

KNOW ALL MEN BY THESE PRESENTS

This instrument is intended as a restriction on a certain approved 3-lot Definitive Subdivision Plan entitled "Sellers Farm Estates dated March 4, 2005 revised through May 18, 2005 as prepared by Christiansen & Sergi, Inc.

The plan was filed with the Planning Board on April 7, 2005. The Public Hearing was held on May 10, 2005, and the plan approved on October 11, 2005.

The definitive plan was approved subject to the following:

A.) In the opinion of the Board, the applicant's request for a waiver from Section III.E.3.c. (mylars), be granted. The applicant's design team has indicated that they "realize that there will probably be some modifications to the plans during the review process and request that we are allowed to submit the final mylars upon receiving Planning Board Approval." The Board supports the applicant's waiver request, contingent upon mylars being submitted for endorsement immediately following the statutory 20-day appeal period. In the opinion of the Board the applicant's waiver request from Section III.E.3.c. of the Rules and Regulations would not comprise the protection of the public welfare nor deviate from (1) the public interest and would further (2) not be inconsistent with the intent and purpose of the Subdivision Control Law.

B.) In the opinion of the Board, the applicant's request for a waiver from Section VI.D.2. (Sidewalks) be granted. Where there are no existing sidewalks in the area, the applicant has requested that the requirement to install a sidewalk along one side of the roadway be waived. In this particular instance staff concurs with the applicant's rationale for a waiver and would recommend that the Board grant the requested relief. In the opinion of the Board the applicant's waiver request from Section VI.D.2. of the Rules and Regulations would not comprise the protection of the public welfare nor deviate from (1) the public interest and would further (2) not be inconsistent with the intent and purpose of the Subdivision Control Law.

Conditions of Approval

1. Except as waived, modified or stated in specific conditions of this approval, the development of the Sellers Farm Estates subdivision shall comply with the Rules and Regulations Governing the Subdivision of Land in Andover in affect on the date of this approval;
2. For purposes of this approval the subdivision shall be defined as all features depicted on the plans described under condition number 3; the developer shall be defined as the applicant, North Andover Realty Trust, and his assigns or successors in title to the development, and all contractors and subcontractors under control of or in service to the developer;
3. 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 and drawings prepared by Christiansen & Sergi, Inc.;
 - a. Sheet 1 of 6, Cover Sheet, Sellers Farm Estates, dated May 18, 2005 (revised);
 - b. Sheet 2 of 6, Lotting Plan, Sellers Farm Estates, dated May 18, 2005 (revised);
 - c. Sheet 3 of 6, Site Grading Plan, Sellers Farm Estates, dated May 18, 2005 (revised);
 - d. Sheet 4 of 6, Plan & Profile, Sellers Farm Estates, dated May 18, 2005 (revised);
 - e. Sheet 5 of 6, Erosion & Sedimentation Control Plan, Sellers Farm Estates, dated May 18, 2005 (revised);
 - f. Sheet 6 of 6, Construction Details, Sellers Farm Estates, dated May 18, 2005 (revised);
4. Sheet 2 of a plan entitled "Definitive Subdivision Plan", dated May 18, 2005 (revised), as prepared by Christiansen & Sergi, Inc., and an instrument containing these conditions, shall be recorded at the Essex North Registry of Deeds pursuant to the requirements of the Subdivision Rules and Regulations of the Andover Planning Board;
5. All final grading shown on the plans shall be subject to the provisions of the Board's Rules and Regulations Governing the Subdivision of Land;
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 all conditions imposed by the Board;

