

BK 26016 PG 002
TOWN OF WAYLAND
MASSACHUSETTS
01778-2697



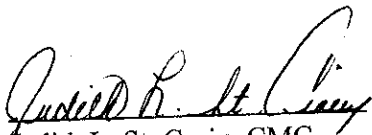
TOWN CLERK
JUDITH L. ST. CROIX, CMC
ASSISTANT TOWN CLERK
LOIS M. TOOMBS

TOWN BUILDING
41 COCHITUATE ROAD
TEL: (508) 358-3630
(508) 358-3631
FAX: (508) 358-3627

January 26, 1996

To Whom It May Concern:

I hereby certify that no notice of appeal was received during the twenty (20) days next after receipt and recording of notice, on September 30, 1988 in the Town Clerk's Office, from the Planning Board of the approval of "Willow Brook - Southeast Wayland-Cochituate Planning District Special Permit."


Judith L. St. Croix, CMC
Town Clerk

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BK 26016 PG 003
TOWN OF WAYLAND
MASSACHUSETTS
01778



PLANNING BOARD

TOWN BUILDING
41 COCHITUATE ROAD
TEL. (617) 358-7701

CERTIFICATION OF ACTION

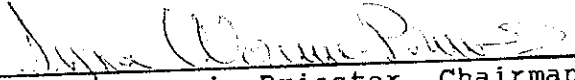
WILLOW BROOK

SOUTHEAST WAYLAND-COCHITUATE
PLANNING DISTRICT
SPECIAL PERMIT

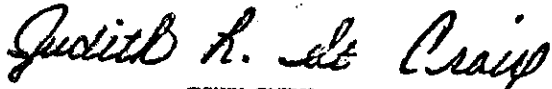
September 28, 1988

As required by MGL Ch. 40A, s. 9 and Section IX C E.2. of the Zoning By-Laws of the Town of Wayland this notice certifies that on September 28, 1988 the Planning Board voted to approve with conditions the application for development within the Southeast Wayland-Cochituate Planning District entitled "Willow Brook," dated February 11, 1988 as revised. Appeals to this decision, if any, shall be made pursuant to MGL Ch. 40A, s. 17 and shall be filed within twenty days after the date of filing of this certification in the office of the Wayland Town Clerk.

Date of filing with Town Clerk: 9/30/88


Iryna Warvariv-Priester, Chairman
Wayland Planning Board

A TRUE COPY ATTEST


TOWN CLERK
TOWN OF WAYLAND

BK 26016 PG 004

TOWN OF WAYLAND

MASSACHUSETTS

01778



PLANNING BOARD

WILLOW BROOK
SOUTHEAST WAYLAND-COCHITUATE
PLANNING DISTRICT
SPECIAL PERMIT

TOWN BUILDING
41 COCHITUATE ROAD
TEL. (617) 358-7701

September 28, 1988

Pursuant to Massachusetts General Laws Chapter 40A, section 9 (MGL Ch. 40A, s. 9), and Section IX C of the Zoning By-Laws of the Town of Wayland (the "By-Laws"), the Town of Wayland Planning Board (the "Board") hereby grants a special permit and approves the submittals by Willow Brook Associates Limited Partnership (the "Applicant") to the Planning Board made on and after February 11, 1988, all consisting of:

1. The bound booklet entitled "Willow Brook, Wayland, Massachusetts, Application for a Special Permit and Development Plan," dated February 11, 1988 (the "Application").
2. The bound set of plans entitled "Willow Brook, Wayland, Massachusetts, Application for a Special Permit and Development Plan," consisting of Sheets K1, and C1 to C6 (all dated December 16, 1987); and Sheets L1 to L7, and A1 to A13 (all dated December 15, 1987) (the "Development Plan").
3. The bound set of plans entitled "Willow Brook, Wayland, Massachusetts, Notice of Intent (M.G.L. C. 131, s. 40)," consisting of Sheets 1A, 1B, 2A, 2B, 3A, 3B, 4A, and 4B (all dated October 30, 1987) (the "NOI").
4. Plans entitled "Soils Map," consisting of Sheets C6 and C7 (dated June 9, 1988).
5. Plans entitled "Site Plan," depicting proposed left turn lanes and other improvements on Commonwealth Road, consisting of Sheets 2A and 2B (dated October 30, 1987, received by the Planning Board on June 20, 1988).
6. All oral testimony presented at the public hearing memorialized in the minutes of the Board for said hearing.

