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DECISION OF THE ANDOVER PLANNING BOARD
AS A SPECIAL PERMIT GRANTING AUTHORITY

ON THE APPLICATION OF
CSH Andover, LLC

For a Special Permit for Earth Movement under Section 6.3 of the Zoning By-Law.

Decision: SP15-03

YES (with conditions)

A public meeting of the Planning Board was held on July 21, 2015, in the second floor conference room of the Town Office Building. Present and voting in the affirmative on the matter were members Zachary Bergeron, Joan Duff, Vincent Chiozzi, and Ann Knowles.

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TOWN OF ANDOVER, MASS

Pursuant to public notice in the Andover Townsman, a newspaper of general circulation in the Town of Andover, published on June 4, 2015 and June 11, 2015, and notice sent by mail, postage prepaid, to all interested parties pursuant to the provisions of Massachusetts General Laws, Chapter 40A, a public hearing was convened on June 23, 2015 on the application of CSH Andover, LLC for a Special Permit for Earth Movement associated with a Definitive Subdivision development of a residential subdivision. The hearing was continued and later closed on July 14, 2015, with the aforementioned members of the Board present throughout.

Premises affected is property owned by Robert J. Maye and Lisa Holihan Maye located at 139 - 143 Elm Street and 26 Pine Street and shown on Assessors Map 21 Lots 139 and 144,

comprising of 10.07-acres, hereinafter referred to as the “site”, on which a definitive subdivision plan entitled CSH of Andover would take place.

In consideration of the Special Permit for Earth Movement, the applicant had submitted an earth quantities plan and an erosion and sedimentation control plan for review. In the analysis, as prepared by Marchionda & Associates LP there will be approximately 6,700 cubic yards of material exported from the site. It has been the past practice of the Planning Board to regulate the hours and days of the earth movement activities. In this instance, the Planning Board has conditioned their approval by restricting earth movement activities to the time period between the last morning pick-up of school children, and the first afternoon drop off.

In considering a special permit for earth removal and regrading the Planning Board must find that the subdivision plan with which it is associated, as a whole, makes the best feasible use of existing topography. The Board must also find that the proposed use will not be unreasonably detrimental to the established or future character of the neighborhood or the town, and further that there are adequate public roadways and municipal utilities. In considering a special permit the Board can, and will, impose such conditions or safeguards, as it deems reasonably necessary.

In the opinion of the Board, the subdivision plan as a whole, makes the best feasible use of the existing topography; the areas of the building lots themselves; and the roadway profiles which will not involve major cuts or removal of earth materials from the site. Although the development is being constructed in an established neighborhood, any adverse effects to those abutters can be mitigated through the regulation of hours of operation.

In consideration of the abutting residences, the anticipated hauling operations associated with the development, the existing vegetation, and the preservation and protection of significant natural features, the Planning Board has conditioned their approval to help mitigate any adverse effects that may be associated with this development. In the opinion of the Board the issuance of the special permit (with appropriate conditions) will not result in unreasonable detriment to the neighborhood or the Town.

In consideration of all of the foregoing, including the plans, documents, and testimony given during the public hearing, the Planning Board hereby approves and issues a Special Permit for Earth Movement, applicable to the property earlier described, and subject to the following conditions:

Conditions of Approval:

1. For purposes of this approval the subdivision shall be defined as all features depicted on the plans described under condition number 2; the developer shall be defined as the applicant, CSH Andover LLC and Robert J. and Lisa H. Maye and its assigns or successors in title to the development, and all contractors and subcontractors under control of or in service to the developer;
2. The construction and grading of the subdivision and all activities associated therewith shall be in conformance and compliance with the information, details, notations, grading

and features shown on the following plans, drawings and documents prepared by Marchionda & Associates, L.P.;

- a. Sheet 1 of 20, Cover Sheet, dated March 27, 2015 revised through July 6, 2015;
- b. Sheet 2 of 20, Legend and Notes, dated March 27, 2015 revised through July 6, 2015;
- c. Sheet 3 of 20, Existing Conditions Plan, dated March 27, 2015 revised through July 6, 2015;
- d. Sheet 4 of 20, Plan of Land, dated June 5, 2015 revised through July 6, 2015;
- e. Sheet 5 of 20, Layout & Materials, dated March 27, 2015 revised through July 6, 2015;
- f. Sheet 6 of 20, Utility, dated March 27, 2015 revised through July 6, 2015;
- g. Sheet 7 of 20, Grading & Drainage, dated March 27, 2015 revised through July 6, 2015;
- h. Sheet 8 of 20, Grading & Drainage, dated March 27, 2015 revised through July 6, 2015;
- i. Sheet 9 of 20, Roadway Profile, dated March 27, 2015 revised through July 6, 2015;
- j. Sheet 10 of 20, Utility Profile, dated March 27, 2015 revised through July 6, 2015;
- k. Sheet 11 of 20, Utility Profiles, dated March 27, 2015 revised through July 6, 2015;
- l. Sheet 12 of 20, Erosion & Sediment Control, dated March 27, 2015 revised through July 6, 2015;
- m. Sheet 13 of 20, Open Space Plan, dated March 27, 2015 revised through July 6, 2015;
- n. Sheet 14 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
- o. Sheet 15 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;

