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Planning Board

AMENDMENT #1 OF DECISION 08-02

The Residences at Quail Ridge
Senior Residence Special Permit
354B Great Road/Skyline Drive

August 2, 2011

This is an amendment by the Planning Board (hereinafter the Board) of its decision and supplemental decision issued to Quail Ridge Country Club, LLC on February 12, 2008 and October 14, 2008 respectively for property at 354B Great Road/Skyline Drive shown on the 2007 Acton Town Atlas as parcels D-4/4, D-4/9 and C-4/29 (hereinafter the Site). The 2008 decision and supplemental decision are referred to hereinafter as the Original Decisions.

This Amendment Decision is in response to the request of Pulte Homes of New England LLC of 115 Flanders Road, Suite 200, Westborough, MA 01581 and QR Properties, LLC of 32 Sandy Pine Road, Templeton, MA 01468 (hereinafter the Applicant) for an amendment of the Original Decisions and of the project site plan approved thereunder. The property is now owned by QR Properties LLC by deed from Quail Ridge Country Club LLC, dated February 25, 2009, recorded at the Middlesex South District Registry of Deeds in Book 52286, Page 122. Pulte

Homes is under agreement to purchase the Site and intends to develop it "substantially in conformance to the approved Site Plans and Special Permit requirements" with "minor modifications .... to accommodate Pulte Homes' desired architectural program". The Board held a public hearing on the matter on July 19, 2011 with Board members Ryan J. Bettez (Chairman), Ray S. Yacouby (Clerk), Roland A. Bourdon, III, Derrick Chin, and Margaret Woolley Busse sitting. Messrs. Mark Mastroianni and Reid Blute represented the Applicant. Messrs. Stephen DeCoursey and James Bernardino attended on behalf of the Applicant's engineering firm, Bohler Engineering of 352 Turnpike Road, Southborough, MA 01772. The minutes of the hearing and submissions, on which this decision is based upon, may be referred to in the Office of the Town Clerk or in the Acton Planning Department.

1 EXHIBITS

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

1.1 Request for Amendment to Special Permit Decision 08-02 by Bohler Engineering on behalf of the Applicant, dated May 27, 2011 (cover letter).

1.2 Table of Contents.

1.3 "Amendment Request to Accommodate Pulte Homes Building Program" (written description), consisting of (a) Modifications to Building Layout and Unit Count; (b) Modifications to Roadway Layout; (c) Modifications to Affordable Units; (d) Requested Waivers; and (e) Special Permit Amendment Fee Calculations.

1.4 List and description of "Additional Waivers Requested to Make Modifications Required by Special Permit Decisions 08-02".

1.5 "Special Permit Conditions Status Update".

1.6 "Supplemental Special Permit Conditions Status Update".

1.7 A plan entitled "Amendment to Special Permit for Pulte Homes, The Residences at Quail Ridge, 354B Great Road/Skyline Drive, Town of Acton, Middlesex County, MA", drawn by Bohler Engineering, dated May 23, 2011, consisting of three sheets (T-1, C-1, and C-2),

1.8 Eight details sheets by Bohler Engineering (EX-C, -D, -E, -F, -G1-G3, and –H), dated 06/07/2010.

1.9 Pulte Homes architectural plans and renderings, dated May 2011, consisting of 14 sheets (A1-A14).

1.10 Landscape plans, two sheets (L-1 and L-2) by Mungeam Cornish Golf Design, dated 06/20/07; and L-3 through L-12 (ten sheets) by Huntress Asociates, Inc., dated 5/24/11.

1.11 Drainage Report by Bohler Engineering, dated February 28, 2011 (202 pages including appendices).

1.12 A list of the parties in interest.

1.13 Filing Fee.

1.14 The Original Decisions.

1.15 Comments from Town of Acton staff and committees:

a) Planning Department, dated July, 13, 2011.

b) Historical Commission, dated July, 13, 2011.

c) Land Stewardship Committee, dated July 12, 2011.

d) Acton Water District, dated July 5, 2011.

e) Health Department, dated 7/5/2011.

f) Acton Community Housing Corporation, dated July 1, 2011.

g) Building Commissioner, dated 7/8/2011.

h) Tree Warden and Municipal Properties Director, dated June 23, 2011.

i) Engineering Department, dated June 16, 2011.

j) Finance Department, dated June 1, 2011, with 7-page attachment.

