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Essex ss. Land Court June 7, 2018
A true copy of Land Court Document 118071
Certificate 17980 Book Page
Registered 06/11/18 at 10 H. 07 M. A M

Doc#:118,071 06-07-2018 10:07
Ctf#:17980

Attest: *M. Paul Lannuccillo*
Register of Deeds

Bk 15504 Pg 131 #13061
06-07-2018 @ 11:58a
Essex North Registry

KNOW ALL MEN BY THESE PRESENTS

This instrument is intended as a restriction on a certain approved 8-lot Definitive Subdivision Plan entitled "Monarch Woods" dated August 30, 2016 (revised) through November 4, 2016 as prepared by Marchionda & Associates, L.P. See Exhibit A attached.

The plan was filed with the Planning Board on August 31, 2016. The Public Hearing was held on September 27, 2016, and the plan approved on December 13, 2016.

The definitive plan was approved subject to the following conditions:

General Conditions

1. For purposes of this approval the subdivision shall be defined as all features depicted on the plans described under condition number 2; the developer shall be defined as the applicant, Twin Birch Development and its assigns or successors in title to the development, and all contractors and subcontractors under control of or in service to the developer;
2. The construction and grading of the subdivision and all activities associated therewith shall be in conformance and compliance with the information, details, notations, grading and features shown on the following plans, drawings and documents prepared by Marchionda & Associates, L.P.;
 - a. Sheet 1 of 15, Cover Sheet, dated August 30, 2016, revised through November 4, 2016;
 - b. Sheet 2 of 15, Legend and Notes, dated August 30, 2016, revised through November 4, 2016;
 - c. Sheet 3 of 15, Existing Conditions Plan, dated August 30, 2016, revised through November 4, 2016;
 - d. Sheet 4 of 15, Plan of Land, dated August 30, 2016, revised through November 4, 2016;
 - e. Sheet 5 of 15, Grading & Drainage Plan, dated August 30, 2016, revised through November 4, 2016;
 - f. Sheet 6 of 15, Utility, dated August 30, 2016, revised through November 4, 2016;
 - g. Sheet 7 of 15, Plan & Profile, dated August 30, 2016, revised through November 4, 2016;

- h. Sheet 8 of 15, Erosion and Sediment Control, dated August 30, 2016, revised through November 4, 2016;
 - i. Sheet 9 of 15, Construction Details, dated August 30, 2016, revised through November 4, 2016;
 - j. Sheet 10 of 15, Construction Details, dated August 30, 2016, revised through November 4, 2016;
 - k. Sheet 11 of 15, Construction Details, dated August 30, 2016, revised through November 4, 2016;
 - l. Sheet 12 of 15, Construction Details, dated August 30, 2016, revised through November 4, 2016;
 - m. Sheet 13 of 15, Construction Details, dated August 30, 2016, revised through November 4, 2016;
 - n. Sheet 14 of 15, Construction Details, dated August 30, 2016, revised through November 4, 2016;
 - o. Sheet 15 of 15, Construction Details, dated August 30, 2016, revised through November 4, 2016;
3. Sheet 4 of said plan entitled, Plan of Land, dated August 30, 2016 revised through November 4, 2016, as prepared by Marchionda & Associates, L.P.; and an instrument containing these conditions, shall be recorded at the Northern Essex Registry of Deeds pursuant to the requirements of the Subdivision Rules and Regulations of the Andover Planning Board;
4. Prior to the recording of the definitive plan, the applicant shall provide to the Planning Department a digital file containing the plan if produced using computer aided drafting and design (CADD) software. The file format shall be in AutoCAD DWG (or ASCII DXF) version 2004 or earlier and Adobe PDF, delivered on CD-ROM or DVD-R media AutoCAD file delivery shall be in full model view and individual sheet views. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet. A review of the digital file shall be made by the Department of Public Works prior to the recording of the definitive plan;
5. This subdivision approval is limited to eight (8) lots as shown on the plan referenced above with the possible addition of the Approval Not Required lot at 106 Ballardvale Road connecting their driveway to Monarch Lane;
6. The owner and applicant shall, pursuant to statute, have twenty (20) days following the approval action of the Andover Planning Board to file an appeal of said action, and in the absence of an appeal shall be deemed to have accepted said action and these conditions;