The above submittals are hereinafter referred to as the Submittal. Other documents (the "Supporting Documents") filed with the Board in connection with the Submittal are marked as Exhibit A hereto and are incorporated herein by reference. The Submittal proposes the construction of forty-four (44) condominium units on approximately twenty-seven (27) acres of land located at the corner of Commonwealth Road and Oak Street in Wayland, Massachusetts (the "Project"), as further described therein.

A TRUE COPY ATTEST

Judith R. de Craig

TOWN CLERK
TOWN OF WAYLAND

As the Special Permit Granting Authority designated under Section IX C of the By-Laws, the Board held a public hearing on April 5, 1988, after notice by publication and mailing as required by law. The public hearing was continued from April 5, 1988 to May 10, 1988, to June 14, 1988, and closed on June 14, 1988. Representatives of the Applicant were present at the public hearing.

The Submittal proposes construction of multi-family condominium dwellings to be arranged in clusters to preserve the residential character of Wayland. The Project will contain only two-bedroom single-housekeeping condominium units, ranging in size from approximately 1,600 square feet to 2,600 square feet of living space with two-car garages. Six (6) of the forty-four (44) units (the Affordable Units) will be made available for sale to low- and moderate-income first-time home buyers at prices established under the Homeownership Opportunity Program administered by the Massachusetts Executive Office of Communities and Development. Three (3) of the Affordable Units will be sold for not more than \$86,000, while the other three (3) Affordable Units will be sold for not more than \$95,000.

Each cluster building will contain between two and four units. The buildings will be designed to feature stained wood clapboard exteriors with gabled roofs, dormers and other architectural features commonly found in the Wayland area. The interiors will have cathedral ceilings in the principal living areas, separate dining rooms and eat-in kitchens. In addition, each unit will have access to private outside areas, all of which will be attractively landscaped. The six (6) Affordable Units will be scattered throughout the Project, and will be indistinguishable from the market-rate units from the exterior. As part of the Project, the Applicant will grant the Town of Wayland a conservation easement and restriction over wetland areas (the "Wet Areas") located on the Project site. In addition, the Applicant will improve the intersection at Commonwealth Road and Oak Street in accordance with plans attached hereto as Exhibit B. Moreover, the low- and moderate-income nature of the Affordable Units will be preserved through a 99-year deed restriction.

In accordance with Section 1.10 of the Regulations of the Planning Board of the Town of Wayland Governing the Southeast Wayland-Cochituate Planning District (the "Regulations") the Applicant requested the granting of five waivers therefrom, plus one waiver from the Rules and Regulations of the Wayland Planning Board for the Conduct of Planning Board Functions, Meetings and Hearings. The Board specifically finds that the granting of these waivers is consistent with the purpose and intent of the By-Laws and aforementioned regulations, and is in the public interest. The waivers are granted as follows:

1. Section 1.6 of the Regulations: Requiring application on forms provided by the Board. The Applicant prepared the Application prior to the adoption of such forms. Substantially all information required by the Board is in the Application.
2. Section 2.1(c)(5)(a) of the Regulations: Requiring that the Locus Map show existing water lines. Exhibit G (Existing Conditions) of the Application, and not the Locus Map, contains this information.

3. Section 2.2(c)(15) of the Regulations: Requiring that the Application specify the size of trucks and equipment to be used during construction. The Applicant has not finalized a contract for construction, but will require its contractor to use reasonable size trucks and equipment.

