

Town of Douglas, Massachusetts

**FORM C-1**

Certificate of Approval of a Definitive Plan

**September 23, 2003**

It is hereby certified by the Planning Board of the Town of Douglas, Massachusetts, that a duly called and properly posted meeting of said Planning Board, held on **September 23, 2003**, it was voted to approve a definitive plan entitled:

**“Amended Deer Crossing Definitive Subdivision Plan of Land in Douglas, Massachusetts”**

submitted by

**Prime Properties Realty Trust (APPLICANT & OWNER), J. D. Marquedant & Associates, Inc. (ENGINEER)**

originally filed with the Planning Board on **June 12, 2003**

concerning property located

**South of Southwest Main Street, west of South Street, and north of Royal Crest Drive, immediately across from Downs Road.**

With the following conditions:

**See attached decision for conditions and waivers.**

A copy of this Certificate of Approval is to be filed with the Town Clerk and a copy sent to the Applicant.

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A true copy, attest:

Douglas Town Clerk

Douglas Planning Board

## **DECISION**

### **Town of Douglas Planning Board**

#### **Definitive Subdivision Plan Modification for Deer Crossing Douglas, MA**

Decision of the Douglas Planning Board (BOARD) on the petition of Prime Properties Realty Trust, c/o Kenneth Marsters, P.O. Box 1, Mashpee, MA 02649 (APPLICANT) for property (SITE) located on South Street and shown on Douglas Assessor's as the following:

<b>Map</b>	<b>Parcel(s)</b>
237	5 - 27
238	24 - 41
250	1 - 3, 5 - 7

#### **I. BACKGROUND:**

The decision is in response to a request to modify an Approved Definitive Plan (APPLICATION) by the APPLICANT. This APPLICATION was formally received by the BOARD on June 12, 2003 and was thereafter reviewed for general completeness. The submittal was made by J. D. Marquedant & Associates, Inc. (ENGINEER) and was comprised of the documents listed in the Exhibits below.

The BOARD caused notice of the time and place of its public hearing and the subject matter thereof to be published, posted and mailed to the APPLICANT, abutters and other parties of interest. The Public Hearing was opened on Tuesday, July 8, 2003 at 7:30 pm.

After causing notice of the time and place of its public hearing and the subject matter thereof to be published, posted and mailed to the APPLICANT, abutters within 300-feet and other parties of interest as required by law, the BOARD Chairman called the meeting to order on July 8, 2003, in the Community Meeting Room, Douglas Town Hall, 29 Depot Street, Douglas, MA. The following BOARD Members were present during the Hearing: Chairman Richard Vanden Berg, Ernest Marks, Joel Rosenkrantz, Eben Chesebrough, Daniel Heney, Mark Mungeum and Linda Brown. The ENGINEER was present on behalf of the APPLICANT. The hearing was continued by request of the APPLICANT to the following dates: July 22, 2003; August 12, 2003; August 26, 2003; September 9, 2003; and September 23, 2003 at which time, following public input, the hearing was closed. The record of the proceeding and submissions upon which this decision is based may be referred to in the Office of the Town Clerk or the Office of the Planning Board.

## II. FILINGS:

Submitted for the Boards deliberation were the following:

1. Application for Approval of a Definitive Subdivision Plan which includes the following items:
  - a. Application Form C dated June 12, 2003 by the Douglas Town Clerk,
  - b. Waiver / Request List dated June 3, 2003 by ENGINEER,
  - c. Definitive Filing Fee Calculation dated July 12, 2003 by ENGINEER with the calculated fees,
  - d. Certified Abutters List Report,
  - e. Erosion Control Plan dated May, 2003 and revised September 2003,
  - f. Subdivision Plans entitled "Amended Deer Crossing" Definitive Subdivision in the Town of Douglas, Massachusetts, with an Owner of Record and an Applicant of Prime Properties Realty Trust, P.O. Box 1, Mashpee, Massachusetts 02649 and designed by J. D. Marquedant & Associates, Inc., 6 Walcott Street, Hopkinton, MA 01748 with revisions thereto thru September 5, 2003 and any revisions resulting from this decision, including the following 41 plan sheets:

<u>Sheet Title</u>	<u>Sheet No.</u>
Cover Sheet	1 of 41
Index Sheet	2 of 41
Definitive Sheets	3 – 7 of 41
Topographical Sheets	8 – 12 of 41
Plan and Profile Sheets	13 – 16 of 41
Topographical/Plan & Profile Sheets	17 of 41
Detail Sheets	18 – 24 of 41
Supplemental Sheets	25 – 28 of 41
Replication Sheets	29 – 33 of 41
Supplemental Drainage Sketch	34 of 41
Sketch Plan	35 of 41
Retaining Wall Plans	36 – 40 of 41
Easement Plan	41 of 41

- g. Drainage calculations report entitled Drainage Calculations for Amended Deer Crossing in Douglas, MA dated April 29, 2003 and prepared by Hamway Engineering, Inc.
    - h. Retaining Wall Design Calculations.
2. Letter dated June 3, 2003 and revised July 7, 2003 from ENGINEER to the Planning Board regarding list of requested waivers.
3. Letter dated June 13, 2003 from the Massachusetts State Historical Commission to the Executive Office of Environmental Affairs (EOEA) regarding Historical and Archeological assets at or around the project site

4. Letter dated June 13, 2003 from the Massachusetts Historical Commission to the Executive Office of Environmental Affairs (EOEA), MEPA regarding the historical significance of nearby artifacts.
5. Letter dated June 16, 2003 from ENGINEER to EOEA regarding history of subdivision approvals and project status.
6. Meeting minutes dated July 8, 2003.
7. Meeting minutes dated July 22, 2003.
8. Letter dated July 30, 2003 from Atty. Tim Nealon requesting a continuance.
9. Meeting minutes dated August 12, 2003.
10. Meeting minutes dated August 26, 2003.
11. Letter dated August 27, 2003 from the Blackstone Valley Beagle Club to the Planning Board regarding request for deed language.
12. Fax dated September 3, 2003 from Hamway Engineering to ENGINEER regarding Stormwater Management Standards.
13. Letter dated September 9, 2003 from Atty. Timothy Nealon to the Planning Board regarding various issues.
14. Memorandum dated September 9, 2003 from the Town Engineer to the Planning Board regarding the waiver requests.
15. Meeting minutes dated September 9, 2003.

### III. FINDINGS:

After due consideration of the exhibits and the record of the proceedings, and upon satisfaction of the conditions herein, the Board finds the following:

1. The submittal is for properties identified on Town of Douglas Assessors Maps as:

Map	Parcel(s)
237	5 - 27
238	24 - 41
250	1 - 3, 5 - 7

The entire property is located in an area zoned “RA” (Rural Agricultural).

2. The combined acreage, based upon the Tax Assessors Mapping information, is 113.184 Acres. This acreage does not include lots already released and built upon.
3. This approval does not relieve the Applicant from complying with or obtaining the appropriate permits for any federal, state and local laws, rules or regulations.
4. The definitive plan, with the granted waivers, generally conform with the requirements of the Town of Douglas Rules and Regulations Governing the Subdivision of Land (“Regulations”), and the Subdivision Control Law MGL Chapter 41, Sections 81A – 81GG (“SCL”).

5. The Planning Board has no authority to rule on the locations of existing property boundaries.

#### **IV. DECISION & CONDITIONS:**

Therefore, the Board voted to approve the Modified Definitive Subdivision Plan entitled "Amended "Deer Crossing" Definitive Subdivision Plan of Land in Douglas, Massachusetts dated April 3, 2003 by J. D. Marquedant & Associates, Inc.; Applicant, Owner and Developer Prime Properties Realty Trust, c/o Kenneth Marsters, P.O. Box 1, Mashpee, MA 02649 subject to the following conditions:

##### **A. GENERAL CONDITIONS**

- 1) This subdivision approval is given based upon the subdivision plans identified in Exhibit 1 above with revisions thereto thru September 5, 2003. The Board will not consider any additional revisions or modifications to the plans as approved other than those resulting from conditions contained herein. If the Applicant wishes to modify or revise the plans he must follow provisions of the Subdivision Control Law, MGL Chapter 41, Sections 81A – 81GG ("Subdivision Control Law") and the Douglas Rules and Regulations Governing the Subdivision of Land adopted September 17, 1975 and revised November 24, 1998 ("Regulations") relating to the submission of a Definitive Plan.
- 2) The Applicant shall ensure safe and convenient vehicular access to the project site during the entire duration of the project. Any Planning Board representatives shall be permitted access to the project site for the duration of the project provided that notice is given to the site construction forman upon arrival.
- 3) Nuisance – The Applicant is responsible to ensure that nuisance conditions, not necessarily limited to the following, do not exist in and around the site as a result of the construction operation. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area.
  - a) Hours - The hours of operation for any construction activities onsite shall be between 7:00 am and 7:00 pm, Monday thru Friday, 8:00 am and 5:00 pm on Saturdays, and no work shall be allowed onsite on Sundays or on Holidays as recognized by the Commonwealth of Massachusetts.
  - b) Dust - The Applicant shall implement dust control operations, in an approved manner, whenever necessary or when directed by the Planning Agent, even though other work on the project may be suspended. Methods of controlling dust shall meet all air pollutant standards as set forth by Federal and State regulatory agencies.

- c) Noise - The Applicant shall implement measures to ensure that noise does not exceed acceptable levels, as set forth by Federal and State regulatory agencies. The Applicant shall cease any excessively loud activities when directed by the Planning Agent.
  - d) Vibration - The Applicant shall implement the necessary controls to ensure that vibration does not create a nuisance or hazard for property abutters.
  - e) Traffic - The Applicant shall implement necessary traffic safety controls to ensure a safe and convenient vehicular access in and around the site. Any traffic issues that occur as a result of site operations and construction shall be mitigated immediately, at the expense of the Applicant. Additional traffic mitigation measures may be required as necessary, or as directed by the Planning Agent.
  - f) Roads – The Applicant is responsible for the sweeping, removal of snow and sanding of the internal roadways permitting access to residents and emergency vehicles until the subdivision is completed. The Town shall have the ability to contract outside snow removal/sanding vendors, at the expense of the Applicant, if the snow is not cleared within a reasonable amount of time. A “reasonable amount of time” is solely determined by the Planning Board.
  - g) Complaints – All complaints related to the above or otherwise, shall be logged and tracked by the Planning Agent. Complaints will be brought to the attention of the Planning Board, as necessary. Any complaints that are found to be repetitive in nature and continue with no mitigation in the opinion of the Planning Board, may constitute a violation of these conditions and may be grounds for a stop order or a partial stop order.
- 4) The Applicant shall provide temporary central mailbox units (CMU) for the residents during project construction. These CMU’s shall be approved as to style and location by the local Postmaster General of the United States Post Office. Post Office authorization shall be forwarded to the Planning Board for their record.
- 5) Inspections and Reporting
- a) The Applicant is responsible for the subdivision roadway and infrastructure inspection fees as detailed in the Douglas Regulations.
  - b) The Applicant shall furnish labor and equipment as needed, at no expense to the Town, to assist in performing inspections of the site.

- c) The Applicants Engineer shall provide monthly status and scheduling reports to the Planning Board by the first day of each month until the project is completed, as required by the Regulations. Projections of the upcoming month's work shall also be identified in these monthly reports. The reports shall include any relevant quantity and cost estimates, partial as-built plans, and supporting documentation deemed necessary by the Planning Agent to justify and supplement claims of completed work. Each of these reports shall be signed, stamped and dated by the Design Engineer and contain the following signed statement: "I hereby certify that all quantities and representations contained herein are accurately represented to the best of my professional knowledge and ability."
  - d) The Applicant shall give the Planning Board a 72-hour notice in writing prior to the request for an inspection.
  - e) The Applicant is responsible for the construction and completion of all stormwater management systems prior to any other site construction activities.
- 6) Surety & Covenants
- a) Prior to signing the approved plan, the Applicant shall submit a covenant running with the land, suitable for recording and written in conformance with the Douglas Regulations and the Subdivision Control Law.
  - b) The Applicant shall submit prior to the request for release of lots from covenant, a tabular summary of all quantities of each construction item to be broken down in a manner sufficient for the Planning Board or its agent(s) to estimate the cost of construction for bonding purposes. Said tabular summary shall include, but may not be limited to, all roadway work, landscaping, common areas, water, drainage, utilities (electric, cable, telephone, to name a few), and other construction proposed on the plan.
  - c) Prior to granting a release from covenant, in part or in whole, the Applicant or subsequent Owner shall complete all the required improvements or submit a performance bond, a deposit of money, or a bank passbook in an amount determined by the Planning Board to be sufficient to cover the cost of all or any part of the improvements required by this subdivision approval. Said surety shall also include a ten percent (10%) contingency factor based upon the value of the work remaining at the time of posting of surety. This full contingency will remain in place until the Planning Board is satisfied that the entire subdivision has been constructed in accordance with the approved Definitive Plan.

