

DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is entered into as of the 19th day of October, 2022 (the "Effective Date"), by and among the Select Board (the "Select Board") of the Town of Lynnfield, Massachusetts (the "Town"), and Robert A. Morse, Erika Luff Fagan and Richard T. Luff, Trustees of the Sagamore Spring Real Estate Trust u/d/t dated June 1, 1954, and recorded with the Essex South District Registry of Deeds at Book 4078, Page 434 (the "Owner").

RECITALS

1. The Owner is the fee owner of certain land, located at 1282 and 1287 Main Street, Lynnfield, Massachusetts, known as Sagamore Spring Golf Club (the "Golf Club").
2. A portion of the Golf Club is located on the west side of Main Street and is known 1282 Main Street and shown on Assessor's Map 12 as Parcel 466 (the "Western Parcel"), and a portion of the Golf Club is located on the east side of Main Street and is known as 1287 Main Street and shown on Assessor's Map 13 as Parcel 855 (the "Eastern Parcel"), all as shown on Exhibit A.
3. The Owner intends to (a) convert the use of approximately 36 acres of the Eastern Parcel, as shown on a plan entitled "Plan of Land, Main Street, Lynnfield, Mass." drawn by Hayes Engineering, Inc., dated October 25, 2021, recorded with the Essex Southern District Registry of Deeds in Book 40797, Page 69, to residential use (the "Development Parcel") as shown on Exhibit A, (b) convey the Development Parcel, and (c) retain the remaining portion of the Eastern Parcel. The Development Parcel has been assigned a temporary address of 1301 Main Street and assessor parcel number 0013 0000 1000.
4. The Development Parcel is classified as "recreational land" for real estate tax purposes under M.G.L. c. 61B and, pursuant thereto, upon notice by the Owner to the Select Board of its intention to convert the use of the Development Parcel from recreational use, the Select Board will have an option to purchase, or assign its right to purchase, the Development Parcel (the "Chapter 61B Option").
5. The Owner has submitted certain zoning articles to the Lynnfield 2022 Special Town Meeting scheduled for November 14, 2022 (the "Town Meeting") to rezone the Development Parcel from Single Residence D District to the Elderly Housing District (the "EH District") and to modify the definition of Housing for the Elderly (the "Definition Amendment") pursuant to the proposed

zoning amendments attached hereto as Exhibit B and incorporated herein (the “Zoning Amendments”).

6. The parties acknowledge and agree that the development of the Development Parcel for elderly housing will result in certain benefits for, as well as create certain impacts on the Town, and the parties desire to enter into this Agreement to set forth their respective agreements and obligations in connection with the proposed development.

Now, therefore, in consideration of the recitals set forth above, and the mutual promises set forth below, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. The Project. The project proposed for the Development Parcel will consist of not more than sixty-six (66) age-restricted market rate detached dwelling units together with accessory structures appurtenant thereto, such as a community building providing amenities for the residents thereof (the “Project”).

2. Consideration.

- (a) In consideration of the Owner’s promises contained herein, and subject to the other terms and conditions of this Agreement, the Select Board shall:

- (i) Support the addition of the Development Parcel (and if required by the Lynnfield Center Water District (“LCWD”), some or all of the remaining Golf Club land), to the LCWD;
 - (ii) Sponsor the Definition Amendment and support the adoption of both of the Zoning Amendments; and
 - (iii) Support the Permits and Approvals (as defined in Section 7).

In the event that further Town Meeting authorizations or state approvals are needed to effectuate the terms and intent of this Agreement, the Select Board and Owner shall mutually cooperate to obtain such authorizations or approvals. The Town shall not sponsor or support any changes in the Zoning By-Laws, General By-Laws or Rules and Regulations of any Town boards or committees which would materially impact the design of, or cost to construct, the Project before it receives all necessary Permits and Approvals. Any actions taken by the Select Board in violation of the terms

of this Section 2 shall render this Development Agreement null and void and Owner's obligations hereunder shall be of no further force and effect.

(b) In consideration of the Select Board's public support of the Zoning Amendments and the Proposed Project, upon delivery of the Chapter 61B Waiver (as defined in Section 3), final approval of the Zoning Amendments (which shall include approval by the Attorney General and expiration of the appeal period under MGL Chapter 40, Section 32 and 32A with no appeal having been taken within the applicable appeal period or, if one or more such appeals have been taken, upon the final dismissal of any and all such appeals) and receipt of Permits and Approvals for the Project, the Owner agrees as follows:

- (i) The Owner will grant to the Town a Development Restriction (as defined in Section 6).
- (ii) The Owner will provide for the permanent protection of approximately 9.4 acres of land being a portion of 1282 Main Street, shown as Lot C on a Plan of Land, Lynnfield, MA, dated May 20, 1998, recorded in Plan Book 368, Page 52, and shown on Exhibit B (the "Permanent Protection"). The Permanent Protection may be in the form of a conservation restriction in mutually agreeable form or transfer of fee title to the Town, as determined by the Owner.
- (iii) The Owner agrees that if the Development Parcel receives final approval for acceptance into the LCWD and final approval of the Zoning Amendments, the Owner will not seek to develop the Development Parcel for non-age restricted single-family home use (the "Single-Family Home Waiver").
- (iv) The Owner of the Development Parcel will construct a water main through the Development Parcel to the boundary with the Friendship Lane subdivision, subject to the receipt of all necessary Permits and Approvals to bring the water main to such boundary.
- (v) A notice of this Agreement in recordable form setting forth the Owner's obligations with respect to the Development Restriction, the Permanent Protection, and the Single-Family Home Waiver, shall be executed prior to Town Meeting and held in escrow pending delivery of the Chapter 61B Waiver and final approval of the Zoning Amendments as herein provided.

3. Chapter 61B Option. The parties acknowledge that, pursuant to M.G.L. Chapter 61B (“Chapter 61B”), if the owner of property seeks to sell or convert the use of land classified as “recreational land” under Chapter 61B while such land is still classified as such or for a period of time thereafter, the Owner is required to give the Select Board written notice thereof and the Select Board is required to take certain actions in accordance with applicable provisions of Chapter 61B in order to exercise or waive the Town’s Chapter 61B Option. The parties agree to comply with all legal requirements of Chapter 61B with respect to any notice delivered by Owner to the Town and each party retains all rights under Chapter 61B. If the Select Board elects to exercise any of the Town’s rights under Chapter 61B to purchase or to assign its option to purchase the Development Parcel, including without limitation, ordering an appraisal on behalf of the Town or by any third party (whereas receipt of an appraisal is not required under Chapter 61B unless the Town seeks to exercise its rights thereunder), then the Owner shall have the right to terminate this Agreement by written notice to the Select Board in which event neither party shall have any further obligations hereunder. If the Select Board votes, at a public hearing held in accordance with Chapter 61B, to waive the Town’s Chapter 61B Option, the Select Board shall deliver to the Owner notice of such waiver in recordable form (the “Chapter 61B Waiver”).

4. LCWD. In order to provide water service to the Project, the Owner has petitioned for inclusion of the Eastern Parcel in the LCWD. The parties understand that in order for the Development Parcel to be included in the LCWD, the LCWD may require that additional land of Owner and abutting properties located between the existing LCWD boundary and the Development Parcel also be included in the LCWD. Inclusion of such land in the LCWD will require a vote of the rate payers of the LCWD and an act of the Massachusetts General Court. The Select Board agrees to support such inclusion, and to cooperate reasonably with efforts of the Owner to obtain the same. Owner is entering into a separate Memorandum of Agreement with the LCWD. The Owner acknowledges that its agreement to enter into the MOA is a material inducement to the Select Board supporting the inclusion of the Eastern Parcel in the LCWD.

