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Concord, MA 01742

TOWN OF CONCORD

BOARD OF APPEALS

TOWN HOUSE



2008 00048425

Bk: 50935 Pg: 534 Doc: DECIS
Page: 1 of 13 03/26/2008 09:50 AM

Please take notice that in the matter of the APPLICATION OF BENTLEY BUILDING CORPORATION for a Special Permit, under Sections 3.1, 4.2.7, 10 and 11.6, for a Planned Residential Development at 14A Strawberry Hill Road, Concord, Massachusetts, the Board of Appeals has this day rendered a decision GRANTING said application, and the record therein has this day been filed with the Town Clerk, Town House, Concord, Massachusetts. Appeals, if any, shall be made pursuant to Section 17 of the Zoning Act, Chapter 40A of the Massachusetts General Laws, and shall be filed within 20 days after the date of this notice.

Paula Levine
CLERK, BOARD OF APPEALS

January 28, 2008
DATE

11144-107

PROPERTY ADDRESS: 14A STRAWBERRY HILL ROAD, CONCORD, MA
FINIGAN'S WAY, CONCORD, MA

TOWN OF CONCORD

BOARD OF APPEALS

The Application of BENTLEY BUILDING CORPORATION for a Special Permit, under Sections 3.1, 4.2.7, 10 and 11.6, for a Planned Residential Development at 14A Strawberry Hill Road, Concord, Massachusetts.

RECORD OF PROCEEDINGS

The Applicant, BENTLEY BUILDING CORPORATION, filed with the Board of Appeals on June 29, 2007, an application.

The Board determined that the following constituted the parties interested in the application and the owners of all property affected thereby, as they appear upon the most recent tax list, viz:

Julie W. Barrett
 Mark W. Giddings & Colleen Smith
 Nashoba Brooks School
 Ellen K. Spear
 Edward M. & Susan G. Marlenga
 Marguerite Q. Eberle TR
 Concord Housing Authority
 John L. & Kristine S. MacKinnon
 Stephen R. Jr. & Maureen H. Cheheyl
 Steven A. Cadwell & Joseph S. Levine
 Harry W. Jr. & Betty E. Fatkin
 Roy M. & Esther Roy John
 Concord Rod & Gun Club Inc.
 Justina B. Forbes & Talbot D. Lovering

John Martinson
 Michael McGrath
 Concord Public Schools
 Susan N. Sekuler TR
 Save Our Heritage Inc.
 Kim Novick & Susannah Elliott
 Jaleh Owliaei & Murat Azizoglu

The Board set the 9th day of August, 2007 at 8:20 P.M. as the time, and the Alcott School Auditorium, 93 Laurel Street, Concord, Massachusetts, as the place of the public hearing upon said application. The Hearing was continued to October 11, 2007, and then further continued to December 13, 2007. The December 13, 2007 Meeting was postponed to January 3, 2008 as a result of a snow storm.

The following notice was published in *THE CONCORD JOURNAL* in the issues of July 26, 2007 and August 2, 2007, and a copy of said notice was sent by mail to each of the aforementioned parties in interest and property owners.

ZBA/14A STRAWBERRY HILL RD
LEGAL NOTICE
 Board of Appeals
 Public Hearing

A public hearing of the Concord Zoning Board of Appeals will be held on Thursday, August 9, 2007, in the Alcott School Auditorium, 93 Laurel Street, Concord, Massachusetts, at 8:20 P.M. on an application by Bentley Building Corporation for a Special Permit, under Sections 3.1, 4.2.7, 10 and 11.6, for a Planned Residential Development at 14A Strawberry Hill Road.

AD#11392055
 Concord Journal 7/26, 8/2/07

The following persons appeared in support of the Application:

NONE

The following persons appeared in opposition thereto:

Jim Cunningham of Save Our Heritage
Lou Sederis of the National Park Service

The Planning Board reported its action of the matter as follows:

See letter dated December 12, 2007.

