



October 14, 2021

Via Email and Hand Delivered

Bruce Hunchard  
Zoning Board of Appeals  
Town of Franklin  
355 East Central Street  
Franklin, MA 02038

**NOTICE OF PROJECT CHANGE – 760 CMR 56.05(II)**

Franklin Heights Estates - Comprehensive Permit Dated December 7, 2005

Subsequently modified on or about: December 7, 2006, November 29, 2007, March 26, 2009,  
July 25, 2013 and August 7, 2014

Dear Chairman Hunchard,

Our Client, Mr. D. Bruce Wheeler, Trustee of the Habitech Acquisition and Permitting Trust ( the "Trust") has entered into a Purchase and Sale Agreement to Purchase, attached hereto (the Agreement"). The agreement is to purchase Parcel "B" as a successor in interest to the Comprehensive Permit dated December 7, 2005 recorded on March 29, 2006 with the Norfolk County Registry of Deeds in Book 23524, Page 440 and amendments thereto (the "Decision").

The Decision allows for the construction of not more than One hundred twenty seven (127) Two (2) Bedroom Home Ownership Condominiums as follow:

**THE DECISION**

12-7-2005

Parcel 'A' 50 Units –

- 18 Garden Units; 7 Affordable (38.8%)
- 32 Town Houses; 11 Affordable (34.3%)

Parcel 'B' – 76 Townhouses; 27 Affordable (35.5%)

TOTAL: 126 Units; 45 Affordable (35.7%)

**ZBA AMENDMENT**

12-7-2006

ZBA – Modified wording of Section 27 to say 'Applicant is required to, by the board, to obtain all building permits within two (2) years not beyond 12-7-2007

ZBA Approved the Affordable Unit Designation Plan by Guerriere & Halnon, dated April 3, 2006 with revision dates 5/22/06 & 6/21/06

**ZBA AMENDMENT**

3-26-2009

Request to ZBA on Feb. 3 2009 – Substantial change to:

- Conversion of 18 unit building from Home Ownership to Rental
- Decrease number of Affordable Units in the 18 unit building from 7-4
- Reduction in Total Number of units from 38 to 30 (8) Affordable Units

ZBA CONDITIONS

1. Condition #3 deleted and substituted with the following:
  - a. Thirty (30%), of the approved 127 dwelling units, being 39 of the dwelling units shall be affordable (the “Affordable Units”) which constitutes a reduction of six (6) affordable units.
  - b. Initial Sale Price for the affordable is not to exceed \$164,000 provided, however, that the price for the seven affordable units in the 18 unit building shall be significantly reduced.
2. Applicant shall identify the affordable units already constructed and conveyed and to be constructed and conveyed on Parcel ‘A’
3. Applicant shall pay to the Town, remaining obligation of **\$140,000** as set forth in Condition #35 prior to the issuance of the final four (4) Certificate of Occupancy for Townhouses on Parcel ‘A’ or December 31, 2009, whichever first occurs.

ZBA AMENDMENT  
7-25-2013

ZBA Approved Merion Corporation as successor in interest filed application for amendment:

- Decision amended to indicate “Merion Corporation”
- Paragraph 3 deleted in its entirety and replaced with the following;
  - Thirty-Three Percent will be Affordable (42 units)
  - Initial sale price of four(4) affordable units within 18 unit building, garden style, not to exceed \$149,000
- Paragraph 7 deleted in its entirety and replaced with the following;
  - Four (4) of the affordable units shall be located within the 18 unit Garden Style Flat building. (no site plan)

ZBA AMENDMENT  
8-7-2014

ZBA Approved the request changes to the Comprehensive Permit to be insubstantial.

- Named “North Berwick Trust”
- Paragraph 3 of the Decision deleted in its entirety and replace with.
  - Twenty-five percent (25%) of the dwelling units, which as proposed, is thirty-two (32) of the dwelling units as (the “Affordable Units”) Thirty-two (32) of the dwelling units
  - Initial sale price for the four (4) affordable units to be located within the eighteen (18) unit garden style flat building may not exceed \$149,000.
  - If funded by the New England Fund pricing shall be in accordance with DHCD Guidelines.



- Paragraph 27 of the Decision shall be deleted in its entirety and replace with “The applicant is required by the Board to obtain building permits for all remaining Affordable Units within on year of the date of the execution of this amendment.”
- Paragraph 35 of the Decision shall be deleted in it entirety, and replaced with the following: “The Applicant shall pay to the Town, the remaining obligation of One Hundred Terty Thousand (\$140,000) Dollars as set forth in Condition 35 of the decision, to be paid in equal installments of four Thousand (\$4,000) Dollars, each installment to be paid contemporaneously with the transfer of title of each of the remaining market rate units to a third party purchaser.

