

DRAFT

Senior Residence Special Permit – 08-02
The Residences at Quail Ridge
January 22, 2008



Planning Board

TOWN OF ACTON
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DECISION 08-02

The Residences at Quail Ridge
Senior Residence Special Permit
January 22, 2008

GRANTED with CONDITIONS

Decision of the Acton Planning Board (hereinafter the Board) on the application of Quail Ridge Country Club, LLC c/o Ronald B. Peabody, Manager (hereinafter the Applicant) for property in Acton, Massachusetts, owned by the Applicant. The property is located at 354B Great Road, Skyline Drive, Acton, Massachusetts and shown on the 2007 Acton Town Atlas as D-4/4, D-4/9 and C-4/29 (hereinafter the Site).

This Decision is in response to an application for a Senior Residence special permit, received by the Acton Planning Department on July 23, 2007, pursuant to Section 9B of the Acton Zoning Bylaw (hereinafter the Bylaw) and the Rules and Regulations for Senior Residence special permits (hereinafter the Rules). The Applicant presented the subject matter of the special permit to the Board at a duly noticed public hearing on September 25, 2007. Mr. Steve Graham, of Graham & Harsip, P.C. and Mr. George Dimakarakos, of Stamski & McNary, represented the Applicant.

The hearing was continued to October 23, 2007 and November 27, 2007 and then closed. Board members Gregory E. Niemyski, Edmund R. Starzec, Ruth M. Martin, Michael C. Densen, Bruce Reichlen, and Alan R. Mertz were present throughout the hearing. Mr. Roland A. Bourdon III was designated by the Chairman to sit on the Board to act on this application pursuant to section 10.3.9 of the Bylaw. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Planning Department or the Town Clerk's office at the Acton Town Hall.

1 EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

- 1.1 A plan entitled "The Residences at Quail Ridge, Senior Residence Special Permit, Acton, Massachusetts" dated July 18, 2007, drawn by Stamski and McNary, Inc. of 80 Harris Street, Acton, MA consisting of 43 sheets.
- 1.2 Supplemental items and documentation required by the Rules consisting of:
 - A properly executed Application for Approval of a Definitive Plan, form DP, dated July 17, 2007.
 - Filing fee in the amount of \$69,008.00.
 - Quail Ridge Country Club LLC Consent of Members, July 17, 2007.
 - A completed Development Impact Report, form DIR.
 - Certified abutters list.
 - Use Description.
 - Owner's statement to retain the fee in the street.
 - A letter authorizing Town entry into the Site to complete the streets.
 - Copies of deeds and plans of records.
 - A list of mortgage holders.
 - A draft master deed of the Residences at Quail Ridge Condominium.
 - Documents related to the affordable dwelling units including a written statement regarding percent affordable and marketing (7/17/07); draft regulatory agreement (6/12/07); a letter regarding subsidy arrangements (7/17/07); a letter describing the selection criteria for affordable unit buyers (7/17/07); the Residences at Quail Ridge anticipated construction schedule and schedule for the construction of the affordable units; tabulation of affordable and market rate unit types.
 - Building descriptions for the Residences at Quail Ridge Condominiums (6/14/07); developer information.
 - Draft Residences at Quail Ridge Condominium Trust ownership and maintenance of common land documents, 6/12/07.
 - Other Permits and Variances – list them all???
 - Drainage, earth removal, and water balance calculations.
 - Sewer design calculations.
 - Traffic Impact Study, Conley Associates, March 2007.
 - Architectural Floor and Elevation Plans.
- 1.3 Additional information submitted by the Applicant:
 - Letter from Stamski and McNary, Inc. responding to Town Department, Board, Commission, and abutter input, dated 10/19/07.
 - A revised Site Layout Plan In Acton, Massachusetts, The Residences at Quail Ridge, drawn by Stamski and McNary, Inc., 10/18/07.

