

**PLANNING BOARD  
TOWN OF BOLTON, MASSACHUSETTS  
FOSPRD SPECIAL PERMIT**

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January 10, 2018

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

It is hereby certified by the Planning Board of the Town of Bolton (hereinafter, the "Board"), that at a duly called and properly advertised public hearing of the Board opened and held on October 25, 2017, continued to November 8, 2017, December 13, 2017 and closed on January 10, 2018, the Board considered a Special Permit application (hereinafter, the "Application") under the Town of Bolton's Zoning Bylaw Section 250-14, Farmland and Open Space Planned Residential Development (FOSPRD), for land located near the intersection of Main Street and Forbush Mill Road and identified by the Assessor's Map 6.B as Parcel 3 (hereinafter, the "Site").

The Application was submitted on September 14, 2017 by D. Bruce Wheeler, Trustee of the Tadmor Realty Trust, 148 Park Street, North Reading, MA 01864 (hereinafter, the "Applicant") as the representative for the property owners listed in Exhibit "A" attached hereto and incorporated herein (hereinafter, the "Property Owners"). The Site is shown on plans entitled "Definitive Subdivision of Land in Bolton, Tadmor, Bolton, Massachusetts" dated September 5, 2017 with revisions November 6, 2017, December 6, 2017, and January 5, 2018 (hereinafter, the "Plan"), prepared by Ducharme and Dillis Civil Design Group, Inc. and submitted as part of the Application.

The Application proposed a division of the Site, as shown on the Plan, as follows: eleven (11) new house lots designated as Lots 1 through 11 with access to Lots 8 through 11 from a common driveway off of the proposed subdivision road and a total of 10.96 acres from three parcels designated as "Open Space" consisting of 5.34 acres of upland, 1.79 acres of wetland resource area and/or floodplain, and 3.83 acres within the Business District.

True copies of the Application, the Plan, all materials submitted to the Board relevant to the Application, and the notices of the public hearing, are made a part of the record of this decision and listed in Exhibit "B" attached hereto and incorporated herein. These materials are on file with the Office of the Planning Board and the Town Clerk. The Applicant and the Board complied with all requirements of M.G.L. c. 40A and the Bolton Zoning Bylaw necessary for the issuance of a special permit.

Members of the Board attending sessions of the public hearing, deliberating and voting on the Petition were Erik Neyland, Mark Sprague, Michal Gorr, and Peter Driscoll.

Throughout the Board's deliberations, the Board was mindful of the statements of the Applicant and its representatives and the comments of the general public, all as made or received at the public hearing.

When considering the granting of the requested Special Permit, the Board considered and found that the Application and the Plan met the requirements of Section 250-14.H(3) of the Zoning Bylaw, as follows:

1. The proposal restricts development on the Open Space parcel which contains significant vegetated upland habitat and wetland resource areas including bordering vegetated wetlands, a vernal pool and Still River. It also contains important trail connections from Main Street to Wilder Pond and Forbush Mill Road;

2. The proposal meets five (5) of the six (6) main goals expressed in Bolton's Open Space and Recreation Plan including to preserve the rural and historical character, protect water resources, protect natural resources and wildlife habitat, conserve open space areas for public use, and provide active recreation opportunities; and
3. The proposal serves the intent of the FOSPRD Bylaw better than the alternative of a traditional subdivision, as the Plan demonstrate that the proposal would preserve open space, preserve the rural character of Bolton, and provide the Property Owners with an alternative to a traditional subdivision that allows houses to be built in a way that is more in harmony with the local site conditions, without increasing the overall project density of new development.

In addition, based upon the Board's findings under the FOSPRD Bylaw set forth above, in accordance with Section 250-7.B of the Zoning Bylaw, the Board determined that the proposed division and development of the Site, as shown on the Plan, may be carried out without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw, upon consideration during the public hearing and during the Board's deliberations of environmental, economic, fiscal, traffic, public facility, visual, and social consequences of the Applicant's proposal.

With four (4) members present, the Board on January 10, 2018, voted unanimously to approve and issue the Special Permit with the following conditions:

1. The areas designated on the Plan as Open Space, Open Space 1 and Open Space 2 shall be designated as Open Space Restriction (OSR) Land, as defined in the FOSPRD Bylaw, and restricted as follows:
  - (a) No buildings may be constructed on the OSR land. No dwellings are allowed to be developed in the OSR area.
  - (b) The OSR Land 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 land may be included in determining the minimum dwelling lot areas(s) as prescribed in Section 250-13 or Subsection G(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.
  - (d) The above three restrictions must be written into the deed of the land in OSR area.
2. All recordable instruments, and any supporting agreements above, shall be submitted to the Board for review and approval by Town Counsel prior to the issuance of any building permits for any of Lots 1 through 11 (with the goal that such review and approval shall be accomplished within 30 days of submittal). No certificates of occupancy for Lots 1 through 11 shall be issued until the original, executed and acknowledged instruments necessary to comply with this decision, as approved by Town Counsel, have been delivered to Town Counsel.
3. Lots 1 through 11 created pursuant to this decision shall not be subsequently divided to create new building lots not shown on the Plan (provided that the lot lines of Lots 1 through 11 may be revised), and the initial deeds to Lots 1 through 11 shall include a restriction, or shall be subject to a restrictive covenant, (i) prohibiting any subsequent division of the lots to create new building