7. Within five (5) days of the transfer of ownership of this subdivision, in whole or in part, the developer shall notify the Andover Planning Department of the name and address of the new owner(s). The developer shall provide the new owner(s) with a copy of these conditions;
8. No permits for construction of the new dwelling may be issued by the Inspector of Buildings for any lot within this subdivision unless and until the provisions of Section V.E. of the Rules and Regulations of the Board have been satisfied. Once a building permit has been issued for any particular lot this condition will be deemed to have been complied with and considered released for that lot;
9. Any blasting operations shall require proper permits, and may not be undertaken on any weekend or holiday;
10. All grading and earth disturbance within the subdivision shall be governed by Sections VI.F.6., and VI.F.7. of the Rules and Regulations of the Board;
11. Import or export of earth materials from within the subdivision is prohibited except as may be provided for under special permit issued under Planning Board Decision SP16-03, or as otherwise allowed under the applicable provisions of the Zoning Bylaw;
12. All deeds from the owner of the subdivision shall reserve the fee in all streets shown on the plan and such fee shall be retained by the developer until conveyed to the Town;
13. Yard sprinklers or other privately owned underground devices shall not be installed within the roadway or utility easements, nor shall private recreational features be allowed within the roadway. Landscaping within the roadway in the form of grass, flowers, and small shrubbery is permitted at the risk of the lot owner, provided that such landscaping does not interfere with the use or safety of the roadway. Landscaping within the cul-de-sac island is permitted;
14. Except as herein be waived, the subdivision shall be constructed in accordance with and subject to all applicable provisions of the Rules and Regulations of the Board. The approval and these conditions shall be enforced under the provisions of Section V.H. of the Rules and Regulations of the Board;
15. Prior to the recording of the definitive plan at the Registry of Deeds the developer shall provide the Planning Department with a municipal lien certificate indicating that all taxes, assessments and charges have been paid in full as required by MGL, Chapter 60, Section 23;

Prior to Construction

16. Prior to any construction activity of any kind within the subdivision the developer shall submit for review and approval to the Planning Department a proposed construction sequence schedule, said schedule to be used as a guide to activities within the development including construction of roadways, utilities, drainage systems, stabilization, and stockpiling. This schedule once established shall not be deviated from, but may for good and demonstrated reason, be modified by agreement between the developer and the Planning Department;
17. Construction traffic associated with this subdivision shall be regulated by the Inspector of Buildings. Prior to commencing hauling operations, a hauling route shall have been reviewed and approved by the Inspector of Buildings. Any deviation from the approved route and/or scheduling once established shall require proper notification and approval from the Inspector of Buildings. Construction traffic shall be defined as large trucks hauling earth moving equipment, dump trucks, trucks hauling building materials, cement trucks, and contractors' vehicles larger than panel trucks.
18. Prior to any construction activity of any kind within the subdivision the developer shall submit for review and approval to the Planning Department a detailed schedule of the anticipated earth operations;
19. Prior to introduction of construction equipment onto the site a meeting shall be conducted between the developer, the developer's contractors, and the Planning Department, as well as the Conservation Department, and Department of Public Works for the purpose of reviewing these conditions and the construction sequence schedule;
20. Prior to any construction activities, the documents establishing the Homeowners' Association must be reviewed by Town Counsel, approved by the Planning Board and recorded at the Northern Essex Registry of Deeds. All lots within the subdivision plus the ANR lot of 106 Ballardvale Road if their driveway is connected to Monarch Lane shall be included in the HOA. The account referred in section 25c shall have been established and funded in a manner prescribed by the town. The Homeowners' Association documentation shall provide for:
 - a. Short and Long Term maintenance of the stormwater management facilities as described in the Storm Water Report dated August 30, 2016 last revised October 19, 2016;
 - b. The HOA shall be provided an easement for the 20 foot wide sanitary sewer and the HOA shall be responsible for the maintenance and repair for the portion of the shared force main within the easement area;

