

CITY OF NEWBURYPORT
PLANNING BOARD
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DEFINITIVE SUBDIVISION PLAN
APPLICATION AND DECISION SUMMARY

DECISION DATE: 1/17/2018
APPLICATION DATE: 05/23/2017
FILE NO: 2017-DEF-01
APPLICANT: Evergreen Commons LLC
APPLICANT ADDRESS: c/o Mead, Talerman & Costa LLC, Newburyport, MA 01950
PARCEL(S) ADDRESS: 18 Boyd Drive and 5 Brown Avenue
MAP/LOT: 110-20 and 111-13
BK/PAGE: 29288-376 and 35708/396
ZONING DISTRICT: R1
BRIEF DESCRIPTION: 38 lot subdivision
NEWSPAPER NOTICE: 06/20/2017 and 06/27/2017
PUBLIC HEARING: A public hearing was held on the above application on 07/05/2017 and continued to 8/16/17, 9/20/17, 10/4/17, 11/1/17, 11/15/17, 12/20/17, and 1/17/18.
DECISION: After the close of the public hearing, upon a motion made by member MJ Verde and seconded by Leah McGavern, the Planning Board voted to APPROVE the definitive subdivision plan.

The motion having received a majority vote of all the members of the Planning Board, in accordance with M.G.L. Chapter 41 Section 81, as amended, the petition for the Definitive Subdivision Plan was therefore **APPROVED**.

RECORD OF VOTE: The following members of the Planning Board voted as follows with respect to the petition for a Definitive Subdivision Plan approval to the below-stated terms and conditions:

Bonnie Sontag, Chair	<u>Yes</u>	Don Walters	<u>Not Voting</u>	Leah McGavern	<u>Yes</u>
James Brugger	<u>Yes</u>	Andrew Shapiro	<u>Yes</u>	Joe Lamb	<u>Abstain</u>
MJ Verde	<u>Yes</u>	Anne Gardner	<u>Yes</u>	Tania Hartford	<u>Absent</u>

PLANS AND MATERIALS INCORPORATED INTO DECISION

1. This Definitive Subdivision Application is accompanied and augmented by the following plans and drawings:
 - a. Application for Definitive Subdivision Plan, submitted to the City of Newburyport on May 23, 2017, for Evergreen Commons, LLC, 487 Groton Road, Suite A, Westford, MA, containing the following plans and documents:
 - Existing Conditions Plans, Sheets EX1 – EX6, prepared by Design Consultants Inc., 68 Pleasant Street, Newburyport, MA and Winter GEC, LLC, 34 Winter Street, Newburyport, MA, dated May 22, 2017 and revised January 9, 2018;
 - Lot Layout Plans, Sheets S1 – S6, prepared by Design Consultants Inc., 68 Pleasant Street, Newburyport, MA and Winter GEC, LLC, 34 Winter Street, Newburyport, MA, dated May 22, 2017 and revised January 9, 2018;
 - Civil Engineering Plans, Sheets C1-C15, prepared by Design Consultants Inc., 68 Pleasant Street, Newburyport, MA, dated June 2, 2017 and revised January 9, 2018.
 - Landscape Plans and Details, Sheets L-2 – L6, prepared by KD Turner Design, 27 High Street, Newburyport, MA, dated May 7, 2017 and revised May 16, 2017, Sheet L-1 dated May 7, 2017 and revised December 14, 2017.
 - Architectural Elevations, A1, prepared by prepared by Design Consultants Inc., 68 Pleasant Street, Newburyport, MA and Winter GEC, LLC, 34 Winter Street, Newburyport, MA, dated May 22, 2017.
 - b. Signage and Monument Plan, prepared by Design Consultants Inc., 68 Pleasant Street, Newburyport, MA, dated January 9, 2018.
 - c. Phasing Plan, prepared by Design Consultants Inc., 68 Pleasant Street, Newburyport, MA, dated January 9, 2018.
 - d. Open Space Conservation Restriction Use Plan, prepared by Design Consultants Inc., 68 Pleasant Street, Newburyport, MA, dated December 18, 2017.
 - e. In addition to the Definitive Subdivision application and associated plans and architectural renderings, the applicant submitted the following materials:
 - Project Narrative and Stormwater Analysis, prepared for Evergreen Commons, LLC, 487 Groton Road, Suite A, Westford, MA 01886, prepared by Design Consultants, Inc., 68 Pleasant Street, Newburyport, MA 01950, dated May 22, 2017, last revised January 9, 2018.
 - Stormwater Management Operation and Maintenance Plan, Construction Phase, prepared for Port Place, Newburyport, Massachusetts.
 - Stormwater Management Operation and Maintenance Plan prepared for Port Place, Newburyport, Massachusetts.
 - Open Space Operation and Maintenance Plan, prepared for Port Place by Evergreen Commons, LLC, prepared by Kimberly Turner, KDTurner Design, 27 High Street, Newburyport, MA and Thomas Hughes, Hughes Environmental Consulting, 44 Merrimac Street, Newburyport, MA, dated May 19, 2017.
 - Draft Homeowners' Association Trust, prepared by the Applicant, last revised January 10, 2018.

