

Town of **Douglas**, Massachusetts

FORM C-1

Certificate of Approval of a Definitive Plan

March 25, 2003

It is hereby certified by the Planning Board of the Town of **Douglas**, Massachusetts, that a duly called and properly posted meeting of said Planning Board, held on **March 25, 2003**, it was voted to approve a definitive plan entitled:

“Fairway View Estates” A Definitive Subdivision, Douglas, MA dated November 7, 2002

submitted by
Bliss Developers Realty Trust (APPLICANT & OWNER), Andrews Survey & Engineering, Inc. (ENGINEER)

originally filed with the Planning Board on **November 13, 2002**

concerning property located
South of Linden Street, east of Perry Street, North of Southeast Main Street and west of the Uxbridge Town Line.

With the following conditions:
See attached decision for conditions and waivers.

A copy of this Certificate of Approval is to be filed with the Town Clerk and a copy sent to the Applicant.

A true copy, attest:

Douglas Town Clerk

Douglas Planning Board

DECISION

Town of Douglas Planning Board

Definitive Subdivision Plan
for Fairway View Estates
Douglas, MA

Decision of the Douglas Planning Board (BOARD) on the petition of Bliss Developers Realty Trust, c/o Kevin A. & Cindy S. Bliss, Trustees, 20 Perry Street, Douglas, MA 01516 (APPLICANT) for property located on Linden Street and shown on Douglas Assessor's Map 244, Parcel 11 (SITE).

I. BACKGROUND:

The decision is in response to an Application for Approval of a Definitive Plan (APPLICATION) by the APPLICANT to be allowed to construct a 9-lot residential subdivision at the SITE. This APPLICATION was formally received by the BOARD on November 13, 2002 and was thereafter reviewed for general completeness. The submittal was made by the ENGINEER and was comprised of the documents listed in the Exhibits below.

The BOARD caused notice of the time and place of its public hearing and the subject matter thereof to be published, posted and mailed to the APPLICANT, abutters and other parties of interest. The Public Hearing was opened on Tuesday, January 14, 2003 at 7:30 pm.

After causing notice of the time and place of its public hearing and the subject matter thereof to be published, posted and mailed to the APPLICANT, abutters within 300-feet and other parties of interest as required by law, the BOARD Chairman called the meeting to order on January 14, 2003, in the Community Meeting Room, Douglas Town Hall, 29 Depot Street, Douglas, MA. The following BOARD Members were present during the Hearing: Chairman Richard Vanden Berg, Ernest Marks, Joel Rosenkrantz, Eben Chesebrough, Daniel Heney and Josiah Burch. Linda Brown recused herself from the hearings. The ENGINEER was present on behalf of the APPLICANT. The hearing was continued by request of the Applicant to the following dates: January 28, 2003; February 11, 2003; March 11, 2003 and March 25, 2003 at which time, following public input, the hearing was closed. The record of the proceeding and submissions upon which this decision is based may be referred to in the Office of the Town Clerk or the Office of the Planning Board.

II. FILINGS:

Submitted for the Boards deliberation were the following:

1. Application for Approval of a Definitive Subdivision Plan which includes the following items:
 - a. Application Form C stamped on November 13, 2002 by the Douglas Town Clerk,
 - b. Waiver / Request List dated November 7, 2002 and revised on December 19, 2002 and January 21, 2003 by ENGINEER,
 - c. Definitive Filing Fee Calculation by ENGINEER,
 - d. Certified Abutters List Report,
 - e. Drainage Analysis entitled Drainage Study for Kevin Bliss, Fairway View Estates, Proposed Residential Subdivision off of Linden Street in Douglas, MA by Michael LaPlante, checked by Gregory M. Valiton, P.E., Andrews Survey and Engineering, Inc., 104 Mendon Street, P.O. Box 312, Uxbridge, Massachusetts 01569 stamped and dated 10/25/02 and subsequently revised 02/03/03.
 - f. Subdivision Plans entitled "Fairway View Estates" – A Definitive Subdivision, Douglas, MA, prepared for Kevin Bliss submitted November 7, 2002, with an Applicant, Owner of Record and Developer of Kevin A. Bliss & Cindy S. Bliss, Trustees, Bliss, 20 Perry Street, Douglas, MA 01516 and designed by Andrews Survey & Engineering, Inc., 104 Mendon Street, Uxbridge, Massachusetts 01569 (508) 278 – 3897 with revisions thereto thru March 5, 2003 and any revisions resulting from this decision, including the following 17 plan sheets:
 - i. Cover Sheet
 - ii. Key Plan K1 thru K1
 - iii. Recordable Plans R1 thru R4
 - iv. Topographic Plans T1 thru T4
 - v. Plan & Profile Plan P1 thru P2
 - vi. Landscape & Signage Plan L1 thru L2
 - vii. Miscellaneous Detail Plans D1 thru D4
2. December 19, 2002 Memorandum from Ida Ouillette, Assistant Assessor to Bill Cundiff, Town Engineer regarding Plan errors.
3. January 14, 2003 Memorandum from the Planning/Conservation Agent to the Planning Board regarding submittal comments.
4. January 14, 2003 letter from Waterman Design Associates, Inc. (WDA) to the Planning Board regarding submittal comments.
5. January 14, 2003 Planning Board meeting minutes.
6. January 20, 2003 letter from ENGINEER to the Planning Board regarding response to WDA January 14, 2003 comments.