- Letter from Graham & Harsip, P.C. responding to Town Department, Board, Commission, and abutter input, dated 10/17/07.
 - Memorandum from Leslie Grant, Transportation Engineer, Conley Associates to Roland Bartl, Town Planner, 10/19/07.
 - Memorandum from Leslie Grant, Transportation Engineer, Conley Associates to Jennifer Conley, P.E., AICP, PTOE, 11/2/07.
 - Memorandum from Leslie Grant, Transportation Engineer, Conley Associates to Dennis Ring, 12/5/07.
 - E-mail from Steven R. Graham, Graham & Harsip, P.C., to Roland Bartl regarding landscaping screening, 12/26/07.
- 1.4 Interdepartmental communication received from:
- Acton Water District, received 9/10/07;
 - Acton Community Housing Corporation, dated 8/21/07;
 - Acton Housing Authority, dated 9/20/07;
 - Acton Fire Chief, dated 11/20/07;
 - Acton Health Director, dated 8/9/07 and 11/7/07;
 - Acton Tree Warden & Municipal Properties Dir., dated 8/6/07 and 11/7/07;
 - Acton Engineering Administrator, dated 9/19/07 and revised 11/21/07;
 - Acton Building Commissioner, dated 8/30/07;
 - Acton Assessor's Office, dated 9/21/07;
 - Acton Treasurer's Office, dated 8/17/07;
 - Acton Planning Department, dated 9/17/07 and revised 11/21/07, and 12/7/07;
 - Acton Natural Resources Director, dated 9/10/07;
 - Acton Sidewalk Committee, dated 8/27/07;
 - Acton Land Stewardship Committee, dated 6/11/07, 9/14/07, and 11/26/07.
- 1.5 Correspondence received from:
- Woodland Design Group, Auburn, NH: Traffic Impact Assessment, Proposed Quail Ridge Country Club Redevelopment, dated 9/20/07.
 - The residents of Acorn Park Drive, Palmer Lane, Hazelnut Street, Beechnut Street, Chestnut Street, and Walnut Street, Acton, MA: petition, dated 9/21/07. – include Association memo too???
 - Mr. Andrew J. Gallo, Bingham McCutchen LLP, Boston, MA representing his client John Bowman in relation to his membership in the Quail Ridge Country Club, letter dated 9/21/07.
 - Mr. James R. Russell, 5 Palmer Lane, Acton, MA, letters dated 10/15/07 and 11/24/07.
 - Concord Public Works, Water and Sewer Division, letter dated 10/26/07 and e-mail from Matthew Mostoller dated 11/19/07.
 - Mr. Allan G. Dennison Jr., 22 Mohawk Drive, Acton, MA, e-mail dated 10/30/07.
 - Mr. Sungyung Lim, 537 Acorn Park Drive, Acton, MA, e-mail dated 11/8/07 and sketch plan of landscape buffer proposal between 537 Acorn Park Drive and 30 Greenside Lane received 11/27/07.
- 1.6 Other
- E-mail from Town Counsel to the Acton Building Commissioner and Acton Town Planner, 1/24/07.
 - E-mail from Ms. Joan Cirillo, Land Steward, Nagog Hill Conservation Area to Roland Bartl regarding easement article for trail on QRCC, 12/29/07.

Exhibits 1.1 through 1.3 are referred to herein as the Plan..

2 FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The Site is located within the «zoning_district» [include all overlay districts: aff. house, gw zone, flood plain].
- 2.2 The proposed use, [name apparent proposed uses], is allowed [not allowed] on the Site [by special permit] in accordance with the Bylaw, including all overlay district requirements.
- 2.3 The Plan shows a «object» on a parcel containing [] acres of land.