- Draft Conservation Restriction, prepared by the Applicant, last revised January 7, 2018.
 - Declaration of Restriction, prepared by the Applicant, last revised January 10, 2018.
 - Draft Easements Language, prepared by the Applicant, submitted May 23, 2017, for the following easements:
 - Easement to the City for the purpose of accessing the monitoring wells in the open space area to monitor groundwater quality during and after construction; and
 - Easement to the City for the purpose of accessing the Project land for emergency access to any and all stormwater facilities and private ways both during and after construction.
 - Draft Quitclaim Deed to the City for the 0.61± acres shown as Parcel A on a plan of land entitled “Plan of Land in Newburyport, Mass. Surveyed for Evergreen Commons LLC”, prepared by Design Consultants, Inc., 120 Middlesex Avenue, Somerville, MA 02145, dated May 2, 2017.
 - Traffic Impact & Access Study, prepared for Evergreen Commons, LLC, prepared by Design Consultants, Inc., revised date September 15, 2016.
 - Baseline Soil Testing Results, provided by Northeast Geoscience, Inc., dated June 5, 2017.
 - Review of Residual Herbicides and Pesticides in Soil, EnviroRisk Solutions, LLC, 121 Kirkland Drive, Stow, MA 01775, dated June 1, 2017.
 - Memo: Evergreen Commons/Water Resource Protection District Criteria Further Information, submitted by Lisa L. Mead, Esq., Steven Sawyer, P.E., and Thomas Hughes, BS, MA, dated June 26, 2017.
- f. This Definitive Subdivision Application is accompanied and augmented by the following Open Space Residential Design (OSRD) approval granted by the Planning Board on March 1, 2017; this contains a list of all of the approved plans and documents as well as General and Special Conditions that must be satisfied:
- Planning Board, City of Newburyport, Special Permit Findings and Decision for Evergreen Commons, LLC, 18 Boyd Drive and 5 Brown Avenue, Case No. 2016-SP-03a. Decision was filed with the Office of the City Clerk and the Office of Planning & Development on dated March 15, 2017.
2. The plans and other submission material were reviewed by the Planning Board, its legal counsel, city departments, and consulting engineer as follows:
- Peer review comments from the Board’s consulting engineer: Christiansen & Sergi, Inc., 160 Summer Street, Haverhill, dated June 26, 2017, October 4, 2017, and December 20, 2017.
 - Peer review comments from AECOM, 250 Apollo Drive, Chelmsford, MA 01824, dated July 17, 2017 and August 10, 2017.
 - Peer review comments from Horsley Witten, 113 R2 Water Street, Exeter, NH, 03833, dated September 26, 2017, October 27, 2017, November 8, 2017, December 11, 2017, and January 9, 2017.
 - City Department Comments: Crispan Miller, Chair, Tree Commission, dated May 26,

2017; Dan Lynch, Distribution System Manager, dated June 5, 2017 and August 11, 2017; Molly M. Ettenborough, Recycling and Energy Manager, dated June 8, 2017; Board of Health, dated June 27, 2017 and July 6, 2017; Frank P. Giacalone, Director of Public Health, dated July 6, 2017; Jon-Eric White, City Engineer, dated August 14, 2017; Wayne Amaral, Deputy Director, DPS, dated August 16, 2017.

