was [] photographic identification with signature issued by a federal or state governmental agency, [] oath or affirmation of a credible witness, [] personal knowledge of the undersigned, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that each one signed it as a duly authorized manager of Howe's Landing Developers, LLC, voluntarily for its stated purpose, before me.

Notary Public

ORDERED:

That the City Council of the City of Marlborough, pursuant to the provisions and conditions of Mass. Gen. Laws c. 40, § 8C, does hereby accept from Howe's Landing Developers, LLC, a Massachusetts limited liability company, a deed of the land in Marlborough, Middlesex County, Massachusetts shown as "OPEN SPACE LOT 2.84 Ac." and as "PARCEL A" on Sheet D2 of 2 in a plan entitled " 'Howe's Landing' a Definitive Subdivision Plan in Marlborough, Massachusetts, Date: August 11, 2014, Prepared for: Chris Christopher, Sage Investors Inc., Prepared by: Thomas DiPersio, Jr. & Associates Inc.," which plan was last revised on November 26, 2014 and is recorded with the Middlesex South District Registry of Deeds as Plan No. 50 of 2015 (the "Plan") and to which reference may be had for a more particular description of said Lot and Parcel. Said Open Space Lot contains 2.84 acres, more or less, according to said Plan. Said Parcel A contains 0.0048 acres, more or less.

In accordance with Condition 10.a of the "Certificate of Vote Definitive Subdivision Plan Howe's Landing Hudson Street" of the City of Marlborough Planning Board dated December 1, 2014 and recorded with said Registry in Book 64831, Page 355, said Open Space Lot is conveyed subject to the restriction that it shall remain as permanently protected open space. The Open Space Lot is conveyed to the City of Marlborough under the provisions of Mass. Gen. Laws c. 40, § 8C and is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation.

In accordance with Condition 10.c of the "Certificate of Vote Definitive Subdivision Plan Howe's Landing Hudson Street" of the City of Marlborough Planning Board dated December 1, 2014 and recorded with said Registry in Book 64831, Page 355, said Parcel A is conveyed subject to the restrictions 1) that the Grantor shall retain and grant to a homeowners association the right to access Parcel A in order for the home owners association, and not the City, to maintain and repair the force main, including the force main manhole located on Parcel A, which services Lots 7, 8, 9 and 10 on the westerly side of the proposed subdivision road; and 2) that the homeowners association, and not the City, shall maintain and repair the force main, including the force main manhole located on Lot 4, which services Lots 1, 2 and 3 on the easterly side of the proposed subdivision road.

Acceptance of this open space is subject to all terms and conditions of a special permit granted on or about June 16, 2014 by the Marlborough Planning Board and recorded at said Registry in Book 64065, Page 240, and a subdivision approval approved on or about December 1, 2014 by the Marlborough Planning Board and recorded at said Registry in Book 64831, Page 355, each of which is incorporated herein by reference.

ADOPTED

In City Council
Order No. 16-
Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:



City of Marlborough Commonwealth of Massachusetts

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2014 JUN 18 P 3:28



2014 00119500
Bk: 64065 Pg: 240 Doc: DECIS
Page: 1 of 6 08/12/2014 02:14 PM

PLANNING BOARD
Barbara L. Fenby, Chair
Colleen M. Hughes
Phillip J. Hodge
Edward F. Coveney
Sean N. Fay
Shawn McCarthy
Brian DuPont

Melissa Irish - Secretary
Phone: (508) 460-3769
Fax: (508) 460-3736
Email: MIrish@marlborough-ma.gov

PLANNING BOARD Granting of Special Permit Concept Plan Open Space Development DECISION

The Planning Board of the City of Marlborough voted to GRANT a special permit to Sage Investors, Inc. on June 16, 2014 under Chapter 650, Section 28 of the Marlborough Zoning Ordinance, Open Space Developments.

NAME OF APPLICANT:

Sage Investors, Inc.
Mr. Chris Christopher
446 Main St, 8th Floor
Worcester, MA 01608

LOCATION OF PROPERTY:

Hudson Street
Assessor's Maps: 30 Parcel 20
43 Parcel 86C
Portion of Map 30 Parcel 701

VOTE:

In Favor: All
In Opposition: None

DECISION FILED WITH CITY CLERK:

JUNE 18, 2014

Return to:
Sandra R. Austin, Esq.
40 Mechanic St.
Suite 305
Marlborough, MA
01752

APPEALS

Appeals, if any, shall be made pursuant to M.G.L. Ch. 40A, Section 17, and shall be filed with twenty (20) days after the date of the filing of this Notice of the Decision in the Office of the City Clerk of the City of Marlborough.

Barbara L. Fenby, Chairperson

This is to certify that twenty (20) days have passed since the filing of the within decision and no appeal has been filed with this office.

Given at Marlborough this 9th day of July, 2014

Given under Chapter 40A, Section 17 of the General Laws

A TRUE COPY
ATTEST:

City Clerk

City of Marlborough Commonwealth of Massachusetts



PLANNING BOARD

Barbara L. Fenby, Chair
Colleen M. Hughes
Phillip J. Hodge
Edward F. Coveney
Brian DuPont
Sean N. Fay
Shawn McCarthy

Melissa Irish - Secretary
Phone: (508) 460-3769
Fax: (508) 460-3736
Email: MlIrish@marlborough-ma.gov

DECISION ON AN OPEN SPACE DEVELOPMENT SPECIAL PERMIT HUDSON STREET

June 16, 2014

The Planning Board of the City of Marlborough (the "Planning Board") hereby certifies that, on June 16, 2014, it voted to approve an Open Space Development Special Permit for Sage Investors, Inc. for property located on Hudson Street owned by Dwight Howe et al., pursuant to § 650-28 of the Marlborough City Code, as follows:

PROCEDURAL FINDINGS:

1. On September 9, 2013, an application was filed on behalf of the Sage Investors, Inc., having a principal place of business of 446 Main Street, 8th Floor, Worcester, MA 01608 (the "Applicant"), for an open space development special permit, pursuant to the City of Marlborough Code Zoning Ordinance § 650-28 (the "Ordinance") and M.G.L. Chapter 40A. The application (the "Application") was filed with the Planning Board, the City Clerk of the City of Marlborough (the "City"), and the City offices as identified in § 650-28H(4)(c).
2. The proposed open space development (the "Proposed Development") consists of ten (10) single family housing units, as shown on a concept plan, entitled "Concept Plan Open Space Layout of Land in Marlborough, MA," prepared by Thomas Land Surveyors, 265 Washington Street, Hudson, MA 01749, dated March 22, 2013 (the "Concept Plan"). The Proposed Development is located on Hudson Street and is in part owned by Dwight Howe, Jr., Mary Howe Schwartz, Deborah A. Sawvelle and Ellen L. Burton (collectively, "Howe"), as further depicted on the City Assessor's Map (the "Assessor's Map") as Map 30, Parcel 20

BK. 4137
Pg. 479

BK. 7106
Pg. 101

and Map 43, Parcel 86C; as well as on the portion of City-owned property which is adjacent to and separates the above two (2) Parcels, and which is further depicted on the Assessor's Map as a portion of Map 30, Parcel 701.

3. The Concept Plan was based on a conventional subdivision layout, entitled "Concept Plan Conventional Layout of Land in Marlborough, MA," prepared by Thomas Land Surveyors, 265 Washington Street, Hudson, MA 01749, dated March 22, 2013 (the "Conventional Plan"), which was also filed with the Concept Plan as required by the Ordinance.
4. The Proposed Development is situated in the Residential A-2 zoning district. Open space development is allowed in the Residential A-2 zoning district.
5. After notice and publication was duly provided pursuant to the applicable provisions of M.G.L. Chapter 40A and the applicable provisions of the Ordinance, a public hearing on the Application commenced on December 2, 2013. The Planning Board closed the public hearing on December 2, 2013.
6. The Concept Plan was further amended on December 31, 2013 and March 4, 2014 to incorporate details addressing comments of the City Engineer and the Conservation Commissioner, as well as details from a 2014 Resource Area Delineation.
7. Planning Board members Barbara Fenby, Colleen Hughes, Clyde Johnson, Sean Fay, Phillip Hodge and Shawn McCarthy were present for the public hearing.
8. Planning Board members Barbara Fenby, Colleen Hughes, Sean Fay, Phillip Hodge and Shawn McCarthy deliberated on the Application at duly authorized meetings on March 24, May 19, June 2, and June 16, 2014.
9. At its meetings on February 10, 2014, April 7, 2014, and May 19, 2014, the Planning Board granted requested extensions of the date required for its decision to April 8, 2014 and subsequently to June 16, 2014 and June 19, 2014, respectively.

PROJECT FINDINGS:

1. The Proposed Development consists of two (2) lots owned by Howe and depicted on the Assessor's Maps as Map 30, Parcel 20 and Map 43, Parcel 86C, as well as one lot owned by the City, namely, Map 30, Parcel 701.
2. The Planning Board has determined that the City, by granting to Elmer Howe, and his heirs and assigns which include the current Howe owners, the right of way across Map 30, Parcel 701, gave its binding consent that those heirs and assigns would be able to use Map 30, Parcel 20 in conjunction with Map 43, Parcel 86C for residential development. Accordingly, pursuant to § 650-28D(2) of the Ordinance, the City, as owner of the fee interest in Map 30, Parcel 701, has granted its binding consent for the Proposed Development.

3. In seeking approval of the Concept Plan, the Applicant proposes to build ten (10) single family homes; to convey to the City 2.84 acres of permanently protected open space; and to convey to the City, for its use as a dedicated walking trail, any and all right, title and interest the Applicant has in Map 30, Parcel 701 which is in excess of that required for the road and utility area associated with the proposed subdivision road.
4. The Proposed Development, as conditioned by the conditions set forth herein, is consistent with the applicable provisions of M.G.L. Chapter 40A and § 650-28 of the Ordinance.
5. The Proposed Development meets the common open space requirements of § 650-28F.
6. The Proposed Development meets the general requirements of an open space development of the Ordinance § 650-28D.
7. The Proposed Development meets the dimensional and intensity requirements of an open space development set forth in § 650-28E of the Ordinance.
8. The Planning Board specifically finds, in accordance with the requirements of § 650-28H(8) of the Ordinance that:
 - a. the Proposed Development meets the objectives of an open space development set forth in § 650-28B of the Ordinance;
 - b. the Proposed Development meets the design criteria of an open space development set forth in § 650-28H(7)(b) of the Ordinance.
 - c. the Proposed Development will not have a substantial or undue adverse effect upon adjacent property or the character of the neighborhood.