7. January 21, 2003 letter from Kevin Bliss to the Planning Board granting an extension until April 8, 2003.
8. January 27, 2003 letter from ENGINEER to the Planning Board requesting a continuation of the Public Hearing.
9. January 28, 2003 Planning Board meeting minutes.
10. January 30, 2003 letter from ENGINEER to the Planning Board regarding response to WDA January 28, 2003 comments.
11. February 11, 2003 Planning Board meeting minutes.
12. March 3, 2003 letter from WDA to the Planning Board reviewing changes made to the submittal.
13. March 11, 2003 Planning Board meeting minutes.
14. March 12, 2003 email from ENGINEER to the Town Engineer and WDA indicating that the most recent submittal contained an error in parcel identification.
15. March 25, 2003 Planning Board meeting minutes.

III. FINDINGS:

After due consideration of the exhibits and the record of the proceedings, and upon satisfaction of the conditions herein, the Board finds the following:

1. The submittal is for properties identified on Town of Douglas Assessors Maps as Map 211, Parcels 11 (40.43Ac), 11.1 (2.06 Ac) and 11.2 (2.06 Ac). The entire property is located in an area zoned "RA" (Rural Agricultural).
2. The combined acreage, based upon the Tax Assessors Mapping information, is 44.55 Acres.
3. This approval does not relieve the Applicant from complying with or obtaining the appropriate permits for any federal, state and local laws, rules or regulations.
4. The definitive plan, with the granted waivers, generally conform with the requirements of the Town of Douglas Rules and Regulations Governing the Subdivision of Land ("Regulations"), and the Subdivision Control Law MGL Chapter 41, Sections 81A – 81GG ("SCL").
5. The Planning Board has no authority to rule on the locations of existing property boundaries.

IV. DECISION & CONDITIONS:

Therefore, the Board voted to approve the Definitive Subdivision Plan entitled “Fairway View Estates – A Definitive Subdivision” dated November 7, 2002 by Andrews Survey & Engineering, Inc., 104 Mendon Street, Uxbridge, Massachusetts 01569; Applicant, Owner and Developer being Bliss Developers Realty Trust, c/o Kevin A. & Cindy S. Bliss, Trustees, 20 Perry Street, Douglas, MA 01516 subject to the following conditions:

A. GENERAL CONDITIONS

- 1) This subdivision approval is given based upon the subdivision plans identified in Exhibit 1 above with revisions thereto thru March 5, 2003. The Board will not consider any additional revisions or modifications to the plans as approved other than those resulting from conditions contained herein. If the Applicant wishes to modify or revise the plans he must follow provisions of the Subdivision Control Law, MGL Chapter 41, Sections 81A – 81GG (“Subdivision Control Law”) and the Douglas Rules and Regulations Governing the Subdivision of Land adopted September 17, 1975 and revised November 24, 1998 (“Regulations”) relating to the submission of a Definitive Plan.
- 2) The Applicant shall ensure safe and convenient vehicular access to the project site during the entire duration of the project. Any Planning Board representatives shall be permitted access to the project site for the duration of the project provided that notice is given to the site construction forman upon arrival.
- 3) Nuisance – The Applicant is responsible to ensure that nuisance conditions, not necessarily limited to the following, do not exist in and around the site as a result of the construction operation. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area.
 - a) Hours - The hours of operation for any construction activities onsite shall be between 7:00 am and 7:00 pm, Monday thru Friday, 8:00 am and 5:00 pm on Saturdays, and no work shall be allowed onsite on Sundays or on Holidays as recognized by the Commonwealth of Massachusetts.
 - b) Dust - The Applicant shall implement dust control operations, in an approved manner, whenever necessary or when directed by the Planning Agent, even though other work on the project may be suspended. Methods of controlling dust shall meet all air pollutant standards as set forth by Federal and State regulatory agencies.

- c) Noise - The Applicant shall implement measures to ensure that noise does not exceed acceptable levels, as set forth by Federal and State regulatory agencies. The Applicant shall cease any excessively loud activities when directed by the Planning Agent.
 - d) Vibration - The Applicant shall implement the necessary controls to ensure that vibration does not create a nuisance or hazard for property abutters.
 - e) Traffic - The Applicant shall implement necessary traffic safety controls to ensure a safe and convenient vehicular access in and around the site. Any traffic issues that occur as a result of site operations and construction shall be mitigated immediately, at the expense of the Applicant. Additional traffic mitigation measures may be required as necessary, or as directed by the Planning Agent.
 - f) Roads – The Applicant is responsible for the sweeping, removal of snow and sanding of the internal roadways permitting access to residents and emergency vehicles until the subdivision is completed. The Town shall have the ability to contract outside snow removal/sanding vendors, at the expense of the Applicant, if the snow is not cleared within a reasonable amount of time. A “reasonable amount of time” is solely determined by the Planning Board.
 - g) Complaints – All complaints related to the above or otherwise, shall be logged and tracked by the Planning Agent. Complaints will be brought to the attention of the Planning Board, as necessary. Any complaints that are found to be repetitive in nature and continue with no mitigation in the opinion of the Planning Board, may constitute a violation of these conditions and may be grounds for a stop order or a partial stop order.
- 4) The Applicant shall provide temporary central mailbox units (CMU) for the residents during project construction. These CMU’s shall be approved as to style and location by the local Postmaster General of the United States Post Office. Post Office authorization shall be forwarded to the Planning Board for their record.
- 5) Inspections and Reporting
- a) The Applicant is responsible for the subdivision roadway and infrastructure inspection fees as detailed in the Douglas Regulations.
 - b) The Applicant shall furnish labor and equipment as needed, at no expense to the Town, to assist in performing inspections of the site.

- c) The Applicants Engineer shall provide monthly status and scheduling reports to the Planning Board by the first day of each month until the project is completed, as required by the Regulations. Projections of the upcoming month's work shall also be identified in these monthly reports. The reports shall include any relevant quantity and cost estimates, partial as-built plans, and supporting documentation deemed necessary by the Planning Agent to justify and supplement claims of completed work. Each of these reports shall be signed, stamped and dated by the Design Engineer and contain the following signed statement: "I hereby certify that all quantities and representations contained herein are accurately represented to the best of my professional knowledge and ability."
 - d) The Applicant shall give the Planning Board a 72-hour notice in writing prior to the request for an inspection.
 - e) The Applicant is responsible for the construction and completion of all stormwater management systems prior to any other site construction activities.
- 6) Surety & Covenants
- a) Prior to signing the approved plan, the Applicant shall submit a covenant running with the land, suitable for recording and written in conformance with the Douglas Regulations and the Subdivision Control Law.
 - b) The Applicant shall submit prior to the request for release of lots from covenant, a tabular summary of all quantities of each construction item to be broken down in a manner sufficient for the Planning Board or its agent(s) to estimate the cost of construction for bonding purposes. Said tabular summary shall include, but may not be limited to, all roadway work, landscaping, common areas, water, drainage, utilities (electric, cable, telephone, to name a few), and other construction proposed on the plan.
 - c) Prior to granting a release from covenant, in part or in whole, the Applicant or subsequent Owner shall complete all the required improvements or submit a performance bond, a deposit of money, or a bank passbook in an amount determined by the Planning Board to be sufficient to cover the cost of all or any part of the improvements required by this subdivision approval. Said surety shall also include a ten percent (10%) contingency factor based upon the value of the work remaining at the time of posting of surety. This full contingency will remain in place until the Planning Board is satisfied that the entire subdivision has been constructed in accordance with the approved Definitive Plan.