3. Throughout its deliberations the Planning Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, all as made at the public hearing.

FINDINGS

Acronyms

Hereinafter:

- BMP shall mean Best Management Practices
- DPS shall mean City of Newburyport Department of Public Services
- DSP shall mean Definitive Subdivision Plan
- ILSF shall mean Isolated Land Subject to Flooding
- LID shall mean Low Impact Development
- NZO shall mean Newburyport Zoning Ordinance
- OSRD - SP shall refer to the Open Space Residential Development project approved by the Planning Board on March 1, 2017
- Property shall refer to the property at 18 Boyd Drive and 5 Brown Avenue
- WRPD shall refer to the Water Resource Protection District, Section XIV of the Newburyport Zoning Ordinance

Pursuant to Section 5.7 of the Rules and Regulations Governing the Subdivision of Land in Newburyport, the Board generally finds the following to be credible statements about the proposed Subdivision:

1. Complete and technically adequate plans and supporting material: The Board and its Peer Review engineers have reviewed all submission materials and supporting documents and have found that the application is complete and the plans, as revised and conditioned hereto, are technically adequate to merit an approval of the Definitive Subdivision Plan under the City's Rules and Regulations Governing the Subdivision of Land.
2. Adequate access to all of the lots in the subdivision by ways that will be safe and convenient for travel: The roadways within the subdivision provide adequate access, via paved roadways, to all of the house lots as well as the open space areas.
3. Lessened congestion in such ways and in the adjacent public ways: The subdivision provides two means of access and egress to the surrounding neighborhoods via connections to Boyd Drive and Brown Avenue thereby lessening potential congestion than if the project included only one means of access.
4. Reduced danger to the life and limb in the operation of motor vehicles: The roadways shall be constructed so as to reduce danger to the life and limb in the operation of motor vehicles. The paved-width of 22', coupled with mandatory and posted no parking on one side of each road will provide safe and adequate access for the operation of motor vehicles, including emergency vehicles and first responders.
5. Secured safety in the case of fire, flood, panic and other emergencies: The applicant shall grant an

easement to the City over any private roads and open space areas within the subdivision for emergency maintenance access to roadways and drainage systems. Additionally the applicant shall install 'no parking' signage along one side of all roads within this DSP so that first responders have sufficient access to the properties within the project.

6. Compliance with applicable zoning ordinances: The project shall be in compliance with applicable zoning provisions upon the applicant obtaining a WRPD-SP from the Planning Board.
7. Adequate provisions for water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment, and street lighting and other requirements where necessary in a subdivision: The Project will improve existing municipal infrastructure that not only benefits the subdivision, but the neighboring community. The Project includes a new network of water mains that will loop back to Brown Avenue, which will create a new, looped system, a preferred water system design and will improve the existing water quality. The Project also involves the construction of a new gravity sewer system connected to a new pump station that will service the new homes in the subdivision as well as the twenty existing homes along Boyd Drive. The design and details for both the water and sewer improvements will be coordinated and approved by the DPS.
8. Coordination of the ways in neighboring subdivisions: The Applicant will upgrade Boyd Drive in accordance with the OSRD-SP.
9. Conformance with the design and construction standards described in the Rules and Regulations Governing the Subdivision of Land and in the attached Appendices: The subdivision conforms to the applicable standards with the exception of those waived via this approval. These approved waivers as listed and described herein, are informed by the applicant's grant of the OSRD-SP, which allows for an alternative design to create a more compact development than a conventional subdivision.
10. Conformance with all applicable zoning requirements: The project shall be in conformance with applicable zoning provisions upon the applicant obtaining a WRPD-SP from the Planning Board.

WAIVERS

In accordance with M.G.L. Chapter 41 Section 81-R Waiver of Compliance and in consideration of the above referenced findings, the following waivers are granted as such actions are in the public interest and not inconsistent with the intent and purpose of the subdivision control law.

