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Planning Board:

Don Egan, Chair

John "Marty" Doggett, Vice

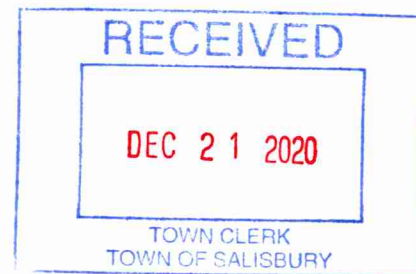
Lou Masiello

Gil Medeiros Clerk

Deborah Rider

John Schillizzi, Alternate

Planning Board
Town of Salisbury
5 Beach Road
Salisbury, MA 01952



SPECIAL PERMIT/SUBDIVISION APPROVAL

December 7, 2020

Town Clerk
Town of Salisbury
Salisbury, MA 01952

RE: Special Permit Flexible Residential Development Definitive Subdivision

Applicant: **Destefano Development Group, LLC c/o Lisa Mead, Mead, Talerman & Costa, LLC**

Address of Applicant: **30 Green Street, Newburyport**

Owner: **DeStefano Development Group, LLC**

Address: **804 Haverhill Street, Rowley, MA**

Address of Project: **9 Gerrish Road, Salisbury, MA 01952**

Map/Lot: **Map 22, Lot 19**

To the Town Clerk:

*This is to certify, at a duly noticed public hearing of the Salisbury Planning Board as regards a special permit review, opening on **July 22, 2020** and closed on **10/14/2020**, by a motion duly made and seconded, it was voted:*

We, the Salisbury Planning Board, having been requested by the Applicant, **DeStefano Development Group, LLC c/o Lisa Mead, Mead, Talerman & Costa, LLC**, to approve a Special Permit and Definitive Subdivision under the provisions of General Laws Chapter 300 and the Special Permit Flexible Residential Development Subdivision Bylaw and Article X of the Zoning By-Laws of the Town of Salisbury, to consider a special permit upon the contemplated Flexible Residential Development Subdivision property addressed at 9 Gerrish Road (Assessors

Map 22, Lot 9) as shown on plans ("The Plans") entitled "**Site Plan in Salisbury, MA showing Proposed Subdivision at 9 Gerrish Road**" providing access, utilities, and municipal services for **nine (9)** residential lots. Having held a duly advertised and notified public hearing, do hereby vote to approve the stated residential subdivision as consistent with Salisbury's Subdivision Rules and Mass. Gen. Laws Chapter 41, Sections 81K-81GG, as shown on the plan set entitled "**Flexible Residential Development at 9 Gerrish Road**" originally dated **June 18, 2020** with a final revision date of **October 7, 2020** as prepared and stamped by Millennium Engineering, Inc. ("Subdivision Plan"). The term shall include the Applicant's successors and assigns.

I. SPECIAL PERMIT APPROVAL

The Planning Board determined that the plan meets the enumerated criteria:

- A. Whether the FRD achieves greater flexibility & creativity in the design of residential developments than a conventional plan
- B. Whether the FRD promotes permanent preservation of open space, scenic vistas, agricultural land, forestry land, wildlife and rare species habitat, other natural resources and features, including aquifers, water bodies, areas of critical environmental concern, and wetlands, and historical and archeological resources in a manner that is consistent with the Town of Salisbury Community Development Plan
- C. Whether the FRD promotes a more efficient & compact form of development that consumes less open land & natural materials and conforms to existing topography and natural features better than a conventional subdivision
- D. Whether the FRD reduces the total amount of disturbance on the site as compared with a conventional subdivision
- E. Whether the FRD furthers the goals & policies of the Town of Salisbury Community Development Plan
- F. Whether the FRD facilitates the construction & maintenance of housing, streets, utilities & public services in a more economical manner
- G. Whether the FRD special permit plan & other supporting documentation comply with all provisions of this bylaw
- H. Whether the proposed construction of housing, landscape & streetscape is in harmony with architectural heritage
- I. Whether the FRD promotes affordable housing & a more diversified housing stock

John "Marty" Doggett motioned to approve the FRD subject to the standard conditions as well as the specific depiction on the plans that call out rail trail connection, the sidewalk (either self-constructed or funded), landscaping and lighting per the plans submitted, payment into the

inclusionary housing fund, received correspondence from DPW and input from the Fire Department and if the Conservation Commission requires alterations to the approved site plan the applicant will need to return to the Planning Board and request a modification to the site plan. Deb Rider seconded.

