



# TOWN OF HINGHAM

## Planning Board



### NOTICE OF DECISION SPECIAL PERMIT A3

#### IN THE MATTER OF:

Owners: Jacqueline B. Murray and Kenneth J. Murray  
Trustees of the John Matthew Murray Irrevocable Trust  
67 Harbor Light Drive  
Plymouth, MA 02360

WV Cushing, LLC  
190 Old Derby Street, Suite 311  
Hingham, MA 02043

Applicant: Bristol Brothers Development Corporation  
c/o Jeffery A. Tocchio, Esq.  
Drohan, Tocchio, and Morgan P.C.  
175 Derby Street, Suite 30  
Hingham, MA 02043

Property: 213 & 215 Cushing Street, Hingham, MA 02043

Title Reference: Plymouth County Registry of Deeds, Book 40356, Page 198  
Plymouth County Registry of Deeds, Book 55496, Page 86

Plan Reference: "213 Cushing Street," prepared by Crocker Design Group (CDG), 2 Sharp Street, Unit B, Hingham, MA, dated August 17, 2021 and revised through February 24, 2022 (12 Sheets)

"Preliminary FRD Sight Distance Exhibit," prepared by CDG, dated January 18, 2022 (1 Sheet)

#### SUMMARY OF PROCEEDINGS

This matter came before the Planning Board (the "Board") on the application of Bristol Bros. Development Corp. (the "Applicant") for a Special Permit A3 under Section IV-D of the Zoning By-

Law (the “By-Law”) for a Flexible Residential Development consisting of eight single-family dwellings on 7.48± acres of land in Residence District C. The Applicant also submitted, and the Board simultaneously heard, a related application for a Site Plan Review Waiver under Section I-1,5 of the By-Law.

The Board opened a duly noticed public hearing on the matter on September 27, 2021 via Zoom as an alternate means of public access pursuant to Chapter 20 of the Acts of 2021 temporarily suspending certain provisions of the Open Meeting Law. Subsequent substantive hearings were held on January 24, 2022 and February 28, 2022. The Board panel consisted of regular members Kevin Ellis, Chair, Gordon Carr, Rita DaSilva, Judith Sneath, and Gary Tondorf-Dick. The Board was assisted in its’ review by consulting engineers Patrick Brennan, P.E., of Amory Engineers and Jeffery Dirk, P.E., PTOE, FITE, of Vanesse & Associates. Jeffery Tocchio, Esq., of Drohan, Tocchio, and Morgan P.C., appeared to present the application to the Board. The Applicant requested a waiver of Site Plan Review during this initial Preliminary Plan stage, with the understanding that full Site Plan Review would be conducted during the Definitive Plan stage. At the conclusion of the review, the Board voted unanimously to grant the requested Special Permit A3 with conditions set forth below.

## **BACKGROUND**

The subject property is located on the westerly side of Cushing Street. The development site consists of two parcels of land. The larger was the subject of an unconstructed 2-lot definitive subdivision plan approved in 1965. This application was for a Special Permit A3 for a Preliminary Flexible Residential Development (FRD), with the intent that the Applicant will still need to submit a Definitive Plan following approval.

The proposed FRD Plan includes 8 total single-family dwellings, including the existing dwelling at 215 Cushing Street. The number of units is based on a Conventional Yield of 6 lots, plus a density bonus of up to 135% of the Conventional Yield or 2 units. One of these Additional Dwelling Units would be priced for Moderate Income Households (80% AMI) and Moderately Sized.

A density bonus is permissible only if the Board finds that the Preliminary FRD Plan complies with all provisions of Section IV-D. Subsection 9.d requires a buffer of 100’ along abutting properties and 50’ along adjacent roadways. The revised FRD Plan depicts a minimum 65’ wide buffer to abutting properties with the exception of the northerly side of the proposed way and southerly side of the existing dwelling at 215 Cushing Street. The Board is able to waive these dimensions if the Board finds the proposed buffer sufficient to screen or separate the development. The Board noted that a waiver in the present case would result in the creation of an affordable unit. The deed restricted unit would create a net positive effect on the Town’s Subsidized Housing Inventory (SHI).