4. Section 2.2(d)(1) of the Regulations: Requiring the Locus Map to be the same scale as the Town Atlas (1" = 200"). The Applicant provided the Locus Map at a scale of 1" = 166.6' (that of the USGS Survey maps).

5. Section 3.2(a) of the Regulations: Requiring that all improvements not specifically mentioned in the Subdivision Rules and Regulations and the Regulations shall be subject to standards approved by the Board. The Project will be built in accordance with the Rules and Regulations with the exceptions that Willow Brook Drive will be 22 feet wide with radii of 236 feet at bordering vegetated wetlands crossings.

6. Section 5.3 of the Rules and Regulations of the Wayland Planning Board for the Conduct of Planning Board Functions, Meetings and Hearings: Requiring completion of construction within two years of the date of filing of the Board's decision with the Town Clerk, unless the Board provides otherwise in the decision. The Applicant intends to diligently pursue the issuance of required permits and construction within the required time limits, but may require longer timeframes.

The Board hereby grants the requested waivers with the provisions described below:

1. The Board grants the waivers requested in Items 1, 2, 3, 4, and 5 above, subject, however, to relevant conditions listed hereinafter on pages 6 through 9.

2. Item 6 above: The Board grants this requested waiver as follows: All permits necessary for the prosecution of the work shall be obtained and construction shall be commenced within twelve (12) months and completed within twenty-four months from the date of filing of the Board's decision with the Town Clerk and expiration of all appeal periods. The Board may grant an additional twelve (12) month extension without a public hearing upon the demonstration of good cause as shown by the Applicant to the Board.

Following the public hearing, the Board reviewed the Submittal and Supporting Documents. The Board makes the following findings, required by Section 5.2 of the Regulations and Section IX C of the By-Laws:

1. Subject to the conditions and limitations listed on pages 6 through 9 below, the objectives of Section V(r) of the By-Laws are met: when constructed, the Project will not be against the public interest, will not derogate from the character of the neighborhood in which it will occur, will not be detrimental or offensive because of noise, vibration, smoke, gas, fumes, odor, dust or other objectionable features, and will not otherwise be injurious to the inhabitants or their property, or dangerous to the public health or safety of the Town.

Subject to the conditions and limitations listed on pages 6 through 9 below, the following objectives of Section IX C A of the By-Laws are met:

2. The Project will conserve environmental features, woodlands, wetlands, and areas of scenic beauty through the site engineering and design for the Project, as shown on the Development Plan.

3. The Project involves the construction and location of multi-family condominium dwellings to preserve the residential characteristics of the Town.

4. The Project will provide for a variety of housing by including six (6) Affordable Units and condominium ownership.

5. The Project will permit the Town to continue to provide the same quality of municipal services without imposing an increased financial burden on its citizens; specifically, for example, the Project provides for the reconstruction of portions of Commonwealth Road and Oak Street, and the installation of traffic signals at this intersection, all to be paid for by the Applicant.

6. The Project will provide at least 10% of the units to be made available for sale at Affordable Prices, as the Project provides for six (6) out of forty-four (44) units, or 13.6%, for sale at Affordable Prices.

7. The Project will protect the environment and preserve open spaces by granting conservation and recreation easements to the Wayland Conservation Commission for certain Wet Areas.

Subject to the conditions and limitations listed on pages 6 through 9 below, the following objective of Section IX C C of the By-Laws is met:

8. The Project involves multi-family condominium dwellings as the only use on the site.

Subject to the conditions and limitations listed on pages 6 through 9 below, the following objectives of Section IX C D of the By-Laws are met:

9. The Project consists of at least twenty-five (25) contiguous acres of land not divided by an existing street or aqueduct, as it consists of approximately 26.8 such acres. At least 30% of the land area is Wet Area, as approximately 8.9 acres, or 33.2%, are Wet Areas.

