



**DECISION OF THE TOPSFIELD PLANNING BOARD
ON THE STORM WATER MANAGEMENT PERMIT
OF ENGLISH COMMONS LLC
FOR THE PROPERTY AT 12 BOSTON STREET,
TOPSFIELD, MASSACHUSETTS,
KNOWN AS *ENGLISH COMMONS AT TOPSFIELD***

PROCEDURAL HISTORY

1. On or about September 24, 2008, English Commons LLC applied to the Topsfield Planning Board ("Board") for a Storm Water Management Permit pursuant to Chapter LI of the Topsfield General Bylaw (the "Bylaw") and the Topsfield Stormwater and Erosion Control Regulations ("Regulations") to allow Multi-Family Residences for the Elderly with appurtenances and site plan review in conjunction therewith to be located on a 68.48 acre parcel of land at 12 Boston Street, Topsfield, Massachusetts, which property is shown as Lot 1, on Topsfield Assessors' Map 81. The Application was submitted pursuant to the requirements of Chapter LI of the By-Law. Details of the proposal were contained in the application and other materials submitted to the Board, which are on file with the Board. English Commons LLC is referred to in this decision as the Applicant.
2. Notice of the public hearing scheduled to consider the Application was given in the manner provided in Massachusetts General Laws Chapter 40A, section 11 by publication in the *Salem News* newspaper on September 30, 2008 and October 7, 2008, and by posting such notice in a conspicuous place in the Topsfield Town Hall. Notice was also mailed to the individuals and agencies required to receive such notice pursuant to the provisions of the aforesaid Chapter 40A, section 11.
3. A duly advertized public hearing was convened by the Board on October 15, 2008, and was continued with subsequent sessions of the public hearing being held. The public hearing closed on October 20, 2009.

English Commons Stormwater & Erosion Control Management Permit

RECEIVED OFFICE OF TOWN CLERK

Topsfield, MA 01983

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Date: *Oct. 21,* Time *2:35pm*
2009

Joan Glatz
Assistant Town Clerk

4. The Public Hearing relating to the Application was attended by some interested persons. At the Public Hearing, no members of the public expressed opposition to the granting of a permit, although some members of the public asked questions regarding drainage.
5. During the hearing process, additional documents were submitted and plans were revised to address issues identified during the hearing and the review process. These additional documents included a peer review of the stormwater management plan by BSC and its endorsement by the Conservation Commission as expressed in its Order of Conditions. Additionally, an independent review of the Stormwater design by Meridian Engineering Associates, Inc. a professional engineering consultant representing the Salem-Beverly Water Supply Board. After detailed review of the Stormwater design for the project, the Salem-Beverly Water Supply Board determined that the Stormwater system was designed to adequately protect the interests of the Salem-Beverly water supply.

FINDINGS

The Board makes the following specific findings:

1. The drainage system design and controls will protect and maintain the public health, safety, environment and general welfare by controlling the adverse effects of increased post-development storm water runoff and nonpoint source pollution associated with the proposed development; and shall protect the public safety, environment and general welfare by controlling runoff and prevent soil erosion and sedimentation resulting from construction/alteration and development. The project complies with the performance standards of the most recent version of Massachusetts Department of Environmental Protection (DEP) Stormwater Management Policy.
2. The development and related activities shall maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics from the site in order to avoid flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats.

3. The development is designed to avoid damages due to increases in volume, velocity, frequency, duration, and peak flow rate of storm water runoff. The project conforms to the general performance criteria of the Bylaw and Regulations.
4. In addition to structural components, the project design uses nonstructural storm water management, storm water better site design practices or “low-impact development practices”, such as reducing impervious cover and the preservation of greenspace and other natural areas, to the maximum extent practicable.
5. The development plans establish provisions for the long-term responsibility for and maintenance of structural storm water control facilities and nonstructural storm water management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety.
6. The development plans establish provisions to ensure there is an adequate funding mechanism for the proper review, inspection and long-term maintenance of storm water facilities implemented as part of the Bylaw.
7. The project falls within the jurisdiction of the Conservation Commission. The Conservation Commission, with technical assistance from an independent peer reviewer, has issued permissive Orders of Conditions that protect the environment with drainage controls that controls storm water runoff.
8. The applicant has submitted a Stormwater Management and Erosion Control Plan and project description and Operation and Maintenance Plan, both of which are satisfactory.
9. The Board finds that the requirements contained in the Elderly Housing Special Permit (issued contemporaneously with this decision) that the Applicant execute a covenant and three-party agreement provide adequate security as to the construction of the drainage system.
10. The final plans before the Board are comprised of a set of civil engineering plans, including 20 sheets entitled “*Plans for English*”

Commons at Topsfield, 12 Boston Street, Topsfield, MA; date: June 17, 2009; prepared for English Commons LLC; prepared by Beals Associates, Inc.; revised to October 6, 2009”, which set includes a cover page, index, existing condition plan, site plan, grading and drainage plans, drainage profile plans, driveway layout plans, utilities plans, details plan, erosion and sedimentation plan, traffic flow plan, Route 1 Entrance Plan, and Landscape Plan. (collectively called the “Final Plans”).

