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TOWN OF CONCORD

ZONING BOARD OF APPEALS

TOWN HOUSE

Please take notice that in the matter of the APPLICATION OF ABODE BUILDERS OF NE, INC. for a Special Permit under Sections 6.3.4, 7.5, 10, and 11.6 of the Zoning Bylaw to construct a 16-unit Alternative Planned Residential Development on a portion of the property at 275 Forest Ridge Road, Concord, Massachusetts (Parcel #2970-1-5), the Zoning 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.

Forest Ridge Road Concord

Heather C Carey

Heather Carey, Administrative Assistant
On behalf of the Zoning Board of Appeals

6/23/17
DATE

TOWN OF CONCORD

BOARD OF APPEALS

DECISION of the Zoning Board of Appeals (the Board) on the application of ABODE BUILDERS OF NE, INC, for a Special Permit under Sections 6.3.4, 7.5, 10, and 11.6 of the Zoning Bylaw to construct a 16-unit Alternative Planned Residential Development on a portion of the property at 275 Forest Ridge Road, Concord, Massachusetts (Parcel #2970-1-5).

This decision is in response to an application filed on April 28, 2017. 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 May 25, 2017 and June 1, 2017, posted and mailed to the Applicant, abutters and other parties of interest as required by law, the public hearing was opened on June 8, 2017.

After deliberation and weighing of all the evidence before it, the Board voted 3 to 0 (Sepucha, Freeland, Akehurst-Moore) to **GRANT** approval of the Special Permit with conditions based on the following:

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 Site (Site) is comprised of 2 parcels, one is located on the west side of Forest Ridge Road at the cul-de-sac and entrance to the Thoreau Club and the other is located on the east side of the Thoreau Club. The property is located in the Limited Industrial Park 2 Zoning District and is primarily undeveloped, except for a parking lot for the Thoreau Club that will be removed. The property is surrounded by industrial, residential, recreational and municipal uses. The adjacent zoning is Limited Industrial Park 1 and Residence A. Town water and electric, as well as gas service is available from Forest Ridge Road. There is no Town sewer available.

The project is for the construction of 16 condominium dwelling units that consists of 4 duplex units and 8 single family dwellings. All of the units will be age restricted for age 55 or older and 2 of the units will be deed restricted as affordable and sold to a person(s) earning not more than 80% of the Area Median Income (AMI). 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. Approximately 5.4 acres (Parcel A) of open space is to be gifted to the Town.

The PRD project includes a loop roadway system through the development off Forest Ridge Road and the Thoreau Club driveway. Stormwater drainage for the roadway will be collected and piped to an existing kettle hole basin across the Thoreau Club driveway. The PRD project will be served by Town water and electric and an on-site sewage disposal system. The Applicant is requesting the removal of approximately 3,000 c.y. of earth from the site.

To address safety concerns with increased traffic and vehicle speeds raised by the abutters in the Riverbend complex, the Applicant has agreed to install a speed table and

appropriate signage on Forest Ridge Road near the driveway entrance for the Riverbend complex.

The Applicant is proposing two different architectural styles for the detached single family dwellings (Patio and Colonial II) and a duplex unit that has a variation in the location of the garage doors (Carriage House I & Carriage House II). The Patio Unit is two-bedroom home with 2,350 s.f. of living area, a two car garage and an approximately 1,720 s.f. basement that can be finished. The Colonial II Unit is a three-bedroom colonial style 2-story home with 2,527 s.f. of living area, a 1,300 s.f. basement that can be finished and a two car garage. The duplex unit is comprised of two styles; the Carriage House I Unit is a 2,129 s.f. two-bedroom with a two car garage and a 1,970 s.f. basement that can be finished, and; the Carriage House II Unit is a 1,867 s.f. two-bedroom with a two car garage and a 1,860 s.f. basement that can be finished. 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 2 units that are deed restricted as affordable for low income households earning 80% or less of the Area Median Income. The affordable units will be duplex units in separate buildings.

Board members reviewed the Planning Board Recommendation with Town Planner Elizabeth Hughes. Based on discussion with the Town Planner, the Board added a condition based on the recommendation of the Town Engineer. Mr. McBride advised the Board that he agreed with the conditions of the Planning Board Recommendation as amended. The Board noted that the Community Safety Officer, Building Commissioner, CMLP, Public Works Water/Sewer, Natural Resources Commission and Town Planner did not have any issues or concerns with the project and recommended conditions of approval specific for the proposed project which have been incorporated into this Decision.