Pursuant to § 650-28H(7)(a) of the Ordinance, the Planning Board determines that the Proposed Development, with the conditions set forth hereinafter, is at least as beneficial to the City as a conventional plan based on the design guidelines and evaluation criteria set forth in §650-28H(7)(b) of the Ordinance.

CONDITIONS:

The Planning Board on June 16, 2014, by a vote of 5 to 0, approved the Concept Plan as described above, subject to the following conditions:

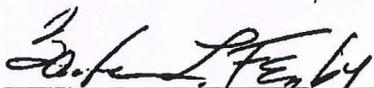
1. The Applicant shall submit a definitive subdivision plan to the Planning Board for the Proposed Development, based on the Concept Plan, for which the Planning Board shall hold a public hearing and render a decision within ninety (90) days in accordance with M.G.L. Chapter 41 and § 650-28H(3)(b) of the Ordinance.

2. The Applicant shall, upon definitive subdivision plan approval, file a Notice of Intent with the Conservation Commission for any work proposed within the 100 foot wetland buffer zone. The Applicant shall comply with all conditions of the Marlborough Conservation Commission, as set forth in any Order of Conditions for the Proposed Development.
3. The Applicant at its expense shall record a copy of this Open Space Development Special Permit at the Middlesex South District Registry of Deeds, and shall forthwith provide to the Planning Board and the Solicitor's office a copy of the Permit as recorded.
4. The Applicant shall, pursuant to § 650-28G of the Ordinance, convey to the City, subsequent to the approval of the definitive subdivision plan of this Development and prior to the issuance of any building permits, a 2.84 parcel of land shown on the Concept Plan as "Open Space" which shall be preserved for conservation, passive recreational use, and preservation of open space.
5. To enable the City to create a walking path connecting Bolton Street to Hudson Street and to allow for the Open Space parcel to access the pathway system, the Applicant shall, upon completion of the subdivision, convey to the City any and all right, title and interest the Applicant has in Map 30, Parcel 701 which is in excess of that required for the road and utility area associated with the proposed subdivision road. Further, the Applicant shall convey to the City a ten (10)-foot-wide easement for the walking path to cross through the proposed Lot 7 at or near where it abuts the property at 295 Hudson Street.
6. The Applicant shall pay to the City of Marlborough the sum of five thousand dollars (\$5,000) to be allocated for the City's Conservation Maintenance Fund to support the future maintenance of the open space parcel at the time it conveys the open space parcel to the City.
7. Any future change, modification or amendment to the Proposed Development as may be approved by the Planning Board shall be in accordance with the requirements of M.G.L. Chapter 40A, M.G.L. Chapter 41, § 81W, the Planning Board's Rules and Regulations, and/or § 650-28 of the Ordinance, as appropriate.
8. Applicant shall take necessary precautions to ensure that it does not injure or damage the City's sewer trunk line during Applicant's construction process, and Applicant shall indemnify and hold the City harmless in the event of such injury or damage.
9. The City shall retain the right to temporarily obstruct and, if necessary, to close the subdivision road whenever the City shall deem it necessary to do so in the course of any repairs or improvements of the sewer trunk line.

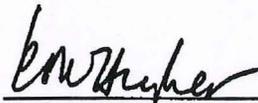
10. All conditions herein shall apply to Applicant, its successors and assigns, and its successors in title to the Proposed Development shown on the Concept Plan.

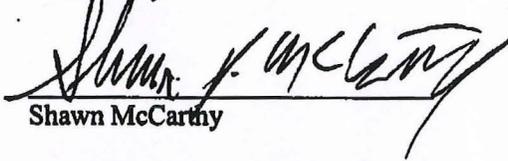
RECORD OF VOTE:

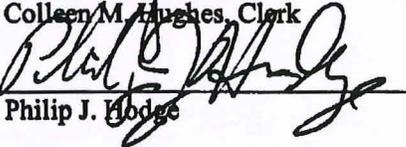
The following members of the Planning Board voted on June 16, 2014 to approve this Open Space Development Special Permit:


Barbara L. Fenby, Chair


Sean W. Fay


Colleen M. Hughes, Clerk


Shawn McCarthy


Philip J. Hodges

CERTIFICATE

I hereby certify that twenty (20) days have elapsed since the filing of the above-referenced decision in the Office of Marlborough City Clerk on June 18, 2014, and that no notice of an appeal of that decision has been filed with my office.

A True Copy Attest: 
Lisa M. Thomas
Marlborough City Clerk

July 9, 2014
Date

AG

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

City of Marlborough
Commonwealth of Massachusetts

2014 DEC -3 P 2: 58



PLANNING BOARD

Barbara L. Fenby, Chair
Colleen M. Hughes
Philip J. Hodge
Edward F. Coveney
Brian DuPont
Sean N. Fay
Shawn McCarthy

Melissa Irish - Secretary
Phone: (508) 460-3769
Fax: (508) 460-3736
Email: MlIrish@marlborough-ma.gov



2015 00010623
Bk: 64831 Pg: 355 Doc: VOTE
Page: 1 of 8 01/23/2015 12:02 PM

Please return to:

Sandra R. Austin, Esq.
40 Mechanic St., Ste 305
Marlborough, MA 01752

CERTIFICATE OF VOTE
DEFINITIVE SUBDIVISION PLAN
HOWE'S LANDING HUDSON STREET

December 1, 2014

Pursuant to § 650-28 of the Marlborough City Code, the Planning Board of the City of Marlborough (the "Planning Board") hereby certifies that on December 1, 2014 it voted to approve a Definitive Subdivision Plan for an Open Space Residential Subdivision, for which this Board had granted a Special Permit on June 16, 2014 to Sage Investors, Inc. for property located on Hudson Street owned by Dwight Howe et al., as follows:

PROCEDURAL FINDINGS:

1. On August 18, 2014, an application (the "Application") was filed on behalf of the Sage Investors, Inc. with a principal place of business of 446 Main Street, 8th Floor, Worcester, MA 01608 (the "Applicant"), pursuant to M.G.L. c. 41, § 81W, and the Planning Board's Rules and Regulations Governing the Subdivision of Land in Marlborough (the "Rules and Regulations"), seeking approval of a ten (10) single family housing unit definitive subdivision plan as shown on a plan entitled " 'HOWE'S LANDING' A DEFINITIVE SUBDIVISION PLAN IN MARLBOROUGH, MASSACHUSETTS," prepared by Thomas DiPersio, Jr., & Associates, Inc., 641 Concord Road, Marlborough, Massachusetts, dated August 11, 2014 and last revised on November 26, 2014 (the "Plan"), on land identified

SEE PLANNING 50 OF 2015

on the City of Marlborough's Assessor's Map ("Assessor's Map") as Map 30, Parcel 20 and Map 43, Parcel 86C, located on Hudson Street, owned by Dwight Howe, Jr., Mary Howe Schwartz, Deborah A. Sawvelle, Ellen L. Burton (collectively "Howe"); and on land identified on the Assessor's Map as a portion of Map 30, Parcel 701, owned by the City of Marlborough (the "City") (the lots collectively, the "Development").

2. The Plan was based on the residential subdivision concept plan layout for which an Open Space Special Permit was granted by the Board on June 16, 2014 and recorded in the Middlesex South District Registry of Deeds on August 12, 2014 in Book 64065, Page 240.
3. The Planning Board provided copies of the Application to other City boards and commissions, departments and officials including, but not limited to, the Board of Health, Building Commissioner, Conservation Commission, Department of Public Works, Fire Chief, City Engineer and City Solicitor.
4. The Board of Health of the City of Marlborough made no comment on the Application or the Plan.
5. After notice and publication was provided pursuant to the applicable provisions of M.G.L. c. 41, § 81T of the Subdivision Control Law, and the applicable provisions of the Rules and Regulations, a public hearing on the Application commenced on September 22, 2014. The Planning Board closed the public hearing on September 22, 2014.
6. Planning Board members Barbara Fenby, Colleen Hughes, Sean Fay, Phillip Hodge, Brian DuPont, Edward Coveney and Shawn McCarthy were present for the public hearing.
7. The Plan was further amended on September 25, 2014, November 7, 2014, November 14, 2014 and November 26, 2014 to incorporate details and to address the comments and requirements of City Engineer Evan Pilachowski and the Planning Board.
8. Planning Board members Barbara Fenby, Colleen Hughes, Sean Fay, Phillip Hodge and Shawn McCarthy deliberated on the Application at duly authorized meetings on October 16, November 3, and November 17; and Planning Board members Barbara Fenby, Sean Fay, Shawn McCarthy and Edward Coveney so deliberated on December 1, 2014.

PROJECT FINDINGS:

1. The subject property consists of two (2) lots owned by Howe identified on the City Assessors Maps as follows: Map 30, Parcel 20 and Map 43, Parcel 86C; as well as one lot owned by the City and identified as a portion of Map 30, Parcel 701, over which Howe has a general right of way for the express purpose of

access to and from the lands abutting on the City's sewer trunk line, subject to two (2) limitations:

- a. the right of way granted by the City to Howe shall at all times be so exercised as not to injure the sewer or works of the City; and
 - b. the City may cause the land over which the right of way is located to be temporarily obstructed or closed whenever its officers or employees shall deem it necessary to do so, in the course of repairs or improvements of the City's sewerage works.
2. The City, as owner of the fee interest in Map 30, Parcel 701, has, within the meaning of § 650-28.D(2) of the Marlborough City Code, granted its binding consent for the Development, as the Development is normal development of the Howe's land and the easement owned by Howe is a general right of way for the express purpose of access to and from the lands abutting on the City's sewer trunk line, subject to the two limitations set forth in ¶ 1 immediately above.
 3. In seeking approval of the amended Plan and in accordance with the Open Space Special Permit, the Applicant proposes to build ten (10) single family homes; to convey to the City 2.84 acres of permanently protected open space; to convey to the City, for the City's use as a dedicated walking trail, Applicant's right, title and interest in the right of way as well as any and all underlying interest Applicant owns in the sewer trunk line area (Map 30, Parcel 701) which is in excess of that required for the road and utility area associated with the proposed subdivision road; and to convey to the City so-called Parcel A, subject to conditions set forth below.
 4. The Development, as governed by the conditions set forth in this Certificate of Vote, is consistent with the applicable provisions of the Subdivision Control Law and the Rules and Regulations.
 5. The Development, as governed by the conditions of this Certificate of Vote, will not present a public safety hazard to the City or surrounding properties.

