



City of New Bedford

Department of Planning, Housing & Community Development

608 Pleasant St, New Bedford, Massachusetts 02740

Telephone: (508) 979.1500 Facsimile: (508) 979.1575

PATRICK J. SULLIVAN

DIRECTOR

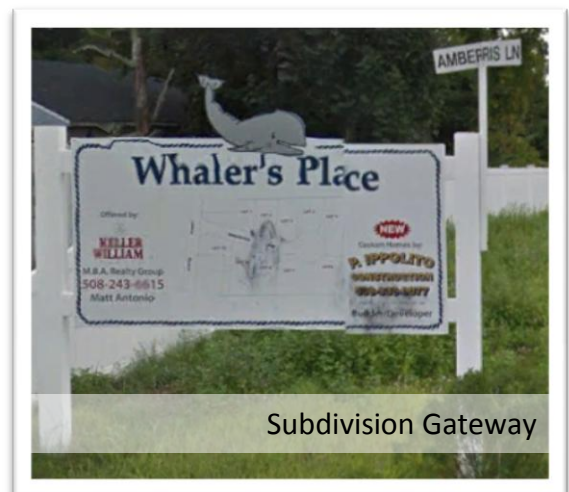
STAFF REPORT

PLANNING BOARD MEETING

August 10, 2016

Subdivision: WHALER'S PLACE
Durfee Street and
Ambergris Lane
Map 76, Lots 22 & 23

**Owner/
Applicant:** Matthew B. Antonio
Palmer River Development Co, LLC
P.O. Box 41
Swansea, MA 02777



Subdivision Gateway

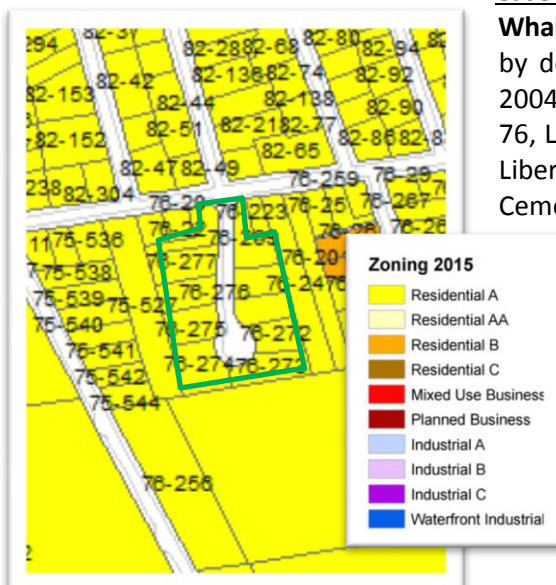
Overview of Request

The owner/applicant of Whaler's Place comes before the New Bedford Planning Board to request release for remaining subdivision lots and pledge cash surety for final conditions for completion, as recommended by the City of New Bedford under its **Subdivision Regulations Article IV. Performance Guarantees and Massachusetts General Law Chapter 41, Section 81U.**

Case History

Whaler's Place has weathered the recession and transferred ownership by deed and foreclosure successively four times since its approval in 2004. The ten lot subdivision sited on approximately three acres (Map 76, Lots 22 & 23) is located at the south side of Durfee Street, north of Liberty Street at Ambergris Lane. The development abuts Oak Grove Cemetery and is located just northeast of New Bedford High School. The two parcels which comprise the subdivision were respectively zoned Residential A (Lot 22) and Residential B (Lot 23) prior to the merger under one ownership.

Whaler's Place received Definitive Plan Approval on May 19, 2004 which was endorsed by the Planning Board June 17, 2004. Trustee, Curtis Mello of Howland Place Realty Trust, then recorded the Plan of Land on September 14, 2004 at the Bristol County (S.D.) Registry of Deeds after the 20-Day Appeal Period was affirmed by New Bedford City Clerk.



During the economic downturn for the housing industry, the succession of owners found it necessary to exchange lots under the performance covenant agreement; this activity gave rise to errors in record keeping which has subsequently confused the intended exchanges which will be negated once the subdivision lots are all released. As such, the applicant/owner is now before the Board to request release of final lots One, Three, Four & Ten under the Form D Covenant by substituting cash surety, and to memorialize these actions for historical reference.

Input From Other City Departments:

The request for substitution of Surety was distributed to City Clerk, City Solicitor, Health Department, Inspectional Services, Engineering, Public Infrastructure, Conservation Commission, Fire Department and School Department.

The City Solicitor's Office has approved the Form G-Performance Bond Secured by Cash Deposit and Release of Covenant.

