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03-23-2023 @ 08:46a
Essex North Registry

TOWN OF ANDOVER
DEPARTMENT OF COMMUNITY DEVELOPMENT
AND PLANNING

CERTIFICATE OF ANDOVER TOWN
CLERK PURSUANT TO MASS GENERAL
LAWS c. 41 SECTION 81V

1. On March 15, 2022 a modification of a definitive plan of a subdivision entitled Sellers Farm Estates, dated March 4, 2022 and last revised September 13, 2022, was filed with the Andover Planning Board.

2. Pursuant to G.L. c. § 81U, the Planning Board was required to take final action on said plan by July 28, 2022 extended to December 31, 2022, which latter date was agreed to upon the written request by the applicant.

3. On December 13, 2022, the Planning Board took the following action on said plan:

   a. Approved with conditions attached to this Certificate:

   ~~b. Modified and approved subject to the conditions attached to this Certificate:~~

   ~~c. Disapproved, for the following reasons attached to this Certificate:~~

   ~~d. Approved on _____ by operation of law due to the failure of the Planning Board to take final action within 90 days/135 days or within such time as was agreed to upon the written request of the applicant.~~

The approval has become final.

I, Austin Simko, the duly appointed Town Clerk of the Town of Andover, Massachusetts, do hereby certify that twenty (20) days have elapsed since the foregoing decision of the Andover Planning Board was filed in the Office of the Town Clerk on December 19, 2022 and no appeal has been filed with my office.

Date: 1-13-2023

Austin Simko, Town Clerk

ANDOVER TOWN CLERK
RCVD 2022 DEC 19 PM12:44

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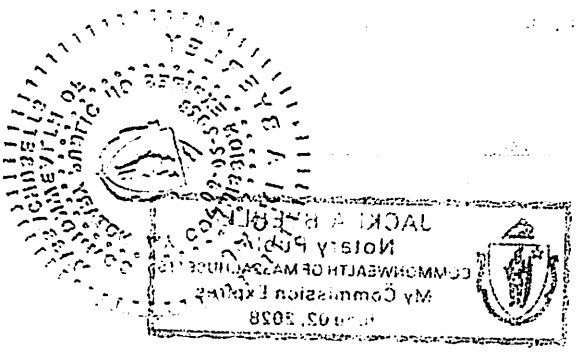
Executed this 19th, day of December, 2022, by _____ the authorized agent of the Andover Planning Board.

Essex, ss. Commonwealth of Massachusetts

On this 19th day of December, 2022, by Paul Matarazzo, the authorized agent of the Andover Planning Board, proved to me through satisfactory evidence, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the documents are truthful and accurate to the best of his knowledge and belief and who acknowledged to me that he signed it voluntarily for its stated purpose and acknowledged the foregoing to be the free act and deed of the Andover Planning Board.

Before me: _____
Notary Public
My Commission Expires:

JACKI A BYERLEY
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
June 02, 2028



TOWN OF ANDOVER

Town Offices
36 Bartlet Street
Andover, MA 01810
(978) 623-8200
www.andoverma.gov

Certified Mail

December 19, 2022

John San Cartier
5406 Tybee Island Dr
Apollo Beach, FL 33572

Re: Sellers Farm Estates – Modification of Definitive Subdivision

Dear Mr. San Cartier,

On December 13, 2022, at a regularly scheduled public meeting, the Andover Planning Board voted to grant approval to your modification of definitive subdivision plan entitled Sellers Farm Estates dated March 4, 2022, last revised September 13, 2022.

The modification of definitive plan had been submitted on March 15, 2022, was the subject of a public hearing convened on April 12, 2022, and closed on December 13, 2022. The plan is dependent on a Special Permit for Earth Movement, which was also reviewed during concurrent public hearings and approved by the Board on December 13, 2022. The Special Permit for Earth Movement will be filed with the Town Clerk separate from and subsequent to this communication.

The proposal is located in the SRB Zoning District which requires 30,000 sq. ft. of land. In 2005 the Board approved a three-lot definitive subdivision known as Sellers Farm Estates. The applicant has an option to purchase the property and has requested a modification of the plans to now depict a reduced pavement of the roadway, the elimination of the sidewalk and curbing, the elimination of the water main looping and other site work to meet the local street requirement of the Rules and Regulations.