1.16 Letter from abutter Valerie Bauer Gore, dated July 8, 2011.

1.17 Letter from Michael F. Rolla, Manager of QR Properties, LLC, to John Murray, III, dated July 19, 2011, concerning payments of unpaid real estate taxes.

Exhibits 1.1 through 1.11 are referred to herein as the Plan Changes.

2 FINDINGS AND CONCLUSIONS

2.1 The proposed Plan Changes individually and in the aggregate do not significantly alter the overall project on the Site as approved by the Original Decisions.

2.2 The proposed Plan Changes include:

2.2.1 Different architectural designs.

2.2.2 Reduction in the overall unit count from 174 to 153.

2.2.3 Elimination of the multi-unit garden style dwellings at Greenside Lane with duplexes.

2.2.4 Relatively fewer single-family style units and relatively more duplexes. Reduction of the affordable units from 9 to 8.

2.2.5 Realignments of certain sections of Quail Ridge Drive and Ryder Path.

2.2.6 Deletion of Bentgrass Path.

2.2.7 Continuation of Greenside Lane east of Skyline Drive as a loop back onto Skyline Drive.

2.3 The plans submitted by the Applicant also show several modifications that begin to address in concept the requirements of the Original Decisions, such as access improvements on Skyline Drive from Great Road; connections to Hazelnut Street and Palmer Lane; and ending Greenside Lane west of Skyline Drive at unit 29.

2.4 The Applicant presented only conceptual plans for the proposed Plan Changes. Therefore, the Board's action as stated in this Amendment Decision is based on these conceptual designs only. Detailed engineering plans and documentation remain subject to further review and approval.

2.5 The Original Decisions require the conveyance to the Town of a pedestrian trail easement from Hazelnut Street to the Nagog Hill Conservation Area, the preparation of all trail design documents, and the subsequent construction of the trail (with an option to assist the Acton Land Stewardship Committee with the trail construction). In April 2008 the Acton Town Meeting voted to accept the easement. The easement has been granted in November 2008 (see at the Middlesex South District Registry of Deeds – easement recorded in Bk: 51930 Pg: 356; easement plan recorded as Plan No. 996 of 2008; and numerous recorded consents and subordination agreement related to the easement).

2.6 Several proposed units along Quail Ridge Drive, especially units 92, 93 and 94 are very close to the said trail easement. As located these units have no back yard without encroaching into the easement. Potential conflicts between trail users and residents in the specified units may result. At the hearing the Applicant proposed a +/-300-foot long privacy fence along the easement line (stockade fence or similar).

2.7 At the hearing, the maintenance supervisor for the abutting Great Road Condominium noted ongoing flow and seepage of water from the Site onto the condominium property and parking lots. It appears that the Original Decisions require modifications to the drainage design that are expected to cure this problem.

2.8 The Historical Commission recommends an archeological review of the remaining undisturbed land. A study commissioned by the Town of Acton and completed in 2008 identified most of the Site as an area with a high probability for Post-Contact Activity; i.e. Native American activity occurring after first contact with European settlers.

2.9 The Applicant has requested several additional waivers from the applicable Subdivision Rules and Regulations, which are discussed below.

2.10 The Board has received comments from various Town departments, which are listed in Exhibit 1.15 above. The Board considered these comments in its deliberations, made them available to the Applicant, and incorporated them into this Amendment Decision as the Board deemed appropriate.

3 BOARD ACTION

Therefore, the Board voted unanimously (5-0) to **APPROVE** the requested Plan Changes as a modification of its Original Decisions subject to the following waivers, conditions and decision amendments:

3.1 WAIVERS

The Applicant has requested the following additional waivers:

3.1.1 To allow the reconfigured Greenside Lane east of Skyline Drive with 52' centerline radii in two adjacent curves, where the required minimum is 110'. The particular low-volume location of the proposed curves within the context of the overall street network and adjacent traffic controls allows for tight radii in this location without creating dangerous traffic conditions or compromising public safety. The requested waiver is GRANTED.

