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NOTICE OF DECISION

Special Permit A3 with Site Plan Review pursuant to Section IV-D Flexible Residential Development and Section I-I Site Plan Review

- Applicant:** Black Rock Development
19 Clubhouse Drive
Hingham, MA 02043
- Project Site:** 90 Ward Street and 0 Ward Street
Map 124, Lots 25 & 27
Hingham, MA 02043
- Deed Reference:** Plymouth County Registry of Deeds, Book 48235 Page 146
- Plan References:** “Preliminary Flexible Residential Development Subdivision Plan 90 Ward Street Hingham, MA 02043”, prepared by Cavanaro Consulting, 687 Main Street, PO Box 5175, Norwell, Massachusetts 02061, prepared for Black Rock Development, 19 Clubhouse Drive, Hingham, MA 02043, dated 11/27/18, revised to 1/28/19, 6 sheets (the “Preliminary FRD Plan”).

PROCEEDINGS

On November 29, 2018, Black Rock Development (“Applicant”) filed an application (“Application”) for a Special Permit A3 with Site Plan Review pursuant to Section IV-D Flexible Residential Development (“FRD”) and Section I-I Site Plan Review of the Zoning By-law for the construction of 3 single-family dwellings and preservation of open space on approximately 6.2 acres of land, zoned Residence District B, at 90 Ward Street and 0 Ward Street, assessor’s parcel Map 124 Lots 25 & 27 (the “Project”).

A public hearing of the Planning Board was duly noticed and opened on January 7, 2019 and closed on January 28, 2019. The Applicant was represented by John Cavanaro, Cavanaro Consulting; and George McGoldrick. The Planning Board hearings were conducted by Judith Sneath, Gordon Carr, Gary Tondorf-Dick, William Ramsey and Associate Member Ted Matthews. The Planning Board consulted with John Chessia of Chessia Consulting Services, LLC (civil engineering), who acted as a consultant to the Planning Board pursuant to Section I-I (2) of the Zoning By-Law.

BACKGROUND AND DISCUSSION

The Applicant filed an application for a Special Permit A-3 on November 29, 2018, for 3 single-family dwellings on approximately 6.2 acres of land, zoned Residence B, at 90 Ward Street and

0 Ward Street, assessor's parcel Map 124 Lots 25 & 27. This application was submitted in accordance with the requirements outlined in Section IV-D of the Hingham Zoning By-Law. The property is the site of an existing 5,000 square foot house of worship and associated paved parking lot and driveways. The Project is the redevelopment of an existing institutional use to a lower intensity use of single-family dwellings with lawn and landscape areas and the preservation of significant open space.

The proposed Project complies with the minimum eligibility requirements of Section IV-D,3 as follows: The site contains a minimum of three (3) acres and a Conventional Yield of three (as further described below), the site is located in Residence District B, and the Project is proposed as a division of land pursuant to MGL Chapter 41, Section 81P.

The filing included a Conventional Yield Plan as described in IV-D (5) of the Zoning By-Law which shows three residential lots with the ability to site septic facilities (successful percolation tests or an existing system that can be replaced with a Title 5 compliant system). The Conventional Yield Plan also depicts minimal wetland impacts for utility and driveway access. As the site has an area greater than the minimum requirement of three acres, based on the Conventional Yield plan, soil logs, percolation test data, and the Conservation department comments, sufficient evidence was presented that 3 single-family dwellings could be permitted as shown. Therefore, the conventional yield is 3. The FRD Project proposes, in lieu of the conventional subdivision, the construction of three single family dwellings with direct frontage and driveway access to the existing way named Ward Street and drainage basins not associated with roadways.

Section IV-D (6) of the By-Law requires that a minimum of 40% of the site shall be dedicated open space. The Applicant is proposing to reserve approximately 71% of the parcel as dedicated open space. The ownership of the open space shall be proposed by the Applicant and reviewed during the Definitive Plan review phase of the Project. Section IV-D (8) C requires that the percentage of open space that is wetlands not exceed the percentage of wetlands on the entire site. The Open Space calculation on Sheet 6 of 6 of the Preliminary FRD Plan shows that this requirement has been met. The resource areas have been field delineated but they have not yet been confirmed or accepted by the Conservation Commission. The peer review engineer notes that there may be an isolated wetland on the east side of the site southeast of the potential vernal pool in a low area that has wetlands vegetation but did not have standing water at the time of his site visit. Having the resource boundary determined provides certainty to the calculations of open space areas and percentages of wetlands areas that are requirements of the Definitive Plan application.

The Board heard and was mindful of public comments received in writing and at the public hearings, which comments were overwhelmingly in support of the proposed project subject to further review of the Definitive Plan, particularly as to drainage.