The Board thereupon took the following action:

VOTED: To grant to the applicant, Bentley Building Corporation a Special Permit, under Sections 3.1, 4.2.7, 10 and 11.6, for a Planned Residential Development at 14A Strawberry Hill Road adopting the conditions recommended in a letter from the Planning Board dated December 12, 2007 and the condition in a letter from the Natural Resources Administrator dated December 6, 2007.

This Special Permit for a Planned Residential Development is subject to the following conditions:

1. This Special Permit is contingent upon satisfactory completion of a Conservation Restriction on the Open Space parcels, as conditioned in the Certificate of Compliance issued by the Natural Resources Commission on December 7, 2007. The Applicant must conduct baseline documentation in accordance with MassAudubon's Massachusetts Conservation Restriction Stewardship Manual (March 2006), or as approved by the Division of Natural Resources. To be considered complete, the

Conservation Restriction must be signed by the Board of Selectman and the Secretary of the Executive Office of Energy and Environmental Affairs, and recorded at the Registry of Deeds.

2. Approval of this Special Permit is based on the following revised plans: Definitive Subdivision Plan Finigan Place A Planned Residential Development Concord, Massachusetts prepared by Stamski and McNary, Inc, 80 Harris Street, Acton, Massachusetts:
 - Cover Sheet dated June 26, 2007, revised on October 19, 2007, November 27, 2007 and December 10, 2007 (Sheet 1 of 10)
 - Record Plan dated June 26, 2007, revised on October 19, 2007, November 27, 2007 and December 10, 2007 (Sheet 2 of 10)
 - Record Plan dated June 26, 2007, revised on October 19, 2007, November 27, 2007 and December 10, 2007 (Sheet 3 of 10)
 - Existing Conditions & Master Plan dated June 26, 2007, revised on October 19, 2007, November 27, 2007 and December 10, 2007 (Sheet 4 of 10)
 - Site Development Plan dated June 26, 2007, revised on October 19, 2007, November 27, 2007 and December 10, 2007 (Sheet 5 of 10)
 - Plan And Profile Plan dated June 26, 2007, revised on October 19, 2007, November 27, 2007 and December 10, 2007 (Sheet 6 of 10)
 - Construction Detail Plan dated June 26, 2007, revised on October 19, 2007, November 27, 2007 and December 10, 2007 (Sheet 7 of 10)
 - Construction Detail Plan dated June 26, 2007, revised on October 19, 2007, November 27, 2007 and December 10, 2007 (Sheet 8 of 10)
 - Erosion and Sedimentation Control Plan dated June 26, 2007, revised on October 19, 2007, November 27, 2007 and December 10, 2007 (Sheet 9 of 10)
 - Site Evaluation dated June 26, 2007, revised on October 19, 2007, November 27, 2007 and December 10, 2007 (Sheet 10 of 10)
 - 50' R.O.W. Proof Plan dated September 10, 2007
 - Definitive Post-Development Drainage Plan dated June 26, 2007 and revised on June 26, 2007
3. Approval of this Special Permit is based on the Definitive Subdivision Plan Finigan Place A Planned Residential Development Concord, Massachusetts Landscape Plan prepared by Kim Ahern Landscape Architects, 40 Foster Street, Littleton, Massachusetts dated October 19, 2007.
4. In order to preserve the desired diversity and provide flexibility to the Applicant, the Applicant shall adhere to the following items:
 - (a) The Applicant is allowed to build 35% (i.e. up to 7 units) of each of the following housing designs: Arlington, Dover and Stanford; can only build 10 percent (i.e. or up to 2 units) of the Franklin design; and excluding the Franklin design, needs to build at a minimum 10% (or 2 units) of each of the following housing designs: Arlington, Dover and Stanford. No two adjacent units shall be the same design, unless a different façade treatment is proposed (such as porches, shutters, modified roof line or bay window).
 - (b) The Applicant shall construct six low-income affordable units; 2 units of the Amesbury, 2 units of the Essex and 2 units of the Willowbrook. The sizes of the affordable units shall approximate the following sizes (+/- SF): 1,784 for the

Amesbury, 1,792 for the Essex and 1,632 for the Willowbrook. The Affordable units must be built within the general construction process and built over the course of the project (i.e. the affordable units shall not be built last or near to last in the construction phase). **Prior to issuance of the Occupancy Permit for the 5th market rate unit**, the Applicant shall build at least 2 affordable units.

