

Board Members

Andy Rodenhiser, Chair
Sarah Raposa, A.I.C.P., Vice
Chair
Timothy Harris, Clerk
Jessica Chabot, Member
John Parlee, Member



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TOWN OF MEDWAY COMMONWEALTH OF MASSACHUSETTS **PLANNING AND ECONOMIC DEVELOPMENT BOARD**

SPECIAL PERMIT DECISION 98, 108, 114 MAIN STREET GRANTED WITH CONDITIONS

Decision Date: December 12, 2023
Applicant/Permittee: Medway Realty, LLC
63 Atlantic Avenue
Boston, MA 02110
Property Owner: Medway Realty, LLC
63 Atlantic Avenue
Boston, MA 02110
Location: 98, 108, 114 Main Street
Assessors' Reference: Map 40, Parcel 055, 056, 057

Applicable Plans: "Site Plan for Medway Place, 98, 108, and 114 Main Street (Route 109)", dated 8/30/2021, prepared by Howard Stein Hudson, sheets C.100 and C.101

Zoning District: Commercial Business District

Board Member Participation: Andy Rodenhiser, Sarah Raposa, Timothy Harris, Jessica Chabot, John Parlee

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RECEIVED TOWN CLERK
DEC 13 '23 AM 8:33

20 Day appeal
January 2, 2024

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I. PROJECT DESCRIPTION

The proposed use requires a special permit pursuant to Sections 10.2.D.2.d and 3.4 of the Town of Medway Zoning Bylaw (the “Zoning Bylaw”). The applicant seeks to reprogram several excess parking spaces for temporary commercial use to accommodate Christmas tree vending throughout the holiday period and food trucks (no more than two at a time) on a periodic basis. The property is located within the Central Business district.

II. VOTE OF THE BOARD – After reviewing the application and information gathered during the public hearing and review process, the Medway Planning and Economic Development Board (the “Board”), on December 12, 2023, **voted to GRANT with CONDITIONS a Special Permit to Medway Realty, LLC (hereafter referred to as the Applicant or the Permittee)**, pursuant to Section 10.2.D.2.d of the Zoning Bylaw, to allow a portion of the parking area marked as “B” and “C” on sheet C.100 on the Plan referenced below to be temporarily used for the sale of Christmas trees and wreaths and for the temporary use of food trucks only in accordance with the conditions set forth below, the motion was approved by a vote of 5 in favor and 0 opposed.

III. PROCEDURAL HISTORY

A. Special permit application was filed with the Medway Town Clerk and the Board on October 25, 2023.

B. The public hearing notice was posted at the Town Hall and on the Town of Medway web site and mailed to parties of interest as required by chapter 40A and published in the Milford Daily News on November 13, 2023 and November 21, 2023.

C. The Board notified Town departments, boards and committees of this application and requested review and comment.

D. The public hearing commenced on November 28, 2023, and was continued to December 12, 2023 when the hearing was closed, and a decision rendered.

IV. INDEX OF SPECIAL PERMIT DOCUMENTS

- A. Information submitted on behalf of the applicant:
- Special permit application received October 24, 2023
 - Project Narrative received October 24, 2023
 - Site Plan with proposed demarcated commercial use area received October 24, 2023
 - Letter from Attorney Allen dated December 6, 2023
 - “Site Plan for Medway Place, 98, 108, and 114 Main Street (Route 109)”, dated 8/30/2021, prepared by Howard Stein Hudson, herein referred to as “the Plan”.
- B. Other documentation submitted to the Board during the course of the public hearing:
- Email from Derek Kwok, Board of Health, dated November 21, 2023
 - Email from Bridget Graziano, Conservation Agent, dated November 21, 2023
 - Memo from Jeremy Thompson, Planning and Economic Development Coordinator, dated November 20, 2023
 - Email from Barbara J. Saint Andre, Director of Community and Economic Development to attorney Gentile, dated November 30, 2023

V. TESTIMONY - In addition to the special permit application materials as submitted and provided during the course of its review, the Board heard and received verbal testimony from:

- Donald Gentile, Esq., Attorney, Lawson & Weitzen
- Todd Wilson, Medway Realty, LLC

VI. FINDINGS - The Board voted to approve the following findings regarding the special permit by a vote of 5 in favor and 0 opposed.