lots not shown on the Plan, and (ii) prohibiting any future use of the Site to provide a right-of-way, common driveway, single or shared driveway, or other means of access to any lots or parcels not shown on the Plan, said restriction or restrictive covenant to be submitted to the Board and for review and approval by Town Counsel prior to the recording of said deeds or other related instruments (with the goal that such review and approval shall be accomplished within 30 days of submittal).

4. Utmost care shall be taken in the preservation of a natural woodland buffer as between the Site and its frontage on Main Street. Approval is conditioned upon the Applicant limiting the amount of clearing by staking the buffer in the field and notifying the Board prior to tree clearing and maintaining the stakes.
5. Approval is conditioned upon the Applicant providing a cleared trail through Open Space 2 prior to the issuance of building permits for Lots 1 through 11. The final location of the trail shall be approved by the Conservation Commission and Trails Committee and shown on the Plan prior to the endorsement of the Plan.
  - a. The Applicant shall provide a vegetated buffer along a portion of the trail adjacent to David Russell's property at 115 Wilder Road. The vegetated buffer shall include six (6) white pine trees that are six (6) feet tall. The location of the trees shall be shown on the Plan prior to the endorsement of the Plan.
6. Approval is conditioned upon the Applicant constructing a meandering paved path through Open Space 1 prior to the issuance of the first building permit. The path shall extend from the proposed subdivision road to the Main Street/Forbush Mill Road intersection and shall be shown on the Plan prior to endorsement.
  - a. A 15-foot wide easement shall be provided for the length of the path that extends across the Applicant's 5.44 acre commercial parcel and shall be shown on the Plan prior to endorsement.
  - b. The paved path shall be asphalt and shall be five (5) feet wide with two (2) foot cleared shoulders. The Applicant shall provide a cross-sectional detail of the path on the Plan prior to endorsement.

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) if a substantial use or construction has not sooner commenced except for good cause. The Applicant shall 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 and any approved plans.

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:

Erik Neyland 1/10/18  
Chairman Erik Neyland  
Michael Gorr  
Michael Gorr

Mark Sprague  
Mark Sprague  
Peter Driscoll  
Peter Driscoll

Filed With the Town Clerk:

Date: January 18, 2018

By: James H. May

Title: Asst. 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: \_\_\_\_\_, 2018

By: \_\_\_\_\_

Title: \_\_\_\_\_

Copies sent to:  
Applicant/Owner  
Abutters  
Abutting Towns  
Bolton Boards and Committees  
Ducharme & Dillis Civil Design Group, Inc.

**Exhibit "A"**

**PROPERTY OWNERS**

**D. Bruce Wheeler, Trustee of the Tadmor Realty Trust**  
148 Park Street  
North Reading, MA 01864

## Exhibit "B"

### LIST OF RECORD DOCUMENTS

#### Original Application Documents

1. Application package including all documents, forms and data required under the Town of Bolton Subdivision Rules and Regulations in effect at the time of application. This package includes the following:
  - a. Application for Approval of a Definitive Plan.
  - b. Application for Special Permit: Farmland & Open Space Planned residential Development.
  - c. Application for Special Permit: Common Driveway.
  - d. Calculation and Filing Fee.
  - e. Impact Analysis which includes Physical Environment, Surface Water and Soils, Traffic Analysis, and Land Use Analysis.
  - f. Requested Waivers.
  - g. List of Abutters.
  - h. Deed of Locust.
  - i. Soil Map for Worcester County, Massachusetts Northeast Part.
  - j. Attachments and Plans:
    - i. Site Plans entitled "Definitive Subdivision of Land in Bolton, Tadmor, Bolton, Massachusetts", drawn by Ducharme and Dillis Civil Design Group, Inc., 1092 Main Street, Bolton, MA for D. Bruce Wheeler, Tadmor Realty Trust and dated September 5, 2017.
2. Stormwater Report - Tadmor, Main Street, Bolton, Massachusetts prepared by Ducharme & Dillis Civil Design Group, Inc. for Tadmor Realty Trust dated September 5, 2017.
3. Notice of Public Hearing advertised in the Bolton Independent on 10/06/17 and 10/13/17.