During the public hearings held on the modification, discussion took place regarding the Interdepartmental Review, access to the AVIS property, parking for the open space access, utility connections, easements, and drainage. The applicant has responded to the concerns raised in the Interdepartmental Review by revising the plans as requested and providing appropriate documentation regarding the waivers requested and the drainage. It has been verified from the various departments that their concerns have been satisfied.

Included in the modification of a definitive subdivision application was an application for an earth movement special permit as required by the Zoning Bylaw Section 6.3. The Earth Movement Special Permit application package included information on the cut and fill calculations, material export and material import. There will be restrictions on times for trucking and the applicant will provide a trucking route for review by the Inspector of Buildings.

The plans have been revised to meet the standards of the Rules and Regulations Governing the Subdivision of Land dated January 2011.

In review of the subdivision as a whole, the Board finds the Subdivision and Special Permit are in conformance with the Subdivision Control Law, the Rules and Regulations Governing the Subdivision of Land in the Town of Andover, the recommendations of the Board of Health, and the applicable provisions of the Andover Zoning Bylaw. Further the Board finds the subdivision does not create an adverse impact on the safety of the existing street and the character of the neighborhood as it relates the design standards of the Rules and Regulations Governing the Subdivision of Land.

In consideration of all the reviews, presentations, discussions, agreements, and understandings, the Board grants final approval to the Sellers Farm Estates Modification of Definitive Subdivision Plan 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 # 2; the developer shall be defined as the applicant, LRC Builders, LLC 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. Except as otherwise provided for in these conditions the construction 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 modified plans, drawings and documents prepared by Ranger Engineering Group, Inc dated March 4, 2022, revised through September 13, 2022:

a. Cover Sheet	1 of 14
b. Notes and Legend	2 of 14
c. Lot Plan	3 of 14
d. Existing Conditions Plan	4 of 14
e. Layout and Materials Plan	5 of 14
f. Grading and Drainage Plan	6 of 14
g. Utility Plan and Profile	7 of 14
h. Highland Road Profile	8 of 14
i. Site Details	9 of 14
j. Utility Details	10 of 14
k. Drainage & Water Details	11 of 14
l. Drainage Details	12 of 14
m. Erosion and Sediment Control Plan	13 of 14
n. Erosion & Sediment Control Notes & Details	14 of 14

3. Sheet 3 of said plan entitled "Modified Definitive Plan" 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 any construction on site, the applicant shall provide to the Planning Department a digital file containing the plan listed in #2 if produced using computer aided drafting and design

(CADD) software. The file format shall be in AutoCAD DWG (or ASCII DXF) version 2020 or earlier and Adobe PDF, delivered on a flash drive or shared file 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, utilities including but not limited to water and sewer, 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. Original mylar prints of the above mentioned plans must be submitted for endorsement to the Planning Division following the statutory 20-day appeal period;

6. 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;

7. This subdivision approval is limited to three building lots as shown on the plan referenced above;

8. 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;

9. 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;

10. No permits for building 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;

11. Any blasting operations shall require proper permits, and may not be undertaken on any weekend or holiday;

12. 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, as well as the Special Permit for Earth Movement as issued under the Planning Board Decision SP22-08;

13. 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 SP22-08, or as otherwise allowed under the applicable provisions of the Zoning Bylaw;

14. Deeds for all the lots, as shown on the plan shall be granted the right to pass and re-pass over the private way;

15. 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;

16. Except as herein 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;

17. The Homeowners' Association shall outline the responsible party in perpetuity for all maintenance of the water main, drainage systems, pavement and common utilities within the Sellers Farm Road right-of-way and on the private lots as shown on the plans referenced in Condition # 2. The water lines and sewer services to the individual lots will be the responsibility of the lot it serves;

18. The street Sellers Farm Road as approved, is intended to remain as a private way in perpetuity, with lot owners responsible for snow plowing, maintenance costs, and street improvements. Any change to this condition will require approval by the Planning Board and will result in whatever design and construction changes are necessary to bring the private way in full compliance with roadway construction standards contained in the Subdivision Regulations which shall include but not be limited to the private force main being relocated out of the right of way, with lot owners responsible for improvement and maintenance costs;

19. Trash and recycling trucks will not travel on Sellers Farm Road, pick-up of trash and recycling will take place on Highland Road;

<u>Prior to Construction</u>

20. Prior to any construction activity 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;

21. 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. It shall be the developer's responsibility to inform all contractors, subcontractors, vendors, and workmen of this restriction, which shall be enforced under the provisions of Section V.H. of the Board's Rules and Regulations;

22. 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;

