

Tuesday, November 23, 2021
Medway Planning and Economic Development Board
155 Village Street
Medway, MA 02053

Members	Andy Rodenhiser	Bob Tucker	Tom Gay	Matt Hayes	Rich Di Iulio	Jessica Chabot
Attendance	X	X	Absent with Notice	X	X	X

PRESENT:

- Susy Affleck-Childs, Planning and Economic Development Coordinator
- Tetra Tech Consultant Steve Bouley via Zoom

PUBLIC COMMENTS:

- There were no Public Comments.

PUBLIC HEARING CONTINUATION - PHYTOPIA MARIJUANA SPECIAL PERMITS, SITE PLAN, REDUCED PARKING SPECIAL PERMIT, GROUNDWATER PROTECTION SPECIAL PERMIT

The Board is in receipt of the following: **(See Attached)**

- Public Hearing Continuation Notice to 11-23-21
- Lease Document
- Tetra Tech review letter dated 10-27-21
- Draft marijuana special permit decision dated 11-19-21

The applicant's attorney, Ted Cannon, was present on behalf of the applicant. The Board was made aware that the project's Notice of Intent was presented to the Conservation Commission. The applicant was asked to reduce the infiltration on the east side. They are working with a licensed site professional (LSP) and will report back to the Board. The applicant informed the Board that they met with the Chairman of the Conservation Commission and the Conservation Agent and things have been stalled. There is only a small section of the project which falls within Conservation's jurisdiction. The applicant is considering alternative options for this area which will comply with the stormwater management standards.

The draft marijuana special permit decision was reviewed by the Board and applicant. The decision was viewed via the Zoom Share Screen feature.

Resident, Maria Walzer, 11 Green Valley:

Ms. Walzer communicated that she is concerned about the odor from the marijuana facility at 2 Marc Road. Why is the Board considering another marijuana application if the existing one cannot handle the odor?

The Board discussed the Findings section of the draft decision. Language was added to acknowledge clean-up of the property due to the contamination issue attributed to the prior property owner. The applicant has a phased process for the clean-up and is going from Phase 2 to Phase 3 and this is regulated by DEP. The Board was made informed that there was a meeting with the Chairman of the Conservation Commission and Conservation Agent. The applicant is trying to accommodate the Conservation Commission's concerns about the infiltration of stormwater runoff pushing the contamination toward the Town well. One of the options is to reduce the amount of infiltration. A plan of this will be presented at the next meeting. Tetra Tech communicated it did not decide if recharge is viable or not viable. The applicant still needs to submit additional information to make this determination. There will be additional testing on site. The Conservation Commission meeting is December 9, 2021. There was a comment that the applicant should not be using Town water for irrigation but there is also concern about installing a well. It was suggested that water re-use should be considered. The Board would like a plan of how the applicant will use and reuse the water for growing marijuana plants. There was also a recommendation to put a cap on how much water they would be allowed to use. The applicant responded that they are paying for this water and have not had any of the other towns where they work put a cap on water usage. The applicant also indicated that they try to capture as much water as possible with the 90% reclamation rate. This process is highly regulated. The applicant also communicated that the State only allows a certain amount of water usage based on the permit. The Board did explain that they do not have the authority to allow the applicant to use TOWN water for irrigation; that will have to be discussed with the Department of Public Works. All were in agreement that the water issue should not be part of the marijuana special permits but instead should be addressed in the site plan. Town Manager Michael Boynton joined the meeting via Zoom and indicated that there is no limit on water consumption and the Town has already accounted for the water usage for this project.

Resident John Lally was present, and the Board asked if he could discuss his comments at the next meeting. They also asked him to put his question in an email.

On a motion made by Jessica Chabot, seconded by Matt Hayes, the Board voted unanimously to continue the hearing by Zoom to November 30, 2021 at 7:00 pm.

CASSIDY FIELD PARKING LOT SITE PLAN – INFORMAL PRE-APPLICATION DISCUSSION:

The Board is in receipt of the following: **(See Attached)**

- Cassidy field parking improvements dated 9-8-21 prepared by Tetra Tech.

DPW Director Pete Pelletier was present to discuss the proposed Cassidy parking lot project. The goal is to establish a clear parking layout that is ADA accessible. The parking lot improvements will include stormwater mitigation strategies that would enhance this property.

The plan was shown via the Zoom feature Screen Share.

Town Manager Michael Boynton was present via Zoom and communicated that he is in support of this project. The Town has secured \$300,000 for funding of a portion of this project. Mr. Pelletier communicated that there are three alternatives for the infiltration basins. There are 66

parking spaces on this plan. The Board would like to know where spectators will park. There needs to be a plan for the spillover of vehicles. There was also a recommendation to show this plan to the Youth Baseball Association and secure their feedback. The Conservation Agent has reviewed this plan and was glad that the parking area was pulled away from the riverfront area. There was a suggestion to allow non paved surfaces to be used for special events. There is no lighting proposed for the new pathway. There was a suggestion to put conduits in the ground for electric vehicle charging stations. This plan will be reviewed further.