#### October 25, 2017 Hearing Documents

1. Time Extension dated October 25, 2017
2. Preliminary Subdivision Decision dated April 12, 2017
3. Email from John Mentzer, Bolton Fire Chief, Subject: Main Street Map 6B Parcel 3 subdivision comments, dated March 22, 2017.
4. Email from Rebecca Longvall, Bolton Conservation Administrator, Subject: Tadmor, dated October 24, 2017.
5. Email from Leslie Caisse, Assistant to Bolton DPW Director, Subject: RE: Tadmor Subdivision – Intersection of Main Street/Forbush Mill Definitive Subdivision Application, dated October 10, 2017.
6. Email from Danielle Spicer (Abutter), Subject: Tadmor Subdivision, Main Street, Bolton, MA, dated October 25, 2017.
7. Comment letter from David Russell (Abutter) dated April 12, 2017.

#### November 8, 2017 Hearing Documents

1. Letter with response to comments from Ducharme & Dillis Civil Design Group, Inc. to the Bolton Planning Board, Re: Revised Subdivision Plans and Drainage Calcs, Tadmor Definitive Subdivision, Bolton, MA, dated November 6, 2017.
2. Revised Site Plans entitled "Definitive Subdivision of Land in Bolton, Tadmor, Bolton, Massachusetts", drawn by Ducharme and Dillis Civil Design Group, Inc., 1092 Main

- Street, Bolton, MA for D. Bruce Wheeler, Tadmor Realty Trust and dated November 6, 2017.
3. Stormwater Report - Tadmor, Main Street, Bolton, Massachusetts prepared by Ducharme & Dillis Civil Design Group, Inc. for Tadmor Realty Trust revised November 6, 2017.
4. Email from Rebecca Longvall, Bolton Conservation Administrator, Subject: Con Com FOSPRD, dated November 8, 2017.
5. Email from David Loutzenheiser, MAPC, Subject: Re: Subdivision Trails, dated October 26, 2017.

#### December 13, 2017 Hearing Documents

1. Peer Review Letter from Hamwey Engineering, Inc. to the Bolton Planning Board, Re: Tadmor Definitive Subdivision, Bolton, MA (HEI File no. 17001.00), dated December 4, 2017.
2. Letter with response to comments from Ducharme & Dillis Civil Design Group, Inc. to the Bolton Planning Board, Re: Tadmor Definitive Subdivision (HEI File no.17001.00), Bolton, MA, dated December 6, 2017.
3. Revised Site Plans entitled "Definitive Subdivision of Land in Bolton, Tadmor, Bolton, Massachusetts", drawn by Ducharme and Dillis Civil Design Group, Inc., 1092 Main Street, Bolton, MA for D. Bruce Wheeler, Tadmor Realty Trust and dated December 6, 2017.
4. Revised Recharge Calculations prepared by Ducharme & Dillis Civil Design Group, Inc. for Tadmor Realty Trust revised December 6, 2017.
5. Email from John Mentzer, Bolton Fire Chief, Subject: Tadmor subdivision, dated December 6, 2017.
6. Email from Rebecca Longvall, Bolton Conservation Administrator, Subject: FW: TADMOR Development: Forbush/Wilder, dated November 9, 2017.
7. Email from Rebecca Longvall, Bolton Conservation Administrator, Subject: Site Walk Tadmor, dated November 13, 2017.
8. Email from Rebecca Longvall, Bolton Conservation Administrator, Subject: TADMOR, dated November 16, 2017.
9. Email from resident Cia Boynton, Subject: Tadmor sidewalk, dated December 7, 2017.
10. Email from Mary Ciummo, Public Ways Safety Committee, Subject: Fwd: Tadmor Subdivision, dated December 11, 2017.
11. Comment letter to the Bolton Planning Board from David Russell of 115 Wilder Road, Chris Little of 117 Wilder Road and Kathrine Scott of 113 Wilder Road (Abutters) dated December 13, 2017.

#### January 10, 2018 Hearing Documents

1. Letter with response to comments from Ducharme & Dillis Civil Design Group, Inc. to the Bolton Planning Board, Re: Tadmor Definitive Subdivision (HEI File no.17001.00), Bolton, MA, dated January 5, 2018.
2. Revised Site Plans entitled "Definitive Subdivision of Land in Bolton, Tadmor, Bolton, Massachusetts", drawn by Ducharme and Dillis Civil Design Group, Inc., 1092 Main Street, Bolton, MA for D. Bruce Wheeler, Tadmor Realty Trust and dated January 5, 2018.
3. Fire Cistern Buoyancy Calculations prepared by Ducharme and Dillis Civil Design Group, Inc., 1092 Main Street, Bolton, MA for Tadmor dated January 8, 2018.



4. Peer Review Letter from Hamwey Engineering, Inc. to the Bolton Planning Board, Re: Tadmor Definitive Subdivision, Bolton, MA (HEI File no. 17001.00), dated January 9, 2018.