(c) The Applicant shall be allowed flexibility in the exterior design of the housing design (i.e. altering exterior, roof, porch, window design) so long as the changed designs are an alternative of the housing designs here mentioned above and do not constitute a substantial change in the design or the gross floor area. A substantial change would be an increase or decrease in the gross floor area of more than 5% or as determined by the Building Commissioner.

5. Applicant shall construct the roofs on each of the houses with dark earth tone, textured shingles.
6. Applicant shall be allowed to construct the dwellings within the "building envelopes" as identified on site plans dated December 10, 2007 sheet 2, Record Plan.
7. **Prior to issuance of a building permit**, Applicant shall submit revised plans that add to note 14 on Sheet 9, Erosion and Sedimentation a statement that the fence around basin #1 will be raised 6 inches from the ground surface to allow adequate wildlife movement.
8. **Prior to issuance of an Occupancy Permit for any lots**, the Applicant shall allocate \$8,000 dollars for landscape screening and design on the perimeter of the entire site. The landscaping work could be provided as follows:
 1. Landscape design at \$125/hr., up to 4 hours;
 2. 60 plants, 4-5' height, with a mixture of rhododendrons, mountain laurel, high bush blueberry, or white pine.

Plantings would be in the locations as directed by the Planning Division. Applicant would commence planting as early as the spring of 2008 or as late as the spring of 2009. In any case, the perimeter landscaping should ideally be completed within 6 months of permitting, depending on the appropriate conditions for landscaping, but within the timeframe outline as above.
9. **Prior to installation of landscaping on private property**, the Applicant shall bring a letter from the abutting neighbor, Stephen Cheheyl, of 130 Lane's End, (and Ed Marlenga, if necessary) stating his permission to install landscaping on his property and his willingness to water such landscaping as based on the advice of the Applicant's landscape architect. If the Applicant is unable to secure such letter from the neighbors, the plantings shall be located on the Open Space Parcel in locations as directed by the Planning Staff.
10. **Prior to issuance of an Occupancy Permit for lots containing the affordable units**, Applicant shall supply the Planning Division a copy of a typical deed restriction as evidence to maintain the long-term affordability of the units; and upon the sale and closure of the unit, the Applicant shall provide the Planning Division with as recorded copies of the deed.
11. **Prior to issuance of an Occupancy Permit for lots containing the affordable units**, the Applicant shall insure that all low income houses (and moderately priced houses, if built), have an Affordable Housing deed restriction in perpetuity, instead of the minimum of 40 years.

12. **Prior to issuance of an Occupancy Permit for lots 1 to 9**, the Applicant shall record an Excavation Restriction to cover the thirty (30) foot "Excavation Restriction Area" as shown on sheet 2 of the Definitive Subdivision Plan and Planned Residential Development for Finigan Place, Concord, Massachusetts dated December 10, 2007 prepared by Stamski and McNary, Inc, 80 Harris Street, Acton. Such Excavation Restriction shall protect further disturbance of the slope within the "Excavation Restriction Area" by future residents of such Lots once the initial construction of the dwelling on such Lots is completed, as evidenced by a Certificate of Occupancy for same, and the slope within the "Excavation Restriction Area" is stabilized. The Excavation Restriction shall allow access to and required activity within the "Excavation Restriction Area" for repair, maintenance and/or replacement of any landscaping or retaining walls within the "Excavation Restriction Area".
13. **Prior to issuance of an Occupancy Permit for Lots 1 to 5**, the Applicant shall provide clear and distinct property bounds, including stone monuments and place boulders along the rear lot line of lots 1-5 at fifty foot intervals along the open space boundary to prevent unintended violations within either of these areas.
14. **Prior to issuance of an Occupancy Permit**, the Applicant shall develop the Conservation Restriction with the assistance of the Conservation Restriction Stewardship Committee.
15. **Prior to issuance of an Occupancy Permit**, the Applicant shall include a baseline monitoring in the CR to establish existing conditions that the Town is required, by state law, to monitor in perpetuity.
16. **Prior to issuance of an Occupancy Permit**, the Applicant shall place a small directional sign, approved by the Natural Resources Division, at the end of the public trail to denote end of trail and entering private property.
17. **Prior to the issuance of a building permit**, the Applicant shall submit to the CPW Water & Sewer Division an application for water service. Such an application shall include submittal of detailed utility design plans, including all existing and proposed utilities onsite.
18. **Once the water main extension has been approved**, the applicant shall submit Applications for Water Service for each building for which a separate water service will be provided. Such applications shall include submittal of detailed utility design plans, including all proposed utilities onsite. All applications must be in accordance with the eligibility requirements of the Division's Rules and Regulations for water service. Any deviations from these Rules and Regulations must be approved by the Public Works Commission prior to issuance of a building permit. It is the applicant's responsibility to ensure these requirements have been met. Building permits may be issued prior to receipt of service application approval letters from the Water and Sewer Division. However, construction of water services is not permitted until approval letters have been issued and inspections scheduled. The Division does not intend to review the engineering and design details for the purposes of the Special Permit and Definitive Subdivision Plan review, as this review will be performed as part of the service application review process.
19. **Prior to approval of the Water Service Application**, Applicant shall arrange a meeting with the Conservation Coordinator, Joanne Bissetta, early in the design process to ensure that water conservation opportunities can be maximized.