PUBLIC HEARING CONTINUATION - ROCKY'S HARDWARE ADMINISTRATIVE SITE PLAN AND OUTDOOR DISPLAY SPECIAL PERMIT:

The Board is in receipt of the following: **(See Attached)**

- Public Hearing Continuation Notice to 11-23-21
- Collection of minutes of the previous public hearings
- DRAFT decision dated 11-19-21
- Letter dated 11-19-21 from Attorney Gareth Orsmond re: draft decision

The Chairman suggested that this permit be delayed until there is resolution on the Medway Place site plan application which is still before the Board.

The applicant's representative, attorney Joel Quick, was present via Zoon. He communicated that if the decision of the Board is to deny the application tonight, or continue to another date until the Medway Place decision is reached, he would rather continue.

The applicant Kevin Bradley was present via Zoom. He would prefer no decision at this time.

On a motion made by Jessica Chabot, seconded by Matt Hayes, the Board voted to continue the hearing for Rocky's Hardware to December 14, 2021 at 7:00 pm. The motion was approved by a vote of 4 in favor (Rodenhiser, Hayes, Chabot and Tucker) and one (Di Iulio) opposed

CONSTRUCTION REPORTS:

The Board is in receipt of the following: **(See Attached)**

- Harmony Village – Tetra Tech Report #10 (11-8-21)
- Harmony Village – Tetra Tech Report #11 (11-12-21)
- Medway Mill -Guerriere and Halnon report (11-18-21)
- Medway Mill – Tetra Tech Field Report #3 (11-8-21)
- Medway Mill – Tetra Tech Field Report #4 (11-15-21)
- Choate Trail – Connorstone Engineering Report (11-15-21)

Tetra Tech Consultant Steve Bouley reviewed the various construction reports with the Board.

Harmony Village:

The electrical conduit has been installed and backfilled with sand. The filter fabric has been

installed. The photo information from the drainage installed was reviewed. It is recommended that one of the manholes be replaced along with a larger manhole upgradient.

Medway Mill:

The contractor is in the process of installing the proposed drainage. The structures and piping have been backfilled. There will be a snow/construction fence installed.

42 Highland Street/Choate Trail subdivision:

There have been erosion issues on site and those issues will be mitigated. Consultant Bouley will be on site tomorrow.

PUBLIC HEARING CONTINUATION - MEDWAY PLACE SITE PLAN

The Board is in receipt of the following: **(See Attached)**

- Public Hearing Continuation Notice to 11-23-21
- Revised Draft Decision dated 11-22-21

The Board is in receipt of the most recently revised draft decision dated 11.22.21. It was noted that the applicant was not present.

The decision was further reviewed starting with the following:

#15 Off Street Loading:

The Board continues to have concerns about the center's off-street loading facilities. This permit should be conditioned to include language about the deliveries for Ocean State Job Lot and PJ's restaurant. The Board would also like to require a truck turning plan with signage. This will also be conditioned to not allow two-way traffic. The owners can coordinate deliveries. The Board would also like language that the applicant can demonstrate that a 53-foot tractor trailer can maneuver the site. There should also be signage included to enforce the traffic patterns. The dumpster locations should be accurately noted on the plan.

#16 – Requirements of Medway General Bylaw:

There was a concern brought up that the work on any stormwater be started on site before the Board's approval. There are currently piles of gravel, cement, and structures on site. The Board was reminded that the stormwater permit was issued by the DPW.

Other Plan Revisions.

- There needs to be a utility plan compliant with the *Site Plan Rules and Regulations*.
- Eliminate one-way south drive aisle to west of the main entrance; convert it to landscape area and relocate curb line 16 ft. to west to eliminate one-way south drive aisle and improve traffic flow
- Update Development Impact Statement
- Calculations for land disturbance
- Stormwater report and plan
- Solid waste management plan.
- Truck turning radius plan

The decision will be further revised and discussed at the November 30, 2021 meeting.

On a motion made by Jessica Chabot, seconded by Matthew Hayes, the Board voted unanimously to continue the hearing for Medway Place to November 30, 2021 at 7:30 pm.

Member Tucker left the meeting. at 9:53 pm.

