

William Talcott, Chair
Scott Paul, Vice Chair
Robert S. Largess, Jr.
Walter Baker
Michael F. Gagan
Erica McCallum, Associate

Jennifer S. Hager
Planning & Economic Development Director



Sutton Town Hall
4 Uxbridge Road
Sutton, Massachusetts 01590
Telephone: (508) 865-8729

TOWN OF SUTTON

PLANNING BOARD & DEPARTMENT

Amendment to Subdivision Covenant

At WDRD Book 67321 Page 210

This Amendment to Subdivision Covenant (this “Amendment”) is entered into this ____ day of _____, 2023 by and between the TOWN OF SUTTON, a Massachusetts municipal corporation, acting through its Planning Board, with an address of 4 Uxbridge Road, Sutton, Massachusetts 01590 (the “Planning Board”) and UGPG RE SUTTON LLC, a Delaware limited liability company, with an address of 223 Worcester Providence Turnpike, Sutton, Massachusetts 01590 (the “Owner”).

PREAMBLE

WHEREAS, the Owner and Planning Board are parties to that certain Subdivision Covenant dated February 28, 2022 and recorded with the Worcester District Registry of Deeds (the “Registry”) in Book 67321, Page 210 (the “Covenant”). Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Covenant;

WHEREAS, on December 12, 2022, based on the Owner’s application dated September 28, 2022, as amended, and after duly noticed public hearings, the Planning Board approved modifications to the Plan entitled “**Definitive Subdivision Plan of Land Sutton, Massachusetts and Millbury Massachusetts**” and dated November 15, 2021 and last revised December 22, 2022 (Total of 23 Sheets) prepared by WSP USA, Inc., of Merrimack, New Hampshire, recorded with the Registry in Plan Book ____, Page ____ (the “Amended Plan”), and modifications to the Proposed Roadway Plan entitled “**Proposed Roadway Providence Road (Route 122A) at Boston Road, Town of Sutton, Worcester County, Massachusetts**” dated September 28, 2022 (Total of 46 sheets) prepared by Bohler Engineering of Southborough, Massachusetts;

WHEREAS, the Amended Plan shows the division of land located at 53, 71, 105 & 113 Providence Road, 7, 11, 14, 26 & 39R Hatchery Road and 49R Buttonwood Ave. as further described in deeds recorded at the Registry in (i) Book 63692, Page 50; (ii) Book 64357, Page 317; (iii) Book 65304, Page 312; and (iv) Book 66277, Page 112;

WHEREAS, on December 20, 2022, the Planning Board issued that certain Town of Sutton Planning Board & Department Certificate of Approval of a Definitive Subdivision Plan to be recorded herewith (the “Modification Certificate of Approval”);

WHEREAS, the Owner and Planning Board now desire to amend the Covenant to reflect the Amended Plan, the Modification Certificate of Approval and certain other modifications, all as set forth herein;

NOW, THEREFOR, for and in consideration of the mutual promises set forth below, and after good and valuable consideration, the parties agree as follows.

1. Incorporation of Preamble. The Preamble shall be incorporated and become an enforceable part of this Amendment.
2. Effective Date. This Amendment shall be effective upon its execution, subject to endorsement of approval of the Amended Plan by the Planning Board and the recording of the Amended Plan, this Amendment, and the Modification Certificate of Approval with the Registry at the expense of the Owner.
3. Amendments to Covenant. The Covenant is hereby amended as follows:
 - a. For all purposes of the Covenant, the term “Certificate of Approval” shall mean the Certificate of Approval, as affected and supplemented by the Modification Certificate of Approval.
 - b. For all purposes of the Covenant, the term “Plan” shall mean the Amended Plan.
 - c. Section 7 of the Covenant is amended by deleting the words “Lots 1, 2, 3, 5, 6 and 9” and replacing with the words “Lots 1, 2, 3, 5 and 6”.
4. Binding Effect. This Amendment and any further amendments to the Covenant, shall be binding on the Owner, the Owner's agents and representatives, and any successors to the Owner's title, interest, and rights in the parcel of land constituting this subdivision, including executors, administrators, devisees, heirs, successors and assigns of the Owner. Except as otherwise modified herein, the Covenant is hereby ratified and confirmed and remains in full force and effect.
5. Severability. If a court of competent jurisdiction determines that any provision of this Amendment is unenforceable, such determination shall not affect the remaining provisions, which shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGES]

EXECUTED as a sealed instrument as of the date set forth above.

UGPG RE SUTTON, LLC

By: Arthur Mahassel
Title: Manager

COMMONWEALTH OF MASSACHUSETTS

County of _____

On this ____ day of _____, 2023, before me, the undersigned notary public, personally appeared Arthur Mahassel, proved to me through satisfactory evidence of identification, which was based on my personal knowledge of the identity of the principal or a state-issued driver's license to be the person whose name is signed on the preceding or attached document, and in my presence acknowledged to me that that the foregoing instrument to be his free act and deed and that he signed it voluntarily for its stated purpose as the Manager of UGPG RE Sutton, LLC.

Notary Public
My Commission Expires:

Town of Sutton by a majority of the Planning Board:

William Talcott, Chair

COMMONWEALTH OF MASSACHUSETTS

County of Worcester

On this _____ day of _____, 2023, before me, the undersigned notary public, personally appeared members of the Sutton Planning Board, proved to me through satisfactory evidence of identification, which was based on personal, to be the persons whose names are signed on the preceding or attached document, and in my presence acknowledged to me that the foregoing instrument to be his/her free act and deed and that he/she signed it voluntarily for its stated purpose as members of the Sutton Planning Board.

Notary Public

My Commission Expires: