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Middlesex South Registry of Deeds
Maria C. Curtatone, Register
208 Cambridge Street
Cambridge, MA 02141
617-679-6300
www.cambridgedeeds.com

TOWN OF CONCORD

BOARD OF APPEALS

TOWN HOUSE

Please take notice that in the matter of the APPLICATION OF OAKTREE BEHARRELL ON BEHALF OF NICK BOYNTON AND JOHN BELLANTONI for a Special Permit and Site Plan Approval under Sections 4.2.4, 4.2.4.6, 4.2.4.7, 7.2.4, 7.2.5, 7.7.2.1, 7.7.2.4, 7.7.2.12, 11.6 and 11.8, to allow a combined industrial/business/residence use, in conformance with the West Concord Design Guidelines and West Concord Master Plan, where at least ten percent of the dwelling units and ten percent of the industrial or non-retail business use area are available at an affordable rate, and to allow relief from parking requirements, joint parking facilities and work in the Floodplain Conservancy District at 50 Beharrell Street and 13B Commonwealth Avenue, 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.

Julie Vagel
CLERK, BOARD OF APPEALS

6/19/13
DATE

TOWN OF CONCORD

BOARD OF APPEALS

The Application of OAKTREE BEHARRELL ON BEHALF OF NICK BOYNTON AND JOHN BELLANTONI for a Special Permit and Site Plan Approval under Sections 4.2.4, 4.2.4.6, 4.2.4.7, 7.2.4, 7.2.5, 7.7.2.1, 7.7.2.4, 7.7.2.12, 11.6 and 11.8, to allow a combined industrial/business/residence use, in conformance with the West Concord Design Guidelines and West Concord Master Plan, where at least ten percent of the dwelling units and ten percent of the industrial or non-retail business use area are available at an affordable rate, and to allow relief from parking requirements, joint parking facilities and work in the Floodplain Conservancy District at 50 Beharrell Street and 13B Commonwealth Avenue, Concord, Massachusetts.

RECORD OF PROCEEDINGS

The Applicant, OAKTREE BEHARRELL ON BEHALF OF NICK BOYNTON AND JOHN BELLANTONI, filed with the Board of Appeals on October 1, 2012 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:

50 Beharrell LLC	John E Jr & Norma M Jones
Charles D Malis Tr	J F Forbes Realty Trust
Commonwealth of Massachusetts	Diana Haddadeen
56 Winthrop St LLC	DNG Realty LLC
Assabet River Realty LLC	John W Boynton & Albert E Winemiller
152 Commonwealth Inc	Barkev & Arpy Besnilian Tr
LeBaron Trust	Hollis R & Caroline V Holden
Soberg Trust No 1	66 Commonwealth Ave LLC
40 Beharrell Street LLC	VOA Concord Assisted Living Inc
30 Beharrell Street LLC	Antonio Blasi Tr
Steinmann Realty LLC	Michael V Marino Tr
Raymond J & Janice Beaudoin	J J Joyce Tr

The Board set the 8th day of November, 2012 at 8:10 P.M. as the time, and the First Floor Meeting Room, 141 Keyes Road, Concord, Massachusetts, as the place of the public hearing for said application. The hearing was continued to the December 13, 2012, January 10, 2013, February 14, 2013, March 14, 2013, April 11, 2013, and May 9, 2013 meetings at the request of the Applicant. The hearing was opened on May 9, 2013 and after discussion and public comment was continued to the June 13, 2013 meeting to allow the Board time to conduct a site visit on Thursday, May 16th at 7:30 a.m.

The following notice was published in *THE CONCORD JOURNAL* in the issues of October 25, 2012 and November 1, 2012, and a copy of said notice was sent by mail to each of the aforementioned parties in interest and property owners.

BOA/50 BEHARRELL STREET &
13B COMMONWEALTH AVENUE
LEGAL NOTICE
Board of Appeals
Public Hearing

A public hearing of the Concord Zoning Board of Appeals will be held on Thursday, November 8, 2012, in the First Floor Meeting Room, 141 Keyes Road, Concord, Massachusetts, at 8:10 P.M. on an application by Oaktree Beharrell on behalf of Nick Boynton and John Bellantoni for a Special Permit and Site Plan Approval under Sections 4.2.4, 4.2.4.6, 4.2.4.7, 7.2.4, 7.2.5, 7.7.2.1, 7.7.2.4, 7.7.2.12, 11.6 and 11.8, to allow a combined

industrial/business/residence use, in conformance with the West Concord Design Guidelines and West Concord Master Plan, where at least ten percent of the dwelling units and ten percent of the industrial or non-retail business use area are available at an affordable rate, and to allow relief from parking requirements, joint parking facilities and work in the Floodplain Conservancy District at 50 Beharrell Street and 13B Commonwealth Avenue.

AD#12837805
Concord Journal 10/25, 11/1/12

The following persons appeared and spoke in support of the Application:

Susan Felshin, 19 Sunnyside Lane

The following persons appeared and raised concerns and/or spoke in opposition thereto:

Susan Felshin, 19 Sunnyside Lane

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

See Planning Board Recommendation dated May 9, 2013.

The Natural Resources Commission reported its action on the matter as follows:

See Order of Conditions issued June 7, 2013.

The Board thereupon took the following action:

VOTED: To grant to the Applicant, Oaktree Beharrell on behalf of Nick Boynton and John Bellantoni for a Special Permit and Site Plan Approval under Sections 4.2.4, 4.2.4.6, 4.2.4.7, 7.2.4, 7.2.5, 7.7.2.1, 7.7.2.4, 7.7.2.12, 11.6 and 11.8, to allow a combined industrial/business/residence use, in conformance with the West Concord Design Guidelines and West Concord Master Plan, where at least ten percent of the dwelling units and ten percent of the industrial or non-retail business use area are available at an affordable rate, and to allow relief from parking requirements, joint parking facilities and work in the Floodplain Conservancy District at 50 Beharrell Street and 13B Commonwealth Avenue, Concord, Massachusetts, adopting the conditions of the May 9, 2013 Planning Board Recommendation, and subject to the following conditions:

- 1) Approval is based on the following plans prepared for a Special Permit and Site Plan for 50 Beharrell Street and 13B Commonwealth Avenue:

Bohler Engineering, 352 Turnpike Road, Southborough, MA, 01772:

- a. Sheet 1 - Cover Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- b. Sheet 2 - General Notes Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- c. Sheet 3 - Demolition Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.

- d. Sheet 4 – Site Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- e. Sheet 5 – Grading & Drainage Plan A: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- f. Sheet 6 – Grading & Drainage Plan B: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- g. Sheet 7 – Utility Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- h. Sheet 8 – Soil Erosion & Sediment Control Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- i. Sheet 9 – Soil Erosion Control Notes & Details Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 9/27/12, Rev. 4 - 4/12/13.
- j. Sheet 10 – Landscape Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 5 - 05/01/13 [Per NRC].
- k. Sheet 11 – Landscape Plan Enlargement: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- l. Sheet 12 – Landscape Notes & Details Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- m. Sheet 13 – Lighting Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- n. Sheet 14 – Construction Detail Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- o. Sheet 15 – Construction Detail Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- p. Sheet 16 – Construction Detail Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- q. Sheet 17 – Construction Detail Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- r. Sheet 18 – Bank Restoration Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.

- s. Sheet 1 – Conceptual Right Of Way Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 5 - 05/01/13.
- t. Drainage Report: for Oaktree FX, LLC, Proposed Mixed Use Development, 50 Beharrell Street 7 13B Commonwealth Avenue, Concord, MA, Dated September 27, 2012, Revised November 12, 2012, Supplemented April 12, 2013.

Control Point Associates, Inc., 352 Turnpike Road, Southborough, MA, 01772:

- u. Boundary & Topography Survey: For Oaktree Greenline, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 7-13-2012.

Oaktree Design, 84 Sherman Street, Cambridge, MA, 02140:

- v. Sheet A201 Building Elevations: The Boynton Company, Inc., 50 Beharrell Street, Concord, MA, Dated 09/27/12, Revised 04/17/13.
- w. Landscape Material Options: The Boynton Company, Inc., 50 Beharrell Street, Concord, MA, Submitted 3/29/2013.
- x. Project Signage Guidelines: The Boynton Company, Inc., 50 Beharrell Street, Concord, MA, Submitted 3/29/2013.

Reflex Lighting, 7 Tide Street, Boston, MA 02210:

- y. Luminaire Schedule: Prepared for: Oaktree FX, Dated 03/12/13.

TEC, Inc., 65 Glenn Street, Lawrence, MA 01843:

- z. Traffic Impact, Access and Parking Study: Beharrell Street Redevelopment Project, Concord, MA, Prepared for: Oaktree Development, LLC, Dated September 28, 2012, Including Appendices A- J.
- aa. Response to Peer Review Comments: Beharrell Street Redevelopment Project, Concord, MA, Letter to Marcia Rasmussen, Dated March 7, 2013.

Greenman – Pedersen, Inc. (GPI), 181 Ballardvale Street, Suite 202, Wilmington, MA 01887:

- bb. Transportation Engineering Peer Review: 50 Beharrell Street, Concord, MA, Letter to Marcia Rasmussen, Dated February 25, 2013.
- cc. Transportation Engineering Peer Review – Supplemental Review: 50 Beharrell Street, Concord, MA, Letter to Marcia Rasmussen, Dated March 8, 2013.

- 2) **Prior to the issuance of a Building Permit for 13B Commonwealth Avenue**, the design of the structure and area defined as parcel 13B Commonwealth Avenue shall be reviewed and approved by the Planning Board, following the review and recommendation of the West Concord Advisory Committee. Design review shall include but not be limited to: the use, area, layout, height, appearance, landscaping, and pedestrian circulation. The parcel shall include a minimum of 27 parking spaces and 6,750 square feet of building area.
- 3) **Prior to the issuance of a Building Permit for 13B Commonwealth Ave.**, and as part of the “design review” described in Condition #2, the Applicant shall revise the plan for the 13B Commonwealth Avenue parcel to relocate the 6,750 square foot building footprint out of the future 50’ right-of-way.
- 4) The Applicant shall be aware that any Special Permit and Site Plan Approval granted herein under Zoning Bylaw Section 4.2.4 is for a combined industrial/business/residence use and,

outside of any future amendment to this Special Permit and Site Plan Approval, shall maintain the following mix of uses in the mixed-use building located at 50 Beharrell Street.:

- a. At least 10% of the industrial use and/or non-retail business use shall be available at an affordable rent or lease and at least 10% of the dwelling units shall be available at an affordable rate;
 - b. The industrial and non-retail business uses combined shall not be less than 30% of the total gross floor area of the mixed-use building.
 - c. Private recreational space, as defined within Zoning Bylaw Section 4.1.6, shall be limited to 14,000 SF of the 30% of gross floor area that is required to be industrial or non-retail space within the mixed-use building.
- 5) The potential future connection to the MBTA lot over the Bruce Freeman Rail Trail right-of-way will require negotiation with the State and will not be considered part of this Special Permit and Site Plan Approval. Though the Town will take responsibility for negotiations with the State, **prior to the issuance of a final Certificate of Occupancy for the 50 Beharrell Street redevelopment project herein**, the Applicant has agreed to fund not more than half of the costs associated with the design and construction of the connection (the Applicant's portion shall not exceed \$50,000).
- 6) **Prior to the issuance of a Building Permit**, the Applicant shall provide a complete design of the "off-site" improvements proposed to enhance pedestrian safety. In order to properly evaluate the benefits of such improvements **a third party review of the traffic study for these off-site improvements shall be required.** Such review shall address snow removal, pedestrian and vehicular safety, parking reconfiguration, signage, traffic flow, and other pertinent information.
- 7) In accordance with Condition #6 above, **prior to the issuance of the first Certificate of Occupancy**, the following information, at a minimum, shall be provided to the Engineering Division:
- a. Additional survey data for everything within 50 feet east of the existing intersection of Beharrell Street/Commonwealth Avenue and 50-feet west of the proposed intersection of the extension of Beharrell Street/Commonwealth Avenue. This additional survey work will allow the developer and the Town to consider the best location/relocation of crosswalks and potential location of bump-outs that will improve pedestrian safety and circulation. The additional survey work should include elevation data for: edge of road and centerline; curbs (top and bottom); driveways; drainage structures (including rims and inverts) and mains (including size and material type); sewer main manholes; utility poles with pole numbers and associate guy wires, etc.; electric, telephone, cable television conduits, transformers, vaults, handholes, etc.; water main (including material and size), valves, curbstops and hydrants; gas main including shut offs and vaults; and sign locations.
 - b. Proposed locations, layout and design for the pedestrian bump-outs on Commonwealth Avenue that will improve the pedestrian experience without negatively impacting vehicular and bicycle traffic. Design should include appropriate backup information to demonstrate that the bump-out design will improve pedestrian sight distance and still provide appropriate travel way for bicycle and vehicular traffic. The design should also incorporate any modifications to the Town's closed drainage system to ensure that the gutter flow will be properly captured.

- 8) **Prior to the issuance of a final Certificate of Occupancy**, if the aforementioned off-site improvements are determined to be appropriate and are desired by the Town, the Applicant shall fund and construct them in accordance with the Concord Public Works Design & Construction Standards & Details.
- 9) The extension of the Beharrell Street right-of-way shall also be named "Beharrell Street".
- 10) **Prior to the issuance of the first Certificate of Occupancy**, the Applicant shall provide specifications for all proposed lighting and signage on the site to the Building Commissioner for review and approval. All lighting shall be fully cut off and dark-sky friendly in compliance with Zoning Bylaw Section 11.8.3; all signage shall comply with the Town of Concord Sign Bylaw.
- 11) **Prior to the issuance of a Building Permit**, the Applicant shall coordinate with the Fire Department to ensure the following:
 - a. that the elevator is large enough for a stretcher;
 - b. that the building has a standpipe system (especially in the parking garage);
 - c. that a demolition and phased construction plan has been developed that will allow emergency vehicle access;
 - d. that the wings, sections and units within the building are consistently and logically numbered and identified;
 - e. that at least two roof access points (man way door and/or roof hatch) at separate and remote stairwells are provided to allow for rapid access to the roof if required;
 - f. that appropriate fire lanes are designated on the plans; and
 - g. that proposed locations of fire hydrants and Fire Department connections are feasible.
- 12) **Prior to the issuance of a Building Permit**, the following utility poles located along Beharrell Street must be surveyed and included on the site plan: P.4, P.4-1, P.4-1A, and P.4-2.
- 13) **Prior to the issuance of a Building Permit**, CMLP will need a digital copy of the plans (AutoCAD format). These plans will allow CMLP to issue an underground electrical design which will include a cost estimate for CMLP's portion of the job. The estimated cost for CMLP's portion of the job for the associated permanent electrical design will be paid for in advance by either the contractor, developer, and/or property owner as per CMLP's terms and conditions.
- 14) **Prior to the issuance of a Building Permit**, CMLP will need a detailed electrical load letter including proposed service sizes for both proposed building locations in order to properly size the transformer(s).
- 15) **Prior to the issuance of a Building Permit**, all proposed metering will require approval from the CMLP Meter Supervisor.
- 16) **Prior to the issuance of a Certificate of Occupancy**, CMLP will require an easement for the proposed electrical primary and secondary distribution system if outside of the town right-of-way. It should be noted that the individual underground electric services are owned and maintained by the property owner and will require approval from the Town of Concord Electrical Inspector.
- 17) **Prior to the issuance of a Certificate of Occupancy**, and upon completion of the project, CMLP will require an As-built drawing of the proposed underground electrical distribution

plan noting all conduit locations. A copy of this plan is to be sent to the Town of Concord Building Department as part of the As-built utility installation plan.

- 18) **Prior to the issuance of a Building Permit**, the Health Division shall receive clarification from the Applicant regarding the following:
 - a. The Applicant previously stated that the project is proposed to use approximately 15,200 gallons of water per day. It is unclear whether this design flow refers only to the 50 Beharrell Street property or whether it refers to the combined design flow from both 50 Beharrell Street and 13B Commonwealth Avenue. The Applicant shall clarify this and provide information on the sewage design flows for each category of use proposed.
 - b. The Applicant shall submit a plan for installation of a septic system designed to accommodate all wastewater flows that will be disposed of in the on-site system. This plan must be designed in conformance with 310 CMR 15.00 and all applicable Board of Health regulations.
 - c. No Deep Observation Holes have been performed in the area proposed to be used as Leaching Area #2 Reserve. Per 310 CMR 15.102, at least two (2) deep observation holes must be completed in every reserve area.
 - d. Percolation testing must be performed in Leaching Area #2 Reserve. At least 2 percolation test holes must be completed, and show an adequate Long Term Acceptance Rate (LTAR) to allow this area to be used as a reserve leaching area for the wastewater flow it has been designed to receive. If this area cannot be used for this amount of design flow, the septic design will need to be revised to show adequate reserve leaching capacity, or the septic system will have to be designed to dispose of a lesser amount of sewage design flow.
- 19) The Applicant shall select a style of bike rack that allows bicyclists to lean and/or affix their bikes to the rack in two places, in order to help prevent bikes from falling over and/or getting damaged.
- 20) The Applicant shall explore the possibility of hosting Zip Car or another car sharing program in the parking lot. Having such an amenity on-site may help reduce the demand for parking by both residential and commercial tenants.
- 21) The Applicant shall consider a marketing program for the residential units that includes an information session/materials on what it means to live within a mixed-use building, especially one that contains light industrial uses.
- 22) The courtyard spaces have been designed to allow public and private events (such as farmers markets/craft fairs/retail displays); the owner or property manager shall coordinate with Town departments and agencies to program the space and/or receive appropriate permits.
- 23) **Prior to the issuance of a final Certificate of Occupancy**, Planning and Natural Resources staff shall review the landscape installation to confirm that work has been done in accordance with the above-referenced plan.
- 24) **As the project progresses**, the Applicant shall comply with all conditions set forth in any Order of Conditions issued by the Natural Resources Commission.
- 25) To ensure adequate time for staff review, any revised materials shall be submitted to the Concord Public Works (CPW) Engineering Division **at least two weeks prior to applying for a Building Permit**.
- 26) The Applicant must obtain a ROW/Driveway Permit(s) from the Engineering Division **prior to any work commencing within the Beharrell Street or Commonwealth Avenue Right-**

of-Way (ROW). The Applicant is urged to read the permit guidelines of the Engineering Division to assess which permits will be needed, as it may affect time sensitive construction schedules. Please find more information regarding the Engineering Division's permits online here: http://concordma.gov/Pages/ConcordMA_Engineering/permits or feel free to contact the Engineering Division directly at 978-318-3210, for assistance. All work within the Town right of way shall conform to the Concord Public Works Design & Construction Standards & Details (CPW-Standards).

- 27) **Prior to the commencement of work**, a copy of the EPA's Notice of Intent General Permit and executed Stormwater Pollution Prevention Plan (SWPPP), the Erosion Control Plan (ECP), and Long Term Operations and Maintenance Plan (LTOMP) must be provided to the Town. Both a hard copy and electronic (PDF) copy shall be provided to the Engineering Division. The SWPPP, ECP, and LTOMP will be reviewed and must be approved **prior to the commencement of work**. The Applicant will be required to have an environmental monitor on site to ensure proper operations of all sediment and erosion control measures throughout the duration of the project. The site evaluation/inspection reports generated by the environmental monitor must be provided to the Engineering Division, at the frequency detailed in the SWPPP (i.e. Weekly, after storms). The Applicant is urged to contact the Engineering Division to establish an approved monitoring protocol and to ensure that all proper staff is being provided with the information above. These documents are needed to ensure the Town is in compliance with its MS4 permit issued by the EPA.
- 28) **Prior to the issuance of a final Certificate of Occupancy**, an As-Built Plan showing the constructed site improvements including all drainage system components and inverts will be required to be submitted to the Engineering Division. Further, impervious area calculations must be provided to ensure that the re-development project is in fact reducing the amount of impervious area consistent with MA DEP standard #7. To facilitate review, a written narrative certified by a Professional Engineer shall be submitted with the As-Built Plan outlining all deviations between the permitted plan and as-built conditions. One hard copy and one electronic copy, in the form of both CAD and PDF Files, shall be provided. Additionally, as a point of clarification, the as-built shall be completed by instrument survey and shall depict rims, inverts, pipe sizes, material, and slopes, BMP volumes, cleanouts, sub-drains, headwall location, etc. Since the majority of this information is sub-surface, the Engineering Division recommends an interim as-built prior to final paving. Once the interim as-built is approved, the Applicant should submit a final set of as-built plans depicting all pertinent information to the Town as requested previously.
- 29) **Prior to the issuance of a final Certificate of Occupancy**, the easements and associated documents necessary for the passage/purpose of pedestrian and vehicular traffic, utility maintenance etc. shall be finalized and must be recorded with the Registry of Deeds. The Engineering Division anticipates several iterations and a thorough review by Town Counsel. The Applicant is urged to finalize the easements, as described below, with the Town well in advance of the occupancy to avoid any delays. In addition to the easement, the Town has discussed the possibility of creating a Town Right Of Way and integrating it into the site design at this time. This would give the Town the ability to accept the looped drive as a Town road if it chooses to in the future. Engineering Division comments regarding the "Conceptual Right Of Way Plan" can be found in the Planning Office file for this project. Also, the Town is in possession of a plan that shows an "Easement for Roadway Purposes" entitled 'Easement Plan of Land in Concord MA', dated July 16, 1998 by Acton Survey & Engineering. It appears that this easement is for the legal passage of vehicles (and others) to pass over the property. It is unclear if this easement was recorded or conveyed. It is imperative that all easements and rights relative thereto are shown on the plans. If Beharrell

Street encroaches onto the property without the benefit of an easement, this should be resolved with the other access issues mentioned above. The Town is willing to provide a copy of the plan upon request.

- 30) As noted in Condition #29 above, the Town has requested that a plan be developed to determine the feasibility of creating a Right of Way through the site, which conforms to Town standards and could be accepted by the Town. This would give the ability for the Town and proponent to understand the implications to the design, site constraints, and other associated items of importance that would need to be vetted out such as land swaps or land acquisition prior to considering accepting the road.

- 31) In accordance with Condition #30 above, **prior to the issuance of a Building Permit**, the division a layout and roadway plan that conforms to Town standards shall be submitted to the Engineering Division for review. Accompanying the plan should be a comprehensive document which details all of the ancillary steps that would need to take place in order for the ROW to conform to all Town standards, such as but not limited to, roadway re-alignment, utility relocation, land acquisition/swapping, building demolition, etc. Alternatively, the proponent may provide a comprehensive list of waivers from Town regulations and design standards (Subdivision Rules & Regulations, CPW, CMLP, etc.), but at a minimum, the building at 13B Commonwealth Avenue shall not encroach in the ROW on either plan.

Prior to undertaking any action/design with respect to this comment, CPW requires that the proponent and the Town meet to discuss this issue further and ensure that all the parties involved understand and agree to the course of action.

- 32) **Prior to the issuance of a Building Permit**, the following edits shall be incorporated into the phasing plan, and two full plan sets shall be provided to the Engineering Division:

- * **The proponent should cross-hatch the area of stormwater infiltration as well as all of the septic and septic reserve areas.** Stockpiling areas shall be removed from all future septic/reserve areas and Stormwater infiltration BMPs. In order to eliminate an unnecessary burden to the applicant, the Engineering Division recommends hatching specific "areas of stockpiling restriction" on the plans. This will ensure that the subsurface systems will function properly, while giving the applicant's contractor the maximum flexibility for construction activities.

- 33) The Engineering Division is recommending a pre-construction meeting with the applicant, contractor, and town staff. **Prior to the commencement of work and at this pre-construction meeting**, a final phasing plan shall be provided to the Engineering Division.

