

**SPECIAL PERMIT/SITE PLAN APPROVAL**  
56 – 60 Main Street  
Wenham Pines

DATE: March 9, 2017

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**PLANNING BOARD  
TOWN OF WENHAM  
MASSACHUSETTS  
RECORD AND DECISION  
Wenham Pines 56- 60 Main Street**

**LOCUS:** 56 – 60 Main Street  
Wenham MA 01984  
Assessor's Map 27, Parcels 44 and 36

**ZONING DISTRICT:** Residential Zoning District  
Aquifer Protection District  
Historical District

**OWNER:** The Trustees of the Flynn Family Enterprises Irrevocable Trust:  
5 Barker Road, Boxford, MA 01921

**APPLICANTS:** The Trustees of the Flynn Family Enterprises Irrevocable Trust  
5 Barker Road, Boxford, MA 01921  
and  
Wenham Pines LLC  
Robert F. Tambone, Manager  
6 Kimball Lane  
Lynnfield, MA 01940

**ATTORNEY:** Miranda P. Gooding  
Glovsky, Counselors at Law  
8 Washington Street  
Beverly, MA 01915

**ENGINEER:** Roy Tiano  
Hancock Associates  
185 Centre Street  
Danvers, MA 01923

**ARCHITECT:** Grazado Velleco Architects, Inc.  
10 Doaks Lane  
Marblehead, MA 01945

**LANDSCAPE  
ARCHITECT** Ryan Associates  
144 Moody Street  
Waltham, MA 02453

**DRAWINGS & REPORTS:** *(ALL INCORPORATED HEREIN BY REFERENCE)*

- **A thirty eight (38) page Site Plan entitled Permit Site Plan, Flexible Development, Wenham Pines, 56/60 Main Street Wenham Massachusetts 01984 prepared for Wenham Pines LLC with pages entitled and dated as follows:**
  - Pages 2-33 prepared by Hancock Associates 185 Centre Street, Danvers, MA 01923

Sheet #/Plan Description	Plan Date	Recent Revision Date
1 of 38	Cover Sheet	N/A
2 of 38	Notes, References and Legend	7/19/16
3 of 38	EC-1 Existing Conditions	1/12/17
4 of 38	EC-2 Existing Conditions	7/19/2016
5 of 38	EC-3 Existing Conditions	12/2/16
6 of 38	EC-4 Existing Conditions	7/19/2016
7 of 38	C-1 Yield Plan	12/2/16
8 of 38	MP Master Plan	3/14/16
9 of 38	S/A Soils and Abutters Map	1/12/17
10 of 38	D-1 Demolition Plan	7/19/2016
11 of 38	LM-1 Layout and Materials	1/12/17
12 of 38	LM-2 Layout and Materials	7/19/2016
13 of 38	LM-3 Layout and Materials	1/12/17
14 of 38	GD Grading and Drainage Overall Plan	7/19/2016
15 of 38	GD-1 Grading and Drainage (w/Trees To Be Removed)	1/12/17
16 of 38	GD-2 Grading and Drainage (w/Trees To Be Removed)	7/19/2016
17 of 38	GD-3 Grading and Drainage (w/Trees To Be Removed)	1/12/17
18 of 38	PR-1 Pine Hill Roadway and Utility Profile	7/19/2016
19 of 38	PR-2 Pine Hill Roadway and Utility Profile	1/12/17
20 of 38	Sewage Profile 1	7/19/2016
21 of 38	Sewage Profile 2	1/12/17
22 of 38	Sewage Profile 3	7/19/2016
23 of 38	CU Combined Utilities	1/12/17
24 of 38	SD-1 Site Details 1	7/19/2016
25 of 38	SD-2 Site Details 2	1/12/17
26 of 38	SD-3 Site Details 3	7/19/2016
27 of 38	ESC-1 Erosion and Sedimentation Control Plan	1/12/17
28 of 38	ESC-2 Erosion and Sedimentation Control Plan	7/19/2016
29 of 38	ESC-3 Erosion and Sedimentation Control Plan	1/12/17
30 of 38	TP-1 Test Pit Log	7/19/2016
31 of 38	S+SD Sewer and Septic Details	1/12/17

32 of 38	OS Open Space Plan	7/19/2016	1/12/17
33 of 38	Proposed Flexible Development Layout Plan	12.7.15	6.24.16

o Pages 34 – 38 prepared by Contech Engineering Solutions LLC, 9025 Centre Pointe Dr., Suite 400, West Chester, OH 45069