WAIVERS:

After the public hearing and deliberations on the amended Plan, the Planning Board did on December 1, 2014, by a vote of 4 in favor and 0 opposed, grant the following waivers to the Rules and Regulations, in connection with the Plan, as amended (citations below are to the Marlborough City Code, Chapter A676, entitled "Subdivision Regulations"):

1) Section 676-12 Streets, C. Width

REQUIRED: 50 FEET FOR ALL SECONDARY ROADS

ALLOWED: 40 FEET FOR THE PROPOSED SUBDIVISION ROAD

- 2) **Section 676-12 Streets, D. Grade**
REQUIRED: 8% MAXIMUM GRADE FOR SECONDARY STREET (OTHER THAN LANES) WITH 75' LEVELLING AREA
ALLOWED: 10% MAXIMUM GRADE FOR THE PROPOSED SUBDIVISION ROAD WITH 50' LEVELLING AREA
- 3) **Section 676-12 Streets, E. Dead-end streets**
REQUIRED: 3% MAXIMUM GRADE WITHIN 75' OF RADIUS POINT OF THE TURN AROUND AREA
ALLOWED: 5% MAXIMUM GRADE WITHIN 75' OF RADIUS POINT OF THE TURN AROUND AREA
- 4) **Section 676-24 Street and roadway, B**
REQUIRED: 32 FEET FOR SECONDARY ROADS (OTHER THAN LANES) (26 FEET FOR LANES)
ALLOWED: 28 FEET FOR THE PROPOSED SUBDIVISION ROAD
- 5) **Appendix F, as referenced in Section 676-20 and Section 676-23:**
REQUIRED: 5' PLANTING STRIP EACH SIDE OF ROADWAY
ALLOWED: NO PLANTING STRIP, DUE TO REDUCED RIGHT OF WAY WIDTH

The Planning Board granted these waivers after determining that such action is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law and with the Rules and Regulations.

CONDITIONS:

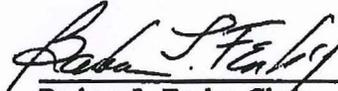
The Planning Board on December 1, 2014, by a vote of 4 to 0, approved the Plan, as amended, as described above, subject to the following conditions:

1. Prior to their installation, all final landscaping, signage and/or improvements within the subdivision road's right of way shall be approved by the City Engineer.
2. The Applicant shall install vertical granite curbing in lieu of sloped granite curbing throughout the Development.
3. The Applicant shall comply with all conditions of the Marlborough Conservation Commission, as set forth in any Order of Conditions for the Development.
4. The Applicant shall provide for a Performance Guarantee, in a manner acceptable to the Planning Board, to ensure that the required improvements will be constructed and/or installed in accordance with the approved Plan.
5. The Applicant shall record at the Middlesex South District Registry of Deeds an executed copy of this Certificate of Vote and of the approved Plan, and shall forthwith provide those copies to the Planning Board and the Solicitor's office.

6. Any future change, modification or amendment to the approved Plan, as may be approved by the Planning Board, shall be in accordance with the requirements of M.G.L. Chapter 41, § 81 W.
7. Applicant shall take necessary precautions to ensure that it does not injure or damage the City's sewer trunk line during the Applicant's construction process, and Applicant shall indemnify and hold the City harmless in the event of such injury or damage.
8. The City shall retain the right to temporarily obstruct and, if necessary, to close the subdivision road whenever the City shall deem it necessary to do so in the course of repairs or improvements of the City's sewer trunk line.
9. The City shall not be responsible for the maintenance and/or repair of the two shared forced mains which service lots 1, 2 and 3 on the easterly side of the road, and 7, 8, 9 and 10 on the westerly side of the road. Said maintenance and repair of each forced main shall be the responsibility of a home owners association which the Applicant shall create prior to the conveyance of any lot.
10. Applicant:
 - a. shall convey to the City 2.84 acres of permanently protected open space;
 - b. shall convey to the City, for the City's use as a dedicated walking trail, Applicant's right, title and interest in the right of way as well as any and all underlying interest Applicant owns in the sewer trunk line area (Map 30, Parcel 701) which is in excess of that required for the road and utility area associated with the proposed subdivision road; and
 - c. shall convey to the City so-called Parcel A, except that Applicant shall retain and grant to a home owners association the right to access Parcel A in order for the home owners association, and not the City, to maintain and repair the force main, including the force main manhole located on Parcel A, which services Lots 7, 8, 9 and 10 on the westerly side of the proposed subdivision road. In addition, the homeowners association, and not the City, shall maintain and repair the force main, including the force main manhole located on Lot 4, which services Lots 1, 2 and 3 on the easterly side of the proposed subdivision road.
11. Applicant shall grant to the City a 20-foot wide landscaping easement across the frontage of all lots (Lots 1 through 10).
12. All conditions herein shall apply to Applicant, its successors and assigns, and to its successors in title to the Development.

RECORD OF VOTE:

The following members of the Planning Board voted on December 1, 2014 to approve the Plan, as amended:



Barbara L. Fenby, Chair



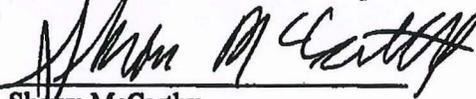
Sean N. Fay

Colleen M. Hughes, Clerk



Edward F. Coveney

Philip J. Hodge



Shawn McCarthy

Brian DuPont

CERTIFICATE

I hereby certify that twenty (20) days have elapsed since the filing of the above-referenced Certificate of Vote in the Office of Marlborough City Clerk on December 3, 2014, and that no notice of an appeal of that decision has been timely filed with said Office.

A True Copy Attest: 

Lisa M. Thomas
Marlborough City Clerk

December 24, 2014
Date

L+L

IN CITY COUNCIL



DECEMBER 21, 2015

Marlborough, Mass.,

ORDERED:

That the City Council of the City of Marlborough (GRANTEE), pursuant to the provisions and conditions of Mass. Gen. Laws c. 40, § 8C, does hereby accept from A.A. Farooq Ansari, Trustee of Waters Edge Realty Trust (GRANTOR), the open space in the City of Marlborough known as Open Space Parcel "A," Open Space Parcel "B," and Open Space Parcel "C," as shown on sheet 3 of a 3-page plan entitled "Plan of Acceptance of Easements, Open Space, Worster Drive, Beauregard Circle, Gaucher Circle and Perolman Drive, in Marlborough, MA," prepared by Thomas Land Surveyors and Engineering Consultants, Inc., 265 Washington Street, Hudson, MA 01749, prepared for Ansari Builders, 6 Edgewood Road, Westborough, MA., dated May 16, 2006 (on sheet 3), with latest revision date of February 2, 2012, Scale 1" = 80' (on sheet 3), as more fully described on the said plan which is to be recorded.

Said open space is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation of open space. The open space parcels of land are intended to remain in their natural state, in perpetuity, except as the Marlborough Conservation Commission may deem appropriate as to trail development for non-motorized vehicles.

Acceptance of this open space is subject to all terms and conditions of a Special Permit granted on or about May 5, 1997 by the Planning Board of the City of Marlborough and a covenant approved on February 9, 1998 by the Planning Board of the City of Marlborough, both of which are attached hereto and incorporated herein by reference.

BE CARRIED OVER TO THE 2016/2017 LEGISLATIVE SESSION.

Councilor Oram abstained.

ADOPTED

ORDER NO. 15-1006343A
X04/05-100439



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 19, 2015

ORDERED:

That the City Council of the City of Marlborough (GRANTEE), pursuant to the provisions and conditions of Mass. Gen. Laws c. 40, § 8C, does hereby accept from A.A. Farooq Ansari, Trustee of Waters Edge Realty Trust (GRANTOR), the open space in the City of Marlborough known as Open Space Parcel "A," Open Space Parcel "B," and Open Space Parcel "C," as shown on sheet 3 of a 3-page plan entitled "Plan of Acceptance of Easements, Open Space, Worster Drive, Beauregard Circle, Gaucher Circle and Perolman Drive, in Marlborough, MA," prepared by Thomas Land Surveyors and Engineering Consultants, Inc., 265 Washington Street, Hudson, MA 01749, prepared for Ansari Builders, 6 Edgewood Road, Westborough, MA., dated May 16, 2006 (on sheet 3), with latest revision date of February 2, 2012, Scale 1" = 80' (on sheet 3), as more fully described on the said plan which is to be recorded.

Said open space is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation of open space. The open space parcels of land are intended to remain in their natural state, in perpetuity, except as the Marlborough Conservation Commission may deem appropriate as to trail development for non-motorized vehicles.

Acceptance of this open space is subject to all terms and conditions of a Special Permit granted on or about May 5, 1997 by the Planning Board of the City of Marlborough and a covenant approved on February 9, 1998 by the Planning Board of the City of Marlborough, both of which are attached hereto and incorporated herein by reference.

Be and is herewith refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE AND CONSERVATION COMMISSION.**

Councilor Oram abstained.

ADOPTED

ORDER NO. 15-1006343
X04/05-100439



City of Marlborough
Legal Department

140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610

LEGAL@MARLBOROUGH-MA.GOV

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
DONALD V. RIDER, JR.
CITY SOLICITOR

2015 OCT 15

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

ELLEN M. STAVROPOULOS
PARALEGAL

October 15, 2015

Handwritten notes:
for conservation
+ conservation
Cmsn
DRAM
abstained

5

Edward Clancy
President
Marlborough City Council

RE: Waters Edge Subdivision – Proposed Acceptance of Deed of Open Space Parcels
Order No. X04/05-100439

Dear President Clancy and Members:

In 1997, the Planning Board granted an open space special permit to Ansari Builders, Inc. concerning a subdivision now known as Waters Edge. This subdivision is located off Stevens Street, and consists of Worster Drive, Beauregard Circle, Gaucher Circle and Perolman Drive.

The approved special permit called for the developer to set aside 9.33 acres of open space, in 3 parcels. In fact, the open space acreage totals 10.54 acres. A copy of a plan showing the 3 parcels (Parcels A, B and C), along with a trail easement connecting Stevens Street to Parcel A, is enclosed.

