



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
**MAYOR**

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

HERBERT F. FOSTER, JR., *CHAIRMAN*  
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RICHARD ROSSETTI  
DANIELLE EVANS  
ELAINE SEVERINO  
JOSH SAFDIE (ALT.)  
BRANDY BROOKS (ALT.)

**Case #: ZBA # 2013-17**  
**Site: 625 McGrath Highway**  
**Date of Decision: July 10, 2013**  
**Decision:** *Petition Approved with Conditions for SP*  
*Petition Withdrawn without Prejudice for Variance*  
**Date Filed with City Clerk: July 18, 2013**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Berkeley Investments, Inc.
<b>Applicant Address:</b>	121 High Street, Boston, MA 02110
<b>Property Owner Name:</b>	625 McGrath Highway, LLC
<b>Property Owner Address:</b>	625 McGrath Highway, Somerville, MA 02143
<b>Agent Name:</b>	Adam Dash, Esq.
<b>Agent Address:</b>	48 Grove Street, Suite 304, Somerville, MA 02144

Legal Notice: Applicant, Berkeley Investments, Inc., and owner, 625 McGrath Highway, LLC., seek a Special Permit with Site Plan Review under SZO §7.11.1.c to establish 34 new residential units in a NB/RB District. Affordable housing per Article 13. The applicant seeks a variance for 9 parking spaces under SZO §9.5.

<u>Zoning District/Ward:</u>	NB/RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§7.11.1.c & §9.5
<u>Date of Application:</u>	March 18, 2013
<u>Date(s) of Public Hearing:</u>	4/17, 5/1, 5/15, 6/5, 6/19 & 7/10/13
<u>Date of Decision:</u>	July 10, 2013
<u>Vote:</u>	5-0

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Appeal #ZBA 2013-17 was opened before the Zoning Board of Appeals at Somerville City Hall on April 17, 2013. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722  
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c. 40A, sec. 11 and the Somerville Zoning Ordinance. After two hearings of deliberation, the Zoning Board of Appeals took a vote.

**DESCRIPTION:**

The proposal is to demolish the existing structure at 625 McGrath and build two residential buildings; one abutting Bonair Street, Building A, and the other abutting Otis Street, Building B. Building A will be 3 stories with 24 units with main entrances on Bonair Street and ancillary entrances off of the parking area totaling 23,477 square feet. Building B will be 3 stories with 10 units with main entrances on Otis Street totaling 9,875 square feet. The combined net floor area will be 33,352 square feet. There will be 2 studio units, 15 one-bedroom units, 15 two-bedroom units, and 2 three-bedroom units. Five of the units will be affordable.

There will be 58 parking spaces, the majority provided between the two buildings. However, there will be 16 spaces east of Building A and 10 spaces at grade but partially under Building B. There are 11 compact spaces. Vehicles will enter the site through the existing Bonair Street curbcut and exit the site through the existing curbcut at Otis Street. There will be an electronic gate at the exit for pedestrian safety and so vehicles will not be able to cut through the site. The curbcut along McGrath Highway will be closed.

There will be landscaping along Bonair, Otis, and McGrath. There will be a 6' tall fence along the east property line that abuts the RB district.

**FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §7.11.1.c):**

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.
2. Compliance with Standards: The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit with site plan review."

The proposed design of 34 residential units, in two buildings, totaling 33,352 square feet will eliminate an auto use and replace it with a residential use

3. Purpose of District: The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6".

The proposal is consistent with the purpose of the two districts in which it sits. The purpose of a Residential B (a portion of Lot A) district is, "To establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts." Three residential units will be in the RB district.

The purpose of a Neighborhood Business district is to "establish and preserve areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods." The proposed site plan complies with the standard of the district which is to locate on-site parking at the rear of the lot and providing vehicular access from either a side street or alley.

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."



The applicant has provided a residential use that is compatible with the existing neighborhood and introduces new landscaping on the site that currently has none. The Design Review Committee reviewed the project on February 28, 2013. The DRC is supportive of the contemporary design. The new design has more traditional materials and colors, a flat roof, and expressions similar to the triple-decker building type. The DRC made a few suggestions including a review with the Transportation Department regarding the plans for the pedestrian bridge because of the McGrath Highway redevelopment, relocation of the picnic area due to the immediate surroundings, submitting a fencing plan for McGrath Highway, and accent paving within the parking field to better delineate pedestrian pathways.

5. Functional Design: The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”

The two structures will function well as residential buildings. The buildings front Bonair and Otis streets and will become part of the East Somerville neighborhood. The surface lot is screened by the building and landscaping. There will be more landscaping provided than the previous use.

6. Impact on Public Systems: The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”

As conditioned, the project will not create adverse impacts on the public services and facilities serving the development. The City’s stormwater policy must be followed.

7. Environmental Impacts: “The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”

The proposed residential building will not result in any environmental impacts beyond activities that are typically associated with residential units.

8. Consistency with Purposes: “Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to lessen congestion in the streets; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.

9. Preservation of Landform and Open Space: The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”

The proposed development will improve the landform and open space of the site. It will increase pervious and landscaped area. There are no natural or man made features of the site worth preserving. Landscaping will be added to the front of each building along Otis and Bonair Streets as well as McGrath Highway.



