



TOWN OF HINGHAM

Planning Board

NOTICE OF DECISION SPECIAL PERMIT A3

IN THE MATTER OF:

Applicant/Owner: Black Rock Development Inc
19 Clubhouse Drive
Hingham, MA 02043

Agent: Brendan Sullivan, P.E., P.L.S.
Merrill Engineers & Land Surveyors
427 Columbia Road
Hanover, MA 02339

Property: 199-201 Ward Street, Hingham, MA 02043

Deed Reference: Plymouth County Registry of Deeds, Book 42494 Page 115
Plymouth County Registry of Deeds, Book 43527 Page 336

Plan References: "199 & 201 Ward Street, Preliminary Flexible Residential Design, Subdivision Pla, Assessors Map 144 Lots 5 and 6, Hingham, Massachusetts," prepared by Merrill Engineers & Land Surveyors, 427 Columbia Road, Hanover, MA, dated July 14, 2023 and revised through August 24, 2023 (6 Sheets)



SUMMARY OF PROCEEDINGS

This matter came before the Planning Board (the "Board") on the application of Black Rock Development Inc (the "Applicant") for a Special Permit A3 for a Preliminary Plan Review of a Flexible Residential Development consisting of 3 single-family dwellings on 4.8 acres of land at 199-201 Ward Street in Residence C District.

The Board opened a duly noticed public hearing on the application at a meeting held remotely on August 28, 2023 via Zoom as an alternate means of public access pursuant to Chapter 2 of the Acts of 2023 temporarily suspending certain provisions of the Open Meeting Law. A subsequent session was held on September 11, 2023. The Board concurrently opened a hearing on a related

application for Site Plan Review in connection with the Preliminary Flexible Residential Development Plan Review. The Board panel consisted of regular members Kevin Ellis, Chair, Gordon Carr, Rita DaSilva, Tracy Shriver, and Gary Tondorf-Dick. Brendan Sullivan, P.E., P.L.S., Merrill Engineers and Land Surveyors, presented the application to the Board. The Board was assisted in its review by Patrick Brennan, P.E., PGB Engineering, LLC, P.C. At the conclusion of the review, the Board voted unanimously to grant a Special Permit A3 under § IV-D of the By-Law with conditions set forth below.

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

BACKGROUND

The project site consists of two parcels with a total land area of 4.8± acres located off the west side of Ward Street. The parcel at 199 Ward Street is improved by an existing single-family dwelling and a paved driveway. The parcel at 201 Ward Street is undeveloped woodland and wetlands. The wetlands encompass 1.65± acres, or about 34% of the total project site.

The proposal calls for dividing the two parcels into four lots – three residential lots and one Open Space lot. The Conventional Yield Plan (Sheet 3) shows three conforming residential lots with 150' or greater of frontage on Ward Street. The proposed Flexible Residential Development plan shows a 3 acre Open Space lot and three residential lots that range in size from 0.5 acre to 0.7 acre. The number of units is based on a Conventional Yield of 3 lots. No density bonus is proposed with this concept, therefore none of the proposed dwellings are required to be Low or Moderate Income Housing nor Moderately-Sized. Additionally, the Applicant proposes a common driveway for the three lots – requiring an additional Special Permit A3 under Section V-K during the definitive stage. Finally, while the Grading Plan (Sheet 5) appears to show a shared septic system on the Open Space lot and proposed stormwater infiltration areas on the residential lots, the Applicant indicated through responses to comments, that the septic system and stormwater system are only conceptual at this time and have yet to undergo a final design to serve the development.

With the exception of the Open Space Buffer (discussed below), the proposed development complies with the open space, dimensional, and additional requirements. A more detailed plan during the definitive stage would provide for a more thorough understanding of the proposed development, but such additional details are not required at the preliminary stage, such as stormwater and septic information.

Open Space:

The minimum Open Space area requirement is at least 40% of the entire site. The Applicant proposes for the Open Space to consist of 64% of the overall site – an excess of 24% above the minimum requirement.

With respect to the Open Space Buffer, subsection 9.d requires a buffer of 100' along abutting properties and 50' along adjacent roadways. The FRD Plan depicts a minimum 50' wide buffer along the roadway, but a buffer consisting of an existing tree line very close to the abutting properties to the north and west. The property to the west is Black Rock Country Club and the property to the north is a residential property. It is important to note that the closest dwellings are approximately 580' to the northerly property line and 220' from the westerly property line. The Board is able to provide relief from these dimensions if it finds the proposed buffer is sufficient to screen or separate the development. In fact, the Board granted such relief for an FRD by the same developer at 90 Ward Street as well as with the most recent FRD at 213 & 215 Cushing Street.

In addition to staff, the Board's civil peer review engineer Patrick Brennan, PGB Engineering, reviewed this project to evaluate conformance with MassDEP Stormwater Management Standards (SMS) and best engineering practices. Mr. Brennan's initial report included comments related to location of 6" trees, the Open Space Buffer, test pits, and dimensional requirements. The Applicant provided revisions that address all of Mr. Brennan's comments. Given the preliminary stage of the project, Mr. Brennan will provide a more detailed review when additional information is submitted during the definitive stage.

During the course of the hearing, the Board raised questions and comments related to ledge removal, number of bedrooms, septic systems, setbacks, grading, and open space. Two members of the public provided questions and comments related to blasting and their septic system and well.

