

# Worcester District Registry of Deeds - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 11/6/2019 12:06:45 PM

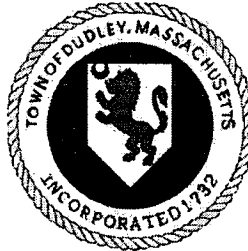
Doc#	Document Type	Town	Book/Page	File Date	Consideration
45807	DECISION		60435/185	05/21/2019	
<b>Property-Street Address and/or Description</b>					
61 AIRPORT RD					
<b>Grantors</b>					
DUDLEY TOWN PLANNING, LEGACY LANDING LLC, RUDA REALTY INC, RUDA JAMES, RUDA LINDA					
<b>Grantees</b>					
<b>References-Book/Pg Description Recorded Year</b>					
43288/11 DEED 2008					
<b>Registered Land Certificate(s)-Cert# Book/Pg</b>					

**TOWN OF DUDLEY**  
**MASSACHUSETTS**  
**OFFICE OF THE TOWN CLERK**  
71 West Main Street, Suite 207 • Dudley, MA 01571  
(508) 949-8004 Town Clerk's Phone • (508) 949-7115 Fax



Bk: 60435 Pg: 185  
Page: 1 of 9 05/21/2019 12:17 PM WD

Ora E. Finn  
*Town Clerk, CMMC*  
[townclerk@dudleyma.gov](mailto:townclerk@dudleyma.gov)



Jacqueline M. Phelps  
*Assistant Town Clerk*  
[townclerk2@dudleyma.gov](mailto:townclerk2@dudleyma.gov)

**CERTIFICATE OF NO APPEAL**

**PETITIONER:** Legacy Landing LLC  
61 Airport Road  
Dudley, MA 01571

**OWNER(S):** Ruda Realty Inc.  
**ADDRESS:** 61 Airport Road, Dudley, MA 01571

**LOCATION:** 61 Airport Road, Dudley, MA

**ASSESSOR'S MAP:** 227

**LOT:** 4, 6, 16.1 and 17

**ZONING DISTRICT:** R-15

*Deed Book 43288  
Page 11*

**JANUARY 31, 2019**

This is to certify that the Notice of Approval from the Planning Board of approval of a Special Permit was received and duly recorded in the Office of the Town Clerk on December 21, 2018 at 11:45 a.m. The Planning Board met a regularly scheduled meeting on December 12, 2018 which included a Public Hearing. The Special Permit was granted with conditions

No Notice of Appeal from such approval was received by me during the twenty days next after receipt and recording of such Notice of Approval. Appeal period ending January 10, 2019.

A True Copy. Attest: *Ora E. Finn*  
Ora E. Finn, Dudley Town Clerk

SEAL

*(9)*  
*[Signature]*



**TOWN OF DUDLEY  
MASSACHUSETTS  
PLANNING BOARD**

DUDLEY MUNICIPAL COMPLEX, ROOM 308  
71 WEST MAIN STREET DUDLEY, MA 01571

11:45 A.M.  
**RECEIVED**  
DEC 21 2018  
**DUDLEY - TOWN CLERK**

DUDLEY PLANNING BOARD  
Guy E. Horne, Jr., Chairman  
Pamela Humphrey, Vice Chairman  
Daniel Edmiston, Clerk of the Board  
Gregory Benoit, Member  
Russell Giglio, Member  
Mark Marzeotti, Alternate Member



DUDLEY PLANNING STAFF  
Donald T. Johnson, AICP, Town Planner  
Caryl Savard, Clerk  
[planner@dudleyma.gov](mailto:planner@dudleyma.gov)  
Phone: 508-949-8014

**SPECIAL PERMIT DECISION**

Special Permit under Section 3.05.00 of the Town of Dudley Zoning Bylaws, to construct an  
Open Space Residential Development (OSRD).  
CASE NO. 18-2