Vote:

Deb Rider -Yes

John "Marty" Doggett -Yes

Lou Masiello -Yes

Gil Medeiros -Yes

Don Egan -Yes

Motion passed, 5-0.

DEFINITIVE SUBDIVISION

Prior to endorsement:

1. The Applicant shall provide that the construction of ways and the installation of municipal services and any other related site improvements, all shown or referenced in the Subdivision Plan, be secured by one of the four methods specified in Mass. Gen. Laws c. 41 §81U, as selected by the Applicant.
2. Easements and Revisions
 - (a) All documentation for the conveyance of easements shown on the plan, or required by this Decision, shall be submitted to the Planning Director and DPW Director for approval as to form. Documents shall be submitted no less than twenty-one (21) days prior to any Planning Board meeting at which such revisions shall be discussed.
 - (b) If any revisions to the plan are required by this Decision, the applicant shall submit the revised plan to the Board no less than twenty-one (21) days prior to any Planning Board meeting at which such revisions shall be discussed, and in any event, twenty-one (21) days prior to the date scheduled for endorsement, in order to allow the review of the plan for compliance with this decision.
 - (c) An easement is to be provided to the Town of Salisbury for the access for the Rail Trail on or before the issuance of the last certificate of occupancy.
3. Sidewalks are to be shown on the plan on Gerrish Road frontage as well as Winterberry Circle and are to be in compliance with ADA standards in accordance with Salisbury Subdivision Control Laws §465-42.D.
4. The name of the road, "Winterberry Circle", is to be written on the roadway on the final plans.
5. The applicant shall provide a wash off Mylar of the complete approved Subdivision Plan for endorsement by the Planning Board. The applicant shall record the full set of the approved subdivision plan at the Registry of

Deeds, along with all pages of this decision. The applicant shall also provide 5 full sets of the approved subdivision plan for the Planning Board to endorse. The 5 sets will be distributed to the DPW Director, Building Inspector, Assessor, Town's Engineering consultant and the Planning Board Files.

6. Lot F shall be conveyed as a gift to the Town of Salisbury as parkland on or before the issuance of the last certificate of occupancy.

GENERAL CONDITIONS

1. This approval is limited to 9 residential lots with a total of 9 residential units.
2. Digital as-built plans shall be provided to the Planning Director and DPW Director in a format subject to the Town DPW Director's approval.
3. No lots intended for eventual acceptance by the Town shall contain drainage structures requiring Town maintenance.
4. The Inspector for the Planning Board is to inspect at "critical points" of installation, those "critical points" include but are not limited to the sewer and water and drainage installation, including the utility pole locations. The road grading, site cleaning, paving/curbing alignment and layout and installation are also considered a critical point. The pre-construction conditions, which are listed, must be adhered to.
5. Winterberry Circle is to remain private until officially accepted at Town Meeting. Prior to acceptance at Town Meeting, applicant should use proper signage to delineate the public and private ways.
6. Applicant has two (2) years from the date of Planning Board endorsement to complete the roadway and must ask for an extension of time from the Planning Board prior to the 2 years being over.

