



**TOWN OF MEDWAY**  
COMMONWEALTH OF MASSACHUSETTS

**PLANNING AND ECONOMIC  
DEVELOPMENT BOARD**

Medway Town Hall  
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Medway, MA 02053  
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**Board Members**

Andy Rodenhiser, Chair  
Robert Tucker, Vice Chair  
Thomas Gay, Clerk  
Matthew Hayes, P.E.,  
Member  
Richard Di Iulio, Member

**Staff**

Susan Affleck-Childs,  
Planning and Economic  
Development Coordinator

**Adult Recreational Marijuana Special Permit,  
Groundwater Protection Special Permit, and  
Site Plan Decision**

**NeoOrganics, LLC - 4 Marc Road  
APPROVED with Conditions**

**Decision Date:** January 28, 2020

**Name/Address of Applicants:**

Neo Organics LLC  
365 Boston Post Road, # 184  
Sudbury, MA 01776

NEK, LLC  
20533 SE Evergreen Highway  
Camas, WA 98607

**Name/Address of Property Owner:**

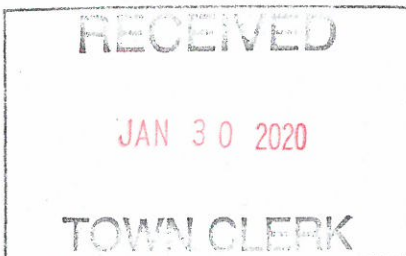
NEK, LLC  
20533 SE Evergreen Highway  
Camas, WA 98607

**Location:** 4 Marc Road

**Assessors' Reference:** 32 – 026

**Zoning District:** East Industrial

**Site Plan:** Permit Site Plan for 4 Marc Road, Neo Cultivation and  
Manufacturing, dated August 6, 2019, last revised  
December 13, 2019, prepared by DGT Associates  
Surveying and Engineering of Framingham, MA





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**I. PROJECT DESCRIPTION** - The Applicants seek a Recreational Marijuana Establishment Special Permit pursuant to Section 8.10 of the Medway *Zoning Bylaw*, a Groundwater Protection Special Permit pursuant to Section 5.6.3 of the *Zoning Bylaw*, and site plan approval pursuant to Section 3.5 of the *Zoning Bylaw*, to use the existing 29,718 sq. ft. (more or less) industrial building at 4 Marc Road, (*Medway Assessors' Parcel 32-026* on the north side of Marc Road in the East Industrial zoning district for the cultivation, processing, manufacturing, and packaging of marijuana for adult recreational use by Neo Organics, LLC of Sudbury, MA. The proposed scope of work includes interior renovations to accommodate the new use, construction of a 3,000 sq. ft. outside concrete mechanical pad to house HVAC and odor control equipment, construction of a dumpster pad with associated fencing, installation of stormwater management measures to supplemental those presently on site, clean-up of the existing manmade drainage ditch, and construction of a 17' wide fire lane along the west side of the building. The property includes wetlands resources which are under the jurisdiction of the Medway Conservation Commission. Because a portion of the site is located within the Town's Groundwater Protection District and 24% of the improved site will have impervious surface, a Groundwater Protection special permit is also required.

**II. VOTE OF THE BOARD** – After reviewing the application and information gathered during the public hearing and review process, including statements of the Applicant and its representatives, comments offered by the public, and comments provided by the Board's consultants and Town staff, the Medway Planning and Economic Development Board, on January 28, 2020, on a motion made by Tom Gay and seconded by Bob Tucker, voted to approve with CONDITIONS and WAIVERS as specified herein a recreational marijuana establishment special permit, a groundwater protection special permit, and a site plan for 4 Marc Road in Medway, MA.

The vote was approved by a vote of five in favor and none opposed.

<b>Planning &amp; Economic Development Board Member</b>	<b>Vote</b>
Richard Di Iulio	Yes
Matthew Hayes	Yes
Thomas A. Gay	Yes
Andy Rodenhiser	Yes
Robert Tucker	Yes

### **III. PROCEDURAL HISTORY**

- A. August 6, 2019 – Special permit application filed with the Board; filed with the Town Clerk on August 7, 2019
- B. August 9, 2019 – Public hearing notice filed with the Town Clerk and posted at the Town of Medway web site.
- C. August 9, 2019 - Public hearing notice mailed to abutters by certified sent mail.
- D. August 13 and August 20, 2019 - Public hearing notice advertised in *Milford Daily News*.
- E. August 27, 2019 - Public hearing commenced. The public hearing was continued to September 24, October 8, November 12 and 26, 2019 and to January 14, 2020 when the hearing was closed and a decision rendered.

#### **IV. INDEX OF DOCUMENTS**

- A. The following documents were provided at the time the applications were filed with the Board:

##### **Site Plan Application**

- Application for Minor Site Plan Approval dated August 6, 2019 with Project Description
- *PERMIT SITE PLAN - Neo Cultivation & Manufacturing*, dated August 6, 2019, prepared by DGT Associates of Framingham, MA
- Requests for Waivers from Medway *Site Plan Rules and Regulations*
- Purchase & Sale Agreement dated February 8, 2019, between NEK, LLC (property owner) and Pangea Realty LLC (buyer), pertaining to the sale of the 4 Marc Road property.
- *Stormwater Management Design and Runoff Calculations Report for 4 Marc Road*, dated July 25, 2019, prepared by DGT Associates of Framingham, MA
- Schematic Design (floor plan), Sheet A1.2, 4 Marc Road, by Anderson Porter Design, Cambridge, MA

##### **Marijuana Special Permit Application**

- Marijuana Special Permit Application dated August 6, 2019 with Project Description
- Odor Mitigation Plan received August 6, 2019, unattributed
- Noise Mitigation Plan received August 6, 2019, unattributed
- Security Plan received August 6, 2019, unattributed
- Transportation of Marijuana Guidelines received August 6, 2019, unattributed

##### **Groundwater Protection Special Permit**

- Groundwater Protection Special Permit Application dated August 8, 2019 with Project Description

- B. During the course of the review, a variety of other materials were submitted to the Board by the Applicant and its representatives and consultants:

- Updated Noise Mitigation Plan dated September 27, 2019 with Noise Mitigation Plan letter from Andy Caballerira of Acentech, Inc. dated September 25, 2019
- Updated Odor Mitigation Plan by Impact Engineering dated September 12, 2019.
- Revised site plans from DGT Engineering Associates dated September 19, 2019, October 24, 2019 and December 13, 2019.
- Plan revision submittal letter from DGT Engineering Associates dated September 19, 2019
- Response letter from DGT Engineering Associates dated September 26, 2019 to Tetra Tech review comments dated August 22, 2019.
- Response letter from DGT Engineering Associates dated October 23, 2019 to Tetra Tech comments dated September 27, 2019
- Revised floor plans from Anderson Porter Design dated September 9, 2019
- Photometric plan by Illuminate dated September 23, 2019
- NeoOrganics security plan, unattributed, received September 19, 2019

- Assignment of interest in the purchase and sale agreement from Pangea, LLC to 4 Marc Road LLC dated March 1, 2019
  - Lease dated May 3, 2019 between Neo Organics, LLC and 4 Marc Road LLC for 4 Marc Road.
  - Additional request for a waiver from *Site Plan Rules and Regulations*, dated September 10, 2019.
  - Proposed sound wall information received November 8, 2019
  - *Land Disturbance Area Plan* dated September 27, 2019, revised October 22, 2019 and December 13, 2019, prepared by DGT.
  - *Stormwater Management Design and Runoff Calculations Report for 4 Marc Road* dated July 25, 2019, revised September 19, 2019, last revised December 13, 2019, prepared by DGT Associates of Framingham, MA.
- C. During the course of the review, a variety of other materials were submitted to the Board by the Board's consultants and Town staff:
- Plan review letters and emails from Gino Carlucci, PGC Associates, dated August 20, 2019, October 3, 2019 and October 31, 2019
  - Plan review letters from Tetra Tech to the Board dated August 22, 2019, September 27, 2019 and October 28, 2019
  - Noise mitigation plan review letters from Ron Dempsey, Noise Control Engineering, dated August 21, 2019, October 3, 2019 and October 23, 2019
  - Odor mitigation plan review letters from Bruce Straughan, Straughan Forensic dated August 21, 2019 and October 2, 2019.
  - Host Community Agreement dated March 4, 2019 between Neo Cultivation MA, LLC and Neo Manufacturing MA, LLC and the Town of Medway.
  - Letter dated August 16, 2019 from Building Commissioner Jack Mee
  - Review letter dated October 7, 2019 from Police Chief Allen Tingley
  - Email memo dated August 12, 2019 from Treasurer/Collector Joanne Russo
  - 2 Marc Road CommCan recreational marijuana special permit decision dated February 26, 2019
  - Email memo dated November 26, 2019 from Deputy Fire Chief Mike Fasolino
  - Email memo dated December 12, 2019 from Fire Chief Jeff Lynch.
  - Plan review letter from Tetra Tech to the Conservation Commission dated December 16, 2019.
  - Revised Conservation Commission Order of Conditions dated January 14, 2020.
  - MA Department of Environmental Protection EP Noise Policy and associated Noise Regulations (310 CMR 7.10).
  - Installation Guide – Atlantic Industries Limited – AIL Tuf Barrier and Silent Protector Sound Walls
- D. Abutter Comments
- Email communication dated October 8, 2019 (with attachments) from abutter John Lally, 35 Coffee Street
  - Email communication dated November 12, 2019 (with attachments) from abutter John Lally, 35 Coffee Street
  - Email communication dated December 4, 2019 (with attachments) from abutter John Lally, 35 Coffee Street

E. Other Documentation

1. Mullins Rule Certification dated September 10, 2019 for Board member Matthew Hayes pertaining to the August 27, 2019 hearing.
2. Mullins Rule Certification dated October 22, 2019 for Board member Robert Tucker pertaining to the October 8, 2019 hearing.
3. Mullins Rule Certification dated October 17, 2019 for Board member Thomas Gay pertaining to the October 8, 2019 hearing.

