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**TOWN OF CONCORD**  
**BOARD OF APPEALS**  
**TOWN HOUSE**

Please take notice that in the matter of the APPLICATION OF ABODE BUILDERS OF NEW ENGLAND, INC. for a Special Permit, under Sections 6.3.4, 7.5, 10.3, and 11.6, for a 25-unit Alternative Planned Residential Development at 8 & 9X Forest Ridge Road (Parcels # 2970-1-8 & 2970-1-1), 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.

*Elizabeth Hughes*  
Elizabeth Hughes, Town Planner

7/22/15  
DATE

**TOWN OF CONCORD****BOARD OF APPEALS**

**DECISION** of the Zoning Board of Appeals (the Board) on the application of ABODE BUILDERS OF NEW ENGLAND, INC. for a Special Permit, under Sections 6.3.4, 7.5, 10.3, and 11.6, for a 25-unit Alternative Planned Residential Development at 8 & 9X Forest Ridge Road, Concord, Massachusetts and identified as Assessor Parcels # 2970-1-8 & 2970-1-1.

This decision is in response to an application filed on May 19, 2015. After causing notice of the time and place of the public hearing and of the subject matter thereof to be published in *The Concord Journal* on July 2<sup>nd</sup> and July 9<sup>th</sup> 2015, posted and mailed to the Applicant, abutters and other parties of interest as required by law, the public hearing was conducted on July 16, 2015.

After due consideration of the application, the record, a presentation by the Applicant and based upon review of the issues set forth herein, the Board voted 3 to 0 (Brady, Freeland, Akehurst-Moore) to **GRANT** approval of the Special Permit with conditions based on the following findings:

Jack McBride of Abode Builders of New England, Inc. appeared for the hearing and presented the Application. Mr. McBride discussed the details of the Application. The project is for the construction of 25 condominium dwellings units that consist of 5 duplex units and 15 single family dwellings. All of the units will be age restricted for over-55 and 3 of the units will be deed restricted as affordable. Each unit will have an exclusive use area with the remaining area to be common open space for the residents or permanently protected open space through a conservation restriction and approximately 1.01 acres of open space is to be gifted to the Town.

The project includes a 1,400-foot loop roadway system through the development and will be served by Town water and electric and an on-site sewage disposal system. The Applicant is requesting the removal of approximately 4,400 cu. yd. of earth from the site. The stormwater drainage from the roadway will be collected through a series of catch basin and discharged to the existing drainage detention basin. The Applicant has developed a series of landscape plans that show the street tree plantings, the common open space plantings and the unit planting around and between the dwellings.

The Applicant is proposing different architectural styles for the detached single family dwellings and duplex units with all of the units having a two-car garage. The single family dwellings range in size from 2,240 sq.ft. of living area to 2,500 sq.ft. of living area and have a mix of two and three bedrooms. The duplex units range in size from 1,837 sq. ft. of living area to 2,400 sq. ft. of living area. Some of the units will have windows in the basements depending on the finished grades and one or two of the single family dwelling homes may be developed with walk-out basements.

The project will include 3 units that are deed restricted as affordable for moderate income households earning between 110% and 150% of area median income. These units will not be included in Concord's 40B Subsidized Housing Inventory. The affordable homes will

consist of one 3-bedroom detached single family dwelling and two Unit C 2-bedroom style homes, each in a separate building.

Board members reviewed the Planning Board Recommendation with Town Planner Elizabeth Hughes. Based on discussion with the Town Planner, the Board revised conditions 2(c) and 2(f). Mr. McBride advised the Board that he agreed with the conditions of the Planning Board Recommendation as amended.

At the Hearing, one person spoke in support of the Application. No one spoke in opposition to the Application.

Pursuant to Section 6.3.4, the Board considered the report from the Planning Board and Natural Resources Commission and determined that the granting of the requested transfer of development rights will allow the development of the Black Birch Lane PRD consistent with the Alternative PRD authorized by the 2016 Annual Town Meeting. The development of the Black Birch Lane PRD has been shown to have a fiscal benefit for the Town and includes the gifting of additional land to the Town that will provide trail connections to other Town owned land.