While the open space parcels had originally been submitted to the City Council for its acceptance in 2004, the matter was eventually tabled in 2005, apparently because of back taxes then owed on those parcels (Order No. X04/05-100439). Property taxes have most recently been paid through June 30, 2015, and the developer's attorney has represented to me that his client will be paying the applicable FY 2016 taxes so that this conveyance to the City can be completed.

Accordingly, enclosed for your consideration is a signed deed for the 3 open space parcels and the trail easement. Also enclosed is a proposed order, along with the open space special permit and the subdivision covenant which are referenced in the order.

Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.
Donald V. Rider, Jr.
City Solicitor

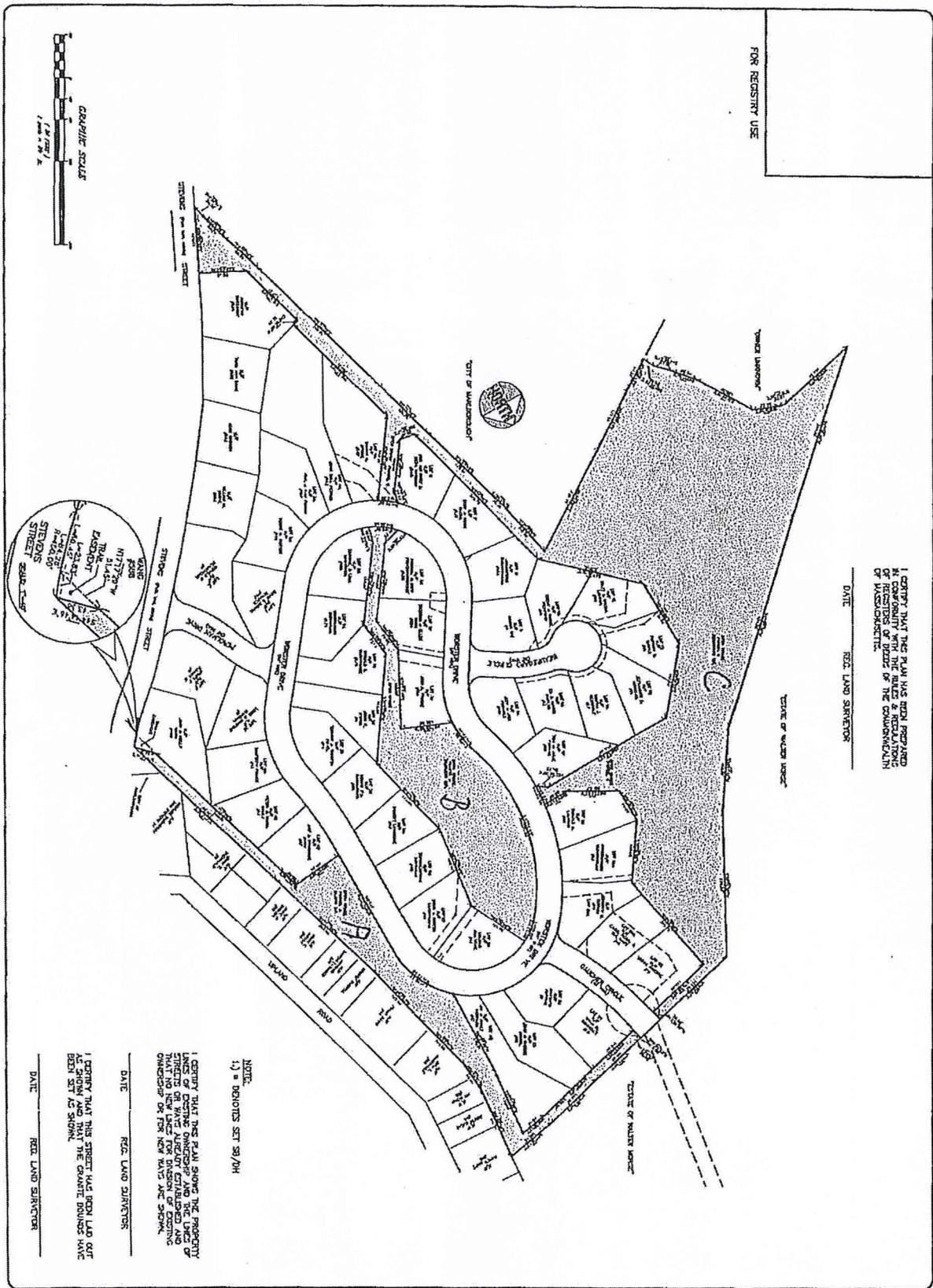
Enclosures

- cc: Christopher Flood, Esquire
Planning Board
Evan Pilachowski, City Engineer
Timothy Collins, Assistant City Engineer
Priscilla Ryder, Conservation Officer

FOR REGISTRY USE

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED
 IN ACCORDANCE WITH THE STATUTES
 OF REGISTRY OF DEEDS OF THE COMMONWEALTH
 OF MASSACHUSETTS.

DATE _____ REG. LAND SURVEYOR _____



NOTE:
 (1) = DEEDS SET 28/04

I CERTIFY THAT THIS PLAN SHOWS THE PROPERTY
 LINES OF DEEDS OWNERSHIP AND THE LINES OF
 STREETS AND WAYS AND THE LOCATION OF
 STREETS AND WAYS AND THE LOCATION OF
 OWNERSHIP OR FOR NEW WAYS ARE SHOWN.

DATE _____ REG. LAND SURVEYOR _____

I CERTIFY THAT THIS STREET LAYOUT HAS BEEN
 BEEN SET AS SHOWN.

DATE _____ REG. LAND SURVEYOR _____

THOMAS ROBERTSON, P.L.S.
 LICENSED SURVEYOR

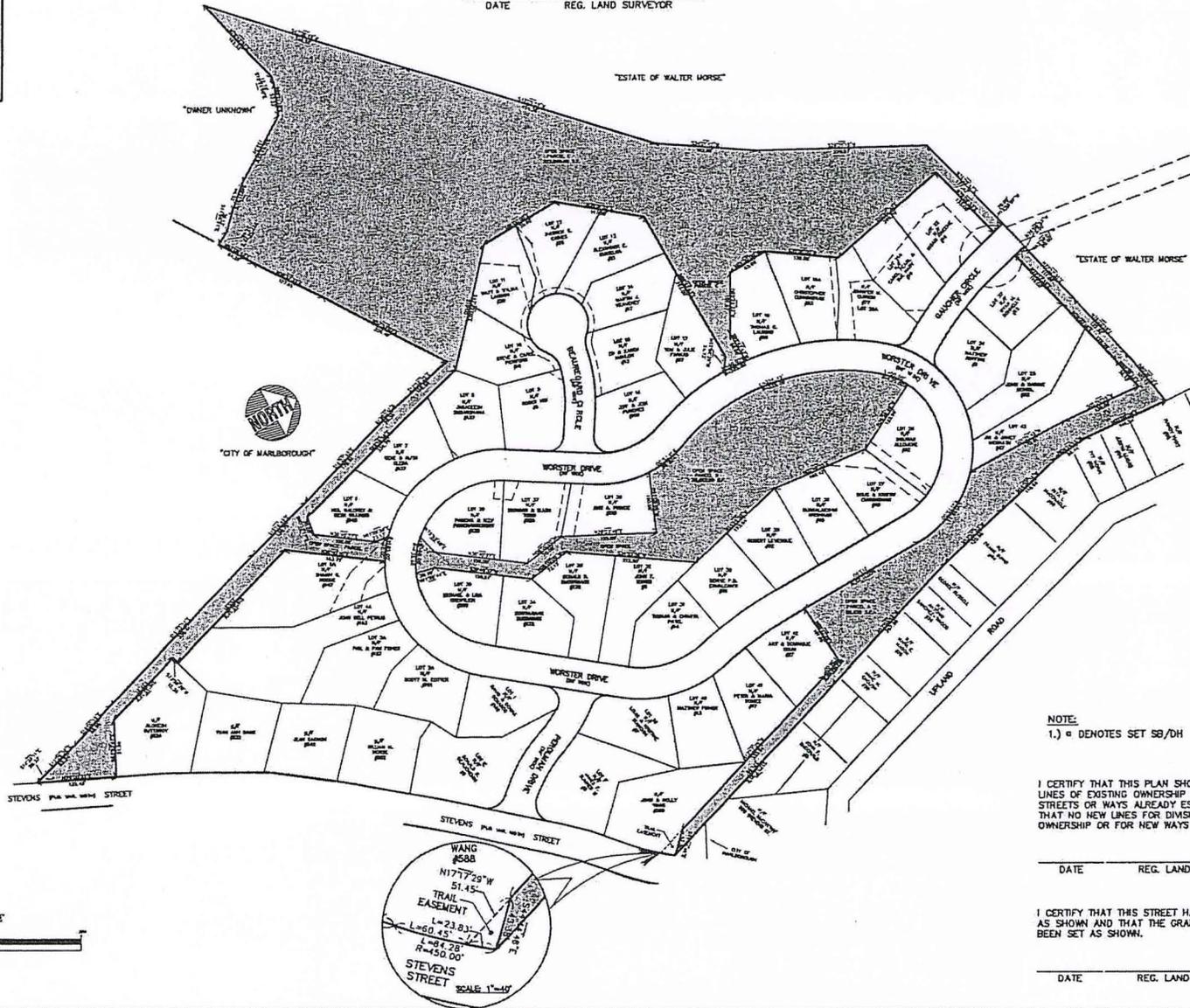
| | | |
|----|---------|---------------------|
| 1 | 10/1/01 | 100 AC. SUBDIVISION |
| 2 | 10/1/01 | 100 AC. SUBDIVISION |
| 3 | 10/1/01 | 100 AC. SUBDIVISION |
| 4 | 10/1/01 | 100 AC. SUBDIVISION |
| 5 | 10/1/01 | 100 AC. SUBDIVISION |
| 6 | 10/1/01 | 100 AC. SUBDIVISION |
| 7 | 10/1/01 | 100 AC. SUBDIVISION |
| 8 | 10/1/01 | 100 AC. SUBDIVISION |
| 9 | 10/1/01 | 100 AC. SUBDIVISION |
| 10 | 10/1/01 | 100 AC. SUBDIVISION |

THOMAS ROBERTSON, P.L.S.
 LICENSED SURVEYOR

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES & REGULATIONS OF REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

DATE _____ REG. LAND SURVEYOR _____

FOR REGISTRY USE



NOTE:
1.) □ DENOTES SET SB/DH

I CERTIFY THAT THIS PLAN SHOWS THE PROPERTY LINES OF EXISTING OWNERSHIP AND THE LINES OF STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN.