Due to the distance to the closest Fire station, the Fire Department recommended that each unit have smoke and carbon dioxide detection that is monitored and reported to central dispatch and there be no parking on one side of the roadway. The Board has incorporated a condition into this Decision

Pursuant to Section 6.3.4, the Board determined the following: the Applicant is requesting a reduction of the front, side and rear yard setbacks from 50 to 20 feet and the transfer of development rights of the allowed gross floor area from Parcel A to Lot 4A. The maximum gross floor area on Lot 4A is 17,370 s.f., which will increase to 33,570 s.f. with the transfer of development rights. The granting of these two requests will allow the development of the Black Birch PRD Phase II to be consistent with the Alternative PRD authorized by the 2017 Annual Town Meeting. The development of the Black Birch PRD Phase II has been shown to have a fiscal benefit for the Town and includes the gifting of 5.4 acres (Parcel A) to the Town that will provide trail connections to other Town owned land. The Board **GRANTS** the reduction of the front, side and rear yard setbacks to 20 feet and the transfer of development rights.

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, the Board found the following: the PRD is substantially consistent with the Plan approved by Town Meeting; that a reduction to the required setbacks is consistent with the Alternative PRD purpose; the proposed height of the dwelling units will not exceed 35 feet; the proposed PRD will not exceed the 33,570 sq.ft. maximum gross floor area for the site; the Applicant is proposing 5.4 acres of open space be gifted to the Town and 1.38 acres of common open space to be owned by the condominium association; the project as proposed offers sufficient diversity in the size and unit styles, and; the Alternative PRD was approved by Town Meeting at the 2017 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 II" Planned Residential Development for Abode Builders of New England:

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

- a. Cover Sheet: revised June 1, 2017.
- b. Existing Conditions Plan: dated April 2017.
- c. Open Space Plan 1 and Plan 2: revised June 1, 2017.
- d. Site & Grading Plan: revised June 1, 2017.
- e. Site Utility Plan: revised June 1, 2017.
- f. Layout Plan: revised June 1, 2017.
- g. Driveway Plan & Profile: revised June 1, 2017.
- h. Erosion Control Plan: revised June 1, 2017.
- i. Details Sheet 1 to 3: revised June 1, 2017.
- j. Landscape Plan Sheet 1 to 3: revised June 1, 2017.

Perley Engineering LLC, 90 Picnic Street, Boxborough, MA 01719

- k. ANR Plan: dated of March 8, 2017.

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

- l. Forest Ridge Road Traffic Calming Measures Sheet 1 to 3: dated May 22, 2017.

Mahoney Architects, 70 Seven Star Lane, Concord MA:

- m. The Patio Home Basement Plan Sheet A-2: dated April 15, 2017.
- n. The Patio Home First Floor Plan Sheet A-3: dated April 15, 2017.
- o. The Patio Home Elevations Sheet A-5 & A-6: dated April 15, 2017.
- p. The Carriage House I & II Basement Plan Sheet A-2: dated April 15, 2017.
- q. The Carriage House I & II First Floor Plan Sheet A-3: dated April 15, 2017.
- r. The Carriage House I & II Elevations Sheet A-5 & A-6: dated April 15, 2017.

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

- s. The Colonial II First Floor Plan Sheet A-1: dated April 28, 2017.
- t. The Colonial II Second Floor Plan Sheet A-2: dated April 28, 2017.
- u. The Colonial II Foundation Plan Sheet A-3: dated April 28, 2017.
- v. The Colonial II Elevations Sheet A-4 & A-5: dated April 28, 2017.

- 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 33,570 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) and engage a solar installer to do an assessment of the units and include information on the solar opportunities in the marketing material.
 - 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 Phase II, (b) the Building Commissioner is satisfied that, following such inclusion, the total gross floor area at Black Birch Phase II will not exceed the maximum permitted gross floor area.
 - k. The project will include 2 units that are deed restricted as affordable for low income households earning 80% or less of the Area Median Income. In the case of the attached units, the affordable units shall not be located in the same building.
 - l. Open Space Parcel A containing approximately 5.4 acres shall be conveyed to the Town for conservation purposes. Open Space Parcel B-1, B-2 and B-3 containing approximately 1.38 acres 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 II" 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 meet with Water/Sewer Division to 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;
 - b. Water demands can be minimized via demand management tools that may be codified in a water use impact report (conservation plan) and Water Customer Data Sheet, and;
 - c. Lawn irrigation system(s), if proposed, can be installed in accordance with the Town of Concord Rules and Regulations Governing Water Use and Connection. A lawn irrigation system is subject to an additional connection fee and shall be registered with the Water/Sewer Division and be operated in accordance with the Town of Concord Water Use Restriction Bylaw.
 - 5) **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.
 - 6) **Prior to the commencement of any site work**, the Applicant shall submit to the Engineering Division, with a copy to the Town Planner, for review and approval a revised stamped plan set incorporating all drainage updates and revisions.

- 7) **Prior to the commencement of any site work**, the Applicant shall submit to the Engineering 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.
- 8) **Prior to the commencement of any site work**, the Applicant shall have on site a qualified 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 qualified independent environmental monitor shall be provided to the Engineering Division 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 Division site evaluation/inspection reports at the frequency detailed in the SWPPP (i.e. Weekly, after storms).
- 9) **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 must be as specified in the Master Deed.
- 10) **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 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 the treatment and/or disposal of the sewage, it shall be installed and maintained in accordance with all requirements of its DEP Approval.
- 11) **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.
- 12) **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.
- 13) **Prior to the issuance of any 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.
- 14) **Prior to the issuance of any Building Permit**, the Applicant shall submit to the Town Planner for review and approval a final landscape plan that incorporates additional screening behind Units #1 and #2.

