



## TOWN OF FREEPORT, MAINE

Town Manager's Office  
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### MEMORANDUM

TO: Freeport Town Council  
FROM: Peter Joseph, Town Manager  
DATE: 12/29/22  
RE: Easement Request – 22 Main Street

Town Staff has recently had discussions with LWS Development LLC, who are proposing a multifamily residential development of approximately 30 units on the property at 22 Main Street, adjacent to the Town Hall. The developer has requested an easement for one lane of vehicle/pedestrian egress across the existing paved exit from the Town Hall property. The current property owner (Moser Properties LLC, who is looking to sell the property) has a revocable license to access the Town Hall property where there is an existing driveway entrance. A copy is attached to this memo. This agreement with the Town was related to a previously approved project circa, which was approved but never constructed on the property. The developer of the proposed multifamily project has requested a permanent easement to achieve similar objectives to the existing license agreement with Moser Properties.

If this easement were granted, it would allow the proposed project to use a one way traffic entrance off West Street, and for traffic from the property to exit in a one way fashion across the existing paved exit for the Town Hall to Depot Street. More significantly, it would eliminate an existing curb cut for vehicular traffic along Main Street, which would be beneficial from a traffic circulation standpoint. For this reason, the Town Planner and I both recommend this easement, assuming that the project receives all other required local approvals.

The developer has agreed in concept to language that would allow the Town or its successors to relocate the exact location of the easement in the future, should the layout of the Town Hall property or the configuration of the exit traffic pattern of the Town Hall site be altered by the Town in the future.

The intent for discussion at the 01/03/23 meeting is to allow Councilors to discuss the proposal and to ask any questions they may have prior to formally considering the easement request at a future Town Council meeting. The Town's attorney is currently working with the developer to review potential easement language, which is expected to be available for Council review at the 01/17/23 Town Council meeting.

**MEMORANDUM OF LICENSE AGREEMENT  
REGARDING  
IMPROVEMENTS RELATED TO MOSER PROPERTIES, LLC**

This Agreement is made this 21st day of May 2008 by and between Moser Properties, LLC ("Developer"), a Maine limited liability company having an address of P.O. Box 1237, Auburn, Maine 04210, and Town of Freeport, Maine ("Town"), a municipality organized under the laws of the State of Maine and having an address of 30 Main Street, Freeport, Maine 04032.

The Developer received Design Review and Site Plan Review approval from the Freeport Project Review Board on May 14, 2008 ("the Board Approval") and approval from the Freeport Town Council on June 2008 (the "Approval") for the construction of stone walls and a driveway entrance on town owned property, Tax Assessor Map 11, Lot 130, as shown on plans dated of May 5, 2008 (the "Project"). This License Agreement memorializes the Developer's agreement to undertake certain maintenance responsibilities for certain improvements as shown on the Project plans and the Town's agreement to grant a license for those purposes to the extent on town property.

The Town and Developer agree as follows:

1. The Developer agrees to undertake and be responsible for the following:
  - a. construction and maintenance a stone wall, if the town needs the land that the stone wall is constructed upon in the future, the Developer understands this License will be revoked and agrees to move or remove the stone wall,
  - b. construction and maintenance including snow removal of a driveway and associated drainage, if the town needs the land that the driveway is constructed upon in the future, the Developer understands this License will be revoked and agrees to move or remove the driveway.

The improvements and location of the foregoing are shown more particularly on the Project plans.

2. Developer's obligations under paragraph 1 shall be undertaken at its sole cost and expense, shall be done in a commercially reasonable manner, and shall generally conform to the standards of the Project and in accordance with the Board Approval.
3. Town hereby consents to Developer undertaking the foregoing obligations on property of the Town, if and as needed, subject to its right to revoke the License as discussed above.
4. To the extent the foregoing obligations are undertaken on property owned by the Town, and in recognition of the risks, inherent and otherwise, of injury, damage or death in undertaking the foregoing obligations, which risks the Developer duly acknowledges and freely and solely assumes for itself and its successors, assigns and legal representatives, Developer hereby assumes full responsibility for and waives, discharges and forever releases the Town and its officers, officials, agents and employees in their

official and individual capacities from any and all claims, demands, damages, suits, actions, causes of action, judgments, expenses and costs whatsoever, including but not limited to attorneys' fees and costs, for any and all personal injury, including death, and property damage arising out of or related to Developer's undertaking the foregoing obligations, including all acts of negligence of the Town and its officers, officials, agents, and employees in their official and individual capacities, or otherwise.

Developer further agrees to defend, indemnify and hold harmless the Town and its officers, officials, agents and employees in their official and individual capacities against any and all claims, demands, damages, suits, actions, causes of action, judgments, expenses and costs whatsoever, including but not limited to attorneys' fees and costs, for any and all personal injury, including death, and property damage arising out of or related to Developer's undertaking the foregoing obligations, including all acts of negligence of the Town, or otherwise: provided that this indemnification shall not apply to any willful acts of the Town or such persons.

Developer agrees to provide to the Town prior to undertaking the foregoing obligations an insurance policy insuring at least the substantive areas of liability and monetary limits of the Maine Tort Claims Act and naming the Town and its officers, officials, agents, and employees in their official and individual capacities as an additional insured.

5. This License Agreement shall continue as an obligation of the owner of the Project, its successors and assigns, unless the obligations are subsequently amended or revised in writing.

Moser Properties LLC and Town of Freeport, Maine have each caused this License Agreement to be executed as of the date first written above.

**Moser Properties LLC,**  
A Maine limited liability company

By:   
Name: THOMAS P. MOSER  
Title: MANAGER

**TOWN OF FREEPORT, MAINE**

By:   
Name:  
Title:

