

COMMONWEALTH OF MASSACHUSETTS
Worcester, ss.

To either of the Constables of the Town of Berlin in the County of Worcester:

Greetings: In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said Town, qualified to vote in elections and in Town affairs, to meet at the Berlin Memorial School in said Berlin on Tuesday, the 12th day of November, 2013 next, at 7:30 o'clock in the evening, then and there to act on the following articles, or in relation thereto:

Article 1: To see if the Town will vote to amend Section 456.3 of the Zoning By-law, the "Table of Development and Dimensional Controls", by changing the number 167,000 to 187,000 in the table across from "Maximum Combined Floor Area of Dwellings (not including CCRC Independent Living Units and/or Assisted Living Units, if any)"; or take any other action relative thereto. (Planning Board)

Article 2: To see if the Town will vote to amend the following sections of the Zoning Bylaw as described:

A. To amend Section 456.3, the "Table of Development and Dimensional Controls", by changing "(See Note 3)" to "(See Notes 3 & 4)" after "Maximum number of Dwellings (not including CCRC Independent Living Units and/or Assisted Living Units, if any)".

B. To amend Section 456.3, the "Table of Development and Dimensional Controls", by adding "(See Note 4)" under the number "90" across from the table item reading: "Maximum number of CCRC Independent Living Units and/or Assisted Living Units, if any".

C. To amend Section 456.3, the "Table of Development and Dimensional Controls", by adding "(See Note 4)" under the number "100,000 SF" across from the table item reading: "Maximum Combined Floor Area of CCRC Independent Living Units and/or Assisted Living Units, if any".

D. To amend Section 456.3, the "Table of Development and Dimensional Controls", by adding a new Note 4 after the existing Note 3 as follows:

"(4) If approved by the Planning Board during VO Site Plan Approval, the 90 CCRC Independent Living Units or Assisted Living Units may be converted to 90 Dwelling Units. If so converted, the Maximum Combined Floor Area of the Independent Living Units or Assisted Living Units of 100,000 square feet may be added to the Maximum Combined Floor Area of Dwellings. Also, if so converted, the total number of Dwellings shall be 205"; or take any other action relative thereto. (Planning Board)

Article 3: To see if the Town will vote to amend Section 456.3 of the Zoning By-law, the "Table of Development and Dimensional Controls", Note 2, by deleting the word "office" in both places it appears, and inserting the word "commercial" before the words: "space is so developed"; or take any other action relative thereto. (Planning Board)

Article 4: To see if the Town will vote to amend Section 456.3 of the Zoning By-law, the "Table of Development and Dimensional Controls", by changing two table headings across from the "Building Height" limitation section of the table, as follows:

Change "Residential" to "Single Family", and change "Commercial, CCRC, ALR and/or Mixed Use" to "Commercial, CCRC, ALR, multiple dwellings buildings, and/or Mixed Use"; or take any other action relative thereto. (Planning Board)

Article 5: To see if the Town will vote to amend Article 3 of the Zoning By-law to add a new line in Section 320 "Table of Principal Use Regulations" as follows:

Under "Educational and Institutional Uses", under "Residential Care Facility for not more than six patients" add a new use category: "Residential Care Facility for not more than 100 patients".

1. To add the initials "SR" in the LB District column, and the initial "N" in the columns for all other zoning districts, such that a Residential Care Facility for not more than 100 patients is only allowed in the Limited Business District, and only upon the granting of a Special Permit and upon Site Plan Review.

2. To add a footnote indicator next to the number "35" in the "Maximum Building Height (feet)" column of the

Table of Dimensional Regulations in Section 620 of the Zoning By-law, in the row designated for the Limited Business district.

3. To add a corresponding footnote to the Table of Dimensional Regulations in Section 620 as follows: “Residential Care Facilities for not more than 100 patients in the Limited Business district may, upon approval of the Special Permit Granting Authority, have a maximum height of 42 feet and may be up to 3 stories if the structure is sprinklered”; or take any other action relative thereto. (Planning Board)

Article 6: To see if the Town will vote to amend Section 320 “Table of Principal Use Regulations” as follows: Under “Agricultural and Rural Uses”, under “Riding Stable” delete the letter “S” (Special Permit required) from each of the Zoning Districts where it occurs; or take any other action relative thereto. (Planning Board)

Article 7: To see if the Town will vote to authorize the Board of Selectmen to enter into an amendment of the Riverbridge/Town of Berlin Development Agreement as follows:

1. A new sentence is considered added at the end of paragraph 1.5, as follows:

“The above notwithstanding, the Planning Board, during VO Site Plan Review, may permit the conversion of the 90 Independent Living Units or Assisted Living Units to apartments”.

2. The existing paragraph 1.6 is removed in its entirety and replaced with the following new paragraph 1.6:

“If the 90 Independent Living Units or Assisted Living Units are converted during VO Site Plan Review to 90 apartments, as per the above paragraph 1.5, the Project’s two hundred and five (205) dwellings shall include only one (1) and two (2) bedroom units and shall contain, in the aggregate, no more than three hundred and sixty five (365) bedrooms. If the 90 Independent Living Units or Assisted Living Units are not converted to apartments, but are developed as Independent Living Units or Assisted Living Units, the Project’s two hundred and five (205) dwellings shall include only one (1) and two (2) bedroom units and shall contain, in the aggregate, no more than four hundred and ten (410) bedrooms. Under either of the above approaches (all apartments with a limit of 365 bedrooms or a mix of apartments and Independent Living Units or Assisted Living Units with a limit of 410 bedrooms), notwithstanding the limitation to one and two bedroom units only, up to a maximum of two units may have 3 bedrooms as long as two other units that could have otherwise had two bedrooms are limited to 1 bedroom units”; or take any other action relative thereto. (Planning Board)

