

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



ON THE APPLICATION OF
Pulte Homes New England, LLC
459 River Road

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

Decision: SP15-02

YES (with conditions)

A public meeting of the Planning Board was held on October 27, 2015, in the third 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, James Doherty 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 May 21st and May 28, 2015 and pursuant to notice sent by mail, postage prepaid, to all interested parties under the provisions of Massachusetts General Laws Chapter 40A, a public hearing was convened by the Planning Board (the "Board") on June 9, 2015, for an application filed on April 29, 2015 by Pulte Homes of New England, LLC on property owned by the Society of the Friars Minor of The Order of Saint Francis for a Special Permit Earth Movement. The property is more specifically identified as Lot 5 on Assessors Map 229. The public hearing was closed on October 27, 2015, with the aforementioned members present throughout.

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 Bohler Engineering the project will involve approximately 5,800 cubic yards of import fill for the construction of the proposed buildings and site amenities as well as the export of approximately 5,650 cubic yards of topsoil. All soil to be removed from the site will be regulated by the Inspector of Buildings, with a detailed schedule being reviewed and approved by the Inspector of Buildings at the time of issuance of a building permit.

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 Andover Woods residential community, as a whole, makes the best feasible use of the existing topography. 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 neighborhood, 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 the reviews, presentations, discussions and testimony at the hearings the Board approves the Earth Movement Special Permit for property located at 459 River Road with the following conditions:

1. For purposes of this approval the subdivision shall be defined as all features depicted on the plans described in condition number 2 of the Planning Board's special permit decision SP15-01; the developer shall be defined as the applicant, Pulte Homes New England, LLC 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. Except as otherwise provided for in these conditions the construction 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 approved plan set, as further referenced in the Planning Board's special permit decision SP15-01;

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 SP15-01, 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 Andover Woods development 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. Saturday activities may be permitted upon written request to, and approval from, the Inspector of Buildings, however, such Saturday activities may be approved subject to restricted hours, and such approval may be revoked if any terms or conditions of the approval are violated and/or if complaints are received from abutters. 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: 10/30/15

Zachary Bergeron
Zachary Bergeron, Chair

Essex, ss

COMMONWEALTH OF MASSACHUSETTS

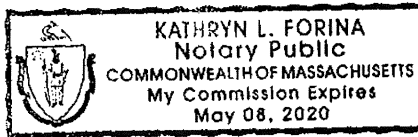
Date: 10/30/15

On this 30th day of October, 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 his knowledge and belief and who acknowledged to me that he 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:




Applicant: Pulte Homes of New England, LLC
Special Permit for Earth Movement
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CERTIFICATION

I, Lawrence J. Murphy, Town Clerk of the Town of Andover, Massachusetts, do hereby certify that the preceding or attached decision of the Andover Planning Board was filed in the office of the Town Clerk on October 30, 2015 and that no appeal has been filed.

November 20, 2015



Lawrence J. Murphy
Town Clerk
Andover, Massachusetts

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