

CITY OF NEWBURYPORT
PLANNING BOARD
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SPECIAL PERMIT FINDINGS & DECISION

DECISION DATE: 1/17/2018
APPLICATION DATE: 5/23/2017
FILE NO: 2017-SP-05
APPLICANT/OWNER: Evergreen Commons LLC
APPLICANT ADDRESS: c/o Mead, Talerman & Costa LLC, Newburyport, MA 01950
SITE 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
SECTION: XIX Water Resource Protection District
BRIEF DESCRIPTION: construction of a subdivision within the Water Resource Protection District
NEWSPAPER NOTICE: 6/20/2017 and 6/27/2017
PUBLIC HEARING: A public hearing was held on the above application on 7/5/2017 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 the Planning Board, upon a motion made by member MJ Verde and seconded by Leah McGavern, the Board voted to APPROVE the application for a Special Permit.
The motion having received the necessary two-thirds super majority vote of all the members of the Planning Board, in accordance with M.G.L. Chapter 40A Section 9, as amended, the petition for the Special Permit was therefore granted.
RECORD OF VOTE: The following members of the Planning Board voted as follows with respect to the petition for a Special Permit subject to the below-stated terms and conditions:

Bonnie Sontag, Chair Yes
M.J. Verde Yes
Andrew Shapiro Yes

Don Walters Not Voting
James Brugger Yes
Joe Lamb Abstain

Leah McGavern Yes
Anne Gardner Yes
Tania Hartford Absent

PLANS AND MATERIALS INCORPORATED INTO DECISION

1. This Special Permit application is accompanied and augmented by the following plans, drawings and submittals:
 - 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 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 Water Resource Protection District Special Permit 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

General Findings

The Property, known as the Evergreen Golf Course consists of 36.84± acres of golf course landscape and related water features. Additionally, the Property includes a single-family home lot located at 5 Brown Avenue. The proposed definitive subdivision, based on the approved OSRD development will yield thirty-eight (38) single family residential units with accompanying roadways and infrastructure on 13.36± acres while preserving the remaining 22.12± acres, which will be accessible to the general public and maintained by the to-be-created homeowners' association in accordance with the previously-approved OSRD-SP.

Specific Findings

1. This site is of particular importance to the greater Newburyport community as it sits adjacent to City-owned property where Well #2, a public drinking water well and part of the City's public water supply, is located. The project lies within Zone II of the WRPD of the City of

Newburyport. Pursuant to Section XIX-E(6) of the NZO, residential uses are allowed in the WRPD subject to sections XIX-H, I, and J (prohibited uses) and Section XIX-K (special permitted uses).

2. The Project requires a Special Permit under section XIX-I (6, 7 and 8):
 - a. Subparagraph 6 provides that any use that will render impervious more than five thousand (5,000) square feet of a residential lot or ten thousand (10,000) square feet of a nonresidential lot. A system for groundwater recharge shall be provided which does not degrade ground or surface water quality. For all nonresidential uses, recharge shall be by storm water infiltration basins or similar systems covered with natural vegetation. Dry wells shall be used only where other methods are infeasible. For all nonresidential uses, all such infiltration basins and dry wells shall be preceded by oil, grease, and/or sediment traps to facilitate removal of contaminants. All recharge areas shall be regularly maintained in proper working order by the owner.
 - i. The total amount of impervious area for the Property will be 215,531 square feet. As set forth in the Stormwater Management Report including the Operation and Maintenance Plan for Stormwater and as shown on sheets Civ. 1-15 of the Plan Set.
 - b. Subparagraph 7 provides that Residential construction upon a lot with an average slope exceeding fifteen (15) percent. An acceptable plan for site stabilization and control of erosion and sedimentation shall be provided.
 - i. One lot, lot 19 exceeds 15% slope as noted in the ordinance where the slope is 19%. The Applicant has shown on the definitive plan a plan for site stabilization and control of erosion and sedimentation as required is Subparagraph 7.
 - c. Subparagraph 8 provides that any new stormwater runoff shall be set back from the receiving water a minimum of one hundred (100) feet, and shall include best management practices appropriate to the site. Existing and replacement discharges shall be set back from the receiving water when either the site stormwater drainage system is changed or the discharge is increased. The best management practices shall be designed so as to maximize infiltration and minimize erosion, and to mitigate water quality impacts, including those due to total suspended solids and oil and grease. This applies to stormwater runoff from all impervious surfaces, including roads and parking lots.