DATE _____ REG. LAND SURVEYOR _____

I CERTIFY THAT THIS STREET HAS BEEN LAID OUT AS SHOWN AND THAT THE GRANITE BOUNDS HAVE BEEN SET AS SHOWN.

DATE _____ REG. LAND SURVEYOR _____

THOMAS DIPERSIO, P.L.S.
LICENSE #29864

| No. | Date | Description |
|-----|----------|--------------------------|
| 6 | 2/2/12 | Add lot numbers |
| 5 | 8/22/11 | Label private easements |
| 4 | 8/15/11 | See Easement label Sh. 2 |
| 3 | 1/25/11 | AMBITTER REVISIONS |
| 2 | 12/28/10 | AMBITTER REVISIONS |
| 1 | 1/29/07 | Final Corrections |

Prepared for:
ANSARJ BUILDERS
8 EGLEWOOD DRIVE
WESTBOROUGH, MA

Property of:

(AS NOTED)

Prepared by:
THOMAS LAND SURVEYORS
& Engineering Consultants, Inc.
Land Surveyors, Planners, Engineers, Property Consultants
100 Massachusetts Street
Marlborough, MA 01752
Tel: 508.251.1000 Fax: 508.251.1001

Title: PLAN OF ACCEPTANCE
EASEMENTS, OPEN SPACE,
WORSTER DRIVE, BEAUREGARD CIRCLE,
GAUCHER DRIVE & FEROLMAN DRIVE
OF
MARLBOROUGH, MA

| | |
|------------|--------------------------|
| SCALE | 1"=80' |
| DRAWN | MP |
| CHECKED | TD |
| FILE NAME | 1\100PROJ\10-1-CORR\PLAN |
| PLOTTED | |
| ISSUE DATE | MAY 18, 2006 |
| JOB NO. | 510-C |

SHEET 3 OF 3
510-C

Open Space Parcels "A," "B," and "C," Worster Drive, Marlborough, MA 01752

DEED

A.A. Farooq Ansari, Trustee of the Waters Edge Realty Trust, u/d/t dated March 18, 1998 and recorded at the Middlesex County South District Registry of Deeds in Book 28328, page 129, of 6 Edgewood Road, Westborough, MA 01581,

in consideration of One Dollar (\$1.00), and in accordance with the subdivision approval by the Planning Board of the City of Marlborough of the subdivision known as Waters Edge,

grants to the City of Marlborough, a municipal corporation having a principal place of business at City Hall, 140 Main Street, Marlborough, MA 01752,

with QUITCLAIM COVENANTS

The open space in the City of Marlborough known as Open Space Parcel "A," Open Space Parcel "B," and Open Space Parcel "C," as shown on sheet 3 of a 3-page plan entitled "Plan of Acceptance of Easements, Open Space, Worster Drive, Beauregard Circle, Gaucher Circle and Perolman Drive, in Marlborough, MA," prepared by Thomas Land Surveyors and Engineering Consultants, Inc., 265 Washington Street, Hudson, MA 01749, prepared for Ansari Builders, 6 Edgewood Road, Westborough, MA., dated May 16, 2006 (on sheet 3), with latest revision date of February 2, 2012, Scale 1" = 80' (on sheet 3), as more fully described on the said plan which is to be recorded (hereinafter, the "Plan").

Said property is conveyed to said City under the provisions of Mass. Gen. Laws c. 40, § 8C and is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation of open space. The open space parcels of land are intended to remain in their natural state, in perpetuity, except as the Marlborough Conservation Commission may deem appropriate as to trail development for non-motorized vehicles.

This conveyance is subject to and together with all rights, easements, covenants and agreements of record. This grant of land is intended to fulfill, in part, the terms and conditions of a special permit granted by the Marlborough Planning Board to Ansari Builders, Inc. by vote dated May 5, 1997 and recorded on March 3, 1998 in Book 28328, Page 147.

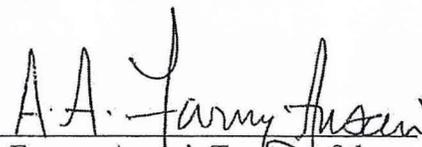
Also conveyed by this deed, with quitclaim covenants, is the following easement:

A trail easement in the City of Marlborough as shown on sheet 3 of the Plan.

The grantor certifies a) that he is the sole duly authorized trustee of the above-referenced Trust, and the Trust allows reliance on this deed and the facts stated therein; b) that the Trust is in full force and effect and has not been altered, amended, revoked, or terminated, and no beneficiary is a minor or corporation; and c) that he has been directed by all beneficiaries to execute and deliver this deed on behalf of the Trust.

Being a portion of the premises conveyed to the grantor by Deed recorded at the Middlesex County South District Registry of Deeds in Book 28328, Pages 134 and 144.

IN WITNESS WHEREOF, this 1st day of October, 2015.

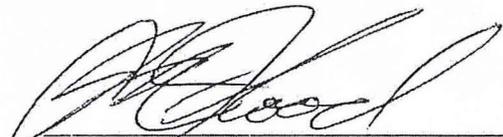

A.A. Farooq Ansari, Trustee of the
Waters Edge Realty Trust

COMMONWEALTH OF MASSACHUSETTS

County of: Middlesex Oct 1, 2015

On this 1st day of October, 2015, before me, the undersigned notary public, personally appeared A.A. Farooq Ansari, Trustee of the Waters Edge Realty Trust, and proved to me through satisfactory evidence of identification, which was a Massachusetts Operator's License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.




Notary Public

ORDERED:

That the City Council of the City of Marlborough (GRANTEE), pursuant to the provisions and conditions of Mass. Gen. Laws c. 40, § 8C, does hereby accept from A.A. Farooq Ansari, Trustee of Waters Edge Realty Trust (GRANTOR), the open space in the City of Marlborough known as Open Space Parcel "A," Open Space Parcel "B," and Open Space Parcel "C," as shown on sheet 3 of a 3-page plan entitled "Plan of Acceptance of Easements, Open Space, Worster Drive, Beauregard Circle, Gaucher Circle and Perolman Drive, in Marlborough, MA," prepared by Thomas Land Surveyors and Engineering Consultants, Inc., 265 Washington Street, Hudson, MA 01749, prepared for Ansari Builders, 6 Edgewood Road, Westborough, MA., dated May 16, 2006 (on sheet 3), with latest revision date of February 2, 2012, Scale 1" = 80' (on sheet 3), as more fully described on the said plan which is to be recorded.

Said open space is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation of open space. The open space parcels of land are intended to remain in their natural state, in perpetuity, except as the Marlborough Conservation Commission may deem appropriate as to trail development for non-motorized vehicles.

Acceptance of this open space is subject to all terms and conditions of a Special Permit granted on or about May 5, 1997 by the Planning Board of the City of Marlborough and a covenant approved on February 9, 1998 by the Planning Board of the City of Marlborough, both of which are attached hereto and incorporated herein by reference.

ADOPTED

In City Council

Order No. 15-

X04/05-100439

Adopted

Approved by Mayor

Arthur G. Vigeant

Date:

A TRUE COPY

ATTEST:

GRANTING OF SPECIAL PERMIT
CONCEPT PLAN OPEN SPACE DEVELOPMENT

DECISION

The Planning Board of the city of Marlborough voted to GRANT a Special Permit to Ansari Builders, Inc. on May 5, 1997 under Ch. 200, Section 25.3 of the Marlborough Zoning Ordinance, Open Space Developments.

NAME OF APPLICANT: Ansari Builders, Inc.
6 Edgewood Road
Westborough, MA 01581

NAME OF OWNER: Walter Morse, Joyce Morse & Morse Estates
Francis Russell, Mountain, Dearborn & Whiting
370 Main Street
Worcester, MA 01608

NAME OF SURVEYOR: Thomas DiPersio
Thomas Land Surveyors & Engineering Consultants Inc.
118 Forest Street
Hudson, MA 01749

LANDSCAPE ARCHITECT: Ron Wood
Guidelines
4B Damonmill Square
Concord, MA 01742

LOCATION OF PROPERTY: 29.9 acres of land on the northwesterly side of Stevens Street adjacent to Holt's Grove and across from Lodi Road. Assessor's Map 18, Parcels 93, 133 & 134.

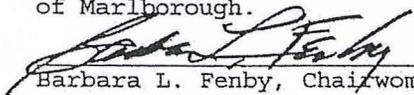
VOTE: In Favor:
In Opposition:
Abstained:

DECISION FILED WITH
CITY CLERK:

May 20, 1997

APPEALS

Appeals, if any, shall be made pursuant to M.G.L. Ch. 40A, Section 17 and shall be filed within twenty (20) days after the date of the filing of this Notice of Decision in the Office of the City Clerk of the City of Marlborough.


Barbara L. Fenby, Chairwoman

CITY OF MARLBOROUGH
PLANNING BOARD

SPECIAL PERMIT DECISION

The Planning Board of the City of Marlborough hereby grants a Special Permit to Ansari Builders, Inc. of 6 Edgewood Road, Westborough, Massachusetts, hereinafter referred to as the Applicant, under Chapter 200, Section 25.3 of the Marlborough Zoning Ordinance, Open Space Developments.

FINDINGS OF FACT

1. Ansari Builders, Inc., a Massachusetts corporation with a principal place of business at 6 Edgewood Road, Westborough, Massachusetts is the Applicant.
2. The Applicant on or about May 20, 1996 filed with the Planning Board and the City Clerk of the City of Marlborough an application for a Special Permit under Chapter 200 (Zoning) of the Code of the City of Marlborough, Article VI, Section 200--25.3, Open Space Development.
3. The proposed location of the so-called "Water's Edge" project is a 29.9 acre parcel of land located on the northerly side of Stevens Street, comprised of two parcels, one owned by Walter Morse and Joyce Morse and the other by Francis Russell, Esquire, duly appointed Commissioner by the Middlesex Probate Court; and said property is identified as Parcels 93, 133 & 134 on Assessors' Map 18.
4. The Applicant filed a concept plan entitled, "Water's Edge, Stevens Street, Marlborough, MA", dated May 22, 1996, and stamped by Ronald P. Wood, Registered Landscape Architect, Thomas P. DiPersio, Registered Professional Land Surveyor, and Joseph H. Rego, Registered Professional Engineer.
5. The Planning Board held a public hearing pursuant to the requirements of Massachusetts General Laws Chapter 40A on June 24, 1996. The notice of the public hearing was advertised in the Marlborough Enterprise, and notices were sent to abutters as required by law.
6. The Applicant presented testimony at the public hearing describing the project and compliance with the requirements of Chapter 200--25.3. Testimony from abutters present was also heard.
7. A report from the City of Marlborough Conservation Commission has been received and reviewed as required under Section H(6) of Chapter 200--25.3. Written comments have also been received and reviewed from the City Engineer, Fire Chief, and Police Lieutenant.
8. The Conservation Commission has determined that the plan will require the filing of either a Notice of Intent or Request for Determination of Applicability as there are wetlands on the

property which fall within 100 feet of the proposed lots and proposed roadway which may require protection under the Massachusetts Wetland Protection Act.

