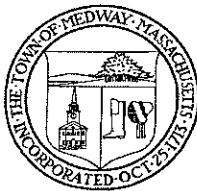


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JUN 29 2016

TOWN CLERK



TOWN OF MEDWAY

Planning & Economic Development Board

155 Village Street

Medway, Massachusetts 02053

*Andy Rodenhiser, Chairman
Robert K. Tucker, Vice-Chairman
Thomas A. Gay, Clerk
Matthew J. Hayes, P.E.
Richard Di Iulio*

June 28, 2016

SPECIAL PERMITS and SITE PLAN DECISION

Ellen Realty Trust/CommCan – 2 Marc Road

APPROVED with Waivers and Conditions

Decision Date: June 28, 2016

Name/Address of Applicant: Ellen Realty Trust
730 Main Street, Suite 2A
Millis, MA 02054

Name/Address of Property Owner: Ellen Realty Trust
730 Main Street, Suite 2A
Millis, MA 02054

Engineer: Merrikin Engineering, LLP
730 Main Street, Suite 2C
Millis, MA 02054

Site Plan: 2 Marc Road Site Plan of Land in Medway, MA
Dated March 30, 2016, last revised June 7, 2016

Location: 2 Marc Road, 19 Jayar Road and 21 Jayar Road

Assessors' Reference: 33-001, 24-015 and 24-016

Zoning District: Industrial I and Groundwater Protection District

I. PROJECT DESCRIPTION – The applicant proposes to construct a two story, 60,000 sq. ft. industrial facility and associated infrastructure on three parcels comprising 6.92 acres at 2 Marc Road, and 19 & 21 Jayar (*Medway Assessors' Parcels 33-001, 24-015 and 24-016*) on the north side of Marc Road in the Industrial I zoning district. A portion of the site includes wetlands resources within the jurisdiction of the Medway Conservation Commission. The property is also located within a groundwater protection district; the northern boundary of the property is approximately 600' from a Town of Medway public water supply well. The properties are owned by Ellen Realty Trust of Millis, MA.

The applicant proposes to develop the site and use the building to contain a registered medical marijuana cultivation and processing facility. That use requires a special permit, the location requires a groundwater protection district special permit, and the overall project requires site plan review and approval. The *2 Marc Road Site Plan of Land in Medway, MA* is dated March 30, 2016 and was prepared by Merrikin Engineering, LLP of Millis, MA. Building elevations were prepared by Keenan & Kenny Architects, LTD of Falmouth, MA.

Access and egress to the development will be from Marc Road which runs westerly off of Industrial Park Road which is off Main ST/Route 109. Proposed site work includes construction of the access/egress driveways, curbing, 35 off-street parking spaces, landscaping, lighting, sidewalk, installation of stormwater drainage facilities, connection to municipal sewer, and reconstruction of the privately owned portions of Marc Road.

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, on June 28, 2016, on a motion made by Matthew Hayes and seconded by Richard Di Iulio, **voted to GRANT with CONDITIONS a groundwater protection special permit and a registered medical marijuana dispensary special permit and to APPROVE with WAIVERS and CONDITIONS** as specified herein, a site plan for the construction of a medical marijuana cultivation and processing facility and associated site improvements at 2 Marc Road as shown on *2 Marc Road Site Plan of Land in Medway, MA*, dated March 30, 2016, last revised June 7, 2016 to be further revised as specified herein.

The vote was approved by a vote of four in favor and one opposed.

Planning & Economic Development Board Member	Vote
Richard Di Iulio	Yes
Matthew Hayes	Yes
Thomas A. Gay	Yes
Andy Rodenhiser	Yes
Robert Tucker	NO

III. PROCEDURAL HISTORY

- A. April 4, 2016 – Special permit and site plan applications and associated materials filed with the Medway Planning & Economic Development Board and the Medway Town Clerk

- B. April 11, 2016 – Public hearing notice filed with the Town Clerk and posted at the Town of Medway web site.
- C. April 11, 2016 - Public hearing notice mailed to abutters by certified sent mail
- D. April 11, 2016 – Site plan information distributed to Town boards, committees and departments for review and comment.
- E. April 12 and April 19, 2016 - Public hearing notice advertised in *Milford Daily News*.
- F. April 26, 2016 - Public hearing commenced. The public hearing was continued to May 10, May 24, June 14, and June 28, 2016 when the hearing was closed and a decision rendered.