The Board reviewed the application materials and found that the information provided on the existing conditions plan is sufficient to review the Preliminary FRD Plan. As the issuance of this Special Permit qualifies the Project as a division of land pursuant to MGL Chapter 41, Section 81P consisting of lots in conformance with the approved Preliminary FRD Plan, the Project does not constitute a subdivision. Therefore, in lieu of submission of a definitive subdivision plan, the Applicant shall be required to submit a Definitive Flexible Residential Development Plan ("Definitive Plan") comprised of a plan consistent with the requirements of MGL Chapter 41, Section 81P and a definitive site plan consistent with the requirements with Section I-I and

applicable provisions of the Planning Board Rules and Regulations, and review of such site plan shall be conducted as a public hearing as contemplated by Section IV-D. The foregoing described submission requirements and review process is consistent with the intent of Section IV-D that a detailed review of the Project be conducted after issuance of a Special Permit approving the Preliminary FRD Plan. The Board noted that additional information will be required during the preparation and review of the Definitive Plan, including information on steep slopes, resource area boundaries and all trees 6” or larger within 20 feet of cleared areas, and those requirements are set forth in the conditions to this Special Permit.

FINDINGS

Site Plan Review – Review Criteria

Based on the information submitted and presented during the hearing, and subject to satisfaction of the conditions set forth below, the Board made the following findings under Section I-I, 6 of the By-Law:

- a. *protection of abutting properties against detrimental uses by provision for surface water drainage, fire hydrant locations, sound and site buffers, and preservation of views, light and air, and protection of abutting properties from negative impacts from artificial outdoor site lighting.*

The Board found that the site is compatible with the predominant single-family dwelling use existing in the surrounding residential neighborhoods as it replaces a non-residential use with significant parking areas and impervious surfaces with single-family dwellings, reduces impervious surfaces and provides for the perpetual preservation of significant open space to protect abutting properties from any negative impacts. More detailed review of drainage will be conducted during the Definitive Plan review.

- b. *convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets; the location of driveway openings in relation to traffic or to adjacent streets, taking account of grades, sight distances and distances between such driveway entrances, exits and the nearest existing street or highway intersections; sufficiency of access for service, utility and emergency vehicles;*

The Board found that the Fire Department memo of December 5, 2018 details requirements that will be required for the Definitive Plan. In addition, Police Chief Glenn Olsson’s correspondence of January 24, 2019 notes that this is a low density proposal and the increased traffic flow should not impact any of the Ward Street infrastructures. He states that he has visited the site and believe the sight lines are also satisfactory.

- c. *adequacy of the arrangement of parking, loading spaces and traffic patterns in relation to the proposed uses of the premises; compliance with the off-street parking requirements of this By-Law;*

The Board found that the Preliminary FRD Plan satisfies the minimum parking requirements of the By-Law for single-family dwellings.

- d. *adequacy of open space and setbacks, including adequacy of landscaping of such areas;*

The Board found that the proposal provides 4.4 acres of open space (71% of the parcel) where 40% of the parcel is required to be dedicated open space.

- e. *adequacy of the methods of disposal of refuse and other wastes resulting from the uses permitted on the site*

The Board found that a detailed review of the adequacy of disposal of refuse and other wastes shall be required during review of the Definitive Plan.

- f. *prevention or mitigation of adverse impacts on the Town's resources, including, without limitation, water supply, wastewater facilities, energy and public works and public safety resources;*

The Board found that the proposed use of the site for three single-family dwellings will not create an adverse impact on the Town's resources. The proposed wastewater facilities for the site will be subject to review by the Board of Health.

- g. *assurance of positive storm water drainage and snow-melt run-off from buildings, driveways and from all parking and loading areas on the site, and prevention of erosion, sedimentation and storm water pollution and management problems through site design and erosion controls in accordance with the most current versions of the Massachusetts Department of Environmental Protection's Storm Water Management Policy and Standards, and Massachusetts Erosion and Sediment Control Guidelines.*

The Board found that a detailed review of the storm water drainage system for the site will be required for the Definitive Plan.

- h. *protection of natural and historic features including minimizing: the volume of cut and fill, the number of removed trees of 6 inches caliper or larger, the removal of stone walls, and the obstruction of scenic views from publicly accessible locations;*

The Board found that the proposed project will result in a significant decrease in existing impervious surfaces, will require less impervious surface than a conventional subdivision and will provide for the preservation of over 4 acres of open space. Detailed review of landscape plans will be required for the Definitive Plan.

- i. *minimizing unreasonable departure from the character and scale of buildings in the vicinity or as previously existing on or approved for the site.*

The Board found that the existing development pattern in the area is predominantly residential. Replacement of the existing use with single family dwellings brings the development on this land to be more in keeping with the character and scale of buildings and the use in the vicinity.

Special Permit A3 - Approval Criteria Under Section I-F, 2.