The Board’s consulting engineers reviewed the original application for compliance with local regulations and best engineering practices. Peer review comments resulted in a number of plan revisions and additional or corrected submittals. Both engineers provided written reviews

confirming that the revised plans generally comply with local regulations and best practices, subject to certain suggested and agreed-upon conditions of approval.

During the course of the hearing, the Board discussed a variety of topics related to the proposal including house sizes, stormwater drainage, landscaping, conventional yield, roadway width, and topography, among others. Additionally, the Board shared its concerns regarding the reduced open space buffer from abutting properties and the desire for an affordable unit. Ultimately, the Board considered waivers of the open space buffer granted in previous FRD applications and determined this proposal to be consistent as such.

## **FINDINGS**

Based on the information submitted and presented during the review, and the deliberations and discussions of the Board during the meetings, the Board made the following findings:

1. The Conceptual Yield Plan depicts six residential lots that could reasonably be expected to be developed in full conformance with all local regulations.
2. The Flexible Residential Development (FRD) plan alternately proposes a condominium consisting of eight single-family dwellings, inclusive of an existing single-family dwelling at 215 Cushing Street.
3. Open Space, equal to approximately 53% of the overall land area exclusive of wetlands, is provided in excess of the minimum 40% required. An Open Space buffer is shown along the perimeter of the site. The Board finds that the buffer, which is less than 100' in width from abutting properties at 211, 221, and 245R Cushing Street, is sufficient to screen the FRD. The buffer in these locations was augmented to the maximum extent feasible during the hearing process by shifting proposed building locations and adding or preserving natural features on the site. Certain areas of reduced buffer also separate abutting properties from the existing dwelling at 215 Cushing Street, so that impacts will not alter existing conditions.
4. The Board therefore finds that the proposed development complies with the provisions of Section IV-D of the By-Law, as reduced or modified by the Board, such that the permitted density on the site would be eight per Subsection 7. One of the two allowed Additional Dwelling Units would be Moderate Income Housing.
5. In accordance with Section I-J.5, the Board further determined that the proposed use is consistent with the following criteria set forth in Section I-F.2:
  - a. **Use of the property is in harmony with the general purpose and intent of the Zoning By-Law.** The proposed FRD is in harmony with the general purposes of under Section I-A.2 the By-Law, which include provision of housing for persons of all income levels and adequate open space. The proposed plan includes an

affordable Moderate Income Housing unit and approximately 53% dedicated Open Space.

- b. **The proposed use complies with the purposes and standards of the relevant specific sections of the By-Law.** The proposed FRD complies with the stated purposes of the Section IV-D, including: the preservation of open space; the protection of natural resources; efficiency and flexibility in the layout of housing, roads, and utilities, and the minimization of disturbance on the site. The proposed use additionally complies with the standards of Section IV-D as (i) the site meets the eligibility requirements, (ii) the Applicant has demonstrated it has adequate Conventional Yield for the six single-family dwellings, (iii) the site exceeds the minimum Open Space requirements, (iv) except for a portion of the Open Space buffer for which a reduction is granted for the reasons set forth above, the project complies with minimum dimensional requirements, and (v) the project will comply with the other additional requirements of Section IV-D.
- c. **The specific site is an appropriate location for the proposed use and is compatible with the characteristics of the surrounding area.** The property is located on a residential street within the Residence C Zoning District, which is an appropriate location for the proposed FRD.
- d. **The use as developed and operated will create positive impacts or the potential adverse impacts will be mitigated.** Setbacks from abutting single-family dwellings as shown on the FRD plan exceed those achievable through a Conventional Yield Plan. The Open Space buffer preserves site features, including trees, mounds, and stone walls, intended to screen the development from adjoining properties enhance views from adjacent public ways.
- e. **There will be no nuisance or serious hazard to vehicles or pedestrians.** There will be no nuisance or serious hazard to vehicles or pedestrians resulting from the project. The proposed plan shifts access to the development to the south of a 1965 subdivision roadway layout, which improves sight distances. The project also eliminates two existing curb cuts on Cushing Street. Finally, the Applicant agreed to provide a crosswalk with accompanying wheelchair ramps and pedestrian crossing warning signs for crossing Cushing Street at the Project site roadway.
- f. **Adequate and appropriate facilities exist or will be provided for the proper operation of the proposed use.** Adequate wastewater facilities will be required by the Hingham Board of Health and constructed prior to certificates of occupancy for the single-family dwellings.
- g. **The proposal meets accepted design standards and criteria for the functional design of facilities, structures, stormwater management, and site construction.** Test pits and percolation tests for wastewater and drainage purposes were

performed onsite. Issuance of a Preliminary Flexible Residential Development Special Permit is subject to conditions related to stormwater and other site construction that requires further review during Definitive Plan Review with Site Plan Review.

## **DECISION**

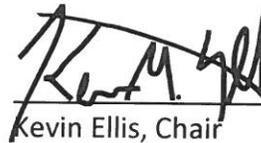
Upon a motion made by Kevin Ellis and seconded by Judith Sneath, the Board voted unanimously to find that the Preliminary Flexible Residential Development constitutes a minor site plan as issuance of the Special Permit does not authorize construction that would materially affect conditions governed by the site plan review standards and to waive Site Plan Review in connection with this application; and

To grant the request of Bristol Bros. Development Corp. for a Special Permit A3 under Section IV-D of the Zoning By-Law for a Flexible Residential Development consisting of eight single-family dwellings on 7.48± acres of land in Residence District C, subject to the following conditions:

1. Pursuant to Section IV-D of the By-Law, Applicant's exercise of this Special Permit shall be subject to the Planning Board's approval of a Definitive Flexible Residential Development Plan ("Definitive Plan") along with Site Plan Review under Section I-I of the By-Law. Plans submitted in connection with the Definitive Plan Review with Site Plan Review shall:
  - (i) substantially conform to the Preliminary Flexible Residential Development Plan in terms of number of units, amount of Open Space, and development pattern impacts on natural landscape features or surrounding residential properties; and
  - (ii) comply with the submittal requirements under Section I-I, 4 of this By-Law and such additional content set forth in Section 3,C.2 of the Planning Board Rules and Regulations as are applicable to the project. The Applicant shall include a list of any waivers requested from the submission requirements under Section I-I, 4 of the By-Law or the Planning Board Rules and Regulations.
2. Without limiting the foregoing, the Definitive Plan site plans and application shall include the following:
  - (i) A crosswalk with accompanying wheelchair ramps and pedestrian crossing warning signs for crossing Cushing Street at the site driveway to the site.
  - (ii) A notation to indicate: "Signs, landscaping and other features located within sight triangle areas shall be designed, installed and maintained so as not to exceed 2.5-feet in height. Snow windrows located within sight triangle areas that exceed 3.5-feet in height or that would otherwise inhibit sight lines shall be promptly removed."

- (iii) Proposed walkway, paths or sidewalks where appropriate pursuant to Section IV-D,10.d to formalize and clearly define pedestrian access between the Open Space and abutting Town Conservation Land at 245R Cushing Street.
  - (iv) A notation pursuant to Section IV-D,10.e that no portion of the property may be further subdivided.
  - (v) Documentation required pursuant to Section IV-D,8.b with respect to the Open Space and the proposed form of easement for access to the Open Space.
3. The Moderate Income Housing shall remain affordable in perpetuity.

For the Planning Board,



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Kevin Ellis, Chair  
March 25, 2022

**In Favor:** Kevin Ellis, Gordon Carr, Judith Sneath, and Gary Tondorf-Dick

**Abstentions:** Rita DaSilva

**Opposed:** None