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**CITY of BEVERLY
PLANNING BOARD**

*191 Cabot Street
Beverly, Massachusetts 01915
Phone (978) 921-6000
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Mayor

*Michael P. Cahill
Planning Director
Aaron Clausen
Chairperson
John Thomson
Vice-Chair
Ellen Hutchinson*

Members

*Catherine Barrett
Edwin Barrett, III
Ellen Flannery
David Mack
James Matz
Wayne Miller
John Mullady*

November 25, 2014

Ms. Kathleen Connolly, City Clerk
Beverly City Hall
191 Cabot Street
Beverly, MA 01915

**RE: DECISION - OSRD SITE PLAN APPLICATION #4-14: 232 ESSEX STREET – DUC
RESIDENTIAL LLC & WALKER REALTY LLC**

Dear Ms. Connolly:

The Planning Board (hereinafter referred to as the "Board") of the City of Beverly (hereinafter referred to as the "City") received the above-referenced OSRD Site Plan Review Application #4-14 from DUC Residential LLC & Walker Realty LLC (hereinafter collectively referred to as the "Applicant") relating to property known and numbered as 232 Essex Street and shown Assessors Map 44, Parcel 31 (hereinafter referred to as the "Property") on June 23, 2014. The application is pursuant to The City of Beverly Zoning Ordinance referenced as Chapter 38, Section 24B and known as the Open Space Residential Design (OSRD) Site Plan Ordinance (the "Ordinance") and the Board considered it at its regular meetings of July 15, 2014, September 16, 2014 and October 21, 2014. The Board conducted a site visit on October 18, 2014.

At each regular meeting, the following Board Members were present and voting: John Thomson, Ellen Hutchinson, Catherine Barrett, Ellen Flannery, James Matz, Wayne Miller and John Mullady. Board Members David Mack and Edwin Barrett were present for all regular meetings but July 15, 2014. Each participated in the final votes after certifying they reviewed the record of the one session missed pursuant to Massachusetts General Law Chapter 39, Section 23D. These certifications are attached hereto and incorporated herein by reference.

At the October 21, 2014 meeting, members of the Board found that the plan meets the purposes and intent of the Ordinance and took the following actions.

Members of the Board unanimously voted to approve the OSRD Site Plan as shown on the plans entitled:

"OSRD Site & Index Plan Essex Crossing Beverly, Mass", (1 Sheet) Sheet 1 of 11, rev. 9/30/14, scale: 1"=100'; "OSRD Site & Definitive Plan", (2 Sheets) Sheets 2 & 3 of 11, rev. 9/30/14, scale: 1"=40'; "OSRD Site & Existing Conditions Plan", (2 Sheets) Sheets 4 & 5 of 11, rev. 9/30/14, scale: 1"=40'; "OSRD Site & Definitive Plan & Profile", (1 Sheet) Sheet 6 of 11, rev. 9/30/14, 1"=40' (hor.) & 4' (vert.); "OSRD Site & Topographic Sheet" (2 Sheets) Sheet 7 & 8 of 11, rev. 9/30/14, scale: 1"=40'; "OSRD Site & Utility Plan" (1 Sheet) Sheet 9 of 11, rev. 9/30/14, scale: 1"=40'; "OSRD Site & Detail Sheet" (2 Sheets) Sheets 10 and 11 of 11, rev. 9/30/14, various scales; all drawn by Hayes Engineering, Inc, 603 Salem Street, Wakefield, MA 01880 (herein referred to as the "OSRD Site Plan").

This approval includes the granting of all waivers necessary in order to accomplish the same, including the list of waivers as delineated on documents entitled "Waiver Requested From the Open Space Residential Design (OSRD) Site Plan Ordinance" and the "List of Deviations/Relief allowed by the Open Space Residential Design" included in the 2-sheet document submitted by John Ogren, rev. 10/15/14, which is attached hereto and incorporated herein by reference. Furthermore, the subdivision, roadway and lots shown and/or depicted on the OSRD Site Plan shall have the benefit of Section 38-24.B.VII of the Ordinance permitting alterations or reductions in the subdivision and roadway requirements, along with the lot frontage, lot area and other dimensional requirements as shown on the approved plans. Setbacks for dwelling units to be constructed on the lots are reduced to the minimum requirements as stated in Section 38-24.B.VII.4. The Board found that said waivers and deviations/relief are necessary in this particular case so as not to render the tract unusable, and to further the goals and objectives of the Ordinance. Furthermore, the Board found that the Design Standards stated in Section 38-24 B.VI.3 of the Ordinance had been met as contemplated by said section.

This approval is subject to the following conditions in addition to any and all non-waived requirements of the OSRD Ordinance:

1. That the areas labeled "Open Space Parcel A" and "Open Space Parcel B" on the OSRD Site Plan are to be conveyed to the City, acting by and through its Parks and Recreation Department pursuant to Section 38-24.B.VIII.2.a. of the Ordinance. The deed conveying said areas shall include a provision expressly stating that the preservation of such open space constitutes a public purpose within the meaning, and subject to the protections of Article 97 of the Massachusetts Constitution, as it may be amended from time to time. The deed provisions are subject to review and approval by the City Solicitor. Furthermore, the Applicant shall provide an endowment to the City in the amount of \$10,000 for the purpose of securing the maintenance, stewardship, and enforcement of the open space. The endowment shall be submitted

to the City prior to the transfer of any new lots to a buyer. Shall the City Council not accept either or both Open Space Parcel A and Open Space Parcel B, said parcels shall be conveyed to the Association pursuant to Section 38-24.B.VIII.2.c.of the Ordinance.

