

KNOW ALL MEN BY THESE PRESENTS

This instrument is intended as a restriction on a certain approved 3-lot Definitive Subdivision Plan entitled "Eden Estates" dated April 2, 2024, and last revised September 25, 2024 as prepared by DK Engineering LLC.

The Andover Planning Board voted to grant approval to the definitive subdivision plan. The definitive plan had been submitted on May 28, 2024, was the subject of a public hearing convened on June 25, 2024 and closed on November 12, 2024. 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 November 12, 2024. 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. Eden Lane is a local street to remain a private way with a 40' right-of-way, 20' of pavement, no sidewalk, the existing house at 9 Bancroft Road is not part of this subdivision, and 3 new homes to be constructed using the new roadway as their access. A Homeowners' Association (HOA) will be created for maintenance of the stormwater facility and landscaping. Over the 9 Bancroft Road house lot there is a temporary easement near the right of way for grading and a drainage easement at the rear of the property for the drain lines to the stormwater basin.

As part of the definitive subdivision application an earth movement special permit was applied for. The definitive plan involves a Special Permit for Earth Movement, which would require the cut of 2,577 cubic yards and fill of 2,189 cubic yards for a total export of 341 cubic yards. This is approximately twenty (20) truckloads.

Early in the public hearing process it was thought that there were no wetlands located on the subject property as the koi pond had a rubber lining and is not considered a wetland. During the hearing process neighbors raised concern regarding wetlands being on their property which could potentially cause a buffer zone on the subject property. The applicant has applied to the Conservation Commission for a Request for Determination of Applicability for the property address and for the surrounding properties. This review by the Conservation Commission could lead to a requirement for a Notice of Intent filing should any of the proposed work take place within a buffer zone and could also lead to a modification of the definitive subdivision. The proposed lots will be serviced by water and sewer. The water line will dead end at the hydrant, this has been approved by the Water & Sewer Superintendent and Fire Prevention after a fire flow testing determined the water flow for fire safety is sufficient. The Board conducted a review of the proposed stormwater, Horsley Witten Group was hired to conduct a peer review of the applicant's design. As proposed the stormwater will be handled through a series of swales along the roadway with drain manholes directing stormwater to a stormwater basin; utility easements are shown over the existing lot of 9 Bancroft Road and Lot 1 and an easement at the rear of Lot 2 for the creation of a drainage channel. Each of the lots will have individual roof infiltration systems; these will be maintained by the individual lot owners. The applicant has provided a landscaping plan with a maintenance plan. The landscaping plan includes plantings within the cul-de-sac island, along the road entrance and tree plantings on the individual lots. Concern over the existing mature trees on site was raised by the Board and it was determined to place a

condition to have the applicant replace the trees being cut and to relocate the existing Maple tree near the stormwater basin.

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 Eden Estates Definitive Subdivision Plan subject to the following conditions:

Conditions of Approval:

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, Eden Lane, 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 plans, drawings and documents prepared by DK Engineering, LLC., dated April 2, 2024, revised through September 25, 2024 unless otherwise noted;
 - a. Title Sheet 1 of 8
 - b. Definitive Subdivision Plan 2 of 8
 - c. Existing Conditions Plan 3 of 8
 - d. Grading & Erosion Control Plan 4 of 8
 - e. Plan & Profile Sheet 5 of 8
 - f. Detail Sheet Drainage & Erosion Control 6 of 8
 - g. Detail Sheet Miscellaneous Plan 7 of 8
 - h. Landscaping Plan prepared by Mara Landscaping Design, LLC 8 of 8
 - i. Project Report on Drainage & Sedimentation Control & Project Stormwater Report dated May 26, 2024 revised through November 1, 2024
3. Sheet 2 of said plan entitled “Definitive Subdivision 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 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 three (3) building lots as shown on the plan referenced above;
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 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;
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, as well as the Special Permit for Earth Movement as issued under the Planning Board Decision SP24-03;
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 SP24-03, or as otherwise allowed under the applicable provisions of the Zoning Bylaw;
12. The Homeowners' Association shall be responsible in perpetuity for all maintenance of the drainage systems (Parcel B and drainage easements), roadway (Parcel C) and landscaping (Parcel A) within the Eden Lane right of way as shown on the plans reference in Condition # 2;
13. 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;
14. Original mylar prints of the above mentioned plans must be submitted for endorsement to the Planning Division following the statutory 20-day appeal period;
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;
16. The developer shall save as many healthy trees as possible and will replace the trees cut to the best extent possible, the Maple tree near the stormwater basin will be relocated, while in consultation with the Town Tree Warden. It is understood the Maple tree may not survive the relocation process;
17. If there are any changes to the approved plans by the Conservation Commission, the applicant shall petition the Planning Board for a modification;