- 34) **Prior to the issuance of a Building Permit**, the drainage design should have a viable safeguard to pump the underground parking area without causing increased flooding impacts downstream. Test pit data (BE#10 & BE#11) depicts the seasonal estimated high groundwater elevation (EHGWE) to be approximately 116.0. Any flooding (as in larger storm events) above seasonal levels will result in increased flooding impacts. The Engineering Division is recommending incorporating the pumps and discharge areas (if proposed) to a viable outlet, such as additional storage chambers outside of the 100-year flood elevation. The detailed drawings for the waterproofing system should be provided as they have the potential to affect other stormwater mitigation on site. The site is designed for the 100-year storm event, a base flow from pumping operations should be accounted for within the drainage design (i.e. Pre vs Post and Rational calculations) to ensure no negative flooding impacts down/up-stream.

- 35) **Prior to the issuance of a Building Permit**, an application for water and sewer service shall be made to the Concord Water/Sewer Division and shall include the following:

- a. A copy of the approved water and sewer utility plan;
 - b. The identification of the Water/Sewer Division licensed "drain layer" who will be responsible for water/sewer service installation activities;
 - c. Details of the proposed low pressure sewer system to ensure it has been designed in accordance with the Division's Guidelines and Standards for Grinder Pump Systems;
 - d. For each separate building proposed to be served by Town water, a plumbing plan shall be provided including:
 - i. Meter bypass detail (with allowance for Water/Sewer Division issued security lock);
 - ii. A meter sizing sheet, provided by the Water/Sewer Division, to allow proper sizing of the water meter. The Water/Sewer Division shall furnish meter once approved;
 - iii. Design Data Sheets for all required cross-connection control devices. The devices shall not be installed without approval from the Water/Sewer Division.
- 36) **Prior to the issuance of a Building Permit**, a Water Impact Assessment must be provided to the Water/Sewer Division. Water Impact Assessments provide detailed information with respect to the design bases for the water supply system as well as demand management opportunities incorporated within the facility design to reduce the impact on the Town's water supply.
- 37) **Prior to the issuance of a Building Permit**, a completed Request for Title 5 Building Review (Form S) must be provided. This review informs the Applicant and Water/Sewer Division as to any change in use. Increases in flow can result in significant costs to the owner. Based on existing wastewater capacity constraints, any proposed flow increase over 1,000 gallons per day will be administratively denied by the Water/Sewer Superintendent. An appeal may be made to the Public Works Commission seeking relief for an increase in flow over 1,000 gallons per day.
- 38) It is understood that utilities other than water and sewer services may be relocated in future designs. If this is required, the design engineer is reminded that any changes shall be done in conformance with Water and Sewer Design and Construction Standards.
- 39) **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall provide an As-Built Drawing of the water and sewer infrastructure to the Water/Sewer Division. One hard copy and one electronic copy (in the form of a PDF and an AutoCAD File) shall be provided.
- 40) **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall enter into a Water and Sewer Service Connection Agreement with Concord Public Works for the purpose of clarifying the terms of service including ownership, operations, inspection, maintenance and future replacement provisions for related infrastructure. The agreement shall be signed by the owner, executed by the Director and recorded by the Applicant.
- 41) **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall formalize the easement agreement for the existing sewer line and provide all the pertinent documentation to the Water/Sewer Division.

The members of the Board voted thereon as follows:

DAVID FISHER
JOHN BRADY
PETER PARKER

GRANTED
GRANTED
GRANTED

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

The Applicant sought a Special Permit and Site Plan Approval under Sections 4.2.4, 4.2.4.6, 4.2.4.7, 7.2.4, 7.2.5, 7.7.2.1, 7.7.2.4, 7.7.2.12, 11.6 and 11.8, to allow a combined industrial/business/residence use, in conformance with the West Concord Design Guidelines and West Concord Master Plan, where at least ten percent of the dwelling units and ten percent of the industrial or non-retail business use area are available at an affordable rate, and to allow relief from parking requirements, joint parking facilities and work in the Floodplain Conservancy District at 50 Beharrell Street and 13B Commonwealth Avenue.

The Board was advised by the Applicant of the extensive public process with the West Concord Task Force (WCTF) and West Concord Advisory Committee (WCAC) that helped to guide and inform the redevelopment proposal for the site. The Applicant showed the Board an illustration demonstrating how the proposed project complies with many of the goals of the West Concord Master Plan. The Applicant also showed the Board an aerial photo to orient them to the site and described Beharrell Street, the Nashoba Brook, the future Bruce Freeman Rail Trail and Heritage Park, existing walking trails, and the existing and proposed access points to the MBTA lot. The Board was also made aware of the limitations of the site: the 200-foot Riverfront area to the Nashoba Brook, the 100-year floodplain elevation, the Post Office's long-term lease on a large portion of the site, zoning constraints and parking requirements.

The Board was familiarized with the proposed 3-story mixed-use building and the breakdown of uses on the site: commercial on the 1st floor and 74 residential units on the 2nd and 3rd floors; 87 underground parking spaces and 184 surface parking spaces; 1.75 acres of publicly accessible open space; and the 9,000 square foot courtyard with a ground-level pedestrian pass-through to the Nashoba Brook. The Applicant listed various events – music, tree lightings, etc. – that may take place in the courtyard. The Applicant also described the tailboard loading configuration, the common trash room, and the general concept of live/work/play that project hopes to encourage.

The Applicant pointed out that utility pipes were routed around the building in order to save a large tree at the corner of the site. Additionally, the Applicant explained that the project will utilize both municipal sewer and on-site septic. The industrial and commercial uses will be directed to the municipal sewer and the residential uses will be on septic. The Applicant described the distributed system, the on-site soils, the active and reserve trenches and the leach fields.

The Board was further advised by the Applicant that the acquisition of 13B Commonwealth Avenue was a major component in the development of 50 Beharrell Street, as it allows for the extension of Beharrell Street in a loop configuration back out onto Commonwealth Avenue. The Applicant also described the proposed location of the connection of Beharrell Street to the MBTA lot, and explained that it will not be completed as part of this project but will be designed and partially funded for the Town to execute in the future.

The Board was also informed by the Applicant that the 13B Commonwealth Avenue lot will be developed with a 6,750 square foot retail building and 27 of the abovementioned parking spaces. Both the mixed-use building and retail building will meet zoning setbacks and dimensional requirements; the mixed-use building will be almost 40 feet in height, which is permitted as long as 10% of the residential units and 10% of the industrial, non-retail space are made available at an affordable rate.

The Board asked for clarification from the Applicant on the logistics of the affordability requirement and the viability of the market for industrial uses. The Applicant clarified that affordable industrial space is determined as a percentage of the market rate, similar to the method for affordable residential units. An initial lease term would be three years, and then based on a

tenant's success, the tenant could either stay, convert to market rate, or donate the delta between market rate and affordable to a fund. The Applicant explained that while affordable industrial space is a new concept, it has begun to be contemplated in other areas as well.

The Board asked for clarification from the Applicant on a number of other points relating to the number and type of anticipated tenants in the industrial space, the existing abutting uses to the site, the vehicular loop around the courtyard, the proposed pedestrian pathways, the curb cut off of Commonwealth Avenue to the MBTA lot, the system of managing commuters in the parking areas, the stormwater design, the proposed layout and extension of Beharrell Street, the floor/ceiling heights and overall building height, and the proposed rooftop uses. The Applicant responded to the questions raised to the satisfaction of the Board.

The Board was particularly interested in the impact of the project on the Concord Public School system and expressed concern that projections of school age children generated by developments are generally inaccurate. The Applicant responded that the units' small square footage and downtown/transit-oriented location would be marketed mainly to a young professional/empty nester demographic. The Applicant also pointed out that no 3-bedroom units are proposed, that the projected number of school age children is low, and that the project will generate a large amount of tax revenue for the Town.

The Board expressed an interest in reducing the amount of parking on the site in order to enhance the open space and pedestrian features, and inquired about the necessity of the parking at the rear of the site. The Applicant asserted that the parking spaces are necessary to the attraction of tenants and to their ability to rent the commercial/industrial space.

At the Hearings, 1 person spoke and asked to be listed as both in support of and in opposition to the Application.

