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TOWN OF MEDWAY
Planning & Economic Development Board
155 Village Street
Medway, Massachusetts 02053

Matthew J. Hayes, P.E., Chair
Robert K. Tucker, Vice-Chair
Richard Di Iulio, Clerk
Jessica Chabot, Member
Sarah Raposa, A.I.C.P., Member
Thomas A. Gay, Associate Member

Special Permit and Minor Site Plan Decision
Volta Charging, LLC, 65 Main Street
Granted with Waivers and Conditions

Decision Date: September 13, 2022

Name/Address of Applicant (Permittee):

Volta Charging, LLC
155 De Haro Street
San Francisco, CA 94103

Name/Address of Property Owner:

Hidden Acres Realty I, LLC
250 East Parkcenter Blvd
Boise, ID 83706

Project Location: 65 Main Street, Medway Commons

Assessors' Reference: 41-023 and 41-024

Zoning District: Central Business

Engineer: Kimley-Horn & Associates
1700 Willow Lawn Drive, Suite 200
Richmond, VA 23230

Site Plan: *Volta, Shaw's 65 Main Street Phase I*, dated 6-13-19, last revised 7-13-22, prepared by Kimley-Horn of Waltham, MA to be revised as specified herein.



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I. PROJECT DESCRIPTION - The applicant requests authorization for two electric vehicle charging (EVC) stations with commercial advertising to be located in the Shaw's parking lot at the Medway Commons shopping center at 65 Main Street.

II. VOTE OF THE PLANNING AND ECONOMIC DEVELOPMENT BOARD – After reviewing the application and information gathered during the public review process, the Medway Planning and Economic Development Board, hereafter referred to as the “Board”, on September 13, 2022, **voted to GRANT with WAIVERS and CONDITIONS** as specified herein, a special permit for Electric Vehicle Charging Station with Digital Advertising under Section 5.4.2 and minor site plan approval for Volta Charging, LLC, 65 Main Street, Permit plan: *Volta, Shaw's 65 Main Street Phase 1*, dated 6-13-19, last revised 7-13-22, prepared by Kimley-Horn of Waltham, MA.

III. PROCEDURAL HISTORY

- A. July 20, 2022 – Special permit and minor site plan application and associated materials were filed with the Board and were provided to the Medway Town Clerk.
- B. August 1, 2022 – Public hearing notice was filed with the Town Clerk, posted, and mailed to parties in interest by first class mail.
- C. July 31, 2022 – Application information distributed to Town boards, committees and departments for review and comment.
- D. August 23, 2022 – Opening of public hearing. The public hearing was continued to September 13, 2022 when the hearing was concluded, and the Board voted its decision.

IV. INDEX OF DOCUMENTS

- A. The application included the following documents, plans, studies and information that were provided to the Board at the time the application was filed:
 - 1. Special Permit Application dated July 20, 2022
 - 2. Minor Site Plan Application dated July 20, 2022
 - 3. Certified abutters' list prepared by Medway Assessor's office.
 - 4. Site plan *Volta, Shaw's 65 Main Street Phase 1*, dated 6-13-19, last revised 7-13-22, prepared by Kimley-Horn of Waltham, MA
 - 5. Waiver request from *Site Plan Rules and Regulations* dated July 20, 2022
 - 6. Photographs of the EVC units
 - 7. Project narrative from Michael Dolan, esq. dated July 20, 2022
- B. All documents and exhibits received during the public review process are contained in the Board's project file.

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

- Michael Dolan, esq., Brown, Rudnick
- Michael Dennehy, General Manager, Volta Charging

VI. FINDINGS – In making its findings and reaching the decision described herein, the Board is guided by Board’s *Site Plan Rules and Regulations*, and the *Medway Zoning Bylaw*. The Board also considered evidence and testimony presented at the public hearings.

A. Site Plan Rules and Regulations Findings. The Planning and Economic Development Board, at its meeting on September 13, 2022, voted to make the following **FINDINGS** with respect to the Site Plan application.

The Planning and Economic Development Board shall determine whether the proposed development is in conformance with the standards and criteria set forth in the *Site Plan Rules and Regulations*, unless specifically waived. Some of the criteria found in the *Regulations* are not applicable to this proposal, and no specific findings are made as to those criteria. In making its decision, the 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 proposed EVC units will not impact circulation, parking, or egress as there will be no alterations to these.

- (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 EVC units do not change the view of the existing buildings from public ways and places. It received a positive review from the Design Review Committee.

- (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 project includes landscaping of the project area. No new structures or service areas are proposed.

- (4) Is adequate access to each structure for fire and emergency vehicles provided?

The existing access will not be affected by the EVC units.

- (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 changes are proposed to an existing parking lot area; there will not be adverse impacts to the interests listed above.

- (6) Are pedestrian ways, access driveways, and vehicular and bicycle parking facilities properly designed?