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 the conditions imposed by the Board;
8. No permits for building may be issued by the Inspector of Buildings for any lot within the subdivision unless and until the provisions of § V, Subsection E (Clearance Certificates) 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. 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;
10. 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 movement operations;
11. 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;
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 SP05-02;
13. Import or export of earth materials from within the subdivision is prohibited except as provided for under special permit issued under Planning Board Decision SP05-02, or as otherwise allowed under the applicable provisions of the Zoning Bylaw;
14. Earth materials associated with the construction of a subdivision may not be transported to or removed from the site without the applicant having first secured approval for such activities from the Board. Such transport shall be in accordance with a schedule, in a form provided by the Board, which shall include the volume of material, number of truckloads, anticipated hours and dates of hauling activities and hauling routes to and from the subdivision. The developer shall be responsible for ensuring that the public ways are kept free and clear of dirt and debris associated with hauling activities. Construction traffic associated with this subdivision shall be regulated 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 Highland Road shall be 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;

15. 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;

16. Earth disturbed by construction activities associated with the roadway and easement areas, 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;

17. 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;

18. 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;

19. 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;

20. 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;

21. Construction activities associated with the subdivision, including equipment startups, site preparation, excavation, demolition, movement of earth materials (grading, excavation, hauling and filling), paving, installation of utilities and drainage facilities 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. The Planning Board, upon written request from the developer, may consider allowing the foregoing construction activities on Saturday. Such request shall be considered at a public meeting, of which the developer and the abutters shall be given notice, and, if allowed, may be subject to such conditions as the Board may deem appropriate and reasonable to ensure peace and quiet in the adjacent neighborhood. Framing of dwellings is 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. Interior construction within the structures once fully enclosed shall be regulated by the Inspector of Buildings;

22. 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;

23. 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 stored on the surface of the street nor within any cul-de-sac island;

24. Construction activities on individual lots shall be conducted in a workmanlike manner at all times. The term "workmanlike" is defined as being characteristic of or befitting a skilled workman or craftsman. Windblown dust or debris shall be controlled by the developer through stabilization, wetting down, and proper storage and disposal methods. This condition shall be applied and enforced against individual lots within the subdivision as well as the subdivision in its entirety;

25. 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 Selectmen's layout, the developer shall provide the Planning Department with a surveyor's certification that all bounds and corners have been set in accordance with the Rules and Regulations of the Board;

26. Immediately following the installation of water line, the developer shall prepare a plan pursuant to the Rules and Regulations of the Board showing the location of all service connections to the building lots. No Clearance Certificate for any lot may be issued until said plan has been submitted to the Department of Public Works and notification of receipt of the plan transmitted to the Planning Department;

27. No Clearance Certificate for any lot within the subdivision shall be issued until all utilities associated with the subdivision have been installed, including the final grading and stabilization of drainage improvements and the roadway cut and fill embankments, and the as-built plan is approved by the Department of Public Works;

28. Yard sprinklers or other privately owned underground devices shall not be installed within any street right-of-way, nor shall private recreational features such as basketball hoops or skate ramps or platforms be allowed within any street right-of-way or any cul-de-sac. Except as applicable under these Rules and Regulations to cul-de-sac islands, landscaping within the street right-of-way 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 street;

29. 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 said Rules and Regulations;

30. The developer shall be responsible for all maintenance of the drainage system on Parcel A until such time as the first 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. The Town shall be provided with an easement to maintain and repair said 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.

31. 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 at the Essex North Registry of Deeds, and the account referred to in section 32B has been established and funded in a manner prescribed by the town;

32. The Homeowners' Association document shall provide for:

A. The maintenance and upkeep of the detention basin and for the private maintenance and upkeep of the storm water drainage facility and shall be in strict compliance with the Stormwater Management Report for "Sellers Farm Estates", Andover, Mass., dated March 30, 2005, as prepared by Christiansen & Sergi, Inc.

B. The establishment of an account 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. 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 detention basin, sediment forebay and for

the private maintenance of the landscaped island cul-de-sac, with a minimum balance as recommended by the Town Engineer being maintained at all times.

C. 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 the detention basin in 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;

D. The maintenance and upkeep of the landscaped cul-de-sac island and shall provide for the right of the Town to make emergency repairs, the costs of which shall be assessed to the Homeowners' Association, and the Homeowners' Association shall indemnify and defend and hold harmless the Town for any such repairs;

E. In the event that the Detention Basin (Parcel A) or other stormwater facilities are damaged to such an extent that it no longer performs its intended function, and such damage is not repaired by the Homeowners' Association within 90 days of such damage, the Town of Andover 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 Homeowners' Association shall provide the Town of Andover with a certificate of insurance in an amount not to be less than 1,000,000.00 (1 million dollars) naming the Town of Andover as additional insured;

33. All deeds to building lots shown on the plan shall reserve the fee and/or interest in the streets and/or easements, said fee and/or interest (except as may be provided for under conditions (30, 31 and 32 above) to be conveyed to the town at the time of street acceptance;

34. Any blasting operations or activities associated with the subdivision shall require proper permits and shall be undertaken in accordance with all applicable local and state regulations. Blasting may not be undertaken on any weekend or holiday;

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 stabilization and removal of all erosion controls prior to 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. This account once established shall be used as a mechanism to assure all unnecessary erosion controls are promptly removed upon receipt of Certificate of Compliance from the Conservation Commission. The Planning Department, in a cooperative effort with the Conservation Commission, will coordinate times and dates in which the erosion controls can be removed. Upon removal of all erosion controls as

depicted on sheet 4 of the approved plan, the segregated account may be released in full;

36. Prior to release of any Clearance Certificates for building purposes, a sign depicting "Sellers Farm Road" shall have been erected on-site;

37. 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;

38. Prior to installation of street trees, the Forestry Superintendent shall review and approve all tree species, with a minimum three (3) inch caliper measured four (4) feet above the top of the root ball being provided;

39. Prior to the street, Sellers Farm Road, being accepted by the Town as a public way, all street trees as shown on sheet 3 of the approved plan shall have been planted and approved by the Forestry Superintendent;

40. Prior to any construction activities associated with the roadways, utility easements, and detention areas, the Limit of Work as shown on the plans shall be established on the ground in the form of silt fence, staked haybales, or other approved method, and the installation thereof shall be certified to the Board by the developer's engineer.

41. Prior to the issuance of a Clearance Certificate for any lot, the limit of work as shown on sheet 5 of the approved plan, shall have been clearly marked on the ground in the form of silt fence, staked haybales, or other approved method, and the installation thereof shall be certified to the Board by the developer's engineer. Following the installation of such markings no earth disturbance or removal of vegetation of any kind shall be permitted within the protected areas;

42. Prior to any construction related activities on-site, the applicant shall have petitioned and received all necessary approvals from the Conservation Commission, with a copy of the Notice of Intent being filed with the Planning Department. Any changes to the approved plan as identified in Condition 2, the applicant shall be required to petition the Planning Board for a modification;

43. This subdivision approval is limited to three (3) building lots as shown on the plan referenced above. Any further subdivision of the lots shown on the plan for building purposes is prohibited unless and until a modification of this approval has been granted by the Planning Board pursuant to Chapter 41, Section 81W, of the Subdivision Control Law;

44. 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;

Date: 2/13/09

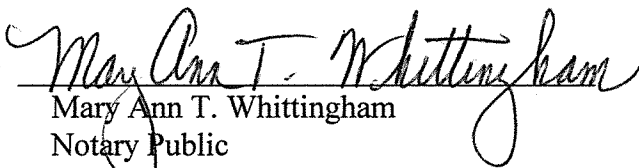
TOWN OF ANDOVER PLANNING BOARD

By: 
Paul Materazzo

Essex, ss

COMMONWEALTH OF MASSACHUSETTS

On this 13th day of February 2009 Before me, the undersigned notary public, personally appeared Paul Materazzo 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: 
Mary Ann T. Whittingham
Notary Public

My Commission Expires: July 4, 2014