3.1.2 To allow a sidewalk that would be 4 feet wide and without a green strip separating it from the roadway for two locations: (1) a distance of more than 500 feet along the Skyline Drive entrance; and (2) a distance of approximately 100 feet along Quail Ridge Drive near Hazelnut Street. The Subdivision Rules require 5-foot wide sidewalks with 5-foot wide green strips. The Original Decisions had waived the minimum 5-foot green strip requirement to 3 feet. The subject locations are over existing bridges or culverts and along existing retaining walls with wetlands on either side below the grade of the road. There are also existing or proposed guard rails along the Skyline Drive section. While the bridges, culverts, and retaining walls cannot be relocated without severely impacting the adjacent wetlands resources, the existing or proposed guard rails appear moveable. Therefore, requested waiver is GRANTED only to allow the elimination of the

green strip. The requested waiver to allow 4-foot sidewalks is NOT GRANTED. All sidewalks shall be not less than 5 feet wide, and a vertical curb shall be installed where the green strip is waived.

3.1.3 To allow a reverse curve without a tangent where Quail Ridge Drive crosses the brook west of Hazelnut Street. The existing bridge or culvert accommodates the present access driveway to the Town of Concord water treatment facility. It is not properly aligned with the existing street layout projection from Hazelnut Street to the Site. Reconstruction of the bridge or culvert would cause significant and unwarranted impacts to the adjacent wetlands resources. Each of the reverse curves is fairly short. The minimum sight distances appear to remain intact in both directions. The requested waiver is GRANTED.

The above waivers are granted conditionally on the basis of the conceptual nature of the plans that the Applicant submitted. The Board reserves the right to reconsider, modify, condition, and/or potentially reverse these waivers upon receipt and review by the Town staff of the fully engineered plans.

3.2 ORIGINAL DECISIONS - Text Amendments

3.2.1 Section 3.3.17 of the February 2008 Decision is hereby amended by deleting the Town of Acton and the Acton Community Housing Corporation and inserting the Department of Housing and Community Development or its designee as the monitoring agent.

3.2.2 Section 3.3.18 of the February 2008 Decision is hereby amended by deleting subparagraph (b) of the local preference criteria.

3.2.3 Section 3.3.2 of the February 2008 Decision is hereby deleted. In 2010 the Town has taken the performance guarantee for the Great Road sidewalk that was required and has assumed the responsibility for constructing it with the proceeds.

3.2.4 As a clarification and restatement of the prior obligations with respect to the public use of the golf course for as long as it is in operation, section 3.3.7 of the February 2008 decision is hereby restated as follows below. This supplemental requirement of said section 3.3.7 shall be read to be consistent with the prior commitments made at the time of and in connection with the 2004 land purchase by Quail Ridge Country Club, LLC from the Town of Acton and shall be binding on Pulte Homes of New England LLC and its successors and assigns (the "Owner").

3.3.7 At no cost to the Town of Acton or any of its residents the golf course shall be available:

- To the Town of Acton, one day per year, which day may be any day of the Town's choosing (provided that the Town shall give the Owner of the golf course 180 day written notice within the months of May, June, July, August, September, or October), for the purpose of the Town hosting a fund-raising event for the benefit of the Recreation Department of the Town.
- To the Acton/Boxborough Regional Golf Team for practices, matches and toumament play at times to be agreed upon by the Town and the Owner of the golf course, which terms shall provide for the minimum average number of twelve practices per month, and a minimum average of four matches and tournament plays per month.
- To the general public during the off-season for winter recreational opportunities, such as cross-country skiing or snow shoeing.

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 Amendment Decision null and void, without force and effect, and shall constitute grounds for its revocation. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.