The Conservation Commission states the property is not in or within 100' of State or Local Wetland resources.

No additional comments have been received as of the production date of this Planning Staff Report.

Staff Recommendation:

Staff recommends that given the applicant's pledge to provide cash surety with the City of New Bedford in the amount of forty-one thousand, one hundred dollars (\$41,100.00)—a figure stipulated by the city's Department of Public Infrastructure as being its cost estimate for completion of infrastructure received by the Planning Division on July 28, 2016—that the Planning Board memorialize the release of Whaler's Place's remaining Lots One, Three, Four and Ten from the Form D Covenant dated August 18, 2004 with the condition that the substitution be formalized by the execution by all parties of a Form G-Performance Bond Secured by Cash Deposit and a Release of Covenant, as the continued promise to fulfill the obligations by the applicant/owner for subdivision completion.



Attachments:

1. Deed of Ownership Recorded in Bristol County (S.D) Registry of Deeds Book 11126/Page 317
2. Letter of Request from Applicant/Owner
3. Whaler's Place Subdivision Estimate
4. Subdivision Plan Recorded in Bristol County (S.D.)Registry of Deeds Plan Book 154/ Page 84
5. Form F Covenant
6. Subdivision Lot Release Spread Sheet
7. Notice of Decision Filed June 22, 2004
8. Form G-Performance Bond Secured by Cash
9. Release of Covenant

Address of property: 164 Durfee St. & Ambergis Lane
New Bedford, MA

QUITCLAIM DEED

BK 11126 PG 317

07/24/14 10:06 DOC. 13781
Bristol Co. S.D.

AMBERGRIS REALTY LLC, a Massachusetts Limited Liability Company located at 1960 Fall River Avenue, Seekonk, Massachusetts, for consideration paid in the amount of \$234,567.00, grants to PALMER RIVER DEVELOPMENT CO., LLC, a Massachusetts limited liability company with an address of P.O. Box 41 Swansea, MA 02777 with QUITCLAIM COVENANTS,

Those certain lots or parcels of land with all buildings and improvements thereon in the City of New Bedford, Bristol County, Massachusetts designated as LOTS 1, 3 and 10 on that plan entitled "Whaler's Place definitive Subdivision Plan of Land in New Bedford, Bristol County, Massachusetts" dated March 8, 2004, revised April 30, 2004 and May 11, 2004 and recorded with the Bristol County (S.D.) Registry of Deeds in Book 154 Page 84.

Subject to and with a benefit of an easement from the City of New Bedford Dated April 16, 2004 recorded in Book 6904, Page 76.

Subject to a sewer easement to the City of New Bedford recorded June 28, 2005 in Book 7624, Page 311.

Subject to an easement to Verizon New England Inc. And Commonwealth Electric Company recorded December 2, 2005 in Book 7900, Page 282.

Subject to an easement and right of way to Comcast of Southern New England recorded in Book 8618, Page 13.

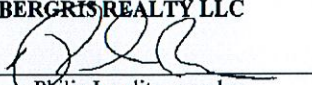
Subject to easements, restrictions and matters shown on plans recorded in Book 154 Pages 81 and 84.

Address of Property: 164 Durfee St. and Ambergis Lane, New Bedford, MA
AP 76, Lot 22, Lot 269 and Lot 271

For title reference, see Foreclosure Deed of J.I.F. Investment Co., Inc. dated March 9, 2010, recorded with the Bristol County Southern District Registry of Deeds in Book 9659, Page 203 and Confirmatory Quitclaim Deed of J.I.F. Investment Co., Inc. dated March 9, 2010 recorded in Book 9659 Page 210.

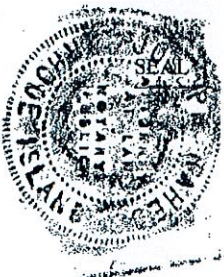
EXECUTED as an instrument under seal this 23rd day of July, 2014.

AMBERGRIS REALTY LLC

By: 
Philip Ippolito, member

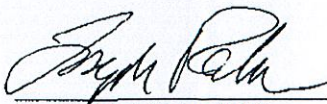
State of Rhode Island
County of Providence

On this 23rd day of July, 2014, before me, the undersigned notary public, personally appeared Philip Ippolito, proved to me through satisfactory evidence of identification, which was a Massachusetts Driver's License, to be the person whose name is signed above as Member of AMBERGRIS REALTY LLC., a Massachusetts limited liability company, and acknowledged said execution to be his free act and deed in said capacity and the free act and deed of said limited liability company.