- c. The establishment of an account in the Homeowners' Association Name and in an amount recommended by the Town Engineer and approved by the Planning Board and secured in a manner and form approved by the Board. Following establishment, the developer shall provide the Planning Department with written proof that said account has been established running to the benefit of the Homeowners' Association. The account once established shall be kept for the purpose of maintenance, repair and/or restoration of said items with a minimum balance as recommended by the Town Engineer to be maintained at all times;
 - d. The terms and method of assessments; the method of drawing on such funds; shall restrict any alteration of those facilities; shall indemnify the Town from any responsibility or liability for maintenance and operation of those facilities; and shall further provide that the Town will be reimbursed for any expenses incurred in the event the Town is required to perform any work in or on any of the facilities;
 - e. In the event that any of the facilities are damaged to such an extent that they no longer perform its intended function, and such damage is not repaired by the Homeowners' Association, the Town shall have the right to make such repairs and lien the property owners or use any other remedy available under the law to effect the same;
 - f. The Town shall be provided with an easement to maintain and repair said facilities if necessary but all financial responsibility for any such repairs, inspections and maintenance shall be solely on the Homeowners' Association and all lot owners by virtue of their interest in said association;
21. Once paved, the roadway Monarch Lane shall be kept clear and passable at all times. No equipment shall be parked in such a manner as to render the roadway impassable, and no refuse containers, trailers, or construction materials of any kind shall be placed or stored upon the street;

Throughout Construction

22. Construction equipment or materials shall not be parked, stored, or placed in any area directly adjacent to or upgradient of any drainage channel or wetland area, nor in any cul-de-sac island. Repairs and maintenance to equipment shall be conducted in areas where no spills or leakage of fuels or other fluids could pose a pollution hazard;
23. Earth disturbed by construction activities associated with the roadway or easements, such as tree cutting, stump grubbing, cutting, filling, and regrading, shall be appropriately stabilized by methods determined by the Planning Department within sixty (60) days of such disturbance unless otherwise approved by the Planning Department;
24. No building lot shall remain in an open condition longer than sixty (60) days. "Open" shall be defined as that period of time between initial preparation of the lot for building

(clearing of trees, stripping of topsoil), and the time that the foundation has been installed, backfilled, and the rough grading has been established and stabilized by use of temporary seeding, mulching, or netting. This restriction shall remain in force until the lot has been properly stabilized and shall survive changes in ownership of the lot;

25. Stockpiles of earth materials shall not be permitted in any area, which necessitates removal of trees for such purpose, nor within fifty (50') feet of any wetland boundary, drainage channel, or watercourse. Stockpiles shall be designated on a plan, which shall be submitted to the Planning Department, said locations to be determined by the developer and approved by the Planning Department. Stockpiles shall be prohibited in areas, which have not been approved by the Planning Department;
26. Long term (more than sixty days) stockpiles of earth materials shall be shaped and secured by butted haybales around the perimeter, and shall be promptly stabilized by temporary seeding or netting. Stockpiling must be removed from the site if there has been no activity for two years;
27. Burial or burning of vegetation, stumps, or construction debris is strictly prohibited anywhere within the subdivision. Such materials shall be removed and properly disposed of off the site;
28. All construction activities within the subdivision shall be confined between the hours of 7:00 a.m., and 6:00 p.m., Monday through Friday, unless otherwise approved by the Planning Board. Once fully framed, interior construction related activities are allowed on Saturdays between 8:00 a.m. and 6:00 p.m. unless otherwise restricted or prohibited by the Inspector of Buildings in response to complaints. Construction activities include the transport of equipment, materials and supplies to and from the subdivision;
29. As field conditions warrant, berms of type and design and/or side under drains as specified by the Department of Public Works shall be installed in locations determined by the written decision of the Director of Public Works;
30. Construction activities on individual lots shall be conducted in a workmanlike manner at all times. Blowing dust or debris shall be controlled by the developer of lots through stabilization, wetting down, and proper storage and disposal methods;