- 20. **Prior to the issuance of a building permit**, Applicant will supply the CMLP a digital copy of the plans (in AutoCAD format) such that the Department can issue an underground primary electrical design and the Department's construction costs.
- 21. If it is determined that a street light is required at the intersection of Finigan Place with Strawberry Hill Road, then it should match the new standard that CMLP will be installing in the other residential developments served by underground electric service.
- 22. All utility mains, services, and appurtenances shall be constructed in accordance with Town standards. As-built drawings of any water work connected to the Town's system shall be submitted to the Water and Sewer Division upon completion of the project.
- 23. The name "Finigan Place" shall be reviewed for acceptance by the Fire Department and the Historical Commission and final acceptance by the Planning Board prior to installation of any street signs. If this name does not receive a recommendation for acceptance, the Applicant shall work with the Town boards and agencies to identify an appropriate alternative name.
- 24. Approval of this Special Permit for a Planned Residential Development is subject to the Planning Board approving a Definitive Subdivision Plan for Finigan Place at 14A Strawberry Hill Road referencing the Plans listed above and associated waivers.
- 25. All plans must reference the approval dates of both the Special Permit for a Planned Residential Development and the Definitive Subdivision Plan.

The members of the Board voted thereon as follows:

DAVID FISHER	GRANTED
PATRICK C. TOOMEY	GRANTED
ROBERTO BRACERAS	GRANTED

The Board assigns the following as the reasons for the foregoing finding, ruling and decision:

The Applicant sought a special permit pursuant to Sections 3.1, 4.2.7, 10 and 11.6 of the Zoning Bylaw for a Planned Residential Development at 14A Strawberry Hill Road.

This project was in response to a Town Request For Proposals (RFP). The Applicant sought permission to cluster twenty residential units, which included six affordable units, along a cul-de-sac road, while maintaining sixty percent of the property as open space. Pursuant to Section 3.1 and 4.2.7 of the Bylaw, Planned Residential Developments are permitted in Concord Zoning Residential District AA by special permit from the Zoning Board of Appeals.

Pursuant to Section 10 of the Bylaw, the Applicant sought permission from the Zoning Board Appeals for a special permit for the requested Planned Residential Development. Approval for a Definitive Subdivision from the Planning Board is also required because the Applicant wants to establish a new road and individual house lots for sale.

Pursuant to Section 10 of the Bylaw, the Board finds that the Planned Residential Development is in harmony with the general purpose and intent of this section of the Bylaw and that the Planned Residential Development contains a mix of residential, open space, or other uses in a variety of buildings to be sufficiently advantageous to the Town to render it appropriate to depart from the requirements of the Bylaw otherwise applicable to Residential District AA.

