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TOWN OF CONCORD
BOARD OF APPEALS
TOWN HOUSE

Please take notice that in the matter of the Application of Matthew Sepe for a Special Permit under Sections 10 and 11.6 of the Zoning Bylaw for a 7-unit Planned Residential Development at **1888 and 188B Main Street** (Parcels 2342 and 2343) 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.

Andrew W Mara

Andrew Mara, Administrative Assistant
BOARD OF APPEALS

December 22, 2014

DATE

TOWN OF CONCORD**BOARD OF APPEALS**

DECISION of the Zoning Board of Appeals (the Board) on the Application of Matthew Sepe for a Special Permit under Sections 10 and 11.6 of the Zoning Bylaw for a 7-unit Planned Residential Development at **1888 and 188B Main Street** (Parcels 2342 and 2343), Concord, Massachusetts.

This decision is in response to an application filed on September 12, 2014. 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 October 30th & November 6th, 2014, posted and mailed to the Applicant, abutters and other parties of interest as required by law, the public hearing was opened on November 13, 2014, continued to December 11, 2014.

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 (Fisher, Sepucha, Parker) to **GRANT** approval of the Special Permit with conditions based on the following findings:

The Applicant Matthew Sepe, of EMS Development; engineer Richard Harrington, of Stamski & McNary, Inc.; landscape architect Kim Ahern, of Kim Ahern Landscape Architects; and architect Ted Staples of SAE, Inc., appeared before the Board and presented the Application.

The project is for the demolition of the existing structures to allow the construction of 7 detached 3-bedroom single family dwellings with one of the units deed restricted for affordable housing purposes and various site improvements. The Board reviewed Town Counsel's opinion regarding the lot area for zoning purposes and agreed that the basic density for the property is 4 units and the maximum allowed density is 8 units. With the inclusion of the affordable unit, the Board approves the request to increase beyond the basic density from 4 units to 7 units.

Members of the Board reviewed the Planning Board Recommendation with Town Planner Elizabeth Hughes. Mr. Sepe advised the Board that he agreed with the Planning Board recommendation and all of the conditions of approval.

The Board was advised by the Town Planner that she spoke to the Building Commissioner John Minty, who informed her that the Application complied with all sections of the Bylaw and he agreed with the conditions of the Planning Board recommendation.

In review of the application, the Board agreed with the Planning Board and made the following findings:

Section 10.4.2.3 PRD Diversity: The dwelling units will range in size from approximately 2,200 s.f. to 2,400 s.f. with each unit having a two car garage. The Applicant submitted two alternative floor plans with one having a master bedroom on the first floor and two bedrooms on the second floor and the other floor plan having all three bedrooms on the second floor. The Applicant states that potential owners will be able to change exterior architectural elements, such as windows and dormers without substantially altering the floor plan, so the each unit will have a varied looked. The Board finds that the size of the units, the architectural variations and the incorporation of an affordable unit provides a mix of diverse housing opportunities.

One of the requirements of the PRD Bylaw is the affordable dwelling unit shall be integrated into the PRD development. The Board finds that the location of the affordable unit in the least

desirable location directly adjacent to Main Street is not suitably integrated into the development and the affordable unit shall be relocated.

Section 10.4.2.4 Protected Open Space: The area of the common open space shall equal at least twenty-five (25) percent of the total area of the PRD tract with at least 50% of the area of common open space shall be upland. Based on the opinion of Town Counsel that the area of the Assabet River underwater does not count toward the total square footage of the lot, the lot area is 113,770 s.f. The minimum required common open space is 28,443 s.f. with 14,222.s.f of upland. The Applicant is proposing 51,501 s.f. as common open space (43%) with 17,830 s.f. of that area is upland. Additionally, the Applicant is proposing to permanently restrict the 4,092 s.f. fenced in grass area over the soil absorption system for public use by the neighborhood.

The Board discussed the type of restriction that will be placed on the common open space and shall require the area from the centerline of the Assabet River to the Priority Habitat of Rare Species/Estimated Habitat of Rare Wildlife boundary identified on the plans be permanently restricted through a Conservation Restriction pursuant to M.G.L Ch. 184, Sec. 31, Sec. 32 and Sec. 33, which would be accepted by the NRC, Board of Selectmen and the State. The common open space that includes the park and the community garden will be permanently restricted for a park and agriculture use through a restriction, easement, covenant or condition of approval. The Applicant has also agreed to incorporate public access to the grass play area and the sidewalk to the Common Open Space Area in the Access & Utility Easement.

