



Sarkis Sarkisian
Wayland Town Planner

TOWN OF WAYLAND
MASSACHUSETTS
01778
PLANNING DEPARTMENT



Bk: 59935 Pg: 22 Doc: DECIS
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TOWN BUILDING
41 COCHITUATE ROAD
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MEMO

DATE: July 25, 2012
TO: Town Clerk, Applicant
FROM: Sarkis Sarkisian, Town Planner
SUBJECT: Certification of Planning Board Action on 229 Rice Road Conservation Cluster Development

As required by MGL Ch. 41, s. 81-U, this memo certifies the attached Notice of Action, namely, that on November 15, 2011 the Board voted to approve with conditions the application for a Special Permit for a Conservation Cluster Development and Inclusion of Affordable Housing submitted by Devens Hamlen. This decision may be appealed in accordance with MGL Ch. 41, s. 81-BB, that is within twenty (20) calendar days of the filing of this decision at the office of the Wayland Town Clerk.

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TOWN CLERK
12 JUL 25 AM 11:12

A TRUE COPY ATTEST

Lois M. Toomey

TOWN CLERK
TOWN OF WAYLAND

229 Rice Road, Wayland
Plan# 627 of 2012

DB 10



TOWN OF WAYLAND

41 COCHITUATE ROAD
MASSACHUSETTS
01778

PLANNING BOARD

Findings and Decision

RE: Application of Devens Hamlen for a Conservation Cluster Development Special Permit and a Special Permit for the Inclusion of Affordable Housing for the Covered Bridge Subdivision at 229 Rice Road, Wayland, MA. *owner*

Date: July 25, 2012

Location: 229 Rice Road, Assessor's Map 35, Lots 030 and 030F

Covered Bridge Inc

51288-592

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I) Procedural History

- A) The Covered Bridge Conservation Cluster Development (the 'Development') was approved by the Wayland Planning Board December 22, 2006 which included the division of 30.5 +/- acres of land located at 229 Rice Road in Wayland, into a 14-lot Conservation Cluster Development consisting of 13 buildable lots, one lot of which will contain a duplex for the affordable units required by Article 22 of the Zoning Bylaw, and one open space parcel. The Approved Development was also approved, in accordance with the Town of Wayland Planning Board's Subdivision Rules and Regulations ("the Rules"), Article 18 of the Town of Wayland Zoning By-laws, and Chapter 301 regarding the Board's Rules and Regulations for Conservation Cluster Developments and filed with the Planning Board on April 20, 2006. For this decision, the word "Applicant" shall also mean all assigns and successors. As of the date of this decision, the roadway infrastructure has been constructed including roadway binder course. The lots within the subdivision have not been released by the Wayland Planning Board and no bond has been set for the completion of the finish paving course.
- B) The Applicant has submitted a new application proposing a 13 lot, 15-unit (with only 10 lots being developed) Conservation Cluster Development consisting of constructing two attached dwellings on some lots instead of the as-approved one dwelling on each lot (except lot 1 - which has two units in the current approval). This new application will increase the development's open space area from 41.5% in the approved permit to 50%; including designating Lot 2 as open space. The total bedroom count has been reduced approximately by 15% to 28%.
- C) The Planning Board advertised the public hearing in the Town Crier for the weeks of April 12, 2012 and April 19, 2012 the public hearings were extended several times and on July 12, 2012 the public hearing was closed.
- D) Throughout its deliberations, the Planning Board took into consideration the statements of the Applicant and his representatives and the comments of other Town Boards and Commissions, the parties in interest and the general public, all as made either at the public hearing or in written submissions to the Planning Board while the hearing record was open.