Susan Felshin, 19 Sunnyside Lane, spoke both in support of and in opposition to the Application. She provided some clarification regarding discussions of the West Concord Task Force. In general, she opined that while the proposal does address some facets of the Master Plan, the project is too dense and proposes too much parking for the site.

A Letter was received from the Planning Board dated May 9, 2013, recommending that the Board grant the Special Permit and Site Plan Approval with conditions. The Board discussed and adopted the conditions recommended by the Planning Board.

Pursuant to Section 4.2.4 of the Bylaw, the proposed project will comply with the regulations of a combined industrial/business/residence use.

Pursuant to Section 4.2.4.6 of the Bylaw, the Board determined that a special permit could be granted based on their finding that the combined industrial/business/residence use is in harmony with and advances the recommendations and intent of the 2010 West Concord Master Plan.

Pursuant to Section 4.2.4.7 of the Bylaw, the Board determined that a special permit could be granted to allow an increase in the height of the building to forty (40) feet based on their finding that the combined industrial/business/residence project includes a provision that ten percent of the dwelling units will be available as affordable housing and that ten percent of the industrial or non-retail business use area will be available at an affordable rent or lease, and that the project is in harmony with the general purpose and intent of this section and that it will not be detrimental or injurious to the neighborhood in which it is to be located.

Pursuant to Section 7.2.4 of the Bylaw, the Board found that the proposed use is permitted in the underlying zoning district and is thus permitted, subject to review, within the Floodplain Conservancy District.

Pursuant to Section 7.2.5.1 of the Bylaw, the Applicant submitted a written application for a special permit for work within the Floodplain Conservancy District to the Board, with copies to the Planning Board and Natural Resources Commission.

Pursuant to Section 7.2.5.2 of the Bylaw, the Board received a Letter dated May 9, 2013 from the Planning Board recommending that the Board grant the Special Permit with conditions. An Order of Conditions was issued by the Natural Resources Commission on June 7, 2013.

Pursuant to Section 7.2.5.3 of the Bylaw, the Board gave due consideration to the reports of the Planning Board and Natural Resources Commission and imposed conditions to safeguard public safety, welfare and convenience.

Pursuant to Section 7.7.2.1 of the Bylaw, the Applicant is proposing a sufficient number of parking spaces based on the uses proposed for the site.

Pursuant to Section 7.7.2.4 of the Bylaw, the Board determined that up to 50% of the off-street parking spaces for the different buildings and uses on the site could be used collectively or jointly.


Pursuant to Section 7.7.2.12 of the Bylaw, the Board, upon advice of the Planning Board, determined that relief from the parking requirements in section 7.7.2 could be granted in order to allow a joint parking configuration per Section 7.7.2.4, finding that a literal application of such requirements would be unreasonable and that the desired relief may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of this Bylaw.

Pursuant to Section 11.6 of the Bylaw, the Board considered impacts on economic and community needs; traffic flow and safety concerns, including parking and loading; adequacy of utilities and other public services; impacts on neighborhood character; impacts on the natural environment; and fiscal impacts, including impacts on Town services, the tax base and employment. The Board found that the conditions imposed on this special permit would adequately address any applicable concerns and finds that the adverse effects of the proposed use will not outweigh its beneficial impacts to the public interest, the Town and the neighborhood, in view of the characteristics of the site and the proposal in relation to that site.

Pursuant to Section 11.8 of the Bylaw, the Board considered the site plan with regards to protection of adjoining premises against seriously detrimental uses; convenience and safety of vehicular and pedestrian movement within the site; adequacy of the methods of disposal of refuse and other wastes; adequacy of the arrangement of parking and loading spaces; adequacy of the method of exterior lighting for convenience, safety and security within the site; relationship of structures and open spaces to the natural landscape, existing buildings and other community assets; and the impact on the Town's resources. The Board considered the site plan and determined that the plan ensured a reasonable use of the site not inconsistent with the uses permitted in the district in which the site is located.

TRUE COPY ATTEST


Julie Vaughan
Clerk, Zoning Board of Appeals


Date
Filed with Town Clerk
50 Beharrell & 13B Commonwealth
Oaktree Beharrell 2013



TOWN OF CONCORD PLANNING BOARD

145 KEYES ROAD, CONCORD, MASSACHUSETTS 01742
TEL. (978) 338-3298 FAX (978) 338-3291

MARCIA A. RASMUSSEN, PLANNING DIRECTOR
May 9, 2013

Mr. David Fisher, Chairman
Concord Board of Appeals
Concord, MA 01742

Re: Recommendation to the Board of Appeals for a Special Permit and Site Plan Approval to allow a combined industrial/business/residence use, in conformance with the West Concord Design Guidelines and West Concord Master Plan, where at least 10 percent of the dwelling units and ten percent of the industrial or non-retail business use area are available at an affordable rate, and to allow relief from parking requirements, joint parking facilities and work in the Floodplain Conservancy District at 50 Beharrell Street and 13B Commonwealth Avenue, under Sections 4.2.4, 4.2.4.6, 4.2.4.7, 7.2.4, 7.2.5, 7.7.2.1, 7.7.2.4, 7.7.2.12, 11.6 and 11.8.

Dear Mr. Fisher:

At its meeting held on Tuesday, May 7, 2013, the Planning Board met with Applicant/Owner Nick Boynton and his representatives: Gwendolen Noyes, Arthur Klipfel and Emily Corbett of Oaktree Design, and Patrick Cleary of Oaktree FX, and reviewed the Planning Division report and draft recommendation for the application for a Special Permit and Site Plan Approval to allow a combined industrial/business/residence use, in conformance with the West Concord Design Guidelines and West Concord Master Plan, where at least 10 percent of the dwelling units and ten percent of the industrial or non-retail business use area are available at an affordable rate, and to allow relief from parking requirements, joint parking facilities and work in the Floodplain Conservancy District at 50 Beharrell Street and 13B Commonwealth Avenue.

The site, which includes both 50 Beharrell Street and 13B Commonwealth Avenue, comprises approximately 5.39 acres and is split between the West Concord Industrial (WCI) and West Concord Village (WCV) zoning districts. The 50 Beharrell Street parcel, which is entirely within the WCI District, is currently developed with two 1-story commercial/industrial warehouse buildings and a post office (totaling approximately 51,000 SF), paved and gravel parking areas, loading areas, and associated utilities; the 13B Commonwealth Avenue parcel (the former Chrysler lot), is split between the WCI and WCV districts and contains a paved parking lot used for car sales. The Nashoba Brook forms the northern boundary of the site and the future Bruce Freeman Rail Trail forms a portion of the eastern boundary of the site. Approximately half of the overall site is within the 200-foot Riverfront Area to the Nashoba Brook; portions of the rear of the site are within wetland, wetland buffer and 100-year floodplain areas.

The Applicant is proposing to maintain the existing 3,364 square foot post office building and to demolish the two existing commercial buildings on the 50 Beharrell Street parcel, in order to construct a 3-story mixed-use building that will be comprised of approximately 36,270 square feet of industrial/light industrial/commercial/indoor recreational space, as well as a residential lobby on the 1st floor and 74 residential units on the 2nd and 3rd floors (approximately 84,494 SF). The residences as proposed will include 4 studio units, 32 1-bedroom units and 38 2-bedroom units; 87 dedicated residential parking spaces will be provided in an underground lot below the building, and 184 surface spaces will be provided to be shared between the industrial/commercial uses as well as the residential units. Per Section 4.2.4.7 of the Zoning Bylaw, at least 10% of the residential units (8 units) and 10% of the light industrial space will be

available at an affordable rate; this allows an increase in the height of the building up to 40 feet. In addition, a 6,750 square foot future retail building and a portion of the parking lot that will serve the overall site are proposed on the 13B Commonwealth Avenue parcel.

A major feature of the proposed development is the extension of Beharrell Street through the 50 Beharrell Street and 13B Commonwealth Avenue parcels as a loop that provides two-way access onto Commonwealth Avenue. This may enable the existing Beharrell Street curb cut off of Commonwealth Avenue to become an ingress only point [at some point in the future and if determined to be appropriate], and is anticipated to greatly reduce the safety and queuing problems in the area. In addition, the Applicant has extended the eastern portion of the extension of Beharrell Street up to the property line abutting the Bruce Freeman Rail Trail (BFRT), which is adjacent to the MA DOT-owned MBTA lot, in order to help facilitate a potential future connection across the BFRT between the MBTA lot and the Beharrell Street lot/extension out to Commonwealth Avenue.

