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September 10, 2010  
 100390-11

**BY HAND**

William Chin, Chairman  
 Zoning Board of Appeals  
 Town of Belmont  
 19 Moore Street  
 Belmont, MA 02178

2010 SEP 10 PM 4: 07  
 COMMUNITY  
 DEVELOPMENT

Re: AP Cambridge Partners II, LLC  
 Comprehensive Permit  
 Belmont Uplands

Dear Bill:

As you may recall, a number of the conditions of the above-referenced Comprehensive Permit (the "Permit") require that my client submit to the Zoning Board of Appeals (the "Board") revised plans and other information and materials described in the Permit. For ease of reference, I have organized this submittal to follow the numbered conditions of the Permit and the attached documents and plans are identified as "Tab \_\_\_" in the accompanying binder.

Accordingly, enclosed are the following:

1. Condition #2: Enclosed is the revised plan set entitled "Comprehensive Permit Application, Town of Belmont, Zoning Board of Appeals, dated December 6, 2005, (Revised August 10, 2010), Residences at Acorn park, Acorn Park Drive, Belmont, Massachusetts, Applicant: AP Cambridge Partners II, LLC, 700 South Henderson, Suite 225, King of Prussia, PA 19406; Civil Engineer: Tetra Tech Rizzo, One Grant Street, Framingham, MA 01701-9005; Architect: Niles Bolton Associates, Inc., 3060 Peachtree Road, Suite 600, Atlanta, Georgia, 30305, Sheets C-1.1 through C-13.1 and A-1 through A-6 " ("Final Plans"). The Final Plans are a revision to the Project Plans set forth in Condition 1.(A).a. The Final Plans include all of the plans required in Condition #2 and show the selected driveway configuration required by Condition #15, with the exception that the signage plan required in Condition #2(i) which is discussed below in paragraph 5. The Final Plans are simply a more detailed refinement of the Project Plans that have been developed by the project architect as they move from the preliminary schematic drawing required in the M.G.L. c.40B hearings to construction drawings which will be relied upon during the actual construction of the Building. This, of course, is an integral part of the routine and necessary iterations to move



7. Condition #16: The Final Plans demonstrating compliance with Condition #16 have been provided to the Fire Department.
8. Condition #27.b: AP Cambridge is conducting discussions with the City of Cambridge Water Department and Engineering Department to determine the requirements and fees to obtain sewer and water service for the City of Cambridge.
9. Condition #33: Final Plan, as required by Condition #33 plan sheets C-4.1 through C-4.7 are the detailed site preparation plans, plan sheets C-6.1 and C-6.2 are the planting/landscaping plan and the monitoring/maintenance plan was approved as part of the SOC process and is attached as part of the drainage report found at *TAB 2*.
10. Condition #34: Although not required until the first Certificate of Occupancy, enclosed is the Open Space Maintenance Plan dated September 2, 2010 which is substantially similar and implements the requirements of the Open Space Maintenance Plan, dated May 17, 2002, approved in the Permit. *TAB 8*. Also, please note that Final Plan Sheet C-2.1 identifies the recreational area for the Project's tenants. In addition to the outside areas (including the pool), please note that Building C has a full fitness center.
11. Condition #37: Enclosed is a draft Conservation Restriction ("CR") that is in substantially the form as submitted to the Board on June 9, 2006. As required by the Permit, the CR has been revised to remove any public rights of access to the CR area. *TAB 9* Once the form is approved by the Board, the CR will be executed and held pursuant to the Escrow Agreement, below.
12. Condition #37: Enclosed is a draft Escrow Agreement for the CR. *TAB 10*
13. Condition #41: The permit was recorded in the Middlesex South Registry of Deeds in Book 54728, Page 1 and registered with the Middlesex South Division of the Land Court as Document 01532991. Notice of the recording was provided to the Board by letter, dated May 25, 2010.

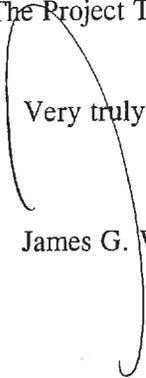
As noted above, we strongly believe that the plan revisions incorporated into the Final Plans are not the types of "changes" contemplated in 760 CMR 56.05(11)(a), indeed we have continuously worked hard to minimize the impacts of the project as directed by the Conservation Commission and Board. You will no doubt note that all revisions have reduced Project size and impact. In the event the Board determines that 760 CMR 56.05(11)(a) is applicable, it is our experience that any plan revisions deemed to be "changes" by the Board would clearly be insubstantial changes when measured by the criteria of 760 CMR 56.07(4). Please note the time periods set forth in 760 CMR 56.05(11)(a).

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Thank you for your attention to this matter. The Project Team looks forward to discussing with the Board any questions it may have.

Very truly yours,

  
James G. Ward

JGW:jg

Enclosures

cc: G. Clancy (w/enclosure)  
J. Szklut (w/enclosure)  
B. Sullivan (w/enclosure)  
S. Corridan (w/enclosure)  
D. Stesko (w/enclosure)  
B. Engler (w/enclosure)

1946682.1

OCTOBER 4, 2010

RESIDENCES AT ACORN PARK  
COMPARISON OF APPROVED VS REVISED PLANS

ZBA Approved Drawing		Revised Drawings		Summary of Changes
Number	Title	Number	Title	
C-1	Existing Conditions	C-1.1	Existing Conditions	More groundwater measurements shown, more test pits shown
		C-1.2	Existing Conditions	Topo lines extended south and east of site into Cambridge along Acorn Park Drive
C-2	Site Layout and Materials	C-2.1	Site Layout and Materials	Buildings B & D moved further from 100' wetlands buffer Building footprints reduced 337,884 ft <sup>2</sup> to 322,384 ft <sup>2</sup> Stone dust walk along Acorn Park Drive replaced with porous pavement. Wood stockade fence added along outside edge of parking lot A Parking lots A & E shown as exit only. Center driveway shown as enter only. Parking lots around Building C to be porous pavement. Retaining wall added north and east of Building D along northern perimeter of fire access road. Reduced # of parking spaces. Floor area ratio reduced .5 to .47 Lot coverage decreased 12.39% to 12.33%. Setbacks increased Open space increased 66.29% to 66.80%. Impervious area decreased 35.23% to 31.43%
C-3	Grading and Drainage	C-3.1	Grading	Limits of work shown
		C-3.2	Drainage	Grass filter strip south of Parking Lot A removed Underground basin added parking lot A Underground basin at parking lot E expanded Underground basin at building D changed to infiltration chamber and expanded.

C-4	Erosion Control	C-4.1	Sedimentation and Erosion Control, Phase 1	Construction sequencing added Storm water flow during construction shown
		C-4.2	Phase 2	Material stockpile areas shown Temporary sediment basins shown
		C-4.3	Phase 3	
		C-4.4	Phase 4	
		C-4.5	Phase 5	
		C-4.6	Details	
		C-4.7	Details	Construction details shown
C-5	Utility	C-5.1	Utility	More details shown but unchanged
C-6	Landscape	C-6.1	Landscape	Habitat Replication Enhancement Area 2 shown w/plant list
		C-6.2	Landscape	Habitat Replication Enhancement Area 1 shown w/plant list
C-7	Lighting	C-7.1	Lighting	More detail shown, no change
C-8 thru C-10	Construction Details	C-8 thru C-10	Construction Details	Same
		C-10.1	Construction Details	Details on porous pavement and new drainage systems.
C-11	Water and Sewer Extension	C-11.1	Water and Sewer Extension, Alternative A	No changes
		C-11.2	Water and Sewer Extension, Alternative B	Proposed connection thru Cambridge
		C-11.3	Water and Sewer Extension, Alternative B	Proposed connection thru Cambridge
C-12	Surface Parking Cross Sections	C-12.1	Surface Parking Cross Sections	No changes
C-13	Fire Truck Turning Plan	C-13.1	Fire Truck Turning Plan	No changes
A-1	Architectural Site Plan	A-1	Bldg A First Level Plan	These are all architectural drawings. New drawings provide greater details.
A-2	Typical Plans – Bldg E	A-2	Bldg B First Level Plan	
A-3	Typical Plans – Bldg B	A-3	Bldg C First Level Plan	
A-4	Typical Plans – Bldg C	A-4	Bldg A Garage Level Plan	
A-5	Typical Bldg Sections	A-5	Bldg B Parking Level Plan	
A-6	Typical Bldg Elevations	A-6	Bldg C Parking Level Plan	

