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CITY OF NEWBURYPORT
PLANNING BOARD
60 PLEASANT STREET • P.O. BOX 550
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Date: February 15, 2006
Approval: OSRD-Special Permit
Address: 10 Russell Terrace Extension,
Newburyport, MA.
Applicant: Oleo Realty Trust
Map & Lot: 99/1, 99/2, 109/23
Registry Info: ESRD B23636, P0326
File Number: 2005 OSRD-001

DECISION

Pursuant to M.G.L. C.40A, the Planning Board of Newburyport, in accordance with the criteria set forth in the Newburyport Zoning Ordinance in Section XIV Open Space Residential Development (OSRD), and after the public hearing and findings of fact, hereby grants final APPROVAL of an OSRD-Special Permit for the creation of twenty-four (24) residential lots (twenty-two (22) single-family structures and one two-family structure with at least two units of affordable housing) and creation of Lot 10 and Lot 26 designated for the Common Open Space at 10 Russell Terrace Extension (Map 99 Lot 1, Map 99 Lot 2, Map 109 Lot 23) owned by Oleo Realty Trust (ESRD B23636, P0326) and located in the IB-ROD overlay district.

FINDINGS

1. That the "Project," as submitted on October 27, 2005 and presented at the public hearings on November 16, 2005, December 7, 2005, December 21, 2005, January 4, 2006 and February 15, 2006, and as conditioned by this Decision, meets the criteria of Section XIV and is consistent with the intent of the City's Master Plan.
2. That the presentation and documents as submitted, revised and presented by the Applicant supports the Board's decision to approve the OSRD-Special Permit for the Project subject to: A) *General Conditions of Approval*; B) *Conditions Required Prior to Filing of Definitive Subdivision Plan*; C) *Conditions Required Prior to Filing of a Building Permit*; and, D) *Conditions Required Prior to Filing of an Occupancy Permit* as listed below.

3. In accordance with the authority provided under the OSRD-Special Permit, the Board finds the reduction of dimensional requirements, as shown on the submitted and revised plans, are consistent with the requirements of Section XIV and will substantially further the purposes and intent of Section XIV and the OSRD-Special Permit.

INVENTORY OF SUBMITTED PLANS

- *OSRD Special Permit Plan* dated February 28, 2006, *Conventional Subdivision Yield Plan* dated March 1, 2006, and *Primary and Secondary Resource Map* dated February 28, 2006 all prepared by Millenium Engineers.
- *Photographs* of the four proposed house styles submitted and presented at the November 16, 2005 public meeting for partial conformance with the Section 10 Design Standards.

A) GENERAL CONDITIONS OF APPROVAL

The following conditions are hereby incorporated into the OSRD-Special Permit.

1. The applicant shall submit to the Planning Board revised plans incorporating all recommendations outlined in the Planning Director's memo dated February 11, 2006 that are not already addressed in this decision.
2. Unless waivers are granted under the OSRD-Definitive Subdivision Plan (DSP) due to grading or other topographic condition unique to the property, the right-of-way for all roadways must be a minimum width of 40 feet to accommodate utilities, street trees, planting strips, street lighting, sidewalks and adequate snow storage and all sidewalks shall be constructed of concrete and separated from the road surface with a buffer strip at least five (5) feet in width.
3. ADA compliant crosswalks should be provided at both ends of the crescent portion of the road.
4. At least 20 feet of parking area outside the street right-of-way shall be provided in front of all garages behind the front lot line.
5. All driveways, as shown on the submitted plans, shall be pervious in perpetuity and a recordable restriction/covenant reflecting this requirement shall be referenced into the deeds for each individual lot, except as otherwise determined in the OSRD-DSP process.