23. Prior to introduction of construction equipment onto the site, a preconstruction meeting shall be conducted between the developer, the developer's contractors, and the Planning Department, as well as the Conservation Department, Building Department and Department of Public Works for the purpose of reviewing these conditions and the construction sequence schedule;

24. A copy of the final Stormwater Pollution Prevention Plan (SWPPP) shall be provided to the Town at least 14 days prior to commencing of land disturbance activities;

25. A signed Illicit Discharge Compliance Statement shall be provided to the Town prior to any land disturbance;

26. Once paved, the roadway Sellers Farm Road 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;

27. 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. The Homeowners' Association documentation shall provide for:
    a. The maintenance, inspections and upkeep of the stormwater facilities on site;
    b. The maintenance, inspections and upkeep of the private way including but not limited to snowplowing and salting/sanding of the roadway;
    c. The ownership and maintenance of the common sewer force main, the individual property sewer force services, and gravity sewer mains servicing the subdivision;
    d. The maintenance, inspections and upkeep of the private water main and hydrant;
    e. Removal/placement of trash and recyclables;
    f. Shall reference the latest Long Term Pollution Prevention plan included in the Stormwater Management Report dated March 4, 2022 last revised September 13, 2022 as prepared by Ranger Engineering Group, Inc;
    g. The necessary easements to maintain the stormwater facilities and shared utilities;
    h. The establishment of an account 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 abovementioned items with a minimum balance as recommended by the Town Engineer to be maintained at all times;
    i. The terms and method of assessments and 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;
    j. 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 within 90 days of such damage, 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;
    k. 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;
    l. A provision that the bylaw and declaration cannot be amended or dissolved in any manner without approval of a majority of the Andover Planning Board;

Throughout Construction

28. 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 the cul-de-sac. 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;

29. 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. Street Sweeping of Sellers Farm Road and Highland Road shall take place throughout the day and prior to leaving the site for the day to remove any sediments tracked onto the existing ways;

30. 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;

31. Stockpiles shall be prohibited within fifty (50') feet of any wetland boundary, drainage channel or water course, and prohibited in any area which necessitates removal of trees for such purpose;

32. 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;

33. 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;

34. 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;

35. As field conditions warrant, berms of type and design specified by the Department of Public Works shall be installed in locations determined by the written decision of the Director of Public Works;

36. 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

37. Prior to issuance of any Clearance Certificates for the site, the developer shall have established a performance guarantee, which shall be used to secure proper construction and installation of the subdivision improvements and submission of as-builts. Said account shall be established 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. Upon submission of final as-builts and following a report by the Department of Public Works that all required subdivision work has been satisfactorily completed the Board may release the performance guarantee;

Specific Conditions

38. Immediately following the installation of water lines the developer shall prepare a plan pursuant to Sections VII.W.3, and VII.W.4 of the Subdivision Rules and Regulations showing the location of all service connections to the building lots;

39. Prior to release of performance guarantee, 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 Condition # 4 above;

40. 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;

41. The roadway pavement shall include a two-space parking area for public use;

42. An easement shall be granted over the entirety of the roadway to the Town to allow public access over the private way;

43. The developer shall work with the Andover Village Improvement Society (AVIS) to provide clear delineated marked access to the 10.24 acres of land owned by AVIS (Map 24 Lot 1B). This shall include clear cutting, installation, compaction and grading with stone dust at least six-feet wide over the fifteen-foot-wide easement area.

Following the statutory twenty-day appeal period, and in the absence of any appeal, the plan and an instrument containing the foregoing restrictions will be filed in the Northern Essex Registry of Deeds. The applicant is responsible for the costs associated with the Registry filings

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:

Article XIII, Sec. VI.C.4.e – The maximum number of driveways to be accessed off the local street shall be three driveways. When servicing three lots the first two driveways must occur within the first one-hundred-fifty-feet (150') along the center line of the local street right-of-way.

Article XIII, Sec. VI.C.5.d – Dead-end streets shall be provided at the closed end, with a circular turnaround having at least a one-hundred-twenty-foot (120') diameter at the property line and at least a one-hundred-foot (100') diameter for the paved roadway.

Article XIII, Sec. VI.C.5.e – Water mains in dead-end streets shall be connected to water lines in adjacent streets or developments in order to provide continuous water movement in the main, improve fire flows, provide redundancy to reduce flow interruptions and provide greater facility to make repairs.

Article XIII, Sec. VII.H.10 – New water mains shall be looped to an existing main in order to provide adequate water services for domestic use and fire protection.