V. **TESTIMONY** – During the course of the public hearing, the Board heard and received verbal testimony from:

- Gino Carlucci, PGC Associates, the Town’s Consulting Planner – Commentary throughout the public hearing process.
- Steve Bouley, P.E, Tetra Tech – Commentary throughout the public hearing process
- Ron Dempsey and Jeff Komrower of Noise Control Engineering LLC, acoustic sound consultants for the Town.
- Jaime Lewis, Neo Organics
- Andy Carballeria, Acentech Inc., acoustic sound consultant for the Applicant.
- Bert Corey and Joe Losanno, DGT Associates, engineering consultant for the Applicant.
- Resident and abutter John Lally, 35 Coffee Street
- Resident and neighbor Edward Burns, 43 Coffee Street

VI. **FINDINGS**

The Planning and Economic Development Board, at its meeting on January 28, 2020, on a motion made by Bob Tucker and seconded by Tom Gay, voted to approve the following **FINDINGS** regarding the site plan and special permit applications for 4 Marc Road. The motion was approved by a vote of five in favor and none opposed.

**GENERAL FINDINGS from PUBLIC HEARING TESTIMONY**

(1) **NOISE ISSUES**

- A. Pursuant to Section 7.3.C.2. of the *Zoning Bylaw*, the “Maximum permissible sound pressure levels measured at the property line nearest to the noise source for noise radiated continuously from the noise source between 10 PM and 7 AM shall be as follows.”

Frequency Band (Cycles per Second)	Sound Pressure Level (Decibels 43 0.0002 Dyne/CM2)
2-72	69
75-150	54
150-300	47
300 - 600	41
600 – 1,200	37
1,200 – 2,400	34
2,400 - 4,800	31
4,800 – 10,000	28

“For noise levels between 7 A.M. and 10 P.M., and if the noise is not smooth and continuous, the following corrections shall be added to each of the decibel levels given above:

- Daytime operation only: +5
- Noise source operated at less than 20% of any 1-hour period: +5”

- B. Earlier in 2019, during the Board’s review of the recreational marijuana establishment special permit application for 2 Marc Road, the Board along with the Board’s sound consultant (Noise Control Engineering) and that applicant’s sound consultant (Acentech, Inc.) agreed that the frequency band range form of noise measurement specified in the *Medway Zoning Bylaw* is outdated. The consultants concurred that noise measurements in accordance with the *Zoning Bylaw*’s standards are neither ideal nor typical today. The Board acknowledged that frequency band ranges presently included in the *Zoning Bylaw* do not accurately reflect contemporary sound measurement standards and provide challenges to interpretation and enforcement of the applicable provisions of the *Zoning Bylaw*. The Board was willing to allow a conversion to more modern standards, but only as long as the conversion was more, not less restrictive.

Noise Control Engineering converted the *Zoning Bylaw*’s frequency band noise levels to octave bands for noise measurement purposes. The method used was based on the frequency span of the octave bands and is consistent with the conversion documented in the 1980 EPA document *905-R-80-117 Noise Legislation Trends and Implications*. The table below shows the conversion of the *Bylaw*’s frequency band noise standards to the modern octave band noise standards with the nighttime and daytime adjustments.

<b>Octave Band Center Frequency (Hz)</b>	<b>Medway Zoning Bylaw Sound Pressure Level, (dB re 20 micro-Pa) Nighttime</b>	<b>Medway Zoning Bylaw Sound Pressure Level, (dB re 20 micro-Pa) Daytime</b>
63	67	72
125	55	60
250	48	53
500	42	47
1000	38	43
2000	35	40
4000	32	37
8000	28	33

- C. The Applicant’s preliminary noise mitigation plan was submitted to the Board on August 6, 2019 with the special permit application. The Board retained Noise Control Engineering (NCE) of Billerica, MA to review that preliminary noise mitigation plan. NCE provided an email communication dated August 21, 2019 with comments and recommendations of additional information needed.
- D. The Applicant prepared an updated noise mitigation plan which was submitted to the Board on September 27, 2019. The Applicant also retained sound consultant Acentech, Inc. of Cambridge, MA to evaluate the anticipated levels of noise

producing equipment to be installed at the 4 Marc Road facility and provide recommendations for suitable noise control measures. Acentech developed a computer model of the facility's sound using CadnaA, an acoustic modeling software. The noise producing equipment includes a 300 kw generator, transformer, air handling units (AHU), a variety of condensing units, and rooftop exhaust fans. Acentech determined that the proposed noise generating equipment, absent any noise mitigation measures, will not comply with the noise regulations included in Section 7.3.C.2. of the *Zoning Bylaw* at all property lines of 4 Marc Road. To mitigate the excessive noise from certain of the noise producing sources, Acentech recommended placing sound barriers around the condensing and air handling units and to select a generator and enclosure that would meet the *Zoning Bylaw's* sound requirements.

Acentech then calculated the expected noise levels, with the planned noise control measures applied, at 14 receptor locations at the property lines of 4 Marc Road and at 7 receptor residential locations at second story building heights. Acentech found that the estimated sound levels created by the noise generating equipment, with the added noise mitigation measures recommended by Acentech, would be below the Town's noise standards (converted from frequency band to octave band) as described in Item B.

- E. The Board retained Noise Control Engineering, LLC (NCE) to evaluate the Applicant's proposed noise mitigation plan for the 4 Marc Road property. NCE provided an email communication dated October 3, 2019 and personal testimony by NCE personnel was provided during the November 12, 2019 hearing.
- F. The Board is in receipt of written and verbal testimony of abutters and nearby residents in the vicinity of 4 Marc Road expressing serious concerns and objections to the excessive noise emanating from the existing marijuana facility operating at 2 Marc Road. Concern was expressed that similar issues would occur with the 4 Marc Road facility.
- G. The Applicant has represented that the 4 Marc Road facility, as part of its permitting with the Massachusetts Cannabis Control Commission, is required to comply with the MA DEP Noise Policy and associated Noise Regulations (310 CMR 7.10). These regulations state that a source of sound violates the regulation if the source:
  - 1. Increases the broadband sound level by more than 10dB above ambient, or
  - 2. Produces a "pure tone" condition which occurs when any octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by 3 decibels or more.

The MA DEPT Noise Policy and Regulations state that these criteria are measured both at the property line and at the nearest inhabited residence. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time (the L<sub>90</sub> metric) measured during equipment operating hours.



(2) **ODOR ISSUES**

- A. Pursuant to Section 7.3.D. of the *Zoning Bylaw*, “In all districts, no emissions of odorous gases or odoriferous matter in such quantities as to be discernible outside the property line shall be permitted. Any industrial process which may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system. No objectionable odor greater than that caused by 0.001201 oz. per thousand cubic feet of hydrogen sulfide or any odor threshold as defined in Table III in Chapter 5 of Air Pollution Abatement Manual (copyright 1951 by manufacturing Chemists Assoc., Inc., Washington, DC) shall be permitted.”
- B. The Applicant’s preliminary odor mitigation plan was submitted to the Board August 6, 2019 with the special permit application. The Board retained Straughan Forensic, LLC of Arvada, CO, to review that preliminary odor mitigation plan. Straughan Forensic provided review letters dated August 21, 2019 with comments and recommendations of additional information needed.
- C. The Applicant retained Impact Engineering Inc. of Castle Rock, CO to prepare an updated odor mitigation plan which was submitted to the Board on September 19, 2019. At the Board’s request, Straughan Forensic, LLC evaluated the Applicant’s updated odor mitigation plan for the 4 Marc Road property and provided a review letter dated October 2, 2019.

- (3) **HOURS OF OPERATION** – The applicant has informed the Board that as a marijuana growing facility, the establishment will operate 24 hours a day/7 days a week. The Applicant anticipates that the facility will be occupied by a maximum of twenty-five employees. Occupancy will be generally limited to the hours of 7 am to 7 pm, Sunday – Saturday.

***RECREATIONAL MARIJUANA ESTABLISHMENT SPECIAL PERMIT FINDINGS***  
***(Sub-section 8.10 of the Zoning Bylaw)***

- (1) The recreational marijuana cultivation and processing establishment will operate inside the existing building at 4 Marc Road, a permanent, stand-alone building which does not include residential units or doctors’ offices. The site includes driveways, parking areas, utility systems, and stormwater management facilities.
- (2) None of the uses listed in Section 8.10 E. 4. of the *Zoning Bylaw* (public or private school serving students in grades K-12) are located within 500 feet of the site of the proposed facility.
- (3) As conditioned herein and as required by the *Zoning Bylaw*, smoking, burning and consumption of marijuana or marijuana-infused products on the premises is not allowed.
- (4) No drive-through service is proposed. It is not needed as a retail operation is not planned for the site nor does the *Zoning Bylaw* allow for a drive-through facility.
- (5) As conditioned herein, any signage for the facility shall comply with Section 8.10.F and Section 7.2 of the *Zoning Bylaw*.

