



TOWN OF WESTPORT
PLANNING BOARD
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SPECIAL PERMIT
Rolling Hills Farm Project

I. Findings and Decision

Re: Application of Affinity Group Member Services, Inc. d/b/a Rolling Hills Farm, for a Special Permit under Section 5 of the Town of Westport Land Use Law

Date of Application: April 22, 2011

Date of Decision: August 1, 2011

Summary of Decision: The Town of Westport Planning Board hereby grants a Special Permit for the Rolling Hills Farm Project under the terms and conditions stated below. All such terms and conditions must be satisfied for construction to proceed and operation to commence and continue. These terms and conditions are legally enforceable under the Land Use Law of the Town of Westport.

II. Use

The proposed use is a Farm-Related Private Membership Club, as provided in Section 24.120 of the Town of Westport Land Use Law. This use is allowed by special permit in the V-RES I and V-MGT zoning districts, where the subject property is located. The required project amenity of a working farm is located outside of these two districts, but no development of this area has been proposed and it will remain a working farm under the protection of a conservation easement granted to the Adirondack Land Trust.

III. Project Description

The Rolling Hills Farm project is a farm-related private membership club as defined in the Town of Westport Land Use law, and includes a working farm located on property currently referred to

as the Bessboro Farm. The subject property is located at the intersection of NYS Route 9N/22 and Camp Dudley Road, approximately one mile south of the center of the Town of Westport. The property encompasses a total of approximately 1,229 acres that are presently divided into the two primary functional land components:

1. Approximately 61.8 acres is the development area that includes an existing manor house and single family residence and which is the subject property for this Special Permit.
2. Additional land components, not part of the development area and not covered by this Special Permit include horse stables and paddocks, a farm, and a wood lot. By the terms of the definition of a Farm-Related Private Membership Club, at least 500 acres of farmland must be preserved in connection with the Club. In this case, over 1000 acres of farmland have been preserved by conservation easement.

Rolling Hills Farm will provide a maximum of 150 club members and their families with accommodations that will include a choice of suites in a country-style lakeside manor and farm-style cottages. Members of the club will have the option to participate in the daily activities associated with operating the various components of the farm that will include maintaining a diversity of livestock and crops. The objective of the Project is for members to experience the ecological, environmental, scientific, educational and productive value derived from participating in the daily activities of a farm, as well as getting away from the hustle and bustle of what has become the American way of life. New development on the 61.8-acre portion of the property includes expanding the existing manor house and converting it into a club house, renovating the single family residence into staff quarters and development of a new lakeside manor with 3 buildings that will provide 30 suites. Also planned are up to 33 duplex cottages that will provide 66 units and 1 five-bedroom cottage. Existing driveways will provide ingress and egress to the site from NYS Route 9N/22.

Rolling Hills Farm is designed to conform to the character and environment of the surrounding community. Improvements to the property will incorporate alternative energy sources. Rain water will be collected in cisterns and used for flushing toilets and doing laundry. Low-flow toilets will be installed to minimize the volume of sewage that will flow into the Town of Westport wastewater treatment facility.

Development of the property will occur in three phases, primarily in areas that have been previously disturbed. Upon arrival at Rolling Hills Farm, members will park their cars in a subsurface parking garage (in Phase 2) and then travel the property via solar-powered carts, horseback, bicycle, or on foot throughout their stay. In accordance with the Land Use Law of the Town of Westport, Section 5 (Special Permits), Subsection 5.042 (Major Projects), before granting or denying a Major Project Special Permit, the Planning Board must make specific written findings (see VII, below) as to how the proposed Project satisfies the required performance criteria.

IV. Procedural History

1. Application for a Major Project Special Permit was filed by the Applicant on April 22, 2011, along with a long-form Environmental Assessment Form (EAF), an agricultural data statement, and site plans for the project. This filing had been preceded by pre-application discussions with the Chair of the Planning Board and an informal presentation by the applicant to the Planning Board, as well as a preliminary site visit by The Town's planning consultants, The Saratoga Associates, who conducted a site visit on April 1, 2011 and made informal recommendations to the applicant and the Planning Board to help ensure that the application would comply with the Town's Land Use Law.
2. Notice of the application was mailed to all property owners listed on the agricultural data statement on May 9, 2011.
3. The Planning Board held meetings to consider the application on the following dates:
 - April 27, 2011, at which time the application and Long Form EAF were deemed to be officially submitted.
 - May 11, 2011, at which time a site visit was conducted.
 - May 18, at which time The Town of Westport Planning Board declared itself to be lead agency under the State Environmental Quality Review Act (SEQR) and updates on the project were submitted by the applicant. The Town's consultant, Matthew Rogers of The Saratoga Associates, submitted a memo recommending that the application be deemed complete. The application was deemed complete by the Planning Board upon a motion by Mr. Hipps, seconded Mr. Anson.
 - May 25, 2011, at which time a duly noticed official public hearing was held.
 - June 15, 2011, at which a revision to Phase I was presented by the applicant. Part 1 of the EAF was reviewed and Parts 2 and 3 of the EAF were completed with the assistance of consultant Matthew Rogers. The Planning Board discussed the potential environmental impacts of the project in order to make a preliminary determination of significance under SEQR and directed Mr. Rogers to prepare a Negative Declaration.
 - July 13, 2011, at which the Planning Board made revisions to Part 3 of the EAF, requested additional information on fire and emergency services, reviewed and approved proposed conditions in the Special Permit, determined that site plan revisions would not necessitate a second public hearing, and set a date of August 1, 2011 for a meeting to complete the review and approval of the Project.