Prior to Construction

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 proposed construction sequence schedule in a form provided by the Department, 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;
19. 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. Hauling of earth materials and heavy equipment on Bancroft Road is restricted to the time period between the last morning pick-up of school children, and the first afternoon drop off. 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;
20. 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;
21. 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;
22. Once paved, the roadway Eden 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

23. 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. 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;
24. 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;
25. 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;
26. A signed Illicit Discharge Compliance Statement shall be provided to the Town prior to any land disturbance;
27. 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;

28. 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;
29. 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;
30. 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;
31. 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;
32. 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;
33. 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

34. No Clearance Certificate shall be issued for any lots until such time as the documents establishing the homeowners' association have been approved by Town Counsel and the Planning Board and recorded, and the accounts referred to in Condition #35 have been established and funded in a manner prescribed by the town;
35. 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 shall be included in the HOA. The account shall have been established and funded in a manner prescribed by the Town. The Homeowners' Association documentation shall provide for:
 - a. 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;
 - b. 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;

- c. 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;
 - d. 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;
 - e. Long Term maintenance of the stormwater management facilities as described in the Operation and Maintenance Plan;
 - f. Ownership, maintenance and replanting of the landscaped areas within the right of way (Parcel C), and within Parcel A and Parcel B;
 - g. Ownership, maintenance and protection of the drainage systems within the easements areas;
 - h. Ownership, maintenance and repairs to the stormwater lot labeled Parcel B;
 - i. A provision that the agreement cannot be amended or dissolved in any manner without approval of a majority of the Andover Planning Board;
36. The developer shall be responsible for all maintenance of the drainage systems until such time as the last lot of the subdivision is conveyed to a new owner, whereupon the system shall be maintained by a Homeowners' Association established by the developer to which each lot in the subdivision is subject and whereby all lot owners will be responsible to pay for the maintenance, repair and replacement of the said system and island. The Town shall be provided with an easement to maintain and repair said drainage system if necessary but all financial responsibility for any such repairs and maintenance shall be solely on the Homeowners' Association and all lot owners by virtue of their interest in said association. No Clearance Certificate shall be issued for any lot until such time as the documents for the homeowners' association has been approved by the Planning Board and recorded, and the account referred to in condition #35 be established in a manner prescribed by the Town;
37. 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. No Clearance Certificate for any lot shall be issued until said plan has been submitted to the Department of Public Works;
38. 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;
39. The developer shall have established a performance guarantee, which shall be used to secure proper construction and installation of the subdivision improvements, removal of all erosion controls 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;
40. All utilities 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;

41. Prior to release of any Clearance Certificates for building purposes, a sign depicting "Eden Lane" shall have been erected at a location determined by the Department of Public Works;

Prior to conveyance of lot

42. 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, 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;
43. The drainage areas, inlets, outlets and all associated piping shown on the plans shall be fully constructed, stabilized, operational and all off-site improvements completed prior to pavement of the streets and development of any house lot;

MARGINAL REFERENCE
Book 17787 Page 124



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 May 28, 2024 a definitive plan for a subdivision entitled Eden Estates, dated April 2, 2024 and last revised September 25, 2024, 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 October 10, 2024 extended to November 26, 2024, which latter date was agreed to upon the written request by the applicant.
3. On November 12, 2024, the Planning Board took the following action on said plan (delete all but correct choice):
 - 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 November 14, 2024 and no appeal has been filed with my office.

Date: 12-6-2024


Austin Simko, Town Clerk