Based on the information submitted and presented during the hearing, and subject to satisfaction of the conditions set forth below, the Board made the following findings:

a. The proposed use will be in harmony with the general purpose and intent of the Zoning By-Law, for the following reasons:

The project will fulfill the following general purposes of the By-Law: to facilitate the adequate provision of drainage, open space, and other public requirements, to conserve natural resources, and to encourage the most appropriate use of land throughout the Town. By redeveloping an existing non-residential use with significant impervious areas with single-family dwellings consistent with the zoning district in which the project is located and the surrounding neighborhood while preserving significant open space, the use of the site is in harmony with the stated purposes and intent of the By-Law.

b. The proposed use complies with the purposes and standards of the relevant specific sections of this By-Law, for the following reasons:

The proposed Flexible Residential Development complies with the stated purposes of Section IV-D of the By-Law, including the preservation of open space; the protection of natural resources; efficiency and flexibility in the layout of housing, roads, and utilities, and the minimization of disturbance on the site. The proposed use 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 construction of three single-family dwellings, (iii) the site exceeds the minimum Open Space requirements, (iv) except for a portion of the Open Space buffer for which a reduction is granted for the reasons set forth in the separate findings of the Board, 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 such use, structure, or condition, compatible with the characteristics of the surrounding area, for the following reasons:

The site is an appropriate location for the proposed use as a Flexible Residential Development and is compatible with the predominant single-family dwelling use existing in the surrounding residential neighborhoods as it replaces a non-residential use with significant parking areas and impervious surfaces with single-family dwellings, reduced impervious surfaces and the perpetual preservation of significant open space.

d. The use as developed and operated will create positive impacts or potential adverse impacts will be mitigated, for the following reasons:

(i) The Flexible Residential Development as proposed results in a net reduction of impervious coverage for the existing lot from over 28,000 square feet to approximately 15,000 square feet inclusive of the proposed driveways and single-family dwellings. A conventional subdivision would result in at least 12,500 square feet of impervious cover for the roadway alone without calculating impervious cover of homes and driveways.

(ii) The Conventional Yield plan would result in approximately double the amount of site disturbance than the proposed development and would include an approximately 250' roadway serving only two of the three lots.

(iii) The proposed redevelopment of the existing site with single family dwellings is consistent with the development pattern in the surrounding neighborhood.

(iv) Clustering the redevelopment as proposed will minimize new and/or ongoing impacts to the resource areas by providing a large contiguous and mostly undisturbed open space for preservation to the benefit of the neighborhood and the Town.

e. There will be no nuisance or serious hazard to vehicles or pedestrians for the following reasons:

The proposed three single-family dwellings are a less intensive use than the existing non-residential house of worship and the Hingham Police Chief has opined that the sight lines are sufficient.

f. Adequate and appropriate facilities exist or will be provided for the proper operation of the proposed use, for the following reasons:

Adequate waste water facilities will be required by the Hingham Board of Health and constructed prior to certificates of occupancy for the single-family dwellings.

g. The proposed Project meets accepted design standards and criteria for the functional design of facilities, structures, storm water management, and site construction, for the following reasons:

The Special Permit A3 to be issued is based on a Preliminary Flexible Residential Development Plan consistent with the requirements of Section IV-D. The Special Permit will be subject to conditions related to Definitive Plan review related to storm water and site construction. In addition, the project will be subject to Board of Health review and approval of adequate waste water facilities.

Approval Criteria for Reduction of the Open Space buffer pursuant to Section IV-D, 9.d

The Applicant requested a reduction of the Open Space buffer along a portion of the perimeter of the single-family dwelling lots and proposes in the alternative to reserve Parcel A as shown on the Preliminary FRD Plan as dedicated open space available for public use. In addition, the Applicant proposes to provide a landscaped buffer along the westerly and northerly boundaries of the project to provide sufficient screening of the project from the abutting properties.

Based on the information submitted and presented during the hearing, and subject to satisfaction of the conditions set forth below, the Board made the following findings:

1. The site is currently developed for a non-residential use with significant impervious area. The redevelopment of the site as a Flexible Residential Development in place of the existing use will result in the net reduction in impervious surfaces, replacement of an institutional use with a lower intensity use (single-family dwellings) in a residential area, and significantly less impervious surface and disturbance of natural resource areas than a conventional subdivision.

2. The requested reduction on this portion of the project site allows the majority of the development to be clustered in the portion of the site that is already disturbed.

3. Parcel A (Open Space), which is located to the north and east of Lots 2 and 3, comprises 71% (or 4.4 acres) of the total area of the site which is substantially more than the 40% (2.5 acres) of Open Space required under the By-Law.