- d) Partial as-built plans, certified by a Professional Civil Engineer and Professional Land Surveyor shall be produced with each request for bond/surety reduction. Any items for which reductions are requested shall be clearly identified on the as-built plans including spot elevations, details, cross sections, finished grades, and the like. Furthermore, any testing locations shall also be indicated on the as-built plans. No release of bond/surety will be considered for items that have not been witnessed and approved by the Planning Board Agent(s), specifically by signing the appropriate place on the Form P.

7) Construction Standards

- a) Where insufficient information is contained in the design drawings or no local design standard exists, The 1988 Massachusetts Highway Department Standard Specifications for Highways and Bridges as amended and supplemented shall be adhered to.
- b) Burial of any stumps and debris onsite is expressly prohibited. Localized burial of stones and/or boulders shall not be permitted.
- c) Soil material to be used as backfill for pipes roads and/or structures (ie. detention basins) shall be tested at the expense of the Applicant, by a firm selected by the Planning Board. Testing of said backfill shall be performed in conformance with standards and frequencies established by the Planning Agent.
- d) Riprap shall be furnished and installed on all sideslopes in excess of 3 horizontal : 1 vertical (33%) in accordance with Massachusetts Highway Department Standard Specifications for Highways and Bridges Section M2.02.0 – Riprap if the sideslope has not been stabilized prior to acceptance.

8) Utilities

- a) Submittal of an underground utility plan as approved/designed by National Grid, or other appropriate agency shall be provided to the Planning Board prior to start of construction. The proposed layout shall not conflict with any of the infrastructure shown on the proposed drawings.

9) Infrastructure

- a) Completion of all roadways, drainage areas, and other improvements required by the Douglas Regulations shall be accomplished within two (2) years from the release of the covenant or posting of surety.



10) Conservation Issues

- a) The amount of wetland and upland area on each lot shall be specified on the plans and on each lot, where applicable.
- b) Any work occurring onsite within areas under the jurisdiction of the Douglas Conservation Commission shall be permitted accordingly prior to the start of construction within those areas.

12) Other

- a) A phasing plan clearly indicating the limits of work for each phase shall be submitted to the Planning Board for approval prior to the start of construction, if required. Temporary cul-de-sacs shall be designed and constructed to the standards of a permanent cul-de-sac at the end of any phased roads creating a dead-end.
- b) The Applicant shall maintain a copy of the approved plan and this Certificate of Approval at the SITE during construction.
- c) The Applicant shall obtain temporary easements or written permission from any abutting property Owner if, during the course of construction, it becomes necessary to enter upon their land for construction or planting.
- d) Prior to the application for issuance of occupancy permits for any dwelling having its frontage on any street within the SITE, the following must be complete:
  - i. The entire roadway within the subdivision shall be constructed up to and including the binder course of bituminous concrete, and satisfactorily inspected,
  - ii. All street drainage shall be fully complete and functioning with all grates and castings set to grade,
  - iii. The storm water drainage area shall be operational, fully constructed, and completed according to the plans,
  - iv. All improvements shall be installed and inspected to the satisfaction of the Planning Board's Agent(s).

