



CITY OF SALEM PLANNING BOARD

Decision

57 Marlborough Road/Osborne Hills

Form C – Definitive Subdivision and Cluster Residential Development Special Permit

May 27, 2021

Osborne Hills Realty
P.O. Box 780
Lynnfield, MA 01940

RE: 57 Marlborough Rd- Osborne Hills Subdivision Modification
Decision for the Definitive Subdivision Plan Form C and Cluster Residential
Development Special Permit for Osborne Hills Subdivision –

On October 15, 2020, the Planning Board of the City of Salem opened a public hearing for the Form C – Definitive Subdivision and Cluster Residential Development Special Permit applications of Paul DiBiase, Trustee of Osborne Hills Realty Trust (hereinafter referred to as the “Applicant” and/or “Owner”) to allow for the amendment and/or modification of the Definitive Subdivision Plan and the Cluster Residential Development Special Permit related to land located in Salem, MA currently shown as Phases 6, 7, 8, 9, and 10, comprising lots 88 through 131 of the “Definitive Subdivision of Osborne Hills Realty in Salem, Massachusetts” as originally approved pursuant to a vote and written decision of the Salem Planning Board dated July 27, 2006 recorded at Essex South Registry of Deeds at Book 26196, Page 570 and the plans referenced therein (the “Original Decision”).

It is important to note that the applications, which are the subject of this decision evolved from the following:

- 1) In 2006, the Salem Planning Board approved a Form C-Definitive Subdivision Plan, Cluster Residential Development Special Permit, and Wetlands District Special Permit Applications to allow construction of the Osborne Hills Subdivision and associated roadways and utilities, as stated in the Original Decision. The Wetlands District Special Permit is no longer applicable.
- 2) On February 10, 2020, the Salem Planning Board issued a Form B Preliminary Subdivision Plan decision for the modification of phases 6 through 10 of the 2006 decision.
- 3) On July 2, 2020, the Applicant submitted a Form C-Definitive Subdivision Plan and Cluster Residential Development Special Permit Applications to allow construction of the proposed modifications of phases 6 through 10 of the Osborne Hills Subdivision and associated roadways and utilities to service construction. These applications were voluntarily withdrawn without prejudice by the Applicant at the September 3, 2020

Planning Board meeting to make additional modifications to the plan prior to resubmission. It is important to note that all written materials, information, studies, peer reviews and any and all other correspondence involved in these applications were accepted as part of the record for the applications for which this decision is issued.

The public hearing was continued to November 11, 2020, December 3, 2020 (no testimony), December 17, 2020, January 1, 2021 (no testimony), January 21, 2021 (no testimony), February 4, 2021, February 18, 2021 (no testimony), March 18, 2021 (no testimony), and April 1, 2021. The public hearing was closed on April 1, 2021. At the regularly scheduled Planning Board meeting on April 1, 2021 the Board voted by a vote of six (6) in favor (Carole Hamilton, Helen Sides, Kirt Rieder, Noah Koretz, DJ Napolitano, Bill Grisct) and none (0) opposed, to approve the proposed modifications of the Form C-Definitive Subdivision and Cluster Residential Development Special Permit. Furthermore, the Board finds that all standards for the issuance of the Special Permits has been met by the Owner and that the Plan is in harmony with the purpose and intent of the Zoning Ordinance and would not result in a net negative environmental impact. The Board recognized that the building lots created and the buildings to be constructed thereon may have dimensional controls and density regulations varying from those otherwise permitted by the ordinance or by-law including, but not limited to, lot area and frontage requirements and the approvals are subject to the following conditions and waivers and/or relief:

1. Original Decision

- a.** All conditions as set forth in the Original Decision shall remain in full force and effect, except as explicitly modified by the conditions below.

2. Conformance with the Plan

- a.** Work shall conform to the plans entitled “Modified Definitive Subdivision Plan of Strongwater Crossing Formerly Known as Osborne Hills, Salem, Massachusetts,” prepared by Eastern Land Survey Associates, Inc, 104 Lowell Street, Peabody, MA, 01960, with the sheets listed below.
- b.** Revised Plans reflecting all conditions and incorporating by reference this decision must be submitted to and approved by the City Planner for consistency with this decision prior to the issuance of a foundation permit.

Drawing Title	Sheet No.	Prepared By	Issued	Revised
Index Sheet	1 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	07.24.2020
Open Space Plan	2 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	07.24.2020
Existing Conditions Plan	3 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	07.24.2020
Existing Conditions Plan	4 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	07.24.2020
Subdivision Plan Lots 66A, 67A, 88-92 & 128-131	5 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	07.24.2020

Subdivision Plan Lots 93-103 and 119-127	6 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	07.24.2020
Subdivision Plan Lots 104-118	7 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	07.24.2020
Topographic Plan Lots 66A, 67A, 88-92 & 128-131	8 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	02.18.2021
Topographic Plan Lots 93-103 and 119-127	9 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	02.18.2021
Topographic Plan Lots 104- 117	10 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	02.18.2021
Plan & Profile Strongwater Drive 0+10 to 10+24.42	11 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	02.18.2021
Plan & Profile Strongwater Drive 20+0 to 32+0	12 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	01.25.2021
Plan & Profile Strongwater Drive 32+0 to 40+0	13 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	07.24.2020
Plan & Profile Strongwater Drive 40+0 to END	14 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	07.24.2020
Plan and Profile Easements	15 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	02.18.2021
Plan and Profile Easements	16 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	01.25.2021
Details	17 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	02.18.2021
Details	18 of 18	Eastern Land Survey Assoc. Inc.	06.22.2020	07.24.2020
Proposed Wastewater Pump Station	A of 19	Eastern Land Survey Assoc. Inc.	06.22.2020	02.18.2021
Pedestrian Connection Barcelona Access		Eastern Land Survey Assoc. Inc.	01.25.2021	-

Formalized Trail Recommendations	Figure 2.1	Recon Trail Design, LLC	11.24.2020	-
Formalized Trail Recommendations with POIs	Figure 2.3	Recon Trail Design, LLC	11.24.2020	-

3. Endorsement of the Plans

Following the statutory twenty (20) day appeal period, the Planning Board will sign the original subdivision plans, subject to conditions of this approval, which shall be recorded at the South Essex Registry of Deeds. Prior to endorsement of the plans, the following items must be submitted for approval by the Planning Board:

- a. A Covenant to secure the construction of ways and installation of municipal services, including required description of mortgages and assents of mortgagees.
- b. Acceptable form of grants of easements, if applicable.
- c. The conditions of approval of this subdivision shall be placed on the original plans, or referenced on the plans, or this decision shall be recorded at Essex South Registry of Deeds prior to endorsement by the Planning Board.

4. Amendments

- a. Any modification to the approved plans shall be submitted to the City Planner for their review. The submission shall include a plan sheet with all changes from those plans approved by the Planning Board bubbled, noted, and stamped by a licensed professional engineer. This submission shall also include a brief narrative explaining the proposed changes. Unless deemed insignificant by the City Planner, these amendments shall be brought to the Planning Board. Any waiver of conditions contained within shall require the approval of the Planning Board.

5. Timeframe

- a. If such ways and services are not completed on or by July 30, 2026, approval of the plan may be rescinded by the Planning Board, unless an extension is granted by the Planning Board. The Planning Board acknowledges that the timeframe and completion of the entire subdivision is anticipated to last no longer than July 30, 2026, but will not unreasonably withhold extensions.
- b. The applicant shall request an extension, if required, on or before January 1, 2026.

6. Progress Reports

- a. Upon request from the Planning Board and/or the Department of Planning and Community Development, the Owner shall submit a report on the progress of the subdivision construction, estimated time until completion, expected construction activity for the remainder of the project, and other project details. The Owner shall provide these updated plans and schedules in writing no later than 14 days following the request.

7. Pre-Construction Conference

- a. Prior to the start of work on phases 6 through 10 of the approved subdivision, a pre-construction conference shall be scheduled with the City Planner, the City Engineer (or his designee), the Building Commissioner, the Health Agent, and any other departments that may be necessary. The Owner shall submit an estimated construction schedule at the time of the pre-construction conference.

8. Construction Practices

- a. All construction shall be carried out in accordance with the following conditions:
 - i. Rock crushing, processing, and screening shall not be allowed at the site unless the resulting material is reused or repurposed within the subdivision. This is in order to reduce potential, noise, dust, and vibrations impacting the neighboring properties and is deemed acceptable because this activity will not take place within 300 feet of any abutters to the subdivision.
 - ii. Blasting, drilling, and hammering shall be undertaken in accordance with all local and state regulations.
 - iii. Prior to issuance of a demolition, foundation, or building permit, the Applicant shall submit a blasting notification plan to the City Engineer and Fire Department, for review and approval. The Applicant shall directly coordinate all neighborhood notification required by the Salem Fire Department ahead of blasting events.
 - iv. Prior to commencement of any blasting, drilling, and hammering, and prior to issuance of a demolition, foundation, or building permit, detailed plans for the locations and logistics for blasting, drilling, and hammering must be provided for review by the Clerk of the Works and approved by the City Engineer and Fire Department to ensure that reasonable measures are taken to limit noise, dust, and vibrations that may impact area properties. These plans must include, but shall not be limited to, details of truck washdown pads and coverings for trucks transporting rock, earth, or associated materials.
 - v. Blasting, drilling, and hammering shall be limited to Monday-Friday between 8:00 AM until 5:00 PM. There shall be no blasting, drilling, or hammering on Saturdays, Sundays, or state and federal holidays. Upon commencement of blasting, Applicant is to report to the Fire Department, City Planner, and Ward Councilor every 30 days in writing with a status update and forecast.
 - vi. Prior to issuance of a demolition, foundation, or building permit, the Applicant shall provide a detailed construction vehicle access plan for review and approval by the Director of Traffic & Parking. The intent of this condition is to minimize construction vehicle traffic within the existing residential neighborhoods.
 - vii. All provisions in the City of Salem's Code of Ordinance, Chapter 22, Noise Control, shall be strictly adhered to.
 - viii. All reasonable action shall be taken to minimize the negative effects of construction on abutters. Advance notice shall be provided to all abutters in writing at least 72 hours prior to commencement of demolition and construction of the project, which shall include properties within 300 feet and current residents of completed subdivision phases within 300 feet.