ANR PLAN – 39 Waterview Drive:

The Board is in receipt of the following: **(See Attached)**

- ANR Application from Michelle Earl and Todd Houle of 39 Waterview Drive
- ANR Plan of land dated November 22, 2021 by Colonial Engineering
- Project Description letter dated November 16, 2021
- ANR plan review memorandum by Susy Affleck-Childs dated November 19, 2021

The Board is in receipt of an ANR plan showing 7,977 sq. ft. Parcel A immediately north of the Earl/Houle property at 39 Waterview Drive. Parcel A is part of an abandoned railroad right of way. The applicant wishes to claim a share of the parcel to the centerline of the railroad right of way. Town Counsel provided input on this application and advised that language be added to the plan to indicate that the Board's endorsement of the plan does not convey any property rights.

On a motion made by Matt Hayes, seconded by Jessica Chabot, the Board voted unanimously to endorse the revised ANR plan dated 11.22.21 as presented.

ZBA Petition – 5 Oakview Circle:

The Board is in receipt of the following: **(See Attached)**

- Application 5 Oakview Circle

The Board is in receipt of a ZBA application for 5 Oakview Circle. The applicant seeks a variance to allow for the construction of a front porch with a landing and stairs to provide for the future installation of a handicap ramp; this improvement does not meet the front setback requirements. The Board did not want to comment on this application.

Cutler Place Multi-Family Special Permit and Site Plan -Plan Review Fee Estimate:

The Board is in receipt of the following: **(See Attached)**

- Plan Review fee estimate from Tetra Tech for Cutler Place (\$6,351)

The Board reviewed the Tetra Tech plan fee estimate for Cutler Place in the amount of \$6,351.00.

On a motion made by Jessica Chabot, seconded by Matt Hayes, the Board voted unanimously to accept the plan review fee of \$6,351.00 for Cutler Place.

Town Line Estate – Request for Project Completion Extension:

The Board is in receipt of the following: (See Attached)

- Letter dated 11-16-21 from owner/permittee Rob Lapinsky
- Excerpt from endorsed subdivision plan

On a motion made by Jessica Chabot, seconded by Rich Di Iulio, the Board voted unanimously to grant a two-year extension for the Town Line Estate subdivision (Bunny Lane) to January 22, 2024.

Master Plan Update:

The Board was informed that the Master Plan Committee had a productive meeting. The Committee is currently revising the vision and goals. There will be a joint meeting with the Planning Board and the Select Board in early January 2022.

PEDB MEETING MINUTES:

November 9, 2021:

On a motion made by Jessica Chabot, seconded by Rich Di Iulio, the Board to approve the minutes from November 9, 2021 as amended. (Member Tucker did not vote as he had left the meeting.)

ADJOURN:

On a motion made by Jessica Chabot, seconded by Matt Hayes, the Board voted to adjourn the meeting.

The meeting was adjourned at 10:15 pm.

Prepared by,
Amy Sutherland
Recording Secretary

Reviewed and edited by,
Susan E. Affleck-Childs
Planning and Economic Development Coordinator



November 23, 2021

**Medway Planning & Economic Development Board
Meeting**

**Phytopia Public Hearing – Marijuana
Special Permits, Site Plan, Reduced
Parking Special Permit, and
Groundwater Protection Special Permit**

- Public Hearing Continuation Notice to 11-23-21
- Lease document
- Tetra Tech review letter dated 10-27-21 in response to revised site plan dated 9-15-21
- DRAFT marijuana special permit decision dated 11-19-21

Board Members

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



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www.townofmedway.org

TOWN OF MEDWAY

COMMONWEALTH OF MASSACHUSETTS

PLANNING AND ECONOMIC DEVELOPMENT BOARD

RECEIVED TOWN CLERK
NOV 1 '21 AM 10:40

MEMORANDUM

October 29, 2021

TO: Stefany Ohannesian, Town Clerk
Town of Medway Departments, Boards and Committees

FROM: Susy Affleck-Childs, Planning and Economic Development Coordinator

RE: *Public Hearing Continuation for Phytopia, Inc
Marijuana Special Permit, Major Site Plan, Groundwater Protection Special
Permit, and Reduced Parking Special Permit
Continuation Date -- Tuesday, November 23, 2021 at 7:00 p.m.*

At its October 26, 2021 meeting, the Planning and Economic Development Board voted to continue the public hearing on the application of Phytopia, Inc. of Peabody, MA for approval of special permits to operate a non-retail Registered Medical Marijuana cultivation and processing establishment and a Recreational Marijuana (adult-use) cultivation and processing establishment, a major site plan, a groundwater protection district special permit, and a reduced parking special permit for a proposed development at 6 Industrial Park Road to Tuesday, November 23, 2021 at 7:00 p.m. in Sanford Hall at Medway Town Hall, 155 Village Street.

The applicant proposes to use the existing 53,128 sq. ft. industrial manufacturing building at 6 Industrial Park Road and construct a 66,238 sq. ft., 2-story addition to the existing building for the cultivation, manufacturing, processing, and packaging of marijuana for medical use and adult recreational use and the delivery of such products off site to retail marijuana establishments in other communities. A retail marijuana operation is NOT proposed.