A. TEMPORARY USE OF OFF-STREET PARKING SPECIAL PERMIT - The Board makes the following findings in relation to this development's compliance with Section 10.2.D.2.d Temporary Use of Off-Street Parking.

1. The Board finds that the use of the site for the sale of Christmas trees has been on-going for approximately 35 years. It finds that the sale of Christmas trees in accordance with the existing use satisfies the requirements of the Zoning Bylaw.

2. Section 10.2.D.2.d: The location of spaces taken offline will not adversely impact the vehicular or pedestrian flow of the lot and will reasonably guarantee the safety of users

Pursuant to Section 10.2.D.2.d, which references Section 7.1.1.J, the Board also considered the following:

3. Section 7.1.1.J.1: The reduction of parking spaces shall not exceed 30% of the minimum number of spaces required under TABLE 3. This appears met by the Plan, and in any event, the applicant will not reduce parking spaces by more than 30%.

B. SPECIAL PERMIT DECISION CRITERIA – The Board makes the following findings in accordance with Section 3.4 of the Zoning Bylaw. In making its determination, the special permit granting authority, in addition to any specific factors that may be set forth in other sections of the Zoning Bylaw, shall make findings on all of the applicable criteria specified below:

- 1) The proposed site is an appropriate location for the proposed use.** The premises are centrally located on Route 109 in the Central Business District, with sufficient parking area to accommodate the temporary usage. Temporary food trucks will hopefully help create more foot traffic and more of a downtown feel in the area.
- 2) Adequate and appropriate facilities will be provided for the operation of the proposed use.** The existing parking lot size is sufficient to accommodate the proposed use and meets the parking space criteria required by Section 7.1.1.D, Table 3.
- 3) The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians, or the environment.** The proposed commercial activity will take place within the demarcated area indicated on the Plan. The placement and staging of commercial uses will ensure pedestrian and vehicle safety. The demarcated area is located on the opposite end of the lot from the plaza.
- 4) The proposed use will not cause undue traffic congestion or conflicts in the immediate area.** The proposed commercial activity will have an inconsequential impact on existing traffic conditions and vehicular movements from existing ingress and egress points.

- 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.** The abutting properties along Route 109 are commercial in nature and will not be adversely affected. The food trucks will be operating adjacent to Route 109. The proposed use will not cause any detrimental lighting, flooding, noise, or vibration issues. The sale of Christmas trees will emit a non-offensive odor of fir and spruce trees, which are typically regarded as pleasant or consistent with holiday festivities.
- 6) **The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district.** The surrounding neighborhood consists of commercial uses, such as retail, restaurants, and a gas station. The proposed commercial activity will not alter the character of the Central Business district and may serve to increase foot traffic along Route 109.
- 7) **The proposed use is in harmony with the general purpose and intent of the Zoning Bylaw.** The Temporary Use of Off-Street Parking Permit was created to support and buttress existing commercial activity and to provide improvements to the public realm. The proposed use is in synch with these aims.
- 8) **The proposed use is consistent with the goals of the Medway Master Plan.** The proposal satisfies several goals related to commercial development and placemaking in the Medway Master Plan.
- 9) **The proposed use will not be detrimental to the public good.** There will not be negative impacts from the food trucks.

For all of the above reasons, the Board finds that the beneficial impacts of the proposed application outweigh the effects of the proposed use on the Town and neighborhood.

VII. CONDITIONS – The Conditions included in this Decision shall assure that the Board’s approval of this special permit complies with the Zoning Bylaw, Section 3.4 (Special Permits), that the comments of various Town boards and public officials have been adequately addressed, and that concerns which were aired during the public hearing process have been carefully considered.

If there is a conflict between this Decision and the Zoning Bylaw, the Zoning Bylaw shall apply.