6. The single-car garages on Lot 22 and Lot 23 shall be located at least 15 feet from the existing stone wall.
7. The existing stone wall remnants on Lots 11, 12, 13, 22 and 23 shall be preserved.
8. Subject to a review of final grading under the OSRD-DSP, all mature shade trees, as shown to be preserved on the submitted plans, shall be preserved wherever possible on the individual lots within the defined Potentially Developable Area (PDA).
9. Pending final review and approval from the Newburyport Conservation Commission and Division of Fisheries and Wildlife, the PDA, or limit of work, shall be located along the side and rear lot lines of lots 9, 11, 13 and 14 and along a 5 foot buffer area from the existing wetland delineation behind Lots 15, 16, 17 and 18, as shown on the revised OSRD Plan dated February 8th, 2006. The OSRD-DSP shall show no disturbance outside this PDA except for limited Low Impact Development (LID) stormwater management structures/areas, which shall be subject to review and approval of the Planning Board under the OSRD-DSP. Best available low impact engineering techniques shall be utilized in connection with the development to minimize the area of disturbance outside the PDA. Pending review and approval by the Board, these limited impacts outside the PDA, approved under the OSRD-Special Permit, shall not represent a material change but shall constitute a minor modification to the OSRD-Special Permit. The Board reserves the right to engage the services of a qualified professional engineer to review the proposed stormwater management plans and recommend design changes to the stormwater management system to minimize any proposed disturbance outside the approved PDA.
10. Final Covenants, including a stewardship endowment, maintenance plan and a permanent conservation restriction held by a qualified land trust which has experience with conservation restrictions in Essex County, shall be submitted for the Common Open Space (COS) area. The fee interest in the COS shall be conveyed to the City, along with provisions for public access.
11. Easements must be clearly identified on the site plan for the proposed access across Lot 18 to the storm water detention pond, the driveway access on Lot 9 for turning emergency vehicles, and all drainage and utility easements.
12. The properties shall be maintained for single-family use with the exception of a two-family use on Lot 18. Any proposed change to such uses shall require, among other potential approvals, an amendment to this Special Permit.

13. This Special Permit shall run with the land and be binding on all future owners of the property.
14. A recordable restriction referenced in each deed for the project shall include the following provision: "Any subsequent proposed change to the configuration, footprint or height of any of the proposed permanent structures or the lot configurations shall require an amendment to this Special Permit, this approval having been based on a review of the final approved site plans".
15. Prior to the start of construction, the applicant or its agent(s) shall meet with the City Planner, Building Commissioner, Sewer and Water Directors, Health Agent and Public Works Director to finalize all details associated with connections to existing municipal utilities.
16. Consistent with the letter received on December 19, 2005 from the Public Services Director, the 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, which are available at the Department of Public Services office. 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.
17. Consistent with the letter received on December 19, 2005 from the Public Services Director, the 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, which are available at the Sewer Plant located on Water St. Contractors are prohibited from operating or connecting to any part of the existing sewer system without written authorization and field oversight by the Sewer Department.
18. All construction of activities within the 100 foot wetland buffer zone must meet all Federal, State and local requirements.
19. The area shown as a Right of Way along the northern boundary of Lot 1 shall be shown as a deeded parcel to the City as part of the Common Open Space area.

**B) CONDITIONS REQUIRED PRIOR TO FILING A DEFINITIVE
SUBDIVISION PLAN**

Prior to filing an OSRD-DSP, the following conditions shall be completed and related documentation shall be submitted to the Planning Board with the OSRD-DSP application for its review and approval:

1. The house lots, house footprints and house designs for the two lots proposed along the northern boundary of the OSRD-Special Permit plan shall be consistent with those shown on the OSRD-Special Permit plan.
2. Final Covenants shall be submitted for the Homeowners Trust, which shall include provisions for maintenance of driveway surfaces, protection of drainage areas, limited use of pesticides and herbicides on individual lots, and the appropriate maintenance and use of associated open space or conservation areas.
3. The storm water management plan shall utilize best available Low Impact Development (LID) techniques to treat and manage all storm water within the proposed Potentially Development Area.
4. The pavement line along the western property boundary from the former I-95 access road shall be shown on the OSRD-Special Permit plan.
5. Consistent with the requirements listed in Section 10.a.i., the Applicant shall retain the services of a registered architect and landscape architect and submit to the Board with the OSRD-DSP detailed architectural and landscape drawings for each residential structure and lot.
6. Consistent with the letter received on December 2, 2005 from the Police Marshall, the final provisions for addressing the proposed impacts to the intersection of Russell Terrace and Route 113 shall include written approval from the Newburyport Police Department, Department of Public Services and, if required, the Massachusetts Highway Department.