4. The Town's planning consultants, The Saratoga Associates, reviewed the application and submitted written comments on the application for consideration by the Planning Board throughout the process. As a result of these site visits and discussions among the applicant, the applicant's consultants, and the Town's consultant, refinements were made to the proposed project site plan, including the preparation of a phasing plan.
5. Town of Westport Planning Board referred the proposed special permit application to the Essex County Planning Board by letter dated May 16, 2011 and received a response on June 23, 2011, in which The County Planning Board determined that it would make no recommendation or comment thereon.
6. The Town of Westport Planning Board notified the New York State Department of Transportation, the only "involved agency" under SEQR, of its intent to become lead agency by letter dated May 5, 2011, and NYSDOT replied by letter dated May 13, 2011 that it had no objection.
7. The Town of Westport Planning Board approved a Negative Declaration under SEQR on August 1, 2011, the date of this Special Permit.
8. As a result of the foregoing actions, the Town of Westport Planning Board hereby grants this Special Permit.

V. Criteria for Granting Major Project Special Permits

Under Section 5.042 of the Town of Westport Land Use Law, the Planning Board must make specific written findings that as to whether the proposed Major Project:

- a. Will comply with all provisions and requirements of this and other local laws and regulations, and will be in harmony with the purposes of the land use district in which it is located and with the general intent and purposes of this Local Law.
- b. Will not be detrimental to adjacent uses.
- c. Will not adversely affect the availability of affordable housing in the Town.
- d. Will not cause undue traffic congestion, unduly impair pedestrian safety, or overload existing roads considering their current width, surfacing, and condition, will have appropriate parking, and will be accessible to fire, police, and other emergency vehicles.
- e. Will not overload any public water, drainage, or sewer system, or any other municipal facility, or degrade any natural resource or ecosystem.

- f. Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.
- g. Will not result in excessive noise, dust, odors, solid waste, or glare, or create any other nuisances.
- h. Will be subject to such conditions on design and layout of structures, provision of buffer areas, and operation of the use as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic, and scenic resources of the Town.
- i. Will be consistent with the goal of concentrating retail uses in villages and hamlets, avoiding strip commercial development, and locating non-residential uses that are incompatible with residential use on well-buffered properties.
- j. Will comply with the criteria in Section 5.063 of the Land Use Law relating to Site Plans.
- k. Will have no greater overall impact on the site and its surroundings than would full development of uses of the property permitted by right, considering environmental, social, and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, or glare, or any other nuisances.

VI. Criteria for Granting Special Permits for a Farm-Related Private Membership Club

In addition to the criteria applicable to all Major Project Special Permits listed above, a Farm-Related Private Membership Club must comply with the requirements in Section 24.120 of the Town of Westport Land Use Law. (See VII, Findings, below.)

VII. Findings

With respect to the above criteria, the Town of Westport Planning Board hereby makes the following findings with respect to the Rolling Hills Farm application for a Farm-Related Private Membership Club.

Section 4.052 Findings

The Town of Westport Planning Board finds that the proposed Major Project:

- a. *Will comply with all provisions and requirements of this and other local laws and regulations, and will be in harmony with the purposes of the land use district in which it is located and with the general intent and purposes of this Local Law.*

Finding: The proposed project is a special permit use pursuant to Sections 20.020, 21.010(b), 21.070(b), and 24.120 of the Land Use Law of the Town of Westport. The proposed project meets the definitional and other requirements of these sections and, therefore, is in harmony with purposes of the land use district as provided in these sections of the law. In addition, the project is located within an Adirondack Park Agency "hamlet" land use area. Following is an excerpt from the definition of purposes of the state land use district in which it is located: *Hamlet areas will serve as the service and growth centers in the park. They are intended to accommodate a large portion of the necessary and natural expansion of the park's housing, commercial and industrial activities. In these areas, a wide variety of housing, commercial, recreational, social and professional needs of the park's permanent, seasonal and transient populations will be met.* The planning board has utilized the services of the town's code enforcement officer and of two professional advisors, The Saratoga Associates and Joel Russell, Planning Consultant and Attorney, to review the application for the proposed project. As a result of their review and other advice, the planning board finds that the application is in compliance with the provisions and requirements of the town's land use law and other local laws and regulations as provided in the resulting special use permit and the conditions it incorporates.