- ix. The Applicant shall ask all abutters within 300 feet and current residents of completed subdivision phases within 300 feet if they shall be included on a list for written notification prior to the occurrence of any blasting event.
- x. All construction will occur on site; no construction will occur or be staged within City right of way. Any deviation from this shall be approved by the Department of Planning & Community Development prior to construction.
- xi. A construction traffic management plan and schedule shall be submitted to the Department of Planning & Community Development for review and approval prior to the issuance of a building permit.
- xii. Any roadways, driveways, sidewalks, or landscaping damaged during construction shall be restored to their original condition by the Applicant, to the written satisfaction of the City Planner. In the instance of damage to mature city trees, the Tree Warden shall be solely responsible for determining monetary damages and acceptable mitigation.
- xiii. All construction vehicles shall be cleaned prior to leaving the site so that they do not leave dirt and/or debris on surrounding roadways as they leave the site.
- xiv. All construction vehicles shall be cleaned prior to leaving the construction site. All streets affected by construction truck traffic shall be cleaned and swept as necessary.
- xv. All construction shall be performed in accordance with the Rules and Regulations of the Planning Board, and in accordance with any and all rules, regulations and ordinances of the City of Salem.
- xvi. All construction vehicles left overnight at the site, must be located completely on the site.
- xvii. All construction shall take place under the direction and supervision of a Licensed Site Professional in compliance with the rules and regulations of the Massachusetts Department of Environmental Protection.
- xviii. The Applicant shall promptly notify the Board of Health of any environmental condition encountered during construction that may adversely impact the abutters to the site.

9. Clerk of the Works

- a. A Clerk of the Works shall be provided by the City, at the expense of the Applicant, his successors or assigns, as it is deemed necessary by the City Engineer. Accordingly, it is the understanding of the Board, the City Planner, the City Engineer, and the Applicant, that the Clerk of the Works is expected to oversee and review all civil/site improvements related to the Project, including, but not necessarily limited to:
 - i. all utility cut and caps related the City's Demolition Permit;
 - ii. all new utility installations;
 - iii. all connections to, extension of, or improvements to publicly owned infrastructure both on the Applicant's site or within the City's right of way and any on-site stormwater or wastewater systems;
 - iv. all new installations or modifications to existing pavement/sidewalk/curbing; and
 - v. all conditions placed on the project by an Order of Conditions from the Salem Conservation Commission.

- b. The Clerk of the Works shall review and approve all proposed, or approved, changes to the original Planning Board decision.
- c. The Applicant shall submit a construction plan that includes a detailed sequence and schedule of all construction activities related to the Project to the City Planner for approval prior to starting work. The construction plan shall clearly detail the sequencing, schedule and duration of all construction activities related to the Clerk of the Works' purview. Once the construction plan is approved, it shall be used to create a Task Order for the Clerk of the Works.
- d. No work, including blasting, demolition, excavation, and grading shall start before an approved task order for the Clerk of the Works services has been agreed upon and approved by all parties.

10. Stormwater Management Standards, Operations, and Maintenance

- a. The Applicant shall maintain records of the Stormwater Checklist with Certification and the Operations and Maintenance Plan dated February 2, 2021 and keep them on site for a minimum of three (3) years from the date of this decision. These records are to be made available at the request of the City Engineer and/or Conservation Agent.

11. Roof Runoff and Recharge

The Plan identifies roof runoff to be collected and infiltrated in sub-surface chambers on ten (10) properties: Lots 119, 120, 121, 122, 123, 124, 125, 93, 94, and 95. The following conditions shall apply to these lots.

- a. All buildings where a recharge system is proposed shall have gutters installed. The final design of the roof drainage piping and recharge systems shall be submitted to the City Engineer for their review and approval prior to the issuance of the building permits for the ten (10) lots with proposed roof recharge systems.

