

TOWN OF MILLBURY, MASSACHUSETTS
The Planning Board

NOTICE OF DECISION ON APPLICATION FOR DEFINITIVE PLAN
AUTUMN GATE ESTATES PHASE II

Applicant:

Taylor Armstrong Realty Trust
76 Church Street
Whitinsville, MA 01588

Date: July 10, 2006

Date Filed: May 8, 2006
Premises affected: Off Autumn Gate Circle
Millbury, Massachusetts

Reference is made to Taylor Armstrong Realty Trust's *Application for a Definitive Subdivision Plan*, relative to the Applicant's property located off of Grafton Street and Autumn Gate Circle, to be comprised of five (5) single family dwelling units (the "Application"). The Application was submitted to the Millbury Planning Board (the "Planning Board") on May 8, 2006 pursuant to the Town of Millbury's Rules and Regulations Governing the Subdivision of Land.

The Planning Board convened a public hearing on June 12, 2006, continued to July 10, 2006. The Planning Board VOTED TO CLOSE the public hearing on July 10, 2006. All members of the Planning Board were present at each session of the public hearing. The Planning Board at its meeting on July 10, 2006 VOTED TO GRANT Taylor Armstrong Realty Trust's Application for Definitive Plan, subject to the following CONDITIONS, safeguards and limitations on time or use as attached hereto.

The decision of the Planning Board together with detailed record of its proceedings stating the reasons for the decision was filed with the Town Clerk on July 24, 2006.

Millbury Planning Board:

Don Lewandowski
William Brown
Paul J. Vukobratovic
Greg R. Valey

A true copy, ATTEST:

Paul J. Vukobratovic
Clerk, Millbury Planning Board

TOWN OF MILLBURY, MASSACHUSETTS
The Planning Board

DATE FILED: May 8, 2006

RECORD OF PROCEEDINGS
On Application for Definitive Plan
AUTUMN GATE ESTATES PHASE II

I, David Vecchio, Clerk of the Planning Board hereby certify that the following is a detailed record of all of the Planning Board's proceedings relative to the application of Taylor Armstrong Realty Trust ("Applicant") for a Definitive Plan pursuant to the Town of Millbury's Rules & Regulations Governing the Subdivision of Land.

The Applicant desires to develop five (5) single family dwelling units on property located off of Autumn Gate Circle (the "Project"). The Site lies within the Suburban III District. Lots 1 – 5 total approximately 5.62 acres; open space is identified on the plan as Parcel A consisting of approximately .80 acres and Parcel 1 consisting of approximately 1.79 acres.

The history of these proceedings is as follows:

1. On May 8, 2006, Applicant's *Application for a Definitive Plan* (the "Application") was presented to the Planning Board. True copies of the Application are attached hereto as Exhibit A-1 and is a part of the record of these proceedings;
2. Thereupon, an advertisement, a true copy of which is attached hereto as Exhibit B and is made part of this record, was published in the Millbury Sutton Chronicle, a newspaper published in Millbury, Massachusetts, on May 25, 2006 and June 1, 2006
3. Notices of the public hearing, a copy of which is attached hereto as Exhibit C and is made a part of this record, were mailed postage pre-paid to the Applicant, abutters within three hundred (300) feet of the Site, being the same persons named in Assessor's certificate which were part of the Application heretofore referred to (and attached hereto as Exhibit A), and to the Board of Selectmen, Building Inspector and Planning Board of every abutting municipality;
4. On June 12, 2006, a hearing was held at the Municipal Office Building, 127 Elm Street, Millbury, Massachusetts at which opportunity was given to all interested to be heard in favor or opposition to the Application. The hearing was continued to July 10, 2006. All members of the Planning Board, Chairman William Borowski, Member David Vecchio, Member George Valery, Member Anna Lewandowski, and Member Richard Gosselin were present at each session of the public hearing. The Planning Board voted at its meeting on July 10, 2006 to CLOSE the public hearing;
5. Applicant's request for waivers are approved as follows:
 - Section 6.05.3 : Waive the requirements to show individual trees greater than 12" in diameter at breast height as the site is densely wooded in a natural state.

Significant trees (trees of 12" caliper, 4' above finished ground level) within 20' of the right-of-way shall be identified in the field prior to clearing. The Town Planner and developer shall walk the site together and mark those trees that can be preserved. These existing trees shall serve as street trees in lieu of planting all new street trees.