A TRUE COPY ATTEST

[Signature]

**TOWN CLERK
TOWN OF WAYLAND**

II) Application submittals and Related Documents

The following documents were submitted to the Board in connection with the above referenced applications:

A) Application Submittals

1. Special Permit Narrative – “Covered Bridge Conservation Cluster Development, Wayland, MA” April 5, 2012.
2. Special Permit Narrative – “Covered Bridge Conservation Cluster Development, Wayland, MA” May 8, 2012.
3. Engineering & Layout Plans Prepared by – Stephen Garvin, PE., Samiotes Consultants, Inc., 20A Street, Framingham, MA 01701.

Dated – January 24, 2012

Comprising sixteen (16) sheets (the “Plan”) as follows:

- a. Layout Plan – Sheets CE-1.1, CE-1.2, CE-1.3, and CE-1.4;
 - b. Grading Plan - Sheets CE-2.1, CE-2.2, CE-2.3, and CE-2.4;
 - c. Soil Erosion Control Plan - Sheets CE-3.1, CE-3.2, CE-3.3, and CE-3.4;
 - d. Utilities Plan - Sheets CE-4.1, CE-4.2, CE-4.3, and CE-4.4;
 - e. Layout Plan – CE1.0
4. Related Documents (also comprising the ‘Plan’)
 - a. Form O dated April 4, 2012, and submitted with application for approval of a definitive subdivision plan on April 20, 2006;
 - b. Special Permit Application for Conservation Cluster Development dated April 4, 2012, and submitted on April 12, 2006;
 - c. Covered Bridge Conservation Cluster Development, Rice Road revision dated July 10, 2012 layout plan CE-1.1, CE-1.2, CE-1.3 and CE-1.4.

B) Reports and other technical material submitted by the applicant relevant to the application:

1. Letter dated January 18, 2012 from Stephen Garvin, Samiotes Consultants, to Sarkis Sarkisian, Wayland Town Planner on follow up conference call regarding site modifications.
2. Letter dated April 25, 2012, from Stephen Garvin, Samiotes Consultants, to Sarkis Sarkisian Town Planner regarding zoning letter from Daniel F. Bennett, Building Commissioner.
3. Letter dated May 1, 2012 from Attorney Richard A. Nylen, Jr. to Stephen Garvin regarding the request for a Special Permit.
4. Letter dated May 21, 2012, from Stephen Garvin to Sarkis Sarkisian, Town Planner regarding potential conditions and or proposed findings for the Special Permit.

C) Documents including memos, emails, letters, reviews and other information submitted to the Planning Board regarding the applications.

1. Letter dated May 22, 2012, from Julia Junghanns, Director of Public Health, regarding review of the plans for septic system design plans.
2. Letter dated May 22, 2012, from Brian J. Monahan, Conservation Administrator regarding Conservation Cluster By-law comments.
3. Email dated December 6, 2012 from Daniel Bennett, Building Commissioner regarding Conservation Cluster requirements.

4. Email dated April 24, 2012 from Anette Lewis to Ira Montague, Chair and Sarkis Sarkisian, Town Planner concerning amending the existing Covered Bridge Special Permit versus accepting a new application.
5. Email from Alicja Zukowski regarding attached dwelling units.
6. Memorandum to the Planning Board dated May 1, 2012 from Sarkis Sarkisian, Town Planner regarding preliminary comments.

III) Findings

A) General Findings

1. The Applicant requires a Special Permit pursuant to Article 18 of the By-Laws re: Conservation Cluster Development District.
2. The Applicant has already received the required approval of a definitive subdivision plan pursuant to the Subdivision Control Law, M.G.L. c. 41, §81K-§81GG and the Rules.
3. The Applicant requires a Special Permit pursuant to Article 22 of the By-Laws regarding the Inclusion of Affordable Housing because more than 6 units are proposed to be constructed.
4. The subject property is located at 229 Rice Road, as shown on the Plan entitled "Covered Bridge Conservation Cluster Development, Wayland, MA" dated January 12, 2012 and prepared by Samiotes Consultants, Inc.
5. The Applicant's Plan meets the submittal requirements and Conservation Cluster Development requirements.
6. A third affordable unit will be required prior to the construction of the 15th unit.
7. The current Special Permit has a bedroom count range of 61 to 72 bedrooms. This Special Permit would contain a mixture of two, three, four, and five bedroom dwellings, bringing the total bedroom count to approximately 52 thus providing a 15 to 28% reduction in the bedroom count from the approved development.