F:\WP\RED\PALMER RIVER\PALMER AMBERGRIS.wpd

ATTACHMENT 1


Joseph Raheb, Notary Public
My Commission Expires: 6-18-17

REG. OF. DEEDS
REG #07
BRISTOL S
07/24/14 10:08AM
000000 REG#0
FEE \$1071.50
CASH \$1071.50

Palmer River Development Co. LLC
P.O. Box 41
Swansea, MA 02777
508-243-6615

CITY CLERKS OFFICE
NEW BEDFORD, MA

2016 JUL 15 A 10:11

CITY CLERK

City of New Bedford
Planning Department
Attention: Ms. Constance Brawders, Staff Planner
City Hall Room 303
133 William Street
New Bedford, MA 02740

July 15, 2016

RE: Whalers Place Subdivision

Dear Planning Office,

The above referenced subdivision was approved by the New Bedford Planning Board on 6/17/04.

The subdivision plan was recorded with the Bristol County S.D. Registry of Deeds in Plan Book 154, Page 84 on 9/14/04 at 11:05am. A copy of the recorded subdivision plan is included with this request.

I would like to be heard by the planning board at their August 10, 2016 meeting. At the meeting I will request that the Planning Board release subdivision lots 1 & 3 from the performance covenant, so that certificates of occupancy can issue and the properties can be sold. The addresses for the subject properties are 34 Ambergris Lane and 16 Ambergris Lane respectively.

In Lieu of the surety provided by the covenant on the lots, we will make a cash surety deposit in an amount equal to the cost to complete estimate provided by City Engineering. I have made that request to the City Engineering department and we are waiting their review. As soon as their review is complete, I will provide proof of funds in that amount.

A question has been raised as to whether or not other lots in the subdivision were properly released and recorded. Apparently there was not a clear record of that in the Planning Office Files and Ms. Brawders was unable to locate all of the releases at the Registry of Deeds. I have taken the time to research this matter and found the following information related to releases.

Lots 6,7,8 & 9 were released and recorded in Book 9746 Page 180

Lot 2 was released and recorded in Book 10119 Page 225

ATTACHMENT 2

Whalers Place Subdivision
07/15/2016

Lots 5 & 10 were released and recorded in Book 10185 Page 103

Lot 4 was released at the March 13, 2013 meeting of the Planning Board. On March 14, 2013 I met Jill McLean in the City Solicitors office to have the release notarized and then it was taken to the registry of Deeds to be recorded. I cannot find it on record and I cannot locate a copy of it. I have reached out to the attorney that conducted the closing for the subject property and expect that they will be able to furnish us a recorded copy shortly.

I have contacted Manny Silva at DPI and requested that a cost to complete estimate is prepared for the Planning Boards review. Manny explained that due to his work load he is unable to have it complete by 7/15 but expects to have it completed between 7/18 & 7/20.

As requested by Ms. Brawdgers, I have included with this package the certified list of abutters from the City Assessor's office .

Sincerely,

Matthew B. Antonio

Matthew B. Antonio
Sole Member & Manager
Palmer River Development Co. LLC



CITY OF NEW BEDFORD
Jonathan F. Mitchell, Mayor

Department of Public Infrastructure

Euzebio Arruda
Commissioner

Water
Wastewater
Highways
Engineering
Cemeteries
Park Maintenance
Forestry
Energy

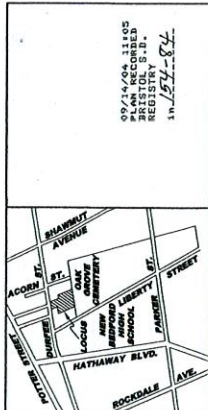
Whalers Place Subdivision Estimate

<u>Items</u>	<u>Quantity x Unit Price</u>	<u>Total</u>
1.) 4" Cement Concrete Sidewalk	5 SY x \$40. =	\$200.00
2.) 6" Cement Concrete WCRs & Drives	40 SY x \$42. =	\$1,680.00
3.) Loam & Seed	60 SY x \$6. =	\$360.00
4.) Granite Curb	20 LF x \$30. =	\$600.00
5.) Street Lights	1 EA x \$3,000. =	\$3,000.00
6.) Bounds	10 EA x \$1,000. =	\$10,000.00
7.) Clean Structures	10 EA x \$300. =	\$3,000.00
8.) As-Built Plans	Water, S&D, Street Acceptance & Electric	\$6,000.00
9.) Take Over Detention Basin	(120 FT x 70 FT) x \$1. =	\$8,400.00
10.) Detention Basin	Clean Bottom, Cut Grass, etc.	\$2,000.00
11.) Miscellaneous		\$2,120.00
Sum:		\$37,360.00
10% Contingency:		\$3,736.00
Total Estimate:		\$41,096.00
SAY		\$41,100.00

PLANNING
JUL 28 2016
DEPARTMENT

ATTACHMENT 3

Revised: 7/26/2016



09/14/04, 11:05
PLAN RECORDED
REGISTERED
154-84

FOR REGISTRY USE

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMANCE WITH THE RULES AND REGULATIONS OF THE REGISTERED PROFESSIONAL ENGINEER.