The project will also include approximately 1.75 acres of publicly accessible space including walkways, courtyards, green areas, a market square, and pedestrian access along the Nashoba Brook. A portion of the development will remain on the Town's sewer system; the remainder will be handled by an on-site septic system that will be designed to handle a capacity less than the 10,000 gpd limit. The Applicant may incorporate green elements into the project including electric vehicle charging stations, rooftop solar panels, bike racks, low flush toilets, aerator faucets, water saving dish/clothes washers and a potential green roof and rooftop solar panels. The proposed project also includes site grading, drainage and utilities, associated site lighting, signage and landscaping.

Work within the floodplain will involve grading and the establishment of the parking area behind the mixed-use building, removal of invasive species, landscape and bank restoration enhancements; installation of underground drainage pipes and treatment infrastructure, repair and replacement of an existing discharge pipe, and the construction of bio-retention areas. The Applicant is proposing compensatory flood storage at a ratio of approximately 9:1.

After extensive discussion and public comment, the Planning Board voted in favor (5 for, 1 against) to recommend that the Board of Appeals **grant** the special permit and site plan approval for the proposed redevelopment project subject to the following conditions:

- 1) Approval is based on the following plans prepared for a Special Permit and Site Plan for 50 Beharrell Street and 13B Commonwealth Avenue:

Bohler Engineering, 352 Turnpike Road, Southborough, MA, 01772:

- a. Sheet 1 - Cover Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- b. Sheet 2 - General Notes Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- c. Sheet 3 - Demolition Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- d. Sheet 4 - Site Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- e. Sheet 5 - Grading & Drainage Plan A: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- f. Sheet 6 - Grading & Drainage Plan B: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- g. Sheet 7 - Utility Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.

- h. Sheet 8 – Soil Erosion & Sediment Control Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- i. Sheet 9 – Soil Erosion Control Notes & Details Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 9/27/12, Rev. 4 - 4/12/13.
- j. Sheet 10 – Landscape Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 5 - 05/01/13 [Per NRC].
- k. Sheet 11 – Landscape Plan Enlargement: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- l. Sheet 12 – Landscape Notes & Details Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- m. Sheet 13 – Lighting Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- n. Sheet 14 – Construction Detail Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- o. Sheet 15 – Construction Detail Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- p. Sheet 16 – Construction Detail Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- q. Sheet 17 – Construction Detail Sheet: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- r. Sheet 18 – Bank Restoration Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 4 - 04/12/13.
- s. Sheet 1 – Conceptual Right Of Way Plan: Site Development Plans for Oaktree FX, LLC, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 09/27/12, Rev. 5 - 05/01/13.
- t. Drainage Report: for Oaktree FX, LLC, Proposed Mixed Use Development, 50 Beharrell Street 7 13B Commonwealth Avenue, Concord, MA, Dated September 27, 2012, Revised November 12, 2012, Supplemented April 12, 2013.

Control Point Associates, Inc., 352 Turnpike Road, Southborough, MA, 01772:

- u. Boundary & Topography Survey: For Oaktree Greenline, 13B Commonwealth Avenue and 50 Beharrell Street, Concord, MA, Dated 7-13-2012.

Oaktree Design, 84 Sherman Street, Cambridge, MA, 02140:

- v. Sheet A201 Building Elevations: The Boynton Company, Inc., 50 Beharrell Street, Concord, MA, Dated 09/27/12, Revised 04/17/13.
- w. Landscape Material Options: The Boynton Company, Inc., 50 Beharrell Street, Concord, MA, Submitted 3/29/2013.
- x. Project Signage Guidelines: The Boynton Company, Inc., 50 Beharrell Street, Concord, MA, Submitted 3/29/2013.

Reflex Lighting, 7 Tide Street, Boston, MA 02210:

- y. Luminaire Schedule: Prepared for: Oaktree FX, Dated 03/12/13.

TEC, Inc., 65 Glenn Street, Lawrence, MA 01843:

- z. Traffic Impact, Access and Parking Study: Beharrell Street Redevelopment Project, Concord, MA, Prepared for: Oaktree Development, LLC, Dated September 28, 2012, Including Appendices A- J.
- aa. Response to Peer Review Comments: Beharrell Street Redevelopment Project, Concord, MA, Letter to Marcia Rasmussen, Dated March 7, 2013.

Greenman – Pedersen, Inc. (GPI), 181 Ballardvale Street, Suite 202, Wilmington, MA 01887:

- bb. Transportation Engineering Peer Review: 50 Beharrell Street, Concord, MA, Letter to Marcia Rasmussen, Dated February 25, 2013.
 - cc. Transportation Engineering Peer Review – Supplemental Review: 50 Beharrell Street, Concord, MA, Letter to Marcia Rasmussen, Dated March 8, 2013.
- 2) **Prior to the issuance of a Building Permit for 13B Commonwealth Avenue**, the design of the structure and area defined as parcel 13B Commonwealth Avenue shall be reviewed and approved by the Planning Board, following the review and recommendation of the West Concord Advisory Committee. Design review shall include but not be limited to: the use, area, layout, height, appearance, landscaping, and pedestrian circulation. The parcel shall include a minimum of 27 parking spaces and 6,750 square feet of building area.
 - 3) **Prior to the issuance of a Building Permit for 13B Commonwealth Ave.**, and as part of the “design review” described in Condition #2, the Applicant shall revise the plan for the 13B Commonwealth Avenue parcel to relocate the 6,750 square foot building footprint out of the future 50’ right-of-way.
 - 4) The Applicant shall be aware that any Special Permit and Site Plan Approval granted herein under Zoning Bylaw Section 4.2.4 is for a combined industrial/business/residence use and, outside of any future amendment to this Special Permit and Site Plan Approval, shall maintain the following mix of uses in the mixed-use building located at 50 Beharrell Street.:
 - a. At least 10% of the industrial use and/or non-retail business use shall be available at an affordable rent or lease and at least 10% of the dwelling units shall be available at an affordable rate;
 - b. The industrial and non-retail business uses combined shall not be less than 30% of the total gross floor area of the mixed-use building.
 - c. Private recreational space, as defined within Zoning Bylaw Section 4.1.6, shall be limited to 14,000 SF of the 30% of gross floor area that is required to be industrial or non-retail space within the mixed-use building.
 - 5) The potential future connection to the MBTA lot over the Bruce Freeman Rail Trail right-of-way will require negotiation with the State and will not be considered part of this Special Permit and Site Plan Approval. Though the Town will take responsibility for negotiations with the State, **prior to the issuance of a final Certificate of Occupancy for the 50 Beharrell Street redevelopment project herein**, the Applicant has agreed to fund not more than half of the costs associated with the design and construction of the connection (the Applicant’s portion shall not exceed \$50,000).
 - 6) **Prior to the issuance of a Building Permit**, the Applicant shall provide a complete design of the “off-site” improvements proposed to enhance pedestrian safety. In order to properly evaluate the benefits of such improvements a third party review of the traffic study for these off-site improvements shall be required. Such review shall address snow removal, pedestrian and vehicular safety, parking reconfiguration, signage, traffic flow, and other pertinent information.
 - 7) In accordance with Condition #6 above, **prior to the issuance of the first Certificate of Occupancy**, the following information, at a minimum, shall be provided to the Engineering Division:
 - a. Additional survey data for everything within 50 feet east of the existing intersection of Beharrell Street/Commonwealth Avenue and 50-feet west of the proposed intersection of the extension of

Beharrell Street/Commonwealth Avenue. This additional survey work will allow the developer and the Town to consider the best location/relocation of crosswalks and potential location of bump-outs that will improve pedestrian safety and circulation. The additional survey work should include elevation data for: edge of road and centerline; curbs (top and bottom); driveways; drainage structures (including rims and inverts) and mains (including size and material type); sewer main manholes; utility poles with pole numbers and associate guy wires, etc.; electric, telephone, cable television conduits, transformers, vaults, handholes, etc.; water main (including material and size), valves, curbstops and hydrants; gas main including shut offs and vaults; and sign locations.