<b>Sheet #/Plan Description</b>	<b>Plan Date</b>	<b>Recent Revision Date</b>	
34 of 38	Bridge Plan	12/5/2016	N/A
35 of 38	Cross Section	12/5/2016	N/A
36 of 38	Upstream End Elevation	12/5/2016	N/A
37 of 38	Downstream End Elevation	12/5/2016	N/A
38 of 38	Express Foundations	12/5/2016	N/A

- **A twelve (12) page landscape plan prepared by Ryan Associates, 144 Moody Street, Waltham, MA 02453 dated as follows:**

<b>Sheet #/Plan Description</b>	<b>Plan Date</b>	<b>Recent Revision Date</b>	
L-1.0	Overall Site Plan	7/19/16	1/12/17
L-1.1	Site Plan	7/19/16	1/12/17
L-1.2	Site Plan	7/19/16	1/12/17
L-1.3	Site Plan	7/19/16	1/12/17
L-2.0	Entry Planting and Materials	7/19/16	1/12/17
L-2.1	Planting and Materials Units 1-2 and 3-4	7/19/16	1/12/17
L-3.0	Lighting Plan	7/19/16	1/12/17
L-4.0	Management Plan	7/19/16	1/12/17
L-5.0	Irrigation Plan	7/19/16	1/12/17
L-6.0	Detail I	7/19/16	1/12/17
L-6.1	Detail II	7/19/16	1/12/17
L-6.2	Detail III Lighting	7/19/16	1/12/17

- **A fourteen (14) page architectural plan prepared by Grazado Velleco Architects, Inc., 10 Doaks Lane, Marblehead, MA 01945 dated as follows:**

<b>Sheet #/Plan Description</b>	<b>Plan Date</b>	<b>Recent Revision Date</b>	
A1	Unit Type A Floor Plans	7.19.16	N/A
A2	Unit Type B Floor Plans	7.19.16	N/A
A3	Typical Duplex Front Elevation	7.19.16	N/A
A4	Typical Duplex Side Elevation	7.19.16	N/A
A5	Typical Duplex Rear Elevation	7.19.16	N/A
A6	Proposed Postal Structure	7.19.16	N/A

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H-E1	Historic Home Existing Floor Plans	7.11.16	7.19.16
H-E2	Historic Home Existing Floor Plans	7.11.16	7.19.16
H-E3	Historic Home Existing North and West Elevations	7.11.16	7.19.16
H-E4	Historic Home Existing South and East Elevations	7.11.16	7.19.16
H-A1	Historic Home Proposed Floor Plans	7.11.16	12.20.16
H-A2	Historic Home Proposed North and West Elevations	7.11.16	7.19.16
H-A3	Historic Home Proposed South and East Elevations	7.11.16	7.19.16
H-A4	Proposed Garage at Historic Home	7.11.16	7.19.16

- Exhibit 1 - Traffic Impact and Access Study entitled Wenham Pines Main Street, Prepared for Wenham Pines LLC, prepared by Bayside Engineering 600 Unicorn Park drive, Woburn, MA 01801 dated July 19, 2016 which includes a five (5) page pan entitled Wenham Pines, Wenham Massachusetts prepared by Bayside Engineering dated as follows:

<b>Sheet #/Plan Description</b>	<b>Plan Date</b>	<b>Recent Revision Date</b>
1 of 5 HAP – Existing Conditions	10-3-2016	N/A
2 of 5 HAP – Existing Driveways	10-3-2016	N/A
3 of 5 HAP – Proposed Driveways	10-3-2016	N/A
4 of 5 HAP – Utility Plan	10-3-2016	N/A
5 of 5 HAP – Temporary Traffic Control	10-3-2016	N/A

- Exhibit 2 -Document entitled Operation and Maintenance Plan in Support of Flexible Development/ Permit Site Plan for Wenham Pines at 56 – 6- Main Street Wenham Massachusetts 01984 prepared by Hancock Associates prepared for Wenham Pines LLC dated December 5, 2016
- Exhibit 3 - Host Community Agreement entered into between the Town of Wenham and Janice L. Flynn, as the personal representative of the Estate of William J. Flynn and Atlantic Tambone, Inc. with all amendments as executed February 2, 2016
- Exhibit 4 - Draft Conservation Restriction entitled Wenham Pines Condominium Association Conservation Restriction with a draft dated of July 21, 2016

**SPECIAL PERMIT/SITE PLAN APPROVAL  
56 – 60 Main Street  
Wenham Pines**

The Planning Board of the Town of Wenham, Massachusetts, held a Public Hearing in accordance with MGL Chapter 40A, Section 11 and the Town of Wenham Zoning Bylaw Sections 11.0 (Flexible Development Special Permit); 10.1.2 (Earth Removal Special Permit); 12.2.5 (Flood Plain Overlay District Special Permit); 7.1.3 (Permanent Project Sign Special Permit); Section 8.4, Section 9.3 and 13.5.2 (Site Plan Approval), on Thursday, August 11, 2016 at 7:30 p.m. at the Wenham Town Hall, 138

**56 – 60 Main Street**

**Wenham Pines**

Main Street, Wenham, Massachusetts on the petition by Wenham Pines LLC, Anthony Tambone, Executive Vice President, 6 Kimball Lane, Lynnfield, MA 01940 for Special Permits and Site Plan Approval for a proposed 24-unit, age-restricted, residential development to be located at 56 and 60 Main Street, Wenham, Massachusetts. The subject property contains 32.4± acres and is located in the Residential Zoning District, the Aquifer Protection District and the Historical District and is shown on Assessor's Map 27, Parcels 44 and 36 respectively.

A notice of public hearing on this application was advertised as follows, a true copy of which is on file in the office of the Planning Board:

- 1) Published in The Hamilton Wenham Chronicle, a newspaper of general circulation in the Town of Wenham on July 28, 2016 and August 4, 2016
- 2) Posted at the Town Clerk's office July 21, 2016.
- 3) Mailed July 27, 2016 to the petitioner, abutters, owners of the land directly opposite the property in question on any public or private street or way, abutters to abutter within 300 feet of the subject property.

The combined public hearings on the special permits and site plan application opened on Thursday August 11, 2016 and continued on September 8, 2016, September 15, 2016, October 13, 2016, November 10, 2016, December 8, 2016, January 12, 2017, February 9, 2017, and February 15, 2017, and closed on March 9, 2017.

The following members attended each session of the public hearing where evidence was given: David Geikie, Minot Frye, Steven Kavanagh, and Donald Killam. Virginia Rogers attended all but one meeting and has submitted an affidavit under M.G. L. c. 39, Section 23D attesting that she has reviewed all of the evidence of the meeting that was missed.

**ACTION ON APPLICATION FOR SITE PLAN REVIEW: APPROVED WITH CONDITIONS**

**VOTE:** (Yes) David Geikie (Yes) Minot Frye (Yes) Donald Killam  
(Yes) Virginia Rogers (Yes) Stephen Kavanagh

**ACTION ON APPLICATION FOR SPECIAL PERMITS: APPROVED WITH CONDITIONS**

**VOTE:** (Yes) David Geikie (Yes) Minot Frye (Yes) Donald Killam  
(Yes) Virginia Rogers (Yes) Stephen Kavanagh

*(A) = Absent or not present during the entire hearing process and therefore not eligible to vote.*

## **FINDINGS**

After thorough analysis and deliberation, the Planning Board finds that the Applicants have complied with all pertinent provisions of the Town of Wenham Zoning Bylaws for Special Permit and Site Plan Approval and have requested Special Permits under the following Sections:

11.0 (Flexible Development);

10.1.2 (Earth Removal);

12.2.5 (Flood Plain Overlay District);

7.1.3 (Permanent Project Sign);

8.4 (Planted Area requirements)

9.3 (Erosion Control)

13.5.2 (Site Plan Approval)

Specifically, the Planning Board finds that the Applicants have submitted plans and accompanying documents requesting approval for a Special Permit under the Town's Flexible Development Zoning Bylaw, and that the proposed Project better promotes the purposes of Section 11.1.1 of the Bylaw than would a conventional subdivision development of the same property.

The property to be developed also known as the Lakeview Golf Course has been under the tax protection status of Chapter 61A. The Town of Wenham had the first right of refusal when the owners decided to sell the property. The Town of Wenham has explored this right and entered into a Host Community Agreement with the Owner of the Property and the Applicants.

The Planning Board enlisted the consultant services of Michael Clark of DCI Consultants for peer review services. Mr. Clark submitted a review of the project and the Applicants have answered all of Mr. Clark's concerns to the satisfaction of the Planning Board.

The Plans have also been reviewed by the Town Departments including, Fire, Police, Department of Public Works, and Water Department as to whether they conform to the requirements of the Towns regulations. All departments have submitted their reviews and the Applicants have responded and revised plans as necessary.

The Applicant originally submitted plans depicting a 25 unit, age restricted condominium development in compliance with Section 11.0 Flexible Development. The Applicant submitted a yield plan that showed the ability to develop 18 house lots and related infrastructure under the Town's Subdivision Control Law. After consideration the Planning Board accepted only 17 lots on the yield plan and the Applicant reduced the number of lots to 17. The Applicants have submitted plans that allow for additional units as a density bonus. They have agreed to reserve 74% of the area as open space which under the Flexible Development Guidelines allows for an additional 3 units. The Applicants have also committed to restricting all of the units to age 55 and over occupancy. This allows for an additional 4 units, bringing the total number of allowed units to 24, including the two affordable units that will be placed in the existing dwelling that will be renovated for that purpose.

The Applicants have also agreed to adhere to the requirements of Section 11.1.9 and provide that 2 of the units shall be permanently restricted as affordable units and will be maintained and marketed to satisfy the requirements of the Department of Housing and Community Development for inclusion on the

Town's Subsidized Housing Inventory and with the Town to have the right to enforce a permanent affordable housing restriction.

After taking into account the characteristics of the site and of the proposal in relation to that site the Board has found that the proposed use and structure(s) will have no adverse effects on the Town or the neighborhood. The Board has considered the community needs served by this proposal and determine that there is a need for housing for residents who may want to enjoy the benefits of condominium living in order to relieve themselves of the burdens of upkeep, and that the units will serve a population of residents over the age of 55 which is a growing demographic. The project shall create 2 affordable units which are necessary and desired in the community.

The Applicants have submitted a Traffic Analysis which included information regarding sight distances. The analysis was reviewed by the Town's Peer Reviewer and the Chief of Police and both are satisfied that the project will have no significant impact on the traffic flow and safety. They have provided adequately for the parking needs of the development by supplying garages and additional parking areas for each unit.

The Applicant has provided adequately for utilities and stormwater drainage consistent with the functional requirements of the Town of Wenham's Department of Public Works and Water Department. The project has also been reviewed by the Conservation Commission and they are satisfied that the project will provide for adequate stormwater maintenance and control.

The project was reviewed by the City's Fire Department and it has been determined that the project as proposed will provide adequate access to each structure for fire and service equipment.

The area where the project is being proposed has been used as a golf course for many years. It is abutted by the MBTA tracks, the Wenham Country Club, Wenham Lake and Main Street. There are few residents that abut the property. Each of these abutters was notified of the public hearing for the project and the Planning Board found that the most impact would be felt by the owners of 62 Main Street. Those owners have been in discussion with the Applicants and the Planning Board included a provision to limit the impacts of the construction on these residents. Those owners and the Applicants have entered into an agreement which grants the Applicants an easement for a construction access. The project when completed should have no adverse impacts on the neighborhood.

The project has been reviewed by the Conservation Commission. The project is also proposing to preserve over 25 acres as open space with a conservation restriction. The impacts on the natural environment will be limited to the roadway and building areas. Precautions are being taken to prevent any impacts on the adjacent wetlands and the water resource areas

The property is currently under Chapter 61A protection until it is sold or used for a purpose other than the current golf course. Under this protection the Town has received reduced taxes from the property owner. The flexible development will increase the tax amount received by the Town as each unit will be paying residential taxes.

The Planning Board also considered the plan under section 13.5.7 of the Wenham Zoning Bylaws and has determined that it meets the objectives as outlined in this section.

**DECISION**

Now, therefore, by a vote of 5 to 0, a supermajority vote, the Planning Board hereby approves the subject applications for Special Permits under Wenham Zoning Bylaw sections:

11.0 (Flexible Development);

10.1.2 (Earth Removal);

12.2.5 (Flood Plain Overlay District);

7.1.3 (Permanent Project Sign);

8.4 (Planted Area requirements)

9.3 (Erosion Control)

and for Site Plan Approval under Section 13.5.2 with authorization for the proposed construction in accordance with the above referenced and approved plans, subject to the below listed Special and General Conditions:

**SPECIAL CONDITIONS**

1. The term “Applicants” shall include all applicants and owners of record during their respective period of ownership, and their respective successors in interest, including, in the case of a condominium, the organization of unit owners.
2. All 24 dwelling units in the Project shall be subject to a permanent and recorded restriction which shall be enforceable by the Town and may only be released by a vote of Town Meeting, under Zoning By-law §11.1.8(2):
  - (a) Require that there shall be in residence in each unit at least one person who has reached the age of 55, and that no resident (which shall not include periodic visits by those staying three months or less in any nine month period) may be under the age of 18.
  - (b) Be included as a condition of the Condominium Trust and Master Deed documents to be reviewed and approved by the Planning Board and Town Counsel in accordance with Paragraph 24 below.
3. The required construction standards for the access way (“Pine Hill Road”) shall be as shown on the Plan of Record and shall satisfy Detail Sheet No. 1 (Sheet 24 of 38) of the Plan of Record (herein, the “Roadway Construction Standards”).
4. At least one month prior to requesting an Occupancy Permits for any unit, the Applicants shall submit a request to the Planning Board to schedule an inspection of the roadway construction, with the Board then to vote to determine the Roadway’s compliance with the Roadway Construction Standards imposed herein.



5. No Occupancy Permit shall be issued for any unit until the Applicants have completed the construction of the common infrastructure including the Roadway, stormwater drainage systems and septic system (but excluding the finished course of pavement, curbing and landscaping for the individual duplex buildings and associated driveways), all in compliance with the Plan of Record and this decision and the Roadway Construction Standards, to the satisfaction of the Planning Board.
6. Prior to the issuance of any building permit the Applicants shall furnish and record a Covenant using the format provided for under G.L. c.41, §81U, ¶7 in a form acceptable to the Planning Board after review by Town Counsel, to guarantee the completion of all improvements shown on the Plan of Record before any unit sold. The Covenant shall be signed or assented to in writing by all owners and lienholders of record for the Property and the Applicants shall provide a title certificate by a licensed attorney that all required signatures are in place and shall update the certificate when the Covenant is recorded.
7. The Covenant may be substituted from time to time by one or a combination of the surety methods allowed under G.L. c.41, §81U¶7, which does not include letters of credit, provided that, in each instance, such substitute surety shall be sufficient in the opinion of the Planning Board to secure performance of the remaining roadway and infrastructure work (excluding, however, any landscape improvements for the individual duplex buildings and associated driveways). Such substitute surety shall be in an amount equal to one hundred and fifty percent (150%) of the estimated cost to complete such remaining work as reasonably determined by the Board's Consultant. The Applicant, at its sole option, may place any cash surety in a gift account under G.L. c.44, §53A, so as to facilitate the return of the funds if not used by the Town and use of the funds if they are used.
8. Prior to the issuance of a certificate of occupancy for the first two market rate units in the project, the Applicants shall complete the Roadway and all common infrastructure, including the stormwater management elements, water main, electric and gas lines, hydrants, and the shared septic system, but excluding the finished course of pavement and curbing for the Roadway, and landscaping for the individual duplex buildings and associated driveways.  
  
Prior to the issuance of a certificate of occupancy for the last two market rate units in the Project and before the release of the Surety, the Applicants shall prepare and submit to the Planning Board and Building Inspector as-built plans of the Roadway and infrastructure in accordance with this decision's requirements below.
9. The Applicant shall implement all water conservation measures as prescribed by the Wenham Water Department.
10. The Applicants shall submit the plan for construction and maintenance of the construction access located within the 30 foot private way shared with 62 Main Street (Assessor's Map 27 Lot 35) to the Planning Coordinator for review at least 14 days prior to the Pre Construction Meeting.
11. Prior to any construction and prior to issuance of any building permit, the Applicants shall prepare and provide an instrument for review by the Planning Board and Town Counsel that details a binding agreement between Wenham Pines LLC and the owners of 62 Main Street, regarding the use of the

shared driveway for construction access and said agreement shall be fully executed and evidence that notice of the agreement has been recorded against the property prior to any construction or issuance of any building permit. The Agreement Regarding Right of Way dated as of January 5, 2017, previously submitted to the Planning Board by the Applicants will satisfy this Condition, upon the due execution and recording thereof.

12. The Applicants shall flag all trees greater than 6" caliper that are to be removed prior to removal and shall notify the Planning Board and the Planning Coordinator that the flagging has been completed at least one week prior to removal.
13. Applicants shall submit plans for the bridge and retaining walls stamped by a registered engineer at least 1 month before the start of the bridge construction to the Building Inspector.
14. The Roadway shown on the Approved Plan shall remain a private way and shall not be used in the future as frontage for any additional dwelling or use and shall not be used as through access to any adjacent land without an amendment to this decision provided, however, that to the extent the Project is developed in phases, then it is understood that the Roadway will be used for access to subsequent phases of the Project during and following construction and that such access shall not require an amendment.
15. The Roadway is not intended to be accepted as a public way by the Town of Wenham because it does not meet the Town's construction standards for a public way and snow removal and maintenance by the Town would be problematic. It is intended that the maintenance of the roadway shall remain the permanent responsibility of the Applicant and their successors in interest. The Applicant shall include language in the Condominium Association Trust Documents that indicates the responsibility of the private way will lie with the Condominium Association.
16. The Applicant shall be permanently responsible for snow plowing, snow removal (during heavy snow accumulations) and deicing as required for the project including the roadway, driveways and walkways and all common areas within the project.
17. There shall be a Pre-Construction Meeting at Town Hall at least three business days before any clearing or construction begins, with all Town departments invited to attend and with the Applicants represented by the construction manager. At least four weeks prior to initiating any construction activities, the applicant(s) shall notify the Planning Coordinator and Planning Board by certified mail and/or overnight mail of their intentions. The Pre-Construction Meeting shall be conducted with the Applicants' engineer, the on-site construction supervisor or manager and representatives of the Planning Board, Board of Health, Building Inspector, Conservation Commission, Department of Public Works and Fire and Police Departments.
18. At least two weeks prior to the pre-construction meeting the Applicants shall submit a copy of the Stormwater Pollution Prevention Plan (SWPPP) approved by the appropriate agency to the Planning Coordinator for the Planning Board file and to the Building Department.

19. All residences prior to occupancy shall be equipped with operational residential sprinkler systems approved by the Wenham Fire Department prior to the issuance of a certificate of occupancy for any completed unit.
20. All water mains and appurtenances shall be installed in accordance with the Wenham Water Department's "Standard Specifications for Water Main Extensions", dated December 8, 2004. Any special conditions encountered at the site which may be at variance with the requirements shall be referred to the Water Superintendent, who shall determine the methods and operations to be followed.
21. All water services and appurtenances shall be installed in accordance with the Wenham Water Department's "Standard Specifications for Installation of Domestic Water Services", dated 2004. Any special conditions encountered at the site which may be at variance with the requirements shall be referred to the Water Superintendent, who shall determine the methods and operations to be followed.
22. In order to lessen the demand of water use on the Wenham Water System, all landscape irrigation shall be provided by a separate, private well with the understanding that they still fall under the Town of Wenham water use restriction By-Law. All landscaping shall be installed and maintained in strict accordance with Massachusetts Water Resources Commission's "Guide to Lawn and Landscape Water Conservation", May 2002.
23. The Wenham Water Department is under extreme pressure from the Massachusetts Department of Environmental Protection (DEP) to reduce water consumption. The Applicant shall be responsible for mitigating this increase by providing the Town of Wenham with a one-time payment of \$5.00 per gallon average daily use per bedroom based on Title 5 flows as indicated by the Water Department for each unit. This payment shall be made at the time that the Applicant submits their application for water service for each unit. These funds will be used to help finance water conservation measures throughout the Town.
24. Prior to submission of any application for a Building Permit for construction of the first building in the project, the Applicant shall submit to the Planning Board a copy of the proposed Condominium Master Deed and Association Trust (which shall contain reference to the approved Stormwater Operation and Maintenance Plan and the obligation for snow removal referenced herein, and the Condominium Association's responsibility for maintenance of the private roadway), for review and approval as to form and compliance with this decision by Town Counsel. These documents shall also include the permanent age restriction and the permanent affordable housing restriction and shall include a reservation of rights in the documents to allow and shall obligate the Trustees to record the permanent conservation restriction for the open space when construction of the Project is completed, which shall mean when the final market rate building has been built, but before occupancy permits for its units are issued. Within 15 days of the sale of the first market rate unit, the Applicant shall submit a copy of the recorded Condominium Association Trust and Master Deed including the required restrictions to the Planning Board for its records. No further occupancy permits shall issue until the recorded documents are received. There shall be a separate age restriction instrument that runs to the Town and that shall be permanently enforceable by the Town and shall require that the

obligation to maintain the age restriction in the condominium documents shall be enforceable by the Town and the form of the restriction shall be submitted to the Planning Board and reviewed by Town Counsel for conformance with these terms and the instrument shall be duly executed and recorded before the first building permit issues.

25. Before the pre-construction conference, the Applicants shall provide a Construction Management Plan to include detailed traffic management plans, including temporary traffic controls, crosswalk detours, construction truck routes, staging areas and other protections to the extent necessitated by site conditions in the opinion of the Building Inspector, at least one month prior to the Pre-Construction Meeting to the Planning Coordinator and Building Department for review and approval. No construction vehicles related to this project shall be allowed to obstruct vehicle access to the residence at 62 Main Street.
26. The construction and post-construction operations of the Project shall comply with the requirements of the Stormwater Operation and Maintenance Plan previously approved by the Planning Board and attached hereto as Exhibit 2.
27. One week prior to any land disturbance activities beginning, the Applicants shall conduct an on-site inspection with the Town's Planning Coordinator and/or the Town's designated representative to observe the erosion controls installed at the site and review the erosion controls anticipated to be employed during construction.
28. At any point during construction, the Applicants shall allow the Town of Wenham and/or the Town's designated representative, to enter the site for the purpose of making observations as to the compliance of site construction with the Approved Plan and these conditions of approval.
29. The Town of Wenham, may, at its discretion, use consultants to supplement Town Staff for, but not limited to, the purpose of site construction observations. The Consultant Review escrow account shall be brought back to its original amount at least 30-days prior to any land disturbance activities and shall be kept replenished as needed. The Applicant shall be required to fund this account at least 30 days prior to the start of land clearing activities. The amount of funds utilized for this purpose shall not exceed \$25,000 without prior approval of the Planning Board. Any balance in said account following the completion of the project and release of surety shall be promptly refunded to the Applicant. Copies of invoices paid from the Consultant Review escrow account shall be provided to Applicants upon request from time to time.
30. All construction activities, including the maintenance, startup, and operation of any construction vehicles or trucks on site, shall be limited to between 7:00 AM and 5:00 PM Monday through Friday and 8:00 AM and 4:00 PM on Saturdays. Any exception to these limitations shall be through written and specific approval of the Building Inspector and Police Department.
31. There shall be a conservation restriction recorded against the subject property before the first building permit issues, with the restriction having been duly executed by all owners and mortgagees of record for the property and with the restriction having been duly accepted using the procedure provided for under G.L. c.40, §8C, and with the restriction allowing for all of the improvements shown on the Plan