3.3.1 The Building Commissioner shall not issue a building permit, nor shall any construction activity begin on the Site, until and unless the Zoning Enforcement Officer finds that the fully detailed engineering plans, prepared consistent with the requirements of the Acton Subdivision Rules and Regulations, demonstrate compliance with the Original Decisions as further amended herein, including consistency with the Plan Changes approved in concept or further modified and added to by this Amendment Decision. The Zoning Enforcement Officer may delegate reviews to and solicit advice from other Town entities as he deems appropriate and necessary.

3.3.2 Prior to the issuance of a Building Permit, the Applicant shall demonstrate compliance with the terms of the executed and recorded pedestrian Trail Easement between Hazelnut Street and the Nagog Hill Conservation area.

3.3.3 At a minimum show on the plan a +/-300-foot long, 6-foot high, privacy fence on the south side of the pedestrian trail easement line behind units 92, 93 and 94. While not required, the Applicant might also consider modified unit designs or layouts, or other plan adjustments to increase the back yards between said units and the fence.

3.3.4 Show on the plan as a detail the entire trail design within the easement consistent with the terms approved by the Conservation Commission and as further recommended by the Land Stewardship Committee, including locations of trail markers and directional signage, trail surface treatment, and structural specifications.

3.3.5 Retain the proposed trailhead parking lot between units 80 and 81 off Quail Ridge Drive and, in consultation with the Natural Resourcves Director and the Land Stewardship Committee, add a trail connection from there to a trail within or leading to the Nagog Hill Conservation Area. The Board encourages the Applicant and the Land Stewardship Committee to pursue this as an addition to the pedestrian trail easement discussed in the previous three paragraphs.

3.3.6 Prior to the issuance of a building permit the Applicant shall (1) demonstrate that an archeological review of the Site has been performed after 1998 to the satisfaction of the Massachusetts Historical Commission (MHC); or (2) perform an archeological review or survey of the remaining undisturbed areas on the Site in conformance with standard guidelines of and in consultation with the MHC, and subject to final approval by the MHC.

3.3.7 The Skyline Drive to Palmer Lane pedestrian, bicycle, and vehicular emergency access shall be completed and open for use before the issuance of the building permit for the 40th dwelling unit located on the east side of the Quail Ridge Drive brook crossing between units 9 and 62.

3.3.8 Subject to section 4.1.4 of the October 2008 Decision, the Applicant, his successors and assigns shall, together with all streets and ways on the Site, maintain and keep clear of snow and ice the opened Skyline Drive to Palmer Lane access.

3.3.9 The Quail Ridge Drive to Hazelnut Street connection shall be completed and open for use before of the issuance of the building permit for the 40th dwelling unit located on the west side of the said Quail Ridge Drive brook crossing. The connection shall remain closed before then and, pursuant to section 3.3.26 of the February 2008 Decision, it shall remain closed during the entire time of construction to all construction related vehicles and traffic, including subcontractors and other tradesmen. Furthermore, without changing the street cross section and design as currently proposed in concept, the Quail Ridge Drive to Hazelnut Street connection shall be opened only for pedestrian, bicycle, and emergency vehicle passage. Appropriate signs posting this restriction shall be installed on both sides of the connection. There shall be no gate at this connection.

3.3.10 The plan shall be modified to comply with the requirements and specifications of the Acton Water District and to be responsive to the recommendations of the Water District Manager in his comments dated July 5, 2011.

3.3.11 This Amendment Decision expressly incorporates by reference and restates the Board's Decision # 08-02 dated February 12, 2008, as previously supplemented and modified by the Board's Supplemental Decision # 08-02 dated October 14, 2008, including without limitation all of the waivers, required plan modifications, and conditions contained therein. Except as previously supplemented and modified by the Board's Supplemental Decision # 08-02 dated October 14, 2008 and except as further expressly amended and modified herein, the Original Decisions, the Plan approved thereunder, and all of the waivers, required plan modifications, and conditions contained in the Original Decisions shall remain in full force and effect and shall be binding on the Applicant and the Applicant's successors and assigns.

3.3.12 This Amendment Decision shall be recorded at the Middlesex South District Registry of Deeds before the issuance of any building permits.

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.

Signed on behalf of the Acton Planning Board

Roland Bartl

Roland Bartl, AICP, Town Planner

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 Szkaradek, Town Clerk Date

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