Access

- 2.4 *Bylaw section 9B – Senior Residence in sub-section 9B.13 states: “Generally, all streets and ways, drainage facilities and utilities shall be designed and constructed in compliance with the Acton Subdivision Rules and Regulations (the Rules) whether or not the Senior Residence development is a subdivision.”*
- 2.5 *The original plan and application shows three access streets, two from the Acorn Park Subdivision and one via Skyline Drive.*
- 2.6 *The Acorn Park access streets would utilize existing public way street extensions to the Site. Skyline Drive is an existing private access street.*
- 2.7 *Acorn Park residents objected to the use of Acorn Park streets as access to the Site stating that the streets in Acorn Park are not suitable to handle additional traffic and citing concerns over speeding, safety, and congestion.*
- 2.8 *Streets in Acorn Park are laid out in a curvilinear fashion with a pavement width of 20 feet, except for a portion of Acorn Park Drive at 24 feet width, in accordance with the Rules. The standards in the Rules call for 20-foot pavement width in low intensity local streets for traffic volumes up to 250 vehicles per day (+/-25 single-family homes or +/-75 retirement homes), and 24-foot pavement width for other local streets.*
- 2.9 *Acorn Park residents hired a traffic planning firm (Woodland Design Group, Inc.) to evaluate the effect on traffic volumes in Acorn Park streets as a result of new traffic from the proposed Residences at Quail Ridge. Using reasonable trip distribution assumptions, the firm predicts traffic volumes on low intensity local access streets to increase to between 252 and 415 depending on location.*
- 2.10 *In response to the Acorn Park residents’ concerns the Applicant tendered a revised plan showing only one street access via Skyline Drive and two gated emergency accesses from Acorn Park.*
- 2.11 *Street design standards have changed over time with a general trend towards reduced standards in residential areas to discourage speeding, allow the sharing of streets with pedestrians and bicyclists, reduce the environmental footprint, and generally make residential streets more “livable”.*
- 2.12 *The ICMA’s (International City Management Association) 1979 edition of “The Practice of Local Government Planning” suggests two 10-foot wide travel lanes for local access streets and minor connectors with up to 1,500 vehicles per day.*

- 2.13 Similarly, "The Subdivision and Site Plan Handbook", Listokin and Walker, 1989, Rutgers University recommends two 10-foot wide travel lanes for residential access and subcollector streets with up to 1,000 vehicles per day.
- 2.14 AASHTO's (American Association of State Highway and Transportation Officials) "A Policy on Geometric Design of Highways and Streets", 2001 suggests two 9-11 – foot wide travel lanes for residential streets, and further remarks that "traffic volume is not usually a major factor in determining the geometric criteria to be used in designing."
- 2.15 These standard references suggest that the Rules are sufficiently conservative to leave room for additional future traffic growth that may not have been anticipated at the time when a street was designed and approved.
- 2.16 For a number of reasons a single full street access to the 170 or so proposed retirement homes plus a golf course with amenities is a troublesome and unacceptable prospect even if there were one or more emergency access way. The following lists the considerations that lead to this conclusion:
- The Rules limit the number of dwelling units on a single access street to 40. 170 is more than four times that number. To grant a waiver, the Board would have to find in the affirmative that such a waiver is in the public interest or that for a reason the Rules are not applicable here.
 - The Rules state that for more than 40 dwelling units there must be a secondary means of access that is suitable in the opinion of the Planning Board. Thus, the Board reserves room for itself to make judgment calls that are specific responses to specific situations, weighing factors such as the availability and suitability of streets or land for a secondary access, and the reliability of emergency access as compared to full street access against the proposed number of dwelling units above 40.
 - The Rules limit the length of a residential single access street to 500 feet, or 1,500 feet in Open Space Developments, PCRC's, and similar developments. Without a full second street access, the proposed development would have a single access street with other street connected to it, totaling +/-8,400 feet in length – more that four times the Rules' limit. To grant a waiver, the Board would have to find in the affirmative that such a waiver is in the public interest or that for a reason the Rules are not applicable here.
 - The Acton Fire Chief writes in his 11/20/07 evaluation of the single street access Plan version: "Gated emergency access areas as shown are acceptable, provided that provisions are made for maintenance and year round access." The Board cannot brush aside the caveat in that statement. It cannot guarantee that emergency access ways are available at all times especially after frequent heavy snow falls quite common here in New England. At a certain depth, snow covered emergency access ways become useless.
For understandable reasons, the Acton Highway Department has snow removal on emergency access ways at the bottom of its priority list. Due to the limitation of manpower and other resources they in fact never get plowed in winter. There is no reason to assume that this would be any different in private snow plowing operations.
 - In a Planning Advisory Service memo, the American Planning Association (APA) stated significant concerns related to cul-de-sac development design, highlighting that "access to interior lots can be blocked at the open end of a dead-end street or along the cul-de-sac "spine" by an accident, stalled car or truck, fallen tree, snow pile, or construction (November 1985)."