10. The Project appears to be financially sound, as set forth in the pro forma included in the Application.

11. The development team is qualified by training and experience to develop real estate and to construct multi-residence dwellings comparable to those proposed in accordance with the development schedule set forth in the Application, as evidenced by the resumes included in the Application.

12. At least 10% of the dwelling units to be constructed will be made available at Affordable Prices, as six (6) of the forty-four (44) units, or 13.6%, are to be made available at Affordable Prices. The deeds of these dwelling units will

contain a mechanism to insure future sales at reduced prices for a period of not less than 99 years, at the expiration of which the Town will have a right of first refusal to purchase these dwelling units. These dwelling units will be integrated into the overall development in a manner accepted by the Board to prevent physical segregation of such units. Specifically, the Board approves the construction of three (3) Affordable Units in Phase I, two (2) in Phase II, and one (1) in Phase III of the Project.

13. The development schedule adequately considers the capacity of the Applicant to develop the site, as well as the ability of the Town to provide services of the same quality without imposing an increased financial burden on its citizens.

14. Natural and historical features of special interest, including stone walls, attractive groves of trees, and views will be preserved, as the Development Plan involves preservation of an existing stone wall on the site, and the landscape plan envisions minimal disturbance of specimen trees.

15. No more than 35% of the total land area of the Project will be occupied by structures, parking areas, roadways and driveways, patios, storage spaces, or enclosed areas, as approximately 5.6 acres out of 26.8 acres, or 21%, are so occupied.

16. The number of units allowed by the By-Laws is determined by: $D = K(A - W)$, where D is the allowable density, K is the density factor (which ranges from 2.75 to 3.25, determined by the Board), A is the total number of acres in the site, and W is the total number of acres of Wet Areas in the site. Therefore, utilizing $K = 2.75$ (as required by the Board) there will be: $D = 2.75(26.8 - 8.9) = 2.75(17.9) = 49$ allowable units, or 5 more than the Applicant has agreed to develop.

17. The total number of bedrooms will not exceed two (2) per unit, as the total number of bedrooms allowed under the terms of the condominium documents is eighty-eight (88). In all units, rooms designated as dens, libraries or studies, or by other similar designation, shall not be counted as bedrooms provided that each such room is designated and built according to all of the following standards: no direct access to a bathroom; no closet; each door to the room is as far as practicable from a bathroom; and each such room contains one or more of the following: fireplace, half wall, picture window or similar feature to limit privacy.

18. No multi-family condominium structure will contain more than six (6) units, as each structure in the Project contains only four (4) units, as shown on the Development Plan.

19. No structure will be erected, nor any land paved, within 100' of the perimeter of the site, except for the access roads, as shown on the Development Plan.

20. The Applicant's Development Plan shows separation of buildings to prevent overmassing, to assure privacy and a view to open areas, and to retain and reflect the character of the community.

21. No building or structure will be more than three (3) stories in height nor exceed thirty-five (35) feet in height from finished grade at any point.

22. At least two (2) outdoor parking spaces and two (2) indoor parking spaces will be provided for each unit, compared to the required minimum of two parking spaces per unit. There will be no parking lots, and, as shown on the Development Plan, all outside parking spaces will be located in unit driveways.

23. All electric, gas, telephone, and water distribution lines will be placed underground in accordance with the Rules and Regulations, as shown on the Development Plan.

24. All roads will be designed, located, and constructed as private ways in a manner satisfactory to the Board, to be maintained by an association of unit owners, as shown on the Development Plan and described in the condominium documents.

25. Paths for the use of residents will be attractively designed with proper regard for convenience, separation of vehicular, bicycle, and pedestrian traffic, adequate connectivity, and completeness of access to the amenities and facilities in the Project, as shown on the Development Plan.

26. The surface drainage system, when approved by the Board of Health (as the same may be waived or modified by the Board of Health), shall be designed substantially and materially in accordance with the requirements of the Board, the Board of Health, and the Conservation Commission; and shall consider the retention and protection of ground water, and not materially adversely affect the drainage of parcels adjoining the Project.