The Board’s issuance of this special permit is subject to the following conditions:

1. This special permit shall apply to any successor in control or successor in interest of the subject property. The Permittee shall conduct the uses allowed by this special permit in compliance with the application, referenced Plan, and this Decision. This permit does not relieve the Permittee from its responsibility to obtain, pay and comply with all other required federal, state and Town permits and approvals associated with this project. The Permittee or assigns shall obtain, pay and comply with all other required Town permits.
2. This special permit is in effect for calendar year 2024 only and expire on October 31, 2024, but may be extended by the board for calendar year 2025 without the need for a new application or public hearing if there have been no violations of this special permit. Applicant may apply for such extension on or after October 31, 2024, and the request will be considered by the Board at a duly posted public meeting of the Board. If the request is granted, this special permit will expire on October 31, 2025 at 11:59 p.m.

3. The number of food trucks on the site at any time is limited to two. Food trucks may operate on the premises for not more than seven days each calendar month, from and including April through October. The applicant will provide prior written notice to the Building Commissioner of each occasion when food trucks will be located at the site.
4. Food trucks may include trucks from which prepared food is sold for immediate consumption, as well as trucks from which food is sold at retail for later preparation and consumption. Food trucks and related tables, chairs, and other items shall be set up only in the designated areas “B” and “C” as shown on sheet C.100, and arranged substantially as shown on sheet C.101. **Copies of Sheets C.100 and C.101 are attached hereto and incorporated herein.** No tents, canopies, or other temporary structures other than as shown on the Plan are allowed by this decision.
5. **Hours of Operation:** Hours of operation for any use granted under this special permit are limited to 11:00 a.m. through 8:00 p.m.
6. **Traffic and Vehicular Circulation:** Nothing shall be placed in any drive aisles; all activities are to be confined to the marked parking spaces shown on sheet C.100.
7. **Noise:** Food truck use allowed under this special permit shall comply with the noise provisions of Section 7.3 of the Zoning Bylaw. No amplified music is permitted.
8. **Environmental:** Food trucks shall not be left idling while parked on the site. All trash and solid waste shall be removed from the premises and properly disposed of. At the end of each day that food trucks are operating at the premises, the site shall be cleaned of all trash, litter, and other debris. No food, oil, trash, waste or other items will be dumped on the ground or in any catch basins.
9. **Outdoor Lighting:** The uses allowed under this special permit shall comply with Section 7.1.2 of the Zoning Bylaw. Other than decorative lighting, no additional outdoor lighting is allowed.
10. **Signage:** No signs for the food trucks are to be erected on the premises except in compliance with the Town’s Sign Bylaw, Section 7.2 of the Zoning Bylaw.
11. **Misc.**
 - A. This Special Permit is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies, or commissions.
 - B. Any work that deviates from this Decision may be a violation of the Zoning Bylaw unless the Permittee requests approval of a modification and such approval is provided in writing by the Board.
12. **Project Completion:** As provided in Section 3.4.E of the Zoning Bylaw, special permits shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L. c. 40A, §17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or, in the case of a special permit for construction, if construction has not begun by such date, except for good cause. Upon receipt of a written request by the applicant filed at least 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.

VIII. 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 Permittee, and notice will be mailed to all parties in interest as provided in G.L. c. 40A §15.

Any person aggrieved by the Special Permit Decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, Chapter 40A, §17, which 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 Permittee. A copy of the recorded Decision, and notification by the Permittee of the recording, shall be furnished to the Board.

**Medway Planning and Economic Development Board
SPECIAL PERMIT DECISION
98, 108, 114 Main Street**

On December 12, 2023, the Board **voted 5-0 to GRANT with CONDITIONS a Special Permit to Medway Realty, LLC**, pursuant to Section 10.2.D.2.d of the Zoning Bylaw, to allow a portion of the parking area marked as “B” and “C” on sheet C.100 on the Plan attached hereto to be temporarily used for the sale of Christmas trees and for the temporary use of food trucks subject to the conditions herein.