Pursuant to Section 7.5 of the Bylaw, the Board determined that the following: the volume of earth proposed for removal does not exceed the minimum practical removal required to accomplish the construction, development, or improvement in accordance with the plans; the plans submitted in connection with the removal are designed to minimize changes in existing contours to enhance attractive land utilization, effective drainage, suitable road gradients, access or other design considerations, and; the removal of earth from the site will not be detrimental or injurious to abutters or the neighborhood.

Pursuant to Section 10.3.4.4 of the Bylaw, the Board found the following: the proposed PRD is substantially consistent with the Plan approved by Town Meeting; the proposed PRD meets the minimum frontage and setbacks in the Limited Industrial Park 2 Zoning District; the proposed height of the dwelling units will be less than 40 feet; the proposed PRD will not exceed the 49,710 sq.ft. maximum gross floor area for the site; the Applicant is proposing a total of approximately 9 acres of open space through the gifting to the Town of approximately 1.01 acres, the placement of a permanent conservation restriction on approximately 6.39 acres and 1.6 acres of common open space, and; the Alternative PRD was approved by Town Meeting at the 2015 Annual Town Meeting.

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 determined that any negative impacts are negligible and finds that the proposed Alternative Planned Residential Development will have a beneficial impact 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 with the following conditions:

- 1) Approval is based on the following plans prepared for "The Residences at Black Birch Lane" Planned Residential Development for Abode Builders of New England:

Places Associated, Inc., 256 Great Road, Suite 4, Littleton, MA:

- a. Cover Sheet: revision date of July 9, 2015.
- b. Draft ANR Plan: revision date of July 9, 2015.
- c. Notes & Legend Sheet C-1: revision date of July 9, 2015.
- d. Site & Grading Plan Sheet C-3: revision date of July 9, 2015.
- e. Site Utility Plan Sheet C-4: revision date of July 9, 2015.
- f. Black Birch Lane Plan & Profile Sheet C-5 to C-7: revision date of July 9, 2015.
- g. Erosion Control Plan Sheet C-8: revision date of July 9, 2015.
- h. Details Sheet C-9 to C-11: revision date of July 9, 2015.
- i. Landscape Plan Sheet L-1 to L-3: revision date of July 9, 2015.

Mahoney Architects, Concord MA:

- j. Unit C Left Elevation: dated May 12, 2015.
- k. Unit D Right Elevation: dated May 12, 2015.
- l. Unit C & D Front Elevation: dated May 12, 2015.
- m. Unit C & D Rear Elevation: dated May 12, 2015.
- n. Unit C & D First Floor Plan: dated May 12, 2015.
- o. Unit C & D Second Floor Plan: dated May 12, 2015.

Elise Braceras Stone, Architects, 288 Old Marlboro Road, Concord, MA

- p. Residence A First Floor Plan Sheet A-1: dated May 2015.
- q. Residence A Second Floor Plan Sheet A-2: dated May 2015.
- r. Residence A Elevations Sheet A-3 & A-4: dated May 2015.
- s. Residence B First Floor Plan Sheet B-1: dated May 2015.
- t. Residence B Second Floor Plan Sheet B-2: dated May 2015.
- u. Residence B Elevation Sheet B-3 & B-4: dated May 2015.

- 2) In order to preserve the desired diversity and provide flexibility to the Applicant, the Applicant shall adhere to the following items:
- a. All of the dwelling units shall be deed restricted to provide that at least one household member shall be 55-years of age or older.
  - b. The maximum gross floor area as defined under Zoning Bylaw Section 10.3.4.4(d) shall be 49,710.s.f.
  - c. The EUA and footprint for each dwelling may be modified from those shown on the Site & Grading Plan so long as the changed designs do not constitute a substantial change as determined by the Building Commissioner and Town Planner
  - d. No two adjacent units shall be the same exact design.

- e. If necessary, the Applicant may use different façade treatments than those currently proposed (such as porches, shutters, modified roof line or bay window).
  - f. The Applicant shall be allowed flexibility in the design of the housing (i.e. altering exterior, roof, porch, window design, garage door location, footprint) so long as the Building Commissioner and Town Planner find the architectural style is consistent with Condition 1.
  - g. The Applicant shall take into consideration the use of roof top solar panels in the orientation of the units and construction (i.e. location of roof vents).
  - h. No two adjacent buildings shall be the same paint color unless the units are of a different house style.
  - i. Open and/or screened porches shall be permitted and the gross floor area of such open and/or screened porches shall not be included in any determination of the gross floor area permitted.
  - j. No such open and/or screened porch shall be enclosed as part of the initial construction or at any point in the future with glass or other exterior walls unless;  
(a) the gross floor area of such enclosed porch is included in the determination of the total gross floor area at Black Birch and (b) the Building Commissioner is satisfied that, following such inclusion, the total gross floor area at Black Birch will not exceed the maximum permitted gross floor area.
  - k. The affordable units will be priced between 110% and 150% of the area median income. In the case of the attached units, the affordable units shall not be located in the same building and, in the case of the detached unit, the affordable unit shall be located on one of the lots numbered 4 through 19 or designated Lot B through H or Lot V through Lot X.
  - l. Open Space Parcel 6B and 6E containing approximately 1.01 acres shall be conveyed to the Town for conservation purposes. Open Space Parcel B and D containing approximately 6.39 acres shall be protected by a conservation restriction in perpetuity. Open Space Parcel A and C shall, in accordance with this Special permit, be retained in perpetuity as Common Open Space for conservation, open space and recreational purposes and for the uses consistent with the plans for "The Residence of Black Birch Lane" as set forth in Condition #1 above.
- 3) To ensure adequate time for staff review, any revised materials must be submitted to the Engineering Division **at least two weeks prior to making application for a building permit.**
- 4) **Prior to the commencement of any site work**, the Applicant shall cutback the vegetation within the right-of-way for Forest Ridge Road at the intersection with the northerly road for Black Birch Lane to extend sight lines.
- 5) **Prior to the commencement of any site work**, the Applicant shall meet with Water/Sewer Division to the review the proposed scope of water/sewer utility work and sufficiently demonstrate that:

- a. water service infrastructure can be designed and constructed in accordance with the Water/Sewer Division's design and construction standards, and
  - b. water demands can be minimized via demand management tools that may be codified in a water impact assessment report.
- 6) **Prior to the commencement of any site work**, the Applicant shall revise the Plans to show the following and submit 4 sets of plans to the Town Planner for distribution to appropriate Town Departments for approval:
- a. A widening of the roadway by 5 feet for 20 feet in front of the central mailbox.
  - b. The location of the sediment forebays.
- 7) **Prior to the commencement of any site work**, the Applicant shall stake the "Limit of Clearing" and install the erosion and sedimentation controls and coordinate with the Town Planner a pre-construction meeting with Town staff to review proposed work and approved reporting protocol. The Applicant shall provide a construction and inspection schedule two weeks before the pre-construction meeting.
- 8) **Prior to the commencement of any site work**, the Applicant shall submit to the Engineering Division, Natural Resources Division, and the Town Planner for review and approval a hard copy and electronic (PDF) 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). The electronic copy shall contain an individual file for the SWPPP, ECP and LTOMP.
- 9) **Prior to the commencement of any site work**, the Applicant shall have on site a qualified environmental monitor to ensure proper operations of all sediment and erosion control measures throughout the duration of the project, as well as in jurisdictional wetland resource areas. The name and resume of the qualified environmental monitor shall be provided to the Engineering and Natural Resources Divisions for review and approval at least two weeks in advance of any site work. At a minimum, the environmental monitor shall be a "qualified personnel" with a minimum of 3 years professional environmental experience in construction monitoring and shall meet the qualifications outlined in sec. 4.4.1 of the EPA Construction General Permit. The environmental monitor shall provide the Engineering and Natural Resources Divisions site evaluation/inspection reports at the frequency detailed in the SWPPP (i.e. Weekly, after storms).
- 10) **Prior to the removal of any earth from the site**, the Applicant shall provide to the Building Commissioner, Police Chief and Fire Chief for review and approval a detailed trucking plan for the removal of soil from the site.
- 11) **Prior to the issuance of the permit for the construction of the sewage disposal system**, the Health Division shall receive a copy of the condominium Master Deed specifying the maximum number of bedrooms allowed in each unit. Per 310 CMR 15.203, the total number of bedrooms in the condominium shall be as specified in the Master Deed.