IV. INDEX OF SITE PLAN DOCUMENTS

- A. The site plan and special permit applications for the proposed CommCan medical marijuana cultivation and processing facility included the following plans, studies and information that were provided to the Planning and Economic Development Board at the time the application was filed:
 - 1. Site Plan Application dated April 1, 2016 and special permit application dated April 4, 2016 with Project Description and Development Impact Statement, property ownership documentation, and certified abutters' list.
 - 2. *2 Marc Road Site Plan of Land in Medway, MA*, dated January 26, 2016, prepared by Merrikin Engineering of Millis, MA
 - 3. *Stormwater Report for 2 Marc Road* including an operations and maintenance plan, dated March 30, 2016 prepared by Merrikin Engineering
 - 4. *Requests for Waivers from the Medway Site Plan Rules and Regulations*, received April 4, 2016 prepared by Merrikin Engineering
 - 5. Building Elevation (undated) and Floor Plans dated November 24, 2015 by Keenan and Kenney Architects, Ltd.
- B. During the course of the review, a variety of other materials were submitted to the Board by the applicant and its representatives:
 - 1. Supplemental Request for Waiver of the *Medway Site Plan Rules and Regulations*, prepared by Merrikin Engineering dated May 5, 2016 - Section 205-6 Curbing
 - 2. *2 Marc Road Site Plan of Land in Medway, MA*, dated January 26, 2016, REVISED May 18, 2016, prepared by Merrikin Engineering of Millis, MA
 - 3. Merrikin Engineering letter dated May 4, 2016 with varied attachments in response to the PGC review letter dated April 22, 2016 and comments received during the April 26, 2016 public hearing.
 - 4. Merrikin Engineering letter dated May 19, 2016 with varied attachments in response to Tetra Tech review letter dated May 5, 2016.
 - 5. *2 Marc Road Site Plan of Land in Medway, MA*, dated January 26, 2016, REVISED May 18, 2016, prepared by Merrikin Engineering of Millis, MA

6. 2 Marc Road Site Plan of Land in Medway, MA, dated January 26, 2016, REVISED June 7, 2016, prepared by Merrikin Engineering of Millis, MA
7. Merrikin Engineering letter dated June 7, 2016 with varied attachments in response to public hearing discussions.
8. Supplemental Request for Waiver of the *Medway Site Plan Rules and Regulations*, prepared by Merrikin Engineering dated May 25, 2016 - Section 205-6.G.1 Parking Spaces/Stalls
9. Revised building elevation from Keenan and Kenney Architects, Ltd. – not dated
10. Odor Management Info – Letter dated May 3, 2016 from CSI Engineering of Portsmouth, NH.
11. Proposed design - CommCan free-standing sign prepared by Signarama Walpole, undated
12. Water and Wastewater Management – Letter dated May 3, 2016 from CSI Engineering, Portsmouth, NH.
13. Cut sheet of a proposed bike rack by ULINE.
14. Business Entity Summary of CommCan Inc. from the Corporations Division of the Secretary of the Commonwealth of Massachusetts.
15. June 10, 2016 email communication from Building Commissioner Jack Mee indicating that the parking plan for the 2 Marc Road building meets the zoning requirements.
16. June 17, 2016 letter/Provisional Certificate of Registration for a Registered Medical Marijuana Dispensary from the Massachusetts Department of Public Health issued to CommCan, Inc. of Millis, MA.

C. Other Documentation

1. Mullins Rule Certification dated April 28, 2016 for Richard Di Iulio for the April 26, 2016 hearing
2. Mullins Rule Certification dated May 3, 2016 for Robert Tucker for the April 26, 2016 hearing
3. Mullins Rule Certification dated June 8, 2016 for Thomas Gay for the May 24, 2016 hearing
4. Host Community Agreement dated May 16 2016 between the Town of Medway and CommCan, Inc.
5. Review letter dated May 18, 2016 from the Medway Design Review Committee

V. **TESTIMONY** - In addition to the site plan application materials as submitted and provided during the course of our review, the Planning and Economic Development Board heard and received verbal or written testimony from:

- Sean Reardon, P.E. of Tetra Tech, Inc., the Town's Consulting Engineer – Site plan review letters dated May 5, 2016 and May 24, 2016
- Steve Bouley of Tetra Tech - Commentary throughout the public hearing process.
- Gino Carlucci, PGC Associates, the Town's Consulting Planner – Site plan review letter dated April 20, 2016 and commentary throughout the public hearing process.

- Ellen Rosenfeld, applicant
- Dan Merrikin, P.E. of Merrikin Engineering, engineer for the applicant
- Valerio Romano, VGR Law Firm, attorney for the applicant
- Antonia Kenny, Keenan & Kenny Architects, architect for the applicant
- Resident Charlie Myers, 9 Curtis Lane
- Resident Ann St. Vrain, 1 Causeway Street

VI. FINDINGS – The Planning and Economic Development Board must determine whether the proposed project constitutes a suitable development based on conformance with the various site development standards and criteria set forth in the *Site Plan Rules and Regulations*.

The Planning and Economic Development Board, at its meeting on June 28, 2016, on a motion made by Robert Tucker and seconded by Richard Di Iulio, voted to approve the following **FINDINGS** regarding the site plan and special permit applications for CommCan for 2 Marc Road. The motion was approved by a vote of five in favor and none opposed.

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 has been designed with 360-degree circulation. The parking lot in front is of a standard design that is judged to be adequate for serving industrial and commercial uses. The site is within an industrial park with access directly from Route 109 so there is no access through minor streets serving residential areas. The entrance and exit drives are separate from the parking lot so there is no backing 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 proposed building and site are of an industrial style, with the scale and materials similar to other buildings within the industrial park. While the design of the building is constrained by requirements specific to the proposed use as medical marijuana facility, the original design has been revised based on comments from the Design Review Committee so that its aesthetic impact has been improved.

- (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 building is replacing an earth processing and storage operation. The site is taking advantage of existing swales on the property as part of its stormwater management system. The proposed building and site work will be more stable. The parking area is at the front of the building to promote security. There is no outside storage or either materials or waste. While vegetation close to the building is limited by state imposed security requirements, six trees will be added around the parking lot and other low vegetation will be added to improve the site's aesthetics from the street and nearby residences.

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

The building has 360-degree circulation for access around its entire perimeter. The plans have been reviewed by the Fire Chief and found to be adequate, subject to the installation of an additional water hydrant to the rear of the site.

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

- a) the volume of cut and fill;
- b) the number of trees to be removed with particular care taken with mature trees and root systems;
- c) the visual prominence of man-made elements not necessary for safety;
- d) the removal of existing stone walls;
- e) the visibility of building sites from existing streets;
- f) the impacts on waterways and environmental resource areas;
- g) soil pollution and erosion;
- h) noise.

The site is currently used as an earth processing and storage facility. It is relatively flat so cuts and fills are minimal. There are no trees to be removed. There are no prominent man-made elements or stone walls on the site. The building design is similar to other buildings within the industrial park and typical for such buildings. The aesthetics of the original building design have been improved with the addition of windows and striping. The stormwater management system is making use of existing swales and is treating runoff from the parking lot and driveways to minimize impacts on waterways. The site plan has been reviewed by the Town's Consulting Engineer. Soil pollution and erosion will be reduced as the site will be stabilized with the proposed construction. Noise will also be reduced as the entire operations of the facility will be inside the building as opposed to the exterior operation currently on the site.

- (6) Is pedestrian and vehicular safety both on the site and egressing from it maximized?