9. The Water's Edge Subdivision is a proposed 50 lot subdivision, of which seven of the lots on Stevens Street, an existing public way in the City of Marlborough.
10. Lots will be located within the A-2 zoning district.
11. The Applicant proposes to set aside 9.33 acres of open space which represents 34.9 percent of the total project site. The open space as shown on said plan satisfies the open space dimensional requirements of Section F(6) of Chapter 200--25.3.
12. Subsequent to submission, the concept plan has been revised, most recently on May 2, 1997. The most recently revised plan shows the following:
 - (a) Addition of drainage and sewer to profile views.
 - (b) Addition of water main locations to plan views.
 - (c) Preparation of plan and profile of Steven Street modification.
 - (d) Minor adjustments to lot lines to accommodate required rectangle shape in the lots fronting on Stevens Street.
 - (e) Adjustment to the roadway to increase the open space area on the southeast side of the project and the addition of a planting strip.
 - (f) Addition of note regarding zoning compliance at the Definitive Plan stage.

DECISION, CONDITIONS AND FINDINGS

13. The Planning Board approves the creation of 50 building lots of which 7 lots front on Stevens Street; said approval pursuant to the provisions of Section C(4) of Chapter 200--25.3.
14. Final decisions on request for waivers from the Subdivision Rules and Regulations shall be made during the Definitive Plan Approval process.
15. The Applicant shall submit a written commitment from the entities identified in Section 200--25.3(G) regarding the acceptance of the open space parcel. If the City is not the accepting entity, the requirements of Section 200--25.3(G)(2) shall be satisfied. The Applicant shall demonstrate to the Planning Board's satisfaction that the entity if other than the City is institutionally and financially capable of maintaining the open space parcel. If the City of Marlborough is the accepting entity for the Open Space, the amount of Five Thousand and 00/100ths (\$5,000.00) Dollars shall be placed by the Applicant in the City of Marlborough Conservation Commission's Maintenance Fund on or before such time as the lots are released for sale or building thereon. The Applicant shall submit the Conservation restriction, maintenance program and maintenance agreement described in Section 200--

25.3(G)(2)(b), (c) and (d), to the Planning Board for review at the time of submission of the Definitive Subdivision Plan. The Planning Board shall be satisfied that the intent of Section 200--25.3 of the zoning ordinance is satisfied before approving the Definitive Plan.

16. Title to the Open Space Parcel must be clear and a site assessment for hazardous waste pursuant to the provisions of Massachusetts General Laws Chapter 21E shall be performed prior to transferring Open Space ownership from the Applicant. The Applicant shall be responsible for paying for said 21E assessment.
17. The Definitive Subdivision Plan shall adequately address the concerns of Police Lieutenant Either's as stated in letter dated September 6, 1996.
18. The Planning Board finds that the proposed project as conditioned by this Special Permit will meet the objectives of Chapter 200--25.3 and the design criteria of Section H(8)(b) of that Chapter will not have a substantial or unduly adverse effect upon adjacent property or the character of the neighborhood.

Planning
 Upon a vote of Board taken on May 5, 1997, the Marlborough Planning Board grants this Special Permit for Open Space Development.

Marlborough Planning Board

IN FAVOR of Special Permit:

OPPOSED to Special Permit:

Charles E. Stradford
 Charles E. Stradford
Clyde F. Johnson
 Clyde F. Johnson
Edward E. Coyne
 Edward E. Coyne
Phyllis J. Roda
 Phyllis J. Roda
Barbara L. Fenby Chairperson
 Barbara L. Fenby
Colleen M. Hughes Clerk
 Colleen M. Hughes

Middlesex, ss.

On this 19th day of May, 1997, before me personally appeared the above-named, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

Denise H. Paul
 Denise H. Paul
 Notary Public

My Commission Expires: 1/20/2000

COVENANT

The undersigned, A. A. Farooq Ansari, Trustee of Waters Edge Realty Trust, hereafter referred to as the Covenantor, having submitted to the Marlborough Planning Board a definitive plan of a subdivision entitled, "Definitive Plan of Waters Edge Subdivision of Land in Marlborough, Mass.", dated June 13, 1997 and revised through January 13, 1998, drawn by Thomas Land Surveyors and Engineering Consultants, Inc., 118 Forest Street, Hudson, MA (said plan being hereinafter called the "Plan"), in accordance with the conditions of Approval as voted by the Planning Board on December 8, 1997, does hereby covenant and agree with said Planning Board, pursuant to Massachusetts General Laws (Ter. Ed.) Chapter 41, Section 81-U, as amended that:

1. The Covenantor is the owner of the record of the premises shown on the "Plan", which is to be recorded in the Middlesex South District Registry of Deeds and is referred to herein.
2. This Covenantor shall run with the land and be binding upon the successors and assigns of the Covenantor and its successors in title to the premises shown on the "Plan".
3. The construction of ways and the installation of municipal services shall be provided to serve any and all lots in accordance with the applicable rules and regulations of said Planning Board before any such lot may be built upon or conveyed, other than by mortgage deed; provided, however, that a mortgagee who acquires title to the mortgaged premises or any part thereof may sell any such lot, subject only to that portion of this Covenant which provides that no lot so sold shall be built upon until such ways and services have been provided to serve such lot.
4. Nothing herein shall be deemed to prohibit a conveyance subject to this Covenant, by a single deed, of the entire parcel of land shown on the "Plan" or all lots not previously released by the Planning Board without first providing such ways and services. A deed of any part of the premises shown on the "Plan" in violation of any portion of the above referenced statute shall be voidable by the grantee prior to the release of the Covenant, but not later than three (3) years from the date of such deed.
5. The Covenantor agrees to the easements shown on the "Plan" and will grant to the City of Marlborough the easements shown. Further, the Covenantor will submit to the City Solicitor's Office a written Attorney's Certification of Title to such easements to the City of Marlborough, specifying that the Covenantor has good and marketable title to said easements and that said easements are free and clear of all encumbrances as of the time of conveyance to the City. Said Certificate shall be required precedent to consideration by the City to accept and streets, ways, or roads as shown on the "Plan".
6. Prior to the release by the Planning Board of any lots shown on the "Plan" from the terms of this Covenant, the Covenantor

shall deposit with the City of Marlborough a Performance Bond in an amount to be determined by the Planning Board, said bond to be secured by the posting of cash, or by surety company bond or by such other form of security as may be approved by the Planning Board. Said bond shall be to secure the performance by the Covenantor of the construction of the ways and the installation of municipal services as required by the Approval of the "Plan", within the time requirements as stipulated herein: The amount of the bond may be reduced from time to time by said Planning Board. However, due to present and anticipated future inflationary conditions, the amount of the Performance Bond is subject to annual redetermination by the Planning Board.

7. Pursuant to Rules and Regulations of the Planning Board, Section III (B)(7)(a), as amended, such bond or security, when filed or deposited shall be reviewed as to form and manner of execution by the City Solicitor's Office, and as to sureties by the City Treasurer.
8. No lot shall be built upon until such time as it has been approved by the Marlborough Board of Health.
9. No lot shall be sold or built upon until released by the Planning Board after acceptable bonding. If at any time said bonding as required in Paragraph 6 expires, then all lot releases of lots not transferred to third party purchasers or mortgaged subsequent to release, shall be void.
10. Pursuant to Massachusetts General Laws (Ter. Ed.) Chapter 41, Section 81R, as amended, the Planning Board has not agreed to waive compliance with its Rules and Regulations, except as follows:
 - (a) To grant a waiver from the Subdivision Rules and Regulations Section IV.4.(b) - Grade - to allow a sight distance not less than 185 feet, in lieu of the required 200', at the intersection of Stevens Street and Perolman Drive;
 - (b) To grant a waiver from the Subdivision Rules and Regulations Section IV.2.(a) - Alignment - to allow a 130 feet centerline offset in lieu of the required 150 feet;
 - (c) To grant a waiver from the Subdivision Rules and Regulations Section IV.4.(b) - Grade - to allow the increase of the roadway grade on Worster Drive from 8% to 8.5% from sta. 3+50 to sta. 6+00 and to 9% from sta. 18+00 to sta. 20+25;
 - (d) To grant a waiver from the Subdivision Rules and Regulations Section III.2.(k) - Comparative Impact Analysis, such that no Comparative Impact Analysis is required;

(e) To grant a waiver from the Subdivision Rules and Regulations Section II.F.2.(b) - Adequate Access - Stevens Street - in lieu of the requirements listed in this section, the developer shall be responsible for resurfacing the full width of Stevens Street from curb to curb for any limit of work associated with the Waters Edge project which disturbs pavement in Stevens Street in conjunction with the project.

Said Planning Board has made these waivers after determining that such action is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law and with the Planning Board Rules and Regulations.

11. The construction of all ways and the installation of all municipal services shall be completed in accordance with the applicable Rules and Regulations of the Planning Board within a period of two (2) years from the date of approval of the "Plan". Failure to so complete or to obtain an extension shall automatically rescind approval of the "Plan" as to lots not yet released from this Covenant and full re-application for approval of such lots will be required.
12. Upon the proper completion of all improvements and their approval by the City Engineer, and if said improvements comply with all then applicable state laws, city ordinances, and Planning Board Rules and Regulations and requirements, the City may then, and only then, accept the improvements.
13. The Covenantor will retain ownership of the fee interest in and all streets, ways and roads in the subdivision as shown on the "Plan" until such time as said streets, ways and roads may be accepted as public ways by the City Council of the City of Marlborough.