of Record to be made and with the restriction to refer to G.L. c.184, §§31-33 and with the restriction to be a permanent restriction held by a governmental entity and with the form of the restriction to be provided to the Planning Board for review and approval as to conformance with these terms by Town Counsel before the restriction is executed and accepted.

32. Affordable Units. As a condition of approval hereunder, two (2) of the twenty four (24) units shall be permanently restricted as affordable units and then maintained and always sold pursuant to a regulatory agreement that satisfies the Guidelines published by the Department of Housing and Community Development for inclusion in DHCD's Subsidized Housing Inventory and shall be so restricted and conveyed in perpetuity or for the longest period allowed by law and so long as this decision is required for the units to conform to zoning requirements. The restriction shall name the Town as a party who may enforce the restriction and shall provide that the Town's rights may be released only upon a vote of Town Meeting. The existing 2-family home on the Property shall be remodeled and expanded to house the two permanently restricted affordable units. The affordable units shall be permanently restricted to be owned and occupied by persons or families over the age of 55 earning less than 50% of the area median income, as determined in accordance with applicable DHCD guidelines. The renovations shall be historically sensitive and shall obtain a Certificate of Appropriateness from the Historic District Commission. This restriction shall be recorded before any certificate of occupancy issues for any unit. The restriction held by the Town need not be an instrument that is separate from the regulatory agreement, provided that the regulatory agreement specifically provides for permanent enforcement by the Town, even if the regulatory agreement were to terminate or expire for all other purposes..
33. The Affordable Units shall be governed by a permanent deed restriction and marketed and sold in accordance with DHCD requirements to maintain eligibility for inclusion on the SHI maintained by DHCD. The Applicant shall time the construction of the renovations of the existing house at the Property so that both affordable units shall be completed and ready for marketing and occupancy prior to the issuance of the tenth (10<sup>th</sup>) certificate of occupancy for market rate units .

**GENERAL CONDITIONS**

1. **REQUIRED CERTIFICATION:** Prior to, or at the time of, submittal of the decision for endorsement, the applicant shall submit to the Planning Board a certification indicating, in effect, the following:

“I (We), \_\_\_\_\_ as representatives for The Trustees of the Flynn Family Enterprises Irrevocable Trust, 5 Barker Road, Boxford, MA 01921 and Wenham Pines LLC, 6 Kimball Lane, Lynnfield, MA 01940 on this date, \_\_\_\_\_ do hereby certify that I (We) have completely read and do fully understand all Special and General Conditions of Planning Board Decision for Wenham Pines Special Permit and Site Plan approval, dated February 9, 2016, relative to the proposed development of 56-60 Main Street Wenham MA 01984. Furthermore, I (We) agree to comply fully with all aspects of the approved Special Permit/Site Plan and with all Special and General Conditions of the Decision.

\_\_\_\_\_  
Signature(s)

2. **RECORDING AT REGISTRY OF DEEDS:** Within sixty (60) days of the expiration of the twenty (20) day appeal period, the Applicant shall record the endorsed Decision at the Registry of Deeds. Evidence of such recording shall be submitted to the Planning Department and to the Building Commissioner prior to the initiation of any construction activities.
3. **NO DEVIATION FROM APPROVED PLAN:** There shall be no deviation from the approved Site Plan and Conditions of this Decision without prior written approval of the Planning Board. Any modifications to the Final Development Plans may be allowed subject to the review and approval of the Planning Board. In the event that the applicant anticipates that some deviation is either necessary or desirable, he (she) shall notify the Planning Board in writing requesting modification of the Plan or the Conditions. No such request may be granted until after a subsequent Public Hearing before the Planning Board is conducted for the purpose of fully discussing such modification.
4. **ZONING ORDINANCE COMPLIANCE:** No aspect of this Site Plan Approval/Special Permit decision or of any Condition of Approval shall be construed in such a manner so as to alleviate an owner, applicant, assign, or successor from full compliance with all pertinent provisions and requirements of the Town of Wenham Zoning Bylaw.
5. **LANDSCAPE MAINTENANCE:** It shall be the responsibility of the owner(s) of the site to ensure that all vegetation and landscaping is maintained in a healthy condition and that any dead or dying materials be replaced at the earliest appropriate season. Any violation of this General Condition shall be considered a violation of this Site Plan Approval and of the Town of Wenham Zoning Bylaw and may be treated accordingly.


