

17-0



**TOWN OF CONCORD
BOARD OF APPEALS**

THE BOARD OF APPEALS CERTIFIES as follows:

Name and Address of Owner: Concord Housing Development Corporation
PO Box 195
Concord, MA 01742

Property Identification: 6X Winthrop Street
Concord, MA 01742
D61102/485

This application filed on December 1, 2016 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]
Signature

[Signature]
Signature

[Signature]
Signature

Stuart T. Freeland
Print

Robert Sepucha
Print

Elizabeth Arnhurst-Moore
Print

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

[Signature]
Patricia Clifford, Acting Town Clerk

MAY 12 2017
Date

I, Patricia Clifford, Acting 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.

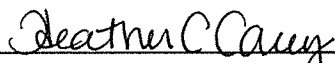
[Signature] Assistant
Patricia Clifford, Acting Town Clerk

JUN - 2 2017
Date

Geantham Group
c/o Catherine Mallon
99 Pleasant St
Malden MA 02148

TOWN OF CONCORD
ZONING BOARD OF APPEALS
TOWN HOUSE

Please take notice that in the matter of the APPLICATION OF THE GRANTHAM GROUP LLC, for a Comprehensive Permit under M.G.L. Chapter 40B with waivers to the Town of Concord Zoning Bylaws for an 83-unit affordable assisted living facility at 6X Winthrop Street, Concord, Massachusetts (Parcel #2013-1), 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.



Heather Carey, Administrative Assistant
ZONING BOARD OF APPEALS

5/12/17

DATE

TOWN OF CONCORD

BOARD OF APPEALS

DECISION of the Zoning Board of Appeals (the Board) on the application of THE GRANTHAM GROUP LLC, for a Comprehensive Permit under M.G.L. Chapter 40B with waivers from the Town of Concord Zoning Bylaws for an 83-unit affordable assisted living facility at 6X Winthrop Street, Concord, Massachusetts (Parcel #2013-1).

This decision is in response to an application filed on December 1, 2016. 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 December 29, 2016 and January 5, 2017, posted and mailed to the Applicant, abutters and other parties of interest as required by law, the public hearing was opened on January 12th and continued to February 9th, March 23rd and April 13th.

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 Comprehensive Permit with waivers and conditions based on the following:

I. Existing Conditions

The Site is a 6.1 acre portion of a larger 12.8 acre property that is undeveloped vacant land with a predominantly gravel surface covered by non-native invasive grasses and scrub brush vegetation. The 6.1 acre Site is generally flat and does not contain any significant specimen trees. The Site is located outside of the Wetland Conservancy District and 200-foot Riverfront area for the Assabet River to the east. The property is bounded on the south by the Nashoba Brook and contains wetlands, 100-year floodplain and riverfront area. At the northern edge of the property there is an existing gravel road from Commonwealth Avenue used by MCI-Concord to gain access around the southern portion of the prison that extends across a portion of the property. The western side of the property is bounded by the Bruce Freeman Rail Trail (BFRT).

II. Proposed Project

The Applicant, The Grantham Group LLC, is seeking a Comprehensive Permit under M.G.L. Chapter 40B through the State's Low Income Housing Tax Credit Program (LIHTC) to develop an 83-unit assisted living facility. The Project will have 17 units restricted for occupants who earn less than 30% Area Median Income (AMI) and 26 units restricted for occupants earning less than 60% AMI (collectively the "Low Income units"), and 40 units restricted for occupants earning less than 150% AMI (the "Moderate units"). The Applicant has agreed to support expanding the Local Preference to allow for 30 of the 43 Low Income units and 28 of the 40 Moderate income units to be set aside for a local preference.

The Project will consist of a single approximately 54,000 square foot (sf.) 3-story building (the "Building"). The Building will contain community and administrative space, country kitchen, the central kitchen and food preparation areas, a lobby living room and

fireplace, a library, activity room, pub area and beauty parlor. The 83 units will be comprised of 71 studio/alcove apartments averaging 330 sf. and 12 one bedroom apartments averaging 525 sf. Each unit will contain a galley kitchen with a microwave oven, sink and refrigerator as well as individual bathrooms with life safety and emergency call systems.