1. 1.3.3 and 5.4.2(d) Vertical Datum: The Vertical Datum is required to be NGVD 1929, NGVD 1988 is proposed; CSI supports this waiver as NGVD 1929 has been replaced by NOAA and FEMA as the current datum.
2. 5.4.2(f) Lot Width: While the lots facing Boyd Drive shall meet the lot width requirement, the remaining lots within the subdivision are not subject to this requirement since they were designed and approved through the OSRD-SP.
3. 6.8.3 Table 1C-Local Streets:
 - a. 24' wide pavement requirement, 22' wide for the road connecting the loop road surrounding the open space area and Brown Avenue, the loop road itself as well as the short connecting road from the loop to Boyd Drive and the offshoot cul-de-sac to lots 9 through 14 shall be 24' wide pavement, as approved by the OSRD Special Permit.
 - b. 50' wide right of way requirement, 40' wide right of way proposed, as approved by the OSRD Special Permit.
 - c. 225' minimum radius of centerline curve requirement, 125' minimum radius of centerline

curve proposed.

4. 6.9 Curbing: 6" vertical granite curbing requirement, 6" sloped granite curbing proposed.
5. 6.12.1 Installation of Monuments: To the extent the Monument Plan dated January 9, 2018, attached hereto and incorporated herein by reference, does not specifically meet the requirements of this provision of the regulations.
6. 6.14.11 Drainage Easements: 30' wide easement requirement, 15' proposed for piping to bio-infiltration areas and water line.

CONDITIONS

This Definitive Subdivision Plan approval is conditioned upon the following:

1. After expiration of the appeal period yet before its endorsement of the plan, the Board shall require a performance guarantee pursuant to Section 5.8 to insure the construction of ways and the installation of municipal services.
2. Per Section 4 of the Planning Board's Regulations Governing Fees and Fee Schedules, Project Review Fees shall be paid in full prior to endorsement of the plan.
3. In accordance with Section 5.9, the Definitive Plan must receive endorsement by a majority of Planning Board members and be stamped by the City Clerk. Endorsement follows expiration of the twenty (20) day appeal period.
4. As per Section 5.9.2, the applicant/developer shall record this Definitive Plan approval, subject to its waivers and conditions, along with plans, covenants, and easements, at the Southern Essex Registry of Deeds and notify the Planning Board of such recording. If the endorsement on the plan or the certificate which accompanies the plan is not dated within six (6) months of the date of recording, the applicant shall apply to the Planning Board or City Clerk for a certificate which shall be endorsed on the plan or referred to on the plan and recorded with the plan. The certificate must be dated within thirty (30) days of the recording. The certificate shall state: "that the approval has not been modified, amended, or rescinded, nor the plan changed."
5. Prior to any construction, the applicant shall provide the Office of Planning & Development with one (1) copy of the entire approved plan set in both CAD and .pdf formats. All digital mapping data must be delivered in the Massachusetts State Plane Coordinate system with a horizontal datum of NAD83, units of U.S. survey feet and a vertical datum of NAVD 88.
6. Prior to any construction, the applicant shall provide to the Office of Planning & Development an estimated Construction Schedule and Contact List for the General Contractor and any emergency contacts during construction.
7. Approval by the Planning Board of this Plan shall not be treated as, nor deemed to be, approval by the Board of Health for a permit for the construction and use on any lot. No building or structure shall be placed on any lot without the consent of the Board of Health, if required.
8. The installation of all drainage and water service and utilities shall meet all requirements of the Department of Public Services. The applicant shall request and obtain proper visual inspection from the Department of Public Services prior to backfill of any pipes, gates, catch basins, curbing, and other utility structures.
9. There shall be no construction other than that shown on approved plans or additions to any structures or any new use of a structure or land in the subdivision unless the Planning Board shall have reviewed and approved such change.

10. Lots shall be released upon deposit of suitable financial security against the completion of the subdivision. Whenever the applicant seeks approval for the issuance of Lot Releases or whenever the applicants seek to alter the amount of financial security being held by the board, the applicant shall submit a written request to the Office of Planning & Development to initiate the requisite inspectional services.
11. Before any lots are released for building purposes, the necessary drainage (including retention or detention basins) shall be installed, water mains and water services to lot lines shall be installed, rough and finished grading shall be at proper grades and the first or base course of bituminous concrete shall be installed, all to the satisfaction of the Planning Board and to its delegated inspection agent, the Department of Public Services.
12. Section 5.10 requires that the applicant shall send by registered mail to the City Clerk and to the Planning Board a written statement that said construction or installation has been completed in accordance with the Rules and Regulations upon the completion of such construction and installation to serve any lot or lots. The statement shall include the address of the applicant.
13. One hard copy and one .pdf copy of as-built plans stamped by a professional engineer showing new construction, renovation, or expansion shall be submitted to the Office of Planning and Development at the completion of the project. Said plans shall contain a certification, made by a registered architect or civil engineer, that what was constructed is consistent with approved plans and conditions set forth by the Planning Board as part of this Definitive Subdivision Plan approval.

Special Conditions

1. Further Subdivision: There shall be no further subdivision of the property.
2. Plan Approval Expiration: Plan approval shall automatically lapse if the Applicant and/or owner fail to complete construction of all ways and installation of all municipal services within three (3) years of the date of approval.
3. Site Inspections: The Board, its officers, and agents may enter upon any lands and there make examinations and surveys or to place and maintain monuments and mark as far as they deem necessary in carrying out the subdivision control law. During phase 1 and phase 2 when construction activities are occurring, a site inspection by the City Peer Review Engineer will occur no less than once per week.
4. Signoffs for Building & Occupancy Permits: No building permits or occupancy permits shall be granted by the Newburyport Building Commissioner within this project until the Building Commissioner has first confirmed compliance with all applicable conditions of this DSP decision, the WRPD Special Permit decision and the OSRD Special Permit decision. For avoidance of doubt, building permits may be issued for the three (3) homes on Boyd Drive following recording of this decision.
5. Escrow Accounts:
 - a. Project Review Fees: Project review fees shall be paid in full subject to MGL c44 Sec. 53G.
 - b. Account Balance: The proposed construction will require regular inspection by the Office of Planning & Development, Planning Board's consultant engineers, and the DPS, in order to ensure compliance with this decision and the OSRD Special Permit decision. Such inspections are necessary to ensure that the Project is constructed in accordance with the approved plans, to summarize and estimate the cost of remaining work, and to

immediately address any issues that may arise during the construction of the project. The cost of such review and inspections shall be borne by the Applicant and/or owner. To cover the costs of these services, the Applicant and/or owner shall replenish and maintain a Project Review Fee of \$3,000. Such funds shall be held by the Planning Board in an escrow account. Whenever notified that the funds in said account have depleted to less than \$750, the Applicant and/or owner shall immediately thereupon deposit sufficient funds to return the escrow account to the initial balance. Upon completion of the Project, any remaining funds shall be returned to the Applicant.

6. Street Acceptance: It shall be the sole responsibility of the Applicant and/or owner to request and obtain public acceptance of, and maintenance for, the proposed ways within this DSP from the Newburyport City Council. Grant of this DSP does not guarantee public acceptance for the maintenance of ways within the subdivision. If and until such time as the proposed ways are accepted by the City of Newburyport, it shall be the sole responsibility of the Applicant or designated Homeowners' Association to maintain all ways and related infrastructure within this development, including but not limited to, street lights, street trees, and plowing.
7. Open Space Area Stormwater Drainage System: It shall be the sole responsibility of the Applicant and/or property owner, and their successors or assigns, for the operation and maintenance of the stormwater drainage system located in the Open Space Areas as depicted on the above-referenced plans.
8. Modifications to Approved Plans: The Applicant and property owner, and their successors or assigns, shall adhere to the approved plans which are incorporated herein by reference. Should the Applicant and/or property owner determine that a plan(s) needs to be modified, they shall notify the Board of the proposed modifications in writing and obtain approval from the Planning Board for such modifications prior to making any changes 'in the field'. The Board shall then determine whether such modifications are minor or major in nature and shall subsequently schedule a public meeting or hearing, respectively, to review the proposed changes.
9. Conformance with OSRD Special Permit Conditions: Unless otherwise specified in this decision, the Applicant and property owner, and their successors or assigns, shall comply with all of the Conditions listed in the approved OSRD Special Permit, especially those listed as 'Special Conditions'.
10. Approval Subject to Compliance with WRPD Ordinance: This DSP approval does not constitute an approval for a Special Permit under the WRPD Ordinance, Section XIX of the Zoning Ordinance, particularly with respect to the installation of drainage and stormwater management systems. This DSP approval is subject to compliance with all provisions of the WRPD and grant of any special permits required thereunder.
11. Conservation Commission Approval: The Applicant and/or owner shall obtain an Order of Conditions as required under the Wetlands Protection Act and the Newburyport Wetlands Ordinance from the Newburyport Conservation Commission for work in areas of jurisdiction. All such plans shall comply with the ordinance, regulations, and any other conditions of approval required by the Conservation Commission. If there is any inconsistency between the approved DSP and plans approved by the Conservation Commission, the Applicant shall submit an amended set of plans to the Planning Board for review and approval. Any amended plans shall be accompanied by a letter setting forth all changes from the DSP approval and shall include revised drainage calculations and an updated stormwater management report, as applicable.

12. Construction Schedule: The developer shall provide to the Office of Planning and Development an estimated construction schedule and contact list for the general contractor and any emergency contacts during construction.
13. Upgrades to Boyd Drive: The Applicant shall comply with the conditions of the OSRD-SP relative to improvements to Boyd Drive.
14. Baseline Documentation of Roadway Conditions: Prior to construction, the Applicant shall comply with the conditions of the OSRD-SP relative to all roadways providing access to the site from Ferry Road and prepare a baseline documentation of the existing road conditions.
15. Construction of three homes located on Boyd Drive: The three homes located on Boyd Drive are a part of Phase 1 as set forth in the Phasing Plan dated January 9, 2018 and attached hereto and incorporated herein by reference ("Phasing Plan") and they may be constructed immediately and as appropriate, certificates of occupancy issued and shall not be subject to the timing limitations set forth below as same are supported by separate infrastructure from the remainder of the Subdivision.
16. Installation of Drainage Systems: No building permit/lot release shall be issued for the construction of any home in any phase until there is physical access to the lot. No occupancy certificate shall issue for any lot until all drainage systems, including but not limited to, retention and detention basins, shall be installed, water mains and water services to lot lines shall be installed, rough and finished grading shall be at proper grades and first of base course of bituminous concrete shall be installed, for the phase within which the Lot is located, all to the satisfaction of the Planning Board and its delegated inspection agent(s), and/or the Department of Public Services.
17. Financial Security: A deposit of suitable financial security against the completion of the subdivision infrastructure shall be retained in accordance with the Planning Board Subdivision Rules and Regulations. Whenever the Applicant, owner, and their successors or assigns, seeks approval for the issuance of lot releases or seeks to alter the amount of financial security being held by the Board, they shall submit a written request to the Office of Planning and Development to initiate the requisite inspectional services.
18. Homeowners' Association Documents: The Homeowners Association Documents and related Stormwater Management Operation and Maintenance Plan shall be finalized and filed in accordance with the conditions of the WRPD-SP.
19. Conservation Restriction: Prior to the issuance of any building permit except those in Phase 1, the Applicant shall record a Declaration of Restriction securing the open space areas as set forth on the Conservation Restriction Use Plan dated December 18, 2017 and which indicates the forthcoming Conservation Restriction. Thereafter, prior to the issuance of the thirty third (33rd) certificate of occupancy or at the completion of the open space improvements, the Applicant shall record a final Conservation Restriction for 18 Boyd Drive which shall have been reviewed and approved by the Conservation Commission, the Planning Board, and the City Solicitor for compliance with the OSRD Special Permit Conditions, the Order of Conditions, and the approved DSP plans and shall be reviewed and approved by the appropriate authority at the Division of Conservation Service. Proof of recording shall be provided to the Office of Planning and Development and the Building Inspector.
20. Real Property Interest Benefitting the City: Prior to the issuance of a certificate of occupancy for

the thirty third (33rd) house, the Applicant shall provide the following documents substantially in the form as submitted with the Definitive Plan Application and Water Resource Protection District Special Permit Application which documents shall have been approved by the Planning Board in consultation with the City Solicitor and which have been executed by all required parties and recorded at the Essex South Registry of Deed:

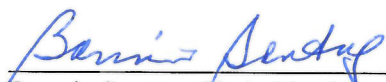
- a. Open Space Deed
- b. Easement for Emergency Access
- c. Deed to Water Department of land being donated and as shown on the Open Space Title granted to the City shall be free and clear of all liens and encumbrances and the grantor shall warranty title to that effect.