- b. Proposed locations, layout and design for the pedestrian bump-outs on Commonwealth Avenue that will improve the pedestrian experience without negatively impacting vehicular and bicycle traffic. Design should include appropriate backup information to demonstrate that the bump-out design will improve pedestrian sight distance and still provide appropriate travel way for bicycle and vehicular traffic. The design should also incorporate any modifications to the Town's closed drainage system to ensure that the gutter flow will be properly captured.
- 8) **Prior to the issuance of a final Certificate of Occupancy**, if the aforementioned off-site improvements are determined to be appropriate and are desired by the Town, the Applicant shall fund and construct them in accordance with the Concord Public Works Design & Construction Standards & Details.
- 9) The extension of the Beharrell Street right-of-way shall also be named "Beharrell Street".
- 10) **Prior to the issuance of the first Certificate of Occupancy**, the Applicant shall provide specifications for all proposed lighting and signage on the site to the Building Commissioner for review and approval. All lighting shall be fully cut off and dark-sky friendly in compliance with Zoning Bylaw Section 11.8.3; all signage shall comply with the Town of Concord Sign Bylaw.
- 11) **Prior to the issuance of a Building Permit**, the Applicant shall coordinate with the Fire Department to ensure the following:
 - a. that the elevator is large enough for a stretcher;
 - b. that the building has a standpipe system (especially in the parking garage);
 - c. that a demolition and phased construction plan has been developed that will allow emergency vehicle access;
 - d. that the wings, sections and units within the building are consistently and logically numbered and identified;
 - e. that at least two roof access points (man way door and/or roof hatch) at separate and remote stairwells are provided to allow for rapid access to the roof if required;
 - f. that appropriate fire lanes are designated on the plans; and
 - g. that proposed locations of fire hydrants and Fire Department connections are feasible.
- 12) **Prior to the issuance of a Building Permit**, the following utility poles located along Beharrell Street must be surveyed and included on the site plan: P.4, P.4-1, P.4-1A, and P.4-2.
- 13) **Prior to the issuance of a Building Permit**, CMLP will need a digital copy of the plans (AutoCAD format). These plans will allow CMLP to issue an underground electrical design which will include a cost estimate for CMLP's portion of the job. The estimated cost for CMLP's portion of the job for the associated permanent electrical design will be paid for in advance by either the contractor, developer, and/or property owner as per CMLP's terms and conditions.
- 14) **Prior to the issuance of a Building Permit**, CMLP will need a detailed electrical load letter including proposed service sizes for both proposed building locations in order to properly size the transformer(s).

- 15) **Prior to the issuance of a Building Permit**, all proposed metering will require approval from the CMLP Meter Supervisor.
- 16) **Prior to the issuance of a Certificate of Occupancy**, CMLP will require an easement for the proposed electrical primary and secondary distribution system if outside of the town right-of-way. It should be noted that the individual underground electric services are owned and maintained by the property owner and will require approval from the Town of Concord Electrical Inspector.
- 17) **Prior to the issuance of a Certificate of Occupancy**, and upon completion of the project, CMLP will require an As-built drawing of the proposed underground electrical distribution plan noting all conduit locations. A copy of this plan is to be sent to the Town of Concord Building Department as part of the As-built utility installation plan.
- 18) **Prior to the issuance of a Building Permit**, the Health Division shall receive clarification from the Applicant regarding the following:
 - a. The Applicant previously stated that the project is proposed to use approximately 15,200 gallons of water per day. It is unclear whether this design flow refers only to the 50 Beharrell Street property or whether it refers to the combined design flow from both 50 Beharrell Street and 13B Commonwealth Avenue. The Applicant shall clarify this and provide information on the sewage design flows for each category of use proposed.
 - b. The Applicant shall submit a plan for installation of a septic system designed to accommodate all wastewater flows that will be disposed of in the on-site system. This plan must be designed in conformance with 310 CMR 15.00 and all applicable Board of Health regulations.
 - c. No Deep Observation Holes have been performed in the area proposed to be used as Leaching Area #2 Reserve. Per 310 CMR 15.102, at least two (2) deep observation holes must be completed in every reserve area.
 - d. Percolation testing must be performed in Leaching Area #2 Reserve. At least 2 percolation test holes must be completed, and show an adequate Long Term Acceptance Rate (LTAR) to allow this area to be used as a reserve leaching area for the wastewater flow it has been designed to receive. If this area cannot be used for this amount of design flow, the septic design will need to be revised to show adequate reserve leaching capacity, or the septic system will have to be designed to dispose of a lesser amount of sewage design flow.
- 19) The Applicant shall select a style of bike rack that allows bicyclists to lean and/or affix their bikes to the rack in two places, in order to help prevent bikes from falling over and/or getting damaged.
- 20) The Applicant shall explore the possibility of hosting Zip Car or another car sharing program in the parking lot. Having such an amenity on-site may help reduce the demand for parking by both residential and commercial tenants.
- 21) The Applicant shall consider a marketing program for the residential units that includes an information session/materials on what it means to live within a mixed-use building, especially one that contains light industrial uses.
- 22) The courtyard spaces have been designed to allow public and private events (such as farmers markets/craft fairs/retail displays); the owner or property manager shall coordinate with Town departments and agencies to program the space and/or receive appropriate permits.
- 23) **Prior to the issuance of a final Certificate of Occupancy**, Planning and Natural Resources staff shall review the landscape installation to confirm that work has been done in accordance with the above-referenced plan.

- 24) **As the project progresses**, the Applicant shall comply with all conditions set forth in any Order of Conditions issued by the Natural Resources Commission.
- 25) To ensure adequate time for staff review, any revised materials shall be submitted to the Concord Public Works (CPW) Engineering Division **at least two weeks prior to applying for a Building Permit**.
- 26) The Applicant must obtain a ROW/Driveway Permit(s) from the Engineering Division **prior to any work commencing within the Beharrell Street or Commonwealth Avenue Right-of-Way (ROW)**. The Applicant is urged to read the permit guidelines of the Engineering Division to assess which permits will be needed, as it may affect time sensitive construction schedules. Please find more information regarding the Engineering Division's permits online here: http://concordma.gov/Pages/ConcordMA_Engineering/permits or feel free to contact the Engineering Division directly at 978-318-3210, for assistance. All work within the Town right of way shall conform to the Concord Public Works Design & Construction Standards & Details (CPW-Standards).
- 27) **Prior to the commencement of work**, a copy of the EPA's Notice of Intent General Permit and executed Stormwater Pollution Prevention Plan (SWPPP), the Erosion Control Plan (ECP), and Long Term Operations and Maintenance Plan (LTOMP) must be provided to the Town. Both a hard copy and electronic (PDF) copy shall be provided to the Engineering Division. The SWPPP, ECP, and LTOMP will be reviewed and must be approved **prior to the commencement of work**. The Applicant will be required to have an environmental monitor on site to ensure proper operations of all sediment and erosion control measures throughout the duration of the project. The site evaluation/inspection reports generated by the environmental monitor must be provided to the Engineering Division, at the frequency detailed in the SWPPP (i.e. Weekly, after storms). The Applicant is urged to contact the Engineering Division to establish an approved monitoring protocol and to ensure that all proper staff is being provided with the information above. These documents are needed to ensure the Town is in compliance with its MS4 permit issued by the EPA.
- 28) **Prior to the issuance of a final Certificate of Occupancy**, an As-Built Plan showing the constructed site improvements including all drainage system components and inverts will be required to be submitted to the Engineering Division. Further, impervious area calculations must be provided to ensure that the re-development project is in fact reducing the amount of impervious area consistent with MA DEP standard #7. To facilitate review, a written narrative certified by a Professional Engineer shall be submitted with the As-Built Plan outlining all deviations between the permitted plan and as-built conditions. One hard copy and one electronic copy, in the form of both CAD and PDF Files, shall be provided. Additionally, as a point of clarification, the as-built shall be completed by instrument survey and shall depict rims, inverts, pipe sizes, material, and slopes, BMP volumes, cleanouts, sub-drains, headwall location, etc. Since the majority of this information is sub-surface, the Engineering Division recommends an interim as-built prior to final paving. Once the interim as-built is approved, the Applicant should submit a final set of as-built plans depicting all pertinent information to the Town as requested previously.
- 29) **Prior to the issuance of a final Certificate of Occupancy**, the easements and associated documents necessary for the passage/purpose of pedestrian and vehicular traffic, utility maintenance etc. shall be finalized and must be recorded with the Registry of Deeds. The Engineering Division anticipates several iterations and a thorough review by Town Counsel. The Applicant is urged to finalize the easements, as described below, with the Town well in advance of the occupancy to avoid any delays. In addition to the easement, the Town has discussed the possibility of creating a Town Right Of Way and integrating it into the site design at this time. This would give the Town the ability to accept the looped drive as a Town road if it chooses to in the future. Engineering Division comments regarding the "Conceptual Right Of Way Plan" can be found in the Planning Office file for this project. Also, the Town is in possession of a plan that shows an "Easement for Roadway Purposes" entitled 'Easement Plan of Land in Concord MA', dated July 16, 1998 by Acton Survey & Engineering. It appears that this