Date: December 21, 2018

Name & Address of Applicant: Legacy Landing LLC  
61 Airport Road  
Dudley, MA 01571

Name & Address of Owners: Ruda Realty Inc.  
61 Airport Road  
Dudley, MA 01571; and  
James & Linda Ruda  
10021 Avalon Lake Circle  
Fort Myers, FL 33913

Location of Property: 61 Airport Road  
Dudley, MA

Assessors' Parcel(s): Map 227, Lots 4, 6, 16.1, and 17  
Zoning District: R-15 Zoning District (Residential)

**REQUEST:**

The Applicant is requesting a Special Permit under Section 3.05.00 of the Town of Dudley Zoning Bylaws, to construct a 22-unit age-restricted Open Space Residential Development (OSRD) on property on Airport Road, located within the Residential 15 District, with access from Airport Road and Dudley Hill Road. The property is described as 61 Airport Road Open Space Residential Development, containing 12.87 +/- acres, as shown on Assessor's Tax Map 227, Lots 4, 6, 16.1, and 17.

## **FILING AND HEARING:**

Said application was filed with the Planning Board and the Town Clerk on October 30, 2018. The Public Hearing on the special permit was scheduled for December 12, 2018, notice of the hearing was published on November 21 and November 28, 2018 in the Worcester Telegram, a copy of the hearing as it appeared in the newspaper was posted with the Town Clerk on November 20, 2018, and notices were mailed to parties in interest as defined in the Zoning Bylaws and in Section 11 of Chapter 40A of the Massachusetts General Laws.

The Public Hearing was opened on December 12, 2018 for the purpose of considering the requested Special Permit in accordance with the accompanying site plan. Planning Board members Guy E. Horne, Jr., Pamela Humphrey, Daniel Edmiston, Gregory Benoit, and Russell Giglio were present. Landowner Bob Ruda was also present. Randy Waterman of WDA Design Group, Project Engineer, on behalf of the Applicant, gave a general presentation of the application as submitted. Comment letters were received from the Board of Water/Sewer Commissioners, and from Graves Engineering, the Planning Board's consulting engineer. Abutters Richard Clark, Linda Poulin, John Lynch, George Guskey, Jack Poulin, Victor Kallgren, Richard Raymond, and an unknown male abutter who didn't sign in or announce his name, commented on the application. There were no comments opposing the application per se, but there was some concern expressed over existing traffic conditions on Dudley Hill Road, and over existing water pressure and drainage in the area. The hearing was closed that evening.

## **VOTE OF THE BOARD:**

At the Planning Board meeting held on December 12, 2018, a motion was made by Mr. Benoit and seconded by Ms. Humphrey to grant with conditions of approval a SPECIAL PERMIT under Section 3.05.00 of the Town of Dudley Zoning Bylaws, to construct a 22-unit age-restricted Open Space Residential Development (OSRD) on property located within the Residential 15 District, with access from Airport Road and Dudley Hill Road, said property being described as 61 Airport Road Open Space Residential Development, containing 12.87 +/- acres, as shown on Assessor's Tax Map 227, Lots 4, 6, 16.1, and 17, pursuant to the application and plans submitted therewith, being the plan by WDA Design Group entitled "61 Airport Road Open Space Residential Development" dated October 26, 2018. The vote on the motion was five in favor, none opposed, none abstaining. Therefore, pursuant to Section 11 of Chapter 40A of the Massachusetts General Laws, the special permit is approved.

