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DECISION OF THE ANDOVER PLANNING BOARD
AS A SPECIAL PERMIT GRANTING AUTHORITY

ON THE APPLICATION OF

CSH Andover, LLC

For a Special Permit for Elderly Housing Section 7.4

Decision: SP14-09

YES (with conditions)

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TOWN OF ANDOVER, MASS

A public meeting of the Planning Board was held on July 21, 2015, at the second floor conference room of the Town Office Building. Present and voting in the affirmative on the matter were members Zachary Bergeron, Joan Duff, Vincent Chiozzi, and Ann Knowles.

Pursuant to public notice in the Andover Townsman, a newspaper of general circulation in the Town of Andover, published on November 6, 2014, November 13, 2014, January 29, 2015 and February 5, 2015, and notice sent by mail, postage prepaid, to all interested parties pursuant to the provisions of Massachusetts General Laws, Chapter 40A, a public hearing was convened November 25, 2014 on the application of CSH Andover, LLC. The hearing was closed on July 14, 2015, with the aforementioned members of the Board present throughout.

The premises affected are located at 139 – 143 Elm Street and 26 Pine Street on property owned by Robert J. Maye and Lisa Holihan Maye specifically known as Assessors Map 21 Lots 139 and 144 within the SRB and SRA zoning districts.

The project is to construct 96 unit assisted living facility with associated site work. The proposed assisted living residential units will be contained within one building, along with parking,

walkways and driveways. The site will be landscaped, screened and graded. As proposed, the building is 88,126 square feet and is 34 feet at its highest point. The building is a slab on grade. Sixty five percent (65%) or 5.83 acres of the site is proposed to be open space.

The proposed building is located in the center of the 9.01 acre property. The building contains gathering and living room spaces, libraries, coffee area, salon and a wellness room, as well as a kitchen. The project will for 15% affordability as required in the Zoning Bylaw. The project will be serviced by municipal water and sewer by connecting to existing systems in Elm Street. Parking for the project will be accommodated through creation of new parking facilities on-site, with 52 new spaces being created plus 7 reserve spaces.

On a vote of 4 to 0, the Board finds that the construction of an assisted living facility and associated site work as requested will not be unreasonably detrimental to the established or future character of the neighborhood and town and that such proposed use with appropriate conditions is in harmony with the general purpose and intent of the bylaw. The Board approves with conditions the application subject to the following conditions:

General Conditions

1. For purposes of this approval the special permit shall be defined as all features depicted on the plans described under condition number 2; the developer shall be defined as the applicant, CSH Andover LLC and Robert J. and Lisa H. Maye and its assigns or successors in title to the development, and all contractors and subcontractors under control of or in service to the developer;
2. Except as otherwise provided for in these conditions all work associated with the project, including architecture and landscaping, shall be in strict conformance with the following plans and drawings prepared by Marchionda & Associates, L.P. and Huntress Associates, which are considered the final plans and may be found in the Planning Division:
 - a. Sheet 1 of 20, Cover Sheet, dated March 27, 2015 revised through July 6, 2015;
 - b. Sheet 2 of 20, Legend and Notes, dated March 27, 2015 revised through July 6, 2015;
 - c. Sheet 3 of 20, Existing Conditions Plan, dated March 27, 2015 revised through July 6, 2015;
 - d. Sheet 4 of 20, Plan of Land, dated June 5, 2015 revised through July 6, 2015;
 - e. Sheet 5 of 20, Layout & Materials, dated March 27, 2015 revised through July 6, 2015;
 - f. Sheet 6 of 20, Utility, dated March 27, 2015 revised through July 6, 2015;
 - g. Sheet 7 of 20, Grading & Drainage, dated March 27, 2015 revised through July 6, 2015;
 - h. Sheet 8 of 20, Grading & Drainage, dated March 27, 2015 revised through July 6, 2015;
 - i. Sheet 9 of 20, Roadway Profile, dated March 27, 2015 revised through July 6, 2015;
 - j. Sheet 10 of 20, Utility Profile, dated March 27, 2015 revised through July 6, 2015;
 - k. Sheet 11 of 20, Utility Profiles, dated March 27, 2015 revised through July 6, 2015;
 - l. Sheet 12 of 20, Erosion & Sediment Control, dated March 27, 2015 revised through July 6, 2015;
 - m. Sheet 13 of 20, Open Space Plan, dated March 27, 2015 revised through July 6, 2015;