The Applicant has addressed this design criteria on sheets Civ. 1-15 of the Plan Set. The Stormwater Management Report including the Operation and Maintenance Plan addresses this criterion. The stormwater runoff is set back from any receiving water at least one hundred (100) feet. The site has been designed using best management practices pursuant to MA DEP Stormwater Handbook Design Guidelines. The design is meant to maximize infiltration by infiltrating clean roof water and treated surface runoff through BioRetention Areas and Infiltration Swales and minimize erosion by collecting and controlling all stormwater runoff through a drainage system as indicated on sheets Civ. 1-15 of the drawings and the provided Stormwater Report and mitigate any impact on water quality by treating all stormwater runoff through a treatment system including deep sump catch basins, enhanced mechanical separator

treatment units that discharge to Bioretention Cells or Constructed Stormwater Wetland.

3. The Applicant will deed 0.61± acres of land along the easterly property line to the City, as indicated on the above-referenced and approved plans. This land will allow for greater flexibility in relocating the existing City water supply (Well #2) if necessary in the future.
4. This property includes ILSF and wetland resource areas; as such, this project will require an Order of Conditions from the Newburyport Conservation Commission.
5. The proposed project shall not adversely affect the existing or potential quality or quantity of water that is available for on-site recharge in the WRPD during or after construction:
 - a. Quantity: The current use as a golf course includes the use of an irrigation system that draws water directly from the ground water through various means to water the golf course – approximately 21 acres irrigated with ground water. The OSRD-SP prohibits the use of an irrigation system drawing from the ground water for use on lawns and other maintained landscaping at the project. The project provides for the required groundwater recharge volume per Standard 3-Recharge to Groundwater of the Massachusetts Stormwater Standards, which is achieved by the water held and directly infiltrated in the five bioretention areas.
 - b. Quality: Currently the storm water from the Boyd Drive catchment area runs untreated onto the golf course into the open clay-lined storm water ponds. The OSRD-SP and DSP require that the Boyd Drive stormwater will be treated by Constructed Stormwater Wetlands in accordance with the DEP Zone II WRPD treatment requirements. Thereafter, the fully treated water will end up on the wetland pond area. The wetland pond is being increased in size from 36,233 to 70,929 square feet.

The increase in size of the wetland will also improve water quality. The water entering the wetland from the rain gardens and stormwater basins will be treated for 90% Total Suspended Solids removal through the use of five bioretention areas. Given the plants and soils added to the improved wetland, there will be an additional natural treatment of any other water entering the wetland.

The current use as a golf course involves treating 915,000 square feet of maintained turf with various herbicides, fungicides, and pesticides with limited oversight. The OSRD-SP requires that any landscape maintenance be accomplished by a single, licensed lawn care professional and that the landscape treatment plan, as well as the snow removal plan, be approved annually by the Department of Public Services. Further, active notice is required to be provided to the home owners through each deed and the Home Owners' Association documents notifying them of the fact that the development is in a Zone II public water supply area.

6. The Project is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water related natural characteristics of the site to be developed, in adherence to the practices outlined in "Guidelines for Soil and Water Conservations in Urbanizing Areas of Massachusetts" (USDA Soil Conservation Services, October 1977).