- In the APA's publication "Planning for Street Connectivity: Getting from Here to There", the author's emphasize how street connectivity provides greater emergency vehicle access and reduced response time, and, conversely, provide multiple routes of evacuation in case of disasters such as wildfires (PAS Report 515, May 2003).
 - What then are the consequences of a blockage in the single access street to a housing development due to an accident or natural disaster? In such an event, are the emergency access ways readily available? If not, can the Board justify the delayed response time to an emergency call in the development that will accrue for need of clearing the emergency access first?
 - Can the emergency access safely serve as a fully functioning alternate access or egress in the event of a longer term blockage of the single access street?
 - A second access can improve the quality of utility connections, facilitate maintenance, and enable more efficient transport-based services such as home deliveries, senior vans, or routine ambulance services.
 - The lack of connectivity between neighborhoods isolates them from one another leading to indirect, inefficient routes that have the potential to increase travel distances, travel times, increase the carbon emissions, and reduce the viability of walking and bicycling.
- 2.17 The Board wants to take the Acorn Park residents' concerns seriously. While it appears that the real impact on the Acorn Park neighborhood will be more in the category of nuisance than in the category of danger to life and limb, the Board considers the preservation of the quality and serenity of life of abutters a worthy goal where that is possible after weighing all aspects of a particular situation.
- 2.18 Here the particular situation suggests the need for a deliberate and thoughtful approach to determining the location(s) for a full secondary street access.
- 2.19 Full secondary street access directly to Great Road as an alternative to Acorn Park would provide better and more direct access to the senior housing dwelling units. This appears most practical through Great Road Condominium as an extension eastward of proposed Greenside Lane. There, on the Great Road Condominium property is a wide gap between residential buildings with some driveways and parking lots on it that could be rearranged.
- 2.20 The Board recognizes that Great Road Condominium is an abutter that is not currently a party to the application and that it may reject the proposition of a street access through its property. Nevertheless, the advantages appear significant and the Applicant should therefore explore the feasibility and suitability of a direct connection from proposed Greenside Lane to Great Road through the Great Road Condominium property.
- 2.21 It is also apparent that a new street access option through Great Road Condominium changes the proposed project enough to consider new abutters and new parties in interest that must be notified.

Previous Unfinished Obligations

- 2.22 Great Road Sidewalk from Hillside Place and Skyline Drive
- 2.23 The Golf Course Special Permit, as amended, for the Quail Ridge Country Club on this Site requires:
 " On the Site Development Plan sheets, indicate a proposed trail within a +/-20-foot wide public pedestrian easement or parcel along the northern tier of the Site, connecting the street right-of-way stub off Hazelnut Street in the east with the Nagog Hill Conservation

Area in the west. Attach a note stating that the final disposition of the trail easement and location of the trail is subject to the Board's further review and determination after the clearing and grading work for holes #4 and #5 is completed. The Applicant shall notify the Board when this work is done."

And

" Subject to Town Meeting acceptance, the pedestrian trail easement or parcel from Hazelnut Street to the Nagog Hill Conservation Area shall be deeded to the Town of Acton for public pedestrian use and Town maintenance and emergency vehicle access." The trail easement is shown on the plan, but no easement has been granted to the Town nor has a trail been constructed, even though the clearings for holes #4 and #5 have been long completed, the golf course is in operation, and there is plenty of wooded area along the easement route within which to place the trail.