- e) The Planning Board recommends the following be added to the plan to ease future acceptance as a public way: "Title to each lot shown on this plan is subject to the right reserved to the common grantor to convey the Town of Douglas and easement with respect to the streets and ways shown on the plan for all purposes for which streets and ways are commonly used in the Town of Douglas, upon acceptance of such streets and ways by the Town."
- f) Prior to final approval of the Planning Board, the Applicant shall adhere to the requirements contained in the Town of Douglas Street Acceptance Policy, as endorsed by the Board of Selectmen and the Planning Board in effect as of May 28, 2002.
- g) Any sale or transfer of rights or interest in all or any part of the property described in this plan shall include a condition that successors are bound to the terms and conditions of this Certificate of Approval and the covenant. In the event of the sale of the entire development: 1) the Planning Board shall be provided with the name, the address, and the telephone number of the new Owner and of the representative, if other than the Owner, responsible for the project.
- h) The Applicant and/or subsequent Owner(s) shall be bound by all conditions and requirements set forth in this Certificate of Approval. Sureties in place shall remain in full force and effect until such time that a surety of equal or greater value is provided.
- i) Conditions contained herein does not relieve the Applicant from adhering to the Douglas Regulations.

#### B. SPECIAL CONDITIONS

- 1) The Applicant shall modify the plans that are to be filed at the Worcester County Registry of Deeds to indicate that the property identified on Assessors Map 261 Parcel 6 is the "N/F Blackstone Valley Beagle Club, A Sportsman Club."
- 2) The Applicant shall indicate in the Purchase and Sale Agreements for lots 26A, 27A, 29A, 30A, 31A and 33A the following statement: "The abutter to the south is The Blackstone Valley Beagle Club, a sportsmen's club established in 1961, which has an active rifle range".
- 3) The amount of construction traffic utilizing Old Farm Road shall be limited to the extent possible. Vehicles associated with the construction of the subdivision shall use Woodland Road, to the extent possible.

- 4) The Applicant shall post speed limit signs along all internal roads that conform to the Manual on Uniform Traffic Control Devices. The speed limit to be posted shall be determined by the Douglas Police Chief. Construction vehicles shall strictly adhere to the posted speed limit. All subcontractors shall sign a statement indicating that they will abide by the posted speed limits within the subdivision and further shall use Woodland Road to the extent practicable.
- 5) A temporary cul-de-sac type turnaround shall be constructed at the end of Old Farm Road before any work associated with the subdivision commences.
- 6) Any and all correspondence to or from the Executive Office of Environmental Affairs, MEPA unit or the Massachusetts Historical Commission shall be forwarded to the attention of the Planning Board.
- 7) Permanent monumentation shall be established throughout the project site in at least three locations. The monuments shall be easily accessible and shall contain both horizontal and vertical control information that is provided to the Planning Board. Horizontal Control shall be provided in the Massachusetts State Plane Coordinate System and Vertical Control shall be provided in North American Datum 1983 (NAD 83).
- 8) Please provide copies of any correspondence with the Local Postmaster General. Final authorization of the location and style of the central mailbox units shall be made by the Planning Board.
- 9) Minor plan edits to be incorporated to the drawings prior to submitting mylars for endorsement. A redline set of drawings may be obtained from the Town Engineer office.
- 10) Before the commencement of construction on Woodland Road and the release of lots in Phase 5 on Old Farm Road, Phases 1 and 2 must be completed.

#### **WAIVERS REQUESTED:**

The Board considered and voted upon the following requested waivers from the Rules and Regulations Governing the Subdivision of Land, Douglas, Massachusetts adopted September 17, 1975 and revised November 24, 1998:

- 1) **Section 3 B 3 m states:** “...Test pits or borings shall be performed at the expense of the applicant at 100-foot intervals along the centerline of the proposed roadways to determine the foundation material for road construction and to determine the seasonal high ground water elevation. Surface elevation and approximate depth of water shall be shown at each point where the drainage pipe ends at a waterway...”

**Waiver Requested:** *“Test Pits or borings at 100-foot intervals along the centerline of the proposed roadway.”*

The Board voted to grant this waiver with the understanding that underdrains will be provided throughout the remaining portions of the subdivision project, unless otherwise demonstrated through town witnessed soil testing that groundwater is not within 36-inches of the finished grade.

- 2) **Section 3 B 3 I** states: *“Where sanitary sewers are not available, a soil evaluator’s report for each lot proposed within the subdivision shall be included, as per Title V.”*

**Waiver Requested:** *“Soil Evaluator’s Report for each proposed lot.”*

The Board voted to grant this waiver with the understanding that that the Board of Health will require this testing for the individual onsite sewage disposal systems.