- n. Sheet 14 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
 - o. Sheet 15 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
 - p. Sheet 16 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
 - q. Sheet 17 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
 - r. Sheet 18 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
 - s. Sheet 19 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
 - t. Sheet 20 of 20, Construction Details, dated March 27, 2015 revised through July 6, 2015;
 - u. Sheet L1 of 4, Landscaping Plan, dated March 31, 2015 revised through July 6, 2015;
 - v. Sheet L2 of 4, Garden Layout Plans, dated March 31, 2015 revised through July 2, 2015;
 - w. Sheet L3 of 4, Landscaping Details, dated March 31, 2015 revised through July 6, 2015;
 - x. Sheet L4 of 4, Lighting Plan, dated March 31, 2015 revised through July 2, 2015
 - y. Sheet A4.0.1, Building Elevations, dated June 25, 2015, 10:34 AM;
 - z. Sheet A5.1.1, Porte Cochere Elevations and Sections, dated June 22, 2015;
 - aa. Rendering, Landscape 02 Camera Elm, dated June 22, 2015;
 - bb. Rendering, Front Entrance View from Elm, by Moseley Architects, sent with email from Christ Huntress dated March 5, 2015.
3. If a modified or supplemental plan(s), drawing(s) and document(s), if any, is required by the Planning Board under the conditions of this permit, it shall be submitted to, reviewed and approved by the Planning Division;
 4. Administration and enforcement of this permit and the conditions attached thereto shall be pursuant to the requirements of the Planning Board's Rules Governing Special Permits;
 5. This special permit shall expire two (2) years from the date that this decision has been filed with the Andover Town Clerks office, plus such time as required to pursue or await the determination of an appeal if substantial use thereof has not sooner commenced except for good cause or if construction has not begun by such date except for good cause. The Board may consider extending the special permit upon written request of the applicant provided that such request has been received and a public hearing noticed prior to the expiration of the original permit. In considering a request for extension, the Board may take into account economic conditions and funding availability;
 6. The owner and applicant shall, pursuant to statute, have twenty (20) days following the approval action of the Andover Planning Board to file an appeal of said action, and in the absence of an appeal shall be deemed to have accepted said action and these conditions;

7. Any blasting operations shall require proper permits, and may not be undertaken on any weekend or holiday;

Prior to Construction

8. Prior to any construction or demolition activity of any kind on the site or associated with the project, a pre-construction meeting shall be conducted which shall include representatives from the developer (including principle contractors and/or supervisors), the Department of Community Development and Planning, the Municipal Services Department, the Police Department and the Fire Department, for purposes of reviewing these conditions and construction sequence schedule;
9. Prior to any construction activity of any kind within the site the developer shall submit for review and approval to the Planning Department a proposed construction sequence schedule, said schedule to be used as a guide to activities within the development including construction of roadways, utilities, drainage systems, stabilization, safe pedestrian circulation before and after construction hours, and stockpiling. This schedule once established should not be deviated from, but may for good and demonstrated reason, be modified by agreement between the developer and the Planning Department;
10. The Andover Department of Public Works shall be notified prior to any construction activities on and off site, including excavation and grading, and shall be given full opportunity to review plans and monitor such activities;
11. The hauling route for the import and/or export of earth materials and demolition debris shall be approved by the Inspector of Buildings and the Police Safety Officer. All public ways are to be kept clean and free of any dirt or debris associated with hauling activities;
12. Construction traffic associated with this project shall be regulated by the Inspector of Buildings. Prior to commencing hauling operations, a hauling route shall have been reviewed and approved by the Inspector of Buildings. Any deviation from the approved route and/or scheduling once established shall require proper notification and approval from the Inspector of Buildings. Construction traffic shall be defined as large trucks hauling earth moving equipment, dump trucks, trucks hauling building materials, cement trucks, and contractors' vehicles larger than panel trucks. It shall be the developer's responsibility to inform all contractors, subcontractors, vendors, and workmen of this restriction;
13. Once paved, the roadway shall be kept clear and passable at all times. No equipment shall be parked in such a manner as to render the roadway impassable, and no refuse containers, trailers, or construction materials of any kind shall be placed or stored upon the street;