- 2.24 The Applicant has not finished the construction of sidewalks along Great Road, that were a requirement of the Board stemming from the PCRC special permit for nearby Hillside Place, and from the subdivision approval of Skyline Drive which provides access to the proposed development now before the Board. Both of these projects date a number of years back and are essentially completed except for the required sidewalk.

Other

- 2.25 The Board has received comments from various Town departments, which are listed in Exhibit 1.4 above. These comments were considered by the Board in its deliberations, were made available to the Applicant, and are incorporated into this decision as deemed appropriate by the Board.
- 2.26 [The Acton Treasurer has advised the Board that property taxes for fiscal year(s) [] have not been paid on the land where the project is proposed. Chapter O of the Bylaws of the Town of Acton requires addresses non-payment of taxes and the resulting loss of the privilege to obtain certain permits.]
- 2.27 [Chapter J of the Bylaws of the Town of Acton identifies «location» as a Scenic Road.]
- 2.28 The Applicant has requested certain waivers from the Rules. These are discussed in section 3.1 Waivers below.
- 2.29 The Plan as amended herein and the proposed use[s] as approved herein are appropriate for the Site; consistent with the Master Plan; in harmony with the purpose and intent of the Bylaw, specifically Section []; and comply in all respects to the applicable requirements of the Bylaw, and [] Rules. They enhance the purpose and intent []; are in harmony with the existing and probable future uses of the area and with the character of the surrounding area and neighborhoods; and will therefore not be detrimental or injurious to the neighborhood. [insert all mandatory findings for a grant as required in the Bylaw, or as appropriate for denial].

3 BOARD ACTION

Therefore, the Board voted to GRANT [DENY] the requested special permit subject to and with the benefit of the following waivers, Plan modifications, conditions, and limitations.

3.1 WAIVERS

The Applicant has requested the following waivers from the [applicable] Rules:

- 3.1.1 Waiver from section []. The waiver is GRANTED [NOT GRANTED] because []

3.1.2 Waiver from section []. The waiver is GRANTED [NOT GRANTED] because[]

3.2 PLAN MODIFICATIONS

The Building Commissioner shall not issue a building permit, nor shall any construction activity begin on the Site, until and unless he finds that the Plan is revised to include the following additional, corrected, or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons or agencies other than the Building Commissioner, the Applicant shall be responsible for providing evidence of such approvals to the Building Commissioner.

3.2.1 Show all modifications required under section 3.1 Waivers above.

Access:

3.2.2 *Besides Skyline Drive, there shall be at least one additional full street access to the Residences at Quail Ridge from the Acorn Park subdivision via Hazelnut Street and/or via Palmer Lane, unless the Applicant can secure an alternative second street access to Great Road through the Great Road Condominium property.*

Step 1 - Determining Feasibility and Suitability of Street Access through Great Road Condominium:

3.2.2.1 *The Applicant shall make a diligent and good faith effort and negotiate in good faith with the Great Road Condominium Board of Directors or Trustees to secure a 2nd access through the Great Road Condominium property.*

3.2.2.2 *The Applicant shall consult with MassHighway regarding a new or modified curb-cut on Great Road.*

3.2.2.3 *The Applicant shall investigate all other potential agencies with jurisdiction for a street access through the Great Road Condominium due to the presence of wetlands, septic systems, drinking water wells, etc.*

3.2.2.4 *The Applicant shall at a time of its choosing file an application to the Board for making a determination on the feasibility and suitability of street access through the Great Road Condominium property. The application shall include, as available after the Applicant's diligent effort, the following:*

- *Copies of correspondence to, with, and from the Great Road Condominium Board of Directors or Trustees.*
- *Votes taken by the Great Road Condominium Board of Directors or Trustees.*
- *Votes taken by the Great Road Condominium Association members.*
- *Any agreements, including purchase and sale agreement, with the Great Road Condominium Board or Association for the street access.*
- *Appraisals.*
- *Zoning analysis, including if necessary for zoning compliance with the application of section 8.8 of the Acton Zoning Bylaw.*
- *Studies, including traffic studies, and preliminary layout and construction plans for street access through the Great Road Condominium property to Great Road.*
- *Any mitigation plans for the Great Road Condominium such as replacement of parking spaces or landscaping.*