- 12) **Prior to the issuance of the permit for the construction of the sewage disposal system**, the septic system shall be designed for pressure distribution of effluent as required by 310 CMR 15.254(2). The applicant shall submit to the Health Division a copy of a contract with an operator who will inspect the system at least once every three months as required by 15.254(2)(d). The system owners shall submit the results of such inspection to the Health Division annually by January 31 of each year for the previous calendar year. Alternatively, if a Presby or other innovative/alternative system is installed for treatment and/or disposal of the sewage, it shall be installed and maintained in accordance with all requirements of its MADEP approval.
- 13) **Prior to any selective tree removal on Open Space parcels to be conveyed to the Town or placed under Conservation Restriction**, the Applicant shall meet with the Natural Resources Division staff to coordinate the selective tree removal.
- 14) **Prior to the issuance of a Building Permit**, the Applicant shall provide to the Board of Appeals for approval a performance guarantee for the construction of the roadway and municipal utilities in a manner similar to MGL Ch. 41, Sec. 81-U.
- 15) **Prior to the issuance of a Building Permit**, the Applicant shall submit to the Town Planner for review and approval a final landscape plan.
- 16) **Prior to the issuance of any Building Permit**, the Applicant shall submit to the Town through the Planning Division an initial deposit of \$2,500 to pay all fees and costs incurred by the Board for the employment of outside consultants, such as Town Counsel and Engineers, engaged by the Board for review of any project plans, documents and construction activity associated with this project. Funds received by the Board shall be deposited with the municipal treasurer who shall pursuant to MGL Ch. 44, Sec 53G, establish a special account for this purpose.
- 17) **Prior to the issuance of any Building Permit**, the Applicant shall receive approval from the Board of Health for an on-site sewage disposal system designed in complete conformance with 310 CMR 15.00, The State Environmental Code, Title 5, and Concord Board of Health regulations.
- 18) **Prior to the issuance of any Building Permit**, the Applicant shall provide CMLP a digital copy of the utility plans in AutoCAD format. These plans will allow CMLP to issue an underground electrical and Town fiber communication design which will include a cost estimate for CMLP's portion of the job. The estimated cost for CMLP's portion of the job will be paid for in advance by either the contractor, developer, and/or property owner as per CMLP's terms and conditions.
- 19) **Prior to the issuance of any Building Permit**, the Applicant shall provide CMLP a detailed electrical load letter including proposed service sizes in order to properly size the transformers.
- 20) **Prior to the issuance of any Building Permit**, the Applicant shall record with the Middlesex South Registry of Deeds the Special Permit, ANR Plan and either the Open Space Plan or the Condominium Plan showing the Parcels and Exclusive Use Areas.
- 21) **Prior to the issuance of any Building Permit**, the Applicant shall coordinate with the Town Planner, Police Department, and CMLP an inspection of the two roadway

entrances to determine whether a new street light is required for safety purposes. If it is determined a light is needed, it shall be installed at the expense of the Applicant **prior to the issuance of the first Certificate of Occupancy.**