Throughout Construction

14. Construction equipment or materials shall not be parked, stored, or placed in any area directly adjacent to or upgradient of any drainage channel or wetland area. Repairs and maintenance to equipment shall be conducted in areas where no spills or leakage of fuels or other fluids could pose a pollution hazard;
15. Earth disturbed by construction activities associated with the roadway or easements, such as tree cutting, stump grubbing, cutting, filling, and regrading, shall be appropriately stabilized by methods determined by the Planning Department within sixty (60) days of such disturbance unless otherwise approved by the Planning Department;
16. No building lot shall remain in an open condition longer than sixty (60) days. "Open" shall be defined as that period of time between initial preparation of the lot for building (clearing of trees, stripping of topsoil), and the time that the foundation has been installed, backfilled, and the rough grading has been established and stabilized by use of temporary seeding, mulching, or netting. This restriction shall remain in force until the lot has been properly stabilized and shall survive changes in ownership of the lot;
17. Locations of stockpiles of earth materials on site shall be limited to the area as shown on the plans referenced in Condition #2. Stockpiles shall be prohibited within fifty (50') feet of any wetland boundary, drainage channel or water course, and prohibited in any area which necessitates removal of trees for such purpose. Only locations approved by the Planning Department may be used for stockpiles of earth materials;
18. Long term (more than sixty days) stockpiles of earth materials shall be shaped and secured by butted haybales around the perimeter, and shall be promptly stabilized by temporary seeding or netting;
19. Burial or burning of vegetation, stumps, or construction debris is strictly prohibited anywhere within the site. Such materials shall be removed and properly disposed of off the site;
20. All construction activities within the site shall be confined between the hours of 7:00 a.m., and 6:00 p.m., Monday through Friday, unless otherwise approved by the Planning Board. Once fully framed, interior construction related activities are allowed on Saturdays between 8:00 a.m. and 6:00 p.m. unless otherwise restricted or prohibited by the Inspector of Buildings in response to complaints. Construction activities include the transport of equipment, materials and supplies to and from the site;
21. Hauling of earth materials and heavy equipment during morning pick up and drop off of school buses is not allowed. It shall be the developer's responsibility to communicate with the proper school departments to determine precise hours of pick up and drop off, and to inform all contractors, subcontractors, vendors, and workmen of this restriction;

22. As field conditions warrant, berms of type and design specified by the Department of Public Works shall be installed in locations determined by the written decision of the Director of Municipal Services;
23. Construction activities on individual lots shall be conducted in a workmanlike manner at all times. Blowing dust or debris shall be controlled by the developer of lots through stabilization, wetting down, and proper storage and disposal methods;
24. Except for periods during replacement if required, all public sidewalks adjacent to the site shall be kept open, and in a safe and passable condition. No fences, barriers, or gates may be placed or installed within the Town way;
25. Once construction has begun, it shall continue through to completion as expeditiously and continuously as possible; however, in the event that construction activities cease on the part of the developer with respect to a particular phase for a period of six (6) months from the date of last observed activity for such phase, the Board may convene a public hearing for the purpose of revocation or modification of the permit as it relates to the Phase in which construction has ceased for six (6) months, but such revocation or modification shall not affect the Phase which is in compliance with this condition;
26. During construction, Elm Street will be kept clean of all debris, runoff and site materials by street sweeping and other cleaning activities.
27. A police detail is required for all construction work that may overflow into or adjacent to Elm Street (such as construction of the sidewalk, stormwater detention area, entrance driveway, utilities, stone wall, curbing, or grading) that may prohibit site lines, cause vehicles to slow down or interfere with pedestrians or bicyclists along Elm Street.

Prior to Occupancy

28. In an effort to reduce the overall number of automobile trips in the area and to integrate the project into the available transportation resources, the Applicant shall implement the following Transportation Demand Management (TDM) measures:
 - a. Work with the Town of Andover (Elderly Services) and the Merrimack Valley Regional Transit Authority (MVRTA) to review the possibility of expansion of existing bus routes to provide public transit to the Lowell Street corridor; and
 - b. Provide a schedule of staggered shift hours to the Planning Division enforceable by the Building Division, in particular the midafternoon shift change to avoid conflict with bus routes and school children;
 - c. Post information relative to potential carpool operations available through MassRides or the MVTMA in a centralized location on site;
29. Prior to occupancy all parking areas, access driveways, pavement markings, sidewalks and off-site street improvements (if any) which relate to the building being occupied, shall have been completed and made fully operational;
30. Prior to occupancy a set of as-built plans for utilities (water, sewer and drainage) both on

and off the site shall be submitted to and approved by the Department of Public Works within seven (7) days after all installations are complete, and before the issuance of a Certificate of Occupancy;