- Arrangements and agreements with Great Road Condominium for the maintenance of the street access through their property.
 - Cost estimates.
 - Correspondence to, with, and from MassHighway, and rulings from MassHighway concerning a new or modified curb cut at Great Road Condominiums.
 - Correspondence to, with, and from, and rulings or any other documentation from other agencies with jurisdiction.
- 3.2.2.5 After receipt of the aforesaid application, the Board will forthwith schedule a public hearing that will be held in the same manner as a public hearing required for special permits under M.G.L. Ch. 40A including the requisite notifications to parties in interest and legal notices in the paper. There shall be no application fee. The Applicant shall only pay for all required notifications to parties in interest and for legal notices.
- 3.2.2.6 At the hearing the Board will review the Applicant's materials, seek to hear from the Applicant and representatives with authority from the Great Road Condominium, and will hear comments from the attending public.
- 3.2.2.7 The Board reserves its right to engage peer review consultants at the Applicants cost in accordance with the Rules.
- 3.2.2.8 After the close of the hearing the Board will determine the feasibility and suitability of street access to Great Road through the Great Road Condominium property and render a supplemental decision at its next regularly scheduled meeting.
- 3.2.2.9 If the Board finds that a street access to Great Road is agreeable to the Great Road Condominium under reasonable terms and conditions, and finds it otherwise feasible and suitable to construct the same, it will issue a supplemental decision of approval for this access, which may contain conditions and required plan modification. The Plan as otherwise approved hereunder shall then be modified accordingly, and the Applicant shall construct said access as approved by the Board.
- 3.2.2.10 If the Board finds that there is, for good and reasonable cause, no agreement between the Applicant and Great Road Condominium to install a street access through the condominium to Great Road, or if it finds that such an access is otherwise not feasible or suitable, it will issue a supplemental decision rejecting this access.

Step 2 - Determining Access through Acorn Park:

- 3.2.2.11 In the event that the Board rejects direct Great Road access through the Great Road Condominium property, the Applicant shall proceed assessing the advantages and disadvantages of the following three access alternatives through the Acorn Park subdivision, and provide possible traffic mitigation solutions for each alternative that will maximize traffic and pedestrian safety in the streets within the Acorn Park subdivision:
- Access via Hazelnut Street.
 - Access via Palmer Lane.
 - Access via both Hazelnut Street and Palmer Lane.

- 3.2.2.12 *When completed, the Applicant shall at a time of its choosing file an application to the Board for making a determination on access through the Acorn Park subdivision. The application shall include for each alternative the following materials prepared by professionals in traffic planning, traffic engineering, and civil engineering as most applicable to each specific material:*
- *Projected traffic volume data at build-out conditions for all affected streets in the Acorn Park subdivision.*
 - *Projected volume-to-capacity (v/c) ratio assessments for each affected street in the Acorn Park subdivision taking into account:*
 - a. *street widths;*
 - b. *street curvatures;*
 - c. *sight distances along street segments and at intersections; and*
 - d. *any other relevant street conditions.*
 - *Mitigation measures designed to help improve v/c ratios as necessary and to otherwise maintain safety and discourage speeding. These may include, but shall not necessarily be limited to:*
 - a. *pavement widening or narrowing;*
 - b. *sight distance improvements;*
 - c. *traffic calming devices such as neck-downs or raised intersections;*
 - d. *one-way traffic regulations; and*
 - e. *one-way traffic regulations at the connection points to the Acorn Park subdivision only with one-way travel lanes long enough or curved to discourage violators.*
 - *Preliminary plans for each solution and associated mitigation options.*
 - *Narratives that explain, elaborate, and discuss the aforesaid plans and materials in terms that can be understood by non-experts.*
- 3.2.2.13 *After receipt of the aforesaid application, the Board will forthwith schedule a public hearing that will be held in the same manner as a public hearing required for special permits under M.G.L. Ch. 40A including the requisite notifications to parties in interest and legal notices in the paper, except that in this case the parties in interest shall be limited to the residents and addresses within the Acorn Park subdivision and the Town of Concord Water Department. There shall be no application fee. The Applicant shall only pay for all required notifications to parties in interest as defined in this section and for legal notices.*
- 3.2.2.14 *At the hearing the Board will review the Applicant's materials, seek to hear from the Applicant and its engineers and consultants, and will hear comments from the attending public. The subject of that hearing will not be whether or not there shall be access through the Acorn Park subdivision, but rather only how there shall be such access.*
- 3.2.2.15 *The Board reserves its right to engage peer review consultants at the Applicants cost in accordance with the Rules.*
- 3.2.2.16 *After the close of the hearing the Board will evaluate each alternative in light of the evidence presented in the application and at the hearing, and then render a supplemental decision at its next regularly scheduled meeting approving for implementation a suitable access alternative through the Acorn Park subdivision with, with some, or without associated mitigation measures. The Plan as otherwise approved hereunder shall then be modified accordingly, and the Applicant shall construct said access as approved by the Board.*