This is not applicable to the EVC unit installation.

- (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?

The site is located in a parking lot. Accordingly, there are no visually prominent natural or historic features on site.

- (8) Does the lighting on the site comply with Section 7.1.2 of the Zoning Bylaw?

Yes.

- (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. There are no sensitive environmental or cultural resources on or abutting the site.

B. Special Permit Findings The Planning and Economic Development Board, at its meeting on September 13, 2022, voted to make the following **FINDINGS** with respect to the special permit application.

The Planning and Economic Development Board shall determine whether the proposed development is in conformance with the standards and criteria set forth in Section 5.4.2.A for Electric Vehicle Charging Stations and Section 3.4.D Special Permit Decision Criteria of the Zoning Bylaw. *The Board finds that the application complies with the criteria for Electric Vehicle Charging Stations under Section 5.4.2 of the Zoning Bylaw.*

- 1. The charging service for such Charging Stations shall be provided at no cost to users.*
- 2. For each Charging Station, the sign surface area does not exceed nine square feet per side, and each Charging Station has only two sides of advertising. No audio or video displays shall be permitted.*
- 3. The Charging Stations are not Level one.*

4. The display area and no part of the Charging Stations will revolve, simulate motion, flash, blink, or include animation. Internal illumination of the display area is permitted. Advertising may include commodities or services which may not be found or available on the premises hosting the Charging Stations.

5. There will be no reduction in handicap accessible and compact car parking spaces to accommodate installation of Charging Stations. The number of Charging Station spaces does not exceed five percent of the total number of parking spaces on the premises.

6. The Charging Stations are capable of charging electric vehicles produced by multiple manufacturers.

The Board found that the application meets all the required Special Permit Decision Criteria for Section 3.4 on the following findings:

1. The proposed site is an appropriate location for the proposed use.
The EVC units will be located in an existing parking lot of a shopping plaza, set back from public ways.

2. Adequate and appropriate facilities will be provided for the operation of the proposed use.
The EVC units are in a parking lot with ample facilities for their use.

3. The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians, or the environment.
The proposed EVC units are being added to an existing parking lot, with no alteration of the parking lot configuration, no hazard will be created.

4. The proposed use will not cause undue traffic congestion or conflicts in the immediate area.
The proposed EVC units are being added to an existing parking lot, with no alteration of the parking lot configuration, no undue congestion will be created.

5. The proposed use will not be detrimental to the adjoining properties due to lighting, flooding, odors, dust, noise, vibration, refuse materials, or other undesirable visual, site, or operational attributes of the proposed use.
The proposed EVC units are being added to an existing parking lot, with no alteration of the parking lot configuration. The units comply with the standards of the zoning bylaw and received favorable review by Design Review Committee. There will be no undesirable effects.

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

The proposed EVC units are being added to an existing parking lot, with no alteration of the parking lot configuration, and set back from the public ways.

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

The proposed EVC units are being added to an existing parking lot, with no alteration of the parking lot configuration. The units comply with the standards of the zoning bylaw and received favorable review by Design Review Committee.

8. The proposed use is consistent with the goals of the Medway Master Plan.
The EVC units are consistent with goals to promote the use of electric vehicles.

9. The proposed use will not be detrimental to the public good.
The proposed EVC units are being added to an existing parking lot, with no alteration of the parking lot configuration. The units comply with the standards of the zoning bylaw and received favorable review by Design Review Committee.

The Board finds that the Applicant has demonstrated through evidence submitted that it has met all the required Special Permit Decision Criteria under Section 3.4 of the Zoning Bylaw.

VII. WAIVERS FROM SITE PLAN RULES AND REGULATIONS

At its September 13, 2022 meeting, the Planning and Economic Development Board voted to approve waivers from the following provisions of the *Site Plan Rules and Regulations*, as amended October 8, 2019. The Board's action and reasons for approving the waiver request are listed below. Waivers are subject to the Conditions of Approval, which follow this section.

Section 204-4(A) through (C) Standards for site plan preparation; Section 205-5(A) Plan Cover Sheet; Section 205-5(B) Site Context Sheet; Section 205-5(C) Existing Conditions Sheet; Section 205-5(D) Plot Plan; Section 205-5(E) Site Plan Contents; Applicant requests waivers of scale requirements, various site plan sheets, and any other standard that the site plan does not comply with.

Finding: The site plan is limited to two electrical vehicle charging units in the existing Medway Commons parking lot near Shaw's. The plans submitted are sufficient and appropriate for this application.

Section 205-3(D) Stormwater Drainage Evaluation Report; Section 207-11(A) through (C) Traffic and Vehicular circulation; Section 207-14(A) through (G) Post Construction Stormwater Management and Maintenance.

Applicant requests waivers of these requirements in light of the limited nature of this application.

Finding: The site plan is limited to two electrical vehicle charging units in the existing Medway Commons parking lot near Shaw's. The information requested in these waivers are not needed for this application.

VIII. CONDITIONS The Conditions included in this Decision are to assure that the Board's approval of this special permit and site plan is consistent with the *Site Plan Rules and Regulations* and Zoning Bylaw. The Board's approval of the site plan is subject to the following conditions:

1. **Plan Endorsement** - Within sixty days after the Board has filed its *Decision* with the Town Clerk, the site plan shall be further revised to reflect all Conditions and required plan revisions, including those specified as follows, and submitted to the Board to review for compliance with the Board's *Decision*. (Said plan is hereinafter referred to as the Plan). The Permittee shall provide a set of the revised Plan in its final form to the Board for its endorsement. All plan sheets shall be bound together in a complete set.
2. **Plan Revisions** – Prior to plan endorsement, the following plan revisions shall be made to the plan set:
None
3. **Fees** - Prior to site plan endorsement by the Board, the Permittee shall pay:
 - a. 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
 - b. any construction inspection fee that may be required by the Board; and
 - c. 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 Permittee's failure to pay these fees in their entirety shall be reason for the Board to withhold plan endorsement.
4. **Other Permits** – This permit 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.
5. **Landscape Maintenance** - 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.
6. **Snow Storage and Removal** On-site snow storage shall not encroach upon nor prohibit the use of any parking spaces required by the *Zoning Bylaw*.
7. **Advertising Displays:** No audio or video displays shall be permitted. The display area and no part of the Charging Station will revolve, simulate motion, flash, blink, or include animation.

8. **Limitations** – This decision pertains only to two electric vehicle charging stations. Any increase in the number of such EV charging stations requires an application for a separate special permit.
9. **Modification of Plan and/or Decision**
 - a. This special permit and 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 special permit or site plan that may be required by the decisions of other Town boards, agencies or commissions shall be submitted to Board for review as modifications.
 - b. Any work that deviates from the approved site plan or this Decision may be a violation of the *Medway Zoning Bylaw* unless the Permittee requests approval of a plan modification pursuant to Section 3.5.2.A.3.c. and such approval is provided in writing by the Board.
 - c. Whenever additional reviews by 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 review process 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.
 - d. 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.
10. **Compliance with Plan and Decision**
 - a. The Permittee shall construct all improvements in compliance with the approved and endorsed site plan and this Decision any modifications thereto.
 - b. 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.
 - c. 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 penalty.
11. **Project Completion**
 - a. Site plan approval shall lapse after two years of the grant thereof if substantial use has not commenced except for good cause per Section 3.5.7 of the Zoning Bylaw. 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, public review process and decision.

- b. Approved site plans 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, public review process and decision.

- 12. **Hours of Operation** – The Digital Advertising Signage may be used only during the time period commencing one hour prior to the opening of and one hour after the closing of the store (currently Shaw’s Supermarket) which the EVC stations are located adjacent to.

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 days of the date the Decision is filed with the Town Clerk.

After the appeal period has expired, the Permittee 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.

**Medway Planning and Economic Development Board
SITE PLAN and SPECIAL PERMIT DECISION
Volta Charging, LLC, 65 Main Street**

APPROVED with Conditions by the Medway Planning & Economic Development Board:
September 13, 2022

AYE:

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | |

The Board and the Applicant have complied with all statutory requirements for the issuance of this Decision on the terms set forth. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Applicant, and notice will be mailed to all parties in interest as provided in General Laws, chapter 40A, section 15.

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, chapter 40A, section 17, and shall be filed within 20 days after the filing of this notice in the office of the Medway Town Clerk.

In accordance with General Laws chapter 40A, section 11, no special permit shall take effect until a copy of the Decision is recorded in the Norfolk County Registry of Deeds, and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title, bearing the certification of the Town Clerk that twenty days have elapsed after the Decision has been filed in the office of the Town Clerk and no appeal has been filed within said twenty day period or the appeal has been filed within such time. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.




The fee for recording or registering shall be paid by the Applicant. A copy of the recorded Decision, and notification by the Applicant of the recording, shall be furnished to the Board.


COPIES TO: Michael Boynton, Town Manager
Michael Fasolino, Deputy Fire Chief
Bridget Graziano, Conservation Agent
Derek Kwok, Health Agent
Bill Kingsbury, Police Chief
Jeff Lynch, Fire Chief
Jack Mee, Building Commissioner
Christopher Park Assessor
Pete Pelletier, DPW Director
Joanne Russo, Treasurer/Collector
Barbara Saint Andre, Director of Community and Economic Development
Jeff Watson, Police Department Safety Officer
Karen Johnson, Charter Realty & Development
Steven Bouley, Tetra Tech
Michael Dolan, esq.

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