- (6) As conditioned herein, the Applicant shall provide the contact information for management staff and key holders of the facility to Town officials.
- (7) As conditioned herein, the Board finds that the recreational marijuana establishment will not create a nuisance to abutters or to the surrounding area or create any hazard. Both the Applicant and the Town have contracted with noise and odor consultants. The Applicant has prepared a noise mitigation plan which has been reviewed by the Town's noise consultant. It will be implemented in accordance with Specific Condition D herein. The Applicant has also provided an odor control plan which will be implemented in accordance with Special Condition E herein.

The Board is requiring on-going noise and odor monitoring to ensure compliance with the Town's requirements. See Special Conditions D and E. The Building Commissioner, in consultation with the Health Agent, and the Town's noise and odor consultant(s), will confirm compliance with the noise and odor requirements of the *Zoning Bylaw* after the required noise and odor mitigation measures are installed. As conditioned herein, any non-compliance will be addressed through zoning enforcement.

- (8) The existing building meets the requirements for "openness of premises" since no activities within the building or displays of products are visible from the exterior of the building and the front of the building, which includes the primary entrance to the facility, is fully visible from the site's frontage. All operations are within the restricted building and there is no direct consumer access as no retail sales are allowed pursuant to the *Zoning Bylaw*.
- (9) The special permit authorizes only the following adult recreational marijuana establishment activities: cultivation, manufacturing, processing and packaging of marijuana and marijuana products, and the transport and delivery of such to other recreational marijuana establishments. Retail sales and marijuana social establishments are not allowed pursuant to the *Zoning Bylaw*.
- (10) As conditioned herein, copies of required licenses and permits issued by the Commonwealth will be provided upon approval by the Massachusetts Cannabis Control Commission. The recreational marijuana operation will be operated in strict compliance with Massachusetts Cannabis Control Commission regulations.
- (11) Applicant, NEK, LLC is the record owner of the property as shown on the Medway Assessor's records and the seller on a purchase and sale agreement with Pangea Realty LLC dated February 8, 2019. On March 1, 2019, Pangea Realty LLC assigned its interest in the purchase and sales agreement to 4 Marc Road, LLC which will own the 4 Marc Road property.

The Applicant, Neo Organics, LLC will be a tenant in the subject property and building pursuant to a lease dated May 3, 2019 with 4 Marc Road, LLC. Accordingly, the Applicant has the right to use the site for a registered marijuana establishment.

- (12) Prior to plan endorsement, the Applicant shall provide a sworn statement disclosing the owner's or other similarly situated individuals' interest in the registered marijuana establishment.

- (13) A certified list of all abutter and parties of interest was provided. The Planning and Economic Development office coordinated the production and mailing of the required public hearing notice for the Special Permit and Site Plan applications to the required parties.
- (14) A site plan was submitted and has been revised pursuant to comments from the Board's consultants and the Conservation Commission. A detailed floor plan of the premises showing the functional areas of the facility has also been provided. The facility's security plan including lighting, fencing, gates and alarms was submitted and provided to the Police Chief during the permitting process.
- (15) A copy of the policies and procedures for the transfer, acquisition, or sale of adult recreational marijuana between approved marijuana establishments was provided as part of the special permit application.
- (16) A comprehensive noise mitigation plan prepared by the applicant's noise consultant, Acentech, Inc. was submitted and reviewed by Noise Control Engineering, the Board's noise consultant. The plan was revised, re-submitted, and re-reviewed. The planned noise mitigation measures are expected to enable the facility to meet the Town's noise standards as included in Section 7.3 of the *Zoning Bylaw*. As conditioned herein, any non-compliance will be addressed through zoning enforcement.
- (17) A comprehensive odor mitigation plan prepared by the applicant's odor consultant, Impact Engineering, Inc, was submitted to the Board and reviewed by Straughan Forensic, LLC, the Board's odor consultant. The odor mitigation plan was revised, re-submitted and re-reviewed. As conditioned herein, any non-compliance will be addressed by the Building Commissioner through zoning enforcement.
- (18) The required public hearing and review process for this special permit application has been followed.
- (19) The adult recreational marijuana establishment, as conditioned herein, has been designed to minimize adverse visual or economic impacts on abutters and other parties in interest. No changes in the existing building or site are proposed other than the described site improvements and possible additional measures to address potential noise and odor impacts if such occur in the future.
- (20) As conditioned herein, the proposed facility will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.
- (21) As conditioned herein, the Applicant has satisfied the conditions and requirements of this Section 8.10 and Section 3.4 of the *Zoning Bylaw*.

***SITE PLAN RULES AND REGULATIONS FINDINGS*** – The Planning and Economic Development Board shall determine whether the proposed development is in conformance with the standards and criteria set forth in the *Rules and Regulations*, unless specifically waived. In making its decision, the Planning and Economic Development Board shall determine the following:

- (1) Has internal circulation, queuing and egress been designed such that traffic safety is protected, access via minor streets servicing residential areas is minimized, and traffic backing up into the public way is minimized?

*The site is within an industrial park which is accessed directly from Route 109 so there is no access through minor streets serving residential areas. There is no backing up onto a public way.*

- (2) Does the site plan show designs that minimize any departure from the character, materials, and scale of buildings in the vicinity as viewed from public ways and places?

*The existing building and site are of an industrial style, with the scale and materials similar to other buildings within the industrial park. No exterior building façade renovations are planned.*

- (3) Is reasonable use made of building location, grading and vegetation to reduce the visible intrusion of structures, parking areas, outside storage or other outdoor service areas (e.g. waste removal) from public views or from (nearby) premises residentially used and zoned.

*The site is heavily wooded at its access driveway from Marc Road. The parking areas are along the driveway and behind the building. There is no outside storage of materials. An outdoor dumpster is included but it will be located at the back of the site and will have an enclosure around it. As the site is already developed, considerable landscaping is already provided. The building is set back approximately 110' from the western boundary line of the subject property.*

- (4) Is adequate access to each structure for fire and service equipment provided?

*The site plan has been revised pursuant to feedback from the Medway Fire Department to now include construction of a fire lane on the west side of the building. Fire Chief Jeff Lynch, in an email dated December 12, 2019, approved the revised site plan as suitable access to the building will be provided.*

- (5) Will the design and construction minimize, to the extent reasonably possible, the following environmental impacts?

- a) the volume of cut and fill; *Since this is an existing developed site, the volume of cut and fill is minimal to adapt the site for a new use. The project scope is limited primarily to cleaning out and upgrading an existing drainage system and the installation of a new equipment pad and sound barrier on the west side of the building.*
- b) the number of trees to be removed with particular care taken with mature trees and root systems; *This is an existing developed site so tree removal is minimal to accommodate the construction of an equipment pad and a fire access road.*
- c) the visual prominence of man-made elements not necessary for safety; *The only added man-made visual element to the site is the equipment pad and associated sound barrier. While necessary to project abutters from excessive*

*noise, it is not visible from Marc Road and it is screened from the westerly abutter by a slope with existing trees on it.*

- d) *the removal of existing stone walls; No existing stone walls are being removed.*
  - e) *the visibility of building sites from existing streets; The current building is located off Marc Road, up a hill and the site includes trees between the road and building such that only the entrance driveway and sign are visible from Marc Road. This is not being changed for the new use.*
  - f) *the impacts on waterways and environmental resource areas; A small portion of the site is within the 100-foot wetlands buffer zone and in the Town's Groundwater Protection District. The only work proposed within this area consists of improvements to the stormwater management system which is upgraded throughout the site to comply with current standards so the impacts on waterways and environmental resource areas is positive. The project has also been reviewed by the Conservation Commission and an Order of Conditions has been issued.*
  - g) *soil pollution and erosion; The submitted plans include an Erosion and Sediment Control Plan, which has been reviewed and approved by the Town's Consulting Engineer. The Conservation Commission has also issued an Order of Conditions.*
  - h) *noise. The possibility of noise impacts on abutters has been the issue of most concern and has generated the most discussion at the public hearings. A comprehensive noise control plan was required and submitted to the Board. The Board's noise engineering consultant reviewed the initial plan and considered supplemental information submitted by abutters. Changes to the initial noise mitigation plan were made, including the addition of significant noise barriers with noise baffling features to contain the noise generated by the exterior mechanical equipment. The plan as approved will have minimal noise impacts and those impacts will be monitored once the building attains its full operating status and any needed adjustments will be required accordingly.*
- (6) Is pedestrian and vehicular safety both on the site and egressing from it maximized?
- There is no significant pedestrian use anticipated since no public access to the building is allowed. Pedestrian safety within the parking lot is standard and is adequate due to minimal vehicular traffic. Sidewalk improvements are planned to modify the existing concrete walkway to provide for handicap accessibility. The existing sight lines at the driveway for exiting traffic will be increased through the clearing of some trees (9" diameter and less) to the east of the driveway and some regarding.*
- (7) Does the design and will the construction incorporate, to the maximum extent possible, the visual prominence of natural and historic features of the site?

*There are no historic features on site.*

- (8) Does the lighting of structures and parking area avoid glare on adjoining properties and minimize light pollution within the town?