B) Specific Findings for Conservation Cluster Special Permit Approval

1. In accordance with §198-203 of the Zoning By-law, the Planning Board finds that the Applicant has shown to the satisfaction of the Planning Board that the proposed Conservation Cluster Development is not against the public interest, does not derogate from the character of the neighborhood in which such use occurs and is not detrimental or offensive because of noise, vibration, smoke, gas, fumes, odor, dust or other objectionable features and that such use is not otherwise injurious to the inhabitants or their property or dangerous to the public health or safety.
2. The Planning Board finds the proposed Conservation Cluster Development is in harmony with the purposes and intent of Article 18 of the By-Laws.
3. The subject property consists of 30.5 acres, which satisfies the five-acre minimum for the Conservation Cluster Development District.
4. The Applicant proposes to develop the subject property as a thirteen-lot Conservation Cluster Development, comprised of ten buildable lots and one open space lot. The number of lots was based on a calculation of lots as specified by §198-1803.1.3.2. The Planning Board finds that the number of lots meets the requirements of Sections 1803.1.3. and 1803.1.3.2 of the By-Laws.
5. The Planning Board finds that each buildable lot has adequate frontage on a public or private road. In this case, frontage is provided on the proposed subdivision road.

6. The Applicant proposes the dedication of 15.25 acres (50%) of the site as permanent open space in accordance with Article 18 of the By-Laws entitled Conservation Cluster Development District. The Planning Board finds that the amount of open space meets the requirements of §198-1803.1.7 of the By-Laws, which requires 50% of the land area of the tract be dedicated as open space if it contains attached dwelling units.
7. The Board finds that the Conservation Commission has determined that the proposed open space parcel shall have adequate public access and provides a public benefit.
8. The proposed Conservation Cluster Development is located on the east side of Rice Road and consists of the land at 229 Rice Road. The adjacent neighborhood is low density residential and consists of single family residences located within the Residence 60,000 sq. ft. zoning district. The property is also across from a large parcel of open space, which contains surface water, forested land, open pastures, and historic stone walls. Rice Road is designated as a Scenic Road. The proposed Conservation Cluster Development is located on one parcel, which is vacant and is forested. The Conservation Cluster Development proposes two access ways onto Rice Road (one would be removed if lot 1 is not developed). The Conservation Cluster Development proposes the construction of fifteen units. The proposed Conservation Cluster Development is designed to take advantage of the existing topography of the property so as to minimize earth movement activities. Environmentally sensitive areas such as wetlands and areas of steep slopes have been avoided as much as possible in the proposed Conservation Cluster Development and have been incorporated into the "open space" parcel.
9. The open space parcel shall be owned by the Homeowners Association and there shall be a Conservation Restriction placed on the parcel which will be held by the Town of Wayland and its Conservation Commission, or their successors or assigns pursuant to §198-1803.1.8.1 of the Zoning By-laws.

C) Specific Findings for Special Permit for the Inclusion of Affordable Housing

1. The Planning Board finds that the two affordable units will be provided as a duplex on a single building lot and if a third unit is required it will be built on lot 5.
2. The Planning Board finds that the location of the affordable units is provided on site. If a third affordable unit is constructed it shall be on lot 5.
3. In accordance with §198-203 of the Zoning By-law, the Planning Board finds that the Applicant has shown to the satisfaction of the Planning Board that the provision of two or three affordable units as part of the Covered Bridge Conservation Cluster Development is not against the public interest, does not derogate from the character of the neighborhood in which such use occurs and is not detrimental or offensive because of noise, vibration, smoke, gas, fumes, odor, dust or other objectionable features and that such use is not otherwise injurious to the inhabitants or their property or dangerous to the public health or safety.
4. The Planning Board recognizes that a Special Permit to allow for offsite alternatives will be pursued