DATE 04/14/2004
PREPARED BY JAMES R. LARSON, P.E.

DATE 04/14/2004
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DATE 04/14/2004
PREPARED BY JAMES R. LARSON, P.E.

NOTES

1. THE SUBJECT PROPERTY IS SHOWN AS LOTS 22 & 23 OF NEW BEDFORD ASSOCIATES.
2. REFER TO A DEED FROM NOLA QUINONES TO CURTIS J. WELLS AND JOHN E. WELLS, TRUSTEES OF THE HOWLAND PLACE TRUST, DATED 08/14/00, AND RECORDED IN THE BRISTOL COUNTY DEEDS BOOK 4000, PAGE 155 FOR TITLE REFERENCE TO ASSASSOR'S LOT 22.
3. THE SUBJECT PROPERTY IS LOCATED IN ZONE C AREA OF MINIMAL FLOODING AS SHOWN ON THE FLOOD INSURANCE PANEL NUMBER 250216-000P-S, MAP REVISION DATE JANUARY 5, 1994. LOT 23 IS ZONED "RESIDENTIAL A" AND ASSASSOR'S LOT 22 IS ZONED "RESIDENTIAL A".
4. CURRENT DIMENSIONAL ZONING REQUIREMENTS INCLUDE: MINIMUM LOT AREA 75 FEET, MINIMUM LOT AREA 13070 SQ. FT., MINIMUM LOT AREA 0.3724 ACRES, MINIMUM FRONT YARD SETBACK 30 FEET, MINIMUM SIDE YARD SETBACK 30 FEET, MINIMUM REAR YARD SETBACK 30 FEET.
5. A DEED PRESCRIPTION SHALL BE BASED ON LOT 1 THROUGH 10 SO AS TO NOT INFRINGE THE OPERATION OF THE LANDSCAPING EASEMENT ALONG THE FRONTAGE OF AMBERGRIS LANE.
6. LOTS 1 THROUGH 10 ARE SUBJECT TO A 5' EASEMENT FOR LANDSCAPING EASEMENT ALONG THE FRONTAGE OF AMBERGRIS LANE.