After careful consideration of the plans and materials submitted during the hearing, and after due consideration of the comments of others, and based on its findings and deliberations, the Board votes to approve the Stormwater Management Permit Application based upon determination that the proposed plan meets the Standards in Section 7 of the Bylaw and will adequately protect the water resources of the community and is in compliance with the requirements set forth in this Bylaw.

CONDITIONS

The Board imposes the following conditions as part of this permit:

1. Conformity: All construction at the site shall be in substantial conformity with the final plans, as revised, which have been submitted to and are on file with the Board.
2. Access During Construction: The Applicant shall ensure safe and convenient vehicular access to the Site during the entire duration of the construction of the project. The Board and its representatives shall be permitted access to the Site to observe and inspect the site and construction progress until such time as the Project has been completed.
3. Covenants, Three-Party Agreement: The Applicant shall execute and comply with the requirements to execute a covenant and three-party agreement as required by the Elderly Housing Special Permit that is issued contemporaneously with this decision.
4. Orders of Conditions: The Applicant shall comply with the Order of Conditions (DEP File # 307-0610) issued by the Topsfield Conservation

Commission dated January 30, 2008 and recorded with Essex South District Registry of Deeds in Book 28490, Page 95; and the Order of Conditions (DEP File # 307-0629) issued by the Topsfield Conservation Commission dated July 23, 2009 and recorded with Essex South District Registry of Deeds in Book 28919, Page 160, as they may be modified by the Conservation Commission. Any violation of the Order of Conditions shall also be a violation of this Permit.

5. Notice of Construction Commencement. The Applicant must notify the Planning Board at least a week in advance before the commencement of construction. In addition, the applicant must notify the Planning Board in advance of construction of critical components of the storm water management facility.

6. Inspections: The Planning Board or its designee at the Applicant's expense may inspect the project site at the following stages, at a minimum:
 - a. Initial Site Inspection: prior to commencement of construction;
 - b. Erosion Control Inspection: to ensure erosion control practices during and after construction are in accordance with the filed plan;
 - c. Stormwater Management System Inspection: An inspection will be made of the completed stormwater management system, prior to backfilling of any underground drainage or stormwater conveyance structures.
 - d. Final Inspection: After the stormwater management system has been constructed and before the certificate of occupancy for the last building has been issued, the Applicant shall submit actual as-built plans for any stormwater management facilities or practices after final construction is completed and must be certified by a Professional Civil or Environmental Engineer selected by the Applicant and at the Applicant's expense. The Planning Board or its designee at the Applicant's expense shall inspect the system to confirm its "as-built" features are in accordance with the Regulations. If the system is found to be inadequate by virtue of physical evidence of

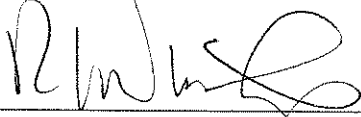
are in accordance with the Regulations. If the system is found to be inadequate by virtue of physical evidence of operational failure corrective action shall be taken as required by the Regulations. The Planning Board will issue a letter certifying completion upon receipt and approval of the final inspection and reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this Regulation.

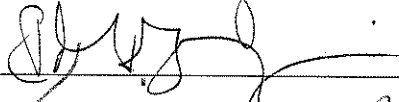
7. Operation and Maintenance Plan Compliance: The condominium association shall pay fees, if any, incurred by the Planning Board in monitoring compliance with the Operation and Maintenance Plan dated June 16, 2009 as to the drainage system. This condition continues in perpetuity. The condominium documents shall reflect this obligation. If at any time, maintenance of the drainage facilities does not comply with the provisions hereof, then the Planning Board may provide written notice thereof to the condominium association specifying the nature of the non-compliance (a "Default Notice"). The Association shall remedy the default not later than thirty (30) days following receipt of the Default Notice, or such longer period of time as may reasonably be required to so remedy the non-compliance provided the Association commences the cure within the aforesaid thirty (30) day period and diligently prosecutes the cure to completion. If the Association fails to cure such default as aforesaid, then the Town may take any and all necessary action to assure proper compliance and may assess against the Association all costs incurred by the Town, including reasonable attorneys' fees, for such purpose. Any such assessment not paid within thirty (30) days after demand therefore shall bear interest from the date of demand at the rate established by law for interest upon money judgments, and the Town may bring an action at law to collect such assessment, and there shall be added to the amount of such assessment in such event, all costs incurred by the Town for such collection, including reasonable attorneys' fees.

There has been full compliance with the statutory requirements for the issuance of this special permit. This Decision has been filed with the Topsfield Town Clerk. A decision of the Planning Board shall be final. Further relief of a decision by the Planning Board made under these Regulations shall be

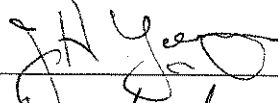
TOPSFIELD PLANNING BOARD

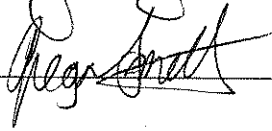
Dated: Oct. 21, 2009





Janice M. Abbin





Being a Majority of the
Planning Board