*A photometric plan has been submitted that demonstrates that there is no light trespass or glare off site.*

- (9) Is the proposed limit of work area reasonable and does it protect sensitive environmental and/or cultural resources? The site plan as designed should not cause substantial or irrevocable damage to the environment, which damage could be avoided or ameliorated through an alternative development plan or mitigation measures.

*The limit of work is reasonable. It makes use of an already developed site and provides a comprehensive stormwater management system to address the existing facility and proposed site improvements.*

**GENERAL SPECIAL PERMIT FINDINGS (Sub-section 3.4 of the Zoning Bylaw)**

- (1) The proposed site is an appropriate location for the proposed use.

*Section 8.10 of the Zoning Bylaw (Recreational Marijuana) and Table 1 – Schedule of Uses specifies that non-retail recreational marijuana establishments are allowed by special permit in the East and West Industrial zoning districts. The subject site at 4 Marc Road is located within the East Industrial zoning district and is therefore an eligible location for the proposed use. Further, the site is not located within 500 feet of any of the uses from which marijuana establishments are prohibited (existing public or private school serving students in grades K-12). The site includes an existing industrial building constructed in 1984; the property has been used for industrial purposes for 35 years.*

- (2) Adequate and appropriate facilities will be provided for the operation of the proposed use.

*The recreational marijuana cultivation and processing uses will occur within the existing industrial building at 4 Marc Road. Suitable parking is available with access from Marc Road. As documented in the findings under Site Plan Rules and Regulations above, adequate and appropriate facilities have been provided for the operation of the facility. The site's internal driveways and stormwater management system have been reviewed by the Board's Consulting Engineer and found to be adequate.*

- (3) The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians or the environment.

*The existing site contains suitable driveways, parking areas and stormwater management systems. Pedestrians are not expected to access the site as no retail marijuana operation is permitted. As conditioned herein, the Applicant is required to meet the Town's noise and odor standards as specified in Section 7.3 of the Zoning Bylaw and provide additional noise and odor mitigation measures if needed in the future.*

- (4) The proposed use will not cause undue traffic congestion or conflicts in the immediate area.

*The proposed facility is expected to have 25 employees. The available on-site parking exceeds the number of parking spaces required. As the facility will not have a retail operation, non-employee traffic to the site will be minimal. The Industrial Park Road system is adequate to handle the routine employee traffic. Marc Road was recently reconstructed as part of the approval of an adjacent business facility at 2 Marc Road, so the adjacent roadway quality leading to the property is excellent. Furthermore, the site's access is via Marc Road from Industrial Park Road from Main Street/Route 109, a major east-west arterial roadway, so there is no traffic impact on local residential roadways.*

- (5) The proposed use will not be detrimental to the adjoining properties due to lighting, flooding, odors, dust, noise, vibration, refuse materials, or other undesirable visual, site or operational attributes of the proposed use.

*Site plan review has addressed each of these potential impacts on adjoining properties. A photometric plan for the lighting has been submitted; it documents that lighting will not spill over onto adjoining properties. The stormwater management plan has been reviewed and approved; stormwater will not result in flooding on adjoining properties. An odor control plan, specific to the property's use as a marijuana cultivation facility, has been submitted by the Applicant and reviewed by a firm specializing in odor mitigation. Any dust generated from the operation of the business shall be contained within the building. Noise has especially been carefully evaluated with the assistance of a noise consultant, and the final noise control plan has been accepted. Also, noise generation will be monitored following full operation of the facility. No vibration is expected to be generated by the operation of the business. Refuse materials will be contained within a locked dumpster area for security purposes. Any other undesirable visual, site or operational attributes of the facility shall either be the same as existing conditions or improved from the previous business operation on the premises.*

- (6) The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district.

*The proposed use is manufacturing and is therefore consistent with the character of the East Industrial Zoning District in which the subject property is located. This application proposes to produce marijuana for adult recreational use within the existing building. The proposed use will not significantly alter the character of the East Industrial zoning district.*

*The Board heard testimony from residential abutters and neighbors about their concerns regarding adverse noise and odor conditions which may emanate from the proposed facility. These concerns result from their experience of noise and odor issues related to the existing marijuana cultivation and manufacturing operation at the adjacent 2 Marc Road marijuana facility. The Applicant made repeated verbal commitments during the public hearing that they will address neighbor concerns through reasonable noise and odor mitigation measures. Furthermore, as noted*

*above, the Board paid particular attention to the noise and odor concerns and contracted with outside consultants specializing in noise and odor control to review and provide guidance as to how to minimize such concerns. The final plans include maximum measures to ensure that the impacts are minimal at best. The Applicant will be held to the environmental standards included in Section 7.3 of the Zoning Bylaw. The Cannabis Control Commission requires the Applicant to also meet the MA DEP noise standards. Measures to address other types of potential impacts (lighting, flooding, dust, vibration, refuse materials, etc.) have also been provided. As conditioned herein, the Board finds that reasonable measures will be taken such that this particular industrial use will not adversely affect the surrounding neighborhood.*

- (7) The proposed use is in harmony with the general purpose and intent of this Zoning Bylaw.

*The Recreational Marijuana section of the Zoning Bylaw (Section 8.10) was adopted by the Town in May 2018 with the specific intent of allowing the establishment of non-retail recreational marijuana establishments at limited locations in Medway. The stated purpose of Section 8.10 is to address possible adverse public health and safety consequences and impacts on the quality of life related to this type of facility by providing for them in appropriate places and under strict conditions. As the proposed facility is located within one of the designated zoning districts, it meets the purpose of the Zoning Bylaw.*

- (8) The proposed use is consistent with the goals of the Medway Master Plan.

*The existing facility and the expanded use of the facility is in compliance with Goals 1 and 6 of the Economic Development Goals and Objectives section of the Medway Master Plan as follows:*

- *Goal 1: Maximize the area's economic resources*
- *Goal 6: Attract new (and retain existing) businesses and increase the industrial/manufacturing base.*

- (9) The proposed use will not be detrimental to the public good.

*As a facility in compliance with state and local law, consistent with the goals of the Medway Master Plan, and as thoroughly conditioned herein, the proposed use will not be detrimental to the public good.*

**GROUNDWATER PROTECTION DISTRICT SPECIAL PERMIT FINDINGS (Sub-Section 7.3 of the Zoning Bylaw)** – A portion of the 4 Marc Road site is located within the Town's Groundwater Protection District, therefore a groundwater protection special permit is required.

- (1) Maintenance, repair and enlargement of any existing structure and new construction are permitted uses, subject to certain restrictions, within the Groundwater Protection District. As conditioned, and as noted below, the project will comply with those restrictions.
- (2) As conditioned herein, storage of hazardous materials, as defined in Massachusetts General Laws, c. 21E, is prohibited unless enclosed in a free standing container



within a building. Any accidental spillage will also be contained within the building and any that may enter the municipal sewer system will be treated prior to being discharged to the municipal sewer system.

- (3) As conditioned herein, any commercial fertilizers, as defined in Massachusetts General Law, c. 128, §64, used for the growing of marijuana plants will be stored within containers and kept inside the 4 Marc Road building.
- (4) The facility will handle toxic and hazardous materials. All use of hazardous materials will be contained within the building and as the risk of spillage during deliveries is low, the facility qualifies for a special permit. Operation and maintenance procedures are in place to prevent any accidental outdoor spillage from reaching groundwater.
- (5) Water control devices are prohibited unless they can be shown to prevent adverse impacts on groundwater. The stormwater management plans have been reviewed by the Town's Consulting Engineer to ensure that no adverse impacts will result.
- (6) The facility and associated site improvements will render more than 71,000 square feet of the site impervious. The Town's Consulting Engineer has reviewed the stormwater management plan to ensure that groundwater recharge does not degrade groundwater quality.
- (7) As required by Section 5.6.F. 1. of the *Zoning Bylaw*, the plans have been provided to the Board of Health, Conservation Commission, Water and Sewer Commission, and Department of Public Services for review and consultation to evaluate whether the proposed project will adversely impact the quality or quantity of water available within the Groundwater Protection District, and to determine that disturbance of the soils, topography, drainage, vegetation and other characteristics is minimized.

**VII. WAIVERS** – At its January 28, 2020 meeting, the Board, on a motion made by Bob Tucker and seconded by Richard Di Iulio, voted to grant waivers from the following provisions of the *Rules and Regulations for the Submission and Approval of Site Plans, as amended December 3, 2002*. The Board's action and reasons for granting each waiver request are listed below. All waivers are subject to the *Special and General Conditions of Approval*, which follow this section. The motion was approved by a vote of five in favor and none opposed.

#### **SITE PLAN SUBMITTAL REQUIREMENTS/PLAN CONTENTS**

**Section 204-3 A. 7. - Development Impact Statement.** A written Development Impact Statement shall be provided to describe the potential and anticipated impacts of the proposed development, identify all positive and adverse impacts, and propose an acceptable program to prevent or mitigate adverse impacts. At its discretion, the Planning Board, upon written request of the applicant, and based on the Board's preliminary assessment of the scale and type of development proposed, may waive or modify the requirements for submission of any of the elements of the *Development Impact Statement*. The *Development Impact Statement* shall consist of the following four elements: traffic, environmental, community and parking.

*The Applicant has requested a waiver from this requirement. The site is already developed and has been used for industrial purposes since 1984. The proposed site improvement work is minimal. Traffic is not expected to increase beyond previous occupants. The preparation of traffic,*

*environmental, community and parking impact assessments is not expected to reveal any useful information related to the site or the project's impacts. The recreational marijuana facility use is highly regulated by the Massachusetts Cannabis Control Commission and is subject to a special use zoning permit from the Board. For the foregoing reasons, the Board APPROVES this waiver as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.*

**Section 204-4 B - Site Context Sheet.** A Site Context Sheet including the following items shall be submitted.

- 1) A locus plan showing the site and its boundaries in relation to all surrounding streets within two thousand (2,000) feet of the perimeter of the site. The plan shall be at a maximum scale of one (1) inch equals one thousand (1,000) feet. Scenic roads shall be noted.
- 2) Abutters' names and addresses with assessor's reference.
- 3) Lot lines with dimensions and easement areas.
- 4) Existing topography at two (2) foot intervals from USGS survey maps or actual land survey.
- 5) All easements (*utility, conservation and other*) and rights-of-way.
- 6) Zoning district boundaries including groundwater protection district, wetlands, and flood plain zones.

*The Applicant has requested a waiver from this requirement. A separate Site Context Sheet has not been provided as part of the plan set. However, the information specified to be included on a Site Context Sheet is included on other sheets included in the plan set. For the foregoing reason, the Board APPROVES this waiver as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.*

**Section 204-5 C. 3. Existing Landscape Inventory** – An *Existing Landscape Inventory* shall be prepared by a Professional Landscape Architect licensed in the Commonwealth of Massachusetts. This inventory shall include a “mapped” overview of existing landscape features and structures and a general inventory of major plant species including the specific identification of existing trees with a diameter of one (1) foot or greater at four (4) feet above grade.

*The Applicant has requested a waiver from this requirement. The site is large (6.68 acres) and is mostly wooded in nature. The existing building will be reused. Site improvements are minimal and will not result in a large land disturbance area. A 32” pine tree located in the southeast corner of the property is specifically identified to remain and be protected during construction. Locating the all trees with a diameter of one foot or greater at four feet above grade throughout the site would be an unnecessary additional expense and provide no added value to the site design or development. For the foregoing reasons, the Board APPROVES this waiver as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.*

**Section 204-5 D. 7. Proposed Landscape Design** – A *Landscape Architectural Plan* shall be prepared by a Landscape Architect licensed in the Commonwealth of Massachusetts. This *Plan* shall be prepared as an overlay of the existing conditions sheets and shall incorporate, whenever possible, the significant features of the existing site and topography, particularly existing trees with a diameter

of one (1) foot or greater at four (4) feet above grade. The *Landscape Architectural Plan* shall indicate the areas slated for excavation; any woodlands, trees or other existing features or structures to be retained; all new plantings by common and Latin name including their proposed locations and sizes at the time of installation. Plan graphics for tree canopies shall reflect, as closely as possible, the actual canopy dimension of proposed tree plantings at the time of installation with a “lesser” intensity graphic used to represent potential canopy at maturity.

*The applicant has requested a waiver from this requirement as no new landscaping is proposed for this already developed site. Any marijuana facility is subject to a permit from the Massachusetts Cannabis Control Commission which has strict requirements that prohibit shrubs and trees from being planted in proximity to marijuana establishments in order to promote safety in and around the facility. For the foregoing reasons, the Board APPROVES this waiver as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.*

**Section 204-5 D. 12 – Signage Plan** - A *Signage Plan* shall be submitted which includes the design, location, materials, dimensions and lighting for:

- (a) the proposed development and all building identification signage, both freestanding and attached; and
- (b) standards for tenant signs.

*The applicant has requested a waiver from this requirement. The applicant intends to reuse the existing monument sign from the prior occupant to display only the property address. No other signage is planned for the building. For the foregoing reasons, the Board APPROVES this waiver as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.*

**VIII. CONDITIONS** The *Special and General Conditions* included in this Decision shall assure that the Board’s approval of this special permit is consistent with the *Zoning Bylaw* and that the comments of various Town boards and public officials have been adequately addressed, and that concerns of abutters and other town residents which were aired during the public hearing process have been carefully considered. These conditions are binding on the Applicant.

### **SPECIFIC CONDITIONS OF APPROVAL**

- A. All standard requirements included in Section 8.10 Recreational Marijuana of the *Zoning Bylaw* apply to this special permit. These include but are not limited to:
  - 1. Upon approval and prior to commencing operations on the property to cultivate and process marijuana for adult recreational use, the Applicant shall provide the Building Commissioner, Health Agent, Fire Chief, Police Chief, and the Board with a copy of the applicable state adult recreational marijuana establishment licenses, permits, and approvals from the Massachusetts Cannabis Control Commission.
  - 2. The Applicant shall provide an annual report of Neo Organics, LLC’s operations to the Board and other Town officials no later than January 31<sup>st</sup> of each year, including a copy of all current state licenses and demonstrating continued

compliance with the conditions of this special permit. Any change in ownership of Neo Organics, LLC or change in management staff and key holders shall also be reported.

3. This special permit is not transferrable to another party. It shall remain exclusively with the Applicant, Neo Organics, LLC, as the operator of an adult recreational marijuana establishment on the premises.
  4. Smoking, burning and consumption of marijuana or marijuana infused products on the premises is prohibited.
- B. **Plan Endorsement** - Within sixty (60) days after the Board has filed its *Decision* with the Town Clerk, the *Permit Site Plan for 4 Marc Road, Neo Cultivation and Manufacturing*, dated August 6, 2019, last revised December 13, 2019, prepared by DGT Associates Surveying and Engineering of Framingham, MA shall be further revised to reflect all Conditions and required revisions as specified herein, and shall be submitted to the Board to review for compliance with the Board's *Decision*. (*Said plan is hereinafter referred to as the Plan*). Upon approval, the Applicant shall provide the revised Plan in its final form to the Board for its endorsement prior to recording at the Norfolk County Registry of Deeds along with this decision. All Plan sheets shall be bound together in a complete set.
- C. **Other Documentation** - Prior to plan endorsement, the Applicant shall provide a sworn statement the Applicant shall provide a sworn statement disclosing the owner's or other similarly situated individuals' interest in the registered marijuana establishment.
- D. **Noise Management**
1. The Applicant shall install and maintain at all times effective noise reduction equipment for the property to comply with Section 7.3 of the *Zoning Bylaw* as well as the Massachusetts Department of Environmental Protection (MA DEP) noise requirements as established in 310 CMR 7.10. The Applicant will achieve compliance through industry best practices and suitable noise abatement measures. The Applicant shall ensure proper maintenance of all noise abatement equipment to ensure maximum efficiency and effectiveness and ongoing compliance.
  2. Prior to the issuance of an occupancy permit for the 2 Marc Road facility, the Applicant shall provide the Building Commissioner, Health Agent, and Board with a noise study measuring ambient sound levels without the external mechanical equipment in operation, the sound at each of the 4 Marc Road property boundaries during full operating conditions, and the sound at the locations of existing residential receptors and expected future residential receptors. The purpose is to determine if the facility complies with Section 7.3 of the *Zoning Bylaw* as well as the MA DEP noise requirements as established in 310 CMR 7.10. The Board, Building Commissioner or Health Agent may forward the noise study to the Town's noise consultant for peer review and comment, at the Applicant's expense.

- a. Establishment of Ambient Noise Levels – Ambient background levels shall be established without the influence of any noise emanating from the CommCan facility at 2 Marc Road. If background noise levels at 2 Marc Road have been previously established prior to operation of the CommCan facility and are acceptable to the Board, they may be used. If not, new measurements to establish background noise levels will be performed by the Applicant. Any noise sources from 2 Marc Road that may contribute to background noise levels should be turned off during the attended measurements to establish the background noise levels. If unattended monitoring is used, the noise contribution from 2 Marc Road can be established by shutting down the noise sources during a specified time period and calculating the difference in  $L_{90}$  levels during on and off times. If it is absolutely not possible to take ambient measurements with the 2 Marc Road facility shutdown, ambient measurements should be taken in an area with similar ambient conditions (i.e. similar distance from major roads or other noise sources) which is far enough from the 2 Marc Road facility so that the 2 Marc Road facility does not significantly influence the measures. If an alternative method for establishing the background levels is proposed, a test plan shall be submitted to the Board for acceptance of the alternative method. The Board may seek guidance from its noise consultant.

Separate background noise levels shall be established for daytime hours (7 am to 10 pm) and nighttime hours (10 pm to 7 am).

Background noise levels can be established either by attended measurements (with the sample time at each measurement location to be not less than 10 minutes) or by unattended measurements for a period of at least 3 days. It will be sufficient to establish the background noise levels at representative locations at the property line.

- b. Measurement of Operational Noise Levels – The operational sounds measurements will consist of attended daytime and nighttime noise measurements at the facility property line and the residential receptors for a period of at least ten minutes. If the equipment is expected to produce higher noise levels at operating conditions other than the full load, those conditions shall be measured as well.

The measurements shall be taken at the same locations as evaluated in the September 27, 2019 Acentech study. These include:

- 14 receptor locations the property lines of 4 Marc Road and
  - 7 residential receptor locations at second story building window heights.
- c. All sound measurements shall be conducted by a qualified acoustical consultant (INCE board certification or equivalent experience) in accordance with industry best practices.