## **CONDITIONS OF APPROVAL:**

By the granting of this Special Permit, the Planning Board declares that the requirements of the Town of Dudley Zoning Bylaws, Section 3.05.06, Application Procedure, Subsections A – D.1.b inclusive, for the granting of a Special Permit for an OSRD Concept Plan have been met, subject to the following conditions of approval:

1. Pursuant to the Zoning Bylaws, Section 3.05.06, Application Procedure, Subsections D.1.c - d inclusive, the applicant shall submit a definitive subdivision plan, in conformity with Section 3, Subsection C of the Town of Dudley Rules and Regulations Relating to the Subdivision of Land, which states:

Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lots in a subdivision, or elsewhere in the Town, without the consent of the Planning Board. Such consent may be conditioned upon the providing of adequate ways furnishing access to each such building and adequate improvements in the same manner as otherwise required for lots within the subdivision. If more than one house or residential unit is anticipated on any lot, now or in the future, on such definitive plan, those details need to be shown. It is expressly understood that the approval of any lot on a definitive subdivision plan is implied for one residential unit unless otherwise stated.

The Definitive Subdivision Plan shall substantially comply with the Concept Plan.

2. The roadways shown on the Concept Plan shall be constructed pursuant to (i.e., in general conformance with construction standards of), the Town of Dudley Rules and Regulations Relating to the Subdivision of Land, with waivers that will be consistent with the Concept Plan.
3. The Applicant shall explore alternatives, such as a gate or other methods, to limit or avoid the passage of traffic between the two roadway segments shown on the plan, which shall be addressed on the definitive plan.
4. Roadways within the OSRD shall forever remain private roads. No request/petition shall ever be made to the Town of Dudley for seeking to change the status of said roadways from that of a private way. "Private Way" signs shall be posted at the roadways' intersections with Dudley Hill Road and Airport Road prior to the clearing of trees and/or actual start of work on this OSRD.
5. A Homeowners' Association shall be formed to maintain all on-site drainage associated with the site development, and all road maintenance including snow plowing and sanding shall be at the Applicant/Owner's/Homeowners' Association expense. Until the establishment of a Homeowners' Association, such maintenance shall be the responsibility of the Applicant/Developer. Before recording, the Homeowners' Association documentation shall be reviewed by the Planning Board for consistency with this Special Permit and with the associated Definitive Subdivision Plan.
6. Occupancy is limited to at least one member of the household being aged 55 or older as regulated by the Commonwealth of Massachusetts.
7. To the extent practicable, the applicant shall, in the construction of the roadways, preserve any and all mature, healthy trees presently located on the site. Accordingly, the applicant may, in the construction of the roadway, vary the location of the traveled way within the roadway right-of-way in order to preserve said trees. Such variations shall be shown in the definitive plan, and a complete tree planting and landscaping plan shall be shown on the definitive plan. In the design of this tree planting/landscaping plan, show a suitable buffer between the roadway that enters/exits on Airport Road and the property at 65 and 67 Airport Road, which shall be subject to approval by the Planning Board as a condition of definitive plan approval.
8. It is noted that the Applicant wishes to allow the Public to use the walking trail on the site, subject to appropriate documentation to be approved along with the definitive plan. A gravel surface parking area containing two (2) spaces for users of this trail, and also for overflow parking by visitors, will be shown on the definitive plan and will be subject to a condition of approval of that plan.
9. Inspections of roadway construction and associated construction within the OSRD, including drainage systems as approved by the Planning Board, shall be done pursuant to the Town of Dudley Zoning Bylaws and Rules and Regulations Governing Subdivision of Land. A pre-construction meeting shall be held to discuss inspection schedules, start to finish, and the approximate anticipated inspection fee, and this approximate anticipated fee amount will be submitted to the Planning Board prior to any inspections being conducted by the Planning Board's designated representative. As-built

plans shall be approved by the Planning Board for every phase of construction before the release of or reduction of any bond amount, and prior to the installation of any course of pavement.

10. A copy of the applicant's NPDES permit application shall be filed with the Planning Board prior to the commencement of any construction activities specified in this Special Permit decision and/or endorsement of the ensuing definitive plan. Two copies of the Stormwater Pollution Prevention Plan (SWPPP) shall be provided to the Planning Board at the pre-construction meeting. Erosion and sedimentation control measures indicated on the SWPPP will need to be modified throughout the duration of the project to accommodate the Contractor's construction activities. The updated SWPPP is required to be at the project site at all times and shall be available for review.
11. The Applicant and/or his/her/its agent(s) shall have a copy of this Decision and any plans associated with this Decision, the Certificate of Approval letter for the ensuing definitive plan, the endorsed definitive plan in its entirety, the zoning bylaws and subdivision rules and regulations, and the Conservation Commission's Order of Conditions on the construction site at all times when performing construction activities authorized pursuant to this Special Permit.
12. Hours of operation during construction shall be 7:30 am – 5:30 pm Monday – Friday, 8:00 am – 4:00 pm Saturday, and no work on Sunday and/or federal holidays.
13. Parking during construction shall be restricted to on-site (no parking on Airport Road or Dudley Hill Road) except for initial tree clearing and initial excavation operations.
14. Water and sewer facilities shall be constructed in accordance with the letter from the Board of Water/Sewer Commissioners dated December 6, 2018. An easement over the water and sewer mains shall be granted to the Town of Dudley.
15. The Board approves the conditions and waivers listed in the applicant's Cover letter by WDA Design Group, dated October 29, 2018; Design Drawings by WDA Design Group entitled "61 Airport Road Open Space Residential Development" dated October 26, 2018; and OSRD application. Waivers approved include:

**Zoning Bylaws:**

- Section 2.04.02: Waiver to allow a frontage less than that required. A condominium development is proposed with no public right-of-way.
- Section 3.05.04.A.: Waiver to allow a frontage less than that required. A condominium development is proposed with no public right-of-way.
- Section 3.05.04.B.: Waiver to the requirement for frontage on a way created within an OSRD. A condominium development is proposed with no public right-of-way.
- Section 3.05.05.D.: Waiver to the frontage requirement of this section. A condominium development is proposed with no public right-of-way.
- Section 3.05.06.B.4.: Waiver to drawing in the lot lines. A condominium development is proposed with a single lot.
- Section 3.05.06.C.2.b: Waiver to the one hundred foot buffer area requirement of this section.
- Section 3.05.06.D.1.a.1.: Waiver to allow drawings at a scale of 1" = 50' where 1" = 40" is required.
- Section 3.05.06.D.1.a.16: Waiver to the requirement to provide a list of all legal documents necessary for implementation of the proposed development.

**Subdivision Rules and Regulations:**

- Section III.A.6.: Waiver to allow more than one building on a lot.
- Section III.A.10.: Waiver to allow more than one building on a lot without proper frontage on a way.
- Section III.C.2.: Waiver to allow drawings at a scale of 1" = 50' where 1" = 40" is required.
- Section III.C.2.i.: Waiver to the requirement to show existing trees of eight (8) inch caliper.
- Section III.C.4.: Waiver to allow more than one building on a lot.
- Section III.C.2.i.: Waiver to the requirement to show existing trees of eight (8) inch caliper.

- Section III.C.4.: Waiver to allow more than one building on a lot.
- Section IV.A.1.e.: Waiver to allow a curved street centerline radii less than 200'.
- Section IV.A.1.j.: Waiver to allow the roadway cross-section to vary from the Typical Roadway Section.
- Section IV.A.2.: Waiver to allow the roadway width to be less than 26 feet.
- Section IV.A.4.: Waiver to allow a Dead-end street without a turnaround having and outside roadway diameter of at least one hundred (100) feet and a property line diameter of at least one hundred twenty (120) feet.
- Section IV.E.: Waiver to allow a lot not in conformance with the Town's Zoning Bylaw.
- Section V.C.: Waiver to providing sidewalks on both sides of all ways.