- d) Partial as-built plans, certified by a Professional Civil Engineer and Professional Land Surveyor shall be produced with each request for bond/surety reduction. Any items for which reductions are requested shall be clearly identified on the as-built plans including spot elevations, details, cross sections, finished grades, and the like. Furthermore, any testing locations shall also be indicated on the as-built plans. No release of bond/surety will be considered for items that have not been witnessed and approved by the Planning Board Agent(s), specifically by signing the appropriate place on the Form P.
- 7) Construction Standards
- a) Where insufficient information is contained in the design drawings or no local design standard exists, The 1988 Massachusetts Highway Department Standard Specifications for Highways and Bridges as amended and supplemented shall be adhered to.
 - b) Burial of any stumps and debris onsite is expressly prohibited. Localized burial of stones and/or boulders shall not be permitted.
 - c) Soil material to be used as backfill for pipes roads and/or structures (ie. detention basins) shall be tested at the expense of the Applicant, by a firm selected by the Planning Board. Testing of said backfill shall be performed in conformance with standards and frequencies established by the Planning Agent.
 - d) Riprap shall be furnished and installed on all sideslopes in excess of 3 horizontal : 1 vertical (33%) in accordance with Massachusetts Highway Department Standard Specifications for Highways and Bridges Section M2.02.0 – Riprap if the sideslope has not been stabilized prior to acceptance.
- 8) Utilities
- a) Submittal of an underground utility plan as approved/designed by National Grid, or other appropriate agency shall be provided to the Planning Board prior to start of construction. The proposed layout shall not conflict with any of the infrastructure shown on the proposed drawings.
- 9) Infrastructure
- a) Completion of all roadways, drainage areas, and other improvements required by the Douglas Regulations shall be accomplished within two (2) years from the release of the covenant or posting of surety.

10) Conservation Issues

- a) The amount of wetland and upland area on each lot shall be specified on the plans and on each lot, where applicable.
- b) Any work occurring onsite within areas under the jurisdiction of the Douglas Conservation Commission shall be permitted accordingly prior to the start of construction within those areas.

12) Other

- a) A phasing plan clearly indicating the limits of work for each phase shall be submitted to the Planning Board for approval prior to the start of construction, if required. Temporary cul-de-sacs shall be designed and constructed to the standards of a permanent cul-de-sac at the end of any phased roads creating a dead-end.
- b) The Applicant shall maintain a copy of the approved plan and this Certificate of Approval at the SITE during construction.
- c) The Applicant shall obtain temporary easements or written permission from any abutting property Owner if, during the course of construction, it becomes necessary to enter upon their land for construction or planting.
- d) Prior to the application for issuance of occupancy permits for any dwelling having its frontage on any street within the SITE, the following must be complete:
 - i. The entire roadway within the subdivision shall be constructed up to and including the binder course of bituminous concrete, and satisfactorily inspected,
 - ii. All street drainage shall be fully complete and functioning with all grates and castings set to grade,
 - iii. The storm water drainage area shall be operational, fully constructed, and completed according to the plans,
 - iv. All improvements shall be installed and inspected to the satisfaction of the Planning Board's Agent(s).

- e) The Planning Board recommends the following be added to the plan to ease future acceptance as a public way: “Title to each lot shown on this plan is subject to the right reserved to the common grantor to convey the Town of Douglas and easement with respect to the streets and ways shown on the plan for all purposes for which streets and ways are commonly used in the Town of Douglas, upon acceptance of such streets and ways by the Town.”
- f) Prior to final approval of the Planning Board, the Applicant shall adhere to the requirements contained in the Town of Douglas Street Acceptance Policy, as endorsed by the Board of Selectmen and the Planning Board in effect as of May 28, 2002.
- g) Any sale or transfer of rights or interest in all or any part of the property described in this plan shall include a condition that successors are bound to the terms and conditions of this Certificate of Approval and the covenant. In the event of the sale of the entire development: 1) the Planning Board shall be provided with the name, the address, and the telephone number of the new Owner and of the representative, if other than the Owner, responsible for the project.
- h) The Applicant and/or subsequent Owner(s) shall be bound by all conditions and requirements set forth in this Certificate of Approval. Sureties in place shall remain in full force and effect until such time that a surety of equal or greater value is provided.
- i) Conditions contained herein does not relieve the Applicant from adhering to the Douglas Regulations.

B. SPECIAL CONDITIONS

- 1) Prior to Planning Board endorsing the approved definitive plan drawings, the Applicant shall submit a plan to the Planning Board detailing off-site improvements proposed for Linden Street, in the vicinity of the new roadway intersection. Said Plan shall be reviewed and approved by the Planning Board before endorsement of the Definitive Plan Drawings. The Linden Street Improvements Plan shall be incorporated to the Definitive Plan Drawings and shall be completed prior to any lot releases or bond reduction requests.
- 2) Soil testing along the road centerline to be performed as required in Section III. B. 3. m. of the Regulations prior to road subgrade preparation. Soil testing to be witnessed by the Town Engineer or the Board of Health Agent, otherwise perforated underdrains shall be installed.

- 3) Any damage to Linden Street that is caused as a result of the construction of Fairway View Drive and its appurtenances shall be repaired by the Applicant immediately in a similar fashion to that specified and approved in Special Condition B. 1., above.

WAIVERS REQUESTED:

The Board considered and voted upon the following requested waivers from the Rules and Regulations Governing the Subdivision of Land, Douglas, Massachusetts adopted September 17, 1975 and revised November 24, 1998:

- a) **Section III. B. 2. a.** – *“Any person who submits a Definitive Plan of a subdivision to the Planning Board for approval shall file with the Board ... Two original mylar drawings of the Definitive Plan and eight contact prints thereof...”*

Waiver was requested from this requirement and it was offered that two original mylar drawings after plans have been reviewed by the Town Engineer and revised by Andrews Survey and Engineering. The Board voted to grant this waiver on January 14, 2003 (Yes – 6, No – 0, Abstained/Recused – 1).

- b) **Section III. B. 3. m.** – *“...Test pits or borings shall be performed at the expense of the applicant at 100-foot intervals along the centerline of the proposed roadways to determine the foundation material for road construction and to determine the seasonal high ground water elevation. Surface elevation and approximate depth of water shall be shown at each point where the drainage pipe ends at a waterway...”*

Waiver was requested from this requirement to provide testing prior to construction. The Board voted to grant this waiver on March 25, 2003 (Yes – 5, No – 0, Abstained/Recused – 2). The Board also indicated that this testing shall be done prior to road subgrade preparation, otherwise underdrains shall be installed at locations where testing has not been performed.

- c) **Section III. B. 3. n.** – *“Where sanitary sewers are not available, a soil evaluator’s report for each lot proposed within the subdivision shall be included, as per Title V.”*

Waiver was requested to provide testing prior to construction. The Board voted to grant this waiver on March 25, 2003 (Yes – 5, No – 0, Abstained/Recused – 2).

- d) **Section IV. A. 4. a.** – *“Dead-end streets shall not be longer than five hundred (500) feet unless, in the opinion of the Board, a greater length is necessitated by topography or other local conditions.”*

Waiver was requested to extend length of dead-end street to 1226±'. The Board voted to grant this waiver on January 14, 2003 (Yes – 4, No – 1, Abstained/Recused – 1).

- e) **Section V. C. 4.** – *“Underground distribution systems shall be provided for any and all utility services, including electrical and telephone services. Adequate street lighting shall be provided of a design subject to approval by the Planning Board.”*

Waiver was requested on the construction of street lights. The Board voted to grant this waiver on March 25, 2003 (Yes – 6, No – 0, Abstained/Recused – 1). To clarify, the Board only authorizes the waiving of street light construction, not underground utility construction.

- f) **Section V. D.** – *“Five-foot sidewalks shall be installed wherever required. The sidewalk shall be constructed of Portland cement concrete in conformity with the specifications of the Highway Department. All sidewalks and ramps shall be in compliance with all ADA and applicable Massachusetts regulations.”*

Waiver was requested to construct a sidewalk on one side of the street only. The Board voted to grant this waiver on March 25, 2003 (Yes – 4, No – 1, Abstained/Recused – 1).