The following recommended measures should be used for the protection of existing trees:

- A. Wherever possible, there shall be no operation of heavy equipment or storage of any materials under said tree within its natural drip line.*
- B. Wherever possible, no grading or filling should be done within the drip line.*
- C. No bituminous concrete paving or vehicle parking should be located under conifers. No more than twenty percent (20%) of the area under any deciduous tree's natural drip line may be so paved.*
- D. All drainage from paved areas should be directed away from root zones.*

- Section 7.02.4c: Waive the requirement that the length of a dead-end street shall not exceed 500 feet.

The applicant is authorized to extend the length of a dead-end street to 600 feet.

- Section 7.03.4a: Waive the requirement for the use of reinforced concrete pipe.

The applicant shall use high-density polyethylene plastic piping (ADS).

- Section 7.06: Waive the requirement to install all stone monuments prior to applying for building permits.

Prior to street construction, areas of monumentation shall be staked and maintained. Monuments shall be installed prior street acceptance.

- Section 7.02.9: Waive the requirement that street trees shall be no closer than 5 feet nor more than 20 feet from the right-of-way.

The applicant is authorized to install street trees 2.5 feet from the right-of-way at the project entrance.

6. The Planning Board voted at its meeting on July 10, 2006 to GRANT the Application to allow the construction of five (5) single family dwelling units, related roadways, parking, landscaping, lighting, drainage and associated infrastructure all as shown on the plans entitled "*Autumn Gate Estates Phase II, A Definitive Subdivision Plan in the Town of Millbury, Massachusetts*", dated April 3, 2006, revised through June 28, 2006, prepared by Heritage Design Group, 1 Main Street, Whitinsville, MA 01588 and consisting of twenty-three (23) sheets (collectively the "Plans") and subject to the following conditions:

- a. All rules and regulations of the Millbury Zoning Bylaw shall be adhered to.

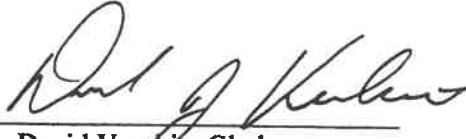
- b. Any substantial change shall require application for a modification to the decision. The Planning Board shall determine what constitutes a substantial change.
- c. Each condition shall be construed as separate to the end, and if any condition shall be held invalid for any reason, the remaining conditions shall continue in full force and effect.
- d. All fees and costs associated with the Definitive Plan and this decision shall be paid.
- e. Sewer service for the lots within the subdivision shall be designed and constructed in accordance with the requirements of the Town of Millbury's Sewer Commissioners.
- f. Water service for the lots within the subdivision shall be designed and constructed in accordance with the requirements of Aquarion Water Company, or its successor.
- g. Compliance with state and federal regulations including, but not limited to those regarding handicap accessibility, is the responsibility of the Applicant and its contractors. The Applicant shall coordinate the relocation of the wheelchair ramp on the eastern side of Autumn Gate Circle so that it is directly opposite the proposed wheelchair ramp on Cooper Road.
- h. Before Definitive Plan endorsement, the Plan shall be modified so that the wheelchair ramp at the end of the Cooper Street cul-de-sac is not immediately adjacent to the catch basin.
- i. Before Definitive Plan endorsement, the Plan should be modified so that street lights are closer to hydrants.
- j. Before Definitive Plan endorsement, the Plan shall be modified so that the proposed Parcel 1 Open Space is combined with Lot 3.
- k. Before Definitive Plan endorsement, the Applicant shall either file a performance bond or surety in an amount determined by the Board to be sufficient to cover the cost of all improvements shown on the approved definitive plan and specified as conditions of approval plus a twenty percent (20%) contingency factor, or the Applicant shall execute and record a covenant running with the land. Such covenant shall provide in part that no dwelling may be built nor sold until all of the improvements required by the approved definitive plan and specified as conditions of approval have been completed and approved by the Planning Board. The Planning Board will not reduce the Town's interest in a bond or surety to an amount less than twenty percent (20%) of the original amount, or \$20,000, whichever is greater, or release the last dwelling unit in the case of approval with covenant, until the Applicant submits and obtains Planning Board approval for an "as-built" plan in conformance with Section 6.11 of the Subdivision Rules and Regulations.