- d. Measurement instrumentation shall comply with Class 1 in accordance with IEC 61678, and should be capable of measuring A-weighted and octave-band sound levels. The acoustic descriptor for reporting shall be the  $L_{90}$  sound level for background noise levels. If operational data is steady state, the  $L_{90}$  metric can also be used for operational data. Otherwise the  $L_{eq}$  or higher metric should be used. Sound level meters shall be provided with windscreens and their calibration shall be field-checked before and after the measurements.
  - e. The Board, Building Commissioner or Health Agent may require the Applicant to implement additional noise mitigation measures if the noise study indicates that the facility is non-compliant with Section 7.3 of the *Zoning Bylaw* or the MA DEP Noise Policy.
3. Approximately six months after beginning operations under this Special Permit, the Applicant shall provide a supplemental noise study. These measurements shall be carried out to the same standards and methods as the initial study. The scope and methods of the study shall be the same as in the initial study described above.

The Applicant shall submit that study to the Building Commissioner, Health Agent and Board so as to determine continued compliance with the *Zoning Bylaw* and any conditions set forth herein as to noise. The Building Commissioner, Health Agent or Board may forward the plan to the Town's noise consultant for review and comment, at the Applicant's expense. The Applicant shall be required to implement additional noise mitigation measures if the facility is non-compliant with the *Zoning Bylaw* and the MA DEP Noise Policy.

4. The Applicant shall annually submit a certification by a registered professional mechanical engineer that there are no changes in the installed mechanical equipment which may impact the noise emanating from the facility. Such certification shall be provided to the Building Commissioner, Health Agent and the Board.
5. The Building Commissioner, in enforcing the conditions contained herein, may require the Applicant to provide additional noise studies by a qualified noise consultant and/or implement additional mitigation measures should legitimate concerns or complaints develop in the future about noise generation from the facility. The Applicant may further be required to address such issues with the Board to its satisfaction.

#### **E. Odor Management**

1. The Applicant shall install and maintain at all times effective odor control technology to remove odors from the facility's exhaust system to comply with Section 7.3 of the *Zoning Bylaw*. The Applicant will complete this through industry best practices and suitable building filtration systems including a secondary safeguard system as required by the *Zoning Bylaw*. The Applicant shall maintain all odor migration equipment to ensure maximum efficiency and effectiveness and ongoing compliance.

2. The presented Odor Mitigation Plan dated September 12, 2019 does not include mechanical drawings for the odor management system. At such time as the mechanical drawings are available, they shall be submitted to the Board for review by the Board's odor consultant, at the applicant's expense, to determine if they comply with the Odor Mitigation Plan.
3. The October 2, 2019 review letter of Straughan Forensic, LLC, the Board's odor consultant, identifies a number of issues and information missing from the Odor Mitigation Plan. The Straughan Forensic letter dated October 2, 2019 is attached and made a part of this decision. These items shall be fully addressed and included in the odor plans submitted to the Massachusetts Cannabis Control Commission for approval. The submittal to the Cannabis Control Commission shall indicate that the odor control system must comply with Section 7.3 of the *Zoning Bylaw*.
4. The Applicant shall provide the odor plan approved by the Massachusetts Cannabis Control Commission to the Board.
5. Prior to the issuance of an occupancy permit by the Medway Building Department, the Applicant shall review the approved odor control system as installed with the Building Commissioner and demonstrate that the measures specified in the approved odor control, abatement and mitigation plan including the secondary safeguard system have been implemented. The Applicant shall provide a certification made by a licensed engineer that the odor mitigation measures included in the approved plan have been installed. Additional odor mitigation measures may be required if determined to be necessary by the Building Commissioner.
6. For each of the two successive years following occupancy, the Applicant shall annually submit a certification by a registered professional engineer that there have been no changes in the mechanical equipment that has been installed to control the odor emanating from the facility. Such certification shall be provided to the Building Commissioner, Health Agent and the Board.
7. The Building Commissioner, in enforcing the conditions herein, may require additional odor investigations and/or odor mitigation measures should legitimate concerns and complaints develop in the future about odor generation from the facility. The Applicant may further be required to address such issues with the Board to its satisfaction.

**F. Conditions Pertaining to Groundwater Protection District Special Permit**

1. Storage of hazardous materials and other hazardous materials is prohibited unless in a free-standing container within a building. Any hazardous materials that will be used at the facility shall be identified and a list provided to the Board. Any accidental spillage shall also be contained within the building and any that enters the sewer system shall be treated prior to being discharged to the municipal sewer system.

2. Any fertilizers used on landscape material anywhere on the site shall be the slow-release organic granular type, and only the absolute minimum necessary. All storage of fertilizers must be in a free-standing container within a building, have adequate secondary storage capacity or be within a facility designed to prevent the generation and escape of contaminated runoff or leachate. Application of fertilizers on site must be done in a manner to minimize adverse impacts on groundwater.
3. Outdoor storage anywhere on the site shall consist only of non-hazardous materials. Metal materials stored outside shall be under cover of a building or structure to prevent leaching of the metal into the groundwater.
4. There shall be no outdoor storage of pesticides, herbicides, fungicides or insecticides anywhere on the site. Any such products shall be stored inside.
5. Deicing materials shall be limited to calcium chloride or other deicer material approved by the Medway Department of Public Works.
6. Plowed snow for the site shall be stored only in the designated areas shown on the plan or taken off site in times of substantial storms. No snow shall be disposed of in the stormwater detention basin.
7. All vehicles shall be parked/stored on the paved surface to ensure treatment of any leaks of fluids from the vehicles. There shall be no outdoor maintenance or cleaning of vehicles.
8. There shall be no earth removal within six feet of the historical high groundwater level.
9. The Town reserves the right to periodically inspect the site to ensure compliance with these conditions.

**G. *Stormwater Management - Post Construction***

1. The Applicant shall be responsible for keeping the constructed stormwater drainage system in a clean and well-functioning condition, and shall do nothing which would alter the drainage patterns or characteristics as indicated on the Plan approved herein without the express written approval of the Board.
2. The stormwater drainage system, water and sewer systems shall be maintained by the Applicant, its successors and assigns, and shall not be dedicated to the Town. It is the intent of the Board and the Applicant that these systems shall not be accepted by the Town.
3. The Permittee and its successors and assigns shall maintain the stormwater management system in accordance with the *Post Construction and Long-Term Maintenance Plan* included in the *Stormwater Management Design and Runoff Calculations Report for 4 Marc Road*, dated July 24, 2019, last revised December 13, 2019 prepared by DGT Associates Surveying and Engineering.



4. The applicant shall submit annual reports of inspections and maintenance of all stormwater management structures included in the site plan to the Board and the Medway Department of Public Works Compliance Officer starting one year after the Certificate of Site Plan Completion is issued.
  5. In the event that the Applicant, its successors and assigns, or its agent fail to maintain the stormwater management system in accordance with the applicable guidelines for operation and maintenance, the Town may conduct such maintenance or repairs as the Town determines in its sole discretion are reasonably necessary, and the Applicant hereby consents to allow the Town and its agents, employees and contractors entry onto the Property to implement the measures set forth in such guidelines. In the event the Town conducts such maintenance or repairs, the Applicant shall promptly reimburse the Town for all reasonable expenses associated therewith; if the Applicant fails to so reimburse the Town, the Town may place a lien on the site or any unit therein to secure such payment.
- H. **Utilities** – All electric, telephone, cable TV and other utilities shall be located underground. No overhead utilities are permitted.
- I. **Water Use and Conservation**
1. The development is relying on the Town's public water system and the Town is being held to its Water Management Act Permit with the MA Department of Environmental Protection. The Permittee shall incorporate the following water conservation measures for construction of the development:
    - a. private well water for landscape irrigation
    - b. rain-gauge controlled irrigation systems
    - c. water efficient appliances (dishwashers, washer/dryers, toilets, etc.)
  2. The Permittee shall not use Town water for irrigation of the site's lawn and landscaping.
- J. **Signage** – Any changes to the existing sign or proposed new signs shall comply with Section 7.2 of the *Zoning Bylaw*.
- K. The permit holder shall notify the Building Commissioner, Health Agent, Fire Chief, Police Chief, and the Board in writing within forty-eight hours of the cessation of operation of the marijuana business or the expiration or termination of the license holder's certificates or registration with the Massachusetts Cannabis Control Commission.
- L. There shall be a valid Host Community Agreement with the Town of Medway in effect at all times during the operation of the marijuana establishment.
- M. **Limitations** - This special permit is limited to the operation of a recreational marijuana cultivation and processing establishment at 4 Marc Road. This permit does not authorize operation of a retail outlet for the sale of adult recreational marijuana products, or the operation of a marijuana social establishment, or the operation of a marijuana testing facility on the premises.