- p. Sheet 16 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
 - q. Sheet 17 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
 - r. Sheet 18 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
 - s. Sheet 19 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
 - t. Sheet 20 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
 - u. Sheet L1 of 4, Landscaping Plan, dated March 31, 2015 revised through July 6, 2015;
 - v. Sheet L2 of 4, Garden Layout Plans, dated March 31, 2015 revised through July 2, 2015;
 - w. Sheet L3 of 4, Landscaping Details, dated March 31, 2015 revised through July 6, 2015;
 - x. Sheet L4 of 4, Lighting Plan, dated March 31, 2015 revised through July 2, 2015;
3. An instrument containing these conditions, shall be recorded at the North Essex Registry of Deeds;
 4. Import or export of earth materials from within the subdivision is prohibited except as may be provided for under this special permit issued under Planning Board Decision SP15-03, or as otherwise allowed under the applicable provisions of the Zoning Bylaw;
 5. Construction traffic associated with this subdivision shall be regulated by the Inspector of Buildings. Prior to commencing hauling operations, a hauling route shall have been reviewed and approved by the Inspector of Buildings. Any deviation from the approved route and/or scheduling once established shall require proper notification and approval from the Inspector of Buildings. Construction traffic shall be defined as large trucks hauling earth moving equipment, dump trucks, trucks hauling building materials, cement trucks, and contractors' vehicles larger than panel trucks. It shall be the developer's responsibility to inform all contractors, subcontractors, vendors, and workmen of this restriction, which shall be enforced under the provisions of Section V.H. of the Board's Rules and Regulations;

6. Prior to any construction activity of any kind within the subdivision the developer shall submit for review and approval to the Planning Department a detailed schedule of the anticipated earth operations;
7. All construction activities within the subdivision shall be confined between the hours of 7:00 a.m., and 6:00 p.m., Monday through Friday, unless otherwise approved by the Planning Board. Once fully framed, interior construction related activities are allowed on Saturdays between 8:00 a.m. and 6:00 p.m. unless otherwise restricted or prohibited by the Inspector of Buildings in response to complaints. Construction activities include the transport of equipment, materials and supplies to and from the subdivision;
8. Hauling of earth materials and heavy equipment during morning pick up and drop off of school buses is not allowed. It shall be the developer's responsibility to communicate with the proper school departments to determine precise hours of pick up and drop off, and to inform all contractors, subcontractors, vendors, and workmen of this restriction, which shall be enforced under the provisions of Section V.H. of the Board's Rules and Regulations;

Following the statutory twenty-day appeal period, and in the absence of any appeal, the plan and an instrument containing the foregoing restrictions will be filed in the Registry of Deeds. The applicant is responsible for the costs associated with the Registry filings.

Date: 7/23/15

Zachary Bergeron
Zachary Bergeron, Chair

Essex, ss

COMMONWEALTH OF MASSACHUSETTS

Date: 7/23/15

On this 23rd day of July, 2015, by Zachary Bergeron, the authorized agent of the Andover Planning Board, proved to me through satisfactory evidence, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the documents are truthful and accurate to the best of her knowledge and belief and who acknowledged to me that she signed it voluntarily for its stated purpose and acknowledged the foregoing to be the free act and deed of the Andover Planning Board.

Before me,

Kathryn L. Forina

My commission Expires



CERTIFICATION

I, _____, Town Clerk of the Town of Andover, Massachusetts, do hereby certify that twenty (20) days have elapsed since this decision of the Andover Planning Board was filed in my office on _____ and no appeal against said decision has been filed.


Date: _____

Lawrence Murphy, Town Clerk

CERTIFICATE OF TOWN CLERK

I, Lawrence Murphy, Town Clerk of the Town of Andover, Essex County, Massachusetts, do hereby certify that: i) the Decision of the Andover Planning Board as Special Permit Granting Authority on Application of CSH Andover, LLC for Special Permit for Earth Removal originally was filed in the Town Clerk's office on July 23, 2015; ii) within twenty (20) days thereafter, an appeal was filed by Mark J. Bernardin, Nanette Conte, Isabelle Boulain and Bernice Downs, Plaintiffs, against the Andover Planning Board *et al.*, Defendants in the Land Court Department of the Trial Court (Docket No. 15-PS-000313); iii) on October 20, 2016, said appeal in the Land Court was dismissed upon a Stipulation of Dismissal; and iv) no other appeal of the above-referenced Decision the Andover Planning Board Decision was filed within twenty (20) days from the date the Decision was filed in this office.

Executed this 15th day of May, 2017.



Lawrence Murphy

Town Clerk for the Town of Andover