31. Prior to the recording of this permit at the Essex North Registry of Deeds the developer shall provide at least three (3) sets of the plans and drawings, considered the final plans, described under Condition 2 above to the Planning Department for distribution and final review;
32. Prior to the recording of this permit, the applicant shall provide to the Planning Department a digital file containing the plan if produced using computer aided drafting and design (CADD) software. The file format shall be in AutoCAD DWG (or ASCII DXF) version 2010 or earlier and Adobe PDF, delivered on CD-ROM or DVD-R media. AutoCAD file delivery shall be in full model view and individual sheet views. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet. A review of the digital file shall be made by the Department of Public Works prior to the recording of this permit;
33. Prior to occupancy and pursuant to Section 7.4.3.10. of the Zoning Bylaw, the common open space as depicted on Sheet 13 of 20 of the approved plan set, shall be set aside by the applicant for conservation and/or passive recreation use in perpetuity, with said land being available for the public, and held by either the Town of Andover or it's designated entity, as a conservation restriction. If held by another entity, such as the Andover Village Improvement Society (A.V.I.S.), the Town of Andover maintains the right to enforce the provisions of the conservation restriction. Prior to recordation of the permanent conservation restriction, said restriction shall be reviewed and approved as to form by the Town of Andover;
34. In order ensure proper operation and maintenance of the proposed stormwater system, the project shall be subject to an "Operation & Maintenance Plan", as prepared by Marchionda & Associates, LP. Said plan may be amended from time to time and is subject to review and approval by the Municipal Service Department;

Specific to this Special Permit

35. Prior to any construction related activities, the final architectural design of the CSH of Andover LLC building shall be filed with the Planning Division;
36. Lighting fixtures and the sign in the parking area and perimeter of the property shall have residential cut-off shields and directed inward toward the site to minimize potential light spill and glare;
37. The occupancy costs for the affordable units may be adjusted by the applicant/provider

from time to time, to reflect the increase in CPI, and/or to reflect the income limits as defined by HUD;

38. Fourteen (14) of the 96 units shall be "affordable units" in perpetuity. The applicant shall be responsible for maintaining records sufficient to comply with Department of Housing and Community Development (DHCD), or appropriate state agency, guidelines for the location of affordable units in the project and occupancy of such units by income-eligible households;
39. The applicant shall provide an affirmative marketing plan and tenant selection plan to the Planning Division prior to making any of the units available. The applicant shall incorporate Local Preference in the affirmative marketing and tenant selection plans for the project to the extent permitted by DHCD;
40. To the extent permitted by the DHCD and applicable law, with respect to seventy percent (70%) of the Affordable Units in the Development, local preference for occupancy shall be given to persons satisfying all applicable eligibility requirements and who qualify as any of the following:
 - a. Current Andover residents, with verification such as rent receipts, utility bills, street listing or voter registration listing
 - b. Parents of current Andover Residents, with verification provided by current utility bill and with relationship documented via birth certificate;
 - c. Employees of the Town of Andover, such as teachers, janitors, firefighters, police officers, librarians, or town hall employees, with a Town employment history of at least one year, regardless of where they currently reside, with verification from employer; and,
 - d. Former Andover Resident that attended any educational institution in Andover.
41. Pursuant to the landscape plan, L1 of 4 as prepared by Huntress Associates, the applicant shall be required to replace, in kind and number any trees and shrubs that do not survive the two (2) years following initial planting with the exception of the American Elm which will have a three (3) year guarantee following initial planting. After five (5) years if any species that is not viable, the applicant shall consult with the Town Arborist for an alternative replacement.
42. The applicant shall pay to the Town of Andover the amount of \$5,000 made payable to the "Town of Andover", which shall be controlled and used solely by the Town of Andover to hire a landscape contractor for landscaping repairs, replacement or maintenance of trees in case the applicant fails to maintain and replace said trees as specified in condition number 41. After the three year guarantee, any remaining funds will be returned to the applicant;
43. Within one year of occupancy or sooner, the applicant must remove the asphalt driveway/pathway that connects Pine Street to the rear parking area and replace it with a pervious material.