System maintenance is to be the requirement of each homeowner or the Strongwater Crossing Homeowners Association Trust and these requirements are to be communicated with the property owner and included in the deed and/or Trust documents. Prior to the issuance of Certificate of Occupancy, the Applicant shall provide sample deeds and/or the proposed Strongwater Crossing Homeowners Association Trust document with this language to the Department of Planning and Community Development, for reasonable review and approval as to form and content, confirming specific responsibility for the maintenance of the roof drainage piping and the roof recharge system.

12. Retaining Wall and Culvert Details

- a. Prior to review and approval of a "Street Opening Trench Permit" by the Salem Engineering Department for the installation of any roadway utilities and street construction, the Applicant shall:
 - i. Submit the final design of the culverts, headwalls, and connectivity to the retaining wall to the City Engineering Department for review and approval. Design must include a stamp and signature from a structural engineer registered in the State of Massachusetts and be accompanied by results of sub-surface soil investigations used in design, including geotechnical analysis of foundation.

13. Utilities

- a. Prior to review and approval of a “Street Opening Trench Permit” by the Salem Engineering Department for the installation of any roadway utilities and street construction, the Applicant shall:
 - i. Submit the final design of the sewer pump station for review and approval to the City Engineering Department. The design shall detail alarms and controls to protect the adjacent resource area in the event of equipment failure.
- b. Any utility installation for housing lots shall be reviewed and approved by the City Engineer prior to the issuance of a Building Permit. All utilities shall be installed underground.

14. Multi-Modal Access

- a. The connection of the subdivision to Barcelona Drive shall allow for access/egress by pedestrians, bicyclists, and other non-motorized road users, and for emergency vehicle access/egress.
- b. A 48” accessible clear zone exclusive of curbs shall be provided adjacent to the operable locked emergency vehicle gate to allow for the non-vehicular passage of pedestrians.

15. Waivers

- a. In approving the Plans, the Board is hereby granting the following waivers of the Subdivision Rules and Regulations:
 - i. Section IV A.1.f. says “The minimum centerline radii of curved streets shall be two hundred thirty (230) feet. Greater radii may be required for principal streets.”
 - 1) Strongwater Drive horizontal curve radii do not meet the minimum two hundred thirty (230) foot curve radii at several stations, as referenced on the approved plans, where the radii range from 155 to 220 feet. However, these horizontal curves meet the minimum required radius for the 15 mph and 20 mph design speeds in accordance with MassDOT Project Development Design Guidebook and the subdivision regulation is hereby waived.

Note that the following waivers were approved in 2006 and this decision affirms those waivers:

- i. Section IV A.2 Street width is waived to allow construction and operations of the streets and ways as shown on the Revised Plans.
- ii. Section IV A.4.a. Length of Dead-end Streets. Dead-end streets may exceed the five hundred (500) foot maximum stated the Subdivision Rules and Regulations to be as shown on the Revised Plans.
- iii. Section VI Time For Completion
Recognizing the size and complexity of this subdivision as a phased subdivision, this Section is waived with the condition that the installation of the municipal services shall be completed by July 30, 2026 unless further extended by the Board.

In the judgment of the Board, the granting of the above waivers is in the public interest and not inconsistent with the intent of the subdivision control law.

16. As-built Plans & Street Acceptance Plans

- b. As-built Plans and Street Acceptance Plans, stamped by a Registered Professional Engineer, shall be reviewed and approved by the Clerk of the Works, then submitted to the Department of Planning and Community Development and Department of Public Services prior to the issuance of the final Certificate of Occupancy for the subdivision and/or the acceptance of any streets. As-built plans shall identify 1) the number, location, depth, size, and materials of all buried utilities and 2) locations and rims and invert elevations of all manholes and structures.
- c. The As-Built plans shall be submitted to the City Engineer in an electronic file format suitable for the City's use and approved by the City Engineer, prior to the issuance of the final Certificate of Occupancy for the subdivision and/or the acceptance of any streets.
- d. A completed tie card, a blank copy (available at the Engineering Department) and a certification signed and stamped by the design engineer, stating that the work was completed in substantial compliance with the design drawing must be submitted to the City Engineer prior to the issuance of the final Certificate of Occupancy for the subdivision and/or the acceptance of any streets; as well as, any subsequent requirements by the City Engineer.

17. Violations

- b. Violations of any condition may result in revocation of this permit by the Planning Board, unless the violation of such condition is cured within thirty (30) days after written notice thereof, or waived by a majority vote of the Planning Board.

I certify that a copy of this decision and plans has been filed with the City Clerk and copies are on file with the Board. The decision shall not take effect until a copy of this decision bearing the certification of the City Clerk that twenty (20) days have elapsed and no appeal has been filed or that if such appeal has been filed, and it has been dismissed or denied, is recorded in the Essex South Registry of Deeds and is indexed under the name of the Owner of record or is recorded on the Owner's Certificate of Title if Registered Land. The Owner or Applicant, his successors or assigns, shall pay the fee for recording or registering.



William Griset
Chair