- l. Before construction activities, the Applicant shall pay \$7,500 to the Town of Millbury for deposit into a special account established by the Town Treasurer under M.G.L. Chapter 44, Section 53G. The balance of this account shall at no time be less than one-half (1/2) the initial deposit, and the Applicant shall deposit with the Treasurer such additional funds as are required to restore the account to the amount of the initial deposit upon notice from the Board, by first class mail, that the amount on deposit has been decreased by the expenditures described herein to an amount at or below one-half (1/2) of the initial deposit. If the Applicant fails to restore the account balance and the balance is insufficient to pay incurred professional and technical review fees, the Board shall place a stop work order on subdivision construction activities by not authorizing additional professional or technical work, including inspections, until outstanding invoices are paid. Ninety (90) days following the Board's issuance of a Certificate of Completion (See Appendix A), any excess amount in the account attributable to that project, including any interest accrued, shall be repaid to the Applicant or the Applicant's successor in interest.
- m. Before construction activities, the Applicant shall provide filed and/or recorded copies of all permits, including an Earth Removal Permit if required.
- n. Before construction activities, a pre-construction meeting shall be held with the Planning Board's representative and representatives from applicable boards, committees, and departments from the Town of Millbury.
- o. No tree stumps shall be buried on site. Prior to the commencement of construction, the Applicant shall propose a method of stump removal and disposal for Planning Board approval. Said method may include excavation and removal off-site in accordance with applicable regulations, grinding in place, or excavation and on-site grinding. The Applicant shall provide reasonable proof that the proposed method of stump removal and disposal was executed.
- p. No lots shall be released or building permits issued until all easements, covenants, etc. are satisfactory to the Town and recorded at the Worcester Registry of Deeds with copy provided to the Planning Board.
- q. Prior to clearance of lots and issuance of building permits, the Applicant shall provide written proof that the owner(s) of the Autumn Gate Estates Subdivision have authorized the owner(s) of the Autumn Gate Estates Phase II subdivision to tie proposed utilities in Autumn Gate Estates Phase II subdivision into those located in Autumn Gate Estates Subdivision, OR Autumn Gate Circle has become a public way.
- r. No residential building permits shall be issued until the Town Planner approves the same based on the status of infrastructure and performance guarantee.
- s. Before issuance of an occupancy permit, the Fire Chief shall inform the Planning Board that fire suppression facilities have been installed and operate to his satisfaction.
- t. If blasting occurs, no perchlorate shall be used. The Applicant shall sample and analyze all wells for compounds contained in the proposed blasting materials

prior to any blasting if those wells are located within five hundred (500) feet of the blast area. These wells shall also be tested for quantity prior to any blasting. The blast area shall be defined as the limits of construction. All structures within five hundred (500) feet of the blast area shall be reviewed for cracks prior to any blasting.

- u. In addition to the stone monuments specified in Section 7.06 of the Millbury Subdivision Rules and Regulations, reinforced concrete bounds shall be set at intersections of lot lines and permanent easements and at all points of change of direction of the boundary lines of each lot in the subdivision. Drill holes may take the place of reinforced concrete bounds where stone walls or ledge are present. The Applicant's surveyor shall furnish the Planning Board with a letter certifying that bounds have been placed precisely as indicated on the approved Plan and this Certificate of Decision.
- v. Inspections shall be conducted at appropriate times in the construction schedule as indicated in Section 8.02 of Millbury's Subdivision Rules and Regulations. Any work which has been covered by subsequent work prior to inspection, or is otherwise not available or obscured to the point of rendering inspection of the work difficult, shall be considered to be not acceptable to the Planning Board. Such subsequent work shall be removed as directed by the Planning Board or its representative to insure availability of the work to be inspected as required herein. The release of the performance guarantee shall depend upon the inspection and approval of all work prescribed herein and as shown on the approved Plan.
- w. Street signs shall comply with the specifications of the Director of Public Works.
- x. Hours of operation related to the construction of the subdivision shall be limited to 7:00 AM to 5:00 PM, Monday through Friday, 8:00 AM to 4:00 PM on Saturday.
- y. On a monthly basis after the commencement of construction, the Applicant shall, to the extent required by the Town Planner, meet with the Town Planner during Town Hall office hours to provide a project update. The time and date of these monthly meetings shall be agreed upon by the Applicant and the Town Planner.
- z. All of the improvements shown on the Applicant's approved plan, including all items specified as conditions of approval, shall be fully constructed within three (3) years from the date of approval. Extensions may be granted subject to the review and approval of the Planning Board.
- aa. The Applicant shall submit digital copies of the approved Definitive Plan, and, thereafter, an "as-built" plan of the development, which plans shall be in a format acceptable to the Planning Board, and consistent with the approved plan. The "as-built" plan shall provide two coordinate values on the NAD 83 Datum for two of the property line monuments shown on the approved plan.