44. Prior to occupancy, the applicant must install a service gate, as shown on L3 of 4 as prepared by Huntress Associates, along Pine Street to prevent non-emergency vehicles from driving along the way. Emergency, repair and town vehicles are an exception to the above.
45. Deliveries shall be restricted to Monday through Friday from 7:00 a.m. to 6:00 p.m. and Saturday, Sunday and Holidays 9:00 a.m. to 4:00 p.m. The above hours do not apply to FedEx or other private delivery services which have their own schedules. This condition shall be enforceable by the Inspector of Buildings.
46. Class 8b trucks weighing over 33,001 lbs., unless for emergency purposes or by permission of the Inspector of Buildings, are not allowed on site after a certificate of occupancy permit is granted.
47. The Applicant shall continue to pursue relationships with a number of existing area service providers such as Elder Services of the Merrimack Valley, Home Health Foundation, Lawrence General Hospital, and Jewish Family and Children's Services, and will ensure that the services provided by these agencies are well integrated into CSH of Andover LLC community.
48. During fall and winter months, sidewalks within the site, must be kept clear of snow and debris.
49. The proposed porte cochère at the entranceway shall not be higher than nineteen (19) feet as shown on "Sheet A5.1.1 Porte Cochère Elevations".
50. The stone wall along the front of the site will be reconstructed along the length of the property except for access ways openings and must comply with safe site and view lines.
51. The applicant must install and maintain two speed display signs with recording/survey capabilities, specifically the "All Traffic Solutions SpeedAlert 18" or equal/equivalent. The applicant shall provide for the periodic calibration and maintenance of the radar speed limit signs for a period of ten (10) years following the installation of said radar speed limit signs. After five years, in consultation with the Traffic Safety Officer and Planning Division, the applicant may provide a lump sum payment sufficient for the remaining five years of maintenance and calibration of the equipment.
52. The sidewalk connecting Elm Street to the building shall be ADA accessible and shall be constructed of a pervious material.
53. Spillover parking is not allowed on Elm Street or side streets. Additional parking if needed, shall be constructed on site and be of a pervious material in consultation with the Planning Division.

Following the statutory twenty-day appeal period, and in the absence of any appeal, the plan and an instrument containing the foregoing restrictions will be filed in the Registry of Deeds. The applicant is responsible for the costs associated with the Registry filings.

Date: 7/23/15

Zachary Bergeron
Zachary Bergeron, Chair

Essex, ss

COMMONWEALTH OF MASSACHUSETTS

Date: 7/23/15

On this 23rd day of July, 2015, by Zachary Bergeron, the authorized agent of the Andover Planning Board, proved to me through satisfactory evidence, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the documents are truthful and accurate to the best of her knowledge and belief and who acknowledged to me that she signed it voluntarily for its stated purpose and acknowledged the foregoing to be the free act and deed of the Andover Planning Board.

Before me,

Kathryn L. Forina

My commission Expires:



CERTIFICATION

I, _____, Town Clerk of the Town of Andover, Massachusetts, do hereby certify that twenty (20) days have elapsed since this decision of the Andover Planning Board was filed in my office on _____ and no appeal against said decision has been filed.

Date: _____

Lawrence Murphy, Town Clerk

CERTIFICATE OF TOWN CLERK

I, Lawrence Murphy, Town Clerk of the Town of Andover, Essex County, Massachusetts, do hereby certify that: i) the Decision of the Andover Planning Board as Special Permit Granting Authority on Application of CSH Andover, LLC for Special Permit for Elderly Housing originally was filed in the Town Clerk's office on July 23, 2015; ii) within twenty (20) days thereafter, an appeal was filed by Mark J. Bernardin, Nanette Conte, Isabelle Boulain and Bernice Downs, Plaintiffs, against the Andover Planning Board *et al.*, Defendants in the Land Court Department of the Trial Court (Docket No. 15-PS-000313); iii) on October 20, 2016, said appeal in the Land Court was dismissed upon a Stipulation of Dismissal; and iv) no other appeal of the above-referenced Decision the Andover Planning Board Decision was filed within twenty (20) days from the date the Decision was filed in this office.

Executed this 15th day of May, 2017.



Lawrence Murphy

Town Clerk for the Town of Andover