

### PLANNING BOARD

Findings and Decision

RE: Application of Tamposi Brothers | LLC ("Applicant") for a Conservation Cluster Development Special Permit at 74 Moore Road in order to develop and divide  $6.04\pm$  acres into three (3) lots under the Wayland Zoning Bylaws, Conservation Cluster Bylaw (Article 18) and Chapter 301 of the Town Code, Conservation Cluster Development Regulations.

#### December 13. 2017

Location: 74 Moore Road, Wayland, Massachusetts. Assessor's Map11. Lot 014. Title reference: Charles C. Cabot and Sarah Shoaf Cabot at Book 69220, Page 315, and Certificate of Title No. 264790 at Book 1507, Page 64, all recorded at the Middlesex South Registry of Deeds.

### I. Procedural History

- A) The site consists of approximately 6.04 acres and 357.11' linear feet of frontage along Moore Road that also includes an existing dwelling and barn, and two curb cuts on Moore Road. The total existing impervious area is 11,355 square feet. The remainder of the site is a mix of lawn/landscape areas and wooded areas. There is also a wetland system running south to north through the site, which contains two ponds. Site topography generally slopes from the front of the existing house toward Moore Road, and then from the rear of the house toward the wetland and ponds. Flood plain has also been delineated on—site with an elevation of 121 per the FEMA Flood Insurance Rate Maps, and the local flood plain overlay elevation is within the site at elevation 124. The underlying zoning in this area is Single Residential, requiring a minimum 180' of frontage and 40,000 square feet of lot area. The proposal is to construct 2 new houses and preserve the existing dwelling at 74 Moore Road including the barn and preserve approximately 2.3 acres of Open Land (the "Project") under a Conservation Cluster Subdivision Special Permit.
- B) The Planning Board advertised the public hearing in the Metrowest Daily News for the weeks of August 31, 2017 and September 7. 2017. The public hearina opened on September 19. 2017 and was continued with the assent of the Applicant to October 24, 2017 November 7, 2017, November, 28, 2017, and December 13, 2017 when the public hearing was closed.
- C) Throughout its deliberations, the Planning Board took into consideration the statements of the Applicant and its representatives, abutters and neighbors, Town boards and commissions, and the general public, all as made either at the public hearing or in written submissions to the Planning Board while the hearing was open.
- II. Application Submittals and Related Documents

### A) Application Submittals

- Town of Wayland Application for Site Plan Special Permit Conservation Cluster dated August 1, 2017.
- Application for Conservation Cluster dated August 1, 2017.
- Conservation Cluster Checklist dated August 2, 2017.
- Certification of abutters list. • Traffic Report from Bristol Traffic & Transportation Consulting LLC.
- Presentation to Planning Board by Joe and Jake Tamposi dated September 19, 2017.
- Plan set 1 consists of three sheets
- Sheet 1. "Definitive Plan" Conventional Subdivision 74 Moore Road with Lot Yield Summary by Sullivan, Connors and Associates dated August 3, 2017 scale 1"=40".
- Sheet 2. "Definitive Plan" Conventional Subdivision 74 Moore Road by Sullivan, Connors and Associates dated August 2. 2017 scale 1"=40'
- Sheet 3. "Definitive Plan" Cluster Site Plan 74 Moore Road

### Final Plans (Sheets 1, 2 and 3 below) shall hereinafter be referred to as the "Final Plans."

- Sheet 1. Existing Conditions Plan 74 Moore Road in Wayland, MA by Sullivan, Connors and Associates dated August 3, 2017 revised October 18, 2017 and November 16, 2017 scale 1"=40'.
- Sheet 2. "Definitive Plan" Cluster Site Plan 74 Moore Road by Sullivan, Connors and Associates dated August 3, 2017 revised October 18. 2017 and November 16. 2017 scale 1"=40'
- Sheet 3. "Definitive Plan" Cluster Site Plan Construction Detail 74 Moore Road by Sullivan, Connors and Associates dated October 18, 2017 revised August 3, 2017 and November 16, 2017 scale 1"=40"
- Sheet 1 of 1, "Definitive Plan" Conventional Subdivision Plan by Sullivan, Connors and Associates dated August 3, 2017, revised August 3, 2017 and November 16, 2017
- B) Documents including memos, emails, letters, reviews and other information submitted to the Planning Board regarding the applications. All such files are retained in the files of the board.
- Memo from Sarkis Sarkisian, Town Planner dated August 28, 2017
- Memo from Sarkis Sarkisian, Town Planner dated September 14. 2017
- Letter from Beveridge & Diamond regarding application for Conservation Cluster dated September 14, 2017. Memo from Paul Brinkman, Town Engineer dated September 19, 2017.
- Memo from Julia Junghanns, Director of Public Health dated September 18, 2017
- Soil Suitability assessment for On-Site Sewage Disposal. • Planning Board Site Peer Review Cluster Layout BETA Engineering dated October 11, 2017.
- Planning Board Peer Review Civil/Stormwater report from TEC dated November 3, 2017.
- Planning Board Peer Review Civil conventional Layout Sketch dated November 3, 2017. • Letter from Sullivan, Connors & Associates Peer review dated November 7, 2017.
- Memo from Tamposi Brothers I. LLC. Response to Municipal and Public Comments Dated October 16, 2017
- Letter from Andrew and Kaelyn Phillips of 8 Wayside Road dated September 15, 2017.
- Email from Maxine Giammo, 68 Moore Road dated September 18, 2017. • Email from Joseph Tamposi, Applicant dated December 6, 2107.
- Email from Brian C. Levey, Applicant's attorney, dated December 5, 2017.
- Email from Peter Ellison, TEC dated December 5, 2017. • Email/attachment from Gretchen Schuler, Chair of Historic District Commission dated December 5, 2017.
- Email from Linda Hansen, Conservation Administrator, dated December 4, 2017.

# III. Findings

# A) General Findings

- 1. The Applicant requires a Special Permit pursuant to Article 18 of the Wayland Zoning By—Laws, Conservation Cluster Development District. 2. The subject property is located at 74 Moore Road, as shown on the Plans.
- 3.The Applicant's Plans meet the submittal requirements and Conservation Cluster Development requirements, except as waived by the Board herein.
- 4. The Applicant's Plans maintain the rural, natural, historic and scenic character of the neighborhood and promotes the efficient use of land in harmony with its natural features.
- 5. The Applicant demonstrated its ability to construct three (3) single-family house lots in accordance with the requirements of the Zoning Bylaw, Article 18, and the Conservation Cluster Regulations, Chapter 301, as represented by Applicant's engineer and the professional peer review consultants to the Planning Board under § 1803.1.3.2, the Applicant provided proof to support the construction of four (4) single-family house lots.

# B) Specific Findings for Conservation Cluster Special Permit Approval

1803.1.1 — The proposed conservation cluster development is in harmony with the purposes and intent of Article 18 of the By-Laws. The application promotes a more efficient use of the land in harmony with its natural features compared to alternative development option of a dead-end road with a cul-de-sac. It encourages the preservation of open land for conservation, open space, and passive recreation, most notably a significant portion of the bordering vegetated wetlands on the property. The Project provides an existing trail and will provide public access along the eastern bank of the ponds with potential connectivity to the Bay Circuit Trail and a wildlife corridor connected to Great Meadows National Wildlife Refuge which will serve as a shared public open space resource. The proposed development also does more to preserve the scenic character of Moore Road than the alternative conventional development build-out. The Project preserves the existing topography of the property more than the conventional development build-out. Environmentally sensitive areas such as the two ponds, bordering vegetated wetlands, and the 30' wetland "no disturb zone" have been avoided as much as possible in the proposed development and have been incorporated into the Open Land. The proposed common driveway avoids the need for a conventional subdivision road, respects existing natural topography and the natural character of the land, and minimizes future problems with maintenance, drainage and erosion control. These factors, as well as general aesthetic considerations including the preservation of the antique barn and existing 1820 colonial farmhouse, makes the conservation cluster plan superior to either the four or three—lot conventional development build-out.

1803.1.2 — The subject property consists of 6.04 acres, which satisfies the five—acre minimum for the Conservation Cluster Development District.

1803.1.3 — The Project consists of a three—lot Conservation Cluster Development, comprised of two new buildable lots and one existing dwelling and barn. The open space lot shall contain 2.3 acres or 37.9% of the whole lot. The number of lots was based on a calculation of lots as specified by § 198-1803.1.3.2. The Lot Yield Calculation was performed and showed 4 lots. The Developer also submitted a Conventional Subdivision that showed three lots. The number of lots meets the requirements of Sections 1803.1.3 and of the Zoning By-Laws.

1803.1.4 — Each buildable lot has at least 50' of frontage on a public or private road. In this case, frontage is provided on Moore Road.

1803.1.5 - Each lot allows for a building site in harmony with natural terrain as cuts-and-fills are minimized and no lot is less than 20,000 square feet.

1803.1.6 — Front, side and rear yards are delineated on the Plans and comply with the 15-foot minimum setback from the tract perimeter and open land.

1803.1.7 — The Applicant proposes the dedication of 2.3 acres (37.9% of the site) as permanent Open Land in excess of the 35% requirement.

1803.1.8 — The 2.3 acres of the Open Land parcel shall be conveyed in fee simple to the Wayland Conservation Commission, if the Commission accepts the grant. If the Applicant desires to change the grantee of the Open Land parcel to another organization described in section 1803.1.8, the Applicants shall apply for a minor modification without the need for a noticed public hearing. If it takes title, the Conservation Commission may elect to create low-impact trails within the open space parcel.

#### IV. Conditions

Based on the aforementioned findings, application submittals, public comment, comments from boards and commissions, comments of peer review consultants, and the information submitted at the hearing or in written submissions to the Planning Board while the hearing was open, the Planning Board hereby approves said application for a Special Permit for a Conservation Cluster Development under Article 18 of the Zoning Bylaws, subject to the following conditions and limitations:

#### A) <u>General Conditions</u>

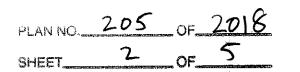
- A.1 The Project shall be built in conformity, and shall be in compliance, with the Final Plans, as may be modified by the conditions set forth in this Decision, all of which shall appear on the final endorsed Mylar plans. Failure to so comply shall be cause for rescission of this Decision. All references to specific lots shall coincide with the designated numbers as shown on the Final Plans.
- A.2 If there is no appeal of this decision, a reproducible set of the plans shall be revised to incorporate the conditions of this Decision, and returned to the Plannina Board within fifteen (15) calendar days after the expiration of the appeal period and notification to the Planning Board by the Town Clerk that no appeal has been filed. If there is an appeal, the Applicant shall consult with the Planning Board regarding the resolution of the appeal and relevant timetables. The revised reproducible plans shall be endorsed by the Planning Board if the Board determines that the plans comply with this Decision.
- A.3 A properly executed Form I, Approval with Covenant Contract, or its equivalent shall be submitted in a form acceptable to the Planning Board.
- A.4 This Decision and the revised and endorsed plans, and the Form I, Approval with Covenant Contract, or its equivalent, if applicable, all properly executed, shall be recorded or registered, as appropriate, at the Middlesex South District Registry of Deeds within fifteen (15) calendar days after the endorsement of the revised plans by the Planning Board; and within the same fifteen (15)—day period, one reproducible set and four (4) sets of plans of the fully endorsed revised plans, plus a copy of the layout plan in electronic form suitable for use by the Town Surveyor, shall be returned to the Planning Board, together with documentation verifying that said recording(s) have been completed, noting the specific location (referenced by deed book and page, etc.) where said document(s) and plans have been recorded, and the date of recording; all recording information shall be attached to said notification. Neither the entire subdivision, nor any portion thereof, to include any lot or lots, shall be sold or offered for sale until said notification occurs.
- A.5 The owners of Lots 2 and 3 shall be jointly and severally responsible and liable for the costs of the maintenance, snow plowing, repairs and construction of the common driveway serving those lots, and, to the extent applicable, all utilities the installation of which are required in connection with this approval, or which may be installed at any time, including, without limitation, water, sewer, stormwater management system, and other utilities, and including all actions of any kind or nature necessary or appropriate in order to maintain the common driveway in a good safe and passable condition, providing access from each lot to Moore Road, and to provide adequate services to Lots 2 and 3; provided, however that the owner of Lot 1 shall also be jointly and severally responsible and liable for the stormwater management system along with the owners of Lots 2 and 3. For purposes hereof, "owner" shall mean the record owner of the said lot or lots as of the date that maintenance, repair or reconstruction work as the case may be is beaun. All such maintenance, etc. shall be done under the supervision the appropriate Town department if applicable, and shall comply with and conform to all requirements of the Town of Wayland and other requirements imposed by law or governmental authority. The appropriate Town officials, employees, agents and contractors and their designees shall have the right to enter upon the common driveway for all purposes for which ways are used in the Town of Wayland. The Applicant shall establish a homeowners association and execute and record a declaration of covenants and easements ("Declaration") to govern the common driveway and each lot owner's rights and responsibilities in the same. The Declaration shall include a snow and ice removal plan that does not rely on salt treatment. A copy of the draft Declaration shall be provided to the Town Planner for review and comment prior to the recording of the same. All easements, including the Declaration of Covenants and Easements for the common driveway, shall be reviewed and approved by the Planning Board prior to the release of any lots, and prior to recording with the Middlesex South Registry of Deeds. All easements, if any, shall be referenced in the deeds for the lots encumbered by and/or benefiting from said easements. Copies of said deeds shall be submitted to the Planning Board. The common driveway shall not be eligible for acceptance by the Town of Wayland as a public way, and the Applicant and its successors—in—title shall never petition the Town of Wayland, whether through town meeting or otherwise, for public acceptance of the common driveway as a public way.
- A.6 With the exception of initial development and construction activities, the owners of Lots 2 and 3 shall not use or permit the use of the common driveway for any purpose other than utilities and ingress and egress from the lots by the residents of the lots and their quests and invitees, such use to be limited to pedestrian and private passenger vehicular traffic, delivery or customary and usual household services incidental to residential uses, and vehicles or equipment in connection with the maintenance, repair or reconstruction of the common driveway and any utilities installed thereon and thereunder. No owner or owners shall park or cause to be parked any motor vehicle on the common driveway, except for occasional, temporary and non-overnight parking that does not impede access to all of the lots.
- A.7 Any and all maintenance, repair or reconstruction work performed on or to the common driveway or in connection with services and utilities installed thereon or thereunder shall be carried out so as to ensure that no fill material nor any products of excavation or erosion resulting from or arising in connection with such work shall be discharged into the storm drainage system or wetlands, and soil and other materials or debris shall be removed from the site only to the extent necessary in connection with such work and the construction of the subdivision and in any event shall be subject to any other By-Laws regulating the same and shall be subject to the Town's Earth Movement By-Law. For purposes of the Earth Movement Bylaw, the Project shall be subject to the 500 cubic yard limitation per lot applicable to districts where the minimum lot area is less than 40,000 square feet, and the common driveway shall be treated as a subdivision way for purposes of Section 504.4.
- A.8 Pursuant to §198-1807 of the By-Laws, the Special Permit granted by this decision under Article 18 shall lapse within eighteen months of the date this Permit becomes final if substantial construction has not begun, except for good cause shown by the Applicant and approved by the Planning Board. Further, once excavation for foundation or footings begins on a lot, the construction of the home on the lot must be completed (certificate of occupancy) within two years of the start of such activities.
- A.9 All easements, including the Declaration of Covenants and Easements for the common driveway, shall be reviewed and approved by the Planning Board prior to the release of any lots, and prior to recording with the Middlesex South Registry of Deeds. All easements, if any, shall be referenced in the deeds for the lots encumbered by and/or benefiting from said easements. Copies of said deeds shall be submitted to the Planning Board.
- A.10 In any sale or transfer by the owner or any successor owner of the lots, the deed or other instrument of conveyance shall reference this Decision and its recording book and page.
- A.11 No lot shall be further divided so as to create additional lots. This restriction shall be noted on the recorded plans. Additionally, the Declaration of Covenants and Easements governing the common driveway and Lots 1, 2 and 3 shall contain a covenant running to the benefit of each of the respective owners of Lots 1, 2 and 3 restricting any further division or subdivision of Lots 1, 2 and 3.
- A.12 Any fill that is imported to the site shall be clean and any debris found within the fill, such as but not limited to asphalt, metal, and wood shall be removed.
- A.13 The base coat of the common driveway shall be constructed and capable of providing safe vehicular access to Lots 2 and 3 prior to the commencement of construction of the homes on Lots 2 and 3.
- A.14 Pursuant to \$198-1803.1.6 and \$301-17(c), except as waived for the preservation of the barn and relocation of the existing garage, there shall be no dwellings, accessory buildings, driveways, and roadways within the buffer strip around the perimeter of the tract.
- A.15 Pursuant to \$198-1806.1 the Open Land shall be conveyed prior to the Building Commissioner's issuance of a building permit for any lot, unless the Applicant shall provide a cash performance bond in an amount sufficient in the judgment of the Planning Board to guarantee the conveyance of the Open Land as required by the special permit. In any event, the Open Land shall be conveyed as required on or before one year after the conveyance of the first lot.

### B) <u>Special Conditions</u>

- B.1. The existing barn on Lot 3 shall not be demolished or substantially altered. Prior to the sale or transfer of Lot 3, the Applicant shall convey a permanent historic preservation restriction to the Town of Wayland which shall restrict the demolition or alteration of the exterior of the barn without permission from the Town of Wayland Planning Board or its delegate. The deed restriction shall be reviewed and approved by the Planning Board prior to recording, such approval not to be unreasonably withheld. To the extent possible, the form of the restriction shall conform to G.L. c. 184, §31 and 32 to ensure its perpetual enforcement, or the longest period allowed under law.
- B.2 Simultaneous with the conveyance of the Open Land, the Applicant shall transfer \$1,500 to the Conservation Commission or its assign for the specific purpose of maintaining the existing trail on the Open Land.
- B.3 During construction, the Applicant shall protect the 3 specimen trees as shown on the plans (shown on the Final Plans as "existing trees to remain during construction.").
- B.4 The dashed lines shown on Lots 2 and 3 on the Plans represent the area within which the single—family residential structures may be built on each lot (the "Building Envelope").
- B.5 All utilities shall be installed and maintained underground.
- B.6 All construction vehicles shall be parked on-site. If for a particular site development or construction-related activity it is necessary and unavoidable to temporarily station or park construction vehicles within the Moore Road right—of—way, the Applicant shall coordinate traffic control with the Wayland Police Department and notify the direct abutters and the Town Planner in writing at least 24 hours in advance of such activity. During construction, all local, state and federal laws and regulations shall be followed regarding noise, vibration, concussion, dust and blocking of Town ways. At all times the Applicant shall use diligent efforts to minimize inconvenience to the residents in the area. All trucks transporting earth materials of any type to and/or from the site shall be covered in compliance with state law. Any debris or materials that fall from such trucks onto public ways shall be removed and cleaned up promptly. The hours of construction shall be Monday — Friday from 7:00 AM to 5:00 PM and Saturdays from 8:00 AM to 4:00 PM. No work shall be take place on Sunday or federal holidays.
- B.7 Prior to clearing and grading activity, straw wattles and properly entrenched silt fencing shall be installed down slope of all planned earth movement activities as shown on the Final Plans. The boundaries of all buffer areas and the Open Land parcel shall be delineated by silt fence to prevent any encroachment by construction equipment or workers except for the limited tree removal noted in Condition B.8.
- B.8 The Applicant shall notify the Planning Board and its agent to schedule an inspection of the site prior to the clearing of land for the purpose of identifying trees to be removed. The Planning Board permits the removal of the tall pine trees referred to in the BETA report dated 10/11/17. All other trees in the 50-foot buffer along the westerly side of the Locus shall be preserved in accordance with customary landscaping maintenance practices.
- B.9 The conveyance of the Open Land shall include the execution and recording of any and all conveyance documents as determined necessary by Town Counsel to ensure the perpetual protection of the parcel as open space.
- B.10 The three specimen trees shown on the Final Plans shall be protected with staked orange snow fencing at the driplines during construction.
- B.11 A proper construction entrance shall be constructed before construction begins. Any dewatering or draw down activities shall not be directly discharged into a resource area or catch basin. Any dewatering shall be approved, in advance, by the Conservation Commission or Conservation Administrator. Thereafter, prior to commencing any dewatering, the contractor shall provide 24 hours written notice (excluding holidays and weekends) to the Conservation Administrator.
- B.12 Limit of Lawn: no expansion of the proposed lawn area within the wetland buffer zone (shown on the Final Plans) is allowed. Removal of invasive plants (by hand or with hand-held power tools) and establishment of native plants may be allowed within the wetland buffer zone under a valid Order of Conditions.
- B.13 The applicant shall install permanent bounds demarking the property line of each individual lot with the open space parcel. The permanent bounds shall be installed by a professional land surveyor. Permanent bounds shall be installed at every angle point. Bounds shall be 4" x 4" argnite or concrete bounds with a depth of at least three feet, and with at least three inches exposed above grade, except that bounds located in wetland resource areas may be comprised of iron pipes with at least three inches exposed above grade with a surveyor's cap.
- B.14 In the event that the stormwater management conditions of any Order of Conditions or Stormwater Permit issued by the Conservation Commission (the "ConComm Conditions") conflict with the stormwater management conditions of this Special Permit, the ConComm Conditions shall govern and the Applicant need not return to the Planning Board for further revision of the stormwater management conditions of this Special Permit.