III) Decision

Based on the aforementioned findings, application submittals, public comment, comments from Boards and Commissions, Land Use Meeting minutes, comments of Town Consultants, and the information submitted at the hearing or in written submissions to the Planning Board while the hearing record was

open, the Planning Board hereby approves said application for a Special Permit for a Conservation Cluster Development under Article 18 of the By-Laws, and grants a Special Permit for the Inclusion of Affordable Housing under Article 22 of the By-Laws, subject to the following conditions:

A) General Conditions

1. There shall be full compliance with all of the changes and revisions to the Plan, plus all of the conditions cited herein; all of which shall appear on the final revised endorsed mylar plans. Failure to so comply shall be cause for rescission of this decision. All references to specific lots shall coincide with the designated numbers as shown on the Plan entitled: Covered Bridge Conservation Cluster Development, Rice Road revision dated July 10, 2012 layout plan CE-1.1, CE-1.2, CE-1.3 and CE-1.4. The general conditions of this decision are as follows:
 - a. Planning Board approval is subject to the requirements and conditions of the Town's Board of Health's Letter dated May 22, 2012 pursuant to Section III.B.7.b.i. of the Rules.
 - b. If there is no appeal of this decision, the reproducible set of the Plan shall be revised as required by this Approval with Conditions and Modifications and returned to the Planning Board within fifteen (15) calendar days after the expiration of the appeal period and notification to the Planning Board by the Town Clerk that no appeal has been filed. If there is an appeal, the Applicant shall consult with the Planning Board regarding the resolution of the appeal and relevant timetables. The revised reproducible Plan shall be endorsed by the Planning Board, after it determines that the Plan complies with this Approval with Conditions and Modifications; and after receipt of two certified or bank checks made payable to the Town of Wayland as follows: \$1,000 for the inspection fee deposit required by Section VI.D. of the Rules, and the balance of the review fee, if any, as required by Section III.B.2.b.v. of the Rules.
 - c. A properly executed Form I, Approval with Covenant Contract, or its equivalent shall be submitted in a form acceptable to the Planning Board.
 - d. This Approval with Conditions and the revised and endorsed Plans, and the Form I, Approval with Covenant Contract, or its equivalent, if applicable, all properly executed, shall be recorded or registered, as appropriate, at the Middlesex South District Registry of Deeds within fifteen (15) calendar days after the endorsement of the revised Plan by the Planning Board; and within the same fifteen (15)-day period, one reproducible set and four (4) sets of plans of the fully endorsed revised Plans, plus a copy of the layout plan in electronic form suitable for use by the Town Surveyor, shall be returned to the Planning Board, together with documentation verifying that said recording(s) have been completed, noting the specific location (referenced by deed book and page, etc.) where said document(s) and Plan have been recorded, and the date of recording; all recording information shall be attached to said notification. Neither the entire subdivision, nor any portion thereof, to include any lot or lots, shall be sold or offered for sale until said notification occurs.
 - e. Each and every owner or owners of the lots shall be jointly and severally responsible and liable for the costs of the maintenance, snow plowing, repairs and construction of the private way and all services the installation of which is required in connection with this approval, or which may be installed at any time, including, without limitation, maintenance, repair and reconstruction of roadways, bridge, water, sewer and drainage facilities and other utilities, as and whenever

necessary, and including all actions of any kind or nature necessary or appropriate in order to maintain the private way in a good safe and passable condition, providing access from each lot to the subdivision way, and to provide adequate services to said lots, all in accordance with these conditions. For purposes hereof, owner shall mean the record owner of the said lot or lots as of the date that maintenance, repair or reconstruction work as the case may be is begun. All such maintenance, etc. shall be done under the supervision of the appropriate Town department, and shall comply with and conform to all requirements of the Town of Wayland and other requirements imposed by law or governmental authority. The appropriate Town officials, employees, agents and contractors and their designees shall have the right to enter upon the private way for all purposes for which ways are used in the Town of Wayland. A copy of the homeowners agreement and deed riders evidencing these obligations shall be provided to the Town Planner for review and approval.

