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COMMUNITY DEVELOPMENT
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William Chin, Chairman
Zoning Board of Appeals
c/o Jeffrey Wheeler, Planning Coordinator
Office of Community Development
19 Moore Street
Belmont, MA 02178

Re: AP Cambridge Partners II, LLC
Belmont Uplands

NOTICE OF CHANGE
M.G.L. ch. 40B, §20-23, 760 CMR 56.05 (ii)

Dear Chairman Chin:

As set forth in the proposed decision attached hereto, on behalf of my client, AP Cambridge Partners II, LLC ("AP Cambridge"), we are providing notice to the Zoning Board of Appeals ("Board") that AP Cambridge has changed subsidizing agencies/programs from MassDevelopment to MassHousing ("New England Fund").

As you may be aware, 760 CMR 56.05(11)(a) and (b) provide in pertinent part:

"(a) If after a Comprehensive Permit is granted by the Board, including by order of the Committee pursuant to 760 CMR 56.07(5), an Applicant desires to change the details of its Project as approved by the Board of the Committee, it shall promptly notify the Board in writing, describing such change. Within 20 days the Board shall determine and notify the Applicant whether it seems the change substantial or insubstantial, with reference to the factors set forth at 760 CMR 56.07(4).

(b) If the change is determined to be insubstantial or if the Board fails to notify the Applicant by the end of such 20-day period, the Comprehensive Permit shall be deemed modified to incorporate the Change."

For clarification - 760 CMR 56.07(4)(d)(5), provides examples of the types of substantial changes to a project that require approval of the Zoning Board of Appeal, and the regulations specifically deal with this common issue of a change in funding agency by stating that

"(d) The following matters generally will not be substantial changes:

5. A change in the financing program under which the Applicant plans to receive a Subsidy, if the change affects no other aspect of the proposal."

This change in financing agency will not impact any other aspect of the Comprehensive Permit.

AP Cambridge has been working closely with MassHousing and is in the process of obtaining final fund approval, which approval will include execution of the standard form MassHousing Regulatory Agreement, wherein AP Cambridge agrees to the limits on dividends and all other regulations associated with the provision of affordable housing in the Commonwealth of Massachusetts. A copy of the form Regulatory Agreement is enclosed for your review.

Secondly, Condition 37 of the Comprehensive Permit requires that the Developer enter into a Conservation Restriction/Easement for the portion of the Property being donated as Open Space. The Comprehensive Permit does not require that any specific entity hold the Conservation Restriction. The Comprehensive Permit does require that AP Cambridge obtain approval from the Board for the form of the escrow agreement required by Condition 37. This condition has been met as the form of Escrow Agreement has been previously approved by the Board. The escrow agreement was created to provide a vehicle for the Town to hold the Conservation Agreement between the time of its execution which is prior to issuance of a Building Permit and the time of its actual recordation, which is prior to issuance of the first Certificate of Occupancy.

At the time of that approval, it was suggested that either the DCR or the Belmont Conservation Commission could be the Grantee for the Conservation Restriction, and the Developer agreed to attempt to donate the land to the Belmont Conservation Commission as the Grantee. During the subsequent processing of the Conservation Restriction project opponents attempted to block the grant to the Conservation Commission (see attached e-mail chain). To avoid further confrontation AP Cambridge has agreed with the Massachusetts Department of Conservation and Recreation ("DCR") that DCR will be the Grantee. DCR is the owner of the adjacent Alewife Reservation and the proposed CR grant will be added to the Reservation, providing a contiguous protected buffer overseen by an agency with a budget to provide proper oversight and protection. A copy of the draft CR as negotiated with DCR is attached for your records. Please note that DCR has determined that they would prefer to record the CR upon execution and, therefore, the Escrow Agreement described in Condition 37 will likely be

unnecessary because AP Cambridge will have complied with the Condition prior to the time required.

Thank you for your attention to these matters. We look forward to seeing you at the June 16, 2014 meeting.

Very truly yours,

James G. Ward

JGW:jg
Enclosure

cc: AP Cambridge Partners II, LLC

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