C) CONDITIONS REQUIRED PRIOR TO FILING FOR A BUILDING PERMIT

Prior to filing a Building Permit, the following conditions shall be completed.

1. The City Planner shall review and approve the final architectural and landscape drawings to confirm substantial compliance with the approved site plans and photographs submitted with the approved OSRD-Special Permit and OSRD-DSP. If not in substantial compliance, an amendment to this Special Permit shall be required prior to issuance of the Building Permit. To determine substantial compliance such drawings shall be consistent in massing, scale, height, and overall design with the submitted site plans and photographs depicted for each house lot as shown on the approved plans and the

footprints shown on the plans shall only represent the maximum building envelope.

2. The City Planner shall review and approve the final site/construction plan(s) to confirm that they are in substantial compliance with this Special Permit. If not in substantial compliance, an amendment to this Special Permit shall be sought and obtained, after public hearing, prior to issuance of the Building Permit.
3. The Applicant shall file this Special Permit decision with the Essex South County Registry of Deeds and a copy of the decision stamped with the recording information (Book/Page) shall be included with the application for a building permit. The applicant shall also make reference to these conditions of approval on the final site/construction plans referencing the date, contents and votes of the Planning Board, Historic Commission and Board of Appeals (if applicable).
4. A permanent conservation restriction held by a qualified land trust which has experience with conservation restrictions in Essex County shall be executed and recorded to preserve the designated Common Open Space (COS) shown as Lot 26 and Lot 10 by prohibiting any structures, disturbance of the land, or clearing of vegetation, and including related restrictions. Immediately after such conservation restriction is recorded on the COS, the fee interest in the COS shall be conveyed to the City.

D) CONDITIONS REQUIRED PRIOR TO FILING FOR AN OCCUPANCY PERMIT

Prior to issuance of each Occupancy Permit, the following conditions shall be completed.

1. The City Planner shall certify that each residential structure subject to the request for occupancy has been built in substantial compliance with the conditions and plans approved by the Board prior to issuance of a certificate of occupancy by the Building Commissioner.
2. The applicant shall remove the existing Russell Terrace Extension cul-de-sac after approval from the City.
3. At the applicant's expense, all recordable conveyances or easements for the project shall be provided for acceptance by the Water and Sewer Commissions, the Planning Board, the City Council, and the Mayor.

— end —

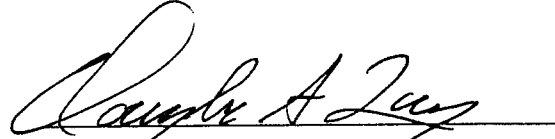
A true record.

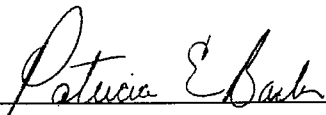
COMMONWEALTH OF MASSACHUSETTS

Essex,

March 10, 2006

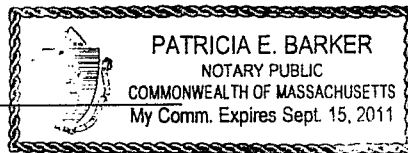
Then personally appeared Douglas A. Locy, Chair, of the Planning Board of the City of Newburyport and acknowledge the foregoing instrument to be the free act and deed of said Planning Board, before me.


Douglas A. Locy, Chair

Attest:  _____

Notary Public

My Commission expires: _____



PLEASE RETURN TO:

HEALEY, DESHAIES, GAGLIARDI & WOELFEL, PC
2005 BOARD - Special Permit 007
10 Russell Terrace Extension
BOX 54

**City of Newburyport Planning Board
Record of Proceedings and Decision for an V.I.C - Special Permit**

Certification of the City Clerk: I, Patricia E. Barker, Assistant City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A, Section 11, that the decision for the property known as **10 Russell Terrace Extension, Newburyport, MA 01950** was filed in the Office of the City Clerk on **March 13, 2006, 2006** and that (20) twenty days have elapsed after the decision was filed and NO APPEAL was filed.



Newburyport Assistant City Clerk

Date: APR 04 2006

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