27. The wastewater treatment and/or sewage disposal facilities, when approved by the Board of Health, shall be designed and constructed in accordance with the most recent provisions of the State Environmental Code, the regulations of the Wayland Board of Health, and all other laws pertaining thereto.

28. A conservation and recreation easement and restriction on the site will be granted to the Town of Wayland Conservation Commission, in accordance with MGL Ch. 184, ss. 31-33, over all Wet Areas. The Board has determined the exact areas to be subject to the conservation and recreation easements and restrictions, and the exact terms and provisions of such easements and restrictions after considering the need to protect the environment and preserve open spaces, and after considering the comments of the Conservation Commission.

Based on these findings, and the fact that the Application was submitted in accordance with the administrative requirements set forth in Section IX C E.1. of the By-Laws, except as waived above, the Planning Board hereby grants to the Applicant a special permit under Section IX C of the Wayland Zoning By-Laws exempting the land shown on the Development Plan from the lot area and frontage, yard, setback and width of lot requirements of Section IX of the By-Laws, subject to the following conditions and limitations:

1. a. The Project, including the individual units thereof, shall be constructed materially and substantially in accordance with the terms of this special permit and the final development plan. A conservation easement and restriction shall be conveyed to the Town, and shall cover all Wet Areas on the site except those which are paved for roadways, as designated on plans and

drawings attached hereto as Exhibit C. All references providing for indemnification of the Applicant by the Town shall be deleted from the original form of the conservation easement and restriction proposed by the Applicant. A conservation easement and restriction in a form acceptable to the Board shall be recorded with the Middlesex South Registry of Deeds prior to the commencement of any construction.

b. The Project shall be subject to a condominium form of ownership by the recording of condominium documents that have been approved by the Board. These condominium documents shall not include any reference to construction of fifty-four (54) units, but rather shall reference the construction of forty-four (44) units. The units shall be constructed in three (3) phases (Phase I, Phase II, and Phase III) as shown on the Development Plan and described in the condominium documents.

c. There shall be six (6) Affordable Units, three (3) sold for no more than \$86,000, and three (3) sold for no more than \$95,000. Three (3) Affordable Units shall be constructed in Phase I, two (2) in Phase II, and one (1) in Phase III of the Project. All six (6) of these Affordable Units shall be subject to 99-year deed restrictions enforceable by either the Town, the Board, or any agency or committee designated by the Board by filing with the appropriate registry of deeds, in the form previously submitted to the Board, or otherwise hereafter approved by the Board. Said units shall be sold in accordance with the criteria set forth in the final Affordable Housing Plan and the final Affirmative Fair Marketing Plan to be approved by the Board, and EOCD's HOP guidelines.

d. The development schedule shall provide that construction of the Project shall be commenced within twelve (12) months, and substantially completed within twenty-four (24) months of the date of expiration of all appeal periods after filing this special permit with the Town Clerk; provided, however, that the time for completion may be extended for an additional twelve (12) months without a public hearing upon the demonstration of good cause as shown by the Applicant to the Board.

e. The Applicant shall execute and record a covenant providing for completion of the internal roads, utilities, drainage system, and offsite roadway improvements in a form satisfactory to the Board prior to the commencement of any construction. This covenant shall provide for release at completion of each phase of the Project upon the Board's satisfaction and the posting of a bond in a reasonable amount, if reasonably required by the Board, if such infrastructure work is not completed and the Board reasonably believes such bond is necessary to insure completion of the same. The covenants shall provide that the Applicant shall pay fifty (\$50) dollars to the Town as liquidated damages for each day that shall pass after the expiration of 90 days from the time that any work shall not have been completed as required by the development schedule, unless said work shall have stopped for a period of thirty days under a court order or if it shall be stopped or delayed through no act or fault of the Applicant or of any of the Applicant's contractors. The covenant shall contain an agreement that in the event that a bond is posted and the work described above is not completed when required by the development schedule, such

bond may be enforced and applied by the Board for the benefit of the Town to the extent of the sum of (i) the liquidated damages referred to above, and (ii) the reasonable documented expenses of the Town in completing such work.

f. Procedures shall be followed by the Applicant and its contractors to minimize inconvenience to residents in the general area of the Project, whether of noise, vibration, dust, blocking Town roads, or otherwise.