Vehicular safety on and near the site has been maximized through a design with a driveway separate from the parking lot. 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.

- (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. The construction does incorporate existing swales on the site into its stormwater management system.

- (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. The fixtures are also shielded to minimize light pollution.

- (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 disturbed site and stabilizes it thus reducing damage to the environment.

GROUNDWATER PROTECTION DISTRICT SPECIAL PERMIT FINDINGS

- (10) New construction is a permitted use, subject to certain restrictions, within the Groundwater Protection District. As conditioned, and as noted below, the project will comply with those restrictions.
- (11) Storage of hazardous materials is prohibited unless in a free standing container within a building. The applicant has provided a list of hazardous materials that will be used in the facility and states that all storage and use will be contained within the building. Any accidental spillage will also be contained within the building and any that enters the sewer system will be treated prior to being discharged to the municipal sewer system.
- (12) Commercial fertilizers will be used for the growing of marijuana plants but all storage and use will be contained within the building.
- (13) 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.
- (14) 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.

- (15) The facility will render more than 2,500 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.
- (16) As required by Section 5.6.F. of the Zoning Bylaw, the plans have been reviewed by the Board of Health, Conservation Commission, Water and Sewer Commission, and Department of Public Services to ensure that no adverse impacts on the quality or quantity of water available within the Groundwater Protection District, and that disturbance of the soils, topography, drainage, vegetation and other characteristics is minimized. The site is currently cleared and used for storing and processing earth materials and has no current drainage system. The proposed facility will reduce impacts on the quality of water available within the Groundwater Protection District.

***REGISTERED MEDICAL MARIJUANA DISPENSARY SPECIAL PERMIT
FINDINGS***

- (17) The proposed facility, as conditioned, is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.
- (18) As conditioned, 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.
- (19) The applicant has satisfied all of the conditions and requirements of Sections 8.9 and 3.4 of the Zoning Bylaw.
- (20) The facility will be in a standalone building with no doctor's offices or other uses.
- (21) As proposed, the facility will operate 12 hours per day between 8:00 AM and 8:00 PM.
- (22) None of the uses listed in Section 8.9.E.5 of the Zoning Bylaw are located within 500 feet of the site of the proposed facility.
- (23) No drive-through service is proposed (and no public service of any kind is proposed).
- (24) The proposed signage is in compliance with Section 8.9.F. of the Zoning Bylaw
- (25) The applicant has provided the contact information for management staff and key holders.
- (26) The facility will be constructed and operated in strict compliance with Massachusetts Department of Public Health regulations, and thus not create nuisances to abutters.

- (27) The proposed facility complies with the openness of premises requirements of Section 8.9 I of the Zoning Bylaw since it is not open to the public and all operations are within the restricted building.
- (28) As conditioned, copies of required licenses and permits issued by the Commonwealth as well as individual names of owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities will be provided.
- (29) Security measures including lighting, fencing, gates and alarms have been reviewed and approved by the Police Chief.
- (30) As conditioned, a copy of the policies/procedures for the transfer, acquisition, or sale of medical marijuana between approved RMD's will be provided.

GENERAL SPECIAL PERMIT FINDINGS

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

The Registered Marijuana Dispensary section of the Zoning Bylaw was first adopted by the Town with the specific intent of allowing this type of facility in Medway. The stated purpose of Section 8.9 of the Zoning Bylaw 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 an appropriate place and under strict conditions, which are met by the proposed facility. Therefore, it meets the purpose of the Zoning Bylaw.

- (32) *The use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.*

The proposed location for the facility is within the Industrial I district, in which the use is allowed by special permit. The site is not within 500 feet of any of the uses from which such facilities are prohibited. The design is an industrial style similar to other buildings within that district so the Board finds that it is in an appropriate location, does not alter the character of the zoning district, and the adverse effects of the development have been suitably addressed to reduce the impacts to the neighborhood.

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

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. Its internal roadway system and stormwater management system have been reviewed by Town's Public Safety and Public Services staff and the Board's Consulting Engineer and found to be adequate.