4. Lot 1 and the westerly portion of Lot 2 abut an existing wetland and drainage area to the north and therefore the waiver of an Open Space buffer on the northerly portions of Lots 1 and 2 will not adversely affect any abutter to the north. In addition, a 15' dedicated landscaped buffer will be provided on Lots 1 and 2 along the northerly boundary and along the westerly boundary of Lot 1. The single-family dwellings on Lots 1 through 3 are to be located approximately 80' or more from the Ward Street right of way. This setback is greater than other abutting residential dwellings along Ward Street, is consistent with the streetscape, and therefore will not adversely affect abutting neighbors or the adjacent roadway.

VOTE AND CONDITIONS

Upon a motion made by Gordon Carr and seconded by Judy Sneath, the Board voted unanimously to make the foregoing findings and to grant a Special Permit A3 with Site Plan Review approval pursuant to Section IV-D and Section I-I of the By-Law approving the Preliminary Flexible Residential Development Plan to create three lots for the construction of three single-family dwellings with a separate parcel of dedicated open space at 90 Ward Street and 0 Ward Street, subject to the following conditions:

1. 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"). As the Preliminary FRD Plan (Sheet 5 of 6) depicts three single-family dwelling lots each with frontage on Ward Street exceeding the minimum required frontage of 50 feet, the project is eligible pursuant to Section IV-D, 3.e to be a division of land pursuant to MGL Chapter 41, Section 81P, subject to submission of a Definitive Plan consistent with this Special Permit. In addition, as the project creates a land disturbance or an alteration of drainage patterns of over an area greater than 20,000 square feet, the project is subject to Site Plan Review pursuant to Section IV-B.6 of the By-Law. Based on the foregoing and the applicable provisions of Section IV-D, the application for Definitive Plan approval shall include the following:
 - (a) A plan pursuant to MGL Chapter 41, 81P consisting of Lots 1 through 3 and Parcel A, which plan shall be substantially consistent with the Preliminary FRD Plan as to lot size and frontage. Such plan shall include a note referencing this Special Permit.
 - (b) Site plans satisfying the submittal requirements under Section I-I, 4 of this By-Law and such additional content set forth in Section 3,C.2 of the Planning Board Rules and Regulations as are applicable to the project.
 - (c) A list of requested waivers to the submission requirements for Site Plan Review and waivers from Planning Board Rules and Regulations.

- (d) Without limiting the foregoing, the Definitive Plan site plans shall include the following:
- (i) A landscape plan which shall show:
 - (A) a 15' dedicated landscape buffer along the westerly boundary of Lot 1 (except to the extent of existing pavement that will serve as the driveway to Lot 1) and the northerly boundary of Lot 1 and Lot 2 up to the westerly boundary with Parcel A. Such buffer shall be planted with a mix of deciduous and evergreen species that are overstory and understory species which shall be listed on the landscape plan, subject to modification by the Conservation Commission to the extent such landscaped buffer area is in a buffer zone to a resource area;
 - (B) the location of all significant trees (6" caliper and above) within 20' of any area to be cleared or altered;
 - (C) all significant trees that will be retained and the size and type of all new trees to be planted;
 - (D) measures proposed to delineate the open space area using boulders, etc. to prevent future encroachments; and
 - (E) the limit of clearing, both temporary (for construction) and permanent, required for all work associated with the project, including homes, driveways, lawns, drives and drainage structures.
 - (ii) The resource boundaries approved by the Conservation Commission shall be delineated and final calculations of the percentage of wetlands on the site shall be provided.
 - (iii) Detail as to the treatment of the area labeled "Proposed Easement For Access to Open Space".
 - (iv) Proposed walkway, paths or sidewalks where appropriate pursuant to Section IV-D,10.d.
 - (v) Compliance with the comments set forth in the comments from the Hingham Fire Department, dated December 5, 2018.
 - (vi) A notation pursuant to Section IV-D,10.e that no lot (Lots 1 through 3 or Parcel A) may be further subdivided.
- (e) A storm water management plan in accordance with applicable requirements outlined in the Planning Board Rules and Regulations. Every effort shall be made to use non-structural Best Management Practices to control run-off, including direct infiltration of roof run-off, harvesting run-off for irrigation purposes during the growing season; and the use of grassed swales and bio-retention areas.

(f) the documentation required pursuant to Section IV-D,8.b with respect to the Open Space and the proposed form of easement for access to the Open Space.

2. There shall be no further division of the Lots or Parcel A.

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.

For the Planning Board,

Gordon M. Carr
Chairman, Hingham Planning Board
EXECUTED this ____ day of February, 2019

Votes:

In favor: Carr, Sneath, Ramsey, Tondorf-Dick, Matthews
Opposed: none

Cc: Clerk, ZBA, Fire, Police, Assessor, Conservation, DPW, Building, BOH, J. Chessia, Susan Murphy, J. Cavanaro