In addition, the following conditions and limitations shall apply:

2. It shall be a condition of the continued effectiveness of the final special permit that The Finch Group, Inc., Matarazzo Design, Sasaki Associates, Inc., Margolis & Fishman, and Mintz, Levin, Cohn, Ferris, Glovsky, & Popeo, P.C. remain a part of the development team in their designated capacities unless the Board shall modify the final special permit in accordance with Section IX C of the By-Laws. Upon issuance of the final certificate of occupancy for the Project, this condition shall become null and void.

3. As built drawings of the Project shall be filed with the Inspector of Buildings upon completion of each phase.

4. Primary access to and from the site shall be to and from Commonwealth Road. Emergency access only shall be provided at Oak Street, which shall be barred from the Project site in accordance with the reasonable requirements of the Wayland Fire Department.

5. The Applicant shall, in accordance with plans and drawings attached hereto as Exhibit B, improve the intersection of Oak Street and Commonwealth Road by signaling the intersection; and by constructing a left turn lane from Commonwealth Road onto Oak Street, and a right turn lane from Oak Street onto Commonwealth Road (with additional land requirements being provided by the Applicant).

6. In accordance with plans and drawings attached hereto as Exhibit B, and in accordance with the current edition of the Commonwealth of Massachusetts Department of Public Works Specifications for Highways, Bridges, and Waterways, and current Town of Wayland, Massachusetts Subdivision Regulations of the Planning Board, the Applicant shall improve Commonwealth Road from Oak Street to approximately 320' to the east of the proposed Willow Brook Drive; and shall provide left turn lanes from Commonwealth Road into the Project, and into the property now or formerly owned by the Dow Chemical Company, provided, however, that the Board assists the Applicant in obtaining all necessary approvals by preparing the necessary applications and forms for signature and submittal by the Applicant.

7. Construction of the Project shall not commence until all final approvals required by the regulations of the Board of Health are obtained.

8. Construction of the Project shall not commence until all final approvals required by MGL Ch. 131, s. 40 are obtained.

9. Appropriate disclosure to all unit purchasers about the existence of the Affordable Units shall be provided as part of

the general marketing plan, during the sales discussions with prospective purchasers, and at each closing.

10. The final Affordable Housing Plan and Affirmative Fair Marketing Plan shall be approved by the Board prior to the commencement of construction.

11. Visitor parking shall not be permitted on Willow Brook Drive from Commonwealth Road to Unit #214 as shown on the Development Plan. Small wooden or other esthetically pleasing signs to this effect shall be posted along this section of Willow Brook Drive by the Applicant.

12. Prior to construction, the Applicant shall submit to the Board for its reasonable approval information regarding the size of trucks and equipment to be used by the Applicant's construction contractors.

13. Willow Brook Drive shall be 22' wide, with a radius of 236' at the points of the wetlands crossings. All other provisions of the Rules and Regulations shall apply, unless duly waived by the Board.

Iryna Warvariv-Priester
Iryna Warvariv-Priester, Chairman
Wayland Planning Board

Dated: 9/29/88

I hereby certify that, pursuant to Section 11 of Chapter 40A of the Massachusetts General Laws, as amended, the foregoing decision of the Planning Board, in the matter of the Special Permit for Willow Brook was filed with the Office of the Town Clerk on 9/30/88.

Judith A. St. Louis
Town Clerk

Twenty days have elapsed after the date of filing of said Special Permit and no appeal has been filed regarding therewith.

Judith A. St. Louis
Town Clerk

Dated: January 26, 1996