b. *Will not be detrimental to adjacent uses.*

Finding: Most of the project is concentrated on interior portions of the property where it is well separated from adjacent uses and, therefore, will not be detrimental to them. The most visible portion of the project, the parking area/garage, is highly visible from public highways and has the potential to be detrimental to users of these highways who are used to seeing a rural scene of open fields, which is the prevailing character of the area adjacent to the southern portion of the project site. However, the applicant has proposed extensive plantings to screen the parking area/garage. These plantings are part of the approved site plan, which will insure that this aspect of the project will not be detrimental to adjacent uses. The densest part of the proposed project is located in the southeast corner of the project site, close to adjacent residential uses. Proximity and density are a concern to the neighbors, and the planning board's professional advisors also have raised concern about the proximity and density of development to adjacent uses. The project sponsor has met with the neighbors and, as a result, has proposed changes in screening in the site plan to lessen adverse impact on them. In addition, the project sponsor has put development of this part of the project into the final phase of the project, Phase 3, and has stated that this part of the project will be constructed only "if needed". Although this suggests that potential detrimental impact of this part of the project to adjacent uses may never happen, it is likely if and when Phase 3 is undertaken there may be other changes to the site plan that will require further review by the Planning Board and reconsideration of the plan for this part of the property.

c. *Will not adversely affect the availability of affordable housing in the Town.*

Finding: The project will not utilize or impact existing housing stock, except that one of the existing houses on the property will be used for employee housing. Providing employee

housing will reduce the impact on the local housing stock of housing employees. Therefore, the availability of affordable housing in the Town will not be affected.

- d. *Will not cause undue traffic congestion, unduly impair pedestrian safety, or overload existing roads considering their current width, surfacing, and condition, will have appropriate parking, and will be accessible to fire, police, and other emergency vehicles.*

Finding: The project will utilize the existing entrance/exit to the property, which is historic and picturesque. This is beneficial, as modification of the existing entrance would be undesirable. The applicant has met with NYS Department of Transportation (DOT) to discuss the adequacy of the entrance/exit. In view of the applicant's assertion that the project will not generate large increases in traffic or create peak conditions, DOT has agreed that the existing entrance/exit is suitable without modification. The road system providing access to the project has significant unused road capacity. The project has the potential to result in increased pedestrian activity by club members who walk to the downtown of the hamlet. Since the existing sidewalk is on the western side of the state highway, across the road from the property, and terminates approximately 600 feet north of the entrance to the property, and since there is currently no pedestrian cross-walk at or near the entrance to the property, pedestrian safety is a concern that is addressed in the conditions section of the permit. Both a crosswalk and a sidewalk extension are conditions of Phase 2 of the special permit and will be needed for public safety and to provide a desirable amenity for club members. While it would be advantageous and desirable to provide these as part of Phase 1, the number of people crossing the road on foot will not necessitate provision of these amenities until Phase 2. The design of the internal vehicular circulation system as provided in site plan and a maintenance condition concerning snow removal, will provide for adequate fire, police and emergency access.

- e. *Will not overload any public water, drainage, or sewer system, or any other municipal facility, or degrade any natural resource or ecosystem.*

Finding: The design of the project includes many water-saving features, including use of rainwater to meet some of the water requirements of the project and thereby reduce the demand on the municipal water system, and use of water-conserving plumbing fixtures to reduce effluent. The Town has been advised by NYS Department of Environmental Conservation that the town's sewage system is adequate to handle the addition inflow resulting from the proposed project. The project application includes a storm water management plan to insure that storm water resulting from the project does not degrade any natural resource or ecosystem. The applicant has consulted with the fire and emergency services organizations, and has been advised that the project will not exceed the capacity of these organizations to provide fire and emergency services to the project.

- f. *Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.*

Finding: The project, in conjunction with over 1,000 acres of protected farmland, concentrates development in a "hamlet", creates a pedestrian-friendly development, and

avoids sprawl. Despite these positive attributes of the proposed project, careful site planning is needed to avoid adverse environmental impacts in the area that will be developed. The EAF prepared in connection with this project addresses these issues in some detail. Careful restrictions on tree cutting along the Lake Champlain shoreline are needed to ensure the environmental and scenic integrity of the site. The applicant has utilized the services of qualified professionals to design the project to create the site plan for the purpose of insuring a project that is suitable for the topography, vegetation, soils, natural habitats and hydrology of the site. The town's code enforcement officer and technical advisors have reviewed the site plan and other submissions and conclude that these issues have been adequately addressed.

- g. Will not result in excessive noise, dust, odors, solid waste, or glare, or create any other nuisances.*

Finding: The proposed project is primarily a residential community and as such has very low potential to create excessive noise, dust, odors, solid waste, glare or other nuisances. The planning board favors minimal lighting, provided mainly for safety purposes and designed to avoid creating extraneous glare or light pollution. The applicant has stated that it is also his desire to have minimal lighting. The applicant will provide a lighting plan for planning board approval either as part of the application or, as a condition, at later date. Conditions on hours of construction will help to limit noise impacts and the use of screening, while keeping most of the activity in the interior of the property, will minimize off-site impacts.

- h. Will be subject to such conditions on design and layout of structures, provision of buffer areas, and operation of the use as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic, and scenic resources of the Town.*

Finding: The proposed project is within a hamlet and is designed at a hamlet-scale intensity of development. Nevertheless, most of the project will not be visible from public roads. The most visible part of the project, the parking area/garage, will be heavily screened with vegetation. This insures that the southern part of the property, which adjoins an agricultural area, will be compatible with the character of that area. The project is designed to protect the natural environment through a storm water management plan, and through control of vegetation removal and tree-cutting, both for construction of the cottages and for provision of filtered views of Lake Champlain, as addressed in a condition.