- (34) *The proposed use will not be detrimental or otherwise offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials, or visual or other nuisances.*

The building is replacing an earth processing and storage operation. The site is taking advantage of existing swales on the property as part of its stormwater management system. The proposed building and site work will be more stable. The parking area is at the front of the building to promote security. There is no outside storage of either materials or waste. While vegetation close to the building is limited by security requirements, six trees will be added around the parking lot and other low vegetation will be added to improve aesthetics from the public way and nearby residences. The applicant has supplied information about their odor management system. The Board finds that this criterion is met.

- (35) *The proposed use will not cause undue traffic congestion in the immediate area.*

The proposed facility is expected to have 30 employees and there is no public access so traffic is minimal and the industrial park road system is adequate to handle it. Furthermore, access is from Route 109 so there is no traffic impact on local residential roadways.

- (36) *The proposed use is consistent with the Medway Master Plan.*

The proposed facility is in compliance with Goals 1 and 6 of the Economic Development Goals and Objectives as follows: Goal 1: Maximize the area's economic resources and Goal 6: Attract new (and retain existing) businesses and increase the industrial/manufacturing base.

VII. WAIVERS – At its June 28, 2016 meeting, the Planning and Economic Development Board, on a motion made by Robert 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 Planning and Economic Development 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.

SUBMITTAL REQUIREMENTS/PLAN CONTENTS

1. **Section 204 – 3.A.7.a. Traffic Impact Assessment** – A traffic impact report is required if a development project involves the addition of 30 or more parking spaces.

The applicant has proposed 35 parking spaces for the site and has requested that the requirement for a traffic impact assessment be waived as the project's scope will generate only employee and delivery traffic. Based on information from the Institute for Traffic Engineers, the expected average weekday trip generation is 65 trips at full operation. As the facility will only be involved in cultivation and processing without any retail sales, it will not generate any consumer traffic. The preparation of a traffic impact assessment is not expected to reveal any useful

information related to the site or the project's impacts. Therefore, the Board APPROVES this waiver request.

2. **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 as the site has been used for many years as a contractor's yard and to process earthen materials and is generally devoid of any landscape features and materials. There is no value in preparing an inventory of the existing landscape given the existing condition of the site with little landscape features to preserve. Therefore, the Board APPROVES this waiver request.

3. **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 and has provided a more limited landscape design instead. Any registered medical marijuana facility is subject to a permit from the Massachusetts Department of Public Health which has strict requirements that prohibit shrubs and trees from being planted in proximity to medical marijuana buildings in order to promote safety in and around the facility. Therefore, the Board APPROVES this waiver request.

DEVELOPMENT STANDARDS

4. **Section 205-6 G. 3) a) Parking Spaces/Stalls** - Car parking spaces/stalls shall be ten (10) feet by twenty (20) feet, except that handicap stalls shall be in accordance with the current ADA; standards.

The applicant has requested a waiver from this requirement and proposes instead to use a 9' by 18' size parking space which is compliant with Section 7.1.1.E 3. a. of the Medway Zoning Bylaw. This is an instance where the Site Plan Rules and Regulations are not consistent with the Zoning Bylaw. In those cases, the Zoning Bylaw prevails. Therefore, the Board APPROVES this waiver request.

5. **Section 205-6 H. Curbing** – The perimeter of the parking area shall be bounded with vertical granite curb or similar type of edge treatment to delineate the parking lot.

The applicant has requested a waiver from this requirement and proposes the use of Cape Cod berm instead. The applicant believes the proposed alternative curbing material is an appropriate method to delineate the boundary of the proposed parking lot and is consistent with the general industrial park area. The Board concurs with this assessment and APPROVES this waiver request.