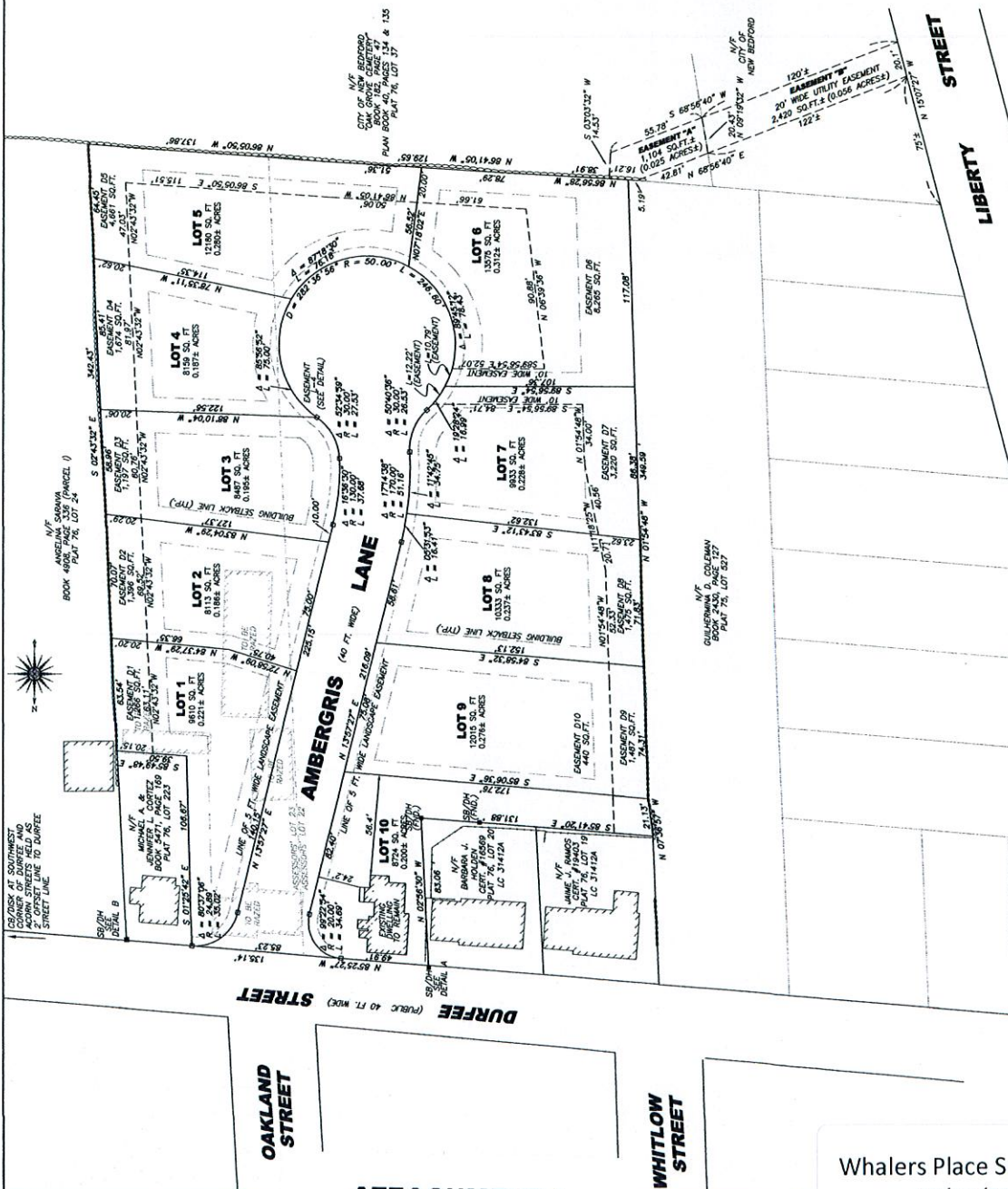
TABLE OF FRONTAGES AND AREAS

LOT	FRONTAGE	AREA
LOT 1	178.17'	9,610 S.F.
LOT 2	78.00'	8,113 S.F.
LOT 3	78.00'	8,487 S.F.
LOT 4	78.00'	8,159 S.F.
LOT 5	78.18'	12,180 S.F.
LOT 6	78.43'	13,579 S.F.
LOT 7	78.27'	9,833 S.F.
LOT 8	78.02'	10,333 S.F.
LOT 9	78.08'	12,019 S.F.
LOT 10	117.09'	8,724 S.F.

LEGEND

- PROPOSED BOUND LOCATION PER PLANNING BOARD REGULATIONS

CAVEAU
9/14/14
11/8-13



FORM F
COVENANT

August 18, 2004

New Bedford, Massachusetts

KNOW ALL MEN by these presents that the undersigned has submitted an application dated March 19, 2004, to the New Bedford Planning Board for approval of a definitive plan of a subdivision of land entitled: Whalers Place, plan by: Prime Engineering, Inc., dated: 3/8/04 Rev. 4/20/04 and owned by: Howland Place Realty Trust, address: 651 Orchard St., NB, land located: off Durfee Street, and showing ten proposed lots. The undersigned has requested the Planning Board to approve such plan without requiring a performance bond.

IN CONSIDERATION of said Planning Board of New Bedford in the county of Bristol approving said plan without requiring a performance bond, the undersigned hereby covenants and agrees with the inhabitants of City of New Bedford as follows:

1. That the undersigned is the owner* in fee simple absolute of all the land included in the subdivision and that there are no mortgages of record or otherwise on any of the land, except for those described below, and that the present holders of said mortgages have assented to this contract prior to its execution by the undersigned.

*If there is more than one owner, all must sign. "Applicant" may be an owner or his agent or representative, or his assigns, but the owner of record must sign the covenant.

2. That the undersigned will not sell or convey any lot in the subdivision until the construction of ways and installation of municipal services necessary to adequately serve such lot has been completed in accordance with the covenants, conditions, agreements, terms and provisions as specified in the following:
 - a. The Application for Approval of Definitive Plan (Form C).
 - b. The Subdivision Control Law and the Planning Board's Rules and Regulations governing this subdivision.
 - c. The certificate of approval and the conditions of approval specified therein, issued by the Planning Board, dated May 19, 2004.
 - d. The definitive plan as approved and as qualified by the certificate of approval.
 - e. No Certificates of Occupancy shall be applied for from the City of New Bedford by the "Covenantor", Executors, Administrators, heirs or assigns of the Covenantor, or their successor in title to the premises until the construction of ways and the installation of municipal services has been satisfactorily completed, or a Form of surety sufficient to guarantee the same has been approved by the Planning Board.