II. MATERIALS

Hereinbelow but not limited to are the materials submitted to the Planning Board during the public hearing:

Applications:

1. Form C – Application for approval of a definitive plan dated 6/18/20
2. Special Permit application for a Flexible Residential Development dated 6/18/20

Waiver List received on 6/18/20 and amended on the following dates:

1. 8/4/20
2. 9/1/20

Site Plans from Millennium Engineering Inc., dated 6/18/20 which were revised on the following dates:

1. 8/4/20
2. 9/1/20
3. 9/23/20
4. 10/7/20

Stormwater Management Report dated 6/18/20 which was revised on the following dates:

1. 8/4/20
2. 9/1/20
3. 9/16/20

Peer Review Comments:

1. 7/14/20 – Comments from Town Engineer
2. 8/25/20 - Comments from Town Engineer
3. 9/1/20 – Applicants response to Town Engineers 8/25/20 comments
4. 9/8/20 - Comments from Town Engineer
5. 9/11/20 – Comments from DPW Director
6. 9/23/20 – Applicants response to DPW Directors 9/11/20 comments

Agenda Dates:

1. 7/22/20
2. 8/12/20
3. 8/26/20
4. 9/9/20
5. 9/23/20
6. 10/14/20

Request for continuances were received on the following dates:

1. 8/10/20 request to continue from 8/12/20 to 8/26/20
2. 8/26/20 request to continue from 8/26/20 to 9/9/20

Other Materials:

1. Abutters list stamped by the Assessor's Office on 6/2/20
2. Quitclaim Deed dated 6/19/20
3. New Street Name Sign Off Sheet (Winterberry Circle) dated 6/29/20

III WAIVERS

The applicant has requested the following waivers from the Town of Salisbury Subdivision Control Regulations (effective June 1, 1975): 12/19/06. In consideration of granting the waiver for the length of road, sewer to service the subdivision shall be designed, properly constructed, inspected and approved by the DPW Director.

1. **Request:** § 300-51.B AT LEAST 50% OF EACH REQUIRED SETBACK FOR THE APPLICABLE ZONING DISTRICT SHALL BE MAINTAINED, LESS THAN 50% REQUESTED FOR LOTS 1, 3, 7, 8, and 9.

Justification: The compact nature of the proposed area for development and the preservation of wetlands and open space on the proposed open space parcel requires the residences to be laid out in a manner that requires smaller setbacks on 6 of the 10 lots. The reduced setbacks are on lots 1, 3, 7, 8, and 9.

2. **Request:** § 300-51.C MINIMUM LOT SIZE SHALL BE 10,000 SQUARE FEET, 8,378 SQUARE FEET IS PROPOSED FOR LOT 7

Justification: This is necessary to limit the sprawl of the development and lay out the lots in an efficient manner which best utilizes the area for development. A waiver of the minimum lot size is requested for only one lot which will be 8,378 square feet and will further the purposes of the FRD Bylaw by consuming the least amount of space possible and minimizing disturbance on the site.

3. **Request:** § 300-52.B RATIO OF UPLANDS TO WETLANDS WITHIN PROPOSED OPEN SPACE SHALL BE EQUAL TO OR GREATER THAN THE RATIO OF UPLANDS TO WETLANDS ON THE ENTIRE TRACT, PROPOSED OPEN SPACE UPLAND IS ABOUT 68% AND ON ENTIRE TRACT IS 76%

Justification: Given the nature of the existing conditions at the site, the area of land that best accommodates the compact FRD development results in an open space parcel that has a smaller ratio of uplands to wetlands than the entire tract. Despite this, 9.30 acres of land will be proposed as open space and nearly 70% will consist of uplands.

4. **Request:** FRD REGULATIONS, SECTION E.3 SITE SPECIFIC DESIGN STANDARDS-BUFFER AREAS, THERE IS PROPOSED WORK WITHIN 100'

OF NATURAL AND/OR RECREATIONAL RESOURCE AREAS.

Justification: As mentioned above, the nature of the existing conditions at the site that best accommodates FRD development does not quite prevent development beyond 100' of Natural and/or recreation resource areas. Here, the majority of the development areas are upland and any disturbance will be minimal.

5. **Request:** SECTION 7A.3 OF THE SUBDIVISION REGULATIONS REQUIRE A 50' STREET RIGHT OF WAY WHERE A 40' RIGHT OF WAY IS BEING PROVIDED.

Justification: A 50' ROW isn't necessary in this situation. The pavement, sidewalk, and utilities all fit within the 40' ROW.

6. **Request:** SECTION 7A.10 OF THE SUBDIVISION REGULATIONS REQUIRE MINIMUM CENTERLINE RADII OF 150 FEET. THE APPLICANT IS PROVIDING CURVES WITH RADII OF 90 FEET AND 100 FEET.

Justification: The smaller centerline radii promote reduced vehicle speeds and thus, a safer neighborhood.

All waivers as approved are shown on the Subdivision Plan.

IV. FINDINGS

1. The site plan contains a design that has provided the foundation for Planning Board to determine that the requirements, standards and guidelines of the Salisbury Planning Board Rules and Regulations and the general requirements and design and performance standards of Article X of the Zoning By-Laws of the Town of Salisbury have been completed in a satisfactory manner.
2. Currently, 9 Gerrish Road, the proposed site, is an 87,120 SF lot that is located on the north side of Gerrish Road in the R1 and R2 Zoning Districts and Wireless Communication B District.
3. 9 Gerrish Road natural features comprise vegetated uplands and wetlands on-site. In addition, there is located within the property a 2-story wood dwelling which is currently unoccupied and will be razed.
4. The application proposes to construct 9 single-family dwellings. The site work proposed on 9 Gerrish Road includes infrastructure including roadway, sidewalks, utilities and landscaping.
5. The application demonstrates that it will not impair the integrity of the land nor the land and natural resources of the abutting properties.
6. The Planning Board has been advised through town staff that the utilities and public works are adequate to serve the project.

7. Pursuant to §300-156.6(b) of the Zoning By-Laws of the Town of Salisbury, all Town Departments and Boards have submitted their written comments and recommendations regarding this special permit application and site plan to the Planning Board for their consideration.
8. The Planning Board has determined that the application satisfies all the special permit conditions enumerated in §300-44 through 300-56 of the Zoning By-Laws of the Town of Salisbury. Specifically, the Planning Board found:
 - a. The requested use was listed in the “R1 and R2 Zoning Districts” of the Zoning By-Laws of the Town of Salisbury as requiring a special permit from the Planning Board.
 - b. The requested use was determined to be desirable to the public convenience and welfare.
 - c. The requested use demonstrated that it will not create undue traffic congestion or unduly impair pedestrian safety.
 - d. The requested use demonstrated that it will not overload any public water, drainage, or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.
 - e. The special regulations found in the “Flexible Residential Development” of the Zoning By-Laws of the Town of Salisbury were fulfilled.
 - f. The requested use demonstrated that it will not impair the integrity or character of the district or adjoining districts, nor is the requested use detrimental to the health or welfare of the neighborhood.
 - g. The requested use demonstrated that it will not, by its addition to the neighborhood, cause an excess of that particular use that is detrimental to the character of the neighborhood.

V. PRIOR TO SITE WORK

1. The Applicant shall attend a pre-construction meeting with, at a minimum, the DPW Director, the Town's Consulting Engineer, the Planning Director and Conservation Commission Agent, or appropriate designees. The scheduling of the meeting shall be coordinated by the Applicant.
2. The design and construction of the subdivision, including materials utilized, shall be performed in compliance with the Town of Salisbury's Rules and Regulations, unless explicitly waived herein. All utilities shall be installed underground.
3. The existing public right of ways of Gerrish Road and Trout Way shall be kept clear and passable at all times. No construction

equipment, refuse containers, trailers or construction materials of any kind shall be placed or stored upon the street.

4. Construction activities shall be conducted in a workmanlike manner at all times. Blowing dust or debris shall be controlled by the applicant through stabilization, wetting down, and proper storage and disposal methods. Construction dumpsters shall not be stored in view of off-site residential abutters for more than 60 days. Site to have temporary fencing and should be locked each night.
5. The following Hours of Construction shall be adhered to:
 - a. Construction activity, deliveries and unnecessary noise by workers shall not take place off or on the site or in any building contained therein except during the following hours:

Mondays through Fridays inclusive:
7:00 AM to 6:00 PM, Saturdays: 9:00
AM to 5:00 PM,
Sundays and Legal Holidays: none.
 - b. No heavy equipment shall be operated on, or brought to, the site except during the following hours:

Mondays through Fridays inclusive:
8:00 AM to 5:00 PM, Saturdays: 9:00
AM to 12:00 PM (noon),
Sundays and Legal Holidays: none.

A sign posting these hours shall be placed at the entrance of the site for the duration of the construction process.
 - c. All existing stone walls within the subdivision shall be preserved or rebuilt where practical, subject to Planning Director and Town's Engineering Consultant approval.
6. Limit of Work line shall be demarcated by the installation of silt fence prior to the commencement of construction.

VI.

PRIOR TO THE ISSUANCE OF A BUILDING PERMIT

1. The above-noted signed copy of the Plan shall be received by the Building Inspector.
2. The Building Inspector shall receive evidence that a proper bond is in place or in the case of a covenant the applicant shall receive evidence from covenant and the posting of security for the completion of ways, the installation of utilities, and other site improvements.
3. All utilities shall be available for the lot which is the subject of the application for a building permit. The utilities, including but not limited to the water, sewer, streetlights must be installed and turned on, the utilities shall be installed in compliance with the Town of Salisbury Subdivision Rules and Regulations.
4. Evidence of Recording of all easements, deed restrictions, and the definitive plan shall be filed with the Planning Board and the Building Inspector. Notwithstanding the foregoing, the easement for the rail trail and the deed for the open space shall not be required to be recorded until prior to the issuance of the last certificate of occupancy is requested to be issued.
5. Evidence shall be submitted to the Building Inspector that all necessary permits and approvals have been obtained, including as appropriate but not necessarily limited to: Street Opening Permit. It is the burden of the applicant to ensure all other local/state/federal permit requirements have been met.
6. The applicant shall provide an Operations and Maintenance Manual for the drainage system, subject to review and approval by the DPW Director.
7. The Applicant or its successors shall meet with the Planning Director or designee and Building Inspector to review compliance with this Decision at least 15 days before issuance of the building permit.
8. The Rail Trail easement must be conveyed and accepted by the Town prior to the issuance of the last certificate of occupancy. The Applicant should contact the Planning Director for proper procedures.
9. Roadway must be properly installed and inspected through the Base Coat phase.

VII.
PRIOR TO THE ISSUANCE OF
ANY CERTIFICATE OF OCCUPANCY

1. The Applicant shall schedule a meeting with the Building Inspector and Town Planner at least 30 days before the request for a Certificate of Occupancy to review compliance with this Decision.

VIII.
PRIOR TO THE ISSUANCE OF FINAL OCCUPANCY PERMIT

1. Installation of all street signage
2. As-built plans
3. Installation and approval of all utilities, sidewalks and final coat of pavement
4. Conveyance of open space deed and trail easement.

IX.
PRIOR TO ACCEPTANCE OF THE WAY BY THE TOWN

Applicant shall contact the Planning Director at least 6 months before the desired Town Meeting to coordinate plans and hearings. The Applicant shall submit to the Planning Director the following:

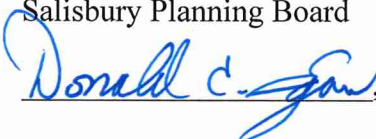
- (a) Road Layout Plan including but not limited to Roadway Coordinates and
- (b) Land Traverse.

All encumbrances, mortgages and restrictions shall be subordinated to this Decision, and the covenant described in this Decision, as a matter of record.

X.
MODIFICATION OF SPECIAL PERMIT

2. In the event that the Applicant intends to modify the approved special permit, the Applicant must reapply for a special permit in accordance with MGL Chapter 40A.

Don Egan,
Salisbury Planning Board

 , Chair

Date: 12/14/2020

cc: Applicant,
Building Inspector,
DPW Director
File