The Covenantor agrees to include the following paragraph in all deeds to lots within the subdivision:

"Grantor reserves to his or her benefit, the fee simple in the proposed rights-of-way within the subdivision and also reserves to his or her benefit any easements within the proposed lots of the subdivision which are shown on the "Plan". Grantor also reserves the right, upon written approval of the Planning Board, to relocate easements shown on the "Plan", within a lot, as conditions and local regulation require and permit.

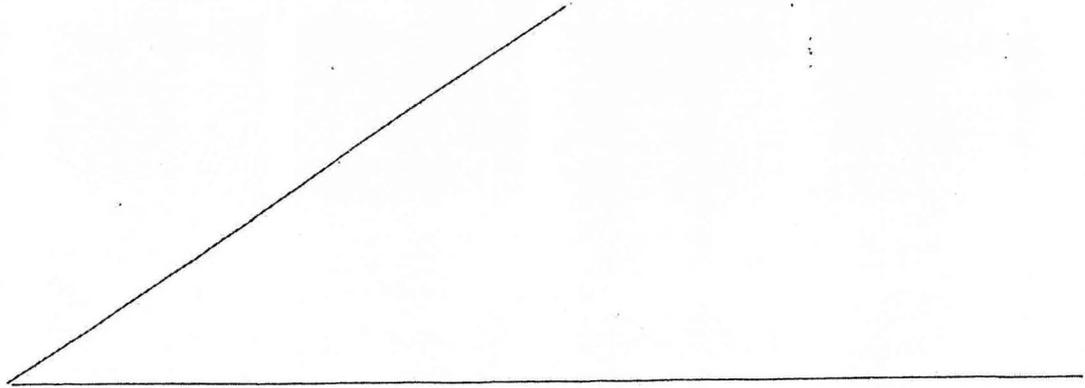
14. The Covenantor shall prepare a grant of authority to the Marlborough Police Department to enforce all traffic regulations dictated by the traffic signage approved and shown on the "Plan", during the period the roads are private ways.
15. The City of Marlborough shall not be responsible for the maintenance and care of streets, ways, or roads or other improvements, until the same have been accepted. In emergency situations as determined by the City Engineer, the City of Marlborough may take steps to correct a condition(s) within

the subdivision which, if not corrected, would jeopardize public health and safety. In these instances, any and all costs so incurred by the City to correct said condition(s), shall be reimbursed to the City within thirty (30) days of notice to the Covenantor. Failure to reimburse the City within this period of time will be considered cause to rescind approval of the subdivision "Plan".

16. All as-built plans and profiles pertaining to the above-described "Waters Edge" shall be submitted to the City Engineer soon after the completion of said subdivision, the streets, ways, and roads of which will not be considered for acceptance until such plans and profiles have been approved by the City Engineer. Copies of all the site plans prepared for each of the individual building lots shall be forwarded to the Streets and Engineering Division and to the Planning Board at the time they are submitted to the Building Inspector for a Building Permit.
17. Prior to the execution of this Covenant, the Covenantor agrees to submit a work schedule, and a progress report every month after the commencement of work, to the City Engineer, with copies to the Planning Board, until said subdivision has been completed. Said progress reports shall be delivered to the Planning Board prior to the third Monday of each and every month.
18. If the City, by its Planning Board, determines that there is a violation of the applicable state laws, city ordinances, Planning Board Rules and REgulations and/or the terms and provisions of this Covenant, it shall seek a cease and desist order after proper application to a court of competent jurisdiction, and it shall seek any and all other equitable and legal relief it deems necessary. If in the opinion of the Covenantor, there has not been a violation of said applicable state laws, city ordinances, Planning Board Rules and Regulations, or the terms and provisions of this Covenant, nothing herein shall be construed as the Covenantor's consent to cease and desist from work on the Subdivision without Court Order.
19. The Covenantor's applications, all plans and profiles, calculations, and other supporting data relating to the "Plan", state laws, city ordinances, Planning Board Rules and Regulations and all terms, provisions, and conditions of final approval of the "Plan" are incorporated herein by reference, as if set forth in full, except as expressly modified herein.
20. This Covenant shall take effect upon the approval of the "Plan".
21. Reference to this Covenant shall be entered upon said "Plan" and the Covenant shall be recorded prior to the "Plan". The Covenantor further agrees that it shall cause two certified copies of this Covenant as recorded at the Middlesex South District Registry of Deeds to be delivered to the City

Solicitor's Office and the Planning Board Office, City Hall,
Marlborough, Massachusetts.

22. The provisions of this Covenant are severable, and if any of these provisions shall be held to be illegal or unconstitutional by any Court of competent jurisdiction, then the remaining provisions of this Covenant shall continue in effect.
23. Prior to the release of any lots the applicant shall deed to the City of Marlborough those parcels of land shown as "Open Space" on the Definitive Subdivision Plan, and said parcels are to be used for conservation and passive recreation purposes.
24. The Covenantor shall comply with the terms, requirements, and conditions of the Special Permit - Concept Plan Open Space Development as approved by the City of Marlborough Planning Board on May 5, 1997, under Chapter 200, Section 25.3 of the Marlborough Zoning Ordinance, Open Space Developments. The terms, requirements and conditions of said Special Permit are incorporated herein by reference as an integral part of this Covenant.
25. A walking trail shall be provided for in Open Space A, B and C according to said plan. The trail shall be planned and constructed by the applicant in accordance with instructions from the Conservation Commission. Vehicle barriers shall be provided if deemed necessary by the City Engineer. Wooden signs shall be placed at each trail head entrance on the roadway, and along the trail, if needed, to identify the open space and note any use restrictions. Signs shall be constructed by the applicant in accordance with instructions from the Conservation Commission.



EXECUTED AS A SEALED INSTRUMENT this 9th day of February, 1998.

Covenantor: A.A. Farooq Ansari
A. A. Farooq Ansari
Trustee, Waters Edge Realty Trust

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

February 09, 1998

Then personally appeared the above-named A. A. Farooq Ansari, Trustee and acknowledged the foregoing instrument to be the free act and deed of Waters Edge Realty Trust, before me.

David H. Davidson
DAVID H. DAVIDSON, Notary Public
My Commission Expires: 3/28/2003

Approved and Accepted: February, 1998
Marlborough Planning Board, City of Marlborough

[Signature] _____
[Signature] _____
[Signature] _____
[Signature] _____

Being a Majority



IN CITY COUNCIL

Marlborough, Mass., FEBRUARY 8, 2016

ORDERED:

That the City Council work with the Building Commissioner, Code Enforcement Officer and City Solicitor on the drafting of an ordinance to ensure that prompt remedial action is taken after a devastating event. Such an ordinance would provide tools for the Code Officer and other municipal officials to work with insurance companies and/or other professionals to expedite insurance and legal matters associated with such losses. The Broad Street fire has shown the need for tighter controls when nearby residents also suffered after this tragic loss when the burnt out remains of the property stood long after the fire to become a blighted, rodent infested, odorous site, be and is herewith refer to **LEGISLATIVE AN LEGAL AFFAIRS COMMITTEE.**

ADOPTED

ORDER NO. 16-1006458

Lisa Thomas

From: City Council
Sent: Wednesday, February 3, 2016 4:57 PM
To: Lisa Thomas
Cc: Steven Kerrigan; Lisa Thomas
Subject: Order from Councilors Juairé and Tunnera for February 8, 2016 Agenda: Ordinance to ensure prompt remedial action after devastating event

Ordered:

That the City Council work with the Building Commissioner, Code Enforcement Officer and City Solicitor on the drafting of an ordinance to ensure that prompt remedial action is taken after a devastating event. Such an ordinance would provide tools for the Code Officer and other municipal officials to work with insurance companies and/or other professionals to expedite insurance and legal matters associated with such losses. The Broad Street fire has shown the need for tighter controls when nearby residents also suffered after this tragic loss when the burnt out remains of the property stood long after the fire to become a blighted, rodent infested, odorous site.

Submitted by Councilors Juairé and Tunnera
For Agenda: February 8, 2016



IN CITY COUNCIL

FEBRUARY 22, 2016

Marlborough, Mass.,

ORDERED:

That the Communication from the Mayor re: Assistant Building Commissioner position be and is herewith refer as follows:

Chapter 7, §76-Ordinance pertinent to Building Department, be and is herewith refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 7, ENTITLED "BUILDING DEPARTMENT," OF ARTICLE XIV, AS FOLLOWS:

A. Chapter 7 is hereby amended by deleting section 7-76 in its entirety and replacing it with the following:

§ 7-76 Assistant Building Commissioner; Appointment of Local Inspectors.

A. The Mayor may employ an Assistant Building Commissioner who shall assist in the performance of the duties of the Building Commissioner. The Assistant Building Commissioner shall be certified as a Building Commissioner or a Local Inspector, and shall meet the requirements and qualifications established by the Massachusetts Board of Building Regulations and Standards as defined by Section 3 of Chapter 143 of the Massachusetts General Laws.

B. The Mayor shall employ local inspectors, as necessary, to support the mission and duties of the Building Department. Local inspectors shall be under the direction of the Building Commissioner and the Assistant Building Commissioner. Local inspectors shall meet the requirements and qualifications established by the Massachusetts Board of Building Regulations and Standards as defined by Section 3 of Chapter 143 of the Massachusetts General Laws.

Chapter 125, §6-Ordinance pertinent to Compensation Schedule, be and is herewith refer to **FINANCE COMMITTEE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, ACTING UPON A RECOMMENDATION OF THE MAYOR, THAT THE CODE OF THE CITY OF MARLBOROUGH (HEREINAFTER, THE "CITY CODE"), AS AMENDED, BE FURTHER AMENDED BY AMENDING IN CHAPTER 125, ENTITLED "PERSONNEL," SECTION 6, ENTITLED "COMPENSATION SCHEDULE," AS FOLLOWS:

| Position | Step 1 | Step 2 | Step 3 | Step 4 | Step 5 | Step 6 | Step 7 / Max |
|---------------------------------|--------------|----------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| | <i>Start</i> | <i>6 months of service</i> | <i>1 year of service</i> | <i>2 yrs. of service</i> | <i>3 yrs. of service</i> | <i>4 yrs. of service</i> | <i>5 yrs. of service</i> |
| Assistant Building Commissioner | \$70,000.00 | \$71,400.00 | \$72,828.00 | \$74,284.56 | \$75,770.25 | \$77,285.66 | \$78,831.37 |

ADOPTED

ORDER NO. 16-1006466



RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

FEB 18 A 11:42

City of Marlborough

Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610
www.marlborough-ma.gov

Arthur G. Vigeant
MAYOR

Nicholas J. Milano
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

8

February 18, 2016

City Council President Edward J. Clancy
Marlborough City Council
140 Main Street
Marlborough, MA 01752

LH 7,576
Fin 125,576

Re: Building Department – Assistant Building Commissioner

Honorable President Clancy and Councilors:

Please find enclosed for your review and approval an order to create an Assistant Building Commissioner position to replace one of the two Local Inspector positions within the Marlborough Building Department. I have also enclosed a letter from Building Commissioner Bob Camacho, a job description for the position, and a salary ordinance.