The Applicant has been before the Natural Resources Commission and there does not appear to be any significant issues with the proposed development or any impact on any open space or natural resources located within 100 feet.

The Board finds that the public open space proposed for this PRD is of a shape, dimension, character and location suitable for its use as conservation land, park and community garden area for the benefit of all residents and neighbors.

Section 10.4.2.5 Site Design: The project is for traditional style single family dwellings with a diverse landscaping plan that is a suitable development for the neighborhood. The architecture provides for variety among the units and is in keeping with the neighborhood. A large portion of open space is located at the rear of the property, providing access to the Assabet River for walking and canoe access. The Applicant is proposing a community area located within the open space for residents and neighbors to garden, gather and enjoy the natural features of the site. Additionally, a fenced in open space grass play area is proposed at Main Street (under which is located the septic system) that will provide a buffer between Main Street and the housing.

The Board finds the project establishes a neighborhood with a community feeling where residents and neighbors can enjoy the natural surroundings of the land. Each unit will have its own exclusive use area and will also have access to a common open space park for gatherings adjacent to the Assabet River. Additionally, the project will provide public access to the lawn area at the front of the development, a paved sidewalk from Main Street to the open space area, and two visitor parking spaces. The community garden will also have a few plots open for the public. The project site is located within a mile walking distance from the West Concord Village.

***Special Permits Section 11.6:* Special permits shall be granted by the Board only upon the written determination 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 particular characteristics of the site, and of the proposal in relation to that site and the determination shall include consideration of each of the following:

Section 11.6.1; Impacts on economic or community needs; With funding assistance of up to \$90,000 by the Concord Housing Development Corporation, one of the units will be a deed restricted affordable home at 80% AMI. The common open space that includes the park and the community garden will be permanently restricted for a park and agriculture use through a restriction, easement, covenant or condition of approval and open to the general public. The Applicant has also agreed to incorporate public access to the grass play area and the sidewalk to the Common Open Space Area in the Access & Utility Easement. The Board finds that the project has a positive impact on the community needs with the provision of the affordable unit, open space, park, play area and community garden.

Section 11.6.2; Traffic flow and safety concerns, including parking and loading; The project will be accessed by a new 20-foot wide private drive that terminates with an emergency turnaround and two public parking spaces. Each dwelling unit will have a 2-car garage and room for two additional spaces in front of the garage. There shall be no parking on the sidewalk side of the street (north side) and the berm and sidewalk are to be kept clear in the winter to ensure there is adequate access at all times for emergency vehicles. The Applicant received input from the Historical Commission and is proposing a road name of Ingham Lane after the original property owner. The Board finds the roadway is adequate and sufficient parking is provided.

Section 11.6.3; Adequacy of utilities and other public services; The units are to be served by Town water and electric from Main Street and an on-site sewage disposal system. The form of ownership will be a condominium association with each unit having an exclusive use area around the dwelling. Stormwater runoff is to be handled through a series of catchbasins and subsurface infiltration system with roof runoff from four of the units going to a roof drywell. The stormwater drainage has been reviewed by an outside consultant and found to meet Town standards and requirements and there were no issues or concerns. The Board finds that utilities and other public services are adequate to serve the project.

Section 11.6.4; Impacts on neighborhood character; The project is for traditional style single family dwellings with a diverse landscaping plan that is a suitable development for the neighborhood. The architecture provides for variety among the units and is in keeping with the neighborhood. The Applicant has developed an overall landscape plan for the common spaces, as well as a detailed unit planting plan that appropriately integrates the development into the neighborhood, but provides adequate buffers from each unit and abutters. The Board finds the project establishes a neighborhood with a community feeling where residents and neighbors can enjoy the natural surroundings of the land.

