

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

ON THE APPLICATION OF

CA Investment Trust  
90 Beacon Street

Special Permit for a Multi-Family Dwelling Construction-Attached Cluster under Section 7.3 of  
the Zoning By-Law.

Decision: SP15-04

YES (with conditions)

A public meeting of the Planning Board was held  
on October 27, 2015, in the Third floor conference  
Room of the Town Office Building. Present and  
voting in the affirmative on the matter were  
members Zachary Bergeron, Vincent Chiozzi, Joan Duff,  
and Ann Knowles.

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TOWN OF ANDOVER, MASS

Pursuant to public notice in the Andover Townsman, a newspaper of general circulation in the  
Town of Andover, published on July 9, 2015 and July 16, 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 on July 28, 2015 on the application of CA  
Investment Trust for a Special Permit for a Multi-Family Dwelling Construction-Attached  
Cluster Project. The hearing was continued and closed on October 13, 2015, with the  
aforementioned members of the Board present throughout.

In order to satisfy the dimensional requirements of Section 7.3.4. of the Zoning By-Law, the applicant is proposing to create a 21.4 acre parcel. Pursuant to Section 7.3.4.1. of the Zoning By-Law, the maximum lot size allowed under current zoning is 25-acres, with minimum of 50' feet of frontage; the applicant is proposing 728' of frontage along Beacon Street. The layout of the units meets the 75' minimum setback requirement from existing property boundaries, the 15' setback from roads or parking areas and the 50' setback from other buildings. The buildings will be less than 35' in height.

At least 60% of the total area of the lot is required to be designated open space which would require 12.84 acres; the application states 18.70 acres will be open space. The applicant is proposing to create three distinct open space areas or common areas. Each unit would have between approximately 840 square feet of "limited common area", which would represent a "private" back yard. A designated 10.33-acre area called "common common area" would be available for all owners for passive recreational purposes this includes areas between and around buildings but excludes the "limited common area" and would be maintained by the Condominium Association. The third area called "restricted common area" is comprised of a golf course and would be maintained by the Country Club.

Vehicular access to the condominium units is from a private way known as Robert Drive. The 27 attached units would be contained in 7 separate buildings, each building would contain 3 or 4 units. Pursuant to Section 7.3.6. of the Zoning By-Law (Design Standards), the number of dwelling units which have more than four rooms excluding bathrooms may not exceed 60% of the total number of dwelling units in the development. According to the applicant's unit summary, 16 of the 27 units proposed will have 4 rooms and 11 units will have 4 rooms or less.

All maintenance responsibility associated the new Multi-Family Attached Cluster would be the responsibility of the condominium association. Said maintenance would include for the private maintenance of the access drives, all utilities such as sewer and water, routine street maintenance, snow plowing, and trash removal.

The Board took into consideration the purpose of Section 7.3. of the Zoning By-Law. The proposed condominium development is consistent with the following:

1. To promote and encourage alternative forms of housing which are accessible to existing town services;

The applicant's proposal generally satisfies the foregoing purpose. Multi-family attached cluster is an alternative to the large single-family detached structures currently being built in town, and the size of the proposed units would tend to reduce the likelihood of more children in the school system than a typical conventional residential subdivision.

The proposed Frenchman's Reserve condominium development would further promote and expand to the variety of the housing stock in Andover, as well as provide an alternative to sprawling single-family detached dwellings. With no maintenance responsibilities, golf course setting, pristine views of the Andover Country Club and manicured landscapes, the multi-family

attached cluster development concept is very appealing to many empty nesters who would prefer to remain in Andover, but do not necessary want all of the maintenance responsibilities that are commonly associated with ownership of a single family home.

2. To protect the natural environment and to conserve open space;

As an element of the Multi-Family Attached Cluster, the applicant is required to designate 60% of the total area of the lot as open space, with at least 50% of the open space being accessible and usable for recreation purposes. As part of the applicant's submission, a calculation of buildable area has been provided, which should provide the Board with a comparative analysis of the open space. Similar to the applicant's previous submission of Swan Crossing I & II, three distinct open space or common areas would be created. Each unit would have between approximately 840 square feet of "limited common area", which would represent a "private" back yard. A designated 10.33-acre area called "common common area" would be available for all owners for passive recreational purposes, with the third area called "restricted common area" is comprised of holes 3 and 4 of the golf course (9.23 acres).