Members present: William Borowski (favor), Richard Gosselin (favor), Anna Lewandowski (favor), George Valery (favor), and David Vecchio (favor).

Signature: 
David Vecchio, Clerk



MILLBURY PLANNING BOARD

Municipal Office Building

Millbury, Massachusetts 01527

Telephone 508-865-4754

Fax 508-865-0857

TOWN OF MILLBURY, MASSACHUSETTS

APPLICATION FOR APPROVAL OF A DEFINITIVE PLAN

Date APRIL 3, 2006

NAME OF APPLICANT TAYLOR ARMSTRONG REALTY TRUST
Address 76 CHURCH ST. WHITINSVILLE MA 01588
Phone Number 508 234 0550

NAME OF PROPERTY OWNER (if different than applicant) STOCKHOUSE INVESTMENT, LLC

By deed recorded in the Worcester District Registry of Deeds in BOOK 38117, Page 45

NAME OF CONTACT PERSON PAUL HUTNAK, HERITAGE DESIGN GROUP
Address 1 MAIN ST, WHITINSVILLE MA 01588
Phone Number 508-266-2066

PROJECT LOCATION OFF GRAPTON ST & AUTUMN GATE CIRCLE ASSESSOR'S MAP, LOT # 56/25 ^{PK}

To the Planning Board of the Town of Millbury:

The undersigned, being the applicant as defined under Chapter 41, Section 81-L, for approval of a proposed subdivision shown on a plan entitled AUTUMN GATE ESTATES - PHASE II, drawn by (Surv/Eng's Name) HERITAGE DESIGN GROUP (Address) 1 MAIN ST, WHITINSVILLE and dated APRIL 3, 2006, being land bounded as follows: SEE PLAN & DEED INFO

hereby submits said plan as a DEFINITIVE plan in accordance with the Rules and Regulations of the Millbury Planning Board and makes application to the Board for approval of said plan.

The undersigned's title to said land is derived from PAUL A. & BEVERLY A. LITTLE by deed dated DEC. 27, 2005 and recorded in the Worcester District Registry of Deeds Book 38117, Page 45, registered in the WORCESTER Registry District of Land Court, Certificate of Title No. _____; and said land is free of encumbrances except for the following:

Said plan has has not _____ evolved from a preliminary plan submitted to the Board on _____ 10/24/05 (date), and approved (with modifications) disapproved _____ on _____ 1/23/06 (date). This plan has _____ has not _____ evolved from a Special Permit # _____ granted on (date) _____ and recorded in Worcester District Registry of Deeds Book _____, Page _____.

The undersigned hereby applies for the approval of said DEFINITIVE plan by the Board, and in furtherance thereof hereby agrees to abide by the Board's Rules and Regulations.

[Signature] (AGENT)
Applicant's Signature

[Signature] (AGENT)
Property Owner's Signature



TOWN OF MILLBURY

MUNICIPAL OFFICE BUILDING • 127 ELM STREET • MILLBURY, MA 01527-2632

FAX 508/865-0857

*Department of
Planning & Development*
TEL. 508-865-4754

*Department of
Building & Inspections*
TEL. 508-865-0438

Conservation Commission
TEL. 508-865-5411

MILLBURY SUTTON CHRONICLE

Public Hearing Notice

Millbury Planning Board

In accordance with the provisions of Chapter 41 of the Massachusetts General Laws, Section 81-T, the Millbury Planning Board will hold a public hearing on Monday, June 12, 2006, at 8:00 p.m. at the Municipal Office Building, 127 Elm Street, Millbury, MA, on the application of Taylor

Armstrong Realty Trust, property located off of Autumn Gate Circle (off of Grafton Street), Millbury, MA for a 5 lot, single family Definitive Subdivision Plan.

Plan is available for inspection in the Planning Department, Municipal Office Building during regular business hours.

Anyone wishing to be heard on this application should appear at the time and place designated above.

William Borowski, Chairman

May 25, 2006 & June 1, 2006



TOWN OF MILLBURY

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William Borowski
Chairman

Please publish in the Millbury Sutton Chronicle on May 25, 2006 and June 1, 2006