easement is for the legal passage of vehicles (and others) to pass over the property. It is unclear if this easement was recorded or conveyed. It is imperative that all easements and rights relative thereto are shown on the plans. If Beharrell Street encroaches onto the property without the benefit of an easement, this should be resolved with the other access issues mentioned above. The Town is willing to provide a copy of the plan upon request.

- 30) As noted in Condition #29 above, the Town has requested that a plan be developed to determine the feasibility of creating a Right of Way through the site, which conforms to Town standards and could be accepted by the Town. This would give the ability for the Town and proponent to understand the implications to the design, site constraints, and other associated items of importance that would need to be vetted out such as land swaps or land acquisition prior to considering accepting the road.
- 31) In accordance with Condition #30 above, **prior to the issuance of a Building Permit**, the division a layout and roadway plan that conforms to Town standards shall be submitted to the Engineering Division for review. Accompanying the plan should be a comprehensive document which details all of the ancillary steps that would need to take place in order for the ROW to conform to all Town standards, such as but not limited to, roadway re-alignment, utility relocation, land acquisition/swapping, building demolition, etc. Alternatively, the proponent may provide a comprehensive list of waivers from Town regulations and design standards (Subdivision Rules & Regulations, CPW, CMLP, etc.), but at a minimum, the building at 13B Commonwealth Avenue shall not encroach in the ROW on either plan.

Prior to undertaking any action/design with respect to this comment, CPW requires that the proponent and the Town meet to discuss this issue further and ensure that all the parties involved understand and agree to the course of action.

- 32) **Prior to the issuance of a Building Permit**, the following edits shall be incorporated into the phasing plan, and two full plan sets shall be provided to the Engineering Division:

- * **The proponent should cross-hatch the area of stormwater infiltration as well as all of the septic and septic reserve areas.** Stockpiling areas shall be removed from all future septic/reserve areas and Stormwater infiltration BMPs. In order to eliminate an unnecessary burden to the applicant, the Engineering Division recommends hatching specific "areas of stockpiling restriction" on the plans. This will ensure that the subsurface systems will function properly, while giving the applicant's contractor the maximum flexibility for construction activities.

- 33) The Engineering Division is recommending a pre-construction meeting with the applicant, contractor, and town staff. **Prior to the commencement of work and at this pre-construction meeting**, a final phasing plan shall be provided to the Engineering Division.
- 34) **Prior to the issuance of a Building Permit**, the drainage design should have a viable safeguard to pump the underground parking area without causing increased flooding impacts downstream. Test pit data (BE#10 & BE#11) depicts the seasonal estimated high groundwater elevation (EHGWE) to be approximately 116.0. Any flooding (as in larger storm events) above seasonal levels will result in increased flooding impacts. The Engineering Division is recommending incorporating the pumps and discharge areas (if proposed) to a viable outlet, such as additional storage chambers outside of the 100-year flood elevation. The detailed drawings for the waterproofing system should be provided as they have the potential to affect other stormwater mitigation on site. The site is designed for the 100-year storm event, a base flow from pumping operations should be accounted for within the drainage design (i.e. Pre vs Post and Rational calculations) to ensure no negative flooding impacts down/up-stream.
- 35) **Prior to the issuance of a Building Permit**, an application for water and sewer service shall be made to the Concord Water/Sewer Division and shall include the following:

- a. A copy of the approved water and sewer utility plan;

- b. The identification of the Water/Sewer Division licensed "drain layer" who will be responsible for water/sewer service installation activities;
 - c. Details of the proposed low pressure sewer system to ensure it has been designed in accordance with the Division's Guidelines and Standards for Grinder Pump Systems;
 - d. For each separate building proposed to be served by Town water, a plumbing plan shall be provided including:
 - i. Meter bypass detail (with allowance for Water/Sewer Division issued security lock);
 - ii. A meter sizing sheet, provided by the Water/Sewer Division, to allow proper sizing of the water meter. The Water/Sewer Division shall furnish meter once approved;
 - iii. Design Data Sheets for all required cross-connection control devices. The devices shall not be installed without approval from the Water/Sewer Division.
- 36) **Prior to the issuance of a Building Permit**, a Water Impact Assessment must be provided to the Water/Sewer Division. Water Impact Assessments provide detailed information with respect to the design bases for the water supply system as well as demand management opportunities incorporated within the facility design to reduce the impact on the Town's water supply.
- 37) **Prior to the issuance of a Building Permit**, a completed Request for Title 5 Building Review (Form S) must be provided. This review informs the Applicant and Water/Sewer Division as to any change in use. Increases in flow can result in significant costs to the owner. Based on existing wastewater capacity constraints, any proposed flow increase over 1,000 gallons per day will be administratively denied by the Water/Sewer Superintendent. An appeal may be made to the Public Works Commission seeking relief for an increase in flow over 1,000 gallons per day.
- 38) It is understood that utilities other than water and sewer services may be relocated in future designs. If this is required, the design engineer is reminded that any changes shall be done in conformance with Water and Sewer Design and Construction Standards.
- 39) **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall provide an As-Built Drawing of the water and sewer infrastructure to the Water/Sewer Division. One hard copy and one electronic copy (in the form of a PDF and an AutoCAD File) shall be provided.
- 40) **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall enter into a Water and Sewer Service Connection Agreement with Concord Public Works for the purpose of clarifying the terms of service including ownership, operations, inspection, maintenance and future replacement provisions for related infrastructure. The agreement shall be signed by the owner, executed by the Director and recorded by the Applicant.
- 41) **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall formalize the easement agreement for the existing sewer line and provide all the pertinent documentation to the Water/Sewer Division.

Please contact me if you have any questions or require further clarification.

On behalf of the Concord Planning Board,


Julie Vaughan, Senior Planner

cc: Nick Boynton, Owner
Gwen Noyes, Oaktree Design
Patrick Cleary, Oaktree FX

Christopher Whelan, Town Manager
Plan Review Staff

TOWN OF CONCORD
BOARD OF APPEALS

THE BOARD OF APPEALS CERTIFIES as follows:

Name and Address of Owner: 50 Beharrell LLC

 Lincoln Crossing LLC

 PO BOX 1595

 Concord, MA 01742

Property Identification: 50 Beharrell Street

 Concord, Massachusetts

 D51691-368

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 F.
E. Petral
B

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.

Anita S. Tekle
July 10, 2013

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.

TOWN OF CONCORD

BOARD OF APPEALS

THE BOARD OF APPEALS CERTIFIES as follows:

Name and Address of Owner: LeBaron Trust

 C/O John Bellantoni

 8B Farnum Court

 Hudson, NH 03051

Property Identification: 13B Commonwealth Avenue

 Concord, Massachusetts

 D15226-387

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 Fr
E Peter Paul
OB

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.

Anita S. Tekle
July 10, 2013

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.