Prior to Clearance Certificates

31. Prior to issuance of Clearance Certificates for lot 7 the garage located on the Open Space lot must be demolished, the area shall be stabilized and revegetated;
32. Prior to issuance of Clearance Certificates for lot 7 the gas line site work located on the Open Space must be complete, the area shall be stabilized and revegetated;

33. Prior to issuance of Clearance Certificates the pedestrian access easement over the drainage lot shall be granted to the Town of Andover, the easement shall be reviewed and approved by Town Counsel and recorded the Northern Essex Registry of Deeds;
34. Immediately following the installation of water lines the developer shall prepare a plan pursuant to Sections VII.W.3., and VIIW.4. of the Subdivision Rules and Regulations showing the location of all service connections to the building lots. The developer is responsible for the installation of the water main through the easement located on 104 Ballardvale Road. The installation of the water main through the easement shall be under the supervision of the Deputy Director of Public Work/Highway Superintend of the Department of Municipal Services or his designee to help ensure the protection of trees and their roots during the water main installation. No Clearance Certificate for any lot shall be issued until said plan has been submitted to the Department of Public Works;
35. Prior to the issuance of clearance certificates, the applicant shall submit to the Planning Department digital files of as-built plans of the features listed above, including utilities and approximate building location, following the format described in # 4 above;
36. Prior to the issuance of a Clearance Certificate for any lot, all utilities, including all off-site improvements shall have been fully constructed and approved by the Department of Public Works. Immediately following the installation of said utilities, the developer shall prepare as-built plans pursuant to Section VII.W. of the Rules and Regulations Governing the Subdivision of Land in Andover;
37. Prior to release of any Clearance Certificates for building purposes, a sign depicting "Monarch Lane" shall have been erected at a location determined by the Department of Public Works;
38. Prior to the conveyance of individual lots within the subdivision the developer shall provide the Planning Department with a surveyor's certification that temporary lot corners have been established on the ground for the lot to be conveyed. Once established, maintenance of these temporary corners shall be the responsibility of the lot owner. Upon completion of the street, and prior to the final release of any performance guarantee held, the developer shall provide the Planning Department with a surveyor's certification that all bounds and corners have been set in accordance with Section VII.U. of the Rules and Regulations of the Board;
39. The drainage areas, inlets, outlets and all associated piping shown on the plans shall be fully constructed, stabilized and operational prior to pavement of the streets and development of any house lot;

40. Prior to the issuance of any Clearance Certificates for the site, the developer shall have deposited an amount as determined by the Town Engineer and approved by the Planning Board equal to the construction cost of the sidewalk as herein waived in accordance with Section VI.D.5;
41. Prior to issuance of a Clearance Certificate of the developer shall receive a Sewer Pump Special Permit for the shared force main;

Specific Condition

42. Prior to street acceptance or once the garage and gas line site disturbance has been stabilized and revegetated the open space lot shall be conveyed to the Town under the care and control of the Conservation Commission. Said conveyance shall be free of any encumbrances, except for the reservation of any easement shown in said parcel and all taxes shall have been paid through the year of conveyance;

It was demonstrated the granting of the waivers would be in the public interest and is not inconsistent with the intent and purpose of the Subdivision Control Law. The Board grants waivers to:

- Section III.E.4.a - Original Mylar - The Board grants this waiver as it is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law (SCL) by allowing for only one set of mylars to be produced at the time of endorsement.
- Section VI.C.4.f - Cul-de-sac island – The Board grants this waiver as it is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law (SCL) because it will allow for less impervious area to be created and improve the aesthetics of the street.
- Section VI.D.2/VI.D.3/VII.Q – Sidewalks - The Board grants this waiver as it is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law (SCL) because the roadway is a length of about 770 feet and the pavement width will be 26 feet, at this site a sidewalk will not be in the public interest but by allowing the waiver a deposit of the cost of construction will be put in the Town's sidewalk fund thereby providing new sidewalk construction or repair to areas in town that will benefit.
- Section VII.G.2 – Vitrified Clay sewer mains and service –The Board grants this waiver as it is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law (SCL), the Department of Public Works would prefer PVC instead of clay for durability.