However, a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgaged premises or part thereof may sell or convey any lot, subject only to that portion of this covenant which provides that no lot be sold or conveyed or shall be built upon until ways and services have been provided to serve such lot.

3. That this covenant shall be binding upon the executors, administrators, devisees, heirs, successors and assigns of the undersigned and shall constitute a covenant running with the land included in the subdivision and shall operate as restrictions upon the land.
4. That particular lots within the subdivision shall be released from the foregoing conditions upon the recording of a certificate of performance executed by a majority of the Planning Board and enumerating the specific lots to be released.
5. That nothing herein shall be deemed to prohibit a conveyance by a single deed subject to this covenant, of either the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board.
6. That the undersigned agrees to record this covenant with the Bristol County Registry of Deeds, forthwith, or to pay the necessary recording fee to the said Planning Board in the event the Planning Board shall record this agreement forthwith. Reference to this covenant shall be entered upon the definitive subdivision plan as approved.
7. A deed of any part of the subdivision in violation of the covenant shall be voidable by the grantee prior to the release of the covenant; but not later than three (3) years from the date of such deed, as provided in Section 81-U, Chapter 41, M.G.L.
8. That this covenant shall be executed before endorsement of approval of the definitive plan by the Planning Board and shall take effect upon the endorsement of approval.
9. Upon final completion of the construction of ways and installation of municipal services as specified herein, on or before August 31, 2005 the Planning Board shall release this covenant by an appropriate instrument, duly acknowledged. Failure to complete construction and installation within the time specified herein or such later date as may be specified by vote of the Planning Board with a written concurrence of the applicant, shall result in automatic rescission of the approval of the plan. Upon performance of this covenant with respect to any lot, the Planning Board may release such lot from this covenant by an appropriate instrument duly recorded.
10. Nothing herein shall prohibit the applicant from varying the method of securing the construction of ways and installation of municipal services from time-to-time or from securing by one, or in part by one and in part by another of the methods described in M.G.L., Chapter 41, Section 81-U, as long as such security is sufficient in the opinion of the Planning Board to secure performance of the construction and installation.

For title to the property, see deed from 1) Noelia Quinones 2) Paul Starkie, et ux, dated 9/15/03, recorded in Bristol County Registry of Deeds, Book 1) 6527, Page 15, 2) Book 6527, Page 155 registered in Bristol County Land Registry as Document No. _____, and noted on certificate of title no. _____, in Registration Book _____, Page _____.

The present holder of a mortgage upon the property is Compass Bank, of One Compass Place, New Bedford, MA. The mortgage is dated September 15, 2003 and recorded in Bristol County Registry of Deeds, Book 6527, Page 159, or registered in Bristol County Land Registry as Document No. _____, and noted on certificate of title no. _____, Registration Book _____, Page _____. The mortgagee agrees to hold the mortgage subject to the covenants set forth above and agrees that the covenants shall have the same status, force and effect as through executed and recorded before the taking of the mortgage and further agrees that the mortgage shall be subordinate to the above covenant.

_____, N/A, spouse of the undersigned applicant hereby agrees that such interest as I, we, may have in the premises shall be subject to the provisions of this covenant and insofar as is necessary releases all rights of tenancy by the dower or homestead and other interests therein.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 18th day of August, 2004.

Ronald A. Lunn
City Planner
9/13/04

Acceptance by a Majority of the
Planning Board of New Bedford

HOWLAND PLACE REALTY TRUST

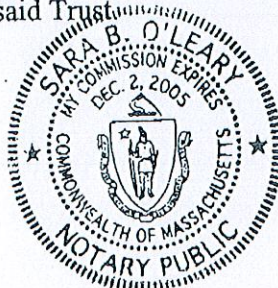
Curtis J. Mello
Curtis J. Mello, Trustee
John E. Williams
John E. Williams, Trustee

COMMONWEALTH OF MASSACHUSETTS

Bristol, ss.

August 8, 2004

On this _____ day of August 2004, before me the undersigned Curtis J. Mello and John E. Williams, Trustees aforesaid, proved to me through satisfactory evidence of identification, which was MADONNA LANCE, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for the stated purpose and on behalf of said Trust.