5. Zoning Amendments. The Owner has petitioned for adoption of the Zoning Amendments. The Zoning Amendments provide for (a) the rezoning of the Development Parcel to the EH District, and (b) the Definition Amendment, each as set forth in Exhibit B. The Select Board agrees to sponsor the Definition Amendment and publicly support both Zoning Amendments, including support at Planning Board hearings and the Town Meeting at which the Zoning Amendments are considered, and not to support any modifications to the Zoning Amendments which will affect the rezoning of the Development Parcel or the types of units that are permitted in the EH District.

6. Development Restriction. Upon delivery of the Chapter 61B Waiver, final approval of the Zoning Amendments (which shall include approval by the Attorney General and expiration of the appeal period under MGL Chapter 40, Section 32 and 32A with no appeal having been taken within the applicable appeal period or, if one or more such appeals have been taken, upon the final dismissal of any and all such appeals) and receipt of Permits and Approvals for the Project, the Owner will grant the Town a recordable restriction on residential development on the Western Parcel for a period of 25 years, excluding the parcel of land to be permanently protected pursuant to Section 2(b)(ii) in mutually agreeable form (the "Development Restriction"). The form of the Development Restriction will be executed by both parties prior to the Town Meeting and held in escrow pending receipt of Permits and Approvals. In the event Zoning Amendments are so approved, but the Permits and Approvals are not obtained for the Project, the Owner agrees that it shall grant a Development Restriction upon the approval of any future residential development project on the Development Parcel, provided that such restriction on the Western Parcel shall not, in any event, extend past 2050. In no event may the Development Restriction prohibit the continued use of any portion of the Western Parcel as a golf course and related uses such as, but not limited to, a driving range, putting green or maintenance facility; provided, however, that the Owner shall not seek installation of a commercial solar facility. The Development Restriction may not restrict or condition the Owner's transfer, sale or conveyance of the land subject thereto so long as it is conveyed subject to the Development Restriction.

7. Grounds for Termination. The Select Board acknowledges that construction of the Project and performance of the Owner's obligations under the Agreement are contingent on the inclusion of the Development Parcel in the LCWD, the passage of the Zoning Amendments, the delivery of the Chapter 61B Waiver, and the receipt all necessary permits and approvals for the construction of the Project, beyond all applicable appeal periods without appeal having been taken or, if one or more such appeals have been taken, upon the final dismissal of any and all such appeals (the "Permits and Approvals"). Notwithstanding the foregoing, the Owner shall have no obligation to defend any appeal of a Permit or Approval and, if the Owner's election to not defend an appeal results in the Project not being constructed, such appeal shall be deemed to be the denial of such Permit or Approval.

The Owner may terminate this Agreement by written notice to the Select Board if:

- (a) The Development Parcel does not receive final approvals for acceptance into the LCWD; or

(b) (i) either or both of the Zoning Amendments are defeated; or (ii) the Zoning Amendments are approved by Town Meeting but the Attorney General's Office rejects either or both of the Zoning Amendments; or (iii) the Attorney General's Office approves the Zoning Amendments but a third party commences legal proceedings claiming invalidity of either or both of the Zoning Amendments and as a result of such proceeding either or both of the Zoning Amendments are finally adjudicated to be invalid, either in whole or in part, by a decision of a court of competent jurisdiction (and all appeal periods with respect to such decision having lapsed); or (iv) either of the Zoning Amendments are materially amended by Town Meeting vote resulting in a Project of less than 66 dwelling units or requiring multi-family buildings.

Upon delivery of such notice, this Agreement shall terminate and be of no further force or effect.

8. In the event of a violation of this Agreement by either party, which violation is not cured (or cure commenced and diligently pursued) within fifteen days of notice thereof by the other party, the non-violating party shall have all rights at law or in equity.

9. The Owner may terminate this Agreement upon written notice to the Select Board that:

(a) Owner has elected not to seek admission of the Development Parcel to the LCWD and approval of the Zoning Amendments;

(b) All necessary legal requirements for the Development Parcel to be admitted to the LCWD have not been satisfied within one year of the Effective Date including, without limitation, approval by the rate payers at a meeting of the LCWD; or

(c) All necessary requirements for the adoption of the Zoning Amendments have not been satisfied within two years of the Effective Date including, without limitation, adoption by the Lynnfield Annual Town Meeting or Special Town Meeting, approval by the Massachusetts Attorney General, and expiration of all appeal periods of the Zoning Amendments with no appeal of the Zoning Amendments having been taken or, if one or more such appeals have been taken, upon the final dismissal of any and all such appeals, provided that such appeal has been decided in favor of the Zoning Amendments as adopted by Town Meeting within two (2) years of such appeal.

Upon delivery of such notice, and except as otherwise expressly provided in this Agreement, this Agreement shall terminate and neither party shall have any further obligations hereunder.

10. This Agreement reflects the entire agreement between the parties. Any prior correspondence, understandings, agreements, and representations are null and void upon execution hereof, unless set out in this Agreement.

11. This Agreement is executed on behalf of the Select Board by a member or members of the Select Board, each acting in his/her capacity as such, and not individually, and on behalf of the Owner by its Trustees, and not individually. Each party dealing with the Select Board or the Owner, or claiming any rights or interests herein or hereunder, agrees to look solely to the Select Board or the Owner, respectively, for satisfaction of any of their respective obligations, and they further agree that no signatory hereof shall have any personal liability hereunder or otherwise. In no event shall any party hereto ever be liable for any indirect, consequential or punitive damages.

12. Any amendment to this Agreement shall occur only pursuant to a written amendment that is duly authorized by the parties and then duly executed by the parties.

13. This Agreement may not be recorded by either party and upon such recording the non-recording party may, by written notice to the recording party, terminate this Agreement upon which it shall become null and void without recourse to either party hereto; provided, however, that a notice of this Agreement in form mutually agreed upon by the parties may be recorded as provided in Section 2(b)(iv).

14. The Owner and the Select Board represent and warrant that each has the full right, power and authority and are duly authorized to enter into this Agreement, to perform each of the covenants on its part to be performed hereunder, to execute and deliver this Agreement, and to perform its obligations under all documents required to be executed and delivered by it pursuant to this Agreement.

15. All notices or requests required or permitted hereunder shall be in writing and addressed, as follows

If to the Select Board:

Board of Selectmen
Town of Lynnfield
55 Summer street
Lynnfield, MA 01940
Attention: Robert Dolan, Town Administrator

with a copy to:

Thomas A. Mullen, Esq.
40 Salem Street, Suite 12
Lynnfield, MA 01940

If to the Owner:

Sagamore Spring Real Estate Trust
1287 Main Street
Lynnfield, MA 01940
Attention: Richard Luff, Trustee

with a copy to:

Susan C. Murphy, Esq.
Dain, Torpy, Le Ray, Wiest & Garner, P.C.
175 Federal Street, Suite 1500
Boston, MA 02110

Each of the parties shall have the right by notice to the others to designate additional parties to whom copies of notices must be sent, and to designate changes in address. Any notice shall have been deemed duly given if delivered to such address by hand or one business day after delivery to a nationally recognized overnight courier service, fees prepaid.

16. Prior to the delivery of the Development Restriction by the Owner to the Town, the Owner shall not transfer the Owner's fee interest in the Golf Club or any part thereof, without the prior, written consent of the Select Board, which consent shall not be unreasonably withheld, conditioned or delayed provided that the transferee/assignee assumes, in writing in a form reasonably acceptable to the Board, all obligations hereunder. Notwithstanding the foregoing, the provisions of this Section 16 shall not preclude the transfer of the fee interest in any portion of the Golf Club, or the assignment of the rights and obligations under this Agreement, to an entity that controls, is controlled by or is under common control with the Owner, such as one or more of the beneficiaries of the Trust (a "Related Party") provided that such Related Party assumes in writing all obligations hereunder.

17. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

18. If any term or provision of this Agreement, or the application thereof to any person, entity or circumstance shall, to any extent, be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall remain in effect.

19. This Agreement may be executed in several counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be an original, but all of which together shall constitute one instrument. Signatures to this Agreement transmitted by electronic means shall be valid

and effective to bind the party so signing. Each of the parties hereto shall execute and deliver such documents as the other party shall reasonably request in order to consummate and make effective the matters specified herein; provided, however, the execution and delivery of such documents shall not result in any additional liability or cost to the executing party.

20. Each party has participated in the drafting and preparation of this Agreement and has reviewed the same, and if any construction is to be made, the same shall not be construed against any party.

21. This Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the first date set forth above.

SAGAMORE SPRING REAL ESTATE TRUST

DocuSigned by:

Richard T. Luff

8A9E091821CA478

Richard T. Luff, Trustee

DocuSigned by:

ROBERT A MORSE

86E2827CA45B43A

Robert A. Morse, Trustee

DocuSigned by:

Erika Luff Fagan

9C9BEEF253BD407

Erika Luff Fagan, Trustee

SELECT BOARD OF THE
TOWN OF LYNNFIELD

Philip Crawford

Philip Crawford

Joseph Connell

Joseph Connell

Richard Dalton

Richard Dalton

EXHIBIT A
PLAN OF GOLF CLUB PARCELS

[See attached plan]

EXHIBIT A



**SENIOR HOUSING DEVELOPMENT
AERIAL CONTEXT MAP**

SAGAMORE SPRING GOLF CLUB
TOWN OF LYNNFIELD, ESSEX COUNTY, MA



PLAN SUMMARY:
1657 SQ. YARD SINOSS
± 36 ACRES

SITE DATA:
ADDRESS: 1927 MAIN STREET
VACUATION PARCEL:
SAGAMORE SPRING GOLF CLUB
SAGAMORE SPRING GOLF CLUB
PROPOSED SENIOR HOUSING DEVELOPMENT

OFFICE DATA:
PROJECT NUMBER: 334
DATE: OCTOBER 2, 2002
SCALE: 1"=200'
DRAWN BY: JEM

EXHIBIT B

ZONING AMENDMENTS

First Zoning Amendment

To amend the Zoning District Map of the Town of Lynnfield entitled "Zoning District Map Town of Lynnfield Massachusetts September 18, 2019" as amended to date by changing from Single Resident District D (RD) to Elderly Housing District (EH), the parcel of land off Main Street, Lynnfield, shown as Lot 1 on a plan entitled "Plan of Land, Main Street, Lynnfield, Mass." drawn by Hayes Engineering, Inc., Scale: 1" = 100', dated October 25, 2021, recorded in the Essex South District Registry of Deeds as Plan Book 40797, Page 69, and more particularly described as follows.

Lynnfield Assessor's Parcel ID: 0013 0000 1000

A certain parcel of land situated in the Town of Lynnfield and City of Peabody, County of Essex, Commonwealth of Massachusetts, described as follows:

Beginning at the northwesterly corner of the premises herein described at a point on the southeasterly sideline of Main Street;
Thence proceeding S42°48'08"E, a distance of one hundred eighty-three and 14/100 (183.14) feet to a point, said point is a drill hole in a stonewall;
Thence proceeding S41°40'32"E, a distance of one hundred eighty-one and 06/100 (181.06) feet to a point, said point is a drill hole in a stonewall;
Thence proceeding N52°08'51"E, a distance of one hundred sixty-six and 82/100 (166.82) feet to a point, said point is an iron pipe in stones;
Thence proceeding N78°08'48"E, a distance of one thousand ninety and 84/100 (1090.84) feet, crossing the town line to a point, said point is stone wall;
Thence proceeding S03°20'28"W, a distance of two hundred fifty-three and 29/100 (253.29) feet to a point;
Thence proceeding S10°59'28"W, a distance of two hundred fifty-eight and 44/100 (258.44) feet to a point;
Thence proceeding S11°57'08"W, a distance of eighty-seven and 92/100 (87.92) feet, crossing the town line to a point, said points is a drill hole in a stone wall;
Thence proceeding S05°02'37"W, a distance of one hundred fourteen and 34/100 (114.34) feet to a point;
Thence proceeding S06°30'57"W, a distance of two hundred and 45/100 (200.45) feet to a point;
Thence proceeding S02°40'42"W, a distance of twenty-nine and 22/100 (29.22) feet to a point;
Thence proceeding N87°21'10"W, a distance of two hundred twenty-two and 51/100 (222.51) feet to a point;
Thence proceeding N75°39'18"W a distance of thirty-six and 31/100 (36.31) feet to a point;
Thence proceeding N66°48'10"W, a distance of one hundred seventeen and 51/100 (117.51) feet to a point;

Thence proceeding S49°57'32"W, a distance of two hundred sixty-four and 86/100 (264.86) feet to a point;
Thence proceeding S25°29'50"E, a distance of one hundred twenty-seven and 32/100 (127.32) feet to a point;
Thence proceeding S06°22'32"W, a distance of two hundred seventy-three and 64/100 (273.64) feet to a point;
Thence proceeding S56°11'31"W, a distance of one hundred seventy-nine and 12/100 (179.12) feet to a point;
Thence proceeding N79°46'10"W, a distance of thirty-nine and 62/100 (39.62) feet to a point;
Thence proceeding N42°51'18"W, a distance of one hundred eighty-four and 53/100 (184.53) feet to a point;
Thence proceeding N35°52'04"W, a distance of three hundred thirty-nine and 91/100 (339.91) feet to a point;
Thence proceeding N65°39'11"W, a distance of three hundred ninety-nine and 18/100 (399.18) feet to a point;
Thence proceeding N58°09'04"W, a distance of four hundred fifteen and 19/100 (415.19) feet to a point, said point being the easterly sideline of Main Street;
Thence proceeding N32°13'00"E along the easterly sideline of Main Street, a distance of six hundred twenty-three and 66/100 (623.66) feet to a point;
Thence proceeding northeasterly in a clockwise direction along a curve on the easterly sideline of Main Street, having a radius of seven hundred ninety-five and 00/100 (795.00) feet and an arc length of one hundred eighty and 19/100 (180.19) feet to a point, and place of beginning.

Excluding the area located in the City of Peabody, comprising 0.149 +/- acres.

Containing an area to be Rezoned of 35.943 +/- acres (1,565,699 +/- sq. ft.).

Being a portion of land of Sagamore Spring Real Estate Trust by deed recorded in Book 4078 Page 442 at the Essex South District Registry of Deeds.

Second Zoning Amendment

To amend Section 11.5 Definitions Individual Meanings in Chapter 260 Zoning Bylaw, by deleting the definition of "Housing For The Elderly" in its entirety and replacing said section with the following:

HOUSING FOR THE ELDERLY - Buildings which contain one or more dwelling units consisting of a room or suite of rooms, its own bath and toilet facilities, and its own kitchen facility. A building may also include central kitchen and dining facilities for providing meals to residents thereof and their guests but not to the public and may also provide lounge rooms and recreational facilities for the common use of residents and their guests. In one of such buildings, a unit may be included for occupancy by the manager of the project and his immediate family, one room of which may be used as an office, and except for the unit to be occupied and used as

aforesaid by the manager, no unit in such building shall be occupied unless at least one person who is 55 years of age or over. No housing for the elderly development shall contain more than 136 independent dwelling units. Children under the age of 18 years of age are prohibited from occupying or residing in any of the elderly housing dwelling units on a permanent basis.