10. Relation of Buildings to Environment: The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”

There are no remaining natural features of the site. The new building will be oriented to the residential streets and the massing is shifted away from the residential abutters.

11. Stormwater Drainage: The Applicant must demonstrate that “special attention has been given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies, and powered area, and routed through a well-engineered system designed with appropriate storm water management techniques. Skimming devices, oil, and grease traps, and similar facilities at the collection or discharge points for paved surface runoff should be used, to retain oils, greases, and particles. Surface water on all paved areas shall be collected and/or routed so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through sheet flow, swales or other means increasing filtration and percolation is strongly encouraged, as is use of retention or detention ponds. In instances of below grade parking (such as garages) or low lying areas prone to flooding, installation of pumps or other devices to prevent backflow through drains or catch basins may be required.”

The project must meet the stormwater requirements; in particular, compliance with stormwater impacts and sanitary sewer impacts (over 2,000 GPD anticipated). A condition of this report is that utility, grading, and drainage plans must be submitted to the Engineering Department for review and approval.

12. Enhancement of Appearance: The Applicant must demonstrate that “the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting.”

The proposal replaces a small one-story automotive use with two modern residential buildings. The proposal includes landscaped buffers along Bonair Street, Otis Street, and McGrath Highway with a fence buffer with residential abutters.

13. Lighting: With respect to lighting, the Applicant must ensure that “all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby.”

All exterior lighting shall be directed downward to light the parking areas and site without spilling onto adjacent properties and the night sky. The Planning Staff recommends that the project be conditioned to ensure that this issue is addressed.

14. Emergency Access: The Applicant must ensure that “there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment.”

The building will be accessible from Bonair and Otis Streets. The gate along Otis Street is conditioned to have Opticom technology.

15. Location of Access: The Applicant must ensure that “the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion.”



The existing curb cut on McGrath Highway will be closed. The access will be on Bonair and Otis Streets. Cars will enter the site via Bonair Street and exit the site through Otis Street thereby ensuring that traffic from the site does not travel through neighborhood streets. There will be a gate at Otis Street to eliminate cut throughs on the site and for pedestrian safety.

16. Utility Service: The Applicant must ensure that “electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view.”

A condition is that all utilities will be located underground.

17. Prevention of Adverse Impacts: The Applicant must demonstrate that “provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development;”

The proposal will add landscaping on the site. The proposed residential building will not result in any adverse impacts beyond activities that are typically associated with residential units. The dumpster will be screened from view.

18. Screening of Service Facilities: The Applicant must ensure that “exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties.”

A condition of this report is that rooftop mechanical equipment is screened.

19. Screening of Parking:

The surface lot will be screened by landscaping and the residential buildings.



**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Josh Safdie and Brandy Brooks with Danielle Evans and Elaine Severino absent. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. Upon making the above findings, Susan Fontano made a motion to approve the request to withdraw the request for a Variance without prejudice. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
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1	<p>Approval is for the establishment of 34 new residential units in a NB/RB District, affordable housing per Article 13. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 18, 2013</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>May 2, 2013 (May 7, 2013)</td> <td></td> </tr> <tr> <td>May 5, 2013</td> <td>Modified plans submitted to OSPCD (A-101 Zoning Diagram)</td> </tr> <tr> <td>March 19, 2013 (May 7, 2013)</td> <td>Modified plans submitted to OSPCD (A300-Shadow Study-Spring Equinox, A301-Shadow Study-Summer Solstice, A302-Shadow Study Fall Equinox, A303-Shadow Study-Winter Solstice.</td> </tr> <tr> <td>July 2, 2013</td> <td>Modified plans submitted to OSPCD (A-201 Building A Floor Plans, A-202 Building B Floor Plans, A-301 Building A Elevations, A-302 Building B Elevations, A-401 Bonair Street Rendering, A-402 Otis Street Rendering)</td> </tr> <tr> <td>May 2, 2012 (May 7, 2013)</td> <td>L001-Planting Plan</td> </tr> <tr> <td>March 19, 2013 (May 7, 2013)</td> <td>L002-Details</td> </tr> </tbody> </table>	Date (Stamp Date)	Submission	March 18, 2013	Initial application submitted to the City Clerk's Office	May 2, 2013 (May 7, 2013)		May 5, 2013	Modified plans submitted to OSPCD (A-101 Zoning Diagram)	March 19, 2013 (May 7, 2013)	Modified plans submitted to OSPCD (A300-Shadow Study-Spring Equinox, A301-Shadow Study-Summer Solstice, A302-Shadow Study Fall Equinox, A303-Shadow Study-Winter Solstice.	July 2, 2013	Modified plans submitted to OSPCD (A-201 Building A Floor Plans, A-202 Building B Floor Plans, A-301 Building A Elevations, A-302 Building B Elevations, A-401 Bonair Street Rendering, A-402 Otis Street Rendering)	May 2, 2012 (May 7, 2013)	L001-Planting Plan	March 19, 2013 (May 7, 2013)	L002-Details	BP/CO	ISD/Plng.	
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<b>Affordable Housing</b>																		
2	The Applicant shall complete an Affordable Housing Implementation Plan (AHIP). Five affordable units shall be provided on-site.	Prior to BP	SPGA / Housing															
3	No certificate of occupancy shall be issued until the OSPCD Housing Division has confirmed that Affordable Housing Restriction has been approved and recorded and the Developer has provided the required affordable units on-site.	CO	Housing															
<b>Construction Impacts</b>																		
4	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector															
5	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.															
6	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk on Otis and Bonair Streets if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW															



7	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
8	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD	
<b>Design</b>				
9	Applicant shall provide final material samples for siding, trim, windows, and doors to the Design Review Committee for review and comment and to Planning Staff for review and approval prior to construction.	BP	Plng.	
10	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
11	Any damage to existing street trees shall be replaced by the applicant.	CO	Plng/ISD	
12	Any transformers should be located as not to impact the landscaped area, and shall be fully screened.	Electrical permits & CO	Plng/ISD	
13	Applicant will screen the dumpster with fencing that blocks any view of the dumpster itself.	CO	Plng.	
<b>Traffic and Parking</b>				
14	If not taken off-site, snow plowed from the development can only be stored the landscaped area in the back of the site.	Perpetual	ISD	
15	Applicant will supply 10 bicycle parking spaces.	CO	Plng.	
16	The Applicant shall close the existing curb cut on McGrath Highway subject to MassDOT approval.	CO	Plng.	
17	Applicant must repaint all pavement markings with thermoplastic on Bonair St and Otis Street between McGrath Highway and Cross St including the intersections on Cross St from Otis St and Bonair St.	CO	T&P	
18	Parking Spaces 1-8 will be grass planted porous paving grid.	CO	Plng	
19	Between parking spaces labeled 31-42 and 43-54 and at parking spaces 9-16, the applicant will use wheelstops in order to increase planting area.	CO	Plng	
<b>Public Safety</b>				
20	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
21	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties or the night sky.	CO	Plng.	

22	The Applicant will be required to demonstrate that the project plans meet the current City of Somerville stormwater policy in respect to stormwater impacts and sanitary sewer impacts (over 2,000 GPD anticipated). Utility, grading, and drainage plans must be submitted to the Engineering Department for review and approval.	BP	Eng.	
23	Because of the history of the site and the intended use, the Applicant shall, prior to issuance of any foundation permit and/or any building permit for the project, provide to the Planning Department and the Inspectional Services Division: a) a copy of the Response Action Outcome (RAO) Statement, signed by a Licensed Site Professional (LSP) and filed with DEP, verifying that a level of no significant risk for the proposed residential use has been achieved at the site; or b) if remediation has not reached the RAO stage, a statement signed by an LSP describing (i) the management of oil and hazardous materials/waste at the site, including release abatement measures intended to achieve a level of no significant risk for residential use at the site, treatment and storage on site, transportation off-site, and disposal at authorized facilities, (ii) a plan for protecting the health and safety of workers at the site, and (iii) a plan for monitoring air quality in the immediate neighborhood.	Foundation Permit	Plng/ISD	
24	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office, Fire Department and the Board of Health shall also be notified.	CO	OSE/FP/B OH	
25	All utilities must be located underground. See Condition 4.	BP	Eng.	
<b>Miscellaneous</b>				
26	The Applicant must contact the Engineering Department to obtain an Otis Street and Bonair street address prior to a building permit being issued.	BP	Eng.	
27	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
28	There shall be a gate at the parking lot exit that has Opticom or equivalent technology. The Applicant shall work with the Fire Department on the specification of this technology.	CO	FP	
29	There shall be a 6' fence along the property line between the subject site and the residential abutters.	CO	Plng.	
30	Applicants must reconstruct sidewalks abutting development to bring them into compliance with current ADA/AAB regulations. Work should include curb ramps and any reciprocal ramps impacted by work.	CO	Eng.	
31	All rooftop mechanicals will be screened. Applicant will submit and updated roof plan for Planning Staff approval.	CO	Plng.	

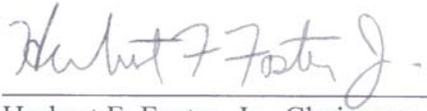


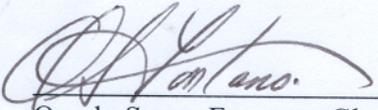
32	The Applicant should flip the accessible unit in building B to the West Side of the building near parking space 55.	BP	Plng.	
<b>Final Sign-off</b>				
33	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
Josh Safdie (Alt.)  
Brandy Brooks (Alt.)

  
Herbert F. Foster, Jr., Chairman

  
Orsola Susan Fontano, Clerk

  
Richard Rossetti

  
Josh Safdie (Alt.)

  
Brandy Brooks (Alt)



Copies of this decision are filed in the Somerville City Clerk's office.  
Copies of all plans referred to in this decision and a detailed record of the  
SPGA proceedings are filed in the Somerville Planning Dept.

**CLERK'S CERTIFICATE**

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on \_\_\_\_\_ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

Signed \_\_\_\_\_ City Clerk Date \_\_\_\_\_