## **REASONS FOR DECISION:**

It is the finding of the Board that with the above-imposed condition the Applicant is able to meet the requirements of Section 3.05.00 of the Zoning Bylaws, in that:

1. The applicant has sufficiently demonstrated that the use complies with the specific provisions of Section 3.05.00 and with the general provisions enumerated in the Zoning Bylaws.
2. The use is in harmony with the general purpose of the Zoning Bylaws in that it will provide for an underrepresented segment of the housing market, i.e., those residents over 55 years of age.

The Planning Board further finds that the proposed OSRD complies with the requirements of the following factors:

1. The OSRD furthers the goals and policies of the *Dudley, Massachusetts Master Plan 2000*, in that this area was designated for residential use in the Plan.
2. The OSRD achieves greater flexibility and creativity in the design of residential developments than a conventional plan meeting the zoning requirements otherwise applicable to the zoning district in which the tract is situated.
3. The OSRD promotes the permanent preservation of open space, other natural resources including waterbodies and wetlands, and historic, cultural and scenic resources, including provisions for casual walking.
4. The OSRD promotes a less sprawling form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision
5. The OSRD as approved and planned reduces the total amount of disturbance on the site.
6. The OSRD facilitates the construction and maintenance of streets, utilities and public service in a safe, economical and efficient manner for the proposed use.
7. The Concept Plan and its supporting narrative documentation comply with all sections of the Zoning Bylaws.

Said Special Permit is granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: "...Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than three years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, 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."

Massachusetts General Laws c. 40A, §11 provides in pertinent part as follows: "A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the six-month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."

The Planning Board hereby certifies that a copy of this decision and all plans referred to therein has been filed with the Planning Board and Town Clerk of the Town of Dudley. Appeal of this decision, if any, shall be made pursuant to Section 17 of Chapter 40A of the Massachusetts General Laws and shall be filed within twenty days after the date of filing this decision with the said Town Clerk.


The Inspector of Buildings shall not issue a permit until the applicant submits certification from the Worcester District Registrar of Deeds pursuant to Section 11 of Chapter 40A of the Massachusetts General Laws that this Decision has been recorded.


Note to Town Clerk: The Planning Board should be notified immediately of any appeal to the Superior or Land Court on this subdivision approval made within the statutory twenty (20) day appeal period. If no appeal is filed with your office, the Planning Board should be notified at the end of the twenty-day appeals period in order that this Decision may be recorded.

This decision was made on December 12, 2018, and filed with the Town Clerk on December 21, 2018.




**DUDLEY PLANNING BOARD**

  
Guy E. Horne, Jr., Chairman

  
Pamela Humphrey, Vice Chairman

\_\_\_\_\_  
Daniel Edmiston, Clerk to the Board

  
Gregory Benoit, Member

  
Russell Giglio, Member

Attested and Certified

- Copy to:
- Town Clerk
  - Planning Board
  - Building Inspector
  - Board of Water/Sewer Commissioners
  - Conservation Commission
  - Board of Health
  - Bboard of Selectmen
  - Fire Department
  - Police Department
  - WDA Design Group
  - Legacy Landing LLC, Applicant
  - Ruda Realty Inc., Owner
  - James & Linda Ruda, Owner

**CERTIFICATION OF THE TOWN CLERK OF DUDLEY, MASSACHUSETTS**

The undersigned certifies that she is the duly elected and acting Town Clerk of the Town of Dudley. That the above decision of the Planning Board on the special permit application of Legacy Landing LLC was filed with the office of the Town Clerk on the 21<sup>st</sup> day of December 2018. That twenty days have elapsed since the filing of this decision with the office of the Town Clerk and no notice of appeal has been filed with the said office pursuant to Section 17, Chapter 40A of the Massachusetts General Laws (as amended).

Attest:                     *Olivia E. Finn*                     Town Clerk

Date:                     *January 31, 2019*                    

**NOTICE OF SPECIAL PERMIT**

The aforesaid premises is identified in a deed duly recorded in the Worcester District Registry of Deeds in Book \_\_\_\_\_ Page \_\_\_\_\_.