- 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 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.
- 17) **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.
- 18) **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. An approved water use impact report (conservation plan) and Water Customer Data Sheet which will determine sizing of the water meter and water system connection fee.
 - 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.
- 19) **Prior to commencement of any water utility work**, the applicant shall receive written approval from the Water/Sewer Superintendent of the service application(s) required in Condition #18.
- 20) **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.
- 21) **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.
- 22) **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 one 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 B-1, B-2 and B-3 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.
- 23) **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.
- 24) **Prior to the issuance of the first Certificate of Occupancy**, the Applicant shall submit to the Engineering Division, CMLP and the Town Planner a hard copy and electronic (PDF) copy Interim 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 interim as-built plan outlining any deviations from the design plan, which shall be reviewed and approved by the Engineering Division.
- 25) **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.
- 26) **Prior to the issuance of each Certificate of Occupancy**, the Building Commissioner shall confirm that all exterior lighting is consistent with the Zoning Bylaw.
- 27) **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.

- 28) **Prior to the issuance of each Certificate of Occupancy**, the Applicant shall provide to the Water/Sewer Division a full size record drawing (Arch D), created in accordance with Division standards, of the common water service and each unit's individual water service connections for review prior to finalizing the drawing. Once the draft is approved, a full-size (Arch D) hard copy of the record drawing along with electronic copies in the form of CAD and pdf files shall be provided.
- 29) **Prior to the issuance of each Certificate of Occupancy**, the Applicant shall provide the Water/Sewer Division Water Demand Minimization Affidavit(s) to demonstrate work was performed in accordance with the approved demand mitigation measures. The Water/Sewer Division may perform a site visit to confirm installation of water conservation measures.
- 30) **Prior to the issuance of the twelfth (12th) 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.
- 31) **Prior to the issuance of the final Certificate of Occupancy**, the Applicant shall convey Parcel A shown on the ANR Plan dated March 8, 2017 to the Town for conservation purposes, acting by and through the Natural Resources Commission with approval by the Select Board.
- 32) **Prior to the issuance of the final Certificate of Occupancy**, the Applicant shall monument the boundary of the conservation land in locations and form to the satisfaction of the Natural Resources Director.
- 33) **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.
- 34) **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 #39 and #40.
- 35) **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.

- 36) **Prior to the issuance of the final Certificate of Occupancy**, the Applicant shall install to the satisfaction of the Engineering Division all crosswalks and the speed table on Forest Ridge Road.
- 37) **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.
- 38) **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.
- 39) **Prior to the final release of the Performance Guarantee**, the Applicant shall provide copies of all executed Trustee training affidavits.
- 40) **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 #13. Any landscaping found to be dead or dying shall be replaced.
- 41) **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 #13. Any landscaping found to be dead or dying shall be replaced.
- 42) **At all times**, the Applicant shall ensure that construction activity is in compliance with the Town's Construction Noise Bylaw.
- 43) 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.
- 44) 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.

- 45) 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.
- 46) This Special Permit shall lapse within two (2) years, which shall not include such time required to pursue or await the determination of an appeal, from the date of grant thereof, if a substantial use has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.
- 47) Violation of any of the conditions of the Special Permit Decision shall be ground for revocation of the Decision, or any building or occupancy permit granted hereunder. If at any time the construction of the project is not in compliance with the Decision and the approved Plan (as modified by this decision), the Building Commissioner may order that work on the construction of the project be stopped and 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**

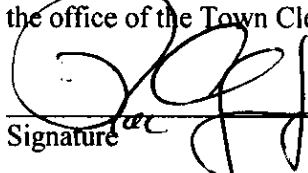
THE BOARD OF APPEALS CERTIFIES as follows:

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

Property Identification: 275 Forest Ridge Road
Concord, MA 01742
D28057/35

This application filed on April 28, 2017 and all subsequent proceedings comply with the requirements of General Laws, Chapter 40A.

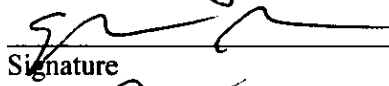
An appeal from this decision shall be made pursuant to General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after the date of filing such decision or notice thereof in the office of the Town Clerk.



Signature

Robert Sepura

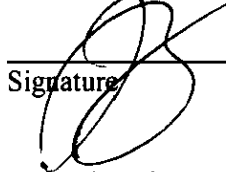
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Signature

Elizabeth Akelunt-Moore

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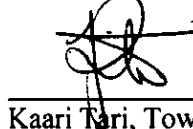


Signature

John A Brady

Print

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




Kaari Tari, Town Clerk

June 23, 2017

Date

I, Kaari Tari, 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.



Kaari Tari, Town Clerk

JUL 14 2017

Date