3. To promote energy conservation;

The proposed Frenchman's Reserve development would further promote energy conservation, by virtue of the development solely consisting of new construction, with the 27 condominium units being equipped with energy efficient HVAC and electrical systems, and new water and sanitary sewer services being provided.

4. To allow development within the existing capacities of town services; and

The proposed development would have little if no effect on existing town services, whereas the proponent is proposing to privately maintain the sewer lines, water lines, roadways, pathways, driveways, lighting, drainage pipes and drainage swales, snow removal, landscaping and trash pickup and removal within the project by establishing a Condominium Owners' Association (COA). As part of this proposed an easement will be granted to the Town for future water and sewer service upgrades.

5. To provide housing which will not be detrimental to the established or future character of the neighborhood and town.

Situated off of Beacon Street, in consideration of the existing character of the established neighborhood, the Board does not believe the proposed multi-family attached cluster would be detrimental to the established or future character of the neighborhood and town.

In considering a special permit for a Multi-Family Dwelling Construction-Attached Cluster the Planning Board must find that the applicant has demonstrated (1) that the Attached Cluster plan will be in harmony with the purposes of Section 7.3.1. and (2) that it will not have a detrimental impact on the neighborhood, will be designed, with due consideration for health and safety, and is superior to a conventional subdivision plan in preserving open space, minimizing

environmental disruption, allowing more efficient provision of services or allowing for greater variety in prices and types of housing stock;

In the opinion of the Board, in consideration of all the reviews, presentations, discussions, agreements and understandings on the petition the Board finds that the proposal as a whole is in harmony with the purposes of Section 7.3.1 and will not have a detrimental impact on the neighborhood and is designed with due consideration for health and safety and is superior to a conventional subdivision plan in preserving open space, minimizing environmental disruption, allowing more efficient provisions of services and allowing greater variety in prices and types of housing stock.

In consideration of all of the foregoing, including the plans, documents, and testimony given during the public hearing, the Planning Board hereby approves and issues a Special Permit for a Multi-Family Dwelling Construction for CA Investment Trust, applicable to the property earlier described, and subject to the following conditions:

General Conditions

1. The project shall be known as “Frenchman’s Reserve”, and defined as the structures, roadways, driveways, parking areas, utilities, drainage systems, regrading and earth moving, and off-site improvements all as depicted on the approved plans. The site shall be defined as a parcel of land identified as Lot 18, Assessors’ Map 107, containing 21.40 acres of land shown on sheet 1 of the approved plans. The developer shall be defined as the applicant, CA Investment Trust, 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 shall be in conformance with the following plans and drawings as prepared by Land Engineering & Environmental Services, Inc.:
  - a. Sheet 1 of 11, Cover Sheet last revised September 23, 2015;
  - b. Sheet 2 of 11, Existing Conditions Plan last revised September 23, 2015;
  - c. Sheet 3 of 11, Overview Plan last revised September 23, 2015;
  - d. Sheet 4 of 11, Layout Plan last revised September 23, 2015;
  - e. Sheet 5 of 11, Layout Plan last revised September 23, 2015;
  - f. Sheet 6 of 11, Grading Plan last revised September 23, 2015;
  - g. Sheet 7 of 11, Grading Plan last revised September 23, 2015;
  - h. Sheet 8 of 11, Plan and Profile Plan last revised September 23, 2015;

- i. Sheet 9 of 11, Channel Restoration Plan and Profile last revised September 23, 2015;
  - j. Sheet 10 of 11, Detail Sheet last revised September 23, 2015;
  - k. Sheet 11 of 11, Detail Sheet last revised September 23, 2015;
  - l. Landscape Plan prepared by Lorayne Black ASLA dated September 29, 2015;
3. Prior to the release of the construction bond, all proposed landscaping, as depicted on the approved plan set, shall have been installed and stabilized;
  4. In consideration of the issuance of this Special Permit the developer shall agree, and the condominium owners shall be bound by a condition that all sewer lines, water lines, roadways, pathways, driveways, lighting, drainage pipes and drainage swales, snow removal, landscaping, and trash pickup and removal within the project shall be totally private and the sole responsibility of the developer and the condominium owners, and that the Town of Andover may not be made responsible or liable for maintenance, acceptance or repair of any of the aforementioned items by request, petition, or action of law, and such condition shall be clearly spelled out and affirmed in the documents of the Condominium Owners' Association;