- VIII. CONDITIONS** The *Special and General Conditions* included in this Decision shall assure that the Board's approval of this site plan is consistent with the *Site Plan Rules and Regulations*, 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

SPECIFIC CONDITIONS OF APPROVAL

- A. **Plan Endorsement** - Within sixty (60) days after the Board has filed its *Decision* with the Town Clerk, the site plan set for 2 Marc Road dated March 30, 2016, last revised June 7, 2016, prepared by Merrikin Engineering shall be further revised to reflect all Conditions and required revisions, including those as follows, and shall be submitted to the Planning and Economic Development 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 a Mylar set of the revised Plan in its final form to the Board for its signature/endorsement. All Plan sheets shall be bound together in a complete set.
- B. **Cover Sheet Revisions** – Prior to plan endorsement, the cover sheet of the June 7, 2016 site plan set shall be revised as follows:
1. list the APPROVED Requests for Waivers from the *Site Plan Rules and Regulations*
 2. add the building elevation plan by Keenan and Kenney to the Plan Index
 3. add the photometric plan to the Plan Index
 4. include a revision date
- C. **Other Plan Revisions** – Prior to plan endorsement, the following plan revisions shall be made to the June 7, 2016 Site Plan set.
1. Add a detail for one bike rack to be located on site to accommodate two bicycles.
 2. The building elevation plan shall be revised as follows and added to the plan set:
 - a) to be consistent with the site plan, in particular, with the landscaping plan and to not show a sidewalk in front of the building.
 - b) to specify materials
 - c) to modify the colors of the awning over the front entrance and the horizontal stripe at the top of the building so they are more noticeably different in color from that of the main building façade.
 - d) to include the name of the architectural firm and plan date

3. Add the photometric plan to the plan set
 4. Revise the site plan notes to indicate that any planned chain link fencing shall be black, vinyl coated.
 5. Light pole fixtures shall be noted as being black.
- D. **Odor Management** – An effective odor management system shall be maintained at all times such that odors from the cultivation and processing of marijuana on the premises shall comply with the provisions of Section 7.3 D of the Zoning Bylaw and shall not be evident off-site of the subject property.
- E. **Off-Site Mitigation** – The Applicant has agreed to the following:
1. To initiate actions to install a Development Sign on the property located at 8 Main Street (Parcel 33-007) owned by the Applicant. This sign shall specify the name of the industrial park and may include the names of businesses located within the park on Industrial Park Road, Jayar Road and Marc Road. The Medway Design Review Committee shall be consulted in the development of the proposed sign design. Any such sign is subject to and shall comply with the Section 7.2 of the Medway Zoning Bylaw. “Initiating actions” shall mean developing a design concept and securing a price quote for the sign, and contacting the business owners within the industrial park to contribute reasonably to the expense of construction, installation and future maintenance of the sign. If reasonably feasible, the Applicant shall coordinate the installation of said sign. In order to demonstrate that the sign installation is not reasonably feasible, the Applicant must provide documentation that all property owners within the industrial park were contacted in writing and that more than half have refused to contribute to the cost of the sign. This condition is also contingent on the Conservation Commission granting any necessary approvals for the sign installation, if necessary.
 2. To provide a 50’ roadway and utility easement along the entire length of the property line between parcel 32-027 (9 Marc Road) and parcel 32-026 (4 Marc Road) to its end at the Old County Layout, a north/south right of way running between Coffee Street and Green Valley Road. Prior to plan endorsement, the Applicant shall provide an easement plan and a proposed grant of easement document to the Town for review.
 3. By June 30, 2017, the Applicant shall bring the property at 0 Marc Road (Parcel 32-007) to a neat and orderly condition with trash and debris removed and all materials removed from the street right-of-way.
- F. Prior to plan endorsement, the applicant and the Medway Department of Public Services shall come to a resolution on the method of cross connection control for the operation of public and private water supplies within the medical marijuana cultivation and processing facility.

- G. **Limitations** – This medical marijuana dispensary special permit is limited to the operation of a cultivation and processing facility only. This permit does not authorize operation of a retail outlet for the sale of medical marijuana products.