- i. Will be consistent with the goal of concentrating retail uses in villages and hamlets, avoiding strip commercial development, and locating non-residential uses that are incompatible with residential use on well-buffered properties.*

Finding: The project is located within the hamlet. The design of the project avoids strip development and is well-buffered.

- j. Will comply with the criteria in Section 5.063 of the Land Use Law relating to Site Plans.*

Finding: The town's code enforcement officer and professional advisors have reviewed the site plan for compliance with Section 5.063, and have advised that the site plan is in compliance with these criteria.

- k. Will have no greater overall impact on the site and its surroundings than would full development of uses of the property permitted by right, considering environmental, social, and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, or glare, or any other nuisances.*

Finding: By comparison to conventional development practices permitted by right in the district, the nature of the proposed use and the associated conservation design represent a limited use of the development area's 61.8 +/- acres. A conventional subdivision of the site into 30- 40 residential building lots, as allowed under the land use district, would increase impervious surfaces by requiring extensive public roads accessing each building lot. The resulting effect would be increases in disturbed area and storm water runoff. A conventional subdivision would require demolition of the stone bridges and the surrounding vegetation in order to provide a compliant two-lane access road, or would require creation of another access road in another location. Traffic in and around the development area would be comparatively higher. Visibility of a conventional subdivision would be considerably greater and would have a greater impact on the character of the surrounding area.

Section 24.120 Findings:

The Planning Board finds that the Proposed Farm-Related Private Membership Club will comply with Section 24.120 of the Town of Westport Land Use Law for the following reasons:

- a. The proposed project meets the definition of a Farm-Related Private Membership Club.*
- b. The proposed project satisfies all dimensional, density, and use requirements in the Land Use Law, including but not limited to lot area, building coverage, setbacks, and primary and accessory uses.*
- c. The proposed project provides more than 500 acres of land used for agriculture, land that has been protected by a perpetual conservation easement as required by Section 24.123.*
- d. The proposed project satisfies the shoreline protection requirements in Section 24.124 and provides additional protections by further limiting tree cutting in the most visually sensitive locations.*
- e. The proposed project will screen parking areas from off-site public views as required by Section 24.126.*
- f. The proposed project will consolidate separate parcels as required by Section 24.127.*

g. The proposed project incorporates low-impact and green design features and will be architecturally compatible with the traditional architectural forms found in The Town of Westport and the Adirondack region.

VIII. Decision

In view of the foregoing findings and criteria and the Negative Declaration under SEQR approved by the Planning Board, the Planning Board hereby grants a Special Permit for the proposed project, subject to all provisions of the Town of Westport Land Use Law, other applicable local, state, and federal laws and regulations, and the conditions listed below. No building permit shall be granted unless the applicant is in compliance with applicable conditions.

IX. Conditions

1. The property shall be operated solely as a Farm-Related Private Membership Club (hereinafter referred to as "Club"), as defined in Section 20.020 and as further provided in Section 24.120 of the Town of Westport Land Use Law (hereinafter cited as "the Land Use Law." Any other use of the property, other than a use allowed by right under the Land Use Law, shall be prohibited unless all necessary approvals from the Planning Board, Town Board, or Zoning Board of Appeals are obtained.
2. The maximum number of dwelling units, as defined in the Land Use Law (including manor house suites, guest cottage dwelling units, and employee housing) that may be built on the property as part of the Club is ninety-nine (99), notwithstanding any future zoning amendments that may occur that increase or reduce that number. The maximum amount of land that may be covered by buildings or other roofed structures shall be 20% of the 61.8-acre project site.
3. The property may not be subdivided without application to the Town of Westport Planning Board, which shall determine that any subdivision complies in all respects with the Town of Westport Subdivision Regulations and Land Use Law.
4. No certificate of completion or certificate of occupancy shall be granted for the use of any completed structure until the applicant has submitted a complete application to the Planning Board to merge all separate parcels in the 61.8-acre project area into one parcel.
5. All members, guests, and employees of the Club shall park their vehicles in the designated parking area(s) on the site plan, and not in any other locations on the property.

6. There shall be no disturbance of any kind to land designated on the Town's zoning map as part of the Special Open Space District (V-OSP) along the Lake Champlain shoreline, except for tree cutting in accordance with Condition 10 below and any other disturbance which may be separately approved by the Planning Board.
7. The applicant shall erect and maintain in good working order the safety fencing proposed in its application materials as part of the site plan.
8. The development shall conform in all respects with the most recent application materials submitted to the Planning Board and with the accompanying site plans and Storm Water Protection Plan approved herewith. These materials are incorporated by reference in this approval. They are listed in Attachment A, "List of Approved Special Permit Application Materials and Site Plan Sheets," and are enforceable by the Town of Westport Zoning Inspector. Such plans include specific details on roads, lighting, landscaping, signage, stormwater management, demolition and grading, drainage, utilities, retaining walls, fire service features, and architectural drawings. Any material change, as determined by the Zoning Inspector, in the location of roads, buildings, structures, units, and facilities shown on such site plans, including the construction of accessory structures not shown on the application materials, shall require the approval of the Planning Board.
9. (a) All required landscaping shall be installed as shown on the Planting Plan as necessary to screen each built phase of the project. Such landscaping shall be properly maintained and replaced if the vegetation dies. The Planning Board shall retain continuing jurisdiction for two years from the date of planting with respect to landscaping within 100 feet of property lines and public roads. The applicant shall notify the Zoning Inspector when such plantings have been completed and the Zoning Inspector shall verify that the landscaping has been installed as shown in the plans and confirm this in writing to the applicant in order to establish the date at which continuing jurisdiction commences with respect to each planting. During the two-year period of continuing jurisdiction, the Planning Board may require additional plantings within these areas to ensure that adequate visual buffers are provided from adjoining properties and public roads, subject to a cumulative cap on additional landscaping costs of \$50,000. The obligation to screen developed portions of the property as required in the Planting Plan, and as further required during the two year period of continuing jurisdiction, shall be an ongoing and continuous obligation enforceable by the Town. If the applicant constructs only one duplex cottage on the ridge east of the Treadwell main house (other than Cottage 5 as shown on the site plan), landscaping shall be required only between said cottage and the southeast property line as shown on the plans submitted, and no landscaping shall be required between said cottage and Camp Dudley Road. If an additional cottage or cottages are subsequently constructed on said ridge (or if Cottage 5 is constructed), all proposed landscaping for all such cottages, including the first one, shall be planted as per the plans.

(b) Prior to commencing construction of the main surface parking lot and prior to obtaining a Building Permit for building the parking structure, the applicant shall demonstrate to the Zoning Inspector that the vegetative screening of such parking lot or structure complies with the planting plan. Once the parking lot or parking structure is completed, if the required landscaping is not of sufficient size and maturity to provide complete screening of the parking facilities from Route 9N/22 and Camp Dudley Road, the Planning Board shall require additional landscaping to be planted, up to the \$50,000 cap provided for in 9(a) above. The applicant shall also demonstrate, prior to commencing construction, that construction of the proposed parking facility will not disturb any existing landscaping or that if any such disturbance of landscaping occurs, it will be mitigated by new landscaping shown on a revised planting plan.

10. Shoreline Tree Cutting Conditions

(a) Tree cutting along the Lake Champlain shoreline area is permitted and shall be guided by the following criteria, which are intended to:

- i. Allow views of Lake Champlain from individual buildings by selectively cutting trees and removing vegetation;
- ii. Protect the fragile environment of the Tree Protection Zone described in (b) below, considering especially the extreme steepness (in some places nearly vertical) of the slope within the Zone; and
- iii. Maintain the view of the property as seen from Lake Champlain in a state that is substantially the same after cutting trees and removing vegetation as it was before cutting trees and removing vegetation.

(b) There is hereby established a Tree Protection Zone, divided into "sectors" as shown on the map attached as Exhibit A to this Special Permit, and incorporated into this condition. Within the Tree Protection Zone there shall be no cutting of trees or clearing of vegetation except as provided for in this condition. Before cutting any trees equal to or greater than 6" Diameter at Breast Height (DBH) the applicant shall conduct a baseline tree inventory by a licensed land surveyor of trees equal to or greater than 6" DBH. This inventory shall be conducted within each sector of the Tree Protection Zone where the applicant proposes to cut trees. Within such sector, the land surveyor shall plot the locations of trees equal to or greater than 6" DBH on a survey map, so that the town and the applicant can assure compliance with the requirements of this condition. No more than 10 % of trees equal to or greater than 6" DBH shall be cut over any 10-year period within any sector. When trees are cut or removed, the stumps shall remain in place to maintain the stability of the slopes and to enable the Zoning Inspector to determine where trees have been cut. The limits in this condition and the baseline tree inventory requirements do not apply to Dead, Dying, Diseased, or Hazardous (DDDH) trees as provided in subsection (d) below. In addition, no vegetation of any size may be cut on slopes of 75 percent or more.

(c) Exhibit A also shows a line indicating the top of the slope. In order to insure that cutting trees and removing vegetation does not occur in a concentrated manner that would defeat the purpose of this condition, no more than 30 % of the trees equal to or greater than 6" Diameter at Breast Height (DBH) may be cut within the portion of each sector that is within 50 feet, vertical distance, of the top of the slope in any 10-year period. This requirement is in addition to the overall maximum of 10 % cutting throughout the sector, as provided in subsection (b) above.

(d) Removal of Dead, Dying, Diseased, or Hazardous (DDDH) trees shall be permitted upon marking of such trees and certification to the Zoning Inspector by a NYS Certified Arborist that such trees should be removed because they are DDDH. Prior to cutting, the Zoning Inspector shall be notified and allowed to make a site visit to view the trees to be removed. DDDH trees do not need to be included in the baseline tree inventory required by subsection (b) and shall not be counted for purposes of determining the 10% and 30% limits.

(e) Prior to framing of buildings, cutting of trees equal to or greater than 6" DBH shall be restricted to 50 percent of the allowable number of trees to be cut within a specific sector. Cutting of the remaining 50 percent of trees allowed to be cut shall not occur until buildings from which views are desired are framed.

(f) Prior to cutting trees (other than DDDH trees) equal to or greater than 6" DBH, the applicant shall provide a survey map of the trees to be cut to the Zoning Inspector in order to verify that this condition will be satisfied.

(g) Notwithstanding any other provision in this Condition 10, if the cutting of vegetation in any portion of a sector is concentrated in a manner that causes soil erosion, results in clear-cutting of views of cottages as seen from the Lake, or threatens the stability of the slopes, the Zoning Inspector shall deem such cutting to be a violation of this Condition 10. The applicant may, at his option, submit a plan for cutting such vegetation for advance approval by the Zoning Inspector to ensure that such a violation will not occur. This paragraph is necessitated by the SEQR findings and the Negative Declaration statements that the development will not create significant adverse impacts on erosion, slope stability, or viewsheds.

(h) If this condition is violated, in addition to enforcing this condition as a violation of the Town of Westport Land Use Law, the Town of Westport may require the planting of trees equivalent in size and species composition to the ones removed and/or other mitigation measures as deemed reasonable and appropriate by the Planning Board.

11. The project shall comply with the Americans with Disabilities Act to the extent applicable.

12. The color of all new structures visible from off of the property shall be earth tones or other colors that reduce visibility of the structures from off-site, as determined by the Zoning Inspector.

13. A lighting plan that complies with Section 5.063(d)(2) of the Land Use Law shall be submitted to and approved by the Planning Board prior to the granting of any Building Permits for a particular phase. Such lighting plan shall become part of the approved application materials referenced in Attachment A, and all lighting shall comply with it.
14. By this approval, the specific locations of roads, buildings, structures, units, and facilities shown in all three phases of the Phasing Plan are approved, subject to the requirement that only those improvements shown as approved for construction in a given phase may be constructed in that phase. Any change in the phasing of the development shall require Planning Board approval. In the event that the applicant makes changes to the project as described in the materials referenced in Attachment A, such changes shall be presented to the Planning Board and approved prior to any such change(s) occurring. Specific improvements, including but not limited to roads, buildings, accessory structures, and recreational facilities approved or intended for each phase are shown on the Phasing Plan and further detailed in the "Phasing Narrative" in Attachment A. Between Phase 1 and Phase 2, and between Phase 2 and Phase 3, the applicant shall submit to the Planning Board a "State of the Project Report" with a narrative as to the just-completed phase and a description of any changes proposed for the next phase, which changes shall be subject to Planning Board review and approval.
15. The applicant shall have a maximum of five (5) years to complete each phase of the project. Such period shall begin at the time of application for the first building permit for a given phase. This five-year period may be extended by the Planning Board for good cause shown by the applicant based upon market conditions, financing constraints, availability of building materials, unexpected physical or weather conditions, or other circumstances beyond the applicant's control. If such time limit or extended time limit expires, the special permit for that phase and any subsequent phase shall lapse and the applicant may re-apply to the Planning Board for approval by submitting a new application for a special permit. Upon completion of a phase, there shall be no time limit for commencing the next phase of the project, except that this special permit shall lapse with respect to any undeveloped phase of the project that is not commenced within five (5) years of the completion of the previous phase. This five-year time limit may be extended at the sole discretion of the Planning Board for good cause shown.
16. At all times, the applicant shall take necessary measures to secure the safety of any unfinished structures on the site.
17. Prior to commencing construction of any improvements requiring a building permit, the applicant shall apply for and receive such building permits, and shall comply with all applicable regulations of the New York State Department of Health and other agencies with jurisdiction over the project.

18. Prior to constructing the road entries to the Property, the applicant shall obtain all necessary permits from the New York State Department of Transportation and furnish a copy of such permits to the Town of Westport Zoning Inspector.
19. The applicant shall install and maintain in good condition all road crossing markings and signage approved by the Planning Board as part of this special permit, and the applicant shall ensure that such markings are continuously visible to motorists, bicyclists, and pedestrians.
20. The applicant shall take necessary measures to ensure pedestrian safety along South Main Street, as approved by the Planning Board, prior to the initiation of Phase 2 of the project. These measures shall include:
 - a. Construction by the applicant, at the applicant's expense, of a concrete sidewalk extension within the NYSDOT right-of-way along the west side of South Main Street between the entrance to the property and the end of the existing sidewalk, with any necessary DOT and Town authorizations, or, at the applicant's option, payment to the Town of Westport of the costs of said work; and
 - b. Making best efforts to secure NYS DOT approval for a pedestrian crossing zone at the above location and paying for the installation of a crosswalk.
21. All roads internal to the Property shall be inspected and approved by the Town Highway Superintendent prior to their use for any purposes other than for construction activities. Prior to the issuance of any certificate of occupancy for any building, the applicant's engineer shall submit a letter stating that the roads meet the intent of the NYS 2010 Fire Code.
22. Prior to commencing construction of any improvements that involve water, sewer, or other utilities, the applicant shall obtain approval from agencies with jurisdiction and furnish such approvals to the Zoning Inspector.
23. The applicant shall allow inspections of the property as determined necessary by the Zoning Inspector and/or the Planning Board, with 24 hours prior notice to the applicant, to ensure compliance with the conditions in this Special Permit and other applicable laws, except that during the construction period, the Zoning Inspector may inspect without notice for compliance with building and life safety codes those portions of the property where construction-related activities are occurring. Where the Zoning Inspector reasonably determines that a violation of this Special Permit may be occurring, he may inspect without prior notice, except that the 24-hour notice provision shall apply to occupied dwellings during both the construction period and post-construction operation of the use.
24. As improvements are completed, the applicant shall submit as-built plans, updating the original approved site plan project sheets as necessary, showing the exact location of such

improvements immediately upon their completion. This condition shall apply to all physical improvements, including water and sewer lines, all other utilities, roads, parking areas, stormwater management structures, and buildings and other structures.

25. The applicant shall comply with all regulations of the Westport Water District #1 and the Westport Sewer District #1 in relation to extensions, hook-ups, and usual and customary billing arrangements. No utility lines shall be dedicated to the Town unless accepted by the Town Board.
26. All equipment, including but not limited to bio-diesel and wind generation equipment, HVAC facilities, and landscape maintenance equipment shall be operated in a way that does not create excessive off-site noise, odor, dust, or vibration impacts beyond what would normally be produced by a residential use. The property line minimum setback requirements in Section 21 of the Westport Land Use Law shall apply with respect to the property's boundary lines.
27. All roads that are necessary for fire and emergency access shall be maintained and kept open at full width year-round. The applicant is understood not to be offering to dedicate any roads to the Town and the Town has no intention of accepting such roads if they are subsequently offered for dedication.
28. The applicant shall properly maintain the property's drainage system to minimize off-site run-off.
29. All clearing, grading, and noise-producing construction activities shall occur only on weekdays between the hours of 8:00 AM and 6:00 PM and on Saturdays from 8:00 AM until 2:00 pm.
30. If the first phase of the project as shown on the approved site plans is not completed and/or if the applicant or a successor owner decides not to operate the property as a Farm-Related Private Membership Club, all regulations of the existing zoning shall apply instead of the terms of this Special Permit, including the maximum permitted residential density, and all use, dimensional, parking, and other regulations, except that units constructed as part of Phase 1 may be occupied as residences that are part of a family compound. Under such conditions, the applicant or his successor shall re-apply for certificates of occupancy to use existing structures in order to ensure that the property is being used as permitted by the Land Use Law and these permit conditions. This requirement shall also apply to any proposed use of the buildings as condominiums or timeshare units. In addition, no construction beyond that permitted in Phase 1 shall be allowed, unless permitted by the zoning then in effect. If additional buildings exceeding the permitted residential density have been legally constructed in Phases 2 or 3 under this special permit, the then owner shall be required to convert buildings to other uses

(including converting two-unit cottages to single units) demolish them, or apply for a variance or zoning amendment in order to make legal use of such buildings.

31. In the event that any conditions above cannot be satisfied for reasons beyond the control of the applicant or due to changed circumstances, the applicant may request a modification of such conditions from the Planning Board, except where a special permit amendment is required by the terms of this Special Permit or the Land Use Law.

X. Record of Vote

The following vote was taken by roll call of the Planning Board members:

William B. Johnston Chairman	<u>YES</u>	Alan Hipps	<u>YES</u>
Dwight Anson	<u>YES</u>	Chris Maron	<u>YES</u>
Evelyn Brant	<u>YES</u>	Ken White	<u>YES</u>
Mary Lou Fitzgerald	<u>YES</u>		

Filed with the Town Clerk on [date]:

August 24, 2011

Sheila A. Borden
Town Clerk

Copy of the permit, findings, and decision mailed to applicant on: [date].

Exhibit A

Map of Tree Protection Zone (divided into sectors)

Attachment A

List of Approved Special Permit Application Materials and Site Plan Sheets

[list all approved site plans and related materials, including date, title and preparer of each sheet; also the Phasing Narrative.]

ATTACHMENT A

ROLLING HILL FARM SITE PLAN SET SHEET INDEX

	PREPARER	DATE
COVER SHEET	The LA Group, P.C.	8-1-11
S 1 SITE SURVEY (DEVELOPMENT AREA)	The LA Group, P.C.	3-25-11
S 1.1 SPECIAL USE PERMIT	The LA Group, P.C.	8-1-11
S 2.1 SITE MASTER PLAN	The LA Group, P.C.	6-21-11
P 1.0 PHASE 1 DEVELOPMENT PLAN	The LA Group, P.C.	6-21-11
P 1.1 PHASE 1 DEVELOPMENT - CLEARING PLAN	The LA Group, P.C.	6-21-11
P 2.0 PHASE 2 DEVELOPMENT PLAN	The LA Group, P.C.	6-21-11
P 2.1 PHASE 2 DEVELOPMENT - CLEARING PLAN	The LA Group, P.C.	6-21-11
P 3.0 PHASE 3 DEVELOPMENT PLAN	The LA Group, P.C.	6-21-11
P 3.1 PHASE 3 DEVELOPMENT- CLEARING PLAN	The LA Group, P.C.	6-21-11
S 2.2 SITE PREPARATION & DEMOLITION PLAN	The LA Group, P.C.	6-21-11
E 1.0 EROSION & SEDIMENT CONTROL PLAN (100 SCALE)	The LA Group, P.C.	6-21-11
E 1.1 EROSION & SEDIMENT CONTROL PLAN (40 SCALE)	The LA Group, P.C.	6-21-11
E 1.2 EROSION & SEDIMENT CONTROL PLAN (40 SCALE)	The LA Group, P.C.	6-21-11
E 1.3 EROSION & SEDIMENT CONTROL PLAN (40 SCALE)	The LA Group, P.C.	6-21-11
E 1.4 EROSION & SEDIMENT CONTROL PLAN (40 SCALE)	The LA Group, P.C.	6-21-11
E 1.5 EROSION & SEDIMENT CONTROL PLAN (40 SCALE)	The LA Group, P.C.	6-21-11
E 1.6 EROSION & SEDIMENT CONTROL PLAN (40 SCALE)	The LA Group, P.C.	6-21-11
C 2.1 SITE PLAN	The LA Group, P.C.	6-21-11
C 2.2 SITE PLAN	The LA Group, P.C.	6-21-11
C 2.3 SITE PLAN	The LA Group, P.C.	6-21-11
C 2.4 SITE PLAN	The LA Group, P.C.	6-21-11
C 2.5 SITE PLAN	The LA Group, P.C.	6-21-11
C 2.6 SITE PLAN	The LA Group, P.C.	6-21-11
C 3.1 GRADING & DRAINAGE PLAN	The LA Group, P.C.	6-21-11
C 3.2 GRADING & DRAINAGE PLAN	The LA Group, P.C.	6-21-11
C 3.3 GRADING & DRAINAGE PLAN	The LA Group, P.C.	6-21-11
C 3.4 GRADING & DRAINAGE PLAN	The LA Group, P.C.	6-21-11
C 3.5 GRADING & DRAINAGE PLAN	The LA Group, P.C.	6-21-11
C 3.6 GRADING & DRAINAGE PLAN	The LA Group, P.C.	6-21-11
C 3.7 LIGHTING PLAN	The LA Group, P.C.	6-21-11
C 4.0 UTILITIES PLAN	The LA Group, P.C.	6-21-11
C 4.1 UTILITY PROFILE	The LA Group, P.C.	6-21-11
C 4.2 UTILITY PROFILE	The LA Group, P.C.	6-21-11

ATTACHMENT A Continued:

C 5.1	EROSION & SEDIMENT CONTROL DETAILS	The LA Group, P.C.	6-21-11
C 5.2	SITE DETAILS	The LA Group, P.C.	6-21-11
C 5.3	UTILITY DETAILS	The LA Group, P.C.	6-21-11
C 5.4	UTILITY DETAILS	The LA Group, P.C.	6-21-11
C 5.5	UTILITY DETAILS	The LA Group, P.C.	6-21-11
C 5.6	LANDSCAPE DETAILS	The LA Group, P.C.	6-21-11
A-1	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	AffinitiArchitects	3-18-11
A-2	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-3	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-4	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-5	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-6	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-7	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-8	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-9	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-10	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-11	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-12	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-13	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-14	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-15	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-16	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-17	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11
A-18	ARCHITECTURAL DRAWINGS (ELEVATIONS/FLOOR PLANS)	Affiniti Architects	3-18-11

Supporting Documents:

Engineering Report, Water and Sewer for Rolling Hills Farm	The LA Group, P.C.	5-13-11
Stormwater Pollution Prevention Plan for Rolling Hills Farm Including Stormwater Management Report	The LA Group, P.C.	5-2011

Project Phasing

Phase One will commence the first year of construction will include the following components;

- Clearing of approximately 4.32 acres of existing forested land. Significant trees to remain.
- Additional clearing of dead vegetation within wooded areas of future phases (no grubbing in these areas).

- All infrastructure main lines including potable water, sanitary sewer, electrical, telephone etc. and utility corridors will be stabilized immediately upon completion.
- All existing paved roads will be maintained.
- Gravel paths and directional signage necessary to service phase I facilities.
- Screening Landscaping along the perimeter of the property if required.
- Temporary parking lots within the site.
- Renovation of main house into Clubhouse.
- Renovate the three existing buildings in the maintenance area into activity buildings and convert one building to storage/garbage building.
- Renovate the lake side cabin.
- Renovate and construct addition to the second house "Sandy's House" for Staff Quarters.
- Construct 8-12 duplex cottages. Cottage sites will be individually stabilized upon completion.
- Construct up-front needs for future solar.
- Repair and maintain the existing farm buildings.

Phase Two will commence when membership reaches a level to require the following components;

- Clear an additional 2.83 acres of land.
- Demolish existing paved roads and construct the proposed paved roads to the parking facility.
- Construct all remaining screening vegetation.
- Construct up to 22 duplex cottages along with the single cottage.
- Construct additional gravel roads to service new buildings.
- Construct the parking garage and solar facilities.
- Construct the fitness barn.
- Construct three additional Activity Center buildings.

Phase Three would commence when membership reaches a level to require the following components;

- Clear the remaining 2.00 acres of land.
- Construct the remaining cottages.
- Construct the Lakeside Manor.
- Construct the remaining landscape screening if required.