- f. The existing subdivision way shall remain as a private way. No proposal that the private way become a public way shall be presented to the Town of Wayland. This requirement shall be imposed through a restrictive covenant. This restrictive covenant shall run with the land and be referenced in the deed or other instrument of conveyance to each lot.
- g. With the exception of initial development and construction activities, the respective owner or owners of the lots shall not use or permit use of the private way for any purpose other than utilities and ingress and egress from the lots by the residents of the lots and their guests and invitees, such use to be limited to pedestrian and private passenger vehicular traffic as is necessary from time to time in cases of emergency, delivery or customary and usual household services and equipment or in connection with the maintenance, repair or reconstruction of the private way and services installed thereon and thereunder. No owner or owners of any lot shall park or cause to be parked any motor vehicle on the private way in such a way as to impede or obstruct the passage of pedestrian or vehicular traffic on the private way.
- h. Any and all maintenance, repair or reconstruction work performed on or to the private way or in connection with services and utilities installed thereon or thereunder by or at the direction of any owner or owners of the lots as provided herein shall be carried out so as to ensure that no fill material nor any products of excavation or erosion resulting from or arising in connection with such work shall be discharged into the storm drainage system or wetlands, and soil and other materials or debris shall be removed from the site only to the extent necessary in connection with such work and the construction of the subdivision and in any event shall be subject to any other By-Laws regulating the same and shall be subject to the Town's Earth Movement By-Law.
- i. Pursuant to §198-1807 of the By-Laws, the Special Permit granted by this decision under Article 18 shall lapse within two years if substantial construction has not begun, except for a good cause shown by the Applicant and approved by the Planning Board.
- j. Prior to final release of the lots shown on the Plan, or if appropriate, other security has already resulted in the release of some of said lots, prior to the release of such other remaining security, one reproducible copy and an electronic copy of an "as built" plan shall be submitted to the Planning Board or its agent. Said "as built" plan shall be suitable for locating all subdivision infrastructure required by this decision, both above and below ground. Said plan shall include sufficient elevations, tied to the NGVD Datum, so that the Town can verify that all infrastructures will perform as designed and approved. Said plan shall clearly indicate all deviations from the approved Plan. No deviations from the

approved Plan shall be allowed or commenced without prior written approval from the Planning Board or its agent. All such deviations shall be requested in writing, clearly citing justifications for said deviations.

- k. All easements shall be reviewed and approved by the Planning Board and prior to the release of any lots, they shall be recorded with the Middlesex South Registry of Deeds. All such easements shall be referenced in the deeds for the lots encumbered by and/or benefiting from said easements. Copies of said deeds shall be submitted to the Planning Board.
- l. In any sale or transfer by the owner or any successor owner of the lots, the deed or other instrument of conveyance shall refer to and incorporate by reference hereto all conditions set forth herein.
- m. No lot shall be further divided so as to create additional lots. The parcel frontage along Covered Bridge Way and this subdivision area is limited to 10 buildable lots and a maximum of 15 units.
- n. On site affordable units are designated as follows: Lot 1 shall contain two units and Lot 5 may contain 1 unit.
- o. In the event that a zoning by-law amendment is adopted allowing a Conservation Cluster Development consisting of detached dwellings in place of the current requirement for attached units shown on the plans referenced above, said detached dwelling units may be constructed without further action by the Planning Board, provided that any revised plans are reviewed and approved by the Town Planner at his or her sole discretion.
- p. Applicant is hereby required provide notice to the Town Planner upon the expiration of any appeal period for this decision noting if an appeal has been filed. If an appeal or appeals have been filed, applicant is required to notify the Town Planner when such appeal(s) have been resolved. The existing decision dated December 22, 2006 shall automatically be rescinded upon the date that this decision becomes effective.