Section 11.6.5; Impacts on the natural environment; Only a small portion of the community garden and the common open space park will be located within the 100-foot buffer to the wetland. The project will place 1.1465 acres in a Conservation Restriction pursuant to M.G.L Ch. 184, Sec. 31, Sec. 32 and Sec. 33 and an additional 0.2331 acres within a perpetual restriction for the park and community garden. The Board finds the project does not have any significant impact on the natural environment.

Section 11.6.6; Fiscal impacts, including impacts on town services, the tax base and employment; A fire hydrant will be installed at the end of the driveway and each of the unit

equipped with smoke and carbon monoxide detection that is reported to dispatch to ensure adequate fire protection. There were no issues or concerns raised by Town Departments regarding the impact of the project on town services. The proposed project represents an increase in tax revenues over the current single family dwelling located on the property; however, it is likely that some of the units will be purchased by families with school age children. The Board finds that any negative impacts are negligible and the adverse effects of the proposed additional dwelling units will not outweigh its benefits 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.

The Board grants the Special Permit subject to the following conditions:

1. Approval is based on the following plans prepared for a Planned Residential Development for Matthew Sepe, EMS Development:

Stamski and McNary, Inc., 1000 Main Street, Acton, MA:

- a. Title Sheet; Sheet 1 of 9: 1888 Main Street Planned Residential Development dated September 12, 2014.
- b. Master Plan; Sheet 2: 1888 Main Street Planned Residential Development revised December 2, 2014.
- c. Record Plan; Sheet 3: 1888 Main Street Planned Residential revised December 2, 2014.
- d. Site Development Plan; Sheet 4: 1888 Main Street Planned Residential Development revised December 2, 2014.
- e. Plan & Profile; Sheet 5: 1888 Main Street Planned Residential Development revised December 2, 2014.
- f. Construction Details; Sheet 6: 1888 Main Street Planned Residential Development revised December 2, 2014.
- g. Construction Details; Sheet 7: 1888 Main Street Planned Residential Development revised December 2, 2014.
- h. Stormwater Pollution Prevention Plan; Sheet 8: 1888 Main Street Planned Residential Development revised December 2, 2014.
- i. Stormwater Pollution Prevention Plan; Sheet 9: 1888 Main Street Planned Residential Development revised December 2, 2014.

Kim Ahern Landscape Architects, 40 Foster St., Littleton, MA 01460:

- j. Landscape Plan; Sheet 1 of 1: 1888 Main Street Planned Residential Development revised December 1, 2014.
- k. Schematic Planting Detail: 1888 Main Street Planned Residential Development dated October 27, 2014.

SAE Proposed Concept Design Elevations and Floor Plans date stamp Received by the Zoning Board of Appeals September 12, 2014

2. In order to preserve the desired diversity and provide flexibility to the Applicant, the Applicant shall adhere to the following items:

- a. The footprint of each dwelling shall be predominantly within the building envelope identified on the approved Master Plan dated November 25, 2014.
 - b. No two adjacent units shall be the same exact design.
 - c. If necessary, the Applicant may use different façade treatments than those currently proposed (such as porches, shutters, modified roof line or bay window).
 - d. The Applicant shall be allowed flexibility in the exterior design of the housing (i.e. altering exterior, roof, porch, window design) so long as the changed designs do not constitute a substantial change in the design or the gross floor area. A substantial change would be an increase or decrease in the gross floor area of more than 5% or as determined by the Building Commissioner.
 - e. The Applicant shall take into consideration the use of roof top solar panels in the orientation of the units.
 - f. No two adjacent units shall be the same paint color unless the units are of a different house style.
 - g. Site fencing shall be consistent with the Site Images provided to the Planning Board on November 18, 2014
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. **Any time during site work or construction,** the Applicant shall coordinate with the Police Department on the use of police details for construction vehicle activity on Main Street if it has been determined necessary by the Police Department.
 5. **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. Utility Details: provide details for the Tap & sleeve and Meter bypass.
 - b. Potable water quality sample tap (at least one designated water quality sample site shall be included in plumbing design).
 - c. Relocation of the affordable unit so that it is further integrated into the development.
 - d. The roadway shall be labeled Ingham Lane.
 - e. Evaluate the use of alternative curbing or no curbing along driveway.
 6. **Prior to the commencement of any site work,** the Applicant shall submit to the Water and Sewer Division a water impact assessment report. This document shall be prepared with attention placed on the collective water system demand requested for this development with specific demand management and conservation measures proposed to minimize this impact on the Towns public water resources. A meeting shall be set up with the Water Conservation Coordinator early in the design process to ensure that water conservation opportunities can be maximized. The findings of this impact assessment allow for determination of a water system connection fee and may require revisions to the plumbing plan for the building.

