ANDOVER TOWN CLERK
RCVD 2022 SEP 29 AM8:

Bk 17608 Pg280 #25318
10-27-2022 @ 01:40p
Essex North Registry

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

ON THE APPLICATION OF

CA Investment Trust
Clubview Estates
60 Canterbury Street

Special Permit for a Disturbance of Slopes in Excess of 35% under Section 4.1.4.5 of the Zoning By-Law.

Decision: SP20-04

YES (with conditions)

A public meeting of the Planning Board was held on September 27, 2022. Present and voting in the affirmative on the matter were members Zachary Bergeron, Rocky Leavitt, Vincent Chiozzi, Neil Magenheim and Morgan von Prelle Pecelli.

Pursuant to public notice in the Andover Townsman, a newspaper of general circulation in the Town of Andover, published on September 8, 2022 and September 15, 2022, 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 September 27, 2022 for the reconsideration of applications submitted by CA Investment Trust for a Special Permit for a Multi-Family Dwelling Construction-Attached Cluster Project and a Special Permit for Disturbance of Slopes in Excess of 35%. The hearing was continued and closed on September 27, 2022 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 10.34 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 314' of frontage along Canterbury 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 6.20 acres; the application states 6.27 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 740 square feet of "limited common area" which would represent a "private" back yard. A designated 4.05-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 the driving range and would be maintained by the Country Club.

Vehicular access to the condominium units is from a private way known as Clubview Drive. The 14 attached units would be contained in 4 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, 8 of the 14 units proposed will have more than 4 rooms and 6 units will have 4 rooms or less.

All maintenance responsibility associated with the new Multi-Family Attached Cluster would be the responsibility of the condominium association or CA Investment Trust. 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.

During the course of the public hearings there had been discussions pertaining to the applicants placement of the buildings, earth movement, sidewalks, future easements, visitor parking, landscaping and buffering, hydrant locations, lighting, architectural renderings, and open space.

<u>Design standards as set forth in Section 7.3. of the Zoning By-Law</u>

During the Board's deliberation of the applicant's proposed Special Permit for New Multi-Family Dwelling Construction – Attached Cluster, the Board shall take into consideration the purpose of Section 7.3 of the Zoning By-Law. The proposed condominium development shall be consistent with the following:

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

In the opinion of the Board, 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.

In the opinion of the Board, the proposed Clubview Estates 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, 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. Similar to the applicant's previous submission of Frenchman's Reserve, Swan Crossing I & II, three distinct open space or common areas would be created. Each unit would have between approximately 740 square feet of "limited common area", which would represent a "private" back yard. A designated 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 the driving range of the golf course.

Section 7.3.5.2 of the Zoning By-Law requires the submission of a conservation restriction to the Planning Board prior to the sale of any dwelling unit and accordingly condition #15 has been amended to reflect this. Prior to the conveyance of any dwelling unit all documentation associated with the Condominium Owners' Association, 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 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 Bylaw.

3. To promote energy conservation;

In the opinion of the Board the Clubview Estates development would further promote energy conservation, by virtue of the development solely consisting of new construction, with the 14 condominium units being equipped with energy efficient HVAC and electrical systems, and new water and sanitary sewer services being provided. The applicant has submitted an analysis regarding the Massachusetts Stretch Energy Code and how they will be achieving the Home Energy Rating System rating of 55. Also the condominium association documents will allow for the installation of solar panels.

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

In the opinion of the Board, 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).

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

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

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 hearings, 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:

<u>General Conditions</u>

1. The project shall be known as "Clubview Estates", 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 portion of the parcel of land identified as Lot 4, Assessors' Map 87, containing 10.34 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 10, Cover Sheet last revised June 29, 2021;

    b. Sheet 2 of 10, Existing Conditions Plan last revised June 29, 2021;

c. Sheet 3 of 10, Layout Plan last revised June 29, 2021;

d. Sheet 4 of 10, Grading Plan last revised June 29, 2021;

e. Sheet 5 of 10, Utility Plan last revised June 29, 2021;

f. Sheet 6 of 10, Plan and Profile Plan last revised June 29, 2021;

g. Sheet 7 of 10, Detail Plan last revised June 29, 2021;

h. Sheet 8 of 10, Erosion Control & Sediment Plan last revised June 29, 2021;

i. Sheet 9 of 10, Detail Sheet last revised June 29, 2021;

j. Sheet 10 of 10, Landscape Plan last revised June 29, 2021:

3. 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 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

4. An Approval Not Required plan must be submitted and recorded at the North Essex Registry of Deeds creating the lots shown on the above referenced plans;

5. 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

6. 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;

7. 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;

8. 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;

9. 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;

10. Import or export of earth materials from within the development is allowed under the applicable provisions of the Zoning Bylaw;

11. Construction traffic associated with development of the 14-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 the surrounding streets 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;

12. Andover Country Club Lane, Swan Lane and Canterbury Street along with the sidewalks shall be kept safe and passable to vehicles and pedestrians;

13. 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;

14. 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 # 5 above;

Prior to building permit:

15. Prior to the conveyance of any dwelling unit all documentation associated with the Condominium Owners' Association, including restrictions intended to be imposed on the open space or common areas within the project, and 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 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;

16. Notwithstanding the requirements of Condition 15, prior to the issuance of a building permit for any of dwelling units, 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;

17. Prior to the issuance of the permit 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;

18. Prior to the issuance of a building permit for any of the dwelling units, a sign depicting Clubview 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;

Prior to conveyance:

19. Prior to the conveyance of any dwelling unit all documentation associated with the Condominium Owners' Association, and all easement and maintenance documentation within the project, including modifications of existing easements, covenants, or open space development restricted common area shall be submitted to the Planning Board for review and approval. This email Documentation will include the easements and maintenance of the parking lots, driving range, drainage, Clubview Drive, walkways, and

the relocated building. The Condominium Owners' Association bylaws shall include language which allows for solar on the units. All documents shall have been approved by the Planning Board and recorded (if applicable) at the Registry of Deeds 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 Bylaw;

Prior to occupancy:

20. Prior to occupancy of any of the dwelling units the applicant shall have planted the landscaping as shown on the Landscaping Plan dated June 29, 2021. 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;

Other Conditions

21. A determination of compliance with zoning from the Inspector of Building will be necessary prior to moving of the relocated pool house building. If it is determined there is a zoning violation to relocate the building the developer shall submit an alternate plan to the Planning Division for the pool house building which can include a relocating it to a different location or demolition;

22. The roadway, Clubview 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 conveyance purposes;

23. 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 building permit for the last building, 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;

24. 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;

25. 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;

26. 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.

On 9-27-2022, at a public meeting, the Planning Board voted (5-0) to issue the foregoing Special Permit with conditions.

Date: 9-28-2022

Chairman
THE ANDOVER PLANNING BOARD

Essex, ss

COMMONWEALTH OF MASSACHUSETTS

Date: 9-28-2022

On this 28th day of September, 2022, 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,

, Notary Public

My Commission Expires:

JACKI A BYERLEY
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
June 02, 2028

CERTIFICATION

I, Austin Simko, 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 the Office of the Town Clerk on September 29, 2022 and no appeal has been filed with the Town Clerk.

Date: October 27, 2022

Town Clerk