Other

- 3.2.3 [All other detailed modifications required]
- 3.2.4 The Plan shall be modified to address any remaining concerns raised by the Acton Engineering Department in their memo dated .
- 3.2.5 The Plan shall be modified to comply in all respects with the Bylaw. Unless directed otherwise by this decision, the Plan shall also be modified to comply with all requirements of the Rules, and to address all departmental comments received by the Board in a manner that resolves any concerns raised therein to the satisfaction of the Board.

3.3 CONDITIONS

The following conditions shall be binding on the Applicant and its successors and assigns. Failure to adhere to these conditions shall render this special permit null and void, without force and effect, and shall constitute grounds for the revocation of this special permit, and of any building or occupancy permit issued hereunder. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.

Previous Unfinished Obligations

- 3.3.1 *Prior to the issuance of a building permit on the Site for any dwelling units or other improvements shown on the Plan, the Applicant shall*
- *grant the Town an easement or parcel for the pedestrian trail from Hazelnut Street to the Nagog Hill Conservation Area along the northern Site boundary in the location more or less as shown on the plan approved under the golf course special permit for the Quail Ridge Country Club (decision #02-06 as amended). The easement, which is subject to Town Meeting acceptance, shall be for public pedestrian use and Town maintenance and emergency vehicle access.*
 - *Complete the construction of the trail, or assist the Land Stewardship Committee with the completion of the trail.*
- 3.3.2 *Prior to the issuance of a building permit on the site for any dwelling units or other improvements shown on the Plan, the Applicant shall complete all sidewalks along Great Road as required in the Hillside Condominium PCRC special permit, as amended, and in the Skyline Drive subdivision approval.*

Other

- 3.3.3
- 3.3.4 The Applicant shall be diligent in complying with the erosion and sediment control plan. The Applicant shall not cause or permit the runoff of water or erosion those results in the flooding or siltation of any street, way or drainage facility owned or maintained by the Town. If such runoff or erosion occurs, the Building Commissioner may order the immediate cessation of any excavation, construction and building activities until the conditions that caused the runoff or erosion have been corrected.
- 3.2.2.17 All requirements of the Health Director must be met.
- 3.2.2.18 All taxes, and penalties and back charges resulting from the non-payment of taxes, shall be paid in full prior to issuance of a building permit.
- 3.2.2.19 Prior to the issuance of any building permit on the Site, the Applicant shall provide the Board with a performance guarantee of [\$] to secure []. Said performance

guarantee shall be a passbook in a form acceptable to the Town of Acton Treasurer. The Board reserves the right to require additional performance guarantees for any and all items and improvements shown on the Plan.

