

Board Members

Andy Rodenhiser, Chair
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Timothy Harris, Clerk
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TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
PLANNING AND ECONOMIC
DEVELOPMENT BOARD

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20 Day Appeal
February 13, 2024

Major Site Plan
On Remand from the Land Court
Medway Place – 98, 108 and 114 Main Street
APPROVED with Waivers and Conditions

Remand Decision Date: January 23, 2024

Name/Address of Applicant: Medway Realty LLC
c/o Diversified Funding, Inc.
63 Atlantic Avenue
Boston, MA 02110

Name/Address of Property Owner: Medway Realty LLC
c/o Diversified Funding, Inc.
63 Atlantic Avenue
Boston, MA 02110

Engineer Howard Stein Hudson
114 Turnpike Road, Suite 2C
Chelmsford, MA 01824

Representative Jeffrey Allen, esq.
Lawson and Weitzen, LLP
88 Black Falcon Ave, Suite 345
Boston, MA 02210

Site Plan: *Site Plan for Medway Place*
By Howard Stein Hudson
Dated August 30, 2021 to be further revised as specified herein.

Drainage Improvement Plan for 98, 108 and 114 Main Street
By Grady Consulting, LLC of Kingston, MA
Dated September 7, 2019, last revised March 1, 2021

Location: 98, 108 & 114 Main Street

Assessors' Reference: 40-055, 40-056 and 40-057

Zoning District: Central Business District

I. PROJECT DESCRIPTION - Medway Place is a 115,134 square foot shopping plaza, constructed in 1962 and 1969, with over 1,000 linear feet of frontage on Main Street (Route 109). Route 109 was recently repaved and improved through a major Massachusetts Department of Transportation (DOT) project, which included construction of a new signalized intersection and boulevard style entrance at the main entrance to Medway Place. The traffic count on Route 109 in front of the site is approximately 23,000 cars per day. Existing tenants include Ocean State Job Lot, O'Reilly Auto Parts, Anytime Fitness, Bank of America, Rocky's Hardware, multiple restaurants, and independent local operators.

The Applicant has proposed changes in the layout, paving, and landscaping for the 446 space Medway Place parking lot. The change in the layout is a result of the recently completed Mass DOT Route 109 improvement project noted above. The parking lot work will align the internal parking spacing with the new main entrance to improve traffic circulation within the site and provide pedestrian access to the shopping center from Main Street. The site work will include installation of a berm near the entrance to the Shell Station at 86 Main Street, widening of the east aisle of the main entrance to 20' wide, relocation of several light fixtures, installation of electric vehicle charging stations, and traffic flow signage. Reconstruction of portions of the parking lot are planned. Other areas will be seal coated. The Applicant has also proposed stormwater management controls to collect and treat stormwater collected from the parking lot before it is discharged into the Town's municipal storm drain system. Some aspects of the stormwater work are being handled as an MS4 Connection Permit through the Medway Department of Public Works pursuant to *Medway General Bylaws, Article XXVI Stormwater Management and Land Disturbance*.

This project is subject to major site plan review pursuant to Section 3.5.3 of the *Medway Zoning Bylaw* and the *Board's Rules and Regulations for Submission, Review and Approval of Site Plans*, last updated October 8, 2019.

Over the course of the Board's review of the site plan application for compliance with the *Site Plan Rules and Regulations*, the scope of work has evolved to encompass landscaped islands, installation of electric vehicle charging stations, fencing, and additional stormwater management measures. The Applicant has also prepared a master signage plan and landscape maintenance program.

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 November 30, 2021, on a motion made by Robert Tucker and seconded by Matthew Hayes, voted to **APPROVE with WAIVERS and CONDITIONS** as specified herein, a site plan for the construction of site improvements at 98, 108 and 114 Main Street as shown on *Site Plan for Medway Place*, dated August 30, 2021 by Howard Stein Hudson, to be further revised as specified herein.

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

<i>Planning & Economic Development Board Member</i>	<i>Vote</i>
Richard Di Iulio	AYE
Matthew Hayes	AYE
Andy Rodenhiser	AYE
Robert Tucker	AYE

II.A APPEAL AND REMAND

The applicant appealed the Board's November 30, 2021 decision in this matter to the Land Court, *Medway Realty, LLC v. Medway Planning and Economic Development Board, et al*, Land Court Misc. case no. 21 MISC 000633-HPS. The parties, at the urging of the Land Court, engaged in settlement discussions, which

resulted in the parties filing a Joint Motion for Remand dated December 20, 2023 with the Land Court. The motion was allowed by the Land Court, and an Order on Joint Motion for Remand (the “Remand Order”) was issued by the Court on December 21, 2023, remanding the matter to the Board for a further public hearing.

Pursuant to the Court’s Remand Order, the Board scheduled a public hearing for January 23, 2024 to consider the proposed amendments to the November 30, 2021 decision as set forth in the Joint Motion for Remand. Notice of the public hearing was advertised in the MetroWest Daily News on January 9 and January 16, 2024. Notices were sent to abutters and parties in interest, and the public hearing was duly posted as required by G.L. c. 40A.

On January 23, 2024, the Board voted 4 to 0 to APPROVE this amended decision in accordance with the Joint Motion for Remand and the Remand Order.

Planning & Economic Development Board Member	Vote
Andy Rodenhiser, Chair	Aye
Timothy Harris, Clerk	Aye
Jessica Chabot	Aye
John Parlee	Aye

III. PROCEDURAL HISTORY

- A. October 28, 2019 - Site plan application and associated materials filed with the Board
- B. November 5, 2019 – Site plan application and associated materials filed with the Town Clerk
- C. November 18, 2019 – Notice for the December 10, 2019 public hearing filed with the Town Clerk and posted at the Town of Medway web site’s master meeting calendar.
- D. November 18, 2019 - Site plan information distributed to Town boards, committees and departments for review and comment.
- E. November 19, 2019 – Notice for the December 10, 2019 public hearing was sent to abutters and parties of interest by certified sent mail.
- F. November 26 and December 2, 2019 - Public hearing notice advertised in *Milford Daily News*.
- G. December 4, 2019 – Public hearing notice mailed to Medway Place tenants
- H. December 10, 2019 – Public hearing commenced. The hearing was continued to January 14, 2020, February 11, 2020 and February 25, 2020, March 5, 2020, and March 24, 2020.
- I. March 16, 2021 - Administrative Site Plan application filed with the Town for fencing.

NOTE – Massachusetts COVID State of Emergency was established March 10, 2020.

- J. March 24, 2020 – The public hearing was continued without presentation or testimony to April 14, 2020, May 12, 2020, May 26, 2020, June 9, 2020, June 23, 2020, July 14, 2020, July 28, 2020, August 11, 2020, August 25, 2020, September 8, 2020, September 22, 2020, and October 27, 2020,
- K. The hearing resumed on November 24, 2020, and was continued to January 26, 2021, February 23, 2021, April 13, 2021, May 11, 2021, June 22, 2021, July 27, 2021, August 10, 2021, September 14, 2021, October 2, 2021, October 26, 2021 and November 9, 2021, November 16, 2021, November 23, 2021 and November 30, 2021 at which time a decision

was rendered and the hearing was closed. See above Section II.A for Appeal and Remand history.