Member:	Vote:	Signature:
Andy Rodenhiser, Chair	Aye	_____
Sarah Raposa, AICP, Vice-Chair	Aye	_____
Timothy Harris, Clerk	Aye	_____
Jessica Chabot, Member	Aye	_____
John Parlee, Member	Aye	_____

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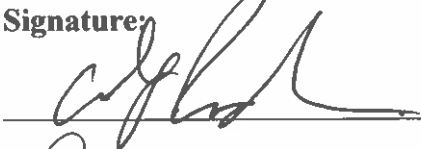

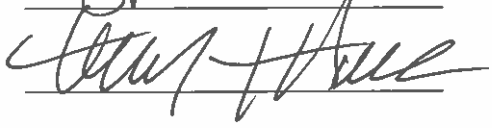


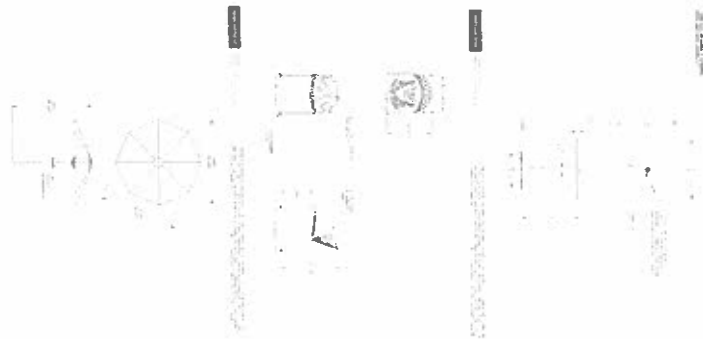
Member:	Vote:	Signature:
Andy Rodenhiser, Chair	Aye	
Sarah Raposa, AICP, Vice-Chair	Aye	
Timothy Harris, Clerk	Aye	
Jessica Chabot, Member	Aye	
John Parlee, Member	Aye	

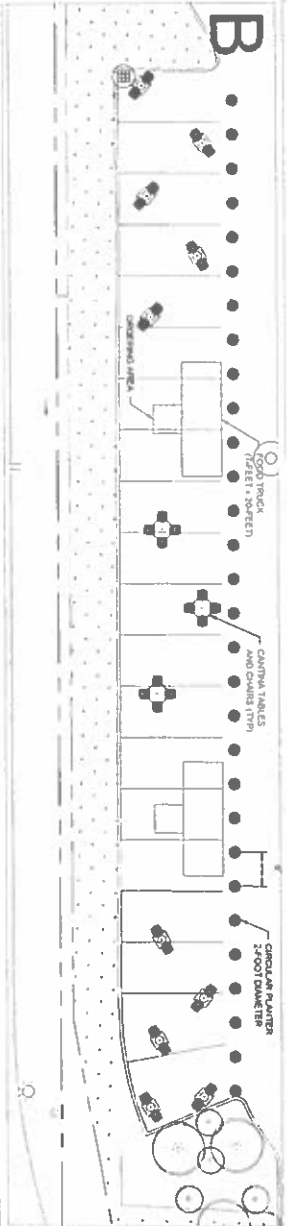
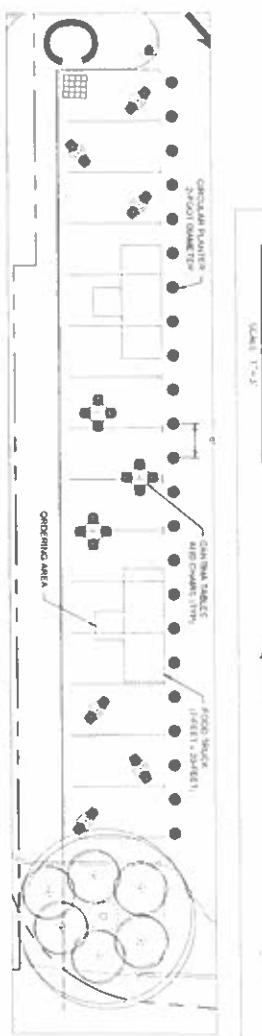
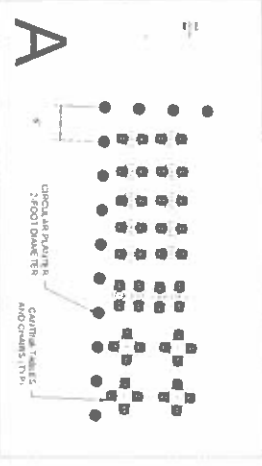
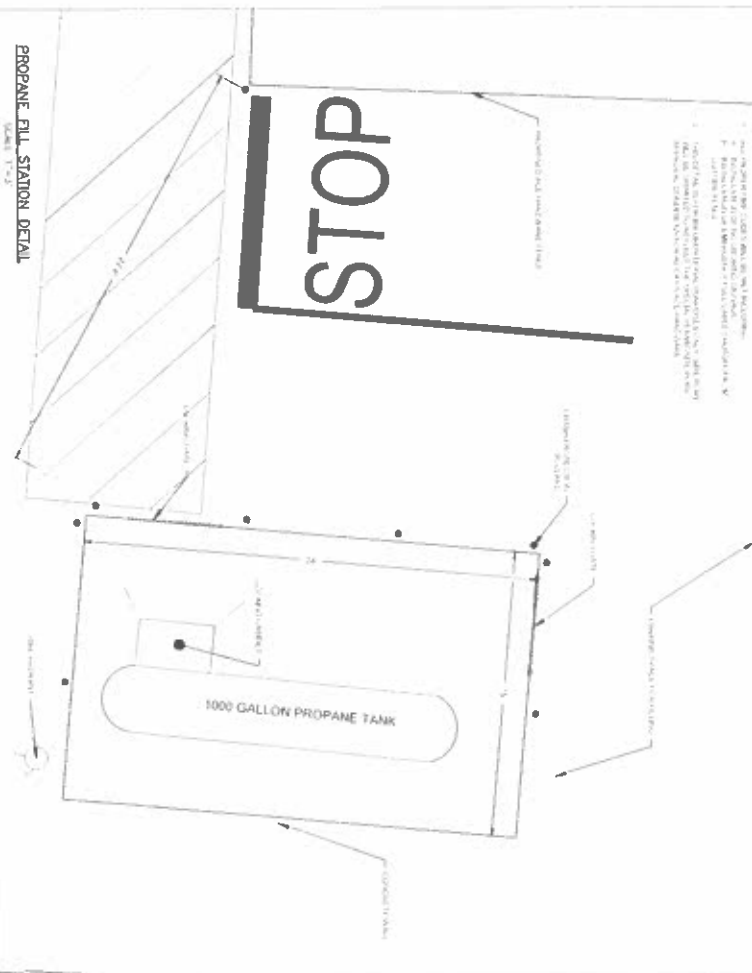
TABLE
NOT TO SCALE