Sara B. O'Leary
Official Signature of Notary
My Commission Expires: 12/2/2005

Subdivision Lot Releases									
WHALERS PLACE	LOT NUMBER	PARCEL NUMBER	MAILING ADDRESS	RELEASE Y/N	DATE OF RELEASE	SUBSTITUTION?	BOOK/PAGE	NOTES	BUILDING PERMIT
Endorsed 06/17/2004 Map 76, Lots 22 & 23 (Off Durfee Street)	1	76/269	ES Ambergris Lane	No					
	2	76/270	24 Ambergris Lane	Yes	6/8/2011		10119/225		
	3	76/271	ES Ambergris Lane	No					
Known as Ambergris Lane Plan Book 154/Page 84	4	76/272	10 Ambergris Lane	Y-Not Recorded	3/15/2013			Not Recorded. See Notes under Lot 10.	
	5	76/273	4 Ambergris Lane	Yes	10/12/2011		10185/103		
	6	76/274	7 Ambergris Lane	Yes	5/12/2010		9746/180		
	7	76/275	15 Ambergris Lane	Yes	5/12/2010		9746/180		
	8	76/276	23 Ambergris Lane	Yes	5/12/2010		9746/180		
	9	76/277	33 Ambergris Lane	Yes	5/12/2010		9746/180		
Anticipated Completion date Pre dates Permit Extension act. (Extended to 06/30/2008, further extended thru 12/31/2013; file note extends completion to 8/31/2005 12/31/2017.	10	76/22	43 Ambergris Lane	No		YES		10/13/2011 Lot 5 & 10 released; Lot 10 exchanged for Lot 4 release 03/15/2013	
Completed?									
Y									
N									
Date of Completion									
Road Acceptance									
PB									
Date									
City Council Date									
NOTES:									



City of New Bedford

PLANNING BOARD

FREDERICK M. KALISZ, JR.

Mayor

June 8, 2004

Rita Arruda, City Clerk
133 William Street
New Bedford, MA 02740

RE: Definitive Plan Approval of Whaler's Place Subdivision

Dear Ms Arruda:

Please be advised that the New Bedford Planning Board approved a Definitive Plan of land for a ten- lot residential subdivision at a meeting held on May 19, 2004..

Would your office kindly notify the Planning Department if any notice of appeal is received within the 20 day appeal period.

Sincerely,


George M. Smith
Chairman

files

CITY CLERK

2004 JUN 22 P 1:00

CITY CLERKS OFFICE
NEW BEDFORD, MA

ATTACHMENT 7

133 William Street, New Bedford, Massachusetts 02740
Tel. (508) 979-1488 Fax: (508) 979-1576



City of New Bedford

PLANNING BOARD

133 William Street

New Bedford, Massachusetts 02740

Telephone: (508) 979.1488 Facsimile: (508) 979.1576

Registry of Deeds Use Only:

JONATHAN F. MITCHELL

MAYOR

FORM G

PERFORMANCE BOND SECURED BY CASH DEPOSIT

Subdivision Name – WHALER'S PLACE DEFINITIVE SUBDIVISION

Agreement made this date between the City of New Bedford and Matthew B. Antonio, Sole Member & Manager, Palmer River Development Co., LLC, hereinafter referred to as the "Applicant" whose address is P.O. Box 41, Swansea, MA 02777 to secure constructions of ways and installation of municipal services in the subdivision of land shown on a plan entitled Whaler's Place Definitive Subdivision Plan of Land in the City of New Bedford, Bristol County, Massachusetts, dated March 8, 2004, revised thru May 11, 2004, recorded in Bristol County (S.D.) Registry of Deeds, Plan Book 154, Page 84, prepared for Howland Place Realty Trust, by Prime Engineering, P.O. Box 1088, 350 Bedford Street, Lakeville, MA 02347, for land located at Durfee Street and Ambergris Lane (Map 76, Lots 22 & 23) and showing ten (10) lots.

The Applicant hereby binds and obligates himself, his or its executors, administrators, devisees, successors and assigns to the City of New Bedford, Bristol County, acting through its Planning Board, for the sum of forty-one thousand, one hundred dollars (\$41,100.00), and has secured this obligation by depositing with the Treasurer of the City of New Bedford the above amount sum, to be deposited in a subdivision escrow account in the name of the City of New Bedford. The cash deposit will be placed in an interest bearing account compounded monthly at a rate which is based on current market conditions.

Said sum of money is to be used to insure the performance by the Applicant of all covenants, conditions, agreements, terms and provisions contained in the following:

1. The Subdivision Control Law, the City of New Bedford Code of Ordinances, and City of New Bedford Subdivision Rules and Regulations.
2. The Definitive Plan known as Whaler's Place Definitive Subdivision Plan of Land in New Bedford, MA prepared for Howland Place Realty Trust by Prime Engineering as approved by the Planning Board on May 19, 2004 and endorsed June 17, 2004.
3. All conditions and agreements included in a Form D Covenant between the Planning Board and Applicant, approved on August 18, 2004 and duly recorded by the Applicant in the Bristol County (S.D.) Registry of Deeds as amended at Book 9746/ Page 180, Book 10119/ Page 225 and Book 10185/ Page 103.
4. Other Documents, specifying construction or installation to be completed, as stipulated by the Whaler's Place Subdivision Estimate prepared by the City of New Bedford Department of Public Infrastructure revised thru 07/26/2016.