Commissioner Camacho and his predecessor both recommended restructuring the Department to include an Assistant Building Commissioner position. As Commissioner Camacho notes in the attached letter, the position would mean there is a second qualified individual who can make critical decisions when the Building Commissioner is unavailable and who can assist with the day-to-day operations of the Department.

The Building Department will continue to have three full-time inspectors comprised of the Building Commissioner, Assistant Building Commissioner, and the Local Inspector, but the management structure of the Department will be improved.

The City has experienced enormous economic growth and investment into properties across the City in recent years. As a result, the volume of building permits and required inspections has remained high. This reorganization will help the Building Department function at a high level.

In addition to creating a tiered management structure, this change will create a natural succession plan for future years: each position will have a growth opportunity and will enable us to retain experienced Local Inspectors.

With your approval of this change, my FY2017 Budget Recommendation will include funding for the Building Commissioner, Assistant Building Commissioner, and a Local Inspector beginning July 1, 2016.

I look forward to discussing this reorganization with you, but if you have any questions in the meantime, please do not hesitate to contact me or Commissioner Camacho.

Sincerely,

A handwritten signature in black ink, appearing to read "Arthur G. Vigeant", with a long horizontal flourish extending to the right.

Arthur G. Vigeant
Mayor

Enclosures



City of Marlborough
BUILDING DEPARTMENT

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3776 Facsimile (508) 460-3736
building_dept@marlborough-ma.gov

ROBERT F. CAMACHO- C.B.O.
BUILDING COMMISSIONER

PATRICK DAHLGREN
BUILDING INSPECTOR

DOUGLAS SCOTT
BUILDING INSPECTOR

RICHARD DESIMONE
PLUMBING & GAS INSPECTOR

JOHN CAIN WIRING
INSPECTOR

February 12, 2016

Mayor Vigeant

Re: New Position Proposal

I would like to submit a request/proposal to create a new position in the Building Department, that of "Assistant Building Commissioner". This position is critical in the day to day operations and enforcement of the Massachusetts State Building Code and maintaining continuity within the department.

The Building Department continues to be a very busy office and creating this position would enable us to continue improving operations with a new staff structure.

Having a second qualified individual in command who can make critical decisions when the Building Commissioner is unavailable and assist with the day to day operations of the Building Department is extremely important. This individual would report directly to the Building Commissioner.

Sincerely

Robert F. Camacho-C.B.O.
Building Commissioner
Marlborough .MA 01752
508-460-3776
rcamacho@marlborough-ma.gov

Cc: File

ORDERED:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 7, ENTITLED "BUILDING DEPARTMENT," OF ARTICLE XIV, AS FOLLOWS:

- A. Chapter 7 is hereby amended by deleting section 7-76 in its entirety and replacing it with the following:

§ 7-76 Assistant Building Commissioner; Appointment of Local Inspectors.

- A. The Mayor may employ an Assistant Building Commissioner who shall assist in the performance of the duties of the Building Commissioner. The Assistant Building Commissioner shall be certified as a Building Commissioner or a Local Inspector, and shall meet the requirements and qualifications established by the Massachusetts Board of Building Regulations and Standards as defined by Section 3 of Chapter 143 of the Massachusetts General Laws.

- B. The Mayor shall employ local inspectors, as necessary, to support the mission and duties of the Building Department. Local inspectors shall be under the direction of the Building Commissioner and the Assistant Building Commissioner. Local inspectors shall meet the requirements and qualifications established by the Massachusetts Board of Building Regulations and Standards as defined by Section 3 of Chapter 143 of the Massachusetts General Laws.

ADOPTED
In City Council
Order No. 16-

Adopted:

Approved by Mayor
Arthur G. Vigeant
Date:

ORDERED:

Be it ordained by the City Council of the City of Marlborough, acting upon a recommendation of the Mayor, that the Code of the City of Marlborough (hereinafter, the "City Code"), as amended, be further amended by amending in Chapter 125, entitled "Personnel," Section 6, entitled "Compensation Schedule," as follows:

| Position | Step 1 | Step 2 | Step 3 | Step 4 | Step 5 | Step 6 | Step 7 / Max |
|---------------------------------|---------------|----------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| | <i>Start</i> | <i>6 months of service</i> | <i>1 year of service</i> | <i>2 yrs. of service</i> | <i>3 yrs. of service</i> | <i>4 yrs. of service</i> | <i>5 yrs. of service</i> |
| Assistant Building Commissioner | \$70,000.00 | \$71,400.00 | \$72,828.00 | \$74,284.56 | \$75,770.25 | \$77,285.66 | \$78,831.37 |

ADOPTED
In City Council
Order No. 16-

Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:

City of Marlborough

Assistant Building Commissioner Job Description

DEPARTMENT: Building Department/Inspectional Services

JOB TITLE: Assistant Building Commissioner

SALARY: TBD

SUPERVISION RECEIVED: Reports directly to the Building Commissioner

DESCRIPTION DATE: February 3, 2016

SUMMARY OF POSITION: Under the Direction of the Building Commissioner this position assumes all the responsibilities of a "Local Inspector" enforcing the provisions of the Massachusetts State Building Code (780 CMR), the Massachusetts Architectural Access Board (521CMR), the Massachusetts State Sanitary Code, 105 CMR 410, other applicable codes adopted by the State, Chapter 40A as well as the City of Marlborough's Zoning Regulations and Ordinances for the safety and protection of the general public. Works under the administrative direction of the Building Commissioner to assist with the day to day activities of the department.

SUPERVISORY DUTIES: This position reports all activities directly to the Building Commissioner in accordance with applicable provisions of the Massachusetts State Building Code, General Laws and Local Ordinances. Professionally coordinates enforcement with the Building Department staff and other appropriate Municipal Departments in the extended absence or unavailability of the Building Commissioner following established Departmental Policy & Procedures. Performs highly responsible functions of a technical nature requiring considerable judgment in the application, interpretations and enforcement of the Massachusetts State Building and related codes, zoning ordinances and other applicable regulations. This is a confidential, managerial position.

MAJOR RESPONSIBILITIES: The Assistant Commissioner shall: enforce all of the provisions of 780 CMR, 521 and any other state and or local statutes, rules, regulations, ordinances or bylaws which empower a building official; act on any question relative to the mode or manner of construction and materials to be used in the construction, reconstruction, alterations, repair, demolition, removal, installation of equipment and the location, use, occupancy and maintenance of all building and structures, except as otherwise specifically, provided for by statutory requirements or as provided for in 780 CMR; receive and process applications, issue permits for the construction, reconstruction, alteration, repair, demolition, removal or change in use or occupancy of buildings and structures and inspect the premises for which such permits have been issued and enforce compliance with the provisions of 780 CMR & 105 CMR 410 as applicable; issue all necessary notices or orders to ensure compliance with 780 CMR, 105 CMR 410 and ordinances, bylaws and regulations that empower a Building Official; shall coordinate enforcement & compliance with office staff, outside agencies and all municipal departments; permit Granting Authorities or Boards and conduct such inspections as deemed necessary to ensure compliance with said regulations; inspect and investigate and or appropriately assign in the absence or unavailability of the Building Commissioner all zoning issues and locally adopted codes or ordinances as dictated by office policy and procedures as established by the Building Commissioner and Department Staff.

SPECIFIC DUTIES: As assigned by the Building Commissioner

1. Whenever, by reason of absence, illness, unavailability etc. of the Building Commissioner, the Assistant Commissioner shall continue to perform such duties and in doing so shall exercise all powers and assume all responsibilities of the Building Commissioner, including reporting to the Mayor. The

Assistant Commissioner shall not deviate from office Policy & Procedures but maintain said Procedures as dictated and pre-determined by the Building Commissioner and staff; provide responsible administrative supervision over all functions of the Building Department involving the planning, organizing, staffing coordination and management of the Building Department.

2. May attend meetings of the City Council or other city committees and departments as directed by the Building Commissioner concerning the operation of the Building Department and enforcement of all codes and regulations under his/her authority as Assistant Building Commissioner.
3. Meets with staff and other municipal departments as needed to provide advice, assistance and direction on administrative issues, Processing Building Permit applications and construction projects.
4. Confers as needed with the Mayor, City Council, Board of Health, Community Development, Fire & Law Departments, Planning Board or any other municipal department within the City.
5. Confers as needed with regional and/or state agencies and various organizations to advance public safety and the departments' mission of addressing Public Safety by way of enforcement of all related codes.
6. Respond to after-hour calls and inspections requests from Police Department, Fire Department and Building Commissioner.
7. At all times must wear proper attire and carry identification that immediately identifies him/her as a Building Official.

MINIMUM QUALIFICATIONS FOR THE POSITION: Prior to appointment, Applicants shall be certified as a Local Inspector in accordance with the provisions of M.G.L. c.143: Section 3, and working in the capacity as a "Local Inspector" for at least two years prior to the appointment. Assistant Building Commissioner shall also become certified as a Building Commissioner by the Board of Building Regulations and Standards under the provisions of 780 CMR R7: Rules and Regulations for the Certification of Building Commissioners, within eighteen (18) months of being appointed.

RELATED EXPERIENCE & QUALIFICATIONS: Working knowledge of personal computers and Microsoft Office, basic filing skills, blueprint reading, customer service skills, appropriate math and writing skills. Must also have a reliable vehicle and valid Massachusetts Drivers' License. Have the ability to effectively present information and respond to questions, write violation notices, reports and business correspondence. Be prepared to follow through with all complaints and violations until resolved. Shall possess management and conflict resolution skills while assisting staff and Inspectors as needed on a daily basis.

PHYSICAL REQUIREMENTS: Inspecting construction projects that require close visual attention and concentration. The job may also require climbing ladders and accessing areas in limited spaces.