GENERAL CONDITIONS OF APPROVAL

- A. **Fees** - Prior to site plan endorsement by the Planning and Economic Development Board, the Applicant shall pay:
1. the balance of any outstanding plan review fees owed to the Town for review of the site plan by the Town's engineering, planning or other consultants; and
 2. any construction inspection fee that may be required by the Planning and Economic Development Board; and
 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.

The Applicant's failure to pay these fees in their entirety shall be reason for the Planning and Economic Development Board to withhold plan endorsement.

- B. **Other Permits** – This permit does not relieve the applicant from its responsibility to obtain, pay and comply with all other required federal, state and Town permits. The contractor for the applicant or assigns shall obtain, pay and comply with all other required Town permits.
- C. **Document/Plan Recording** - Within thirty (30) days of recording the Decision and the associated Plan, the Applicant or his assign shall provide the Board with a receipt from the Norfolk County Registry of Deeds indicating that all documents have been duly recorded, or supply another alternative verification that such recording has occurred.
- D. **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 applicant 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 Inspector of Buildings.
 2. The applicant 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.
 3. 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 Applicant 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.

4. The Applicant 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.
5. All erosion and siltation control measures shall be installed by the Applicant prior to the start of construction and observed by the Planning and Economic Development Board's consulting engineer and maintained in good repair throughout the construction period.
6. *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.
7. *Noise* - Construction noise shall not exceed the noise standards as specified in the *Medway Zoning Bylaw*, SECTION V. USE REGULATIONS, Sub-Section B. Area Standards, Paragraph 2. b).

E. ***Landscape Maintenance***

1. The site's landscaping shall be maintained in good condition throughout the life of the facility and to the same extent as shown on the endorsed Plan. Any shrubs, trees, bushes or other landscaping features shown on the Plan that die shall be replaced by the following spring.
2. Within 60 days after two years after the occupancy permit is issued, the Town's Consulting Engineer or the Inspector of Buildings shall conduct an initial inspection of the landscaping to determine whether and which landscape items need replacement or removal and provide a report to the Board. At any time subsequent to this initial inspection, the Town's Consulting Engineer or the Inspector of Buildings may conduct further inspections of the landscaping to determine whether and which landscaping items need replacement or removal and provide a report to the Board. The Board may seek enforcement remedies with the Inspector of Buildings/Zoning Enforcement Officer to ensure that the comprehensive landscaping plan is maintained.

F. ***Snow Storage and Removal***

1. On-site snow storage shall not encroach upon nor prohibit the use of any parking spaces required by the zoning bylaw.

2. Accumulated snow which exceeds the capacity of the designated snow storage areas on-site shall be removed from the premises within 24 hours after the conclusion of the storm event.

G. **Construction Oversight**

1. 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 applicant shall establish a construction account with the Planning and Economic Development 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 Applicant shall pay an advance toward the cost of these services to the Town of Medway. The advance amount shall be determined by the Planning and Economic Development 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 Applicant shall provide supplemental payments to the project's construction inspection account, upon invoice from the Board.
 - d) Any funds remaining in the applicant's construction inspection account after the *Certificate of Site Plan Completion* is issued shall be returned to the applicant.
2. Planning and Economic Development 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.
 3. The Department of Public Services 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.
 4. The applicant 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 Planning and Economic Development Board within 5 days of inspection.

H. ***Plan Modification***

1. This Site Plan 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 Planning and Economic Development Board for review as site plan modifications.
2. Any work that deviates from an approved site plan shall be a violation of the *Medway Zoning Bylaw*, unless the Applicant requests approval of a plan modification pursuant to Section 3.5.2.A.3.c. and such approval is provided in writing by the Planning and Economic Development Board.
3. Whenever additional reviews by the Planning and Economic Development Board, its staff or consultants are necessary due to proposed site plan modifications, the Applicant 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 Planning and Economic Development Board may reduce the scope of the required review and waive part of the filing and review fees.

I. ***Plan Compliance***

1. The Applicant shall construct all improvements in compliance with the approved and endorsed site plan and any modifications thereto.
2. The Planning and Economic Development 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 *Medway Zoning Bylaw* (non-criminal disposition) and violations or non-compliance are subject to the appropriate fine.