- 3.2.2.20 No work on the Site shall begin prior to the issuance of a building permit.
- 3.2.2.21 All common land areas shall remain in their natural state and remain undisturbed during and after construction except as shown on the Plan.
- 3.3.1 **[If common land to Town:** Specify that common land be offered to Town for acceptance before or concurrently with street acceptance.]
- 3.3.2 **[If there are street projections or pedestrian/bicycle connections:** No building permits or covenant releases for adjacent lots until these projections and paths are built.]
- 3.3.3 **[If there are street projections or pedestrian/bicycle connections:** Require that rights of way fir projections and connections be offered to the Town for acceptance concurrently or before street acceptance.]
- 3.3.4 **[If PCRC or OSD:** The number of dwelling units on the Site shall not be increased above the number shown on the Plan and approved hereunder.]
- 3.3.5 **[If PCRC or OSD:** The common land shown on the Plan and approved hereunder, including any portion that exceeds minimum zoning requirements, shall not be reduced in area.]
- 3.3.6 **[If PCRC or OSD:** No portion of the common land shown on the Plan and approved hereunder, including any portion that exceeds minimum zoning requirements, shall be used to meet area, setback, or any other zoning requirements for any other development or improvement that is not shown on the Plan, specifically, it shall not be used to support additional dwelling units or house lots.]
- 3.2.2.22 All work on the Site shall be conducted in accordance with the terms of this special permit and shall conform with and be limited to the improvements shown on the Plan as modified herein.
- 3.2.2.23 All water service lines shall be installed in accordance with the specifications of the Acton Water Supply District.
- 3.2.2.24 All work on the Site shall be performed in compliance with the applicable law and regulations protecting wetlands and wildlife habitat in the Town of Acton.
- 3.2.2.25 The responsibility for plowing and maintenance of all streets in the proposed subdivision shall be that of the Applicant or his designee or assign until such time as the streets may be accepted by the Town of Acton as a public ways. Following acceptance of the streets, the Town's maintenance responsibilities will follow standard procedures for Town streets and ways and shall be limited to the improvements located within the street layouts and associated with their function as a street, and to any improvements associated with street drainage located within designated utility easements. The maintenance of all private utilities and services located within or outside the street layout or said easements and of any private drainage facilities feeding into drainage structures within the street layouts or easements shall not be the responsibility of the Town.
- 3.2.2.26 This Decision and [other documents] shall be recorded at the Middlesex South District Registry of Deeds or the Land Court prior to the issuance of a building permit on the Site.

3.4 LIMITATIONS

The authority granted to the Applicant under this special permit is limited as follows:

- 3.4.1 The foregoing required modifications and conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Bylaw and the Rules.
- 3.4.2 This special permit applies only to the Site identified in this decision and to the proposed use and activity as shown on the Plan.
- 3.4.3 Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.4.4 This special permit shall lapse if substantial use thereof has not commenced within two years of the filing date of this decision with the Town Clerk, except for good cause, or if construction under this special permit is not continued through to completion as continuously and expeditiously as is reasonable. For substantial use to have commenced, clearing and grading of at least one street as approved hereunder must be under way. For construction to continue towards completion as continuously and expeditiously as is reasonable, construction activity shall not rest for more than 1 year. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates, and the Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to the special permit and to require any appropriate modifications of the Plan.
- 3.4.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

4 APPEALS

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, S. 17 and shall be filed within 20 days after the date of filing this decision with the Town Clerk.

The Town of Acton Planning Board

Gregory E. Niemyski, Chairman

Edmund R. Starzec

Ruth M. Martin

Bruce Reichlen

Michael C. Densen

Alan R. Mertz

Roland A. Bourdon, III, Associate

(or)

Signed on behalf of the Acton Planning Board

Roland Bartl, AICP, Town Planner
for the Town of Acton Planning Board

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Eva Bowen, Town Clerk

Date

Copies furnished:

Applicant -
certified mail #
Town Clerk
Fire Chief
Owner
MAGIC (DRI only)

Building Commissioner
Engineering Administrator
Conservation Administrator
Police Chief
Historical Commission
Historic District Commission

Health Director
Municipal Properties Director
Town Manager
Acton Water District
Assistant Assessor

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