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).
9. **Prior to the commencement of any site work**, the Applicant shall have on site an independent 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 independent 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 commencement of any site work**, 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.
11. **Prior to the commencement of any site work**, the Applicant and each individual contractor or subcontractor proposing work within in the Town's Right-of-Way (ROW) must obtain Right of Way and Driveway Permits from the Engineering Division prior to any project work beginning. A single ROW/Driveway Permit for the project will not be issued.
12. **Prior to the commencement of any site work**, the Applicant shall receive an Order of Conditions, or Superseding Order of Conditions, issued under the Wetlands Protection Act and be subject to any conditions placed on the project and provide a copy of a recorded Order of Conditions, or Superseding Order of Conditions to the Building Commissioner and NRC.
13. **Prior to the issuance of the permit for installation 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.
14. **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.

15. **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.
16. **Prior to the issuance of any Building Permit**, the Applicant shall provide CMLP a digital copy of the site plans in AutoCAD format. This will allow CMLP to issue an underground primary electrical design, determine transformer locations (requested transformer locations will be helpful), splice vault locations, and issue an estimate for the construction cost.
17. **Prior to the issuance of a Building Permit**, the Applicant shall submit an application and receive approval from the Water and Sewer Division for the final design and installation of drinking water utilities. The application shall include the following:
 - a) Electronic (pdf & AutoCAD) and hard copies (x2) of the proposed water utility plan.
 - b) Identification of a Water/Sewer Division licensed "drain layer" who will be responsible for water system installation activities.
 - c) 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.
 - d) Design Data Sheets for all required cross-connection control devices shall be submitted and approved by the Water/Sewer Division.
18. **Prior to the issuance of any Building Permit**, the Applicant shall submit to the Water and Sewer Division for review and approval all applicable easements, shall record all easements with the Middlesex South Registry of Deeds and provide copies of the recorded documents to the Water and Sewer Division and the Town Planner.
19. **Prior to the issuance of any Building Permit**, the Applicant shall record with the Middlesex South Registry of Deeds the Special Permit and Record Plan.
20. **Prior to issuance of a Building Permit for each unit**, the Applicant shall provide and receive approval from the Water/Sewer Division a Water Service Application for each separate water service connection required. Each application shall include the following:
 - a) A copy of the proposed water service plan.
 - b) Identification of a Water/Sewer Division licensed "drain layer" who will be responsible for water service installation activities.
21. **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.
22. **Prior to the issuance of any Certificate of Occupancy**, the Applicant shall record the approved LTOMP with the Middlesex South Registry of Deeds and provided copies of the maintenance procedures in perpetuity to the Engineering Division, Natural Resources Division and Town Planner.
23. **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.

24. **Prior to the issuance of the first Certificate of Occupancy**, all drainage and utilities shall be installed and the roadway completed to binder course to the satisfaction of Concord Public Works and CMLP.
25. **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.
26. **Prior to the issuance of the first Certificate of Occupancy**, the Applicant shall provide to the Zoning Board of Appeals 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) Require the Condominium Association maintenance crew to truck snow off-site when snow storage areas are at capacity or in the event that stormwater management systems are adversely compromised.
 - b) 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.
 - c) Statement regarding the perpetual public access to the grass area above the soil absorption system, sidewalk, and common open space.
 - d) No parking on the sidewalk side of the street (north side) and the berm and sidewalk to be kept clear in the winter to ensure there is adequate access at all times for emergency vehicles.
 - e) Responsibilities and maintenance of the park and community garden.
27. **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.
28. **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.
29. **Prior to the issuance of the fourth 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 1.1465 acres shown on the Record Plan, last revised December 2, 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 exclusively for conservation purposes. The CR land shall be bounded with permanent visible markers. Bounds shall be shown on the CR plan

30. **Prior to the issuance of the fifth Certificate of Occupancy**, The Applicant shall conduct baseline documentation on the 1.1465-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.
31. **Prior to the issuance of the sixth Certificate of Occupancy**, the Applicant shall complete the construction of the affordable unit and finalize to the satisfaction of the Town all required documents for the affordable deed restriction.
32. **Prior to the issuance of the final Certificate of Occupancy**, the Applicant shall submit to the Town through the Planning Division for review and acceptance a perpetual restriction, easement, or covenant running to or enforceable by the Town for public access to the common open space that includes the park and the community garden.
33. **Prior to the issuance of the final Certificate of Occupancy**, the Applicant shall submit to the Town through the Planning Division for review and acceptance an Access & Utility Easement.
34. **Prior to the issuance of the final Certificate of Occupancy**, the Applicant shall submit to the 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, 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. If any deviations exist, the engineer shall also certify that there will be no negative down-stream impacts with respect to stormwater mitigation as a result of any discrepancies from the design.
35. **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 #41 and #42.
36. **Prior to the issuance of the final Certificate of Occupancy**, the Applicant shall submit for review and approval to the Water and 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 the form of AutoCAD and pdf files shall be provided
37. **Prior to the issuance of the final Certificate of Occupancy**, the Applicant shall submit to CMLP for review and approval all applicable easements, shall record all easements with the Middlesex South Registry of Deeds and provide copies of the recorded documents to CMLP and the Town Planner.
38. **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 Development Plans. 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.

39. **Prior to the final release of the Performance Guarantee**, the Planning Division shall verify that all plantings shown on the approved Landscape Plan and Schematic Planting Detail have been installed. Any minor modification or substitutions shall be reviewed and approved by the Planning Division.
40. **Prior to the final release of the Performance Guarantee**, the Applicant shall provide copies of all executed Trustee training affidavits.
41. **One year following the issuance of the first Certificate of Occupancy and prior to the partial release of the Performance Guarantee**, the Applicant shall submit a report to the Planning Division noting viability of the established landscaping in the common areas required for screening and buffers. Any landscaping found to be dead or dying shall be replaced.
42. **Three years 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 in the common areas required for screening and buffers. Any landscaping found to be dead or dying shall be replaced.
43. **At all times**, the Applicant shall ensure that construction activity is in compliance with the Town's Construction Noise Bylaw.
44. 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.
45. 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.
46. 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.

47. If at any time the construction of the project is not in compliance with the Special Permit and the approved Plan (as modified by this decision), the Board may order that work on the construction of the project be stopped and request the Building Commissioner defer the issuance of any building permits or certificates of occupancy until the non-compliance is corrected.
48. 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**

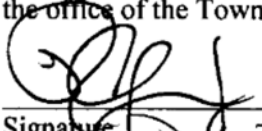
THE BOARD OF APPEALS CERTIFIES as follows:

Name and Address of Owner: William H. & Nellie E. Freeman
1888 Main Street
Concord, MA 01742

Property Identification: 1888 Main Street (Parcel 2342)
Concord, MA 01742
D11350-654

This application filed on September 12, 2014 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.



Signature

Robert Sepeca

Print

Signature

Print

David Tr

Signature

David Fisher

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.

Anita S. Tekle

Anita S. Tekle, Town Clerk

DEC 22 2014

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.

Anita S. Tekle

Anita S. Tekle, Town Clerk

Jan. 13, 2015

Date

**TOWN OF CONCORD
BOARD OF APPEALS**

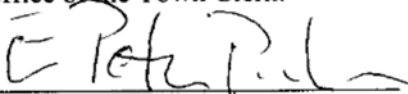

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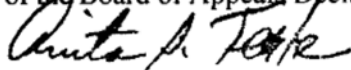
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	<u>Peter Parker</u>
Signature	Print
	<u>Robert Supena</u>
Signature	Print
<u>David Fish</u>	<u>David Fish</u>
Signature	Print

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.

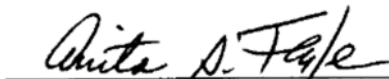


SEP 22 2014

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.



Anita S. Tekle, Town Clerk

Date Jan. 13, 2015