6. **REVIEW BY OTHERS:** The applicant shall secure all requisite permits prior to commencing any work under this Site Plan. We specifically call your attention to the possibility of need for permits or other approvals from the Board of Health, Conservation Commission, Wenham Historical Commission, Affordable Housing Trust and the Building Department. Additionally, regulatory agencies of the Commonwealth may have jurisdiction over this project. The applicant shall address any other outstanding issues raised in the interdepartmental review of the proposed project.
7. **PLAN MODIFICATION BY OTHERS:** Should a permit from any other entity include provisions which require a revision of the Plan, such revision shall be submitted to and approved by the Planning Board prior to the start of any construction activities in accordance with General Condition 3, above.
8. **OFF-SITE WORK:** All work done off-site shall be to the satisfaction of the appropriate owner or public body having jurisdiction. In the case of Town streets, public ways, Town lands and easements, the work shall conform to the requirements of the Wenham Department of Public Works and to the satisfaction of the Planning Board. In the case of State roads, the work shall conform to the requirements of the Massachusetts Highway Department.
9. **TIME LIMIT APPROVAL:** If substantial use of the site under this permit or construction of the Project does not begin within two years of the date of filing of this decision with the Town Clerk, then the granting of the instant Site Plan/Special Permit relief shall automatically become null and void. A new application and approval shall be necessary to proceed with such construction if no extension is granted by the Planning Board.
10. **APPROVAL SCOPE:** This Special Permit/Site Plan Approval, and the obligations of the applicant set forth in the conditions hereto, shall run with the land comprising the site and shall inure to and be binding upon the applicant, its successors and assigns (including lessees and tenants).
11. **FINAL PLANS:** Upon completion of the project, the applicant shall furnish along with the digital file as-built plans showing all utilities, building footprints, reference bounds and benchmarks defining the total site, facilities and rights of way.
12. **APPROVED PLANS:** All construction shall be in accordance with the approved drawings and reports referenced above.
13. **WATER SERVICES AND INSTALLATIONS:** All water services and installations shall be in accordance with the requirements of the Town of Wenham Water Department and Department of Public Works.

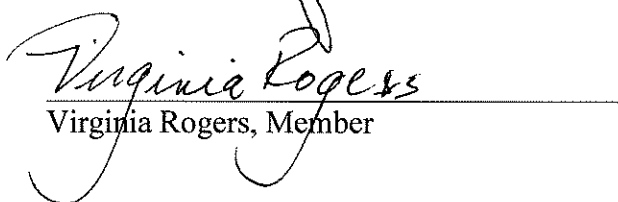
The Board affirms that all provisions of Sections 9 & 11, Chapter 40A of the General Laws and Wenham Zoning Bylaw Section 13.5 (Site Plan Review) and Section 13.4 (Special Permit) were complied with as regards procedures.

The Decision shall not take effect until recorded in the Essex County Registry of Deeds and/or Land Court after certificate by the Town Clerk, as required by MGL, Chapter 40A, Section 11. Appeals from this Decision, if any, shall be made pursuant to MGL, Chapter 40A, Section 17 and shall be filed within 20 days after the date of the filing of this Decision in the office of the Town Clerk.

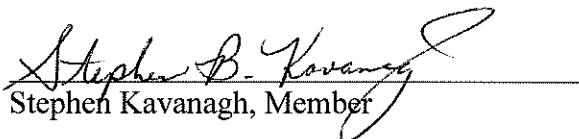
WENHAM PLANNING BOARD

  
\_\_\_\_\_  
David Geikie, Chairman

  
\_\_\_\_\_  
Minot Frye, Vice Chairman

  
\_\_\_\_\_  
Virginia Rogers, Member

  
\_\_\_\_\_  
Donald Killam, Member

  
\_\_\_\_\_  
Stephen Kavanagh, Member

Date: March 9, 2017

FILED IN THE OFFICE OF THE TOWN  
CLERK ON

March 13, 2017

BY Alan K. Succo

I hereby certify that 20 days have elapsed from the date this decision was filed with this office and no notice of appeal was received during that period.

A TRUE COPY      ATTEST

TOWN CLERK      DATE

Notice to Owner and Applicant on:  
Notice to Interested Parties on: