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Zoning Board of Appeals
MEMORANDUM
June 16, 2014

CASE NO. 06-06 COMPREHENSIVE PERMIT
AP CAMBRIDGE PARTNERS II, LLC
Frontage Road and Acorn Park Drive
“The Residences at Acorn Park”

RE: Determination on Substantial Change of the Belmont Uplands Comprehensive Permit –

On June 6, 2014, the Applicant filed a Notice Of Change to provide written notice to the Board that it was changing the subsidizing agency/program from MassDevelopment (under the Mass Development Tax Exempt Bond Program For Rental Housing) to MassHousing (under the New England Fund Rental Housing Program). Applicant also notified the Board that the Massachusetts Department of Conservation and Recreation would be the Grantee of the Conservation Restriction, which is required of the Applicant by Condition 37 of the Comprehensive Permit. Also submitted, for informational purposes only, with Applicant’s written notice were a draft of a Regulatory And Use Agreement and a draft of a Conservation Restriction.

The Applicant is required by 760 CMR 56.05 (11) (a) and (b) to notify the Zoning Board of Appeals (the “Board”) of any desired change to the Comprehensive Permit which was granted by the Board on February 16, 2007. The Board vis-à-vis the Office of Community Development is required by 760 CMR 56.05 (11) (a) to determine and notify the Applicant within twenty (20) days whether the Board deems any “change to be substantial or insubstantial with reference to

the factors set forth at 760 CMR 56.07 (4)”. If the Board deems any of the changes to be substantial, then the Board is required to hold a public hearing to review those changes.

This Matter was placed for discussion and review on the Board’s June 16, 2014 Agenda, which was posted in Town Hall and was placed on the Town’s web-site. The Board met in the Art Gallery, 3rd floor, of the Homer Municipal Building, 19 Moore Street. Sitting for the Board were Members: William D. Chin, Nicholas A. Iannuzzi, Jr., Jim Zarkadas, Eric A. Smith, and Associate Members: David Iaia, Craig White and John McManus.

During the Board’s discussion of this matter the Applicant orally notified the Board that it had also reduced the total number of proposed bedrooms as follows:

Studio apartments were increased from 0 units to 4 units	+4 bedrooms
One-bedroom units remained unchanged from 194 to 194	no change
Two-bedroom units were reduced from 88 units to 86 units	-4 bedrooms
Three-bedroom units were reduced from 16 units to 14 units	-6 bedrooms
Total of bedrooms was reduced from 418 bedrooms to 412 bedrooms	reduction of 6

The Board reviewed Applicant’s Notice of Change and accompanying documentation. The Board then reviewed the Regulations, as promulgated by the Massachusetts Department of Housing and Community Development at 760 CMR 56.00. There was discussion whether the proposed changes constituted substantial changes. At the conclusion of the Board’s review and discussion the consensus of the Board was to take one (1) vote for all three (3) of Applicant’s proposed changes.

MOTION was made, and duly seconded, that the current three (3) proposed changes are not substantial changes in accordance with 760 CMR 56.07 (4). The Board voted 5-0 (Chin, Iannuzzi, Zarkadas, Smith, and McManus) that the current proposed changes are not substantial and that a public hearing is not necessary or required.

The Board further acknowledges its receipt, **for informational purposes only**, the following submissions from the Applicant:

1. The 3/7/12 draft of a proposed Regulatory And Use Agreement between the Massachusetts Housing Finance Agency acting as Subsidizing Agency on behalf of the Department of Housing and Community Development and AP Cambridge Partners II, LLC; and
2. A draft of a proposed Conservation Restriction from AP Cambridge Partners II, LLC to The Commonwealth of Massachusetts, acting by and through its Department of Conservation and Recreation.

After the Board had voted and completed its review and discussion, the Board, with the voluntary presence and participation of Applicant and its agents, held a question and answer session for informational purposes only, for those interested parties in attendance. Several attendees demanded that the Board hold a public hearing on the proposed changes to allow for more public input.

Among the issues that were raised by the attendees are the following:

1. Whether 760 CMR 56.07 (4) was applicable to the Board's review and discussion.
2. That the affordability restrictions would expire and not continue in perpetuity as required by the Comprehensive Permit (Condition 19).

3. That the Affordable Units would be rented to households earning more than fifty percent (50%) of the Area Median Income.
4. That Applicant's loan of \$12.008 million from the Salem Five Cents Savings Bank, the subject of the Regulatory And Use Agreement with Massachusetts Housing Finance Agency, as Subsidizing Agency, is the total amount of Applicant's construction/development cost.
5. Even though 20% of the Project's units would continue to be Affordable Units (60 units), that the Applicant's change in the Project's mix of units should be referred to the Board of Selectmen and the Housing Trust for their review.
6. That the Massachusetts Housing Finance Agency, the new Subsidizing Agency, might require changes to Applicant's Project.
7. That stormwater issues need to be revisited in light of recent studies of precipitation data.
8. That, prior to consideration of the proposed project changes, the Board should determine what significance, if any, the changing climate of the Belmont Uplands might have on the Comprehensive Permit.
9. That the Subsidizing Agency cannot nullify Conditions of the Comprehensive Permit even if those Conditions "address the Subsidizing Agency's core programmatic matters rather than traditional matters of local concern".

Dated: August 28, 2014

For the Board



ZONING BOARD OF APPEALS
TOWN OF BELMONT
BELMONT UPLANDS COMPREHENSIVE PERMIT

The Zoning Board of Appeals (the "Board") issued a Comprehensive Permit ("Permit") to AP Cambridge Partners II, LLC ("Applicant") regarding a parcel of land consisting of 15.6 acres of land located on Acorn Park Drive ("Premises").

On June 6, 2014, the Applicant provided written notice to the Board, that pursuant to 760 CMR 56.05(11) the subsidizing agency will be changed from MassDevelopment (under the Mass Development Tax Exempt Bond Program For Rental Housing) to MassHousing (under the New England Fund Rental Housing Program).

The Applicant also notified the Board that the Massachusetts Department of Conservation and Recreation will be the Grantee of the Conservation Restriction required for the Project, as described in the notice.

The Board has reviewed the Applicant's Notice of Change for the above two items on June 16, 2014 and hereby determine that these modifications are not a substantial change under 760 CMR 56.07(4).

BELMONT ZONING BOARD OF APPEALS

DATE: _____, 2014