Comments:

The revised plans for the most part reflect increased details significant for construction activities. These details do not reflect any changes from the plans approved by the ZBA.

Changes to the plans that relate to the site plan are primarily shown on Plan C-2.1 which is the site layout. Essentially these changes reflect smaller building footprints, reduced number of units, increased open space and setbacks. The changes overall are an improvement to the project. As summarized above the changes generally are less than a 5% change from original percentages or dimensions approved and are all changes that reduce the impact of the project.

The number of units has been reduced from 299 to 298. Additionally, the unit mix has changed as follows:

- 20 Studio units eliminated
- 1-BR units increased from 156 to 194
- 2-BR units reduced from 107 to 88
- 3-BR units unchanged, 16 to be provided.

The new unit mix results in a reduction of total bedrooms of 45 or 9.7% of that permitted. 20% of the units are to be affordable and distributed in the same percentage as the total number of units, i.e. 20% of the 3 BR must be affordable, etc. The most significant change is that the number of 1BR affordable units would increase from 31 to 38 and the number of 2 BR affordables would decrease from 21 to 18. Given the relatively small number of units, the changes are not that significant.

In my estimation, the revised plans reflect an overall improved project. While there has been an overall reduction of affordable bedrooms due to the increase in 1-bedroom units and the loss of some 2-bedroom units, the reduced impact on drainage, flooding, and sewerage issues along with the reduced fiscal impact on the Town justifies the affordability changes. With most of the changes of minor impact and cumulatively creating an improved project, I consider the revised plans to be an insubstantial change from those approved by the ZBA. I recommend that the Zoning Board of Appeals allow the applicant to proceed with the application for building permits.

Jay Szklut  
Planning and Economic Development Manager  
Town of Belmont

To the Zoning Board of Appeals  
October 3, 2010

RE: Request for Unit Change at Belmont Uplands

Below is what DHCD regulations say about "a substantial change". The full regulations are at <http://www.lawlib.state.ma.us/source/mass/cmr/760cmr.html> 760 CMR 56 see 56.07(4).

- (c) The following matters generally will be substantial changes:
1. An increase of more than 10% in the height of the building(s);
  2. An increase of more than 10% in the number of housing units proposed;
  3. A reduction in the size of the site of more than 10% in excess of any decrease in the number of housing units proposed;
  4. A change in building type (e.g., garden apartments, townhouses, high-rises); or
  5. A change from one form of housing tenure to another.
- (d) The following matters generally will not be substantial changes:
1. A reduction in the number of housing units proposed;
  2. A decrease of less than 10% in the floor area of individual units;
  3. A change in the number of bedrooms within individual units, if such changes do not alter the overall bedroom count of the proposed housing by more than 10%;
  4. A change in the color or style of materials used; or
  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.

We focused on the change in the unit mix, as that is all the information you furnished us in terms of proposed changes. A quick calculation shows that the change in BR sizes does not alter the overall bedroom count of the proposed housing at all: there are still 418 total.

	Approved	#BR	Proposed	#BR
Studio	20	0	0	0
1BR	156	156	194	194
2BR	107	214	88	176
3BR	16	48	16	48
<b>SUM</b>	<b>299</b>	<b>418</b>	<b>298</b>	<b>418</b>

So bedroom mix change wouldn't be considered a substantial change. We are sorry to see even fewer units of a size for families, or even -- in this economic climate -- of a size to be shared by young single individuals. However, we do not see this as meeting the definition of substantial change set forth in the regulations.

Thank you for the opportunity to respond,

Judie Feins  
(for the Housing Trust)