## **BACKGROUND**

Lairizing the status of the Comprehensive Permit and amendments issued thereto (the “Decision”) as issued by the Franklin Zoning Board of Appeals.

### **DEVELOPER STATUS**

Original Developer: Franklin Heights Corporation Mr. Michael Intoccia  
Merion Corporation, Successor in Interest, Mr. Mark Fantasia  
North Berwick Trust, Successor in Interest

### **DEVELOPMENT STATUS**

#### **PARCEL “A”**

##### **GARDEN STYLE FLAT UNITS**

18 Units built and sold including 4 Affordable Units.

##### **TOWNHOUSE UNITS**

The Decision and Amendments allowed for the construction of 32 Townhouse Units of which 5 are affordable. .

#### **PARCEL “B”**

Parcel “B” was never acquired by the original developer or successors in interest.

Our client has Site Control of Parcel “B”.



**On behalf of our client we are requesting the Board to further amend the Decision as follows:**

To approve the Parcel "B" site plan entitled Phase II Concept 1, dated May 17, 2021, revised May 24, 2021 as prepared by Guerrier & Halnon, Inc .

In addition to approving the architectural plans attached hereto.

The revised site plan submitted herewith shows a reduction in density from 76 units as originally approved by the ZBA to 60 units, as the changes are reflected on Parcel "B" which reduces the total density of the development from 126 to 110 units.

If the request is approved by the ZBA the development will consist of:

Parcel 'A' 50 Units –

- 18 Garden Units; 4 Affordable
- 32 Town Houses; 5 Affordable
- Total 9 Affordable

Parcel 'B' – 60 Townhouses; 15 Affordable (25%)

TOTAL: 110 Units; .

The ZBA amendment of August 7, 2014 modified the number of affordable units to Twenty- five percent (25% ) of the dwelling units to be reserved in perpetuity for sale to household earning no more than eighty (80%) percent of the median household income for the Boston PMSA

**The applicant further request the board to make the following changes:**

- To amend the decision to indicate our client as the Applicant regarding "Parcel B", Applicant for Parcel "A" to remain North Berwick Trust.
- Paragraph 5 (a) shall be deleted in its entirety, and replace with the following:

(a) The Affordable Units shall be reserved for sale in perpetuity to household earning not more than eighty percent (80%) of the median household income for the Boston PMSA.

The maximum sales price of the Affordable Units, as applicable, shall be "calculated at what is affordable to a household earning 80% of the Area Median Income ("AMI") adjusted for household size," per the Department of Housing and Community Development's (DHCD) "Comprehensive Permit Guidelines," dated February 22, 2008, as amended (the "Guidelines").

- Paragraph 27 be eliminate in it entirety. The time period imposed by condition #27 and amendments there to have expired



- Paragraph 37 shall be stricken in its entirety. As the financial obligations referred to in paragraph 34 have been satisfied, except for the amount of monies outstanding estimated to be in the amount of \$110,000.
- Paragraph 3 of the March 26, 2009 modification Decision shall be changed to reflect the applicants remaining obligation of One Hundred Forty Thousand (\$140,000) Dollars be changed to read One Hundred Ten Thousand (\$110,000)

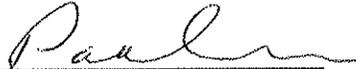
Pursuant to 760 CMR 56.05 (II) the Board is required to determine whether the proposed change are substantial or insubstantial within twenty (20) days of this request. Mr. D. Bruce Wheeler, Trustee of the Habitech Acquisition and Permitting Trust and the undersigned would like to appear on the Board agenda for the next schedule meeting either by zoom or in person meeting. This opportunity would allow us to answer any questions the board members may have.

Attached please find:

1. Notice of Project Change;
2. Franklin Heights Estates Condominium Site Plan in Franklin, Massachusetts, Affordable Unit Designation Plan dated April 3, 2006, being the plan approved by the Board of Appeals under the existing Comprehensive Permit, which Modification is requested;
3. Franklin Heights, Phase II, Concept V2, dated 8/13/21, being proposed revised Site Plan; and
4. Four architectural duplex plans as represented on the 8/13/21 site plan above. The first 2 plans are market/affordable duplexes and the second 2 plans are market duplexes.

We believe the proposed changes to be insubstantial.

Very Truly yours,  
D. Bruce Wheeler, Trustee of the Habitech Acquisition  
and Permitting Trust, Applicant,  
By its Agent,  
Delphic Associates, LLC

By:   
Paul Cusson