## **GENERAL CONDITIONS OF APPROVAL**

- A. **Fees** - Prior to filing the special permit and site plan decision with the Town Clerk, the Applicant shall pay:
1. the balance of any outstanding project review fees owed to the Town for review of the application by the Town's engineering, planning, noise, odor or other consultants;
  2. an advance on fees for the continued review services to be provided by outside noise and odor consultants as approved by the Planning and Economic Development Board;
  3. any other outstanding expenses or obligations due the Town of Medway pertaining to this property, including real estate and personal property taxes and business licenses.
- B. **Other Permits** – This special permit does not relieve the Applicant from its responsibility to apply for, obtain, pay for, and comply with all other required federal, state and Town permits, licenses and approvals. The Applicant or agent shall apply for, obtain, pay for, and comply with all other required Town permits.
- C. **Restrictions on Construction Activities** – During construction, all local, state and federal laws shall be followed regarding noise, vibration, dust and blocking of Town roads. The Permittee and its contractors shall at all times use all reasonable means to minimize inconvenience to abutters and residents in the general area. The following specific restrictions on construction activity shall apply.
1. *Construction Time* - Construction work at the site and in the building and the operation of construction equipment including truck/vehicular and machine start-up and movement shall commence no earlier than 7 a.m. and shall cease no later than 6 p.m. Monday – Saturday. No construction shall take place on Sundays or legal holidays without the advance approval of the Building Commissioner. These rules do not apply to interior construction work such as carpentry, installation of drywall, flooring, electrical and HVAC systems, painting, etc.
  2. *Neighborhood Relations* – The Permittee shall notify neighbors in the general area around the site when site work and construction are scheduled to begin and provide a phone number for them to use for questions and concerns that arise during construction.
  3. The Permittee shall take all measures necessary to ensure that no excessive dust leaves the premises during construction including use of water spray to wet down dusty surfaces.
  4. There shall be no tracking of construction materials onto any public way. Daily sweeping of roadways adjacent to the site shall be done to ensure that any loose gravel/dirt is removed from the roadways and does not create hazardous or deleterious conditions for vehicles, pedestrians or abutting residents. In the event construction debris is carried onto a public way, the Permittee shall be responsible

for all clean-up of the roadway which shall occur as soon as possible and in any event within twelve (12) hours of its occurrence.

5. The Permittee is responsible for having the contractor clean-up the construction site and the adjacent properties onto which construction debris may fall on a daily basis.
6. All erosion and siltation control measures shall be installed by the Permittee prior to the start of construction and observed by the Board's consulting engineer and maintained in good repair throughout the construction period.
7. *Construction Traffic/Parking* – During construction, adequate provisions shall be made on-site for the parking, storing, and stacking of construction materials and vehicles. All parking for construction vehicles and construction related traffic shall be maintained on site. No parking of construction and construction related vehicles shall take place on adjacent public or private ways or interfere with the safe movement of persons and vehicles on adjacent properties or roadways.
8. *Noise* - Construction noise shall not exceed the noise standards as specified in the *Zoning Bylaw*, SECTION V. USE REGULATIONS, Sub-Section B. Area Standards, Paragraph 2. b).
9. *Stormwater Management* – During construction, the Applicant shall maintain the site and installed stormwater management facilities in accordance with the Construction Period Stormwater Operation and Maintenance Plan included in *Stormwater Management Design and Runoff Calculations Report for 4 Marc Road*, dated July 24, 2019, last revised December 13, 2019 prepared by DGT Associates Surveying and Engineering.

**D. Construction Oversight**

1. Pre-Construction Meeting – At least seven days prior to the start of any site preparation or construction, the Applicant shall meet with the Town's Consulting Engineer, the Planning and Economic Development Coordinator, the Medway Department of Public Works, the Medway Conservation Agent (if applicable), the contractors and Applicant's project engineer for a pre-construction meeting. The construction schedule shall be reviewed and the procedures for inspections discussed.
2. Construction Account
  - a) Inspection of infrastructure and utility construction, installation of site amenities including landscaping, and the review of legal documents by Town Counsel is required. Prior to plan endorsement, the Permittee shall establish a construction account with the Board. The funds may be used at the Board's discretion to retain professional outside consultants to perform the items listed above as well as the following other tasks - inspect the site during construction/installation, identify what site plan work remains to be completed, prepare a bond estimate, conduct other reasonable inspections until the site work is completed and determined to be satisfactory, review as-

built plans, and advise the Board as it prepares to issue a *Certificate of Site Plan Completion*.

- b) Prior to plan endorsement, the Permittee shall pay an advance toward the cost of these services to the Town of Medway. The advance amount shall be determined by the Board based on an estimate provided by the Town's Consulting Engineer.
  - c) Depending on the scope of professional outside consultant assistance that the Board may need, the Permittee shall provide supplemental payments to the project's construction inspection account, upon invoice from the Board.
  - d) Any funds remaining in the Permittee's construction inspection account after the *Certificate of Site Plan Completion* is issued shall be returned to the Permittee.
3. Board members, its staff, consultants or other designated Town agents and staff shall have the right to inspect the site at any time, for compliance with the endorsed site plan and the provisions of this *Decision*.
  4. The Department of Public Works will conduct inspections for any construction work occurring in the Town's right-of way in conjunction with the Town of Medway Street Opening/Roadway Access Permit.
  5. The Permittee shall have a professional engineer licensed in the Commonwealth of Massachusetts conduct progress inspections of the construction of the approved site improvements. Inspections shall occur at least on a monthly basis. The engineer shall prepare a written report of each inspection and provide a copy to the Board within 5 days of inspection.

#### **E. On-Site Field Changes**

1. During construction, the Permittee may be authorized to make limited, minor, on-site field changes to the approved plan based on unforeseen site or job conditions, situations, or emergencies necessitated by field conditions or due to practical considerations. These field changes shall not alter items which may affect the site's compliance with this *Decision* and the *Zoning Bylaw* nor conflict with a specific condition of the *Decision*. Field changes shall not substantially alter the intent, layout or design of the endorsed site plan.
2. Prior to undertaking such field changes, the Permittee and/or contractor shall discuss the possible field changes with the Town's Consulting Engineer and submit a letter and drawings to the Planning and Economic Development Coordinator and the Building Commissioner describing the proposed changes and what conditions, situations, or emergencies necessitate such changes. In accordance with Section 3.5.2.C of the *Zoning Bylaw*, the Building Commissioner may determine that the field change is insubstantial, authorize the change, and so notify the Board. Otherwise, the Board shall review the proposed field changes at a public meeting and determine whether the proposed field changes are reasonable and acceptable based on the unforeseen conditions, situations, or

emergencies and whether other options are feasible or more suitable. A written authorization of field change will be provided. Any approved field change shall be reflected in the as-built plan to be provided at project completion.

**F. Modification of Plan and/or Decision**

1. Proposed modifications, not included on-site field changes, to the *Decision* or endorsed plan shall be subject to review by the Board.
2. This site plan and special permit approval is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies or commissions. Any changes to the site plan that may be required by the decisions of other Town boards, agencies or commissions shall be submitted to the Board for review as site plan modifications.
3. Any work that deviates from the approved site plan or this *Decision* shall be a violation of the *Zoning Bylaw*, unless the Permittee requests approval of a plan modification pursuant to Section 3.5.2.A.3.c. and such approval is provided in writing by the Board.
4. The request for a modification to a previously approved site plan shall be subject to the same application and review process including a public hearing. Whenever additional reviews by the Board, its staff or consultants are necessary due to proposed site plan modifications, the Permittee shall be billed and be responsible for all supplemental costs including filing fees, plan review fees and all costs associated with another public hearing including legal notice and abutter notification. If the proposed revisions affect only specific limited aspects of the site, the Board may reduce the scope of the required review and waive part of the filing and review fees.
5. The Board shall issue a modification decision, file such with the Town Clerk, and provide copies to the Building Commissioner and other Town officials and the Permittee. Any modification approved by the Board shall be made a permanent part of the approved site plan project documents and shall be shown on the final as-built plan.

**G. Compliance with Plan and Decision**

1. The Permittee shall construct all improvements in compliance with the approved and endorsed site plan and this *Decision* any modifications thereto.
2. The Board or its agent(s) shall use all legal options available to it, including referring any violation to the Building Commissioner/Zoning Enforcement Officer for appropriate enforcement action, to ensure compliance with the foregoing Conditions of Approval.
3. The Conditions of Approval are enforceable under Section 3.1. F. of the *Zoning Bylaw* (non-criminal disposition) and violations or non-compliance are subject to the appropriate fine.

## **H. Performance Security**

1. No occupancy permit shall be granted until the Board has provided a written communication to the Building Commissioner/Zoning Enforcement Officer that the project, as constructed, conforms completely and fully to the approved site plan and that any conditions including construction of any required on and off-site improvements, have been satisfactorily completed OR that suitable security/performance guarantee has been provided to the Town of Medway, to the Board's satisfaction, to cover the cost of all remaining work.
2. The Permittee shall propose a form of performance security which shall be of a source and in a form acceptable to the Board, the Treasurer/Collector and Town Counsel. The Board requires that the performance guarantee be accompanied by an agreement which shall define the obligations of the Permittee and the performance guarantee company including:
  - a) the date by which the Permittee shall complete construction
  - b) a statement that the agreement does not expire until released in full by the Board
  - c) procedures for collection upon default.
3. The amount of the performance guarantee shall be equal to 100% of the amount that would be required for the Town of Medway to complete construction of the site infrastructure including installation of stormwater management facilities, utilities, services, pedestrian facilities and all site amenities as specified in the approved Site Plan that remain unfinished at the time the performance guarantee estimate is prepared if the developer failed to do so.
4. The security amount shall be approved by the Board based on an estimate provided by the Town's Consulting Engineer based on the latest weighted average bid prices issued by the Mass Highway Department. The estimate shall reflect the cost for the Town to complete the work as a public works project which may necessitate additional engineering, inspection, legal and administrative services, staff time and public bidding procedures. The estimate shall also include the cost to maintain the infrastructure in the event the Permittee fails to adequately perform such and the cost for the development of as-built plans. In determining the amount, the Board shall be guided by the following formula in setting the sum: estimate of the Town's Consulting Engineer of the cost to complete the work plus a 30% contingency.
5. Final release of performance security is contingent on project completion.