21. Access Easement: Prior to the commencement of any work on any phase but not including the homes in Phase 1, the final language in the access easement for monitoring wells during and after construction shall be reviewed and approved by the Department of Public Services and the City Solicitor to ensure that the access granted is sufficient to adequately monitor the wells throughout the duration of the construction activities as well as post construction. The Applicant shall then record the final document at the South Essex Registry of Deeds and provide proof of such recording to the Office of Planning and Development.
22. Hours of Construction: Developer shall take reasonable care not to disturb surrounding properties and property owners during construction. All construction and site work related to this DSP approval, including access of trucks and equipment to the site from surrounding streets connecting to Ferry Road shall be limited to between the hours of 7am – 7pm Monday Through Thursday, 7am – 5pm Fridays, and 9am – 5pm on Saturdays.
23. Dust Control: The Applicant and/or owner shall be responsible for implementing dust control measures during all site work and construction related to this DSP approval, including, but not limited to, wetting down soil piles throughout the project.
24. Repairs to Ferry Road and Others that Provide Access to the Project: Prior to the issuance of the final certificate of occupancy, the Applicant and/or owner shall meet with the Planning Board to determine based upon documentation from the DPS as noted in the OSRD SP what repairs are needed to these roadways as a result of ongoing construction activities and heavy vehicles using these roadways during that time (normal wear and tear excluded). The Planning Board shall confirm the nature and extent of this work to the Applicant and/or owner in writing. The Final Certificate of Occupancy in the DSP shall be withheld until such time as the Applicant and/or owner has completed all such repairs to the satisfaction of the Planning Board.
25. Initial Funding for Homeowners' Association Activities: The Applicant and/or Owner shall comply with the requirements of the OSRD SP and the WRPD SP with regard to the initial funding of the Homeowners Association.

DATE OF FILING OF DECISION

Filed with the Newburyport City Clerk on 1/30/18 and sent registered mail to the applicant.

SIGNATURE OF THE BOARD



Bonnie Sontag, Chair, Newburyport Planning Board

1/30/18
Date

NOTICE OF APPELLATE RIGHTS

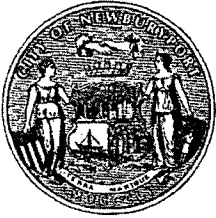
Appeals shall be made pursuant to M.G.L. Chapter 41 Section 81BB and filed within twenty (20) days after the date of filing this decision in the Office of City Clerk.

CITY CLERK CERTIFICATION

I, _____, City Clerk of the City of Newburyport, Massachusetts, hereby certify that this Definitive Subdivision Plan approval has been received and recorded at this office and no appeal was received during the twenty (20) days after such receipt and recording of such notice.

City Clerk

Date



CITY OF NEWBURYPORT
PLANNING BOARD
60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4400 • (978) 465-4452 (FAX)

**DEFINITIVE SUBDIVISION
NOTIFICATION OF DECISION**

You are hereby notified of the decision of the Planning Board on the application by Evergreen Commons LLC for property located at **18 Boyd Drive and 5 Brown Avenue**, which was filed with the Board on 1/30/18.

The Board held public hearings on the above referenced application on 7/5/2017, 8/16/17, 9/20/17, 10/4/17, 11/1/17, 11/15/17, 12/20/17, and 1/17/18, and voted to approve the following request:

38 lot subdivision

APPEALS

An appeal of this decision shall be made pursuant to M.G.L. Chapter 40A Section 17 and filed with the Superior or District Court and the Office of the City Clerk within twenty (20) days after the filing of the above with the Office of the City Clerk. This decision was filed on 1/30/18.

Copies of this decision and detailed records of proceedings of the Planning Board presented at the public hearing, which is being incorporated herein by reference and considered a part hereof, are on file with the Office of the City Clerk and the Office of Planning and Development.