J. ***Performance Security***

1. No occupancy permit shall be granted until the Planning and Economic Development Board has provided a written communication to the Inspector of Buildings/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 Planning and Economic Development Board's satisfaction, to cover the cost of all remaining work.

2. The applicant shall propose a form of performance security which shall be of a source and in a form acceptable to the Planning and Economic Development Board, the Treasurer/Collector and Town Counsel. The Board may require that the performance guarantee be accompanied by an agreement which shall define the obligations of the developer and the performance guarantee company including:
 - a) the date by which the developer shall complete construction
 - b) a statement that the agreement does not expire until released in full by the Planning and Economic Development 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 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 Planning and Economic Development 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 developer 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 twenty-five percent (25%) contingency.
5. Final release of performance security is contingent on project completion.

K. *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. Approved site plans shall be completed by the applicant or its assignees within two (2) years of the date of plan endorsement. Upon receipt of a written request by the applicant filed at least thirty (30) days prior to the date of expiration, the Planning and Economic Development 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 Applicant shall secure a ***Certificate of Site Plan Completion*** from the Planning and Economic Development Board and provide the ***Certificate*** to the Inspector of Buildings. The ***Certificate*** serves as the Planning and Economic Development 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 applicant shall:

- a) provide the Planning and Economic Development Board with written certification from a Professional Engineer registered in the Commonwealth of Massachusetts that all building and site work has been completed in strict 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 Planning and Economic Development 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 final As-Built Plan shall also be provided to the Town in CAD/GIS file format per MASS GIS specifications.

L. ***Construction Standards*** - All construction shall be completed in full compliance with all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.

M. ***Conflicts*** – If there is a conflict between the site plan and the Decision's Conditions of Approval, the Decision shall rule. If there is a conflict between this Decision and/or site plan and the Medway Zoning Bylaw, the Bylaw shall apply.

IX. APPEAL – Appeals if any, from this Decision shall be made to the court within twenty (20) days of the date the Decision is filed with the Town Clerk.


After the appeal period has expired, the applicant must obtain a certified notice from the Town Clerk that no appeals have been made and provide such certification to the Planning and Economic Development Board before plan endorsement.

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**Medway Planning and Economic Development Board
SITE PLAN and SPECIAL PERMITS DECISION
Ellen Realty Trust/CommCan – 2 Marc Road**

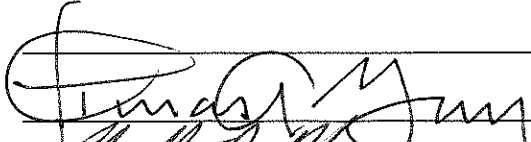
Approved by the Medway Planning & Economic Development Board: 6-28-2016


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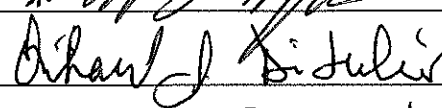


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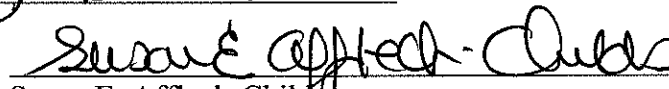








ATTEST:



Susan E. Affleck-Childs
Planning & Economic Development Coordinator

6-28-2016
Date

COPIES TO: Michael Boynton, Town Administrator
Michelle Grenier, Interim Conservation Agent
Donna Greenwood, Assessor
Beth Hallal, Health Agent
Tom Holder, Department of Public Services
Jeff Lynch, Fire Chief
Jack Mee, Inspector of Buildings and Zoning Enforcement Officer
Stephanie Mercandetti, Director of Community and Economic Development
Joanne Russo, Treasurer/Collector
Jeff Watson, Police Department
Ellen Rosenfeld, Ellen Realty Trust
Dan Merrikin, Merrikin Engineering
Steven Bouley, Tetra Tech
Gino Carlucci, PGC Associates