- 22) **Prior to the issuance of any Building Permit**, the water impact assessment shall be finalized by the Applicant and approved by the Water/Sewer Superintendent. The findings will allow for proper sizing of the water meter and value of water system connection fee.
- 23) **Prior to the issuance of any Building Permit**, the Applicant shall submit an application for the "common" water service to the Water/Sewer Division, which shall include the following:
  - a) Identification of a Water/Sewer Division licensed "drain layer" who will be responsible for water service installation activities.
  - b) Two full size copies of the approved water utility plan.
  - c) No water utility work shall be performed until a written approval of this application has been issued by the Water/Sewer Superintendent.
  - d) Separate applications must be provided for the common water service as well as each individual dwelling unit proposed to be served by Town water.
- 24) **Prior to the issuance of a Building Permit for each unit**, the Applicant shall receive approval from the CMLP Meter Supervisor for all proposed metering.
- 25) **With each application for a Building Permit**, the Applicant shall provide a letter from a registered architect stating the gross floor area of the dwelling.
- 26) **Prior to the issuance of any Certificate of Occupancy**, the Applicant shall record the approved LTOMP with the Middlesex South Registry of Deeds and provide copies of the maintenance procedures in perpetuity to the Engineering Division, Natural Resources Division and Town Planner.
- 27) **Prior to the issuance of the first Certificate of Occupancy**, the Applicant shall enter into a Water 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.
- 28) **Prior to the issuance of the first Certificate of Occupancy**, the Applicant shall provide to the Board of Health the Certificate of Compliance for the on-site sewage disposal system.
- 29) **Prior to the issuance of the first Certificate of Occupancy**, the Applicant shall provide to the Planning Division for approval the Condominium Documents, which shall be reviewed as to form by Town Counsel prior to approval. The Condominium Documents shall contain at a minimum language to address the following:
  - a) Statement that the roadway will remain a private way now and in the future with no obligation placed upon the Town in terms of maintenance, repairs, plowing or acceptance as a public way.



- b) No parking on the sidewalk side of the street and the street is to be kept clear in the winter to ensure there is adequate access at all times for emergency vehicles.
  - c) Responsibilities and maintenance of the stormwater drainage as specified in the and Long Term Operations and Maintenance Plan (LTOMP).
  - d) Responsibilities and maintenance of Open Space Parcel A, B, C and D and landscaping.
  - e) Restriction regarding occupants and guests under the age of 18-years old staying in the units.
  - f) Restriction regarding at least one household member being 55-years of age or older.
  - g) Restriction regarding maximum gross floor area for the development.
  - h) Restriction regarding open and/or screened porches.
  - i) Permissible fencing within the development.
- 30) **Prior to the issuance of the first Certificate of Occupancy**, the Applicant shall submit to the Planning Division the documentation and materials to be used for the training of Condominium Association Trustees regarding the responsibilities with being a trustee. The documentation shall include a draft affidavit that is to be signed by each trustee following the completion of the training.
- 31) **Prior to the issuance of each Certificate of Occupancy**, all drainage and utilities applicable to the unit being occupied shall be installed and the roadway completed to binder course to access the unit to the satisfaction of Concord Public Works and CMLP.
- 32) **Prior to the issuance of each Certificate of Occupancy**, the Building Commissioner shall confirm that all exterior lighting is consistent with the Zoning Bylaw.
- 33) **Prior to the issuance of each Certificate of Occupancy**, the Applicant shall install in each unit to the satisfaction of the Fire Department smoke and carbon dioxide detection that is monitored and reported to central dispatch.
- 34) **Prior to the issuance of the tenth (10<sup>th</sup>) Certificate of Occupancy**, the Applicant shall place a Conservation Restriction pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws on the 6.39 acres shown as Parcel B and Parcel D on the Open Space Plan dated July 9, 2014. To be considered complete, the CR(s) must be signed by the Natural Resources Commission, Board of Selectmen, and Secretary of the Executive Office of Energy and Environmental Affairs, and recorded at the Registry of Deeds. The Conservation Restriction shall be deeded to the Town of Concord acting by and through its Natural Resources Commission as its Conservation Commission in perpetuity and for conservation and passive recreational purposes, as well as any other use consistent with the plans for “the Residence at Black Birch Lane” as set forth in Condition #1 above. The CR land shall be bounded with permanent visible markers acceptable to the Natural Resources Division. Bounds shall be shown on the CR plan.

- 35) **Prior to the issuance of the fifteenth (15<sup>th</sup>) Certificate of Occupancy**, the Applicant shall conduct baseline documentation on the 6.39 acre Conservation Restriction in accordance with MassAudubon's *Massachusetts Conservation Restriction Stewardship Manual* (March 2006), or as approved by the Division of Natural Resources. Two copies of the completed report shall be provided to the Division of Natural Resources.
- 36) **Prior to the issuance of the twentieth (20<sup>th</sup>) Certificate of Occupancy**, the Applicant shall complete the construction of the affordable units and finalize to the satisfaction of the Town all required documents for the sale of the affordable deed restricted units.
- 37) **Prior to the issuance of the final Certificate of Occupancy**, the Applicant shall convey Parcel 6B and Parcel 6E shown on the ANR Plan and Open Space Plan dated July 9, 2015 to the Town acting by and through the Natural Resources Commission with acceptance by the Select Board.
- 38) **Prior to the issuance of the final Certificate of Occupancy**, the Applicant shall lay out and construct a trail to the satisfaction of the Natural Resources Division on Parcel 6B that connects to adjacent Town-owned land.
- 39) **Prior to the issuance of the final Certificate of Occupancy**, the Applicant shall submit to the Building Inspections, Engineering Division, CMLP and the Town Planner a hard copy and electronic (PDF) copy As-Built Plan showing applicable features such as but not limited to: edge of pavement, curb/berm, driveways, dwellings, pump station(s), site grading (contours and spot shots), utilities, conduit locations, etc. Additionally, all stormwater mitigation BMPs on site such as but not limited to, catch basin rims and inverts, drain manholes, pipe sizes and slopes, detention/infiltration pond volumes, down spouts, drywells, etc. shall be clearly shown. A certification letter from the design engineer or another professional engineer shall be provided to the Departments with the as-built plan outlining any deviations from the design plan, which shall be reviewed and approved by the Engineering Division.
- 40) **Prior to the issuance of the final Certificate of Occupancy**, the Applicant shall provide evidence to the Planning Division that a budget within the Condominium Association budget has been established with sufficient funds to continue the annual maintenance of the stormwater drainage and landscaping in common areas and replacement of landscaping if found to be dead or dying as specified in Condition #47 and #48.
- 41) **Prior to the issuance of the final Certificate of Occupancy**, the Applicant shall submit for review and approval to the Water/Sewer Division a full size record drawing (Arch D) created in accordance with Division standards showing all utility mains, services, and appurtenances. Once the draft is approved, a full-size (Arch D) hard copy of the record drawing along with electronic copies in AutoCAD and pdf files shall be provided.
- 42) **Prior to the issuance of the final Certificate of Occupancy**, the Applicant shall provide the Water/Sewer Division a Water Impact Assessment Affidavit(s) to

demonstrate work was performed in accordance with the approved demand mitigation measures.

- 43) **Prior to the issuance of the final Certificate of Occupancy**, the Applicant shall submit to CMLP for review and approval all applicable easements for the proposed primary and secondary electrical distribution and subsequent Town fiber communication systems where located outside of the Right-of-Way or existing easement areas, shall record all easements with the Middlesex South Registry of Deeds and provide copies of the recorded documents to CMLP and the Town Planner. 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.
- 44) **Prior to the final release of the Performance Guarantee**, the Town Planner shall confirm that all site work has been maintained within the "Limit of Work" as defined on the approved Site & Grading Plan. Should the Town Planner determine that work has been done outside of the "Limit of Work", the Board of Appeals will withhold the release of the Performance Guarantee until the area has been restored or draw upon the Performance Guarantee and have the restoration completed by an outside contractor.
- 45) **Prior to the final release of the Performance Guarantee**, the Planning Division shall verify that all plantings shown on the approved Landscape Plan as approved under Condition #15 have been installed. Any modification or substitutions not consistent with the approved plans shall be reviewed and approved by the Planning Division.
- 46) **Prior to the final release of the Performance Guarantee**, the Applicant shall provide copies of all executed Trustee training affidavits.
- 47) **One year following the issuance of the first Certificate of Occupancy and prior to the final release of the Performance Guarantee**, the Applicant shall submit a report to the Planning Division noting viability of the established landscaping shown on the Landscape Plan as approved by Condition #15. Any landscaping found to be dead or dying shall be replaced.
- 48) **Three years following the issuance of the first Certificate of Occupancy**, the Condominium Association shall submit a report to the Planning Division noting viability of the established landscaping shown on the Landscape Plan as approved by Condition #15. Any landscaping found to be dead or dying shall be replaced.
- 49) **At all times**, the Applicant shall ensure that construction activity is in compliance with the Town's Construction Noise Bylaw.
- 50) The Applicant shall pay all fees and costs incurred by the Board for the employment of outside consultants, such as Town Counsel and Engineers, engaged by the Board for review of any project plans, documents and construction activity associated with this project. Funds received by the Board shall be deposited with the municipal treasurer who shall pursuant to MGL Ch. 44, Sec 53G, establish a special account for this purpose.

- 51) Violation of any of the conditions of the Special Permit shall be grounds for revocation of the Special Permit, or any building or occupancy permit granted hereunder. In case of any violation of the continuing obligations of the Special Permit, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation and to enforce the conditions of the Special Permit. The Town may enforce compliance with the conditions of the Special permit by any action of injunctive relief before any court of competent jurisdiction.
- 52) Construction of all ways and all installation of municipal services shown on the approved Site Development Plans shall be completed within three (3) years of the date of approval unless the Applicant obtains a written extension from the Board of Appeals. If the construction and installation is not completed within the three (3) year period or an extension granted, the approval shall automatically lapse and no roadway shall be constructed or opened for public use unless and until a new Special Permit application has been filed and a new plan has been approved by the Board. The Board may enforce or draw upon any Performance Guarantee to complete the construction of the roadway if it is not completed within three (3) years or a written extension has not been requested by the Applicant.
- 53) By acceptance of this Special Permit by the Applicant and recording thereof, the Applicant acknowledges the binding effect of the conditions of the Special Permit.

**TOWN OF CONCORD  
BOARD OF APPEALS**

THE BOARD OF APPEALS CERTIFIES as follows:


Name and Address of Owner: Todd A. Pulis, Tr  
Thoreau Realty Trust  
275 Forest Ridge Road  
Concord, MA 01742


Property Identification: 8 Forest Ridge Road      9X Forest Ridge Road  
Concord, MA 01742      Concord, MA 01742  
D31877-96      D31877-96

This application filed on May 19, 2015 and all subsequent proceedings comply with the requirements of General Laws, Chapter 40A, Section 1, et seq., for the issuance of this Special Permit. Copies of this decision and all plans referenced to herein have been filed with the Concord Zoning Board of Appeals and the Concord Town Clerk.

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.

      Stuart T. Freedland  
Signature      Print

      Elizabeth Achebert-Moore  
Signature      Print

      Tom P. Brody  
Signature      Print

I, Anita S. Tekle, Town Clerk for the Town of Concord, hereby do certify that this is a true copy of the Board of Appeals Decision.

      JUL 22 2015  
Anita S. Tekle, Town Clerk      Date

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.

      AUG 12 2015  
Anita S. Tekle, Town Clerk      Date





## Town of Concord

Office of the Town Clerk  
22 Monument Square  
P.O. Box 535  
Concord, Massachusetts 01742-0535

### ANNUAL TOWN MEETING APRIL 12-15, 2015

#### ALTERNATIVE PRD PRELIMINARY SITE DEVELOPMENT AND USE PROPOSAL FOR LOT 6F & PARCEL 6B FOREST RIDGE ROAD

**ARTICLE 19.** On a **MOTION** made by Jack McBride and duly seconded, the following was **VOTED**:

Pursuant to §10.3.4 of the Zoning Bylaw to approve the Black Birch Alternative PRD Preliminary Site Development and Use Proposal for Lot 6F and Parcel 6B Forest Ridge Road dated December 18, 2014, as filed with the Town Clerk and Planning Board.

Passed by a Declared Two-Thirds Majority Vote  
April 12, 2015

A True Copy Attest:

Anita S. Tekle  
Town Clerk