# C.) <u>Waivers</u>

- C.1 The Planning Board hereby waives the requirement of Chapter 301-10(B) of the Conservation Cluster Development Rules and Regulations to file all requests for waivers prior to or with the special permit application. The Board determines that requiring strict compliance with this provision is not an efficient use of resources nor productive to the iterative planning process, since an applicant's development plans often change through the course of public hearing process (as they did here). Waiver of this provision allows public comments, peer review comments, Planning Board comments, Conservation Commission and other board comments, and staff comments discussed during public hearings to be incorporated into the Plans.
- C.2 The Planning Board hereby partially waives the requirement of Chapter 301-15 of the Conservation Cluster Development Rules and Regulations for the Applicant to submit a site plan that conforms to the definitive subdivision plan submission requirements set forth in the Wayland Subdivision Rules and Regulations. Specifically the Board waives Section III.B.3, subsections (a), (o), (x) and (y) and Section III.B.5 (a) (iii) and Section III.B.5 (f). The Board finds that since the proposed Conservation Cluster does not propose to create a new subdivision road strict compliance with these definitive plan submission requirements is unnecessary for the Board to make an informed decision on this application, and further, the Project is consistent with approvals previously granted for other Conservation Cluster applications without new subdivision roads.
- C.3 The Planning Board hereby partially waives the requirement of Chapter 301–17(C) of the Conservation Cluster Development Rules and Regulations that requires a 50-foot wide buffer strip around the perimeter of the development tract. Partial waiver of this requirement is necessary to allow for existing barn to remain in its current location and relocate the existing garage. Partial waiver of this requirement promotes the public interest and is consistent with conservation cluster development purposes as it preserves natural features, does not waste historical resources, and promotes re-use of existing buildings.
- C.4 The Planning Board hereby waives the requirement of Chapter 301-17(E) of the Conservation Cluster Development Rules and Regulations that requires each principal building to have access from "a street contained within the cluster development and not in existence prior to the development of the cluster." Waiver of this provision promotes the public interest and is consistent with conservation cluster development purposes as it enables a project that does not require the construction and maintenance of a new road. By eliminating the need for each house to be served by a new road, the waiver reduces land disturbance, tree cutting, cuts—and—fills, curb cuts, and impervious surfaces.
- C.5 The Board determines that its conditions set forth in this Decision serve substantially the same objectives as the provisions of the Conservation Cluster Development Rules and Regulations being waived herein.



APPROVED SPECIAL PERMIT CONSERVATION CLUSTER DEVELOPMENT WAYLAND PLANNING BOARD

March 6, 2018

F WAYLAND D R FEB 13 2018 E APPROVED :

THIS PROJECT IS SUBJECT TO A SPECIAL PERMIT FROM THE WAYLAND PLANNING BOARD SEE DECISION DATED: DECEMBER 13, 2017.

OWNERS:

TAMPOSI BROTHERS I, LLC 37 REVERE STREET, No. 8 BOSTON, MA 02114

# SULLIVAN, CONNORS AND ASSOCIATES

121 BOSTON POST ROAD SUDBURY, MASSACHUSETTS 01776 PHONE: 978-443-9566 FAX: 978-443-891.

LAND SURVEYING AND CIVIL ENGINEERING

SPECIAL PERMIT DECISION CLUSTER SITE LAYOUT 74 MOORE ROAD

WAYLAND, MA

FOR RECORDING SHEET 2-0F-5

DESCRIPTION:

DRAWN BY: REM CHECK BY: VHH DATE: JANUARY 10, 2018 SCALE: 1"=40' | SHEET 1 OF 1.

REVISED:

205 of 2018