Prior to Construction

5. An Approval Not Required plan must be submitted and recorded at the North Essex Registry of Deeds creating the two lots shown on the above referenced plans;
6. The 30' wide utility easement over the private way for the future extension of the water main shall be granted to the Town after review and approval by Town Counsel and the Town Engineer and recorded at the North Essex Registry of Deeds;
7. The location of the 30' wide utility easement that crosses the two lots for the future extension of sewer shall be finalized with the Town's Department of Municipal Services, the necessary easement plan and documents shall be prepared for granting to the Town, submitted to Town Counsel for review and approval and recorded at the North Essex Registry of Deeds;
8. Prior to any construction related activities commencing on-site, a pre-construction meeting shall be held between the developer, and representatives of town having interest, said meeting to be for the purposes of familiarization with the project and these conditions, and for determining and establishing the construction sequence and timetable. In the event the project is conveyed to another party prior to or during construction the developer shall within five (5) days of such conveyance or transfer, provide the Planning

Board with written notification with the name and address of the new owner along with a signed affidavit acknowledging that these conditions have been received, read, and understood, and thereafter the new owner shall be known as the developer;

Throughout Construction

9. Construction activities on the site shall be conducted between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday. Saturday construction activities may be allowed by the Planning Board upon request in writing from the developer, and such request shall be considered at a public meeting of the Board. Construction activities shall be deemed to include equipment start-up. Interior construction within the structures once fully enclosed shall be regulated by the Inspector of Buildings. Transport of equipment and supplies to and from the site shall likewise be restricted to the foregoing schedule;
10. All construction activities on the site shall be conducted in a workmanlike manner. The developer shall control blowing dust and debris by soil stabilization coverings, wetting down, and proper disposal or storage of waste materials and building supplies;
11. Exposed or disturbed earth surfaces resulting from tree removal, cutting, filling, and regrading operations shall be stabilized as quickly as may be practicable, but generally within sixty (60) days of such exposure or disturbance. The Planning Board reserves the right to order any exposed or disturbed area to be stabilized immediately upon order if it is determined that there are wind or water borne erosion problems. Stabilization shall be accomplished by hay or mulch or coverings, loaming and seeding, hydroseeding, netting, or other approved methods by the Planning Department;
12. In order to facilitate necessary inspections by local officials, and for emergency response situations during construction, the developer shall provide and maintain full and safe access at all times to all on site structures above the foundation stage. Full and safe access shall be defined as the construction through binder pavement course of the roadway shown on the plan. No building permits for framing shall be issued for structures that are more than one hundred (100) feet from full and safe access;
13. Construction traffic associated with development of the 27-unit condominium units 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. Hauling of earth materials and heavy equipment on Beacon Street shall be restricted to the time period between the last morning pick-up of school children, and the first afternoon drop off. It shall be the developer's responsibility to inform all contractors, subcontractors, vendors, and workmen of this restriction;

14. Beacon Street and the sidewalk shall be kept safe and passable to pedestrians and students. If necessary the developer shall provide for a Police Detail;
15. Construction equipment or materials shall not be parked, stored, or placed in any area directly adjacent to or upgradient of any drainage channel or along any public way without appropriate safety controls being provided. 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;
16. Construction of the project, once commenced, shall be carried through to completion of the development as approved as continuously and expeditiously as possible, and in accordance with the construction sequence and timetable provided for under condition # 8 above;

Prior to conveyance

17. Prior to the conveyance of any dwelling unit all documentation associated with the Condominium Owners' Association, and all documentation associated with semi-annual water quality testing and restrictions intended to be imposed on the open space or common areas within the project, including modifications of existing easements, covenants, or restrictions if any be required shall be submitted to the Planning Board. All documents shall have been approved by the Planning Board and recorded (if applicable) prior to the conveyance of any dwelling unit. In the event of the conveyance of any dwelling unit prior to the recording of an approved conservation restriction the Town shall have a lien on said real property for the value of the conservation restriction, pursuant to Section 7.3.5. of the Zoning By-Law. The Condominium Owners' Association, shall include language for the appropriate maintenance and upkeep of the emergency access easement;