The Site does not have any frontage on an existing public or private way. The Applicant is proposing a new access driveway from the terminus of Winthrop Street over the BFRT. The property owner has obtained a right-of-way easement across the BFRT from the Massachusetts Department of Transportation (MassDOT). The driveway into the Site will be 22 feet wide and end in a turnaround in front of the Building. There are two parking areas with a total of 43 spaces. The Applicant is proposing an emergency vehicle access from Elm Place, adjacent to the MCI-Concord prison to the north side of the Building. A portion of the driveway and associated stormwater drainage areas are within the 100-year floodplain for which the Applicant is proposing compensatory flood storage.

The Applicant has prepared a Site Planting Plan that incorporates vegetation and plantings, a patio seating area facing the Assabet River, and landscaping screening elements along the northern boundary. The Site Planting Plan incorporates a walking trail on the land adjacent to the Assabet River. This conceptual plan was developed in collaboration with the Applicant, Town staff, Concord Land Trust, Sudbury Valley Trustees, a member of the West Concord Advisory Committee and the property owner, Concord Housing Development Corporation (CHDC). The CHDC has agreed that the area outside the Applicant's lease area will be put into a permanent Conservation Restriction. The Applicant has agreed to provide in-kind services for invasive species removal, clean-up and grading for this walking trail as is more particularly set forth herein.

III. Requested Waivers

Principal Uses Industrial Park A Zoning District

An assisted living facility is not permitted in the Industrial Park A Zoning District. The Applicant is requesting a waiver to permit this use. The Board **GRANTS** this waiver.

Minimum Lot Frontage

The minimum required frontage on an existing public way is 200 feet. The lot does not have any frontage on a public street. The Applicant is requesting a waiver from this requirement. The Board **GRANTS** this waiver.

Table III Dimensional Regulations

The maximum permitted height in the Industrial Park A Zoning District is 40 feet measured to the mean average finished grade between the plate and the ridge of a pitched roof for each side. The Applicant is requesting a waiver to allow a height of 42.5 feet. The Board **GRANTS** this waiver.

IV. Required Findings

In reaching its decision, the Board reviewed the application, supporting material and studies, plans, Town Planner's report, Town's outside consultant reports, comments received by Town staff, various letters and statements submitted by residents, the Planning Board's recommendation dated April 12, 2017 and the requirements pursuant to M.G.L. Ch. 40B and 760 CMR 56.

The Board discussed, amended and adopted the conditions recommended by the Planning Board, and determined that development of the project would not endanger public health, safety or welfare; would not impair critically-needed open space; would not be out of character in terms of density, scale and building design in relation to surrounding developments; and would be consistent with local needs in view of the ongoing need for low and moderate income housing for the elderly.

The Board considered the statutory minimum requirements for affordable housing set forth in M.G.L. Ch. 40B and acknowledged that the Town has met these requirements. However, the Board also acknowledged that the Town is supportive of continuing to add affordable assisted living units to the housing stock, and that the subject property was identified as appropriate for affordable housing within the Town's 2015 Housing Production Plan.

The Board also recognized that the DHCD Letter of Determination of Project Eligibility under the Low Income Housing Tax Credit (LIHTC) program, dated August 18, 2016, states the following:

1. The proposed project appears generally eligible under the requirements of the Low Income Housing Tax Credit program.
2. The site of the proposed project is an appropriate location for the project.
3. The proposed housing design is appropriate for the site.
4. The proposed project appears financially feasible in the context of the Concord housing market.
5. The initial *proforma* for the project appears financially feasible and consistent with the requirements for cost examination and limitations on profits on the basis of estimated development and operating costs.
6. A third-party appraisal has been commissioned. The LIHTC Program Guidelines state that the allowable acquisition value of a site with a comprehensive permit must be equal to or less than the value under pre-existing zoning, plus reasonable carrying costs.
7. The ownership entity will be a single-purpose entity, controlled by the Applicant subject to limited dividend requirements and to meet the general eligibility standards of the LIHTC Program.
8. The Applicant controls the Site.

The Board has adopted the following conditions of approval:

- 1) Approval is based on the following plans prepared for a Comprehensive Permit at 1257 Elm Street:

Fuss & O'Neill, 78 Interstate Dr., West Springfield, MA 01089:

- a. C0.00 Cover Sheet dated March 1, 2017;
- b. C1.00 Existing Conditions Plan dated November 16, 2016;
- c. C1.01 Lease Area Plan dated April 28, 2017;
- d. C1.10 Site Preparation and Erosion & Sediment Control Plan dated February 17, 2017;
- e. C1.20 Site Layout Plan dated March 1, 2017;
- f. C1.30 Site Grading & Drainage Plan dated March 1, 2017;
- g. C1.40 Site Utility Plan dated March 1, 2017;
- h. C3.00 Erosion & Sediment Control Details Plan dated November 16, 2016;
- i. C3.10 Construction Details Plan dated February 17, 2017;
- j. C3.20 & C3.30 Construction Details Plan dated November 16, 2016;
- k. C3.30 Construction Details Plan dated March 23, 2017;
- l. C3.40 Construction Details Plan dated February 17, 2017;
- m. C3.50 to C3.80 Construction Details Plan dated November 16, 2016;
- n. L1.10 Site Planting Plan dated March 23, 2017;
- o. L1.20 Planting Plan Enlargement & Details Plan dated November 16, 2016

Smook Architecture & Urban Design, Inc., 8 Lyman St., Suite 206, Westborough, MA 01581:

- p. A0.0 Existing Conditions Photo & Locus Plan dated November 14, 2016;
- q. A0.1 Locus Plan & Building Views Plan dated November 14, 2016;
- r. A0.2 Drawing List, Abbreviations & Code Summary Plan dated November 14, 2016;
- s. A1.0 Basement Floor Plan dated November 14, 2016;
- t. A1.1 First Floor Plan dated November 14, 2016;
- u. A1.2 Second Floor Plan dated November 14, 2016;
- v. A1.3 Third Floor Plan dated November 14, 2016;
- w. A1.4 Roof Plan dated November 14, 2016;
- x. A1.5 Enlarged Unit Plan dated November 14, 2016;

- y. A3.1 & A3.2 Exterior Elevations Plan dated November 14, 2016;
 - z. A3.3 Partial Exterior Elevations dated November 14, 2016;
 - aa. A4.1 to A4.5 Wall Sections Plan dated November 14, 2016.
- 2) The Applicant shall notify the Board in writing of any proposed change to the Project which the Building Inspections Division determines to be material, and if the Board determines that the change is substantial, it shall require a public hearing and modification of this Comprehensive Permit by the Board, as set forth in 760 CMR 56.05(11). Any such change that the Board determines to be insubstantial shall be incorporated into this decision by reference.
 - 3) The Applicant has agreed to provide \$25,000 of in-kind services for invasive species removal, clean-up and grading of a walking trail within the area to be placed in a permanent Conservation Restriction and connecting to the BFRT.
 - 4) The Applicant will allow for investigation of federal, state or philanthropic funding opportunities related to sustainable, low-carbon design features in order to offset any added expense that the project would incur as a result of incorporating such features. The inclusion of such features will not require further amendment to the Comprehensive Permit, if such funds/programs are identified.
 - 5) The pedestrian sidewalk/path along the driveway and from the BFRT across the natural meadow to the walking path within the Conservation Restriction area shall be open to the general public. The Applicant has agreed to maintain and mow the meadow area.
 - 6) The Applicant shall abide by the terms of the Memorandum of Agreement executed by the Applicant, the Concord Housing Development Corporation (the Property Owner), and the Town on April 11, 2017.
 - 7) The development shall be limited to eighty three (83) assisted living rental units, comprised of 71 studio/alcove apartments and 12 one bedroom apartments. Seventeen (17) units shall be restricted for occupants who earn less than 30% Area Median Income (AMI) and twenty-six (26) units restricted for occupants earning less than 60% AMI (the "Low Income Units"). Forty (40) units shall be restricted for occupants earning less than 150% AMI (the "Moderate Units"). Income shall be adjusted for household size, as published by the Massachusetts Department of Housing and Community Development (DHCD). All units shall be restricted in perpetuity.
 - 8) The Developer shall construct and make available for rent 51% of the unit square footage at Low Income and 49% of the unit square footage at Moderate Income.
 - 9) The Comprehensive Permit is subject to all conditions imposed on the project by the Department of Housing & Community Development (DHCD). Any changes to the application, including but not limited to alterations in unit mix, rental price, development team, unit design, site plan and financial *proforma* reflecting land value, must be approved by DHCD.

- 10) The project must be organized and operated so as not to violate the state anti-discrimination statute (M.G.L. c151B) or the Federal Fair Housing statute (42 U.S.C. s.3601 et seq.). No restriction on occupancy may be imposed on the Low Income units (other than those created by state or local health and safety laws regulating the number of occupants in dwelling units and/or the provisions of the required DHCD Affordable Housing Restriction for the Low Income units). Notwithstanding the foregoing, occupancy of all units may be restricted to residents who meet the age and needs criteria appropriate to an assisted living residence.
- 11) The Applicant shall comply at all times with all provisions of its Affirmative Fair Housing Marketing Plan (the "AFHMP"), including, without limitation, the initial lottery and other tenant selection procedures, as required by DHCD Guidelines for G.L. c.40B Comprehensive Permit Projects applicable to the Project (the "40B Guidelines"). To the extent permitted by applicable law, the AFHMP shall include a local selection preference for 30 of the 43 Low Income units and 28 of the 40 Moderate units for the following: (a) current residents of Concord, (b) employees of Concord, (including Public School employees, Concord-Carlisle Regional High School employees, Housing Authority employees and other similar municipal employees), (c) employees of a business located in Concord, and (d) households with a child attending the Concord Public School or Regional High School. Of these local preference units, 70% shall be reserved for Concord preference except in the event that a qualified Concord preference applicant is not available. Upon completion of the initial tenant leasing, the Applicant shall submit a report to the Planning Division documenting the local preference categories. Notwithstanding the foregoing, occupancy of all units may be restricted to residents who meet the age and needs criteria appropriate to an assisted living residence.
- 12) The selection of the tenants for the Low Income and Moderate units shall be the responsibility of the Applicant in cooperation with the Monitoring Agent as designated by the Regulatory Agreement for the project. If the Town is named as Monitoring Agent or has any such responsibility as may be provided in the Regulatory Agreement, there shall be a provision for funds to be paid directly to the Town for said monitoring responsibility. The designation of potential tenants shall be done by lottery in accordance with the standards required by DHCD. It is understood and agreed by the Board that it is the Town of Concord's responsibility to provide and submit to DHCD data and information to justify the need for local preference, and if such information is not provided within 30 days of a request from DHCD or from the Applicant for such information, or if DHCD denies the local preference, then the requirement for local preference shall not be binding on the Applicant.
- 13) This Comprehensive Permit may be transferred or assigned only as provided in 760 CMR 56.05(12)(b), as amended, which requires that the Town of Concord be notified if the Comprehensive Permit is transferred. The Town of Concord acknowledges that it is the intent of Applicant to transfer the Comprehensive Permit to a limited partnership which will be formed as a single purpose entity to construct, own and

operate the Project, with the Applicant serving as the Developer and Management Agent for the Project.

14) **Prior to the commencement of any site work**, the Applicant shall revise the Plans and submit six (6) sets to the Town Planner for review that show the following:

- a. Modification of the freestanding sign shown on Sheet C3.60 to reflect the correct name of the Project;
- b. The fire access road at the rear of the Building extending beyond the ends of the Building to provide aerial ladder access to the sides of the Building;
- c. The fire hydrant at the rear of the Building accessible to fire apparatus from the fire access road;
- d. Appropriate fire lane markings of fire access roads and the front entry circle;
- e. The substitution of the proposed mowed turf area between the rear of the Building and the prison as a natural meadow;
- f. Designation of parking spaces in the western parking lot for visitors and residents with vehicle and the eastern parking lot for employee parking only;
- g. Site lighting within the parking areas and along the driveway shown on the grading and utility plans;
- h. Appropriate signage regarding the public use of the pedestrian sidewalk/paths;
- i. Addition of a manhole upstream of manhole PDMH-2;
- j. The inclusion on the south side of the driveway at the BFRT crossing either include a culvert to allow flow under the roadway or size and design the new Winthrop Street drainage to collect and discharge the flow;
- k. Spot grading details consistent with Concord Public Work's Design & Construction Standards and Details at the sidewalk and ramps to verify ADA compliance and at the intersection of the driveway and BFRT to clarify the drainage patterns at the intersection;
- l. A surveyed plan stamped by a Professional Licensed Surveyor depicting the bearings and distances of the property boundary, existing emergency access easement on the Department of Corrections prison property, the proposed drainage easement area and the proposed conservation restriction area. The plan shall also include locations of boundary markers to be set. The plan set shall also verify the proposed emergency access and proposed drainage line up with the appropriate easements;
- m. Replacement of the existing water main within the full extent of the limit of work shown and replacement of the existing hydrant as well as the 2-inch water service to #56 Winthrop Street;
- n. Addition of a water main isolation valve at the property line;

- o. Relocation of the proposed 2-inch potable service connection to the 8-inch main serving the terminal hydrant proposed at the northwestern corner of the facility;
 - p. The extent of the irrigation system installed on the property and a notation as to whether it is connected to the Town's water supply;
 - q. The construction of a sidewalk from the west side of the Building to the walking trail behind the Building to the north;
 - r. The extent of mowed turf areas and irrigation;
 - s. Evaluation of the landscaping plan in relation to the grading necessary for the Low Impact Design for the stormwater drainage to ensure there is adequate area for the landscaping to survive;
 - t. Evaluation of the volume of fill generated by the site and Building grading, and whether this material can be used on site to create natural screening between the project and the prison, and;
 - u. Tree planting and path alignment in the northeast corner shall be in a natural form for an open meadow with trees in groups instead of in a line.
- 15) **Prior to the commencement of any site work**, the Applicant shall provide the Fire Department for review and approval a turning analysis for the front entry circle for the Town's E-One ladder truck. Alteration of the configuration of the entry circle may be required and approved by the Board.
- 16) **Prior to the commencement of any site work**, the Applicant shall conduct soil test pits in compliance with the Public Work's Design & Construction Standards & Details in the locations of the drainage basins to confirm infiltration basin elevations and High Ground Water separation. If the separation varies from the Applicant's design assumptions, there may be the need for a mounding analysis and changes to the design based on the test pit results that would require third party review and approval by the Board.
- 17) **Prior to the commencement of any site work**, the Applicant shall submit to the Town Engineer, Town Planner and Community Safety Officer for review and approval a Construction Sequencing and Safety Plan for the site. The plan shall include the location of construction material delivery and laydown areas, location of construction employee parking areas, and locations where construction vehicles will enter and exit the site. The plan should be developed for all phases required during construction.
- 18) **Prior to the commencement of any site work**, the Applicant shall submit to the Water/Sewer Superintendent as part of a Water Service Application an acceptable final water utility design plan incorporating all Water/Sewer Division's design standards.
- 19) **Prior to the commencement of any site work**, the Applicant shall submit to the Water/Sewer Division a water use impact report and conservation plan with

attention placed on the integration of demand management and conservation options (low flow fixture and efficient water using appliances). The report shall also include the proposed irrigation system design and proposed grass seed mix. The water use impact report will be used to determine the meter size and to calculate the required connection fees (assessed for peak potable water demand measured in gallons per minute (gpm) greater than 20 gpm at a rate of \$138.00 per gpm). If any irrigation system is connected to the Town's water supply, assessment of associated demands will be incorporated into the water service connection fee noted above.

- 20) **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 SWPPP shall include a phasing plan, a signed illicit discharge statement, and requirement that all stormwater structures within the limit of work be thoroughly cleaned prior to the application of the top course of pavement. The electronic copy shall contain an individual file for the SWPPP, ECP and LTOMP.
- 21) **Prior to the commencement of any site work**, the Applicant shall have on site a qualified independent environmental monitor (EM) to ensure proper operations of all sediment and erosion control measures throughout the duration of the project. The EM shall also be responsible for overseeing invasive species removal and replanting efforts. The name and resume of the qualified independent environmental monitor shall be provided to the Engineering and Natural Resources Divisions for review and approval at least three weeks in advance of any site work. At a minimum, the EM shall be a "qualified person" with a minimum of 3 years professional environmental experience in construction monitoring and invasive species control efforts and shall meet the qualifications outlined in sec. 4.4.1 of the EPA Construction General Permit. The EM shall provide the Engineering and Natural Resources Divisions site evaluation/inspection reports at the frequency detailed in the SWPPP (i.e. weekly, after storms).
- 22) **Prior to the commencement of any site work**, the Applicant shall obtain a Right-Of-Way Permit from the Engineering Division for all proposed work within the Winthrop Street right of way for all modifications. The application for said permit shall include the individual curb ramp and driveway apron designs with sufficient spot grading to facilitate review. Ramps and aprons shall meet all applicable ADA and Town of Concord Design Standards.
- 23) **Prior to the clearing and grubbing of the site**, the Applicant shall:
 - a. Install the erosion and sedimentation controls and all safety measure identified in the Site Safety Plan pursuant to Condition #17.
 - b. Coordinate with the Town Planner a pre-construction meeting with Town staff to review proposed work and approved reporting protocol.

- c. Provide a construction and inspection schedule two weeks before the pre-construction meeting.
 - d. Provide to the Town Planner, and update as necessary, the name, address, and 24-hour contact information of an on-site construction manager, who shall have primary responsibility for the oversight of day-to-day construction activities at the Project site.
- 24) **Prior to the issuance of a Building Permit**, the Applicant shall submit to DHCD and the Planning Division for review and approval, a final affirmative fair marketing and lottery plan with related forms that are consistent with the *Comprehensive Permit Guidelines, Section III, Affirmative Fair Housing Marketing Plans*.
 - 25) **Prior to the issuance of a Building Permit**, the Applicant shall submit a proposed Regulatory Agreement regarding the rental and affordability of the development to the Board of Appeals in the form required by DHCD.
 - 26) **Prior to the issuance of a Building Permit**, the Applicant shall provide exterior light fixture cut-sheets to the Building Inspections Division to verify conformance with the Town's Zoning Bylaw Lighting Section.
 - 27) **Prior to the issuance of a Building Permit**, the Applicant shall provide to the Public Works Engineering Division a drainage easement plan and documents for review and acceptance by the Public Works Commission.
 - 28) **Prior to the issuance of a Building Permit**, the Applicant shall provide the Concord Municipal Light Plant (CMLP) with a detailed electrical load letter including proposed service size(s) in order to properly size the transformer(s).
 - 29) **Prior to the issuance of a Building Permit**, the Applicant shall provide CMLP a digital copy of the site plans in AutoCAD format.
 - 30) **Prior to the issuance of a Building Permit**, all proposed metering will require approval from the CMLP Meter Supervisor.
 - 31) **Prior to the issuance of a Building Permit**, the Applicant shall receive approval from the Massachusetts Department of Environmental Protection (MA DEP) pursuant to 310 CMR 15.000 Section 15.003(2) for the on-site sewage disposal system for systems serving a facility with a design flow of 10,000 gallons per day or greater. If the Applicant receives a Determination of Design Flow from MA DEP that the design flow is less than 10,000 gpd, 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.
 - 32) **Prior to the issuance of a Building Permit**, the Applicant shall submit to the Health Division for review and receive approval for a food service facility plan.
 - 33) **Prior to the issuance of a Building Permit**, the Applicant shall receive an Order of Conditions, or Superseding Order of Conditions, issued under the Wetlands

Protection Act and shall be subject to any conditions placed on the project by said orders. The Applicant shall provide a copy of a recorded Order of Conditions, or Superseding Order of Conditions to the Building Commissioner.

- 34) **Prior to issuance of a Building Permit**, the Applicant shall install permanent visible markers along the Conservation Restriction boundary. Location of the proposed boundary markers shall be provided to the Natural Resources Director for review and approval.
- 35) **Prior to the issuance of a Building Permit**, the Property Owner shall place a Conservation Restriction ("CR") on the portions of the Property shown on Sheet C1.01 Lease Area Plan dated April 28, 2017 pursuant to M.G.L. Chapter 184, §§ 31-33. To be considered complete, the CR must be accepted and approved by the Natural Resources Commission and the Select Board. The Property Owner shall also obtain approval from the Secretary of the Executive Office of Energy and Environmental Affairs, and record the CR at the Registry of Deeds, however this approval and recording is not required prior to issuance of the Building Permit. The CR 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.
- 36) **Prior to the issuance of a Building Permit**, the Property Owner shall submit baseline documentation of the restricted land to be conducted 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, and an electronic version, shall be provided to the Division of Natural Resources.
- 37) **Prior to the issuance of a Building Permit**, the Applicant shall provide a copy of the ground lease that includes public access to the pedestrian sidewalk/path along the driveway and from the BFRT across the natural meadow to the walking path within the Conservation Restriction area.
- 38) **Prior to the issuance of a Building Permit**, the Applicant shall submit to Water/Sewer Division an application for water service which shall include the following;
- a. Identification of a Water/Sewer Division licensed "drain layer" who will be responsible for water and sewer service installation activities.
 - b. Two full size copies of the approved water and sewer utility plan.
 - c. An approved water use impact report and conservation plan which will determine sizing of the water meter and water system connection fee.
 - d. A plumbing plan which shall be provided including;
 - i. Meter bypass detail (with allowance for Water/Sewer Division issued security lock).

- ii. Design Data Sheets for all required cross-connection control devices. The devices shall not be installed without approval from the Water/Sewer Division.
- 39) **Prior to the commencement of any water utility work**, the Applicant shall receive written approval from the Water/Sewer Superintendent on the water service application required in Condition #38.
- 40) **Prior to the installation of any Project Branding exterior signage**, the Applicant shall receive a Sign Permit from the Building Inspections Division.
- 41) **Prior to the issuance of a Certificate of Occupancy**, as part of the Applicant's in-kind contribution identified in Condition #3, the Applicant shall remove from the Conservation Restriction land all surficial debris, such as dumped appliances, fixtures and tires, unless it is determined to be historically significant by the Planning Division.
- 42) **Prior to the issuance of a Certificate of Occupancy**, the Health Division shall perform an inspection to verify that food service facilities have been constructed in accordance with approved plan.
- 43) **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall submit to the Water/Sewer Division a full size (Arch D) draft record drawing, created in accordance with Division standards, for review and approval. Following approval, the Applicant shall submit to the Division a full-size (Arch D) hard copy of the record drawing along with electronic copies in the form of CAD and PDF files.
- 44) **Prior to the issuance of a 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 with the Middlesex South Registry of Deeds.
- 45) **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall submit to the Water/Sewer Division applicable Water Demand Minimization Affidavit(s) to demonstrate work was performed in accordance with the water use impact report and conservation plan.
- 46) **Prior to the issuance of a Certificate of Occupancy**, if determined by CMLP, the Applicant shall submit to CMLP for review and approval a suitable utility easement for the proposed primary underground distribution system including Town fiber communication system where located outside of the Town Right-of-Way. The easement shall be reviewed and approved by CMLP prior to recording. All easements shall be recorded with the Middlesex South Registry of Deeds by the Applicant and the Applicant shall provide copies of the recorded documents to CMLP and the Town Planner.

- 47) **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall submit to the Engineering and Natural Resources Divisions, CMLP and the Town Planner a hard copy and electronic (PDF) copy As-Built Plan of the site including grading, flood plain compensatory storage volume, elevations of all drainage infrastructure (i.e. inverts, rims, underground infiltration systems, etc.), driveway/parking grades, building elevations, all utilities and other pertinent information. The plan must be stamped by a Professional Engineer. A certification letter signed by a Professional Engineer shall outline any deviations from the design plans. If any deviations exist, they shall be clearly shown on the plan and described in a narrative format, and the engineer shall also certify that there will be no negative down-stream impacts with respect to stormwater mitigation as a result of the deviations from the design plans. Additional stormwater calculations performed by the design engineer may be needed to demonstrate the modifications have no negative impacts down-stream. This submittal shall be provided a minimum of three weeks prior to applying for occupancy to ensure adequate review time. Additionally, to assist in review, the as-built items shall be bold while all other plan items shall be screened down to clearly depict as-built conditions.
- 48) **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall install to the satisfaction of the Fire Department a radio call box.
- 49) **Prior to the issuance of a Certificate of Occupancy**, the Town Planner shall verify that all plantings shown on the approved Landscape Plan have been installed. Any proposed minor modification or substitutions shall be reviewed and approved by the Town Planner prior to installation. If the Applicant provides documentation to the Town Planner that it would be detrimental to complete weather dependent aspects of the landscaping, the Town Planner may require a performance guarantee to ensure compliance. The Applicant shall submit to the Town Planner for review and approval a performance guarantee covering the cost of the landscaping and installation and a temporary certificate of occupancy shall be issued until all landscaping work is completed and a certificate of occupancy shall be issued subject only to completion of the landscaping work.
- 50) **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall install to the satisfaction of the Town Planner all parking space striping, pavement markings, such as directional arrows, stop lines, crosswalks, and appropriate signage or pavement markings identifying the small car spaces as shown on the Plans. All striping, pavement markings and signage shall be maintained.
- 51) **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall submit to the Planning Division copies of all construction and site work related documents provided to DHCD.
- 52) **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall execute and record at the Middlesex South Registry of Deeds the required DHCD Regulatory Agreement.

- 53) **Upon completion of the project, and after the issuance of the final Certificate of Occupancy**, the Applicant shall submit to both DHCD and the Concord Select Board a project cost examination for the Comprehensive Permit project, to be approved by DHCD under applicable DHCD regulations and guidelines.
- 54) **One year following the issuance of the final Certificate of Occupancy**, the Applicant shall submit a report to the Town Planner noting viability of the required landscaping. Any landscaping found to be dead or dying shall be replaced. Any minor modification or substitutions shall be reviewed and approved by the Town Planner prior to installation.
- 55) **Three years following the issuance of the final Certificate of Occupancy**, the Applicant shall submit a report to the Town Planner noting viability of the established landscaping. Any landscaping found to be dead or dying shall be replaced. Any minor modification or substitutions shall be reviewed and approved by the Town Planner prior to installation.
- 56) **At all times**, the Applicant shall ensure that construction activity is in compliance with the Town's Construction Noise Bylaw.
- 57) Neither the Town of Concord nor any of its elected or appointed representatives, boards, agencies, employees, agents or independent contractors shall have any liability to any party for any error or omission in the design or construction of the Project.
- 58) By accepting this Comprehensive Permit, the Applicant agrees to the terms, covenants, conditions, and agreements contained herein. Each condition of this Comprehensive Permit shall run with the land, and, in accordance with its terms, be applicable to and binding on the Applicant, the Applicant's successors and assigns for as long as the Project does not strictly and fully conform to the Town of Concord's Zoning Bylaw.
- 59) This Comprehensive Permit shall expire three years from the date hereof unless construction on the Project has commenced by that time. The Applicant may apply to the Board for reasonable extensions to this Permit for good cause.
- 60) All invoices generated by the Board's peer reviewers during the application stage shall be paid within thirty days of the filing of this decision with the Town Clerk, whether this decision is appealed or not. No post-permit reviews of documents or plans shall be conducted, nor building permit or certificate of occupancy issued, until all prior invoices have been paid in full.
- 61) In the event that construction is commenced and thereafter interrupted or delayed for a period of six months or longer, the Applicant shall satisfy the Building Inspections Division that it has restored the site sufficiently to prevent any nuisance conditions that would adversely affect abutters or the public interest, including the appropriately controlled stockpiling and/or storage of soil, other materials and equipment to protect the public health, safety and environment.

62) The Board or its agents may enter onto and view and inspect the Property during regular business hours to ensure compliance with the terms of this Permit.

A large, stylized handwritten signature or mark, possibly a stylized 'Z' or a similar abstract shape, drawn in black ink.