LAND COURT, BOSTON. The Land herein ~~described~~ will be shown on our approved plan to follow as

REFERRED TO

MAY 31 2018

10362-M Lots 125 THRU 129

Plan 10362-N Lots 130 THRU 140

(EXAMINED AS DESCRIPTION ONLY) CHIEF SURVEYOR

STL (JAV)

EXHIBIT A
LEGAL DESCRIPTION
REGISTERED LAND

All those certain parcels of land with the buildings thereon being the land located at and previously known as 106, 110 and 112 Ballardvale Road, Andover, Essex County, Massachusetts, being more particularly depicted as follows:

Parcel 1:

Lots 125 through 129 inclusive as shown on plan of land entitled, "Plan of Land in Andover, Mass" Sheet 1 of 1, Scale: 1"=40', Date: May 14, 2018, being a division plan of land of Lot 122 as shown on LC 10362K and Lot 124 as shown on LC 10362L creating Lots 125 through 140, Record Owners Twin Birch Development, LLC, Former Parcels C1 & C2/Formal Parcel 122 and Dana C. Scholtz & Anne Mattison, Former Lots A & 120/Formal Parcel 124, prepared by Marchionda and Associates, L.P., which plan is filed as Land Court Plan No. 10362M ("Plan 10362M").

Parcel 2:

Lots 130 through 140 inclusive as shown on plan of land entitled, "Plan of Land in Andover, Mass" Sheet 1 of 1, Scale: 1"=40', Date: May 14, 2018, being a division plan of land of Lot 122 as shown on LC 10362K and Lot 124 as shown on LC 10362L creating Lots 125 through 140, record owners Twin Birch Development, LLC, Former Parcels C1 & C2/Formal Parcel 122 and Dana C. Scholtz & Anne Mattison, Former Lots A & 120/Formal Parcel 124, prepared by Marchionda and Associates, L.P., which plan is filed as Land Court Plan No. 10362N ("Plan 10352N").

RECORDED LAND

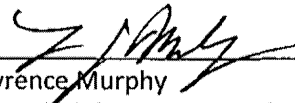
Those certain parcels of land shown as the recorded portions of Lot 6, Lot 7, Lot 8, and the Open Space, all as shown on plan of land entitled, "Plan of Land Monarch Woods in Andover, Mass." Date: August 30, 2016, revised through 8/31/17, Scale: 1"=40' and which plan is recorded with the Essex North District Registry of Deeds as Plan Number 17784 ("Subdivision Plan").

The foregoing premises are a portion of same premises described in deed from David Kindred to Twin Birch Development, LLC filed and recorded herewith and prior hereto.

CERTIFICATE OF TOWN CLERK

I, Lawrence Murphy, Town Clerk of the Town of Andover, Essex County, Massachusetts, do hereby certify that: i) the Decision of the Andover Planning Board on Application of Twin Birch Development, LLC for Approval of a Special Permit for Earth Movement originally was filed in the Town Clerk's office on December 14, 2016; ii) within twenty (20) days thereafter, an appeal was filed by Yichuan Li and Shanshan Wang, Plaintiffs, against the Andover Planning Board *et al.*, Defendants in the Land Court Department of the Trial Court (Docket No. 16 MISC 000765); iii) on February 14, 2018, said appeal in the Land Court was dismissed upon a Stipulation of Dismissal; iv) a certified copy of the dismissal of the Land Court appeal has been filed with this office; and v) no other appeal of the above-referenced Decision of the Andover Planning Board was filed within twenty (20) days from the date the Decision was filed in this office.

Executed this 22^d day of FEBRUARY, 2018.



Lawrence Murphy
Town Clerk for the Town of Andover