- a. The Project provides full water quality treatment for the existing Boyd Drive stormwater system, providing 80% required Total Suspended Solids (TSS) for the existing paved surfaces on Boyd Drive that drain to this Zone II area.
 - b. The Project provides 90% TSS removal through the use of the bioretention areas, which are sized to hold more stormwater runoff than the 1" water quality volume required in Standard 6 – Critical Areas in the Massachusetts Stormwater Standards, which require only 80% TSS removal. As a result, the Project exceeds the 1977 guidelines and the current iteration of those standards, which govern stormwater discharge in Massachusetts.
 - c. The property was once used as a gravel pit, as such, there is little natural topography, vegetation or drainage left on the site. The Project does not dramatically change the existing topography of the site. However, the Project includes the introduction of indigenous vegetation, introducing more plantings around the wetlands, planting pollinator meadows, and encouraging a natural use of most of the open space. Following development, the Project will include 23 acres of natural vegetation, 8 acres of maintained vegetation, and 4.9 acres of building footprints and paved surfaces.
7. In addition to being located in Zone II and subject to the regulations therein, the project is also located in an R1 Zoning District, which requires 20,000 sq. ft. lots; however, the OSRD Special Permit, granted by the Planning Board on 3/1/17, modified this requirement in order to minimize disturbance to the site, enhance the opportunity to protect the public water supply, i.e. Well #2, and to permanently preserve a significant amount of land as open space to be used for both passive and active recreation. Lot sizes instead range from 10,700 sq. ft. to 11,600 sq. ft., with three lots proposed to each be approximately 20,000 sq. ft. These three lots will front on Boyd Drive and are larger to match the existing Boyd Drive properties.

Similarly, the OSRD-SP limits roadway width, thereby minimizing negative environmental impacts of this development through the reduction in impervious surface area.

8. 22.12± acres of open space will be preserved in perpetuity with a Conservation Restriction. The open space is specifically designed to be suitable for and protected and maintained for wildlife habitat, conservation, outdoor education, and passive and active recreation with over 5,700 linear feet of bike and walking paths that will connect to the City's multi-use path that runs adjacent and parallel to Interstate 95. The entire open space area will be accessible to the public with maintenance responsibilities managed by the to-be-established homeowners' association with details to be included in the official homeowners' association documents that will be recorded at the South Essex District Registry of Deeds.

DECISION

In view of the foregoing, the Planning Board hereby decides to grant a Section XIX Water Resource Protection District Special Permit in accordance with the terms and conditions stated below:

1. The applicant shall file this Special Permit decision with the Southern Essex County Registry of Deeds (or Land Court if registered land) and a copy of the decision stamped with the recording information (Book/Page or Land Court document number) shall be included with

the application for a Building Permit. The final site/construction plans shall also make reference to the decision date and conditions of approval.

2. Prior to the granting of a Building Permit, the applicant shall submit the written certification of a registered Architect or Civil Engineer to the Building Commissioner that the project will be constructed in accordance with the approved plans and conditions.
3. Except as noted below, no building permit shall be issued unless all public utilities have been reviewed and approved by the respective utility departments and that the proposed utilities will be installed in accordance with plans submitted with the application. All utility work shall be done in compliance with regulations and instructions issued by the Department of Public Services, including (but not limited to) the installation of curbing, pavement, sidewalks, pavement markings, and other infrastructure
4. All design and construction of all water utilities must meet Federal, State and local standards and the latest version of Newburyport Water Works Construction Guidelines and Construction Policies. Contractors are prohibited from operating or connecting to any part of the existing water system without written authorization and field oversight by the Department of Public Services Water Division.
5. All design and construction of all sewer utilities must meet Federal, State and Local standards and the latest version of Newburyport Sewer Department Construction Guidelines and Construction Policies. Contractors are prohibited from operating or connecting to any part of the existing sewer system without written authorization and field oversight by the Department of Public Services Sewer Division.
6. 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 Special Permit.
7. Any proposed material change to the use, size, configuration, footprint or height of the existing or proposed buildings shall require an amendment of this permit, this approval having been based on a review of the buildings and site design as presented to the board on the above referenced drawings.
8. This Special Permit is valid for two years from the date from filing with the City Clerk.