Pursuant to Section 10.4.2 of the Bylaw, the Planning Board reviewed the Special Permit Application for the Planned Residential Development and submitted a letter to the Board recommending approval of the special permit with conditions.

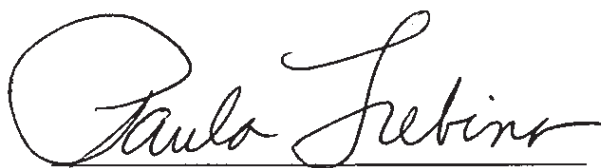
Pursuant to Section 10.4.3 of the Bylaw, the Natural Resources Commission reviewed the Special Permit Application for the Planned Residential Development and submitted a report to the Board with recommendations. An Order of Conditions was issued by the Natural Resources Commission on December 7, 2007.

At the Hearing, no one spoke in favor of the Application.

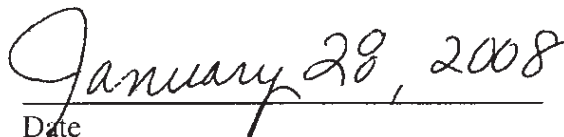
At the Hearing, two persons spoke in opposition to the Application based on the project's potential visibility from Barrett Farm at 448 Barretts Mill Road. The Board found, after reviewing the written details of the site visit conducted by the Planning Board on December 4, 2007, that this project will have a negligible visual impact on Barrett Farm due to the dense tree growth and the topography.

Pursuant to Section 11.6 of the Bylaw, the Board finds that the proposed use is in harmony with the purpose and intent of the Bylaw and that it will not be detrimental or injurious to the neighborhood in which it is to take place.

TRUE COPY ATTEST



Paula Trebino
Clerk, Zoning Board of Appeals



Date
Filed with Town Clerk

14A Strawberry Hill Road Bentley Building Corporation

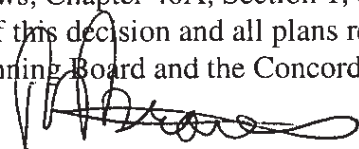
TOWN OF CONCORD
BOARD OF APPEALS

THE BOARD OF APPEALS CERTIFIES as follows:

Name and Address of Owner: Town of Concord
22 Monument Square
Concord, MA 01742

Property Identification: 14A Strawberry Hill Road
Concord, Massachusetts
15110-698


This application and all subsequent proceedings comply with the requirements of General Laws, Chapter 40A, Section 1, et seq., for the issuance of variances and permits. Copies of this decision and all plans referenced to herein have been filed with the Concord Planning Board and the Concord Town Clerk.



David For

Patrick C. Dorney

I, ANITA S. TEKLE, Town Clerk for the Town of Concord, hereby certify that twenty (20) days have elapsed since the filing of this decision and no appeal has been filed, or, if filed, has been dismissed or denied.



Feb. 20, 2008

An appeal from this decision shall be made pursuant to General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after the date of filing such decision or notice thereof in the office of the Town Clerk.

Forms: Sig. pg.



TOWN OF CONCORD PLANNING BOARD

141 KEYES ROAD, CONCORD, MASSACHUSETTS 01742
TEL. (978) 318-3290 FAX (978) 318-3291

MARCIA A. RASMUSSEN, PLANNING DIRECTOR

December 12, 2007

Mr. C. William Barrett, Chairman
Concord Board of Appeals
Concord, MA 01742

Re: Recommendation to the Board of Appeals to grant a Special Permit in accordance with ZBL Section 10 Planned Residential Development (PRD) to construct 20 new units with six affordable units at 14A Strawberry Hill Road.

Dear Mr. Barrett:

At its regular meeting held on Tuesday, December 11, 2007, the Planning Board continued its discussion of the proposed project, heard the Applicant's presentation and reviewed the Planning Division report on the request for a Special Permit Planned Residential Development and a Definitive Subdivision at 14A Strawberry Hill Road. (See the attached reports.) The Planning Board voted to recommend that the Board of Appeals grant a special permit to construct a Planned Residential Development subject to the conditions listed below and to approve the Definitive Subdivision plan subject to a special permit from the Board of Appeals.