2. That the area labeled "Open Space Parcel C" shall be conveyed to an Association pursuant to Section 38-24.B.VIII.2.c of the Ordinance. Furthermore, the Applicant shall post a cash bond in the amount of \$3,000 to be held by the City to secure the Association Obligations as defined in said section. The deed conveying said area shall be deemed for the benefit of the owners of the lots within the OSRD Site Plan and is subject to approval by the City Solicitor. The document creating said Association shall be submitted to the City Solicitor for approval prior to it being recorded at the Essex South Registry of Deeds. The bond, deed and Association documents shall be executed prior to the transfer of any new lots to a buyer.
3. Compliance with the recommendations set forth in the comment letters received from the following boards, committees and departments of the City, which are attached hereto and incorporated herein by reference to the extent they are not already depicted in the site plan:
 - a. Correspondence between the City Engineer and the Project Engineer as follows: 7/14/14 draft letter from Greg St. Louis to John Thomson; 9/5/14 letter from John Ogren to Greg St. Louis; 9/26/14 letter from Greg St. Louis to John Thomson; 10/15/14 letter and revised plans from John Ogren to Gregory St. Louis; 10/21/14 email from Greg St. Louis to Leah Zambarnardi.
 - b. 10/15/14 letter from Christine Bertoni of the Conservation Commission to John Thomson.
 - c. 9/16/14 letter from Charles Mann of the Open Space & Recreation Committee to John Thomson.
 - d. 9/11/14 letter from Lt. William Fiore of the Fire Department to the Planning Board.
 - e. 7/14/14 letter from William Burke, Director of Public Health to Aaron Clausen.

If there are any inconsistencies between these letters and the written decision, the terms of the decision shall rule.

4. Compliance with the following conditions related to the open space parcels:
 - a. That Open Space Parcels A and B shall be transferred to the City or the Association. The parcels shall be transferred to the Association only if said parcels are not accepted by the City Council, pursuant to Condition #1 above. Said transfer of Parcels A and B as contemplated herein shall occur prior to the transfer of any lots to new buyers. This condition does not preclude the Applicant from conveying the entire Property to another entity or mortgaging the entire Property, but when Open Space Parcel A and B are transferred to the City or Association they shall be free of any and all mortgages.
 - b. That Open Space Parcel C shall be transferred to the Association pursuant to

- Condition #2 above prior to the transfer of any lots to new buyers. This condition does not preclude the Applicant from conveying the entire Property to another entity or mortgaging the entire Property but when Open Space Parcel C is transferred to the Association it shall be free of any and all mortgages.
- c. Prior to any construction/earthwork, the Applicant shall survey the boundaries of the open space parcels to the extent of the rear boundary line of Open Space Parcel C. The Applicant shall place permanent markers at each angle, to be inspected and approved by City Engineering staff.
 - d. Prior to commencement of earthwork/construction and upon the developer's placement of permanent markers (pursuant to b. above), the Applicant shall notify the Planning Department of such and a Board representative shall take photographs along all boundaries of the open space to establish an open space "baseline conditions" file, color copies of which shall be given to the entities that shall own the land and/or hold the restriction, at the expense of the developer.
 - e. The open space shall remain untouched during construction with the exception of the "Area of Stockpiling" shown on Sheet 2 of 2 of the Existing Conditions Plan, the area surrounding Kelleher's Pond to allow for cleanup prior to conveyance to the City, installation of the stormwater detention system and associated infrastructure, and construction of the access driveway and waterline looping to Ice House Lane thru the Emergency 20' Wide Access & Utility Easement.
 - f. Prior to commencement of earthwork/construction, the Applicant shall install temporary or permanent signage at regular intervals along the open space boundaries that clearly describe the land's protection status.
 - g. Prior to the Board's release of the performance bond, the Applicant shall install permanent signage at regular intervals marking the open space boundaries. Signage must clearly describe the land's protection status and public access rights. The Applicant shall provide a template for a sign for review and approval by the Planning Department.
 - h. Prior to the Board's release of the performance bond, a "walk through" of the development is required with a Board representative and City Engineering staff to assure the open space remains at baseline conditions and that the open space areas are clearly and adequately marked pursuant to b. and e. above.
5. Construction activity shall be limited to the hours of 7 AM to 6 PM, on weekdays and Saturdays only, excluding holidays.
 6. Open Space Parcels A, B & C shall be subject to a management plan to be approved by the Planning Department prior to conveyance of the open space parcels to the City and/or the Association. The Board acknowledges that any work involving wetland resource areas recommended in the plan is subject to review and approval by the Conservation Commission.

A TRUE COPY

ATTEST: *Kathleen P. Connolly*
City Clerk

11/25/2014

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7. The Applicant shall perform work to improve public access and visibility of the Kelleher's Pond prior to conveying it to the City. This work is described in the document labeled: "Kelleher Pond Improvements" prepared by the Beverly Planning Department, dated November 18, 2014, which is attached hereto and incorporated herein by reference. The Board acknowledges this work is subject to review and approval by the Conservation Commission.
8. This approval and the conditions stated herein shall run with the Property and subsequent owners of the Property shall benefit from this decision and shall be subject to the terms hereof
9. The Definitive Subdivision Plan submitted in conjunction with this Site Plan Application shall substantially comply with the approved OSRD Site Plan pursuant to Section 38-24.B.X.1 of the Ordinance.

Sincerely,

John Thomson / 12

John Thomson
Chairperson

JT/lz

cc: DUC Residential LLC
Walker Realty LLC
B. McGrail
J. Ogren
Engineering Department
Assessor's Office
Planning Director
City Solicitor
File

Twenty days elapsed since this decision has been
filed with the City Clerk and no appeal has been taken.
A True Copy
Attest:

A TRUE COPY

ATTEST: *Kathleen P. Connolly*
City Clerk

Encl.