B) Waivers and Conditions

- 1. The Planning Board hereby grants the following waiver from the Conservation Cluster Rules and Regulations as part of its approval based upon the benefits to the Town (improved protection of the river front):

The Planning Board hereby waives the requirement of Chapter 301-17C of the Conservation Cluster Development Rules and Regulations, which requires that there be a buffer strip at least 50 feet wide around the perimeter of the tract when the abutting use is neither a Conservation Cluster Development, dedicated open space or dedicated to conservation purposes and allows a reduction of the buffer in the areas of Lots 3, 4, and 11 as depicted on the Sheet K-1 dated April 24, 2006 and revised through December 18, 2006.

- 2. The Planning Board hereby imposes the following conditions for its approval of the Special Permit under Article 22 - Inclusion of Affordable Housing:

- a. Prior to the release of lots, the Applicant shall submit a development construction schedule, indicating the general timing and/or sequence of construction of on-site affordable dwelling units and market rate units.
 - b. The Applicant shall submit copies of elevations and floor plans for all on-site affordable units for review. The Applicant shall submit the plans for the affordable units prior to the first lot release, for the Board to review and ensure conformance with §198-2205.3.1 and §198-2208.2.
3. The Plan shall be amended to include easements required for the “cart path” as shown on the Plan. Such easements shall ensure access to open space for the public and shall allow the Town to inspect wetland resource areas. The easement delineation and language has been submitted to the Planning Board for review prior to the endorsement of the Plan to ensure conformance with this decision. Where the area of the cart path included within a conservation restriction, the requirement of an easement for that portion of the cart path is not required.
4. Access to the open space parcel is provided by way of the existing “cart path” which shall be incorporated into the open space parcel by fee or easement. Access to the “cart path” shall be from Rice Road and from the proposed private way, which private way shall also be available for parking associated with access to said open space parcel.
5. Prior to the commencement of construction, the Applicant shall submit a conservation restriction to the Planning Board for its review, which shall include language preserving the opens space parcel in its natural state and ensure access by the Town to inspect resource areas and the open space.
6. Prior to clearing and grading activity, haybales and silt fencing shall be installed on the down slope of all planned earth movement activities. The boundary of all buffer areas and areas to remain open shall be delineated by silt fence.
7. Each lot shall have access from the private way except for Lot 1. No driveways or ingress/egress points to or from said lots are to be to or from any other road.
8. There shall be no vehicular access to the Conservation Cluster Development by way of Apache Trail, with the exception of (i) emergency vehicles and (ii) construction vehicles that cannot pass through the covered bridge and have approval of the Town Planner on a case by case basis.
9. Any fill that is imported to the site shall be clean and any debris found within the fill, such as but not limited to asphalt, metal, and wood shall be removed.
10. The grading plan as shown on the final endorsed Plan shall be adhered to, and only deviations for the installation of septic systems, house plans / layout, or the avoidance of natural features shall be allowed. Prior notice shall be given in writing to the Planning Board or its agent if there are to be any discrepancies with the grading shown on the approved Plan.

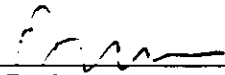
IV) Vote

Constituting a super majority of the Planning Board, the following members voted to approve the Applicant's application for a Special Permit for a Conservation Cluster Development and a Special Permit for the Inclusion of Affordable Housing based on the information in the hearing record and the aforementioned findings, and subject to the aforementioned conditions. Voting to approve the special permit were Planning Board Members Colleen Sheehan, Kevin Murphy, Ira Montague and Andrew Reck. Vote was unanimous.

DATE OF FILING OF DECISION:

BY ORDER OF THE BOARD

7/25/12


Andrew Reck

CERTIFICATION:

The Planning Board, by delivery of a copy of this Decision to the Applicant, *Devens Hamlen*, does hereby certify that a copy of this Decision has been filed with the Town Clerk of the Town of Wayland.