This agreement shall remain in full force and effect until the Applicant has fully and satisfactorily performed all obligations or provides another method of securing performance as provided in Massachusetts General Law, Chapter 41, Section 81-U.

Upon completion by the Applicant of all obligations as specified herein, on or before November 1, 2016 or such later date as may be specified by vote of the Planning Board with written concurrence of the Applicant, the deposit of money, including all interest accrued thereon, shall be returned to the Applicant by the City of New Bedford and this agreement shall become void.

In the event the Applicant should fail to complete the construction of ways and installation of municipal services as specified within the time stipulated, the cash deposit may be applied in whole or in part by the Planning Board for the benefit of the City of New Bedford, to the extent of the reasonable cost to the City of New Bedford for completing such construction and installation. Any unused money and interest accrued on the deposit, which shall bear a direct and reasonable relationship to the expected cost including the effects of inflation, shall be returned to the applicant upon completion of the work by the City of New Bedford.

The City of New Bedford, acting by and through its Planning Board, with City Planner as Agent, hereby agrees to accept the deposit of money in the amount specified in this agreement as security for the performance of the project. Any amendment to this agreement and/or to the aforesaid deposit of money shall be agreed upon in writing by all parties to this agreement.

Date

Jennifer Clarke, AICP, Acting City Planner
Agent for the Planning Board

COMMONWEALTH OF MASSACHUSETTS

Bristol County, SS

_____, 20____

Then personally appeared before me the above named Jennifer Clarke, stated as agent for the Planning Board, she is authorized to sign this document for said Planning Board and acknowledged the foregoing instrument to the Planning Board's free act and deed.

Signature of Notary Public

My commission expires:

CITY TREASURER

The applicant has deposited cash in the amount of _____
with the City of New Bedford.

Signature of City Treasurer

APPLICANT

In witness whereof I/we hereunto set my/our hands and seal this on the _____ day of _____,
20_____.

Signature of Owner

Signature of Owner



JONATHAN F. MITCHELL
MAYOR

City of New Bedford

PLANNING BOARD

133 William Street
New Bedford, Massachusetts 02740
Telephone: (508) 979.1488 Facsimile: (508) 979.1576

Registry of Deeds Use Only:

RELEASE OF COVENANT

PLANNING BOARD – CITY OF NEW BEDFORD, MA

The undersigned, being a majority of the Planning Board of the City of New Bedford, Massachusetts, hereby certifies that the following lots are released from the restrictions as to sale specified in a Covenant dated August 18, 2004 and recorded in Bristol County (S.D.) Registry of Deeds, Book 7169/Page 163, as amended at Book 9746/Page 180, Book 10119/Page 225 and Book 10185/Page 103.

Lots are shown on the Plan entitled Whaler's Place Definitive Subdivision Plan of Land in the City of New Bedford, Bristol County, Massachusetts, dated March 8, 2004, revised thru May 11, 2004, recorded in Bristol County (S.D.) Registry of Deeds, Plan Book 154, Page 84, prepared for Howland Place Realty Trust, by Prime Engineering, P.O. Box 1088, 350 Bedford Street, Lakeville, MA 02347, for land located at Durfee Street and Ambergris Lane (Map 76, Lots 22 & 23) and showing ten (10) lots.

Recorded with said Covenant in Plan Book 154, Page 84, as amended, the remaining enumerated lots are:

Lot 1, Lot 3, Lot 4 and Lot 10.

The name of the Owner as shown on said plan is Howland Place Realty Trust. Ownership was conveyed to Palmer River Development Co., LLC by Quitclaim Deed on July 24, 2014 and recorded in Bristol County (S.D.) Registry of Deeds in Book 11126, Page 317.

A Building and Occupancy Permit are still required for each lot herein released.

Majority of the Planning Board of the City of New Bedford, Massachusetts

COMMONWEALTH OF MASSACHUSETTS

Bristol County, ss.

_____ 20__

Then personally appeared _____, one of the above-named members of the Planning Board of the City of New Bedford, Massachusetts, and acknowledged the foregoing instrument to be the free act and deed of said Planning Board, before me,

Notary Public

My Commission Expires