## **I. Project Completion**

1. Site plan approval shall lapse after one (1) year of the grant thereof if substantial use has not commenced except for good cause. The work shown on the approved site plan shall be completed by the Permittee or its assignees within two (2) years of the date of plan endorsement. Upon receipt of a written request from the Permittee filed at least thirty (30) days prior to the date of expiration, the Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested. If no request for extension is

filed and approved, the site plan approval shall lapse and may be reestablished only after a new filing, hearing and decision.

2. Prior to issuance of a final occupancy permit, the Permittee shall request a ***Certificate of Site Plan Completion*** from the Board. The ***Certificate*** serves as the Board's confirmation that the completed work conforms to the approved site plan and any conditions and modifications thereto, including the construction of any required on and off-site improvements. The ***Certificate*** also serves to release any security/performance guarantee that has been provided to the Town of Medway. To secure a ***Certificate*** of Site Plan Completion, the Permittee shall:
  - a) provide the Board with written certification from a Professional Engineer registered in the Commonwealth of Massachusetts that all building and site work has been completed in substantial compliance with the approved and endorsed site plan, and any modifications thereto; and
  - b) submit an electronic version of an As-Built Plan, prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts, to the Board for its review and approval. The As-Built Plan shall show actual as-built locations and conditions of all buildings and site work shown on the original site plan and any modifications thereto. The As-Built Plan shall also show all utilities found during the construction process. The final As-Built Plan shall also be provided to the Town in CAD/GIS file format per MASS GIS specifications.
- J. ***Right to Enter Property*** – Board members, its staff, consultants or other designated agents of the Town shall have the right to enter the property at any time to ensure continued compliance with the terms and conditions of this special permit and the endorsed site plan.
- K. ***Recording*** - Within thirty days of recording the Decision, the Applicant shall provide the Board and the Building Commissioner with a receipt from the Norfolk County Registry of Deeds indicating that the Decision and Plan have been duly recorded, or supply another alternative verification that such recording has occurred.
- L. ***Conflicts*** –If there is a conflict between this Decision and the *Zoning Bylaw*, the *Bylaw* shall apply.

**IX. APPEAL** – The Board and the Applicant have complied with all statutory requirements for the issuance of this Decision on the terms set forth herein. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Applicant, and notice will be mailed to all parties in interest as provided in G.L. c. 40A §15.

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, Chapter 40A, §17, and shall be filed within twenty days after the filing of this decision in the office of the Medway Town Clerk.

In accordance with G.L. c. 40A, §11, no special permit shall take effect until a copy of the Decision is recorded in the Norfolk 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, bearing the certification of the Town Clerk that twenty days have elapsed after the Decision has been filed in the

office of the Town Clerk and no appeal has been filed within said twenty day period, or that an appeal has been filed. 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 fee for recording or registering shall be paid by the Applicant. A copy of the recorded Decision, and notification by the Applicant of the recording, shall be furnished to the Board.

###



**APPROVED** by the Medway Planning & Economic Development Board: \_\_\_\_\_

**AYE:**

**NAY:**

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**ATTEST:**

\_\_\_\_\_  
Susan E. Affleck-Childs  
Planning & Economic Development Coordinator

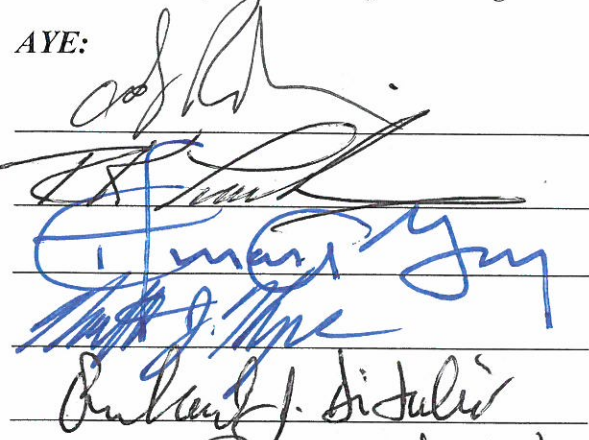
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Date

**COPIES TO:** Michael Boynton, Town Administrator  
Stephanie Carlisle, DPW Compliance Officer  
Dave D’Amico, DPW Director  
Michael Fasolino, Deputy Fire Chief  
Bridget Graziano, Conservation Agent  
Donna Greenwood, Assessor  
Beth Hallal, Health Agent  
Jeff Lynch, Fire Chief  
Jack Mee, Building Commissioner and Zoning Enforcement Officer  
Joanne Russo, Treasurer/Collector  
Barbara Saint Andre, Director of Community and Economic Development  
Alan Tingley, Police Chief  
Jeff Watson, Police Department  
Chad Blair, Neo Organics and 4 Marc Road Realty, LLC  
Jaime Lewis, Neo Organics  
Jordan Naydeuov, NEK, LLC  
Bert Corey, DGT Associates  
Steven Bouley, Tetra Tech  
Gino Carlucci, PGC Associates

APPROVED by the Medway Planning & Economic Development Board: January 28, 2020

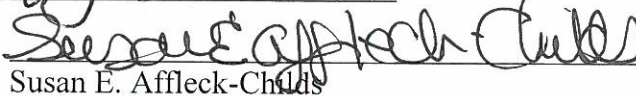
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ATTEST:

  
Susan E. Affleck-Chellis

Planning & Economic Development Coordinator

January 28, 2020  
Date

**COPIES TO:** Michael Boynton, Town Administrator  
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Jaime Lewis, Neo Organics  
Jordan Naydeuov, NEK, LLC  
Bert Corey, DGT Associates  
Steven Bouley, Tetra Tech  
Gino Carlucci, PGC Associates

October 2, 2019

Susan Affleck - Childs  
Planning and Economic Development Coordinator  
Town of Medway  
155 Village Street  
Medway, MA 02053  
508-533-3291  
Email: [sachilds@townofmedway.org](mailto:sachilds@townofmedway.org)

**Re: NEO Organics – 4 Marc Road Cultivation Facility, Follow-up Review of Odor Mitigation Plan**

Dear Ms. Affleck - Childs:

This letter documents the findings from my follow-up review of the resubmitted Odor Mitigation Plan for the cannabis cultivation and processing facility at 4 Marc Road in Medway, Massachusetts. The following documents were reviewed:

- Architectural Floor Plan by Anderson Porter Design, A1.1, 9-09-2019, 1 page
- Permit Site Plan by DGT Associates, C-1 thru C-7, 9-09-2019, 7 pages
- Mech. Systems Ventilation and Odor Mitigation Plan by Impact Engineering, 9-12-2019, 17 pages

I offer the following comments from my review of the documents:

**General Comment:**

1. The Plan contains narrative descriptions of systems, but no mechanical drawings are available at this time. When the completed mechanical drawings eventually get submitted for permitting, they should be reviewed at that time for compliance with the Odor Mitigation Plan.

**Odor Mitigation System design:**

2. General: It is stated that "Other than ventilation air, all of the HVAC equipment will recirculate 100% of the supply being distributed to the various applications areas throughout the facility." Since no room air will be exhausted from grow rooms under normal operation, the rooms will not be under negative pressure, and therefore will likely exfiltrate odorous grow room air into the corridors when the doors are opened and possibly through cracks in exterior walls and into the outside air. No information has been provided to indicate that the rooms will be sealed to prevent exfiltration through the room envelope.
3. There is no mention of a control strategy or equipment to mitigate odor that will escape from cultivation and processing rooms when the doors are opened in order for staff to enter or exit the rooms. Will exhaust fans in the Janitor Rooms or other rooms be used to maintain negative pressure in the corridors? If so, these fans will need to run 24/7 and transfer air grilles will need to be installed in the doors or walls to these rooms.
4. In the descriptions for the Drying Room, Post Production/Manufacturing Rooms, and Packaging Rooms, there is no mention of carbon filters like there is for all the other rooms described in this

section or in the Operational Processes section. This seems to imply that no carbon filtering is planned for these three areas, even though the Maintenance Plan section describes carbon filtering for these three areas. This apparent contradiction should be clarified along with a description of how the bi-polar ionization units will be configured, i.e. which air stream will they be placed in, will the exhaust air stream be protected with odor mitigation systems?

**Building Exhaust Systems:**

5. The list of exhaust systems does not appear to be complete. No exhaust fans are mentioned for the Post Production, Manufacturing, Dishwashing, or Pot Washing Rooms. Will the exhaust air streams from these rooms be protected with odor mitigation systems?

**Operational processes:**

6. Design criteria for Bi-polar ionization units is not stated. Are these units sized based on a certain number of air changes per hour?

**Maintenance plan:**

7. In the description for the Flower Rooms and each room that follows after it, the design criteria for the carbon filters is stated to be 15 air-changes per hour, and this is appropriate for flower rooms and each room downstream of it the process. However, this criteria is contradicted in both the Odor Mitigation System Design section and the Operational Processes section, which both state the criteria for these rooms to be 6 air-changes per hour.

If you have any questions or comments, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Bruce Straughan".

Bruce Straughan, PE  
Straughan Forensic, LLC