- L. By means of written communications from attorney Gareth Orsmond, the Applicant granted written extensions of the action deadline to: February 28, 2020, April 30, 2020, November 30, 2020, September 30, 2021, November 15, 2021 and December 3, 2021.

IV. INDEX OF SITE PLAN DOCUMENTS

- A. The site plan application for the proposed Medway Place site improvement project included the following plans, studies and information that were provided to the Board at the time the application was filed:
1. Site Plan Application dated October 24, 2019 with submittal letter, project narrative, certified abutters' list, deed, and requests for waivers from the *Site Plan Rules and Regulations*
 2. *Site Plan and Landscape Plan – Medway Place*, dated October 15, 2019 prepared by Howard, Stein, Hudson of Chelmsford, MA.
 3. *Drainage Improvement Plan*, dated September 7, 2019 by Grady Consulting, LLC of Kingston, MA
- B. During the course of the Board's review, a variety of other materials were submitted to the Board by the Applicant and its representatives:
1. **Attorney Gareth Orsmond, Pierce Atwood**
 - **2-6-20 letter** with submittal of a revised *Site Plan and Landscape Plan* dated 2-4-20, an existing conditions plan, and a Response to Comments from the 12-5-19 PGC Associates review letter, the 12-10-19 Tetra Tech review letter, 12-10-19 letter from John Russell of Addler Pollock and Sheehan (counsel to Colbea Property/Shell Station), comments provided during the 12-12-19 public hearing
 - **4-23-21 letter** with submittal of a revised *Site Plan and Landscape Plan* dated 4-22-21, with a summary of the revised site plan changes, a *Temporary Seating Plan* dated 4-22-21, and an administrative site plan application for site fencing.
 - **7-14-21 letter** with submittal of revised *Site Plan and Landscape Plan* dated 7-13-21, and *Supplementary Site Plan Submittal* dated 7-14-21 with a summary of the revised site plan changes, Response to Comments from the 5-4-21 PGC Associates review letter, the 5-6-21 Tetra Tech review letter, comments provided during the 5-11-21 public hearing, the 5-7-21 review memorandum from Susan Affleck-Childs, Planning and Economic Development Coordinator, and comments from the 5-10-21 Design Review Committee memorandum
 - **9-30-21 letter** with *Site Plan for Medway Place* dated 8-30-21, a *Master Signage Plan* dated 9-30-21, a *Landscape Maintenance Program* dated 9-30-21, and *Supplementary Site Plan Submittal* dated 9-30-21 with a summary of revised site plan changes, a Response to Comments from the 7-22-21 PGC Associates review letter, the 7-21-21 Tetra Tech review letter, comments from the 7-27-21 public hearing, and comments from the DRC's 8-30-21 meeting,
 - **10-25-21 letter** in response to Tetra Tech review letter dated 10-20-21.

2. Darren Grady, P.E., Grady Consulting, LLC

- 1-10-20 letter in response to Tetra Tech review letter dated 12-10-19.
- 4-22-21 letter regarding the Howard Stein Hudson site plan dated 4-22-21.

3. Plan Submittals

- *Existing Conditions Plan*, dated June 12, 2019, prepared by Grady Consulting, LLC.
- *Site Plan and Landscape Plan – Medway Place*, revised February 4, 2020 prepared by Howard Stein Hudson of Chelmsford, MA. (or February 11??)
- *Site Plan and Landscape Plan – Medway Place*, revised April 22, 2021 prepared by Howard Stein Hudson of Chelmsford, MA.
- *Site Plan and Landscape Plan – Medway Place*, revised July 13, 2021 prepared by Howard Stein Hudson of Chelmsford, MA.
- *Temporary Seating Plan and Gate Detail – Medway Place*, dated April 22, 2021 prepared by Howard Stein Hudson of Chelmsford, MA
- *Temporary Seating Plan and Gate Detail – Medway Place*, revised July 13, 2021 Prepared by Howard Stein Hudson of Chelmsford, MA
- *Drainage Improvement Plan* revised March 1, 2021 by Grady Consulting, LLC of Kingston, MA
- *Site Plan for Medway Place*, dated 8-30-21, by Howard Stein Hudson including *Drainage Improvement Plan* revised 3-1-21 by Grady Consulting, LLC

4. Administrative Site Plan Review application filed with the Town March 16, 2021

C. During the course of the Board’s review, a variety of materials were submitted to the Board by its staff, Board members, and other Town Boards and Committees.

- 1-22-20 email from DPW Director David D’Amico
- 2-10-20 email from Fire Chief Jeff Lynch
- 8-17-20 email from Medway Cultural Council
- 9-2-20 email from DPW Compliance Officer Stephanie Carlisle
- 11-18-20 (or 11-5-20?) email from DPW Director David D’Amico
- 5-7-21 review memorandum from Susan Affleck-Childs, Planning and Economic Development Coordinator
- 5-10-21 review memorandum from the Medway Design Review Committee
- 5-11-21 emails (2) from Fire Chief Jeff Lynch
- 9-16-21 email from Fire Chief Jeff Lynch
- Collection of photos of Medway Place site conditions taken on or around 3-5-20 by PEDB member Andy Rodenhiser
- Medway DPW Conditional MS4 Stormwater Permit dated 3-27-21
- ALL documents pertaining to the Rocky’s Hardware administrative site plan and outdoor display special permit
- 11-23-21 email from Bridget Graziano, Conservation Agent
- 11-24-21 and 11-29-21 emails from Deputy Fire Chief Mike Fasolino
- 11-29-21 email from Sergeant Jeff Watson, Medway Police Department Safety Officer
- Collection of aerial photos of Medway Place site conditions taken on November 30, 2021 provided by PEDB member Andy Rodenhiser

V. TESTIMONY - In addition to the site plan application materials as submitted and provided during the course of the Board's review, the Board also received verbal and/or written testimony from:

- Steve Bouley, P.E. of Tetra Tech, Inc., the Town's Consulting Engineer – Site plan review letters dated 12-10-19, 1-29-20, 5-6-21, 7-21-21 and 10-20-21 and commentary throughout the public hearing process.
- Gino Carlucci, PGC Associates, the Town's Consulting Planner – Site plan review letters dated 12-5-19, 7-22-21 and 10-7-21 and commentary throughout the public hearing process.
- Sarah White, P.E. of Tetra Tech, Inc., the Town's Consulting Engineer
- Attorney Gareth Orsmond, Pierce Atwood
- Todd Wilson, Medway Realty, LLC
- Project Engineer Richard Latini, P.E., Howard Stein Hudson
- Project Engineer Michael Littman, P.E. Howard Stein Hudson
- Drainage Engineer Darren Grady, P.E., Grady Consulting LLC
- Medway DPW Director David D'Amico
- Medway DPW Compliance Officer Stephanie Carlisle

Abutter and Resident Testimony

- 2-23-21 comments from resident Lawrence Ellsworth, 148 Holliston Street
- 12-10-19 letter from attorney John Russell on behalf of Colbea LLC (Shell gas station)
- 2-23-21 verbal comments from resident Susan Rorke, 34 Ellis Street
- 2-23-21 verbal comments from residents Dave and Mendy Tarkowski, 82 Fisher Street
- 2-23-21 verbal comments from resident Janine Clifford, 42 Lincoln Street
- 11-23-21 email from resident Lee Brundage, 264 Village Street

VI. FINDINGS – The Board, at its meeting on November 30, 2021, on a motion made by Robert Tucker and seconded by Matthew Hayes, voted to APPROVE the following FINDINGS regarding the site plan application for Medway Place. The motion was approved by a vote of four in favor and none _ opposed.