Article 8: To see if the Town will vote to authorize the Board of Selectmen to enter into an amendment of the Riverbridge/Town of Berlin Development Agreement as follows:

A new sentence is considered added at the end of paragraph 3.1 (a), as follows:

“The above and Exhibit B notwithstanding, the time frame for the completion of the contemplated widening of the travel deck of the bridge over North Brook and the other related work described in this paragraph 3.1 (a) shall be changed to the earlier of: (1) prior to the issuance of the certificate of occupancy for the 380,000th square foot of construction at Riverbridge, or (2) four (4) years from the date on which this amendment is approved by Town Meeting. In addition, if the Board of Selectmen and Riverbridge agree, this requirement may be replaced with a cash payment of an amount considered by the Board of Selectmen to be equivalent to the estimated cost of the travel deck widening”; or take any other action relative thereto. (Planning Board)

Article 9: To see if the Town will vote to authorize the Board of Selectmen to enter into an amendment of the Riverbridge/Town of Berlin Development Agreement as follows:

A new sentence is considered added at the end of paragraph 3.1 (f), as follows:

“The requirement to construct a connector road connecting River Road West and Whitney Road may be waived by the Planning Board in VO Site Plan Review”; or take any other action relative thereto. (Planning Board)

Article 10: To see if the Town will vote to authorize the Board of Selectmen to enter into an amendment of the Riverbridge/Town of Berlin Development Agreement as follows:

A new paragraph 4.5 is considered added, as follows:

“If the CCRC is not built by the Developer, the Developer shall, none the less, still be obligated

to provide, procure, or arrange by contract primary and back up ambulance coverage not involving town services for the commercial space and Dwellings at Riverbridge, at no cost to the Town. In the event that no CCRC is constructed, the obligations of paragraph 4.4 above shall be assumed by The Riverbridge Association, Inc., the existing owners' association at Riverbridge. In the event that Riverbridge constructs a Memory Care or Nursing facility at Riverbridge or elsewhere, the obligation to provide such ambulance coverage shall cover such facility, although Riverbridge may assign such obligation to any operator or purchaser of the Memory Care or Nursing Facility"; or take any other action relative thereto. (Planning Board)

Article 11: To see if the Town will vote to authorize the Board of Selectmen to enter into an amendment of the Riverbridge / Town of Berlin Development Agreement as follows:

1. The word "four" in the fourth line of the second full paragraph of paragraph 14.2 is changed to "six", providing Riverbridge with an additional two years to avoid the annual payment to the Town of Berlin of \$51,200.
2. A new sentence is considered added at the end of the second full paragraph of paragraph 14.2, as follows:
"If Riverbridge does not construct a CCRC or Assisted Living Facility, but does construct a State-licensed Memory Care or Nursing facility with at least 50 beds, either at Riverbridge or elsewhere in Berlin, within the above time frame, it shall not be liable for the above-mentioned annual fee of \$51,200. This shall be considered accomplished if Riverbridge has received a building permit by the end of such time frame; or take any other action relative thereto. (Planning Board)

Article 12 - To see if the Town will vote to authorize the Board of Selectmen to discontinue that portion of Fosgate Road no longer in use beginning at the terminus of the Fosgate Road cul-de-sac as depicted in the January 8, 1963 State Layout and running in a southwesterly direction approximately sixty five (65) feet to the side line of Interstate Route 495; or take any other action relative thereto. (Planning Board)

Article 13 - To see if the town will vote to accept a parcel of land as a layout for a road to be named Kendall Road , as described in a Definitive Subdivision Plan entitled Maplewood Estates, dated April 11, 2006, drawn by Thomson –Liston Associates, Inc. for Kendall Homes, Inc. and recorded with the Worcester Registry of Deeds Plan Book #854 , Plan #101, dated 3/20/07, said plan being on file with the Town Clerk; or take any action relative thereto. (Planning Board)

Article 14 - To see if the town will vote to raise and appropriate, borrow, or transfer from available funds a sum of money to install a new roof on the Library; or take any action relative thereto. (Supt. of Public Facilities/Library Trustees)

Article 15 - To see if the Town will vote to close out the following Special Article account: Article 20 FY13 Municipal Building Legion Hall Window Replacement, in the amount of \$85.92 to the Stabilization Fund, and/or transfer to another appropriation, and/or close out to the General Fund, or take any other action relative thereto. (Town Accountant)

Article 16 – To see if the Town will vote to authorize the Selectmen to amend the Development Agreement between the Town and Highland Commons LLC dated as of the 14th of May 2008, as amended by vote of Special Town Meeting on the 26th of June, 2013, to reduce the denominator of the fraction used to calculate annual public safety payments and other mitigation payments from 480,000 square feet to 425,000 square feet, or take any other action relative thereto. (Board of Selectmen)

And you are directed to serve this Warrant, by posting up attested copies thereof as per vote of the Town in said Town, fourteen days at least before the time and place of meeting as aforesaid.

Hereof fail not, and made due return of this warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting as aforesaid.

Given under our hands this 21st day of October in the year of our Lord two thousand thirteen.

BOARD OF SELECTMEN

Judith Booman, Chairman

Thomas Andrew, Vice Chairman

Walter Bickford, Clerk

A true copy attest: _____, Constable

Worcester, ss.

Pursuant to the within warrant, I have notified and warned the inhabitants of the Town of Berlin by posting up attest copies thereof at the Town hall, The Town Offices, and the Post Office _____ days before the time of holding said meeting, as within directed.

_____, Constable

_____ Date