CHAIR
NOT TO SCALE

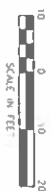
UMBRELLA
NOT TO SCALE



PROPANE FILL STATION DETAIL
SCALE: 1"=2'-0"



NOTE:
ALL PROPOSED CHANGES ARE SUBJECT TO LOCAL ADOPTIONS REQUIRED
UNDER THE BOARD BYLAWS



HOWARD STEIN HUDSON
11 HUDSON STREET SUITE 200
DORCHESTER, MA 01918
www.hshd.com

MEDWAY PLACE
98, 108-114 MAIN STREET (ROUTE 109)
MEDWAY, MA 02053
NORFOLK COUNTY

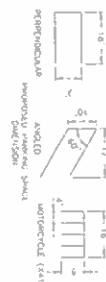
REVISION	DATE	BY	DESCRIPTION
1	10.14.21	THP	ISSUED FOR PERMIT
2	11.11.21	THP	REVISIONS



PERMIT SET
NOT FOR CONSTRUCTION

LAYOUT PLAN
ENLARGEMENTS

DATE	4.1.2021
PROJECT NAME	2014-1
DESIGNED BY	THP
DRAWN BY	THP
CHECKED BY	THP
C1.01	

[illegible]

HOWARD STEIN HUDSON
100 Hudson Street Suite 1010
Dorset, MA 01922
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MEDWAY PLACE
98, 108 & 114 MAIN STREET (ROUTE 109)
MEDWAY, MA 02053
NORFOLK COUNTY



PERMIT SET
NOT FOR CONSTRUCTION

LAYOUT &
MATERIALS
PLAN

DATE	06/20/2007
PRODUCT NUMBER	14041000
DESIGNED BY	461
DRAWN BY	461
CHECKED BY	461

C1.00