



**TOWN OF CONCORD  
BOARD OF APPEALS**

**Record, Decision, and Comprehensive Permit  
265 & 269 Forest Ridge Road, Concord, MA**

The Town of Concord Board of Appeals (the “Board”) **GRANTS** the Application of Thoreau Residences LLC (the “Applicant”) for a Comprehensive Permit pursuant to G.L. c. 40B to construct a two hundred and thirty-seven (237) unit multi-family residential rental community, with fifty-nine (59) units being affordable, at to be known and numbered as 265 & 269 Forest Ridge Road, in Concord, Massachusetts.

**I. THE PROJECT**

**Property:** The subject property (the “Property”, or the “Site”), is a 13.9-acre parcel of land depicted as Lot A on the Approved Plans, which is a portion of a 33.05-acre property currently known and numbered as 275 Forest Ridge Road (Concord Assessor’s Parcel ID #2970-1-5).

**Applicant:** Thoreau Residences LLC. The term “Applicant” shall also include the Applicant’s successors and assigns.

**Owner:** Thoreau Real Estate LLC, by virtue of a deed recorded with the Middlesex South Registry of Deeds in Book 80075, Page 249, with a principal place of business 770 P Street NW, #213, Washington, DC 20001.

**Project Eligibility:** By letter dated December 20, 2023, the Massachusetts Housing Finance Agency (“MassHousing”) issued a project eligibility letter (MassHousing ID No. 1206) (the “Project Eligibility Letter” or “PEL”), pursuant to the Federal Home Loan Bank of Boston New England Fund (“NEF”) Program where MassHousing serves as the Subsidizing Agency, to the Applicant.

**Application:** On December 21, 2023, the Applicant filed an application for a Comprehensive Permit (the “Application”) with the Board.

**The Board:** The following Board members attended all public hearing sessions or missed one session and reviewed a video recording of the missed session and all materials submitted: Theo Kindermans, Chair; Ravi Faiia, Vice Chair; Elizabeth Dwyer Leonard. Thomas Swaim, Associate Member participated in the hearings but did not vote.

**Approved Plans:** The plans and specifications listed in **Exhibit A** are approved by the Board as a part of this Comprehensive Permit.

**Decision Date:** On \_\_\_\_\_, Theo Kindermans, Chair, Ravi Faiia, Vice Chair, and Elizabeth Dwyer Leonard, voted to issue a Decision (by a vote of \_\_\_ to \_\_\_), to approve the Project, with conditions, and grant the Requested Waivers as set forth below.

**Exhibits:** Exhibit A, as described in this Decision, is incorporated herein by reference.

**II. RECORD OF PROCEEDINGS**

1. Pursuant to M.G.L. c. 40B, §§ 20-23, the Applicant filed the Application with the Board on December 21, 2023, requesting approval to construct two hundred sixteen residential rental

units to be located within two buildings, on a site containing approximately 13.9 acres, to be known and numbered as 265 & 269 Forest Ridge Road, in Concord, Massachusetts, to be called “Residences at Thoreau” (i.e., the “Project”).

2. A public hearing of the Board was duly advertised on January 4, 2024 and January 11, 2023 in *The Concord Journal*. The public hearing was opened on January 18, 2024 and continued to February 29, 2024, April 4, 2024, May 16, 2024, July 25, 2024, September 26, 2024, October 30, 2024, December 5, 2024, January 23, 2025, February 27, 2025, March 13, 2025 and April 3, 2025. In addition to the public hearings, the Board conducted two duly-noticed site visits on March 19, 2024 and December 3, 2024. The hearings were hosted both in-person at the Town House Hearing Room at 22 Monument Square, Concord Municipal Light Plan Public Conference Room at 1175 Elm Street or the 1st Floor Meeting Room at 141 Keyes Road, and on the video teleconferencing platform Zoom, with the exception of the January 18, 2024, April 4, 2024, May 16, 2024 and September 26, 2024 public hearings, which were only conducted on the video teleconferencing platform Zoom.

3. Sitting as voting members of the Board and present throughout the hearing were Theo Kindermans, Chair; Ravi Faiia, Vice Chair; and Elizabeth Dwyer Leonard, Member.

4. The Board received and deliberated upon the items of record at the above-listed hearings and meetings. The following Decision incorporates the testimony received from the public, municipal departments, boards and commissions, the Board’s outside consultants, representatives of the Applicant and of the public, and sets forth the Board’s findings, states the Board’s actions, and lists the conditions the Board voted to include in this Decision at its meeting on **ADD DATE**.

5. Upon the conclusion of the public hearing on **ADD DATE**, the Board voted to **GRANT** the application of Thoreau Residences LLC for Comprehensive Permit, under Massachusetts General Laws Chapter 40B, to construct a 237 unit multi-family residential rental community with 59 units being affordable, at the Property, together with related infrastructure and amenities, all in accordance with the requirements set forth in the MassHousing Project Eligibility Letter dated December 20, 2023, and **GRANT** the waivers requested as set forth below.

### **III. JURISDICTIONAL FINDINGS**

1. The Applicant, Thoreau Residences LLC, is a Massachusetts limited liability company having a principal place of business of 275 Forest Ridge Road, Massachusetts 01742.

2. The Applicant is qualified to make an application for a Comprehensive Permit because it is a limited divided organization as defined under 760 CMR 56.02 by virtue of receiving the Project Eligibility Letter, dated December 20, 2023, from MassHousing (MassHousing ID No. 1206) pursuant to the Federal Home Loan Bank of Boston New England Fund (“NEF”) Program where MassHousing serves as the Subsidizing Agency, and by virtue of its agreement to restrict its profit to be set forth in the Regulatory Agreement by and between the Applicant and Mass Housing; thus satisfying the requirements of 760 CMR 56.04(1)(a).

3. The Site is comprised of a 13.9-acre parcel of land depicted as Lot A on the Approved Plans, to be known and numbered as 265 & 269 Forest Ridge Road, in Concord, Massachusetts, to be called “Residences at Thoreau”, which is a portion of a 33.05-acre property currently known and numbered as 275 Forest Ridge Road (Concord Assessor’s Parcel ID #2970-1-5).
4. The Applicant has demonstrated that it has control of the Site, via a Limited Liability Company Agreement, dated October 24, 2023, between Applicant and Owner. MassHousing issued a Project Eligibility Letter stating that the Applicant has site control and satisfies the requirements of 760 CMR 56.04(1)(c).
5. The Site is located within the Limited Industrial Park 2 (LIP#2) Zoning District; multi-family residential use is not an allowed use in this zoning district.
6. The Applicant has submitted a complete application and other information as required by, and in accordance with, the requirements of the Act, the regulations at 760 CMR 56.00 et. seq. (the “Regulations”), and the Board.
7. The Town of Concord had not met any of the statutory minima, as set forth in M.G.L. c. 40B s. 20 or 760 CMR 56.03(3) through 56.03(7), as of the date of the application. The number of low- or moderate-income housing units in the Town of Concord is 9.96% and constitutes less than ten percent (10%) of the Town’s total housing stock according to the latest decennial census of the Town and as reported in the Executive Office of Housing and Livable Communities (“EOHLC’s”, previously the Department of Housing and Community Development’s, “DHCD’s”) Subsidized Housing Inventory as of June 29, 2023.
8. As proposed and approved, twenty five percent (25%) of the two hundred and thirty-seven (237) dwelling units or fifty-nine (59) units (the “Affordable Units”) shall be reserved for rent to households earning no more than eighty (80%) percent of the Area Median Income, adjusted for household size, for the Boston-Cambridge-Quincy HMFA (HUD Metro FMR Area).
9. The Board finds that the Project is “consistent with local needs” and addresses “Local Concerns” as defined in the Regulations.

#### **IV. FINDINGS ON APPLICATION**

1. The Applicant submitted sufficient information concerning an assessment of impacts to municipal services resulting from the proposed development.
2. The Board received comments from various departments and boards of the Town of Concord including the Concord Historical Commission, Regional Housing Services Office, Health Division, CPW Water & Sewer Division and Fire Department.
3. Rental units are greatly needed in the community and region and will provide housing options to a range of individuals and families.
4. Pursuant to M.G.L. c. 40, § 53G, the Board retained Greenman-Pedersen, Inc. (“GPI”) to conduct peer reviews of the civil, stormwater, and traffic engineering elements of the Application and Davis Square Architects to assist in peer review of architectural elements of the Application.

5. The Board also accepted the assistance of Joseph Peznola, PE of Hancock Associates as a consultant through a Chapter 40B technical assistance grant provided by the MassHousing Partnership.
6. The Board heard public comment at several hearing sessions and accepted public comment by mail, email, and hand-delivery during the hearing.
7. The Board's Engineering Consultant GPI submitted a preliminary peer review letter dated December 2, 2024 of the Applicant's civil plans and stormwater management report prepared by Allen & Major Associates, Inc.(A&M). A&M submitted revised plans and a comment letter dated March 3, 2025. GPI provided a revised review letter dated March 21, 2025, and determined that the Applicant had adequately addressed all of GPI's comments with the inclusion of recommended conditions, which have been incorporated into this Decision.
8. On April 3, 2024, GPI submitted a preliminary peer review report regarding the traffic engineering report dated December 2023 prepared by MDM Transportation Consultants, Inc. (MDM), on behalf of the Applicant. MDM provided a revised traffic study dated October 2024. GPI provided a revised review letter dated December 19, 2024 with MDM providing a response letter dated January 16, 2025. GPI provided a third review letter dated January 23, 2025 with MDM providing a response letter dated February 13, 2025. In a final review letter dated February 26, 2025, GPI determined that the Applicant had adequately addressed all of GPI's comments with the inclusion of recommended conditions, which have been incorporated into this Decision.
9. The final recommended conditions of these peer reviews and of the Town departments/divisions and boards/committees are included in the Conditions below. The Board finds that those Conditions, and all other conditions in this Decision, address substantial Local Concerns that outweigh the regional need for affordable housing and are necessary for the preservation of public health, safety, and the environment.
10. On March 26, 2025, the Applicant submitted a comprehensive set of updated civil and landscaping plans, reflecting the cumulative updates to such plans as amended throughout the hearing process. The plans and specifications as approved by the Board are listed in **Exhibit A**, attached hereto and incorporated herein, and collectively constitute the "Approved Plans".
11. The Applicant submitted an initial list of requested waivers with its Application, which was subsequently amended within the public hearing process. At the March 13, 2025 public hearing, the Board voted to grant such waivers as described below.
12. During the course of the hearings, the Board sought and received comments from Town Boards, Departments, Commissions and other Town staff, from its peer review consultants, and the public as noted above. The Applicant has addressed these comments and issues adequately, and there are no outstanding issues, provided that the Project complies with the conditions set forth below.

## V. REQUESTED WAIVERS

The Board's findings on the Applicant's requested waivers follow below. The Board makes no findings regarding, and does not grant, any waivers not requested in the Approved Waivers below.

1. **Waiver from Sign Bylaw Section 8:** The Site is located in the Limited Industrial Park #2 Zoning District and subject to limitations on the total sign area and type of signs permitted. The Applicant requests a waiver to allow a dual faced sign with an approximate face dimension of 5'-4" x 7' (37.3 square feet ea. Side/74.6 square feet total) and a stone base of approximately 7'-5" x 2'-8" as shown on the Approved Plans. Accordingly, the Board **DENIES** the waiver for a dual faced sign and **GRANTS** the dimensional waiver for a single faced sign.

2. **Waiver from Concord Zoning Bylaw, Section 1.3.2 Definitions:** Affordable housing under the Bylaw is defined as "[a] dwelling unit that by deed restriction is and will remain (a) for sale and sold at a selling price that will result in an annual shelter cost (which for this purpose shall include, to the extent required by the applicable federal, state or local program, real estate taxes, insurance and mortgage interest) of not more than thirty percent (30%) of the annual household income of a qualified affordable housing unit purchaser; or (b) available for rent and rented at an annual rent (which for this purpose shall include, to the extent required by the applicable federal, state or local program, an appropriate allowance for utilities to the extent they are not otherwise included in the rent) that will result in an annual shelter cost of not more than thirty percent (30%) of the annual household income of a qualified affordable housing unit tenant; and/or, (c) a dwelling unit that qualifies and that will be included in the Affordable Housing Inventory for the Town of Concord that is maintained by the Massachusetts Department of Housing and Community Development or any successor entity. A qualified affordable housing unit purchaser or a qualified affordable housing unit tenant with respect to a unit is an individual or household with total annual income which qualified such purchaser or tenant under the appropriate provisions of the federal, state or local program applicable to the unit. The Applicant requests a waiver to define "affordable housing" as consistent with the definitions set forth in Chapter 40B Regulations at 760 CMR 56.03(3) of low to moderate income housing and as per the requirements of MassHousing under the NEF Subsidy Program. Accordingly, the Board **GRANTS** this waiver.

3. **Waiver from Concord Zoning Bylaw, Section 4 Table I-Principal Use Regulations, Section 11.7 Variance:** Multi-unit residential dwelling as proposed is prohibited in the underlying district, other than with a variance or as a Alternative Planned Residential Development (PRD), which would require a special permit in the LIP#2 Zoning District and limit the project to 8 units per building. The Applicant requests a waiver to allow 237 Multi-family dwelling units in two buildings with accessory uses, including without limitation, vehicular/bicycle parking, utilities, management/leasing office, resident indoor and outdoor common area spaces, resident community rooms, solar uses and solar panels on structures, reciprocal rights of access with the Thoreau Club, signage, the removal and filling of earth incident to the construction of the Project, and other appurtenant uses customary to residential uses, all as may be depicted in the Final Plans. Accordingly, the Board **GRANTS** this waiver.

4. **Waiver from Concord Zoning Bylaw, Section 5 Table II-Accessory Use Regulations:**

Common driveways are prohibited in the LIP#2 Zoning District. The Applicant requests a waiver of this prohibition to allow a common driveway across Lot B for the benefit of Lot A as shown on the Plans. Accordingly, the Board **GRANTS** this waiver.

~~5. **Waiver from Concord Zoning Bylaw, Section 10.3.4 (Alternative Planned Residential Development), Section 10.4 (Application):**~~

5. **Waiver from Concord Zoning Bylaw, Section 6 (Dimensional Regulations) and Table III,**

**Dimensional Regulations:** Under this provision of the Bylaw, the maximum building height in the LIP #2 Zoning District is 40 ft., and not more than 3 stories, excluding basements. The maximum lot coverage is 35%, including the gross ground floor area of all buildings and all paved areas. The maximum floor area ratio is 3,000 sq. ft. gross floor area per acres for all uses other than educational, R&D, and light manufacturing uses. The minimum side yard setback is 50 ft.<sup>1</sup>, and no parking area may be placed within 20 ft. of the side and rear lot lines, except where joint parking areas are permitted by the Planning Board through Site Plan Approval. The Applicant requests a waiver to allow two five story buildings with a maximum height of 57 ft. 8 in. (Building A) and 55 ft. 6 in. (Building B), an increase in the maximum lot coverage to approximately 41%, an increase in the maximum allowable gross floor area to **ADD SQUARE FOOTAGE**, and a side yard setback of **ADD REQUESTED SETBACK DISTANCE**. Accordingly, the Board **GRANTS** these waivers.

6. **Waiver from Concord Zoning Bylaw, Section 7.5 – Earth Removal and Fill:** The removal or filling of soil, loam, peat, sand, gravel or stone (herein, “earth”) from or into any property not in public use is prohibited in all districts, except when incidental to and in connection with construction of a building or street or other activity authorized by this Bylaw. No earth removal or filling permit shall be required for moving earth within the limits of a lot or contiguous lots in the same ownership provided that no such moving shall take place across or within a street. Earth removal or filling in excess of 1,000 cubic yards requires a special permit issued by the Board. The Applicant requests a waiver to allow earth removal or filling to be conducted in accordance with the Final Plans. Accordingly, the Board **GRANTS** this waiver.

7. **Waiver from Concord Zoning Bylaw, Section 7.6.4.1 Groundwater Conservancy District**

**Permitted Uses:** A significant portion of the property is located in the Groundwater Conservancy District. Section 7.6.4.1 allows any residential use permitted in the underlying district in which the land is situated, subject to the same use and development regulations as may otherwise apply thereto, whether by right or by special permit, provided that all development, including structural and non-structural activities, are in compliance with Section 7.6 and do not require a special permit as herein after provided in Section 7.6.5. The Project proposes an on-site wastewater treatment facility in excess of 440 gallons per day per 40,000 sq. ft. The Applicant requests a waiver to the extent that Zoning Bylaw requirements for a Special Permit pursuant to Section 7.6.5.8 are superseded/waived by the Comprehensive Permit Decision. Accordingly, the Board **GRANTS** this waiver.

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For all for buildings other than those for which a building permit was issued prior to February 14, 1980.

8. **Waiver from Concord Zoning Bylaw, Section 7.7 Off Street Parking, Loading, and Design Standards, including Section 7.7.2.8 Reserved Parking Spaces, and Table IV, Minimum Parking:** This provision of the Bylaw requires two (2) spaces per dwelling unit or one and one-half (1-1/2) spaces per dwelling unit for subsidized low- and moderate-income housing or elderly housing developments. The Planning Board may authorize reserved parking spaces pursuant to Zoning Bylaw Section 7.7.2.8. The Applicant requests a waiver to allow for a total of 380 parking spaces with 29 reserved spaces to be provided if required by the Applicant to meet parking demand in the project as shown on the Final Plans and as conditioned within Comprehensive Permit. Accordingly, the Board **GRANTS** this waiver.

9. **Waiver from Concord Zoning Bylaw, Section 11.8 Site Plan Review:** In the LIP#2 Zoning District, a change of use requires Site Plan Approval from the Planning Board. The Applicant requests a waiver from Site Plan Review. Accordingly, the Board **GRANTS** this waiver.

10. **Waiver from Concord Prohibition on The Expansion of Fossil Fuel Infrastructure Bylaw:** Under this provision of the Bylaw, no building permit shall be issued by the Town for the construction of new buildings that include the installation of new On-Site Fossil Fuel Infrastructure. The Applicant requests a waiver to allow for a variety of energy options, including on-site fossil fuel infrastructure, to support onsite gas grills, pool heaters, and generators required to maintain critical systems. Accordingly, the Board **GRANTS** this waiver.

11. **Waiver from Concord Public Works (the "CPW") Design & Construction Standards & Details:** The CPW Design & Construction Standards & Details specify construction standards and details for pavement, sidewalks, stormwater structures and pipe materials. The Applicant requests a waiver to allow for modification of standard details for construction aspects as shown on the Final Plans including pavement, sidewalk, stormwater structures, and pipe materials as the project will remain private in perpetuity and no maintenance obligation of the CPW shall be necessary. All water systems shall be constructed in accordance with CPW Water & Sewer standards and the electrical system with the Concord Municipal Light Plant standards. Accordingly, the Board **GRANTS** this waiver.

~~12. **Waiver from Concord Building Permit Fees:** The Applicant request a waiver to allow the building permit fees for the Project to be assigned by those fees in effect at the time the Comprehensive Permit application was made and not subject to any increases.~~

12. **Waiver from Concord Subdivision Rules & Regulations Section 3.4:** The Planning Board is required to endorse the lotting plan under the phrase "Approval Under the Subdivision Control Law Not Required". The Applicant requests a waiver to the extent that Comprehensive Permit Decision grants waivers/exceptions from the applicability of specific provisions of the Planning Board's Subdivision Rules & Regulations to allow the endorsement of the ANR Plan by the Board. Accordingly, the Board **GRANTS** this waiver.

## **VI. DECISION AND CONDITIONS FOR APPROVAL**

This Comprehensive Permit shall be a master permit which is issued in lieu of all other local permits or approvals that would otherwise be required, except for permits required under state law such as Building Permits and Certificates of Occupancy under the State Building Code; provided, however, the Applicant shall pay all local fees for such permits or approvals in effect

as of the date of the filing of the comprehensive permit application, including but not limited to building permits, inspections, water connections, and curb cuts, unless such fees are specifically waived or reduced by this Decision, or unless otherwise arranged to be paid by or on behalf of the Applicant.

For the foregoing reasons, the Town of Concord Zoning Board of Appeals votes, by a vote of **?? in favor and ?? opposed**, to **GRANT** approval of the application of Thoreau Residences LLC for a Comprehensive Permit (including the Approved Waivers) for the Project consisting of two hundred and thirty-seven (237) rental housing units and other improvements shown on the “Approved Plans” (as defined below) on the Property pursuant to Chapter 40B, subject to each and every one of the following conditions:

## **VII. CONDITIONS**

### **A. Regulatory Conditions**

1. All of the Project’s units shall be rental units unless a change to the tenure of the proposed units is approved in accordance with 760 CMR § 56.07(4)(a).
2. The development shall be limited to a total of 237 rental units with one hundred and seventy-eight (178) unrestricted rental rate units and fifty-nine (59) dwelling units (or 25% of the total number of units if a different number of units is constructed) (hereinafter, the “Affordable Units”) restricted in perpetuity for rental to households whose maximum income does not exceed eighty percent (80%) of area median income for the Boston-Cambridge-Quincy HMFA (HUD Metro FMR Area), as published by EOHLIC.
3. The unrestricted rental rate units shall be ADD BEDROOM COUNT numbers and unit sizes.
4. The breakdown of Affordable Units shall be ADD BEDROOM COUNT numbers and unit sizes.
5. The Applicant shall construct and make available for lease affordable and market rate units proportionately based on the 75/25% ratio in perpetuity.
6. The Affordable Units shall be interspersed throughout the Project at original construction amongst units and shall have approximately the same bedroom ratio or mix as the other units in the Project as designated by the Applicant by agreement with the Subsidizing Agency, all in accordance with the Subsidizing Agency’s Letter of Final Approval. The Affordable Units shall be indistinguishable from the unrestricted rental rate units as viewed from the exterior, with the exception that not all the units will have balconies. If the Project is phased, the Affordable Units shall be built at proportionally the same rate as the unrestricted rental rate units.
7. The Applicant shall annually recertify to the Subsidizing Agency, or less frequently as may be required by the Subsidizing Agency, the continuing eligibility of any tenant in an Affordable Unit. If a previously eligible tenant becomes ineligible to occupy an Affordable Unit, the Applicant may charge the tenant a market rate rent; however, the Applicant shall comply with the Subsidizing Agency’s requirements for converting another unit to an Affordable Unit, with such process and requirements to be further detailed in and as approved by the Subsidizing Agency in the Regulatory Agreement. Upon request, the Applicant shall provide the Town with all necessary information to determine whether the required affordability levels are in place.

8. A springing affordable restriction and regulatory agreement, in a form mutually acceptable to the Town, and the Applicant, and in a form and substance reasonably acceptable to the Subsidizing Agency (the "Local Regulatory Agreement"), shall be recorded with the Middlesex South Registry of Deeds against the Site before issuance of any occupancy permit for the Project. The Town shall send a draft of the Local Regulatory Agreement to the Applicant within sixty (60) days after the Concord Town Clerk issues a Certificate of No Appeal on the Comprehensive Permit Decision.

9. The Local Regulatory Agreement shall (a) become effective only if and when the Regulatory Agreement with the Subsidizing Agency is terminated, expires, or is otherwise no longer in effect and is not replaced with another regulatory agreement with another Subsidizing Agency; (b) require that the Project shall remain a rental project so long as it does not comply with the Zoning Bylaw; (c) require that at least 25% of the apartments shall be rented in perpetuity to low- and moderate-income households as those terms are defined in M.G.L. c. 40B, §§ 20-23; (d) restrict or limit the dividend or profit of the Applicant if and as required under M.G.L. c. 40B and 760 CMR 56.00, et. seq.; and (e) restrict the number of allowed units as set forth in this Comprehensive Permit. If this Comprehensive Permit is modified, the Applicant and the Town shall modify the Local Regulatory Agreement as necessary to conform it to the modified Comprehensive Permit.

10. Each condition in this Decision shall run with the land and shall, in accordance with its terms, be applicable to and binding on the Applicant.

11. While the Regulatory Agreement with the Subsidizing Agency (or one with another Subsidizing Agency) is in effect, the Subsidizing Agency shall be responsible for monitoring compliance with affordability requirements pursuant thereto. However, the Town may request, and the Applicant shall provide, all information that was provided to the Subsidizing Agency, and the Town may take any enforcement measures reserved to the Town under G.L. c. 40B and 760 CMR 56.00 regarding excess profits and affordability.

12. If and when the Local Regulatory Agreement takes effect, the affordability requirements shall be enforceable by the Town in accordance with 760 CMR 56.00.

13. Nothing in this Decision shall be deemed to limit the Town's authority to enforce this Comprehensive Permit in the legal exercise of its zoning enforcement powers. If and when the Town becomes responsible for monitoring the affordability requirements for the Project, the Applicant shall pay the Town a monitoring fee that is consistent with the monitoring fees required by the Subsidizing Agency.

14. To the extent allowed by the Subsidizing Agency and applicable law, the Applicant shall provide local preference categories for the maximum allowable percentage of Affordable Units as determined by the Subsidizing Agency, as requested by the Town during the initial lease-up of the Project. The Town shall be responsible for demonstrating the need for local preference to the Subsidizing Agency in order for the Subsidizing Agency to approve a local preference category. The Applicant's selected affordable housing administrator shall provide examples to the Town regarding what the Subsidizing Agency has commonly accepted from other municipalities to demonstrate the need for a local preference. The Town shall retain

responsibility for preparing the demonstration of local need, and the affordable housing administrator shall submit such demonstration to the Subsidizing Agency.

15. If the Subsidizing Agency approves a local preference, the Applicant shall implement this local preference pursuant to procedures approved by the Subsidizing Agency and comply with all applicable law. The costs associated with the marketing of units in the Project, including the advertising and processing for the Affordable Units, shall be borne by the Applicant.

16. The Applicant shall cooperate with the Town's preparation of any documentation required for approval of the local preference categories by the Subsidizing Agency. The Board acknowledges that it will be required to provide evidence satisfactory to the Subsidizing Agency of the need for the foregoing local preference and to obtain approval of the categories of persons qualifying for the same, and in no event shall the Applicant be in violation of the terms of this Comprehensive Permit to the extent the Subsidizing Agency disapproves the local preference requirement or any aspect thereof. If the Board or its designee does not provide such information within sixty (60) days of a written request by the Applicant, its Lottery Agent, the Subsidizing Agency or EOHLC, then this condition shall be void.

17. The Applicant shall annually submit to the Town copies of all documents and information regarding its costs and revenues from the Project that it is required to provide to the Subsidizing Agency.

18. The Town, by and through the Board and the Building Inspections Division, shall have continuing jurisdiction over the Project to ensure compliance with the terms and conditions of this Decision.

19. Before the issuance of a building permit, the Applicant shall obtain Final Approval from the Subsidizing Agency pursuant to 760 CMR 56.04(7) and shall provide evidence of such Final Approval to the Building Inspections Division and the Town. At the discretion of Town departments and officials with jurisdiction, permits for demolition, excavation, foundations, site infrastructure/utilities, and other site preparation work may be approved prior to Final Approval.

20. The Applicant shall notify the Board in writing of any proposed change to the Project which the Building Commissioner 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, all as set forth in 760 CMR 56.05(11). Any such change that the Board determines or that is deemed to be insubstantial shall be automatically incorporated into this decision by reference.

21. 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, all as required by the Guidelines for M.G.L. c.40B Comprehensive Permit Projects applicable to the Project promulgated by EOHLC (the "40B Guidelines").

22. Subject to the foregoing, the Applicant shall submit to the Town Planner and the Building Inspections Division fully coordinated architectural, civil engineering/stormwater, structural,

and landscaping plans prior to the issuance of a building permit as provided under Section VII.C.10.

23. The Project shall be constructed in accordance with the Final Plans and the Conditions in this Decision. The Applicant shall comply with all local by-laws, rules, and regulations of the Town of Concord and its boards, officers, and commissions unless expressly waived in this Decision.

24. Any time during site work or construction, the Applicant shall coordinate with the State Police and the Concord Police Department on the use of police details for construction vehicle activity on Main Street (Route 62) if it has been determined necessary by the State Police or Concord Police Department.

25. At all times, the Applicant shall require all construction worker vehicles to park at the Site. Parking of construction worker vehicles on Forest Ridge Road or any public street is prohibited.

26. The Town of Concord may use Building Inspections Division staff and/or retain a consulting building inspector for this Project to review the plans, issue permits, inspect construction activities and ensure compliance with this Comprehensive Permit. The Applicant shall be responsible for the reasonable costs associated with this consultant. Unless otherwise stated, the Board may designate an agent or agents to take any actions or make any decisions described herein, provided, however, if third party consultants are retained to perform certain reviews, such reviews may only be undertaken to ensure that the work described in the Final Plans is consistent with the conditions within this Decision, shall be performed in a timely manner and at a reasonable cost for work consistent with the scope and cost for such work based upon third party reviews or monitoring with respect to comparable projects in the area, and shall also provide in advance, a proposed scope of work and associated cost ascribed to such work.

#### **B. Conditions to be Satisfied Prior to the Commencement of any Site Work**

Prior to the commencement of any site work activities (including site clearing, tree removal, grading, etc.) on the Property (collectively, the "Site Work"), the Applicant shall comply with the following:

1. Submit to the Health Division for review and approval a Form C for the construction of a new on-site sewage disposal system for the existing Thoreau Club facility at 275 Forest Ridge Road. A Certificate of Compliance for the new system shall be required prior to the commencement of any site work for the Project.
2. Submit to the Town Planner for distribution to Town Departments for review and approval a Construction Management and Safety Plan ("CMSP") for the site. Particular attention shall be given to vehicle and pedestrian safety and the movement of construction vehicles on to and off the Property. The CMSP shall, at a minimum, address the following matters:
  - a. Hours of construction - Construction shall only occur Monday through Saturday between the hours of 7:00 a.m. and 5:00 p.m., except that construction activities may continue until 7:00 p.m. during the months of June through August, and there shall be no

construction activity on Federal holidays. Once exterior construction of a building is substantially completed (including installation of windows or temporary inserts), interior construction on weekdays and Saturdays may commence at 7:00 a.m. and continue to 8:00 p.m. Work outside these hours shall be permitted only if and as allowed by applicable local bylaws and/or with the express permission of the Building Inspections Division.

b. Truck routes

- i. number of truck trips
- ii. hours of operation for truck trips
- iii. size of and specification of trucks
- iv. plans to mark truck with identification placards

c. Trash and debris removal

d. Construction Phasing and Schedule including timing and phasing of construction site clearing; construction of roadways and utilities; construction of buildings, etc.

e. Safety protection measures and fencing employed to protect the movement of pedestrians and vehicles within the Site, the adjacent property and along the adjacent roadways.

f. Communications, including the Contractor's representative(s) available 24/7 and emergency contacts

g. Construction Staging

- i. Staging areas
- ii. Site office trailers
- iii. Storage trailers/containers
- iv. Open storage and stockpile areas
- v. Delivery truck holding areas
- vi. Re-fueling areas
- vii. Porta-potties

3. Install erosion and sedimentation controls and coordinate through the Town Planner a pre-construction meeting with Town staff to review proposed work and safety fencing and protocols shown on the Construction Management and Safety Plan. Following the meeting, the Applicant shall install all required safety fencing and protocols to the satisfaction of the Fire Department.

4. Submit to the Concord Building Inspections Division, CPW Engineering, and Concord Police Department written notification of the approximate volume to earth to be removed and

approval from the Chief of Police as to the days and hours of operation and type of vehicle to be used on any street for removal of earth. This information shall be provided at least forty-eight (48) business hours prior to any removal of earth.

5. Provide a copy of the EPA's Notice of Intent General Permit (NPDES) and executed Stormwater Pollution Prevention Plan (SWPPP), and the Erosion Control Plan (ECP), to the CPW Engineering Division for review. Both a hard copy and electronic (.pdf) copy shall be provided to CPW Engineering Division.

6. Retain 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 EM shall be provided to the CPW Engineering Division for review and approval at least two weeks in advance of any site work. At a minimum, the EM shall be a "qualified person" with a minimum of three 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 Division with site evaluation/ inspection reports at the frequency detailed in the SWPPP (i.e., weekly, after storms).

7. Submit a Project Notification Form (PNF) to the Massachusetts Historical Commission with a copy to the Building Inspections Division and the Concord Historical Commission, which includes documentation of all structures and any remnants of structures that are over fifty years old through exterior and interior photographs (keyed to a site plan) and historical research, such as age, architect, builder, owner, purpose and context.

8. Have a licensed professional conduct an inspection and test the existing hydrants HB12-010 and HB13-002 located off Forest Ridge Road and provide that report to the Fire Department and CPW Water & Sewer Division. If the report indicates any maintenance issues, the Applicant shall correct those issues and have the hydrants re-inspected and tested with a revised report submitted to the Fire Department and CPW Water & Sewer Division.

9. Meet with CPW Water & Sewer Division to review the proposed scope of water utility work and sufficiently demonstrate that:

- a. Existing water service infrastructure can be assessed, updated, and connected to the Project in accordance with the CPW 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.

10. Record with the Middlesex South Registry of Deeds the Comprehensive Permit Decision and provide a copy of the recorded Decision to the Building Inspection Division and Town Planner.

11. Provide to the Building Inspections Division:

- a. The company, name, address and business telephone number of the general contractor or its agent that is available 24/7 who shall have overall responsibility for construction activities on site;

- b. A copy of a municipal lien certificate showing that all taxes, assessments and charges due on the Site have been paid;
- c. Certification that all required federal, state and local licenses and permits for construction of the Project have been obtained;
- d. Evidence that Dig-Safe was notified at least 72 hours before commencing the work, if applicable.
- e. Activity on the Site ceases for longer than one month, at least 48 hours written notice before work is resumed.

**C. Conditions to be Satisfied Prior to the Issuance of a Building Permit**

Prior to the issuance of a Building Permit, the Applicant shall comply with the following:

1. Submit to the Fire Department for review and approval a 241 Construction Fire Safety Plan which includes 24/7 camera surveillance of the site during the entire Project construction.
2. Submit to the Concord Municipal Light Plant (“CMLP”) a detailed electrical load letter. The letter shall include calculations, voltage requirements, and the proposed service size in order to properly size the transformer and related equipment.
3. Submit to CMLP a digital copy of the utility plans in AutoCAD format. This will allow CMLP to issue an electrical and Town fiber communication design and issue an estimate for CMLP’s construction costs. 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. It is the responsibility of the Applicant to coordinate with Comcast and/or Verizon if additional communication facilities are to be installed.
4. All electrical metering shall be approved by the CMLP Meter Supervisor. Metering shall be hot sequence unless an alternative is permitted by CMLP.
5. Submit to the CPW Water & Sewer Division, for review and approval, an application for any proposed water service installation. The application shall include the following:
  - a. Identification of a CPW Water & Sewer Division licensed Drain Layer who will be responsible for water installation activities.
  - b. Two full size copies of the approved water utility plan. (Note: separate applications must be provided for each commercial unit having separate water meters to be served by Town water.)
  - c. For each separate metered establishment proposed to be served by Town water, a plumbing plan shall be provided including:
    - i. Meter bypass detail (with allowance for CPW 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 CPW Water & Sewer Division.

- d. 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.
6. Water Design. Submit a water service design conforming to the CPW Water & Sewer Division Water System Design and Construction Standards.
7. On-Site Sewage Disposal System. Submit to the Health Division a copy of the Groundwater Discharge Permit issued by the MA Department of Environmental Protection.
8. Pool Plan. Submit to the Health Division for review and approval of a Pool Plan Review application.
9. Trash, recycling & composting facilities: Submit to the Health Division details of any outdoor trash, recycling & composting facilities verifying that the site is located on an impervious surface.
10. Submit detailed civil plans, architectural and construction drawings to the Building Inspections Division, the Consulting Building Permit Inspector, the Town Planner, CPW Engineering Division and the Board's Consulting Engineer to ensure that the Approved Plans are consistent with the Comprehensive Permit, with local requirements not waived in the Comprehensive Permit, and with state and federal codes, and upon the approval of the Building Inspections Division of the same, shall be deemed to be the "Final Plans." The Final Plans shall include the following:
  - a. The final detailing of all exterior amenity areas including the surfacing material, playground equipment, border edging, play surface treatment, etc., as well as any lighting to be provided in this location, along with lighting cut-sheets. All lighting shall be Dark Sky compliant.
  - b. Details of the final exterior materials and colors and rooftop mechanical screening.
  - c. A clearly identifiable way shown on the Final Plan to access the infiltration basin and drywells for maintenance purposes.
  - d. Details of the subsurface infiltration system, including connections from the on-site structures to the chambers and inspection port locations, be submitted to the Board's peer review consultant and Public Works for review.
  - e. A second connection to an existing water main to provide a true looped water system to maintain water quality within the system and ensure the delivery of safe drinking water to the residential units, unless it is determined that a second connection is not feasible.
  - f. The locations and details for all sidewalk curb ramps and demonstration of compliance with ADA and MA AAB requirements.
  - g. Details on the depth of groundwater in the area near the wastewater treatment plan and demonstrate that the final grade in that area will be greater than four feet above the historical high-water mark.
  - h. Designate snow storage areas that do not restrict internal sight lines.

- i. Identification of extent of a pavement overlay at the intersection of Forest Ridge Road and the site driveway, as well as installation of a new crosswalk with ADA-accessible curb ramps on both sides of the roadway, and MUTCD-compliant pavement markings and warning signage on Forest Ridge Road at the site driveway.
- j. Prepare a sight line plan that depicts the available sight lines and required clear zones to meet AASHTO recommendations for minimum stopping sight distance (SSD) and desirable intersection sight distance (ISD) at the proposed site driveway intersection with Forest Ridge Road based on a posted speed of 25 MPH and a decision point 14.5 feet from the edge of travel way, and ensure that no signage, vegetation, structures, or snow storage that would impede sight lines are located within the required clear zones.
- k. Revised details showing a single-sided identification monument entrance sign.

11. Submit a final lotting or Approval Not Required plan in a form endorsable by the Board acting within its authority under G.L. c.40B, §§20-23; and such plan to be endorsed and thereafter recorded with the Middlesex South Registry of Deeds.

**D. Conditions that Must Be Followed During the Construction Process**

- 1. Prior to the issuance of a foundation sign-off for each building, the Applicant shall install in consultation with the Fire Department a temporary address number.
- 2. Prior to the construction of any combustible material, the Applicant shall install the hydrants shown on the Final Plans, have a licensed professional conduct an inspection and test the hydrants and provide that report to the Fire Department and CPW Water & Sewer Division. If the report indicates any issues, the Applicant shall correct those issues and have the hydrants re-inspected and tested with a revised report submitted to the Fire Department and CPW Water & Sewer Division.
- 3. Following the completion of the construction of the second-floor deck for each building, the Applicant shall install and have inspected by the Fire Department a monitored fire alarm system and battery carbon monoxide detectors.
- 4. Prior to backfilling all infiltration units, the Applicant shall request and have CPW Engineering Division conduct an inspection to verify that the installation of all infiltration units was conducted in a manner consistent with the approved plans. Per CPW Design and Construction Standard 2.2.3.E.5 and Standard 3 of the Massachusetts Stormwater Handbook, soils information from test pits within the footprint of all proposed Stormwater management facilities shall be documented. Soils information shall include but not be limited to soil descriptions, depth to seasonal high groundwater, depth to bedrock, and percolation rates. Soils information shall be based on deep hole tests logged by a Massachusetts Registered Soil Evaluator and witnessed by CPW Engineering Division.

**E. Conditions that Must be Satisfied Prior to the Issuance of Any Certificate of Occupancy**

This Decision expressly contemplates that the Project may be constructed to allow for completion and occupancy of one building prior to the completion of the second building.

1. Prior to the issuance of a certificate of occupancy for either building constructed at 265 & 269 Forest Ridge Road, unless otherwise provided below, the Applicant shall comply with the following:
  - a. Any new hydrants shall be inspected and tested by a licensed professional and found in good working order. This report shall be provided to the Fire Department.
  - b. Install and maintain an NFPA compliant fire alarm and protection system for the building, along with a radio box that reports directly to the Fire Department within the building for which an occupancy permit is sought.
  - c. Pay for a third-party consultant for plan reviews and inspections per the Massachusetts Comprehensive Fire Safety Code 527 CMR 1.00.
  - e. Submit an as-built plan stamped by a Massachusetts licensed Professional Engineer to CPW Engineering Division, the Town Planner, CMLP and the Building Inspections Division of the Site including grading, elevations of all drainage infrastructure (e.g., inverts, rims), driveway/parking grades, pavement, pavement marking, signage, utilities, EV parking, structures, building elevations, and other pertinent information. A certification letter signed by a Professional Engineer shall outline any material deviations from the design plans and certify that there will be no negative impacts as a result of those deviations. This submittal shall be provided a minimum of two weeks prior to applying for final occupancy to ensure adequate review time. One hard copy and one electronic copy, in the form of both AutoCAD and PDF Files, shall be provided to CPW Engineering Division. Additionally, to ease review, the as-built items shall be bold while all other plan items shall be screened down.
  - f. A means for 24/7 access to the proposed electric room as depicted on the Architectural Plans shall be provided. A key or other method shall be provided to CMLP by the Applicant for emergency response and to allow CMLP to maintain CMLP-owned equipment.
  - g. Submit to the Fire Department documentation regarding the evacuation procedures for each building, including designated evacuation zones.
  - h. Submit to the Health Division a copy of the Authorization of Use from MADEP for the on-site wastewater treatment facility and the contact information for the licensed wastewater treatment operator.
  - i. Install a STOP sign (R1-1) on the Sweet Birch Lane approach to the traffic circle at Forest Ridge Road/Sweet Birch Lane/Black Birch Lane.
  - j. Install rectangular rapid flash beacons (RRFBs) on Main Street in both directions and apply high-visibility crosswalk pavement markings at the crosswalk just west of Forest Ridge Road.
  - k. Provide a fair share contribution proportional to the project's percentage increase in traffic along Forest Ridge Road to the Forest Ridge Road Homeowners Association toward signage, pavement marking, pavement milling and overlay, and crosswalk ramp upgrades .

2. Prior to issuance of a final Certificate of Occupancy for the entire Project, Applicant shall:
  - a. Provide to the Town Planner for review and approval a post-construction photometrics study to verify the lighting levels are in substantial conformance with the approved Lighting Plan. If the lighting levels are found not to be in substantial conformance, the Applicant shall make appropriate modifications to reduce the light levels and provide an additional photometrics study to the Town Planner for review and approval.
  - b. The Town Planner shall verify that all plants shown on the approved Planting Plan have been installed. Any proposed minor modification or substitutions shall be reviewed and approved by the Town Planner prior to installation.
3. No Certificate of Occupancy for any building or phase shall be issued until one of two conditions has been met: either (a) the infrastructure or common facilities or common improvements specified in this Decision, and set forth on the Final Plans, are constructed and installed so as to adequately serve said building or phase, or (b) security that is adequate to ensure the completion of such improvement and is reasonably acceptable to the Town Planner and the Board's legal counsel, and approved as to form by the Board's legal counsel, has been provided. No such performance guarantee as referenced in (b) shall be requested until all stormwater drainage facilities and the base course of the pavement have been installed. The choice of performance guarantee shall be governed by the provisions of M.G.L. c. 41, § 81U (excluding the statutory covenant which shall not apply in this matter) and shall be approved as to form by the Board's legal counsel. The Town Planner shall notify the Building Commissioner, in writing, of such completion or performance guarantee. The Applicant shall have all statutory choices of performance guarantees available under M.G.L. c. 41, §81U at all stages of construction up until request for certificate of occupancy. Requests to reduce the surety may be submitted as work progresses and shall include the amount of requested reduction, a list of work outstanding and a cost estimate of the same. The surety retained shall be based on the work remaining.
4. If determined applicable by CMLP, the Applicant shall provide a utility easement for review and approval by CMLP. The Applicant shall record the approved easement with the Middlesex South Registry of Deeds and shall provide copies of the recorded documents to CMLP. The individual underground electric services are owned and maintained by the property owner and will require approval from the Town of Concord Electrical Inspector.
5. Prior to the issuance of a Certificate of Occupancy for the second building, the Applicant shall provide to CPW-Engineering Division for review and approval the Long-Term Operations and Maintenance Plan (LTOMP) for the stormwater drainage system in both a hard copy and electronic (.pdf) copy. At the time the LTOMP is submitted for review, the Applicant shall also provide an operation, maintenance, and inspection agreement (Agreement) which outlines the permanent maintenance responsibilities of all elements of the on-site stormwater drainage system, including all catch basins, infiltration chambers, trench drains, drainage manholes, pipes, sediment forebays, bioretention areas, level spreaders and all appurtenances. The Agreement shall also designate the responsible party for the removal of snow from all on-site parking spaces within 24 hours of the end of a storm and for maintaining all elements of the on-site stormwater drainage system and specify that the LTOMP inspection and monitoring reports

be submitted annually to CPW-Engineering Division. This Agreement shall be recorded on the property at the Middlesex South Registry of Deeds and a copy provided to CPW Engineering Division.

6. Submit to the CPW Water & Sewer Division a full-size record drawing (Arch D), created in accordance with Division standards, for review prior to finalizing the drawing. Once the draft is approved, the Applicant shall submit to the CPW Water & Sewer Division the final record drawings as electronic copies in the form of CAD and .pdf files.
7. Furnish to the CPW Water & Sewer Division Water Demand Minimization Affidavit(s) to demonstrate work was performed in accordance with the approved demand mitigation measures.
8. Furnish to the Building Inspections Division provides all the necessary testing results to ensure that the passive building standards are being met or exceeded for the Project.
9. Notwithstanding anything to the contrary in this Decision, the Building Commissioner is authorized, but is not obligated, to issue temporary certificates of occupancy for the buildings.

#### **F. Other Conditions**

1. The Project will comply with the Prohibition On The Expansion Of Fossil Fuel Infrastructure Bylaw, except that the Project may utilize a variety of energy options, including on-site fossil fuel infrastructure, to support onsite gas grills, pool heaters, and generators required to maintain critical systems.
2. Due to the scale of this project, the Applicant shall pay for a third-party consultant for plan reviews and inspections per the Massachusetts Comprehensive Fire Safety Code 527 CMR 1.00, consistent with the requirements of other third-party reviews as described above.
3. The Applicant will not use or install, or allow anyone else to use or install, artificial or synthetic turf in any recreational areas either at the Project.
4. The installation of any on-site water well is prohibited.
5. All rooftop equipment shall be sufficiently screened.
6. Signs, landscaping and other features located within the intersection sight line clear zones shall be designed, installed, and maintained so as not to exceed 2 ft. in height. Snow windrows located within the intersection sight line clear zones that exceed 3.5-feet in height or that would otherwise inhibit sight lines shall be promptly removed.
7. Upon completion and occupancy of the Project, any amenities offered at the Site shall be for residents and their guests only.
8. The landscaping shall be installed as shown on the Final Landscape Plan. The landscaping as depicted on the Final Landscape Plan shall be maintained in a healthy condition in perpetuity, normal maintenance excepted.
9. Each Affordable Unit shall be provided with one surface parking space for no charge, and the Applicant is entitled to charge a rental fee for additional spaces, provided that the

Affordable Units shall be offered a second space at a reduced charge of no more than 60% of the lowest fee charged for a second space to any unrestricted rental rate unit renter.

10. Upon request, the Applicant shall provide the Town of Concord with copies of all affordability monitoring reports it provides to the Subsidizing Agency.

11. The access driveway for the Project shall remain a private way with no obligation placed upon the Town in terms of maintenance, repairs, or acceptance as a public way and all responsibilities for maintenance will rest solely with the Applicant and their successors and assigns.

12. Tree stumps and wood wastes generated by land-clearing operations shall not be buried on site.

13. The Applicant shall implement a Transportation Demand Management (“TDM”) program that includes the following measures:

- a. The property manager will be assigned as the on-site Transportation Coordinator (“TC”) to coordinate TDM strategies and be a resource to tenants of available alternative transportation options;
- b. The TC will post information regarding public transportation services, maps, schedules, and fares in common areas within the Project;
- c. The TC will provide residents information relative to available public transportation services, bicycle and walking alternatives, and commuter options;
- d. The TC will provide information to all residents upon move-in on joining NuRide, a program which rewards individuals for making “green” trips, assists in finding ride-share matches, and offers a guaranteed-ride-home in emergency situations to those commuting via walking, bike, transit, or rideshare;
- e. The TC shall provide educational information that encourages alternative means of travel through tenant newsletters and bulletins, which shall include information on bicycling and other green commuting events and services offered by the Town.
- f. The Applicant shall provide a mail drop within each residential building at a central location.

14. Upon completion of construction, there shall be no on-site storage of fuels, oils, automotive fluids, fertilizers, pesticides, insecticides, herbicides, cleaning chemicals, and other hazardous material of significant concern, other than quantities for vehicular or domestic use.

15. The Applicant shall be responsible for maintaining all improvements within the Project, including, but not limited to, drainage systems and structures, water lines, the pavement surface, sidewalks, tenant amenities, curbing, fire hydrants, and other required utility improvements in a satisfactory manner. All such items and systems shall remain private.

16. This Comprehensive Permit shall control the development of the Project and, to the extent of any inconsistency between this Comprehensive Permit and any other instrument, document or agreement delivered as part of the Application for this Comprehensive Permit, the terms,

conditions and limitations of this Comprehensive Permit and the Regulatory Agreement incorporated by reference herein shall, in that order, govern and control. No provision hereunder shall be used or construed to conflict with direct programmatic concerns of State funding and regulatory authorities consistent with the holdings in *Board of Appeals of Amesbury v. Housing Appeals Committee*, 457 Mass. 748 (2010), or amendment to G.L. Chapter 40B, §§20-23.

17. This Comprehensive Permit may be assigned or transferred only in accordance with the provisions of 760 CMR 56.05(12)(b), except that the Applicant is authorized to transfer this Comprehensive Permit to a related entity which shall be considered an insubstantial change within the meaning of 760 CMR 56.05(11), provided the Applicant complies with the requirements of 760 CMR 56.05(12)(b).

18. At the Applicant's election and in order to facilitate Project financing, the Applicant may elect to change the current subsidy/financing program of the Federal Home Loan Bank of Boston's New England Fund Program ("NEF") administered by MassHousing by replacing the same with the subsidy offered through the Local Initiative Program ("LIP") administered by the Massachusetts Executive Office of Housing and Livable Communities ("EOHLC"). If an application for a change in subsidy is filed with the EOHLC and approved by the EOHLC, the Board agrees that such change in subsidy constitutes an insubstantial change within the meaning of 760 CMR 56.05(11) if there are no other Project changes proposed at the time and provided that any such change in financing is conditioned on the Project's and Applicant's continued compliance with all conditions and requirements of this Comprehensive Permit.

19. The existing uses and structures on 275 Forest Ridge Road and approvals therefor (collectively, the "275 Forest Ridge Road Approvals") are hereby modified so as to allow the uses and structures on 275 Forest Ridge Road to lawfully continue to exist and to co-exist with the Project uses and related Project improvements at the Property, including the Project signage, main access driveway, and all depicted utilities and access, to the extent shown on the Approved Plans and as allowed and conditioned in the Comprehensive Permit herein.

#### **G. Construction and Bonding Conditions**

1. The Applicant shall authorize the Building Inspections Division, the Board, and agents of the foregoing to enter the Site during construction of the Project to determine compliance with the provisions of this Decision. The Town's agents shall provide reasonable notice prior to entry, except in the case of exigent circumstances or emergency. The Town's agents shall comply with applicable health and safety requirements such as hardhat, safety glasses, and work boot requirements.

2. During construction, at the end of each workday, the Applicant shall ensure that all erosion control measures are in place and secure all materials and equipment. Upon completion of all work on the Site and before as-built approval, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations, and the Applicant shall notify the Building Inspections Division in writing of the final disposition of the materials.

3. Covered dumpster(s) shall be used during construction to keep debris within the Site, and the Applicant shall be responsible for the prompt removal of any debris which escapes

enclosure. Use of the dumpster(s) shall be limited to the duration of the active construction period.

4. Within 45 days of the completion of construction, the Applicant's site engineer of record shall certify that the Project was constructed in substantial conformance with the Final Plans and this Decision.

5. All onsite catch basins, detention basins, infiltration systems, and other stormwater management facilities shall be cleaned at the end of construction. Thereafter, the Applicant shall be responsible for maintaining the on-Site stormwater management facilities in accordance with generally accepted practice.

#### **H. Validity, Modification, and Appeal**

1. In the event an authority of appropriate jurisdiction determines that any provision of this Decision is illegal and unenforceable, such provision may be severed and stricken from this Decision without affecting the validity of the remaining provisions of this Decision.

2. This Comprehensive Permit shall not be final until the Town Clerk certifies that no appeal has been filed. The Applicant shall provide proof of recording with the Middlesex South Registry of Deeds to the Town Planner and the Building Inspections Division.

3. This Comprehensive Permit shall lapse three (3) years from the date of grant thereof, which shall not include such time required to pursue or await the determination of an appeal, 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.

Notwithstanding the foregoing, this Comprehensive Permit shall be entitled to extension rights in accordance with 760 CMR 56.05(12)(c).

4. Violation of any of the conditions of this Decision shall be grounds for revocation of the Decision, or any building or occupancy permit granted hereunder. If at any time the Applicant is not in compliance with this Decision and any permit issued by the Town, the Building Commissioner may order that the project be stopped, and occupancy revoked until the noncompliance is corrected; provided, however, that prior to revocation or such work stoppage, the Applicant is provided with prior notice of the same and a reasonable opportunity to cure.

5. By acceptance of this Comprehensive Permit Decision, the Applicant acknowledges the binding effect of the conditions of the Decision.

6. Based upon the Board's vote to approve this Comprehensive Permit, the Board authorizes the Chair of the Board to execute this Decision on behalf of the Board.

Dated this \_\_\_\_ day of April, 2024.

#### **Concord Board of Appeals**

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Theo Kindermans, Chair

Decision filed with the Office of the Town Clerk:

\_\_\_\_\_  
Kaari Mai Tari, Town Clerk

\_\_\_\_\_  
Date

I, Clerk of the Town of Concord, Massachusetts hereby certify that no notice of appeal was received during the twenty days next after receipt and recording of the Decision from the Board of Appeals of the approval of the Comprehensive Permit, or, if an appeal was taken, that a final decree has been entered by the Court sustaining the approval of the Comprehensive Permit or the appeal taken has been dismissed by the Court.

\_\_\_\_\_  
Kaari Mai Tari, Town Clerk

\_\_\_\_\_  
Date

DRAFT 3-27-25

## **EXHIBIT A – Approved Plans**

The “Approved Plans” are collectively listed as follows:

A. Architectural Plans. The buildings containing the Units are shown on the following set of signed and stamped architectural plans including elevation, floor and units plans, consisting of eight (8) sheets, entitled “Residences at Thoreau, 275 Forest Ridge Road” dated October 18, 2024 prepared by The Architectural Team, Inc. (collectively, the “Architectural Plans”):

1. Cover Sheet, Sheet T0.01
2. Renderings, Sheet R1.01
3. Overall Floor Plans – Level 1, Sheet A1.01
4. Overall Floor Plans – Level 2-5, Sheet A1.02
5. Typical Unit Plans, Sheet A2.00
6. Building A Elevations, Sheet A4.01
7. Building B Elevations, Sheet A4.02
8. Building A + B Sections, Sheet A5.01
9. Mechanical Screening Renderings, Five Slides, dated March 10, 2025

B. Civil Plans. The buildings containing the Units, as well as a depiction of other improvements as part of the Project, are shown on the following signed and stamped engineering plans, consisting of forty-two sheets, entitled “Multi-family Site Development, The Residences at Thoreau, 275 Forest Ridge Road, Concord, MA 01742” with the following dates noted below and stormwater drainage report dated December 20, 2023 and revised February 28, 2025 prepared by Allen & Major Associates, Inc. (collectively, the “Civil Plans”):

1. Cover Sheet, dated December 20, 2023, last revised March 24, 2025
2. Existing Conditions, Sheet V-101 & V-102, dated December 20, 2023, last revised February 28, 2025
3. Abbreviations & Notes, Sheet C-001 & C-002, dated December 20, 2023, last revised March 24, 2025
4. Locus Plan, Sheet C-100A & C-100B, dated December 20, 2023, last revised March 24, 2025
5. Erosion Control Plan, Sheet C-101A & C-101B, dated December 20, 2023, last revised March 24, 2025
6. Site Preparation Plan, Sheet C-102A & C-102B, dated December 20, 2023, last revised March 24, 2025
7. Layout & Materials Plan, Sheet C-103, C-103A, C-103B & C-103C, dated December 20, 2023, last revised March 24, 2025
8. Grading & Drainage Plan, Sheet C-104, C-104A, C-104B & C-104C, dated December 20, 2023, last revised March 24, 2025

9. Test Pits, Sheet C-104D, dated December 20, 2023, last revised March 24, 2025
10. Utilities Plan, Sheet C-105, C-105A & C-105B, dated December 20, 2023, last revised March 24, 2025
11. Snow Storage Plan, Sheet C-106A & C-106B, dated December 20, 2023, last revised March 24, 2025
12. Fire Truck Turning Plan, Sheet C-107A & C-107B, dated December 20, 2023, last revised March 24, 2025
13. Lighting Plan, Sheet C-108A, C-108B & C-108C, dated December 20, 2023, last revised March 24, 2025
14. Septic System Design Plan, Sheet C-109, dated December 20, 2023, last revised March 24, 2025
15. Septic System Details, Sheet C-109A, C-109B & C-109C dated December 20, 2023, last revised March 24, 2025
16. Details, Sheet C-501, C-501 to C-508 dated December 20, 2023, last revised March 24, 2025

C. Landscaping Plans. The landscaping plans and specifications including the depiction of other improvements as part of the Project are shown on the following signed and stamped landscape plans, consisting of thirteen (13) sheets, entitled “Residences at Thoreau, 275 Forest Ridge Road, Concord, Massachusetts,” dated March 24, 2025 prepared by Hawk Design, Inc. (collectively, the “Landscape Plans”):

1. Cover Sheet
2. Site Master Plan – North, Sheet L1.1
3. Site Master Plan – South, Sheet L1.2
4. Building A Planting Plan, Sheet L2.1
5. Building A Courtyard Planting Plan, Sheet L2.2
6. Building A Amenity Courtyard Materials Plan, Sheet L2.3
7. Building B Planting Plan, Sheet L3.1
8. Building B Courtyard Planting Plan, Sheet L3.2
9. Building B Amenity Courtyard Materials Plan, Sheet L3.3
10. Sweet Birch Lane Buffer Sketch, Sheet SKL1
11. Black Birch Lane Buffer Sketch, Sheet SKL2
12. Planting Specifications, Sheet D1
13. Planting Details, Sheet D2

Collectively, the Civil Plans, the Architectural Plans, and Landscaping Plans shall be defined as the “Approved Plans”.