The recommended conditions for the Special Permit are as follows:

- 1) Recommendation to the ZBA for the PRD is based on the revised Definitive Subdivision Plan and Planned Residential Development for Finigan Place, Concord, Massachusetts dated December 10, 2007 prepared by Stamski and McNary, Inc, 80 Harris Street, Acton, Massachusetts.
- 2) Any Special Permit granted must reference the Definitive Subdivision Plan.
- 3) In order to preserve the desired diversity and provide flexibility to the Applicant, the Applicant shall adhere to the following items:
 - (a) The Applicant is allowed to build 35% (i.e. up to 7 units) of each of the following housing designs: Arlington, Dover and Stanford; can only build 10 percent (i.e. or up to 2 units) of the Franklin design; and excluding the Franklin design, needs to build at a minimum 10% (or 2 units) of each of the following housing designs: Arlington, Dover and Stanford. No two adjacent units shall be the same design, unless a different façade treatment is proposed (such as porches, shutters, modified roof line or bay window).

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 - Landscape design at \$125/hr., up to 4 hours;
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Plantings would be in the locations as directed by the Planning Division. Applicant would commence planting as early as the spring of 2008 or as late as the spring of 2009. In any case, the perimeter landscaping should ideally be completed within 6 months of permitting, depending on the appropriate conditions for landscaping, but within the timeframe outline as above.

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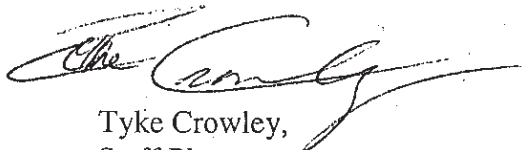
- 10) **Prior to issuance of an Occupancy Permit for lots containing the affordable units,** the Applicant shall insure that all low income houses (and moderately priced houses, if built), have an Affordable Housing deed restriction in perpetuity, instead of the minimum of 40 years.
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- 16) **Prior to the issuance of a building permit,** the Applicant shall submit to the CPW Water & Sewer Division an application for water service. Such an application shall include submittal of detailed utility design plans, including all existing and proposed utilities onsite.
- 17) **Once the water main extension has been approved,** the applicant shall submit Applications for Water Service for each building for which a separate water service will be provided. Such applications shall include submittal of detailed utility design plans, including all proposed utilities onsite. All applications must be in accordance with the eligibility requirements of the Division's Rules and Regulations for water service. Any deviations from these Rules and Regulations must be approved by the Public Works Commission prior to issuance of a building permit. It is the applicant's responsibility to ensure these requirements have been met. Building permits may be issued prior to receipt of service application approval letters from the Water and Sewer Division.

However, construction of water services is not permitted until approval letters have been issued and inspections scheduled. The Division does not intend to review the engineering and design details for the purposes of the Special Permit and Definitive Subdivision Plan review, as this review will be performed as part of the service application review process.

- 18) **Prior to approval of the Water Service Application**, Applicant shall arrange a meeting with the Conservation Coordinator, Joanne Bissetta, early in the design process to ensure that water conservation opportunities can be maximized.
- 19) **Prior to the issuance of a building permit**, Applicant will supply the CMLP a digital copy of the plans (in AutoCAD format) such that the Department can issue an underground primary electrical design and the Department's construction costs.
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- 21) All utility mains, services, and appurtenances shall be constructed in accordance with Town standards. As-built drawings of any water work connected to the Town's system shall be submitted to the Water and Sewer Division upon completion of the project.

Also, any approval of the PRD by the ZBA should include a condition that the name "Finigan Place" shall be reviewed for acceptance by the Fire Department and the Historical Commission and final acceptance by the Planning Board prior to installation of any street signs. If this name does not receive a recommendation for acceptance, the Applicant shall work with the Town boards and agencies to identify an appropriate alternative name.

On behalf of the Planning Board,



Tyke Crowley,
Staff Planner

- cc: Mark White, Bentley Builders
- Tom Falwell, Attorney
- Rich Harrington, Stamski & McNary
- Christopher Whelan, Town Manager
- John Minty, Building Commissioner



Eugene C. Brune
Attest Middlesex S. Register