



# TOWN OF MILLIS

Richard Nichols, *Chair*  
Nicole Riley, *Clerk*  
James McKay  
George Yered  
Bodha B. Raut Chhetry  
Joshua Guerrero, *Associate*

## OFFICE OF THE PLANNING BOARD

900 Main Street • Millis, MA 02054

Phone: 508-376-7045

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Camille Standley  
Administrative Assistant  
[cstandley@millisma.gov](mailto:cstandley@millisma.gov)

September 16, 2019

The Planning Board has **approved, with conditions**, the application of TD Development LLC of 38 Benjamins Gate, Plymouth, Massachusetts who requests;

1) a **Special Permit** pursuant to Section XVIII, **Open Space Preservation**; of the Millis Zoning By-laws of the Town of Millis, to allow an Open Space Preservation Subdivision.

The properties which are the subject of this application are identified as follows:

- Assessors Parcel 66 on Map 15, which is owned by GJ&K LLC, 107 Great Plain Avenue, Wellesley, Massachusetts
- Portions of Assessors Parcel 25 on Map 20, which is owned by the Ridge Street Trust, 21 Prentiss Place, Medfield, Massachusetts
- Assessors Parcel 28 on Map 20, which is owned by Peter Harcovitz, 256 Orchard Street, Millis, Massachusetts
- Portions of Assessors Parcel 26 on Map 20, which is owned by Peter Harcovitz, 256 Orchard Street, Millis, Massachusetts
- Assessors Parcel 27 on Map 20, which is owned by the Thomas F. Kearns Electrical Supply Co., Inc., 92 State Street, Boston, Massachusetts
- Portions of Assessors Parcel 53 on Map 20, which is owned by Acorn of Millis Residential LLC, 9 Canton Street, Randolph, Massachusetts
- Portions of Assessors Parcel 4 on Map 23, which is owned by Joseph Fawkes and Amy Funia, 18A Ridge Street, Millis, Massachusetts

The properties are zoned Residential-Suburban (R-S). Portions of the properties lie within the Special Flood Hazard District and the Watershed Protection District.

A copy of this decision was filed in the office of the Town Clerk of Millis on **September 16, 2019**. The Decision may be viewed on the Planning Board's webpage at: <http://www.millis.org/planning-board>

Any person aggrieved by this decision of the Planning Board may appeal said decision pursuant to Massachusetts General Law Chapter 40A, Section 17, by bringing an action within twenty (20) days after the decision has been filed in the office of the Town Clerk. Notice of the action with a copy of the complaint shall be given to the Town Clerk so as to be received within twenty (20) days. A copy of said complaint shall be given to the Planning Board.

No variance or special permit, or any extension, modification or renewal thereof shall take effect until a copy of that decision bearing the certification of the Town Clerk that 20 days have elapsed and no appeal has been filed or that if such an appeal has been filed that it has been denied or dismissed, is recorded in the Registry of Deeds for the county or district in which the land is located and is indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's title certificate. The fee for recording or registering shall be paid by the owner or applicant.

**To the Applicant:** After 20 days have gone by from the above date, check with the Town Clerk's office and obtain a certified copy of the Board's decision. Be sure that the special permit/site plan is recorded at the Registry with your deed. The permit is not valid until it is recorded. A copy of the receipt from the Registry of Deeds must be filed with the Planning Board and Building Department when you apply for a building permit for the proposed construction.

*Camille Standley*  
Camille Standley,  
Administrative Assistant



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Camille Standley  
Administrative Assistant  
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Millis Town Clerk  
Received

SEP 16 2019

*Katherine E. Smith*  
Asst. Town Clerk  
3:00pm

September 16, 2019

### DECISION OF THE MILLIS PLANNING BOARD ON THE OPEN SPACE PRESERVATION SPECIAL PERMIT APPLICATION SUBMITTED BY TD DEVELOPMENT LLC

An application was filed with the Millis Town Clerk's office on March 28, 2019, by TD Development LLC of 38 Benjamins Gate, Plymouth, Massachusetts who requests;

- 1) a **Special Permit** pursuant to Section XVIII, Open Space Preservation;

of the Millis Zoning By-laws of the Town of Millis, to allow an Open Space Preservation Subdivision.

The properties which are the subject of this application are identified as follows:

- Assessors Parcel 66 on Map 15, which is owned by GJ&K LLC, 107 Great Plain Avenue, Wellesley, Massachusetts
- Portions of Assessors Parcel 25 on Map 20, which is owned by the Ridge Street Trust, 21 Prentiss Place, Medfield, Massachusetts
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- Portions of Assessors Parcel 53 on Map 20, which is owned by Acorn of Millis Residential LLC, 9 Canton Street, Randolph, Massachusetts
- Portions of Assessors Parcel 4 on Map 23, which is owned by Joseph Fawkes and Amy Funia, 18A Ridge Street, Millis, Massachusetts

The properties are zoned Residential-Suburban (R-S). Portions of the properties lie within the Special Flood Hazard District and the Watershed Protection District.

In accordance with the provision of G. L. c. 40, Section 11, notice of hearing was published in The Milford Daily News on April 1, 2019 and April 8, 2019. Abutters to the property were properly notified of the public hearing by mail. A list of the abutters is on file in the Town Clerk's office, 900 Main Street, Millis, Massachusetts.

A public hearing in accordance with said notice was held on April 16, 2019, and continued hearings were held on May 7, 2019, June 11, 2019, July 9, 2019, August 6, 2019 (continued without discussion) and August 13, 2019. The public hearing was closed on August 13, 2019.

The Applicant was represented by Daniel Merrikin, P.E. of Legacy Engineering LLC. The consulting engineer for the Planning Board on this application was the BETA Group, Inc.

The following submissions were received through the public hearing process:

- Correspondence to the Millis Planning Board from Daniel J. Merrikin, P.E., Legacy Engineering LLC, dated March 27, 2019, with attachments:
  - An application for Special Permit for an Open Space Preservation Subdivision, filed March 28, 2109
  - Certified Abutters List Dated March 21, 2019
  - Plans entitled, "Ridge Place Preliminary Subdivision Plan of Land in Millis, Massachusetts," dated March 21, 2019 (26 sheets), prepared by Legacy Engineering LLC
- Correspondence to the Millis Planning Board from BETA Group, dated April 3, 2019
- Correspondence to the Millis Planning Board from Daniel J. Merrikin, P.E., Legacy Engineering LLC, dated April 5, 2019
- Correspondence to the Millis Planning Board from BETA Group, dated April 10, 2019
- Correspondence to the Millis Planning Board from Jim Sabitus, dated April 23, 2019
- Email to the Millis Planning Board and Conservation Committee from Jennifer Farrar, dated April 23, 2019

- Correspondence to the Millis Planning Board from Loring Barnes Edmonds, dated April 29, 2019
- Correspondence to the Millis Planning Board from Marie Gallagher, dated May 1, 2019
- Correspondence to Mike Guzinski and Camille Standley from John and Leah Corcoran, dated May 2, 2019
- Correspondence to the Millis Planning Board from Daniel J. Merrikin, P.E., Legacy Engineering LLC, dated May 7, 2019
- Email to Richard Nichols and Dan Merrikin from Melissa Recos, P.E., BETA Group, dated May 8, 2019 re: Buffer Area Definition
- Email to Camille Standley from Daniel Lee, Conservation Commission, dated May 14, 2019
- Email to Camille Standley from Sarah Fong, dated June 12, 2019
- Email to Camille Standley from Jennifer Farrar, dated June 12, 2019
- Email to Camille Standley from Joe and Amy Fawkes, dated June 13, 2019
- Correspondence to Millis Planning Board from Mike Banks, undated
- Correspondence to the Mr. Richard Nichols, Millis Planning Board from group of Millis residents/abutters, dated July 9, 2019
- Correspondence to the Millis Planning Board from Daniel J. Merrikin, P.E., Legacy Engineering LLC, dated July 22, 2019 with attachments, including:
  - Plans entitled, "Ridge Place Preliminary Subdivision Plan of Land in Millis, Massachusetts," dated March 21, 2019 with a latest revision date of July 17, 2019 (26 sheets), prepared by Legacy Engineering LLC
- Correspondence to the Millis Planning Board from BETA Group, dated July 31, 2019
- Email to Camille Standley from Robert Streck, dated August 13, 2019

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## FINDINGS

Regarding the requests for Special Permits, Section XII.Q of the Zoning By-Laws of the Town of Millis requires the following general conditions to be fulfilled prior to the granting of an application for a special permit:

(a) Special permits shall only be issued following public hearings held within 65 days after filing of an application with the Special Permit Granting Authority, a copy of which shall be given forthwith to the Town Clerk by the Applicant.

**Finding:** The application was filed with the office of the Town Clerk on March 28, 2019; and the initial public hearing was held on April 16, 2019. The Planning Board therefore finds that this requirement has been met.

(b) The use requested by the Applicant is listed in the Table 1 Use Regulations of the Millis Zoning By-laws as a special permit in the district for which application is made or is so designated elsewhere in the By-laws.

**Finding:** The proposed development of an Open Space Preservation Subdivision requires a Special Permit pursuant to Section XVIII, Open Space Preservation, of the Zoning Bylaw. The Planning Board therefore finds that this requirement has been met.

(c) The requested use is essential or desirable to the public convenience or welfare.

**Finding:** The Board finds that the Open Space Preservation Subdivisions result in smaller development footprints and associated impacts and preserve open space that would not otherwise be preserved under a conventional subdivision. The preservation of open space is consistent with town planning goals. The Board therefore finds that the proposed development is desirable to the public convenience and welfare.

(d) The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.

**Finding:** Neighboring residents have expressed concerns about the impacts of traffic on nearby roads. The properties in question have access to two public roads, Rolling Meadow Drive and Ridge Street and have a reasonable expectation to use those public roads for access to the locus. The board finds that both access points are necessary for the development, although it is noted that certain restrictions may be imposed on one or both entrances during the definitive subdivision permitting for the development. It is also noted that improvements to the Curve Street/Ridge Street intersection and/or the Auburn Road/Ridge Street intersection may be required as part of the definitive subdivision permitting for the development. The Applicant has agreed to provide a traffic study for the proposed development and to submit the same as part of the definitive subdivision application. Based on the information provided, the Board finds that Ridge

Street and Rolling Meadow Drive are reasonable access points for the development. The Board further expects that the applicant will be able to provide reasonable mitigation to any substantive adverse impacts that may be identified in the traffic study to be submitted. The details of those mitigation measures will be determined in the definitive subdivision permitting process. Rolling Meadow Drive has existing sidewalks and the new development will provide sidewalks as well. The requested use, with mitigation as determined through the definitive subdivision process, will therefore not create undue traffic congestion, or unduly impair pedestrian movement and the Planning Board finds that this requirement can be met.

(e) The requested use will not overload any municipal services 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 subject to hazards affecting health, safety, or the general welfare.

**Finding:** The site is serviced by existing municipal water and sewer systems, which are both adequate. The Applicant will be required to provide a stormwater management system which meets state and local requirements for stormwater mitigation and treatment. The requested use will not overload any municipal services 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 subject to hazards affecting health, safety, or general welfare. The Planning Board therefore finds that this requirement has been met.

(f) Any special regulations for the use set forth in Section XI (Special Flood Hazard District), are fulfilled.

**Finding:** The applicant will be required to obtain a special permit under Section XI for any proposed work in the flood plain. The Board therefore finds that this requirement has been met.

(g) The requested use will not impair the integrity or character of the district or adjoining zones, not be detrimental to the health, morals, or welfare.

**Finding:** The requested use is for an Open Space Preservation Subdivision. The number of units to be constructed will be the same or less than could otherwise be constructed if a conventional subdivision were installed. The development is surrounded by significant vegetated buffer areas and the proposed use is consistent with the existing residential uses surrounding the development. As such, the requested use will not impair the integrity or character of the district or adjoining zones, not be detrimental to the health,

morals, or welfare of the citizens of Millis. The Planning Board therefore finds that this requirement has been met.

(h) A special permit granted under the provision of the Millis Zoning by-laws shall lapse within one year, and including such time required to pursue or await the determination of an appeal, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

**Finding:** The Applicant shall adhere to such requirements and the Planning Board therefore finds that this requirement has been met.

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Section XVIII.G.5.a of the Zoning By-laws of the Town of Millis requires the Planning Board to find that the proposed Open Space Preservation development will have a less detrimental impact than a conventional subdivision on the same tract prior to the granting of an application for Special Permit:

1) Whether the proposed development achieves the purposes designated in Section A of the Open Space Preservation Bylaw.

**Finding:** The proposed Open Space Preservation Subdivision provides for variation in single family residential housing patterns through the preservation of open space and the construction of single-family residential houses on lots that are smaller than would otherwise be required. As a result, there will be less disturbance of the site, less infrastructure, less stormwater runoff, all of which achieve significant benefits over a conventional subdivision. The open space includes a wide variety of wetlands, flood plain, wooded upland and pasture upland. The total open space area is approximately 40.6 acres of land, which is 66% of the total site. Based on the plan submitted along with the imposition of conditions noted hereafter, the Planning Board therefore finds that the proposed Open Space Preservation Subdivision is consistent with the purposes of Section A of the Open Space Preservation Bylaw.

2) Whether the proposed development will create undue traffic congestion or unduly impair pedestrian safety.

**Finding:** The applicant has provided a yield plan indicating that a conventional subdivision could yield 45 lots. The proposed Open Space Preservation Subdivision is only proposed to contain 43 lots. The main roadway through the site is essentially the same in both the conventional and



Open Space plans. As such, the Board finds that the proposed Open Space Preservation Subdivision will be less detrimental than a conventional subdivision with respect to the stated considerations.

3) Whether the proposed development will overload any public water, drainage, or sewer system or any other municipal service to such an extent that the proposed development or any developed use in the immediate area or in any other area of the Town will be unduly subject to hazards affecting health, safety, or the general welfare.

**Finding:** The Open Space Preservation Subdivision plan involves two fewer lots than the conventional subdivision and will therefore use less municipal resources. The Board therefore finds that the Open Space Preservation Subdivision results in lesser impact than a conventional subdivision with respect to the stated considerations.

4) Whether the proposed development will impair the integrity or character of the neighborhood, district or adjoining zones, or be detrimental to the health, morals or welfare thereof.

**Finding:** The Open Space Preservation Subdivision is of similar character to a conventional subdivision with the notable exception that it provides significant larger vegetated buffers to abutters and preservation of large tracts of open space. The Open Space Preservation Subdivision is therefore a significant improvement over a conventional subdivision on the site. The Board therefore finds that the Open Space Preservation Subdivision results in lesser impact than a conventional subdivision with respect to the stated considerations.

5) Whether the proposed development facilitates the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner than a conventional subdivision would on the same tract.

**Finding:** The Open Space Preservation Subdivision requires significantly less roadway and associated utilities to provide access to the individual lots than a conventional subdivision. The Open Space option results in approximately 1,000 linear feet less roadway than the conventional option. This, in conjunction with smaller lot sizes, also results in smaller and more efficient stormwater management systems. The Board therefore finds that the Open Space Preservation Subdivision is significantly more efficient than a conventional subdivision with respect to the stated considerations.

6) Whether the Application submitted by the Applicant complies with all sections of this Bylaw and the Zoning Bylaws as a whole.

**Finding:** Based on the plan submitted along with the imposition of conditions noted hereafter, the Planning Board finds that this requirement has been met. It is noted that the Open Space Preservation Bylaw indicates that the open space contain certain minimum areas of uplands and that "Buffer Areas" to wetlands are to be considered in that calculation (along with other areas). The term "Buffer Area" is not defined in the Zoning Bylaw in the context of an Open Space Preservation development. The Board finds that for the purposes of the application of the Bylaw to the development, the term "Buffer Area" to wetlands shall be coincidental with the inner 50' Buffer Zone to wetlands as described in the Millis Wetlands Protection Rules and Regulations. This represents all upland areas within 50 feet of the edge of wetlands.

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## DECISION

At a meeting held on September 10, 2019, acting upon a motion of Mr. Richard Nichols and seconded by Ms. Nicole Riley, with Mr. George Yered, Mr. James McKay, Ms. Nicole Riley, Mr. Richard Nichols, and Mr. Bodha B. Raut Chhetry voting in the affirmative, it was unanimously voted to grant to the Applicant, TD Development LLC a **Special Permit** for an Open Space Preservation Subdivision for properties located at assessors parcels 15-66, 20-25 (portions only), 20-28, 20-26 (portions only), 20-27, 20-53 (portions only), and 23-04 (portions only) Ridge Street, said location as described herein and on the plans. The site and the approved Open Space Preservation Subdivision layout are depicted on a twenty-six (26)-sheet plan set entitled "Ridge Place Preliminary Subdivision Plan of Land in Millis, Massachusetts", dated March 21, 2019 with a final revision date of July 17, 2019 prepared by Legacy Engineering LLC (hereinafter referred to as the "Approved Preliminary Subdivision Plan"). Special Permit approval is subject to the following conditions:


1. All necessary approvals from other Town Boards and Commissions must be obtained by the Applicant. Proof of said approvals, where needed, shall be forwarded to the Millis Planning Board.
2. All provisions of the Millis Zoning By-laws shall be observed unless otherwise approved herein, authorized by variance from the Millis Zoning Board of Appeals, or authorized by a Determination pursuant to M.G.L.

Chapter 40A, Section 6 that such pre-existing non-conforming uses may remain or be expanded and/or modified.

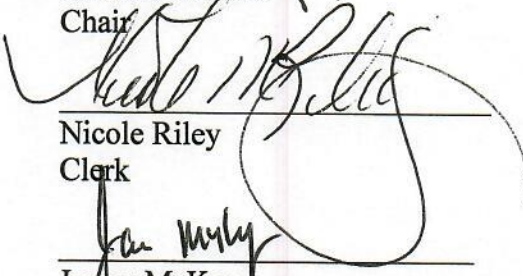
3. This special permit granted under the provisions of the Millis Zoning By-laws shall lapse within twenty-four (24) months from the filing of this decision with the Town Clerk, and including such time required to pursue or await the determination of an appeal from the grant thereof. If the Applicant, for good cause, needs to be granted an extension of up to one (1) year for completion of the project, such an extension will not be unreasonably withheld.
4. This permit is for the development of a 43-lot Open Space Preservation Subdivision at the parcels of land identified herein on Ridge Street. The Approved Preliminary Subdivision Plan depicts the proposed development in a general and preliminary manner. The Applicant is required to seek Definitive Subdivision approval for the proposed subdivision. At such time, the definitive design of the subdivision infrastructure including all roads, utilities, stormwater management systems, and any required off-site improvements, will be proposed. It is understood that the definitive design may result in non-substantive deviations from the layout of the Approved Preliminary Subdivision Plan. Those deviations are permitted under this permit to the extent that the Planning Board determines that the definitive design is generally consistent with the intent of this approval and the requirements of the Open Space Preservation Bylaw. Deviations may include revised roadway configurations along with the other associated components of the development (grading, utilities, stormwater management systems, etc.), revised lot sizes and locations, and revised open space parcel configuration and size. If during definitive design limits of Bordering Land Subject to Flooding increase, the applicant shall provide calculations or revisions to support the number of conventional lots allowable under the Bylaw. If deviations impact designed open space upland areas the applicant shall provide calculations or revisions to meet the Open Space Bylaw requirements.
5. It is understood that certain minor portions of the development site are intended to be part of a land swap with a adjoining property owners and that those parcels are to be excluded from the Open Space Preservation Subdivision. Additional minor parcels to be excluded from the Open Space Preservation Subdivision for similar purposes may be proposed if the Planning Board deems them to be reasonable and consistent with this approval.

6. The Applicant is required to obtain any required special permits for any proposed work in the Special Flood Hazard district or the Watershed Protection district.
7. In accordance with Section XVIII.F, the open space shall be conveyed to a corporation or trust owned or to be owned by the owners of the lots within the development. This is proposed to be done through a homeowner's association. During the definitive subdivision permitting process, the Applicant shall provide proposed association documents addressing the proposed ownership and management of the open space for approval by the Planning Board. Documents establishing such ownership shall be recorded at the Norfolk Registry of Deeds.
8. The final definitive subdivision plan shall include the following notation "Lots xx-xx and Parcels xx-xx as shown on this plan may not be further subdivided" (list the associated open space lots and parcels).
9. The Applicant shall submit a traffic study as part of the definitive subdivision permitting process identifying potential impacts to adjacent streets.
10. Any recreational or other permitted uses that may be proposed within the designated open space that involves the construction of impervious surfaces, parking areas or driveways shall require Site Plan Approval from the Planning Board pursuant to Section XIII.C of the Zoning Bylaw. It is understood that stormwater management systems and wetland and flood plain replication areas and associated appurtenances will be proposed within portions of the open space parcels. Such features do not require separate Site Plan Approval provided they are approved as part of the definitive subdivision permitting process.

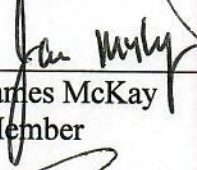
MILLIS PLANNING BOARD:

  
Richard Nichols  
Chair

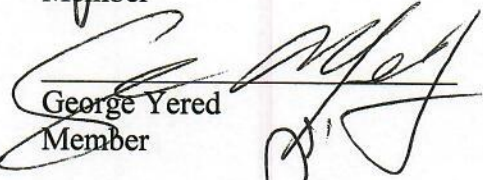
Approve     Deny     Abstain

  
Nicole Riley  
Clerk


Approve     Deny     Abstain

  
James McKay  
Member

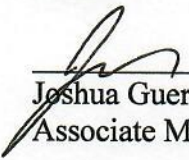
Approve     Deny     Abstain

  
George Yered  
Member

Approve     Deny     Abstain

  
Bodha B. Raut Chhetry  
Member

Approve     Deny     Abstain

  
Joshua Guerrero  
Associate Member

Approve     Deny     Abstain

DATE VOTED: September 10, 2019

DATED FILED WITH THE OFFICE OF THE TOWN CLERK: September 16, 2019

APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY (20) DAYS AFTER THE DATE THIS DECISION IS FILED IN THE OFFICE OF THE TOWN CLERK.