

DETAILS REPORT

**Note: Report is Sorted in Ascending Order by Office, Recorded Date, Document Number

Doc#	Document Type	Town	Book/Page	File Date	Consideration
95077	DECISION		46258/36	09/02/2010	
Street	Street Name		Description		
Grantors	Grantees	Street	Property Description		
HIGH OAKS REALTY TRUST , KILEY ROBERT, BOLTON TOWN PLANNING					
References	Book/Pg	Description	Recorded year		
46258/36		DECISION			
References Certificate					



TOWN OF BOLTON

PLANNING BOARD

Town Hall, 663 Main Street, Bolton, MA 01740

Phone 978-779-3308 Fax 508-779-5461



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PLANNING BOARD

TOWN OF BOLTON, MASSACHUSETTS

FOSPRD SPECIAL PERMIT

April 14, 2010

Pam Powell, Town Clerk
Town of Bolton
663 Main Street
Bolton, Worcester County, Massachusetts

SEE DEED IN BOOK 42561 AT
PAGES 345 & 349

SEE PLAN BOOK 884 ; ~~PLAN~~ PG 61

It is hereby certified by the Planning Board of the Town of Bolton (hereinafter, the "Board"), that at a duly called and properly advertised hearing of the Board opened and held on July 29, 2009, and continued to November 18, 2009, January 13, 2010, February 10, 2010, February 24, 2010, March 10, 2010, and closed on March 24, 2010 the Board considered a Special Permit application under the Farmland and Open Space Planned Residential Development by land contained on a Plan entitled "Meadow View Preliminary Subdivision Plan", dated April 29, 2009, and revised June 19, 2009 and a Plan entitled "Definitive Subdivision of land in Bolton Houghton Farm" dated October 16, 2009 and revised February 10, 2010 and March 2, 2010 (hereinafter, the "Plan"), prepared by Ducharme and Dillis Civil Design Group, Inc., submitted by High Oaks Realty Trust (hereinafter the "Applicant") as the representative for the property owners listed in Exhibit "A" attached hereto and incorporated herein (hereinafter, the "Property Owners"), filed with the Board on May 12, 2009 (hereinafter, the "Application"), encompassing the land located at the intersection of Sugar and Golden Run Roads and identified by the Assessors as Map 5D-10 & 6D-32 and showing a total of fifteen (15) lots.

The Board acting under The Town of Bolton's Bylaw 2.3.6 Farmland and Open Space Planned Residential Development held this hearing to act upon this Application for fifteen (15) new house lots designated as lots 1 through 15 on the aforementioned plan on a tract of land encompassing approximately 72 acres which incorporates a total of 43.60 acres that will be designated as Open Space. The Open Space consists of two parcels identified as OS1N on the plan which consists of 38.29 acres and mature hardwood forest, the other parcel is identified as OS2S and consists of 5.31 acres and consists of a meadow.

When considering the granting of the requested Special Permit the Board found that the Plan would a) preserve open space, b) preserve the rural character of Bolton, and c) provide land owners with an alternative to traditional subdivision that allows houses to be built in a way that is more in harmony with the local site conditions, without increasing the density of new development. The Board found that this Application and Plan meet the prerequisites in Bylaw 2.3.6.3 and that the Plan provides a superior development plan in consideration of the criteria and purpose set forth in 2.3.6.8 (c) and is consistent with 2.3.7.3.

With five (5) members present, the Board on April 14, 2010, voted unanimously to approve and issue the Special Permit with the following Open Space Restrictions (hereinafter, "OSR") conditions:

1. Approval is conditioned upon the Applicant delivering to the Board a Quitclaim Deed, in a form satisfactory to the Board and to Town Counsel, granting to the Town of Bolton and under the care

Pam
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and custody of the Bolton Conservation Commission a 38.29 acre parcel identified on Plan as OS1N. The deed must be written to include the following 3 restrictions:

- a. No buildings may be constructed on the OSR land. No dwellings are allowed in the OSR area.
 - b. The OSR shall be granted to the Town of Bolton and under the care and custody of the Bolton Conservation Commission. In no event may the OSR in any manner be combined, included or joined with or considered as part of the individual dwelling lot area(s). No portion of the OSR may be included in determining the minimum dwelling lot areas(s) as described in Sections 2.3.5 or 2.3.6.7 (a) (1) of the Bolton Bylaws.
 - c. The OSR land can be used for passive or active recreation. Active recreation uses cannot cover more than ten (10%) percent of the OSR land.
2. Approval is conditioned upon the Applicant delivering to the Board a Homeowners documents in a form satisfactory to the Board, Agricultural Committee, Conservation Commission and Town Counsel including an Operations and Maintenance Plan the open space parcel consisting of 5.31 acre parcel identified on the Plan as OS2S. The Operations and Maintenance Plan shall include, at a minimum, maintenance of the meadow during construction and post construction. The Homeowners documents and Operation and Maintenance Plan shall be recorded in the Worcester County Registry of Deeds.
3. Approval is conditioned upon the Applicant delivering to the Board a Quitclaim Deed, in a form satisfactory to the Board, Agricultural Committee, Conservation Commission and Town Counsel, granting to the Home Owners Association a 5.31 acre parcel identified on the Plan as OS2S. The Conservation Restriction must be recorded at the Worcester Registry of Deeds prior to the issuance of the first occupancy permit. The Open Space shall be subject to the following restrictions.
 - a. The Conservation Restriction will be granted to the town or land trust satisfactory to the Board.
 - b. Only agricultural or horticultural uses are allowed in the OSR land.
 - c. No fencing will be allowed that blocks the view of the meadow.
 - d. The use of herbicides or pesticides is not permitted.
 - e. Access to the meadow will be granted to the Town through an easement.
 - f. No automatic sprinklers are permitted and the use of rain collection is encouraged.
 - g. No buildings are allowed in the OSR area.
 - h. In no event may the OSR in any manner be combined, included or joined with or considered as part of the individual dwelling lot area(s) as prescribed in sections 2.3.5 or 2.3.5.7 (a) (1) of the Bolton Bylaws.
 - i. The deed will include the Operations and Maintenance Plan. If agricultural activities cease for one or more years and/or the meadow is not maintained in accordance with the Operations and Maintenance Plan, then the Town may mow.
 - ii. The Town will be granted easement rights to the OSR area.
 - iii. No septic systems are allowed in the OSR area.
 - iv. All the above restrictions must be written into the deed of the land in the OSR area.
 - v. Any maintenance and improvements to the OSR area are subject to Federal, State and local regulations.

4. All Quitclaim Deeds, and any supporting agreements above, are to be delivered to the Board prior to the commencement of any of the improvements approved in the Plan and recorded in the Worcester County Registry of Deeds.
5. Approval is conditioned upon the Applicant delivering to the Board a copy of all legal documentation, completed in full, related to the Conservation Restriction and Agricultural Preservation Restriction agreement between the applicant and the Commonwealth of Massachusetts.
6. Lots 1-15 created pursuant to this Special Permit may not be further or subsequently subdivided. This approval is conditioned upon the receipt and the satisfactory review by the Board and Town Counsel of restrictive language to be inserted in the deed to each lot or parcel, or a restrictive covenant encompassing all of the lots, prohibiting any subsequent division of the lots or the creation of any additional lots or parcels not shown on the Plan by all means including by Special Permit or pursuant to Massachusetts General Law.
7. Approval is conditioned upon the receipt and the satisfactory review by the Board and Town Counsel of restrictive language to be inserted in the deed to each lot or parcel, or in a restrictive covenant encompassing all of the lots, prohibiting by all means including by Special Permit or pursuant to Massachusetts General Law any future use of any of the property encompassed by the Plan for access by, Right-of-Way(s), Common Driveway(s) or Single or Shared Driveway(s), to any lots or parcels not shown on the approved Plan.

This Special Permit shall lapse twenty-four (24) months following the grant thereof (excepting such time required to pursue or await the determination of an appeal referred to in Section 17, Chapter 40A of the General Laws). To comply with this provision, the applicant must submit to the Board within twenty-four (24) months following the grant of the Special Permit (excepting such time required to pursue or await the determination of an appeal referred to in Section 17, Chapter 40A of the General Laws) certified copies evidencing the filing with the Worcester County Registry of Deeds of this Special Permit, the approved plan(s), and any supporting agreements, the restrictive lot deed language, or a restrictive covenant encompassing all of the lots, and the a restrictive covenant encompassing all of the lots, prohibiting by all means including by Special Permit or pursuant to Massachusetts General Law any future use of the any of the property encompassed by the Plan for access by, Right-of-Way(s), Common Driveway(s) or Single of Shared Driveway(s), to any lots or parcels not shown on the approved Plan.

Appeals, if any, to this decision, must be made pursuant to Mass. Gen. Laws C.40A § 17 and must be filed within twenty (20) days after the date of filing of this decision in the office of the Bolton Town Clerk

NOTE TO BOARD: Conditions should be written on the endorsed plan which is to be recorded or should be set forth in a separate instrument, which could be a copy of the approval vote and which should be referenced on the endorsed and recorded plan.

NOTICE TO CLERK: The Board should be notified immediately of any appeal to the Superior Court or Land Court of this Subdivision Approval made within the statutory twenty (20) day appeal period. If no appeal is filed with your office, the Board should be notified at the end of the twenty (20) day appeal period in order that the plans may be endorsed.

RECORD OF VOTE

The following members of the Planning Board vote to grant a special permit subject to the above-stated terms and conditions:

Mitchell Trach

Thomas Estey

John Kahn

Sam Sam
John

The following members of the Planning Board are in opposition to the granting of the special permit:

Filed With the Town Clerk:

APR 27 2010
PMP

Date: _____, 2010

By:

Pamela H. Powell

Title:

Town Clerk

CERTIFICATE OF NO APPEAL

The undersigned, being the Town Clerk of the Town of Bolton, certifies that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Date: May 18, 2010

By:

Pamela H. Powell

Title:

Town Clerk

Copies sent to:

High Oaks Realty Trust

Ducharme and Dillis

Abutters

Abutting Towns

Bolton Boards and Committees

Exhibit "A"

PROPERTY OWNERS

High Oaks Realty Trust
Robert Kiley
PO Box 381
Groton MA 01450