- 3) **Section V I 12** states: *“Street lights shall be installed as required by the Planning Board.”*

**Waiver Requested:** *“Street lights.”*

The Board voted to grant this waiver.

- 4) **Section V F** states: *“Trees shall be installed at an average spacing of one hundred feet on both sides of proposed roadways. All trees must be hardwoods, one and one-half (1-1/2) to two (2) inches in caliper, ten (10) to twelve (12) feet tall with good straight stems. These trees shall be planted in the five-foot grass strips. Each tree shall be supported with three (3) 2"x 2" x 8' wooden stakes and shall be fastened at the top with a loop of rubber or suitable fabric hosing. All trees shall be subject to a one (1) year guarantee.”*

**Waiver Requested:** *“Street Trees.”*

The Board voted to grant this waiver in consideration of minimizing the amount of clearing of trees during the project construction, including those on individual building lots.

- 5) **Section V A 10** states: *“Underdrain shall be provided along the roadway in all areas where groundwater is indicated by mottles within 36" of the finished grade and where required in cuts along the right of way ensure no ground water seeping onto the roadway or driveways.”*

The Board vote to approve this waiver request failed. As such, this waiver is not granted.

- 6) **Section V D states:** *“Five-foot sidewalks shall be installed wherever required...”*

**Waiver Requested:** *“Five foot width of sidewalk – 4’ wide sidewalk to be in conformity with existing conditions.”*

The Board voted to grant this waiver in consideration of the fact that the original project was approved with 4-foot wide sidewalks.

- 7) **Section V D states:** *“...The sidewalk shall be constructed of Portland cement concrete in conformity with the specifications of the Highway Department. All sidewalks and ramps shall be in compliance with all ADA and applicable Massachusetts regulations.”*

**Waiver Requested:** *“Sidewalk type/surface to remain as asphalt in conformity with existing conditions.”*

The Board voted to grant this waiver in consideration of the fact that the original project was approved with bituminous concrete sidewalks, however construction of the asphalt sidewalks should include at least an 8” gravel base (MHD 1.03.0, Type B), 2” Class 1-Binder Course (Type I-1), and 1” Class 1-Top Course (Type I-1).

- 8) **Section V E states:** *“A five-foot wide grass strip shall be constructed between the road curb and front edge of the sidewalk. This strip shall be loamed with not less than four inches compacted depth of good quality loam seeded with lawn seed and rolled. Seeding shall be done at appropriate time of the year and in a manner to insure growth of grass.”*

**Waiver Requested:** *“Grass Strips to remain at 4 feet.”*

The Board voted to grant this waiver.

- 9) **Typical Cross Sections – New Street Construction Details**

**Waiver Requested:** *“Placement of retaining walls inside right-of-way.”*

The Board voted to grant this waiver in consideration of the fact that it will result in minimizing impacts to wetlands.

- 10) **Typical Cross Sections – New Street Construction Details**

**Waiver Requested:** *“Sidewalk alignment at proposed wetland crossing.”*

The Board voted to grant this waiver in consideration of the fact that it will result in minimizing impacts to wetlands.

11) **Typical Cross Sections – New Street Construction Details**

**Waiver Requested:** *“Reduction in roadway shoulder @ proposed wetland crossing as shown on plan.”*

The Board voted to grant this waiver in consideration of the fact that it will result in minimizing impacts to wetlands.

12) **Section III B 2 a states:** *“Two original mylar drawings of the Definitive Plan and eight contact prints thereof, dark line on white background...”*

**Waiver Requested:** *“Submittal of two original mylar drawings at the time of filing.”*

The Board voted to grant this waiver in consideration of the fact that that two sets of mylar originals will be submitted for endorsement by the Planning Board.

13) **Section IV A 3 a states:** *“Grades of streets shall be not less than 0.5%. Grades shall not be more than 6.0% for principal streets nor more than 10.0% for secondary streets.”*

**Waiver Requested:** *“Road grades more than 10%. The approved plan indicates a road grade of 11% on Woodland Road between Station 1+75 to 5+75 and 12% road grade between station 21+00 and 23+50.”*

The Board voted to grant this waiver in consideration of the fact that this project was previously approved with these grades.