Special Conditions

1. Conformance with OSRD Special Permit: 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'.

2. Conformance with Definitive Subdivision Approval: 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 Definitive Subdivision, especially those listed as 'Special Conditions'.
3. 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 OSRD, DSP, and this Special Permit 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.
4. 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.
5. Homeowners' Association
 - a. Homeowners' Association Document: The final language in the Homeowners' Association Document for the property shall be reviewed and approved by the Planning Board in consultation with the City Solicitor for compliance with the OSRD Special Permit conditions, approved Definitive Subdivision plans, and elements suggested by the Horsley Witten Group on page 25 of 29 in the communication dated 12/11/17. Prior to the issuance of a Certificate of Occupancy or conveyance of any lot these documents shall be recorded at the South Essex District Registry of Deeds with proof of recording submitted with the application for a Certificate of Occupancy.

The documents shall include the following two prohibitions, which must be added to the original list found within the draft document:

1. Discharge of swimming pool water without neutralization in quantities larger than those associated with normal filter backwash cycles. Neutralization shall consist of holding water in the pool for one week prior to discharge without addition of chemical treatments to allow chlorine, bromine and other chemicals to dissipate and pH to neutralize. Water shall be tested prior to discharge and demonstrated to have <0.1 ppm of free chlorine and a pH between 6.0 and 8.0. Pool water in excess of the minimal quantity required for filter backwash shall only be drained for winterization (also only minimal amount necessary), maintenance that requires drainage, or pool removal. Neutralized water shall be discharged over natural, vegetated surfaces on one's own lot in a manner that

does not cause erosion or otherwise impact neighboring properties, common areas or wetlands.

2. Pesticide treatments for mosquitoes or other pests are prohibited within the wetlands and open space areas of the Conservation Restriction within the Zone II.

The Homeowners Association Document shall also include a requirement for an Annual Landscape Maintenance Plan to be submitted by the HOA to the Conservation Commission, Water and Sewer Commission, and for review by the Newburyport DPS, Water Division, and should include the following elements:

1. Name of responsible landscaper;
2. A requirement that the designated landscaper provide the City's Department of Public Services (Water Division) with a copy of their insurance policy.
3. Species selections, mowing, and maintenance practices intended to promote turf health and minimize need for pesticides and fertilizers;
4. Schedule for any broad fertilizer or pesticide applications (should be no more than twice per year for fertilizers and spot/as needed for pesticides);
5. Procedure to follow for any follow up spot applications;
6. List of allowable products (fertilizers should be organic and phosphorus free except for first year of initial grow-in and pesticides should be low mobility) ;and
7. Lists and descriptions of the quantity and timing of all fertilizers and pesticides used the prior year and any divergences from that past year's anticipated use patterns. The Annual Landscape Plan shall be in general accordance with sustainable lawn care best management practices as described by Massachusetts Department of Environmental Protection.

Said review by DPS Water Division shall be in conformance with the OSRD Special Permit. DPS Water Divisions shall provide review comments or approval within 45 days of submission. The Homeowners Association shall be required to pay up to \$1,000 toward the DPS Water Division's peer review of the annual plan. This contribution amount shall be increased by 2% annually in each successive year. Accordingly, the Homeowners Association shall submit payment for these peer review services along with the Annual Landscape Maintenance Plan. Any portion of the peer review funds not paid to the applicable peer review consultant shall be returned to the Homeowners Association upon completion of the Plan review and approval process.

Finally, the Homeowners Association Documents shall include:

1. A provision that requires the Applicant to install a plaque beside the exterior door as one enters each house from the connected garage which notifies the homeowner of the obligations and restrictions related to the Water Resource Protection District and the requirements of these permits. The design and content of each such plaque shall be reviewed and approved prior to installation by the Planning Board. Said plaques shall be installed in each applicable house prior to the grant of any Occupancy permit therefore, and
 2. A prohibition on removal of any granite bound.
- b. Stormwater Management Operation and Maintenance Plan: The Applicant shall provide to the Director of Planning and Development the Stormwater Management Operation and Maintenance Plan to accompany the Home Owners' Association documents for review.

Upon the Director's approval, such plan will be incorporated by reference into the Home Owners' Association documents. Elements that shall be included are:

1. A figure illustrating the location of all stormwater practices that will require maintenance, and
2. A maintenance log template.

The figure and plan shall also separately reference those stormwater practices that are located within and outside the roadway right of way so that the responsible parties will clearly understand what they are each responsible for prior to and if and upon acceptance of the roadways by the City.

6. 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.
7. Approval of Public Utilities: 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 be issued for any lot until all public utilities have been reviewed and approved by the respective utility departments that the proposed utilities were installed in accordance with the plans referenced herein for the phase within which the lot is located. All utility work shall be done in compliance with the regulations and instructions issued by the Newburyport Department of Public Services, including but not limited to, the installation of curbing, base coat pavement, sidewalks, pavement markings, and other infrastructure.
8. As-Built Plans: Prior to the last occupancy permit being issued 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 upon 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 the approved plans and conditions set forth by the Planning Board. The Applicant shall submit to the Planning Director and Planning Board interim as-built plans applicable to particular lots at the time of requesting a certificate of occupancy for that lot(s). Said interim as-built plans may be submitted electronically.
9. Initial Funding for Homeowners' Association Activities: Prior to the issuance of the first occupancy permit for any home in any phase beyond Phase I, the Applicant and/or Owner shall provide written confirmation to the Office of Planning & Development that the following initial funds have been transferred into accounts to be managed by the to-be-established Homeowners' Association:
 - a. Open Space Maintenance Fund: \$5,000
 - b. Stormwater Management Systems Maintenance Fund: \$6,000
 - c. Landscaping & Lawn Maintenance Fund: \$3,000
 - d. Annual Conservation Restriction Monitoring Fund: \$2,500
10. Notwithstanding the prohibition of private wells as provided in the OSRD-SP and the Homeowners Association documents, during construction the Applicant may use existing

private wells on the property temporarily to provide water for the initial plantings until same are established and these wells may also be used for construction dust control.

DATE OF FILING OF DECISION

Filed with the Newburyport City Clerk on 1/30/18 and sent registered mail to the applicant. Notice of decision is also sent by regular mail to the Parties in Interest and the abutting municipalities.

SIGNATURE OF THE BOARD



Bonnie Sontag, Chair, Newburyport Planning Board

1/30/18
Date

NOTICE OF APPELLATE RIGHTS

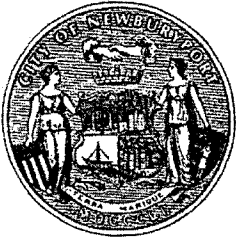
Appeals shall be made pursuant to M.G.L. Chapter 40A Section 17 and filed within twenty (20) days after the date of filing this decision in the Office of City Clerk.

CITY CLERK CERTIFICATION OF APPEAL PERIOD EXPIRATION

Certification of the City Clerk: I, _____, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A Section 17, that the decision for the property known as 18 Boyd Drive and 5 Brown Avenue was filed in the Office of the City Clerk on 1/30/18. Twenty days have elapsed after the decision was filed and no appeal has been filed.

Newburyport City Clerk

Date



CITY OF NEWBURYPORT
PLANNING BOARD
60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
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**SPECIAL PERMIT
NOTIFICATION OF DECISION**

NOTICE OF DECISION

You are hereby notified of the decision of the Planning Board on the application filed 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, and voted to approve the following request:

construction of a subdivision within the Water Resource Protection District

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.