Prior to Clearance Certificates

18. Prior to issuance of any clearance certificate for building purposes, the following work must be completed: all water systems, drainage systems and sewer systems shall have been installed, tested, and approved by the Department of Public Works. One set of surveyor certified interim as-built plans shall be provided to DPW for review and approval. The interim as-built plan shall be prepared after all utilities, including service stubs have been installed and the binder course has been placed. This condition shall be considered satisfied upon receipt of a written communication from the Department of Public Works stating the same;
19. Prior to issuance of clearance certificates for the last building in the development, a final utility inspection shall be conducted and utility as-built plans shall have been submitted for review and approval by the Department of Public Works. Upon receipt of a written report from the Department of Public Works that said items have been completed, the Planning Division will issue the last clearance certificate for building purposes;

20. Prior to clearance certificates being issued for building purposes, a sign depicting Robert Drive and unit locations shall have been erected. The location and alignment of the sign, shall be reviewed and approved by the Fire, Police, Planning and Department of Public Works prior to installation;

#### Specific Conditions

21. The roadway, Robert Drive, shall remain private. The Town of Andover shall have no responsibility for the maintenance of said roadways, including all utilities (except Town services) and there shall be no plowing of the private way or trash pickup by the Town of Andover. Such services shall be clearly provided for and incorporated into the established Condominium Owners' Association, which shall be recorded prior to the release of lots for building purposes;
22. Pursuant to Section 7.3.6. of the Zoning By-Law (Design Standards), the number of dwelling units, which have more than four rooms excluding bathrooms may not exceed 60% of the total number of dwelling units in the development. The applicant may vary the number of rooms, upon notice to the Planning Department, as long as the number of units that have more than four rooms, excluding bathrooms does not exceed 60% of the total of dwelling units. Prior to issuance of clearance certificates for the last building development, the applicant's engineer shall provide written certification that the total number of dwelling units, which have more than four rooms excluding bathrooms does not exceed 60% of the total number of dwelling units in the development to the Planning Department. Upon receipt of said certification this condition shall be deemed satisfied;
23. Although the applicant has proposed an aggressive landscaping and screening plan, should any areas along the perimeter of the development be identified as lacking screening as determined by the Board's designee during construction, the applicant shall undertake all reasonable remedies to enhance the buffer. At the Board's discretion, the Board may require additional screening and landscaping along areas that have been identified by the Board's designee as deemed inadequate. The developer shall be required to replace, in kind and number any trees that do not survive the two (2) years following initial planting. Following one year from construction of the last building or two years following initial planting, whichever comes later, this condition shall be considered satisfied;
24. The landscape berm by Building 4 will be built at the same time as Building 4, the landscape berm by Building 5 will be built the same time as Building 5 and the landscape berm by Building 6 will be built the same time as Building 6;
25. All exterior street lamps along the roadways, building units and parking areas shall be of such type, and installed in such manner so as not to create glare or unreasonable spillover into any adjacent residential properties or onto any adjacent residential structures. This condition shall be enforceable by the Inspector of Buildings;

26. Construction equipment or materials shall not be parked, stored, or placed in any area directly adjacent to or upgradient of any drainage channel or along any public or private way without appropriate safety controls being provided. 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;
27. This permit and these conditions shall be enforced in the manner provided under Section 19.0 of the Planning Board's Rules Governing Special Permits.

Date: 10/28/15

Zachary Bergeron  
Zachary Bergeron, Chair

Essex, ss

COMMONWEALTH OF MASSACHUSETTS

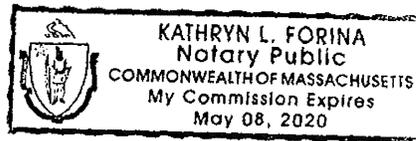
Date: 10/28/15

On this 28<sup>th</sup> day of October, 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 his knowledge and belief and who acknowledged to me that he 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:



Applicant: CA Investment Trust  
Special Permit for Multi-Family Dwelling Construction – Attached Cluster  
SP15-04

CERTIFICATION

I, Lawrence J. Murphy, Town Clerk of the Town of Andover, Massachusetts, do hereby certify that the preceding or attached decision of the Andover Planning Board was filed in the office of the Town Clerk on October 28, 2015 and that no appeal has been filed.

December 4, 2015

  
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Lawrence J. Murphy  
Town Clerk  
Andover, Massachusetts

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