FINDINGS

Based on the information submitted and presented during the review, and the deliberations and discussions of the Board during the hearings, the Board made the following findings in accordance with the Approval Criteria under §§ I-H and IV-D. of the By-Law:

1. Open Space, equal to approximately 64% of the overall land area exclusive of wetlands, is provided in excess of the minimum 40% required. An Open Space buffer is shown along the perimeter of the site as the existing tree line. The buffer, which is less than 100' in width from abutting properties to the north and west, is insufficient to screen the FRD. Pursuant to a condition of approval, additional trees shall be required to adequately screen abutting properties.
2. The proposed use is consistent with the following criteria set forth in Section I-H.2:
 - a. **Use of the property is in harmony with the general purpose and intent of the Zoning By-Law;**
The proposed FRD is in harmony with the general purposes under Section I-A.2 the By-Law, including the adequate provision of open space. The proposed plan includes approximately 64% of the property as dedicated Open Space.

- b. **The proposed use complies with the purposes and standards of the relevant specific sections of the By-Law;**
The proposed FRD complies with the stated purposes of Section IV-D, including: the preservation of open space; the protection of natural resources; efficiency and flexibility in the layout of housing and utilities, and the minimization of disturbance on the site. The proposed use additionally complies with the standards of Section IV-D as (i) the site meets the eligibility requirements, (ii) the Applicant has demonstrated it has adequate Conventional Yield for the three single-family dwellings, (iii) the site exceeds the minimum Open Space requirements, (iv) except for a portion of the Open Space buffer, as set forth above and conditioned by this approval, the project complies with minimum dimensional requirements, and (v) the project will comply with the other additional requirements of Section IV-D.
- c. **The specific site is an appropriate location for the proposed use and is compatible with the characteristics of the surrounding area;**
The property is located on a residential street within the Residence C Zoning District, which is an appropriate location for the proposed FRD.
- d. **The use as developed and operated will create positive impacts or the potential adverse impacts will be mitigated;**
The Open Space buffer, as conditioned by this approval, will preserve site features intended to screen the development from abutting properties and will enhance views from adjacent public ways. There will be no adverse impacts resulting from the proposed FRD use.
- e. **There will be no nuisance or serious hazard to vehicles or pedestrians;**
There will be no nuisance or serious hazard to vehicles or pedestrians resulting from the project. The proposed plan includes a common driveway to be permitted during the definitive stage, minimizing the number of curb cuts required off of Ward Street.
- f. **Adequate and appropriate facilities exist or will be provided for the proper operation of the proposed use;**
Adequate wastewater facilities will be required by the Hingham Board of Health and constructed prior to certificates of occupancy for the single-family dwellings.
- g. **The proposal meets accepted design standards and criteria for the functional design of facilities, structures, stormwater management, and site construction;**
Test pits and percolation tests for wastewater and drainage purposes were performed onsite. Issuance of a Preliminary Flexible Residential Development Special Permit is subject to conditions related to stormwater and other site construction that requires further review during Definitive Plan Review with Site Plan Review.

MOTION

Upon a motion made by Kevin Ellis and seconded by Gary Tondorf-Dick, the Board voted unanimously to GRANT the application of Black Rock Development Inc for a Special Permit A3 under § IV-D of the Zoning By-Law for a Preliminary Plan Review of a Flexible Residential Development consisting of 3 single-family dwellings on 4.8 acres of land at 199-201 Ward Street in Residence District C, subject to the following conditions:

1. Proof of Recording. The Applicant shall file a certified copy of this decision in the Registry of Deeds and provide evidence of such recording prior to application for a Definitive Flexible Residential Development Review (“Definitive Review”).
2. Pursuant to Section IV-D of the By-Law, Applicant’s exercise of this Special Permit shall be subject to the Planning Board’s approval of a Definitive Flexible Residential Development Plan (“Definitive Plan”), to be heard as a modification to this Special Permit A3, and modification of the Site Plan Approval. Plans submitted in connection with the Definitive Review with Site Plan Review shall substantially conform to the Preliminary Flexible Residential Development Plan in terms of number of units, amount of Open Space, and development pattern impacts on natural landscape features or surrounding residential properties.
3. Pursuant to Section V-I of the By-Law, the Applicant shall file a Special Permit A3 for a common driveway in connection with the Definitive Review.
4. Without limiting the foregoing, the Definitive Plan site plans and application shall include the following:
 - a. A notation to indicate the Open Space buffer along the northerly and westerly property lines. The buffer shall be at least 20’ from said property lines.
 - b. A revised Open Space calculation to include the additional Open Space to be added with the increased Open Space buffer.
 - c. Proposed walkway, paths or sidewalks where appropriate pursuant to Section IV-D,10.d to formalize and clearly define pedestrian access between the Open Space and Dwelling Units.
 - d. A notation pursuant to Section IV-D,10.e that no portion of the property may be further subdivided.
 - e. Documentation required pursuant to Section IV-D,8.b and c with respect to the Open Space and the proposed form of easement for access to the Open Space.
5. The Applicant shall explore potential design options to maximize setbacks to the greatest extent practicable during the Definitive Review.

For the Planning Board,



Kevin Ellis, Chair
September 18, 2023

In Favor: Kevin Ellis, Gordon Carr, Rita DaSilva, Tracy Shriver, and Gary Tondorf-Dick

Opposed: None

This decision shall not take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed since the decision has been filed in the office of the Town Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded with the Plymouth County Registry of Deeds and/or the Plymouth County Land Court Registry, and indexed in the grantor index under the name of the record owner or is recorded and noted on the owner's certificate of title.