Planning & Economic Development Board Member	Vote
Richard Di Iulio	AYE
Matthew Hayes	AYE
Andy Rodenhiser	AYE
Robert Tucker	AYE

General Findings

1. Applicant has been issued a conditional MS4 Connection Permit by the Medway Department of Public Works which is in effect until March 17, 2022.
2. In addition to this application, there is also currently pending before the Board an application for administrative site plan review and an outdoor display special permit for Rocky's Ace Hardware located within Medway Place at 98 Main Street.
3. Parking Lot Paving – The Applicant has proposed to partially reconstruct the parking lot as shown in grey highlights on Sheet C1.00 Layout and Materials of the Medway Place site plan dated August 30, 2021 by Howard Stein Hudson. Paving will also occur around all proposed curb at the landscaped islands approximately one foot from the edge of the curb which is not shown on the plan or in any detail. The Applicant has indicated additional paving will be

undertaken in the future when the pavement in areas not initially repaved as part of this project reaches the end of its useful life, estimated to be within 5 years. The Town's Consulting Engineer, Tetra Tech, in its various plan review letters, has repeatedly noted problems associated with this incomplete approach indicating that this manner of work will lack the quality expected. Installing curb in degraded asphalt will result in poor quality. Issues are expected to occur at the joints between the newly paved areas and the existing deteriorated pavement.

Site Plan Rules and Regulations Approval Criteria Findings – In making its decision, the Board shall consider the following criteria set forth in Section 204-8 F. of the *Site Plan Rules and Regulations*, as amended October 8, 2019, unless specifically waived.

1. The proposed buildings, uses and site improvements are appropriately located on the development site in relation to the terrain and the location and scale of buildings and sites features on abutting sites.

The Applicant has not proposed any new buildings or uses as part of this site plan application. Proposed site improvements include paving, outdoor dining areas, food truck spaces, electric vehicle charging stations, bike racks, motorcycle parking, relocation of parking lot light fixtures, fencing, and landscaping. However, the scope of work as proposed and presented does not adequately address:

- *traffic circulation around the buildings*
- *the highly disorganized nature of 31+/- trash dumpsters located around the back of the site*
- *the organization of parking, loading and pedestrian access in the area adjacent to the child care facility located at the end of the alley/fire lane*
- *the continued use of overhead wires between the building and light fixtures in the parking lot.*
- *storage of outdoor plant fixtures*
- *full paving of the parking lot area nor a phasing plan to do so*
- *absence of adequate snow storage areas*
- *lighting photometrics*
- *landscaping to meet the Site Plan Rules and Regulations standards*

2. The construction and/or renovation of buildings and site improvements are designed to reflect or be compatible with the *Medway Design Review Guidelines*.

The proposed scope of work does not include either construction of any new buildings or renovation of existing buildings. The proposed site improvements have been reviewed by the Design Review Committee which has provided comments and recommendations, some of which have been incorporated into the site plan. However, no design details have been provided for the electric vehicle charging stations, planting fixtures, bike racks, benches, and replacement light fixtures. The extent of landscaping is limited and there are no plans to eliminate the overhead wires.

3. Building and site designs reflect the character, materials and scale of existing buildings in the vicinity as well as Master Plan goals for the area.

The proposed scope of work does not include any building construction work. The existing site design is characteristic of a typical 1960's shopping center with a heavy reliance on parking and little consideration for landscaping and site amenities. The proposed site improvements represent some positive steps in a good direction but are incomplete and do not attain the caliber

of a primary community shopping area as envisioned in the 2009 Medway Master Plan. More recently, the community's dissatisfaction with Medway Place has been repeatedly noted as a compelling and concerning issue facing Medway during the Master Plan update project currently in process.

4. Reasonable use is made of building location, grading and landscaping and other site features to reduce the visible intrusion of structures, parking areas, and outside facilities for the storage, handling and disposal of sewage, refuse and other solid wastes resulting from the normal operation of the establishment(s) from public views or from adjacent residential properties.

The proposed site plan improvements do not address the handling and disposal of refuse and deliveries, nor does the plan address the haphazard parking layout presently in existence at the back of the buildings. These shortcomings are made even more problematic by the 2-way traffic pattern around the back of the building. These conditions create safety hazards for customer parking and access, deliveries, and access by emergency vehicles which are not being addressed.

5. Private drives are properly designed and constructed to serve the intended use and provide an adequate level of service in relation to the traffic to be generated by the development.

The design and layout of the proposed entrance drive into Medway Place from Main Street has been revised to address Fire Chief Jeff Lynch's concerns; the drive aisle has been widened from 16 feet to 20 feet in response to the Chief's feedback. The selection of trees for the landscaped drive has been changed to provide for a taller canopy so as to not interfere with emergency vehicles. The parking lot layout has been modified from perpendicular style to angle style based on feedback from the Board. The use of the alley/drive aisle/fire lane between the two Medway Place buildings concerns the Board due to its narrow dimensions, landscape installation, and use by delivery trucks. There are conflicts between delivery trucks and customer parking for various businesses and the drop off and pick up and outdoor play area arrangements at the child care center. Specific Condition #Q addresses this issue. However, the required 20-foot width for the fire lane between the 2 buildings has resulted in a substantially reduced landscape treatment along its western edge and diminishes its attractiveness. Further concerns have been noted about the narrow width of the 2-way traffic driveway around the back of the building; the size of some delivery trucks is too large for the area and their turning capability is questionable. This situation is compounded by the presence of signage allowing for 2-way traffic onto the back driveway at the end of the fire lane/drive aisle. This is addressed by Specific Condition G.

6. Internal circulation, queuing and egress promote traffic safety, access via minor streets servicing residential areas is minimized, and traffic backing up into the public way is avoided.

The proposed parking reconfiguration with angle style parking improves internal circulation with better organized parking for both customers and employees. The parking layout and design is such that there will be no backing out by vehicles onto a public way. Also, there is no access to the site from minor residential streets.

7. Convenient and adequate access for fire-fighting and emergency vehicles is provided to each structure and throughout the site.

The Fire Department has reviewed the initial version of the site plan as submitted by the Applicant and provided comments and recommendations for plan revisions to address the driveway/fire lane between the two buildings, the width of the eastern aisle of the new main entrance, and the species of trees selected for the main entrance driveway. After reviewing a

revised plan, the Fire Department determined that the above noted improvements comply with the Fire Code. The Fire Department has informed the Board that the Mass Fire Code (Section 18.2.3.4.1.1) requires 20' of unobstructed road width around buildings for fire department access roads. Specific Condition G4 addresses this requirement.

8. 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 volume of cut and fill is minimal and pertains primarily to landscaping. As the site is already highly developed, there are no stone walls to be removed. A landscaping plan has been provided and no existing trees will be removed. As conditioned herein, erosion controls will be implemented during construction. No increase in noise is anticipated to be generated by the operation of Medway Place post-construction. The Applicant secured an MS4 permit from the Medway DPW based on the Drainage Improvement Plan by Grady Consulting, LLC dated 9-7-19, last revised 3-1-21. However, the overall impacts of the site's stormwater have not been fully mitigated as runoff will still flow to the Town's MS4 system because the Applicant is not fully managing stormwater on the property. This has been addressed by Specific Condition D3. It is noted that the Applicant will need to return to the Medway DPW to amend its MS4 Connection Permit due to additional stormwater management measures being included as part of the site plan project.

9. Pedestrian ways, access driveways, loading areas and vehicular and bicycle parking facilities are properly designed for public convenience, accessibility, and safety of customers, employees and the general public.

The reworked primary entrance and egress to the site is a significant component of this site plan project. As part of the new entry driveway, a sidewalk is provided connecting Main Street to the shopping center buildings. The site plan includes the installation of bicycle racks and _____ motorcycle parking spaces to accommodate cycling customers and employees. The rearranged parking configuration from angle to perpendicular parking will be safer and more efficient to the driving public. Speed bumps will be installed to reduce traffic speed within the center. However, the planned continuation of 2-way traffic around the back of the building, used primarily for deliveries and trash disposal, is of great concern to the Board and is addressed through Specific Condition G to change the routing to one-way traffic only. Further, the Applicant has not been willing to provide for pedestrian access between Medway Place and the adjacent Drybridge Crossing center to the west by providing selected breaks in the fencing between the two properties. This shortcoming is addressed in Specific Condition H.

10. Design and construction, to the maximum extent possible, preserve and incorporate the visual prominence of the site's natural and historic features.

The Medway Place shopping plaza was established in 1962 and 1969 and was constructed as a typical early suburban shopping center, highly focused on parking. 95% of the site is already developed. There are no prominent natural or historic features on the site.

11. Lighting on the site complies with Section 7.1.2 of the Zoning Bylaw.

The Applicant intends to relocate several of the existing parking lot light fixtures and has indicated that the light fixtures will be replaced periodically as needed. No specification is provided for the replacement fixture. A complete lighting plan is required; the site should not be shedding light onto adjacent properties. However, the Applicant has not responded to the Board's request for a photometric plan of current conditions. The Board is concerned that the lighting will have a haphazard, uncoordinated appearance and more so, that the lighting installation will continue to retain the unattractive use of overhead wiring. As conditioned herein (Specific Conditions C1 and C7), and prior to plan endorsement, the Applicant shall provide a lighting plan compliant with the requirements of Section 7.1.2 of the Zoning Bylaw which shall be incorporated into the Site Plan set.

12. The proposed limit of work area is reasonable and protects sensitive environmental and/or cultural resources on the site and on adjacent parcels. The project as designed will 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. There are no sensitive environmental or cultural resources on the site as it is 95% developed. Erosion control measures are required during construction. The installation of a stormwater management system reduces the current impacts of presently untreated stormwater discharge to the Town's MS4 system and is a positive step toward protecting the community's water resources. However, the stormwater plan does not fully address or mitigate the site's current stormwater situation. The Board is aware of prior E. coli contamination on the premises which is subject to required action pursuant to the Applicant's MS4 Connection permit issued by the Medway Department of Public Works.

13. The project's impact on abutting residential neighborhoods has been adequately mitigated. Adjacent and neighboring properties are protected from nuisance and harmful effects caused by noise, traffic, noxious or harmful fumes, and the glare of headlights and other light sources generated by uses on the development.

There is an abutting residential neighborhood to the north of Medway Place which is already screened by a fence and vegetated buffer along the northern boundary of the Medway Place property. Those abutters were notified of the public hearing and no one attended or expressed any comments or concerns about the project. The scope of work is not anticipated to generate any additional traffic to the center. Customer parking is primarily located in front of the shopping center, not behind, so there should not be any glare issues associated with the project. The Zoning Bylaw includes environmental standards which address noise and odors and can serve as the basis for enforcement against complaints about such nuisances that may be generated by the business uses in the plaza in the future.

14. The project is compatible with the existing and potential future development of the surrounding area and with the character of adjacent residential neighborhoods.

The project's scope of improvements is limited and will not fully contribute to the revitalization of Medway's central business district as recommended in the 2009 Medway Master Plan and as

desired by the community. Future development at other locations in the central business district is expected pursuant to Medway's new mixed-use zoning provisions whereby modern zoning standards will prevail and attractive commercial and residential development opportunities can be pursued in compliance with the Medway Design Guidelines.

15. Off-street loading facilities and methods for unloading vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment(s) to be located on the site are conveniently and safely provided while the visual intrusion thereof is appropriately screened from public view.

The Board has serious concerns about the center's off-street loading facilities and methods for unloading vehicles, goods, products, materials and equipment. The existing 2-way traffic flow around the back of the building is problematic and is exacerbated by signage at the end of the fire lane between the buildings authorizing such 2-way traffic. The narrow space behind the Ocean State Job Lot's loading dock area and an unprotected drop off makes for dangerous site conditions. The requested turning details for large delivery vehicles have not been provided and thus the Board cannot analyze the maneuvering capabilities and limitations for deliveries. The disorganized nature of the location of the 31 refuse dumpsters behind the buildings contributes to travel difficulties and is a further safety concern for the Board.

16. The project complies with the requirements of Medway General Bylaws, ARTICLE XXVI, Stormwater Management and Land Disturbance; the Massachusetts DEP Stormwater Management Standards; and EPA's National Pollution Discharge Elimination System (NPDES) requirements.

Stormwater management is a standard component of site plan review and is under the Board's jurisdiction. Around the same time as the Applicant was preparing its site plan submittal to the Board, the Medway Department of Public Works (DPW) was in discussion with the Applicant about the property's absence of stormwater management facilities; the center's stormwater was not being managed on site and instead was flowing to the Town's MS4 system. The owners of Medway Place needed to address that situation pursuant to Medway General Bylaws, Article XXVI Stormwater Management and Land Disturbance which requires an MS4 Connection Permit.

Acknowledging that both the Board and DPW would need to be satisfied with its stormwater plans, the Applicant decided to work first with the DPW to secure the required MS4 Connection Permit before addressing other stormwater management measures for the site. As part of the MS4 Connection Permit process, the Applicant's proposed measures focused on improving stormwater quality before stormwater flows into the Town's MS4 system. Those plans were reviewed by the Town's Consulting Engineer. In March 2021, the Medway Department of Public Works issued a one year conditional MS4 Connection Permit which requires repairs to drainage pipes, installation of water quality units and catch basins, and water quality testing. The planned work does nothing to reduce the volume of stormwater flow off the site. The MS4 Connection Permit expires in March 2022. Work approved pursuant to that permit has not been completed.

During the course of the Board's site plan review public hearing process, the Town's consulting engineer, Tetra Tech, has reviewed the proposed stormwater plan for the site and identified that stormwater runoff from certain areas of the parking lot is not being fully captured and treated. Tetra Tech has opined that the Applicant's proposed additional stormwater measures (installation of additional catch basins and enlarged curb breaks (gutter inlets) in the

landscaped islands) may not function as intended, particularly during intense storm events. Nor has the Applicant incorporated low impact development techniques into the design of the proposed drainage improvements. Darren Grady, P.E. of Grading Consulting LLC, the Applicant's stormwater engineer, reports that infiltration and recharge is not a viable alternative due to the property's poor soils and high groundwater. However, the Board's Consulting Engineer did not witness any test pit excavations. The Applicant has proposed modest measures to reduce the amount stormwater flow off the property by reducing the amount of impervious pavement with the planned landscape installation. Nor is the Applicant adding any impervious surface to the site. However, the Board believes further measures could be taken to reduce the amount of impervious pavement, and/or to install pervious materials in suitable locations, and ensure that the maximum amount of stormwater is directed to the catch basins. We note that the Applicant will need to return to the Medway Department of Public Works for a modification to its MS4 permit.

Medway Land Disturbance Permit – The Board would like the Applicant to calculate the amount of impervious area that will be “disturbed”, as defined in Article XXVI of the Medway General Bylaws, by both the MS4 stormwater work and the site plan improvements. Specific Condition D2 addresses the possible need for a land disturbance permit.

NPDES Permit – It does not appear that the scope of the project triggers the requirement for a NPDES permit as repaving is considered to be routine maintenance and not construction under 40 CFR 122.26 (b)(14)(x) or (15)(i).

17. The effects and impacts of the proposed use of land or structures on vehicular and pedestrian traffic, municipal services and utilities, roadways, parking, drainage, environmental quality, water resources, and the community's character, amenities and appearance have been identified and evaluated and reasonable conditions, limits, safeguards and mitigation measures are established pursuant to S. 204-8 of the *Site Plan Rules and Regulations*.

The above analysis of the project pursuant to the Site Plan Rules and Regulations approval criteria and findings has been completed and reasonable conditions, limits, safeguards, and mitigation measures have been incorporated herein.

VII. WAIVERS – At its November 30, 2021 _meeting, the Board, on a motion made by Matthew Hayes and seconded by Richard Di Iulio, voted to APPROVE and DISAPPROVE waivers from the following provisions of the *Rules and Regulations for the Submission and Approval of Site Plans*, as amended October 8, 2019. At the January 23, 2024 Remand Hearing, the Board revisited certain waivers as reflected below. The Board's action and reasons for approving or disapproving 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 four in favor and none opposed.

Planning & Economic Development Board Member	Vote
Richard Di Iulio	AYE
Matthew Hayes	AYE
Andy Rodenhiser	AYE
Robert Tucker	AYE

SITE PLAN SUBMITTALS

Section 204-3 F. Written Development Impact Statement which shall describe the potential and anticipated impacts of the proposed development, identify all positive and adverse impacts, and propose an acceptable program to prevent, reduce or mitigate adverse impacts. The Development Impact Statement shall consist of the following four elements: traffic impact assessment, environmental impact assessment, neighborhood impact assessment, and a parking impact assessment.

The Applicant has requested a waiver from this requirement indicating that the scope of the proposed project is limited to parking lot improvements only. The current use of the center will remain unchanged. Most of the site is already developed; no additional leasable space is proposed in conjunction with the planned site improvements that would generate additional traffic.

therefore, the Board APPROVES this waiver request.

Section 204-3 G. Stormwater Documentation

- 1) Post-Construction Stormwater Management Plan**
- 2) Stormwater Drainage Report**

The Applicant has requested a waiver from this requirement indicating that no land disturbance is proposed as part of the proposed project. However, the Applicant is subject to the Town's Stormwater Management Bylaw (Medway General Bylaws, Article XXVI) and has secured a conditional MS4 permit from the Medway Department of Public Works (DPW) to address the site's existing inadequate stormwater management facilities. That application underwent substantial review by the Town's Consulting Engineer before the MS4 permit was issued. However, the provided post-construction stormwater management plan focuses primarily on the work tied to the MS4 permit, and not to the entire site. Further, the Applicant has not provided information to document that a land disturbance permit is not needed. Therefore, the Board DISAPPROVES this waiver request.

Section 204-3 H. Construction Management Plan (CMP) which includes the proposed construction sequence, timetable, and methods for managing the construction process and minimizing the impacts of construction on public ways and to abutters.

The Applicant has requested a waiver from this requirement indicating that the proposed construction is for short duration and is limited in scope. The Board's Consulting Engineer advises that a construction management plan should be required, particularly to focus on parking during construction and methods to protect the general public from entering the work areas during construction. The site improvement work will be spread throughout the site and public safety should be prioritized. Further, the Applicant has indicated that they will take up to 5 years to complete the site work. Therefore, the Board DISAPPROVES this waiver request.

NOTE – The Applicant has agreed, as a condition for site plan approval, to provide a construction management plan for review and approval by the Building Department prior to commencing construction. See Specific Condition E3 which requires the construction schedule and management plan to be provided to the Board.

Section 204-3 I. Earth Removal Calculations of the estimated volume of earth materials to be removed from the site to be prepared by and show the seal of a licensed professional engineer certified to practice in the Commonwealth of Massachusetts.

The Applicant has requested a waiver from this regulation due to the limited scope of the planned site work and has indicated that the only earth removal will be a “few square feet” beneath the existing pavement to install the approved stormwater controls. Thus the regulation does not apply to the scope of work under review. The Board is concerned about removal and disposal of earth materials on the premises and has included Condition E1 to address those concerns. The Board DISAPPROVES this waiver request.

Section 204-3 J. Earth Fill Estimates of the volume of earth materials to be brought on site prepared by and show the seal of a licensed Professional Engineers certified to practice in the Commonwealth of Massachusetts.

The Applicant has requested a waiver from this regulation as the planned work does not include any fill material except for a minimal amount to support the proposed landscaping. Thus the regulation is not applicable to the scope of work. However, since the application was filed, additional landscape work has been proposed which will require the import of fill to the site. Therefore, an estimate of the volume of earth materials is needed; see Condition E2. The Board DISAPPROVES this waiver request.

Section 204-3 K. A copy of an Order of Resource Area Delineation (ORAD) from the Medway Conservation Commission depicting the approved wetland resource affecting the proposed project or an Order of Conditions issued within the past three years, or a Determination of Applicability with a finding from the Conservation Commission that the proposed project is not within its jurisdiction.

The Applicant has requested a waiver from this regulation. The site is almost completely impervious with no wetland resources. The Board’s Consulting Engineer has advised that the regulation is not applicable as jurisdictional conservation areas do not appear to be located on or around the site. The Board has received confirmation from the Town’s Conservation Agent that there are no wetland resources on the property. For the foregoing reasons, the Board APPROVES this waiver request 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.

SITE PLAN CONTENTS

Section 204-5 D. 2) Site Grading

The Applicant has requested a waiver from this requirement indicating that site grading information is not applicable to the site as the existing grades are being maintained and no significant grading changes are proposed. The Board’s Consulting Engineer has advised that proposed contours should be included on the site plan particularly in the areas to be paved, to help understand whether stormwater runoff issues will occur as a result of the proposed curb islands with curb breaks and whether the catch basins will function adequately. NOTE – With the Applicant’s 9-30-21 submittal, a Grading, Drainage and Utilities Sheet has been included in the revised Site Plan set dated 8-30-21. It shows existing contours and the proposed drainage modifications. However, the grading plan is not adequate as it does not show how the property will be regraded to direct stormwater flow to the catch basins and water quality units. Accordingly, the Board DISAPPROVES this request.

Section 204-5 D. 5) Erosion and Sediment Control Plan

The Applicant has requested a waiver from this requirement indicating that it is not needed as the site is 95% developed and there will be no increase in the amount of impervious surface as a result of the planned site improvements. The Applicant has noted that that Drainage Plan submitted to the

Medway DPW for the MS4 permit includes an erosion and sediment control plan for that scope of work and that they will provide similar erosion and sediment controls during construction for the site plan improvements pursuant to this permit. Because very little excavation work is planned, the Applicant does not believe that an additional erosion and sedimentation control plan is necessary. The Board's Consulting Engineer has advised that a complete erosion and sediment control plan should be incorporated into the site plan set as the limits of work are spread throughout the site with potential to affect multiple drainage catchments. The excavation associated with the proposed curbing, landscaping and stormwater controls may generate sediment-laden stormwater; the existing catch basin should be protected and measures should be implemented to prevent sediment from traveling off-site. Further, the Drainage Plan (and associated erosion and sediment control plan) provided to the DPW considered only drainage improvements associated with the MS4 permit and did not address other site drainage measures included in the site plan. Accordingly, the Board DISAPPROVES this request.

Section 204-5 D. 6) Post Construction Stormwater Management Plan

The Applicant has requested a waiver from this requirement indicating that the changes to the stormwater system are limited in nature. The Applicant also notes that the Drainage Improvement Plan and Stormwater Report which have been provided to the Medway DPW for an MS4 permit adequately address this requirement. The Board's Consulting Engineer confirms that the Stormwater Report includes operations and maintenance plans for both the construction of MS4 stormwater management facilities AND the post-construction, on-going life of those facilities. However, the provided reports and plan only address the MS4 work and do not address other needed stormwater management measures on site and is therefore incomplete. Accordingly, the Board DISAPPROVES this request.

Section 204-5 D. 7) Utilities Plan – All proposed utilities, mechanisms, materials and layouts for refuse and trash disposal enclosures and systems, water, electricity, gas, cable, fire hydrants, and telephone service, sewage disposal, and methods of solid waste storage and disposal (shall be shown on the plan).

The Applicant has requested a waiver from this regulation noting that there are no changes in use or changes in the layout of utilities except for what is shown on the Drainage Improvement Plan. With the 9-30-21 revised submittal, the Applicant has included a Grading, Drainage and Utilities Sheet in the Plan set dated 8-30-21 which shows existing utility information, as well as the relocation of light poles and the electrical lines that will have to be relocated to beneath the surface to accommodate installation of electric vehicle charging stations. The Board's Consulting Engineer notes that the planned site improvements include some changes in light pole locations, installation of electric vehicle charging stations, and landscaping, all of which may conflict with existing utilities. The site plan does not address refuse and trash disposal systems and enclosures. The Board finds that the submittal is not complete. Accordingly, the Board DISAPPROVES this request.

Section 204-5 D. 9) Building Elevations and Architectural Plan

Section 204-5 D. 10) Color Renderings

Section 204-5 D. 11) Building Layout or Floor Plan

Section 204-5 D. 12) Entry and Exit to Structures

The Applicant has requested waivers from the above noted requirements indicating that no new structures or changes to existing structures are proposed. Therefore, these standards do not apply. For the foregoing reasons, the Board APPROVES this waiver request 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 13) Site Amenities Details

The Applicant has requested a waiver from this requirement indicating that the details shown on the Site Plan and Landscape Plan are adequate. In the updated version of the site plan dated 8-30-21 details for a bike rack and fence have been provided. However, other details are missing (light fixtures, trash barrels, planters and associated winter storage plan, dumpster enclosures, etc.) and should be addressed. The Board DISAPPROVES this request.

Section 204-5 D 15) Lighting Plan prepared in conformance with Section 7.1.2 of the Zoning Bylaw.

The Applicant has requested a waiver from this requirement indicating that they are not proposing any actions that would involve additional or reduced lighting. A Lighting Plan is a requirement of the Zoning Bylaw, Section 7.1.2 and applies to lighting modifications which are a component of the proposed Medway Place site improvements. The Bylaw requirements cannot be waived by the Board. The Board DISAPPROVES this request.

Section 204-5 D. 16) Horizontal Sight Distances

The Applicant has requested a waiver from this requirement indicating that the proposed work is being undertaken in response to the installation of a new traffic signal at the main Medway Place shopping plaza entrance. This design and location of this entrance was evaluated and approved by the Massachusetts Department of Transportation after extensive traffic studies. Medway Realty indicates that the proposed work will not increase traffic to the center and that the sight distance information is redundant. As a best practice, it is standard to show sight distances on site plans. The Board believes this information is readily available to the Applicant and should be included on the plan. The Board DISAPPROVES this request.

Section 204-5 D. 17) Table Outlining Conformance with Zoning Bylaw Requirements (lot area, frontage, depth, width, setbacks, building height, lot coverages, impervious area, gross floor area, open space calculations, parking space calculations, etc.)

The Applicant has requested a waiver from this requirement indicating that no new structures or changes to the existing structures are proposed and therefore the requirement is not applicable. The Applicant has provided a Parking Spaces summary on Sheet C1.00 of the revised site plan set dated 8-30-21 but none of the other items are addressed. The preparation of this site plan is the opportune time to provide such a table. The Board APPROVES this request.

Section 204-5 D. 18) Locations of fire hydrants, fire lanes, etc.

The Applicant has requested a waiver from this requirement indicating that this does not apply as there are no changes to the location of the existing fire hydrants and that the locations of fire lanes and access for equipment will remain as presently configured. The inclusion of such information is a standard element of any site plan set and should be provided to be complete. The preparation of this site plan is the opportune time to include this information. The Board DISAPPROVES this request.

Section 204-5 D. 19) Information quantifying on-site generation of noise and odors

The Applicant has requested a waiver from this requirement indicating that no new structures or changes to existing structures are proposed, no new uses are proposed, and the stormwater

management structures to be installed will not generate any noise or orders. The Board's Consulting Engineer notes that this regulation does not pertain to the scope of work for this project. For the foregoing reasons, the Board APPROVES this waiver request 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. 20) Proposed off-site roadway and traffic management improvements

The Applicant has requested a waiver from this requirement and has indicated that no new off-site roadway or traffic management improvements are proposed. The Board's Consulting Engineer notes that this regulation does not pertain to the scope of work for this project. For the foregoing reasons, the Board APPROVES this waiver request 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. APPROVAL CONDITIONS, LIMITATIONS AND SAFEGUARDS – The Board may require plan modifications, conditions, mitigation measures, limitations and safeguards which the Board finds are consistent with Town bylaws, regulations and standards. 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. The Board's approval of the site plan is subject to the following specific and general conditions.

SPECIFIC CONDITIONS OF APPROVAL

- A. **Plan Endorsement** - Within one-hundred and twenty days after the Board has filed the *Decision* with the Town Clerk, the Medway Place site plan dated August 30, 2021 prepared by Howard Stein Hudson of Chelmsford, MA which incorporates a Drainage Improvement Plan dated September 7, 2019, last revised March 1, 2021 by Grady Consulting, LLC of Kingston, MA, shall be further revised to reflect all Conditions specified herein and required revisions and additions, including those as follows, 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*). The Applicant shall provide a 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. The Permittee may request an extension of the time to submit the revised site plan for the Board's endorsement by notifying the Board in writing at least 30 days before the plan endorsement deadline expires.
- B. **Cover Sheet Revisions** – Prior to plan endorsement, the cover sheet of the August 30, 2021 site plan shall be revised to include:
 - 1. List of approved waivers from the *Site Plan Rules and Regulations*.
 - 2. Revised plan date.
 - 3. Lines for the decision date and plan endorsement date with the signature box.
 - 4. Updated index of site plan sheets to include a photometric plan
 - 5. Reference that the site plan is subject to the Master Signage Plan dated 9-30-21 and Landscape Maintenance Program dated 9-30-21.

- C. **Other Plan Revisions** – Prior to plan endorsement, the following plan revisions shall be made to the 8-30-21 site plan set for review by the Board’s Consulting Engineer and approval by the Board. Revisions can be made to the drawings or details and/or include revised notes. Additional details, drawings and sheets may also be added to the plan set.
1. **Lighting Plan.** A photometric lighting plan shall be added to the site plan set showing site lighting compliant with Section 7.1.2 of the *Zoning Bylaw*.
 2. **Traffic Flow Pattern** – To comply with Specific Condition G, the traffic pattern pavement arrows and other traffic pattern directional signage shall be revised and added to indicate one-way traffic only west to east across the back of the buildings, one-way traffic northbound on the west side of the west building, and one-way traffic southbound on the east side of the east building.
 3. **Parking**
 - West of Ocean State Job Lot – Remove the 4 most northern parking spaces on the western side of the drive aisle adjacent to Ocean State Job Lot to accommodate truck turning at the northwest corner of the site. The remaining 14 parking spaces shall be modified from perpendicular parking to angle parking to facilitate one-way traffic (northbound) on this driveway.
 - The recently installed curb stops for the parking spaces on the west side of the property near Drybridge Crossing shall be correctly and securely installed.
 4. **Fencing between Medway Place and Drybridge Crossing** – The Applicant may install fencing, up to six feet in height, between Medway Place and the adjacent Drybridge Crossing at 116 Main Street.
 5. **Handicapped Parking** – The Applicant shall have its project engineer recheck the details of the handicapped parking spaces and walkways as shown on the plan to ensure that they are compliant with applicable state and federal law including provisions for van parking.
 6. **Irrigation Well** - The plan shall be revised to include the correct location of the recently installed irrigation well and the correct size of the island on which it is positioned. Sheet C3.00 Planting Sheet shall be revised to show four season landscaping to screen the irrigation well.
 7. **Utilities Plan** compliant with Section 204-5 D. 7) of the *Site Plan Rules and Regulations* including conversion of overhead wires to underground installation pursuant to Section 207-16, A. of the *Site Plan Rules and Regulations*.
 8. **Grading Plan** compliant with Section 204-5D. 2) of the *Site Plan Rules and Regulations*
 9. **Erosion plan** compliant with Section 204-5 D. 5) of the *Site Plan Rules and Regulations*
 10. **Horizontal Sight Distance** compliant with Section 204-5 D. 16 of the *Site Plan Rules and Regulations*
 11. **Locations of fire hydrants and fire lanes** compliant with Section 204-5 D. 18) of the *Site Plan Rules and Regulations*. The alley/drive aisle between the 2 buildings is to be denoted as a fire lane pursuant to the Medway Fire Department’s determination.
 12. **Eliminate the one-way southbound drive aisle** to the west of the main entrance boulevard

by moving the curb line approximately 16' to the west, convert this space to a landscaped area, and revise the Planting Plan to include a robust, 4 season landscaping installation.

13. The locations of all existing dumpsters and solid waste containers on the premises shall be updated and shown as Existing Conditions throughout the plan set.

D. **Required Actions Before Plan Endorsement** – Due to the Board's denials of various waiver requests, the Applicant is required to submit the following items to the Board for its review and approval prior to plan endorsement.

1. Calculations for Land Disturbance pursuant to Article XXVI of the *Medway General Bylaws*, Stormwater Management and Land Disturbance
2. Updated Stormwater Report and Revised Post Construction Stormwater Plan compliant with Section 204-3 G. of the *Site Plan Rules and Regulations*. Further, the Applicant's current proposed stormwater management measures shall be submitted to the Medway Department of Public Works pursuant to the conditions of the Applicant's MS4 permit which may necessitate modification.
3. Truck turning movement documentation throughout the site for the largest anticipated delivery vehicles and fire apparatus.

E. **Required Action Before Construction** Due to the Board's denials of various waiver requests, the Applicant is required to submit the following items to the Board for its review and approval prior to commencement of any site preparation or improvements.

1. Earth Removal Calculations pursuant to Section 204-3 I of the *Site Plan Rules and Regulations*
2. Earth Fill Calculations pursuant to Section 204-3 J. of the *Site Plan Rules and Regulations*
3. Construction Schedule and Construction Management Plan pursuant to Section 204-3 H. of the *Site Plan Rules and Regulations*. Said Construction Management Plan shall follow the paving schedule laid out in this decision.

F. **Use Limitations**

1. *Outdoor Storage* – Pursuant to Section 5.4, Table 1: Schedule of Uses of the *Zoning Bylaw*, no Outdoor Storage of materials associated with a business operating the Medway Place shopping plaza is permitted.
2. *Outdoor Display* – Pursuant to Section 5.4, Table 1: Schedule of Uses of the *Zoning Bylaw*, the Outdoor Display of good and products sold by a business establishment operating in the Medway Plaza outside display building on the premises is allowed only by special permit.
3. *Outdoor Dining* – Outdoor dining locations are limited to those shown on the site plan. Any changes to adjust existing or add new outdoor dining facilities at Medway Place shall be considered by the Board as a plan modification.

G. **Traffic Pattern**

1. Use of the alley/drive aisle between New England Cabinetry and MG Salon & Spa shall be one-way only (northbound) for vehicular traffic. Southbound traffic exiting out of this alley/drive aisle to the front of the buildings is prohibited.
 2. The drive aisle starting at the western end of the building (Ocean State Job Lot) running behind the buildings and concluding at the eastern end of the building (Rocky's Hardware) shall be one-way west to east.
 3. The above noted traffic patterns shall be clearly denoted with both pavement signage and suitable wall signage. The 2-way traffic sign painted on the back wall near the day care center shall be removed and replaced with signage to denote one-way traffic eastbound (right turn) only.
 4. Pursuant to the Massachusetts Fire Code, there must be 20' of clear access around the building for Fire Department access.
- H. The Applicant may install fencing between Medway Place and Drybridge Crossing in a design chosen by the owner up to 6 feet in height, provided, the fence shall have a non-reflective surface and shall be the same color on both sides.
- I. **Solid Waste Management**
1. The Applicant is required to work with tenants and trash collectors to reposition the existing dumpsters directly against the building so as to not interfere with traffic, deliveries, parking, emergency vehicles, and pedestrian traffic and to monitor such relocations regularly for ongoing compliance. Applicant shall provide a plan indicating the locations of the dumpsters in areas whereby traffic would not be impeded.
 2. No refuse or solid waste is allowed outside the approved dumpsters.
- J. **Lighting** – Site lighting shall comply with Section 7.1.2 of the *Zoning Bylaw* which applies to lighting modifications as well as new installations. A corresponding photometric shall be included in the plan set.
- K. **Parking Lot Paving and Stormwater Management**
1. The Applicant has indicated this project includes reconstructing a portion of the Medway Place parking lot (full depth pavement in the grey shaded area as shown on the site plan dated 8-30-21) and that it will repave the remaining sections in phases, to be completed within four years as shown on the attached exhibit with Phase 1 in the summer of 2024, Phase 2 in the summer of 2025, Phase 3 in the summer of 2026, and Phase 4 – 6 to be completed by December 31, 2029. The repaving includes all necessary striping and curbing. Overhead wires shall be moved underground in each phase of paving for that phase. This phased approach to paving does not negate the Applicant's required maintenance of the entirety of the paved area such as repairing cracks and potholes as they occur. The Board has serious reservations that this piecemeal approach to grading and paving will negatively impact the adequacy of the management of stormwater on the site. Accordingly, for a one-year period after the site improvement work is completed, the Applicant is required to monitor rainfall during storm events greater than ½" and provide reports to the Board and the Medway Department of Public Works (DPW). If it is found that stormwater from Medway Place is bypassing the catch basins and

overflowing out to Main Street, the Permittee is required to prepare a modified stormwater management plan and submit it to the Board for review and possible site plan modification. The Board will also work with the DPW to evaluate the stormwater plan for compliance with the Town's Stormwater Management and Land Disturbance Bylaw.

2. At such time as the Permittee wishes to complete the parking lot paving, an updated stormwater report and plan shall be submitted to the Board before any such work is commenced. This submittal shall include an evaluation of the effectiveness of the initial paving work and associated stormwater management measures and propose additional stormwater measures if needed. This may result in a plan modification.
- L. **Other Parking** – Prior to the commencement of any paving work, the existing parking space striping shall be removed, covered up, or dissolved to eliminate or significantly diminish the markings.
- M. **Master Signage Plan** – The Master Signage Plan submitted as part of this review process shall be used by the Permittee and may be adjusted by action of the PEDB without a public hearing. The Master Signage Plan dated 9-30-21 is made a part of this decision.
- N. **Food Trucks/Landscaping/Barriers** – The Applicant has presented a plan that shows their intention to establish Flex Space Area A for outdoor dining and Flex Space Areas B and C for food trucks, planters, and associated outdoor seating. However, the timetable for doing so is not specified nor are details provided for the planting scheme, winter season planter storage, safety barricades, etc. At such time as the Applicant decides to proceed with this component of their site improvements, the Applicant is required to obtain all approvals and necessary permits/licenses.
- O. **Back to Basics Preschool (114D Main Street)** - Back to Basics Preschool is located in the back of the western Medway Place building; its entrance faces the drive aisle/fire lane between the two buildings. The Preschool uses a portion of the driveway area outside the building for the children's outdoor play area. The Board is concerned about the safety using the drive aisle/fire lane in this manner. Accordingly, the Applicant is required to work with the owner of Back to Basics Preschool in concert with the Medway Police Department to develop a specific site plan for this use and activity
- P. **Landscape Maintenance**
1. The Applicant has provided a Landscape Maintenance Program dated 9-30-21 which shall guide the Applicant in its care and maintenance of the landscape installation. This Landscape Program is made a part of this decision.
 2. 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.
 3. Within 60 days after two years after the Board certifies project completion, the Town's Consulting Engineer or the Building Commissioner may inspect 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 Building Commissioner 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 Building Commissioner/Zoning Enforcement Officer to ensure that the comprehensive landscaping plan is maintained.

- Q. **Project Completion** - Site plan approval shall lapse after two years of the grant thereof if substantial use has not commenced except for good cause. Except for the installation of the electric vehicle charging stations, the work shown on the approved site plan shall be completed by the Permittee or its assignees within three years of the date of plan endorsement. Upon receipt of a written request from the Permittee filed at least thirty 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.

GENERAL CONDITIONS OF APPROVAL

- A. **Fees** - Prior to site plan endorsement by the Board, the Permittee 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 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 business licenses, water/sewer bills, etc.
- The Permittee's failure to pay these fees in their entirety shall be reason for the Board to withhold plan endorsement.
- B. **Other Permits** – This decision does not relieve the Permittee from its responsibility to obtain, pay and comply with all other required federal, state and Town permits. The contractor for the Permittee or assigns shall obtain, pay and comply with all other required Town permits.
- C. **Document/Plan Recording** – The Permittee shall file this decision and endorsed plan with the Norfolk County Registry of Deeds. Within thirty days of recording, the Permittee or assign shall provide the Board and the Building Commissioner with evidence of such recording.
- 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 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 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.

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 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 *Bylaw*, SECTION V. USE REGULATIONS, Sub-Section B. Area Standards, Paragraph 2. b).

E. ***Snow Storage and Removal*** - Locations for on-site snow storage are shown on the plan. Accumulated snow which exceeds the capacity of the designated on-site snow storage areas shall not be placed to encroach upon, nor prohibit the use of, any parking spaces or drive aisles. Any such snow that cannot be accommodated on site in the designated snow storage areas shall be removed from the premises within 24 hours after the conclusion of the storm event.

F. ***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 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.
- 2. Board members, its staff, consultants or other designated Town agents and staff shall have the right to inspect the site at any time during construction, for compliance with the endorsed site plan and the provisions of this *Decision*.
 - 3. If applicable, the Department of Public Works may conduct inspections for any construction work occurring in the Town's right-of way in conjunction with a Town of Medway Street Opening/Roadway Access Permit.
 - 4. 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.

G. 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 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 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.

H. Modification of Plan and/or Decision

1. Proposed modifications, not including on-site field changes, to the *Decision* or endorsed plan shall be subject to review by the Board.
2. 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 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 *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.

I. ***Compliance with Plan and Decision***

1. The Permittee shall construct all improvements in compliance with the approved and endorsed site plan and this *Decision* and any modifications thereto.
2. The Board or its agent(s) may 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 *Bylaw* (non-criminal disposition) and violations or non-compliance are subject to the appropriate fine.

J. ***Project Completion Requirements***

1. Prior to project completion, 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.

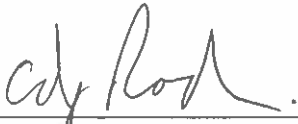
- K. **Construction Standards** - All construction shall be completed in full compliance with all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.
- L. **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 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/Permittee and notice will be mailed to all parties in interest as provided in G.L. c. 40A §15.

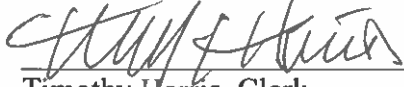
Any person aggrieved by the *Decision* of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, Chapter 40A, §17, and shall be filed within twenty days after the filing of this *Decision* in the office of the Medway Town Clerk.

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Decision Date: 1/23/2024



Andy Roden, Chair



Timothy Harris, Clerk



Jessica Chabot



John Parlee