

KNOW ALL MEN BY THESE PRESENTS

This instrument is intended as a restriction on a certain approved 2-lot Definitive Subdivision Plan entitled "CSH of Andover" (139-143 Elm Street and 26 Pine Street) dated March 27, 2015 revised through July 6, 2015 as prepared by Marchionda & Associates LP.

The plan was filed with the Planning Board on May 5, 2015. The Public Hearing was held on June 23, 2015, and the plan approved on July 21, 2015.

The definitive plan was approved 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 number 2; the developer shall be defined as the applicant, Lisa Holihan Maye and Robert J. Maye 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 Marchionda & Associates, L.P.;
 - a. Sheet 1 of 20, Cover Sheet, dated March 27, 2015 revised through July 6, 2015;
 - b. Sheet 2 of 20, Legend and Notes, dated March 27, 2015 revised through July 6, 2015;
 - c. Sheet 3 of 20, Existing Conditions Plan, dated March 27, 2015 revised through July 6, 2015;
 - d. Sheet 4 of 20, Plan of Land, dated June 5, 2015 revised through July 6, 2015;

- e. Sheet 5 of 20, Layout & Materials, dated March 27, 2015 revised through July 6, 2015;
- f. Sheet 6 of 20, Utility, dated March 27, 2015 revised through July 6, 2015;
- g. Sheet 7 of 20, Grading & Drainage, dated March 27, 2015 revised through July 6, 2015;
- h. Sheet 8 of 20, Grading & Drainage, dated March 27, 2015 revised through July 6, 2015;
- i. Sheet 9 of 20, Roadway Profile, dated March 27, 2015 revised through July 6, 2015;
- j. Sheet 10 of 20, Utility Profile, dated March 27, 2015 revised through July 6, 2015;
- k. Sheet 11 of 20, Utility Profiles, dated March 27, 2015 revised through July 6, 2015;
- l. Sheet 12 of 20, Erosion & Sediment Control, dated March 27, 2015 revised through July 6, 2015;
- m. Sheet 13 of 20, Open Space Plan, dated March 27, 2015 revised through July 6, 2015;
- n. Sheet 14 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
- o. Sheet 15 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
- p. Sheet 16 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
- q. Sheet 17 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
- r. Sheet 18 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
- s. Sheet 19 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
- t. Sheet 20 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;

- u. Sheet L1 of 4, Landscaping Plan, dated March 31, 2015 revised through July 6, 2015;
 - v. Sheet L2 of 4, Garden Layout Plans, dated March 31, 2015 revised through July 2, 2015;
 - w. Sheet L3 of 4, Landscaping Details, dated March 31, 2015 revised through July 6, 2015;
 - x. Sheet L4 of 4, Lighting Plan, dated March 31, 2015 revised through July 2, 2015;
3. Sheet 4 of said plan entitled, Plan of Land, dated June 5, 2015 revised through July 6, 2015, as prepared by Marchionda & Associates, L.P.; and an instrument containing these conditions, shall be recorded at the North 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 two (2) 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 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 SP15-03, or as otherwise allowed under the applicable provisions of the Zoning Bylaw;
12. Deeds for all building lots, as shown on the plan shall be granted the right to pass and re-pass over the private way;
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;
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;
16. The owner of Lot 2 shall be responsible in perpetuity for all maintenance of the drainage systems and pavement within the right of way as shown on the plans referenced in Condition # 2;

Prior to Construction

17. 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 should not be deviated from, but may for good and demonstrated reason, be modified by agreement between the developer and the Planning Department;

18. 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;
19. 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;
20. 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 Municipal Services for the purpose of reviewing these conditions and the construction sequence schedule;
21. Prior to any construction activities on the site all documents pertaining to the maintenance of the roadway and utilities including the stormwater drainage areas, shall be submitted to the Planning Department and shall be reviewed by Town Counsel before being submitted to the Planning Board for approval prior to recording at the Registry of Deeds. These documents or covenants shall provide for private maintenance and upkeep of the roadway and utilities including the storm water drainage facilities; shall provide the establishment of an account in which the minimum sum, as determined by the Town Engineer, shall be deposited and kept for the sole purpose of maintenance, repair and/or restoration of said roadway and utilities including storm water drainage facilities; shall provide for the terms and method of assessments; shall provide for 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 the roadway and utilities including the stormwater drainage areas in the order to ensure their proper operation and functioning, and in the latter event the town shall have the right to employ and enforce any procedure allowed to it under law in order to secure such reimbursement;
22. Once paved, the roadway 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, 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;
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. 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;
26. Locations of stockpiles of earth materials on site shall be limited to the area as shown on the plans referenced in Condition #2. 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. Only locations approved by the Planning Department may be used for stockpiles of earth materials;
27. 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;
28. 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;
29. 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;
30. Hauling of earth materials and heavy equipment during morning pick up and drop off of school buses is not allowed. It shall be the developer's responsibility to communicate with the proper school departments to determine precise hours of pick up and drop off, and 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;

31. 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;
32. 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

33. No Clearance Certificate shall be issued for any lots until such time as a deed restriction defining the ownership of Lot 2, the restriction of Lot 1 as open space and the ownership of the Right of Way is reviewed by Town Counsel, approved by the Planning staff and recorded at the Essex North Registry of Deeds;
34. No clearance certificate shall be issued until utilities and binder course of the roadway have been constructed up to sewer man hole (S.M.H.) #1 (roughly 140 feet of the roadway), and an initial as-built plan of the constructed utilities is received;
35. Prior to issuance of any Clearance Certificates for the site, the developer shall have established a segregated account, which shall be used to secure proper completion of the subdivision. Said account shall be established in an amount recommend by the Town Engineer and approved by the Planning Board and secured in a manner and form approved by the Board;

Specific Conditions

36. 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;
37. Prior to the occupancy of Lot 2, 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;
38. Prior to occupancy the developer shall provide the Planning Department with a surveyor's certification that lot corners have been established on the ground and an engineer's certification that the infiltration trenches and swales have been constructed in accordance with the approved plan. Once established, maintenance of these temporary corners shall be the responsibility of the lot owner;

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, Section III.E.4.a-Original Mylar - To submit mylars when the plans are ready for endorsement by the Planning Board.

Article XIII, Section VI.C.3a- Local Street standard of maximum grade of 8% - To construct a portion of the roadway at a grade of 10%.

Article XIII, Section VI.C.4.e Local Street driveways to occur within the first 150 feet -To place the only driveway at the end of the cul-de-sac.

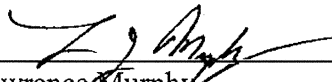
Article XIII, Section VII.G.2 Materials used in Roadway Construction Standards -To use PVC pipes for sewer mains and services.

Article XIII, Section VII.V -Street Signs -To not place a street sign.

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 on Application of CHS Andover, LLC for Approval of a Definitive Subdivision originally was filed in the Town Clerk's office on July 23, 2015; ii) within twenty (20) days thereafter, an appeal was filed by Mark J. Bernardin, Nanette Conte, Isabelle Boulain and Bernice Downs, Plaintiffs, against the Andover Planning Board *et al.*, Defendants in the Land Court Department of the Trial Court (Docket No. 15-PS-000313); iii) on October 20, 2016, said appeal in the Land Court was dismissed upon a Stipulation of Dismissal; and iv) no other appeal of the above-referenced Decision the Andover Planning Board Decision was filed within twenty (20) days from the date the Decision was filed in this office.

Executed this 15th day of May, 2017.



Lawrence Murphy

Town Clerk for the Town of Andover