The planned scope of work includes interior renovations to the existing building, construction of the addition, improvements to the access/egress driveways, installation of curbing, parking area improvements, landscaping, lighting, and installation of and improvements to stormwater drainage facilities. The planned work is shown on a plan titled *Industrial Park Road*, dated April 1, 2021 prepared by Williams & Sparages Engineers, Planners and Surveyors of Middleton, MA. The architectural drawings dated April 6, 2021, last revised June 2, 2021 were prepared by Anderson Porter Design of Cambridge, MA. Noise and odor mitigation plans have also been provided. The project is also subject to the Conservation Commission for an Order of Conditions and a Land Disturbance Permit.

The application, site plan and supporting documentation were filed with the Town on May 12, 2021 and are on file with the Medway Town Clerk and the Community and Economic Development Department at Medway Town Hall, 155 Village Street, Medway, MA. Project

information including the revised site plan has been posted to the Planning and Economic Development Board's page at the Town's web site at: <https://www.townofmedway.org/planning-economic-development-board/pages/phytopia-inc-6-industrial-park-road-marijuana-facility>.

The Board welcomes review comments from Town staff, boards and committees.

Please do not hesitate to contact me if you have any questions.

COMMERCIAL LEASE

MEDWAY PROPERTY
TO
PHYTOTHERAPY, LLC

1. PARTIES

MEDWAY FLOWER, LLC, a Massachusetts Limited Liability Company ("Landlord"), which expression shall include its successors and assigns where the context admits, does hereby lease to PHYTOTHERAPY, LLC, a Massachusetts Limited Liability Company ("Tenant"), which expression shall include its successors and assigns where the context so admits, and the Tenant hereby leases the following described premises (the "Premises").

2. PREMISES

The premises consists of approximately 53,554 square feet of area that is located at 6 Industrial Park Road, Medway, MA 02053 (the "Building") located at 6 Industrial Park Road, Medway, MA 02053 (the "Property"); together with the right to exclusive use of all surrounding land and parking lots comprising the real property described herein, and access to and from the Premises.

So long as Tenant is not in default under this Lease, Tenant shall and may quietly have, hold and enjoy the Premises free from disturbance by Landlord or its officers, agents, employees, successors, assignees or tenants or by anyone claiming by, through or under Landlord, subject, however, to the terms and conditions of this Lease.

3. TERM

The term of this Lease (the "Term") shall be for TEN (10) years, commencing on January 1, 2021, and ending December 31, 2030, subject to extension as provided herein.

Tenant shall have the right to extend the Term by the exercise of FOUR (4) options, each option period being for the period of FIVE (5) years to be exercised by written notice to Landlord delivered on or before the date THREE (3) months prior to the expiration of the Term, provided there is not an uncured default under this Lease by Tenant when the notice of exercise is given.

4. BASE RENT

The Tenant shall pay to the Landlord base rent at the rate of \$240,000.00 per year, payable in advance on the first day of each calendar month of the Term, in monthly installments of Twenty Thousand Dollars (\$20,000.00).

5. SECURITY DEPOSIT

No security deposit is required hereunder in light of the Tenant's investment in improvements made to the underlying property.

6. RENT ADJUSTMENTS

a. TAX ESCALATION

If any tax year commencing with fiscal year 2021 (July 1, 2020), the real estate taxes on the Property, are in excess of the amount of the real estate taxes thereon for the fiscal year 2021 (July 1, 2020), which amount is _____. Tenant shall be responsible for property taxes so assessed and entitled to all credits, abatements or other tax discounts issued to the property. Landlord provides a Power of Attorney hereunder to the Tenant so long as this lease remains in effect to permit the Tenant to interact with all taxing authorities in the same manner and power and right as the landlord. Landlord agrees to execute all documents requested by Tenant to effectuate the powers conveyed to Tenant. This paragraph shall survive the expiration or earlier termination of this Lease.

If Landlord obtains any abatement or refund of any such excess real estate tax, Tenant's shall receive in total all such abatements or refunds or tax credits.

b. Additional Costs Payable by Tenant

Tenant shall maintain the premises in the general condition provided by the Landlord, including snow removal, property insurance, water service, trash removal and general building maintenance.

7. LEASE UTILITIES

Tenant shall pay, as they become due, all bills for electricity that is furnished to the Premises during the Term or any occupancy of the Premises by Tenant.

Landlord shall have no obligation to provide utilities or equipment other than the utilities and equipment within the Premises as of the commencement date of this Lease. In the event Tenant requires additional utilities or equipment, the installation and maintenance thereof shall be Tenant's sole obligation, provided that such installation shall be subject to the written consent of Landlord.

8. USE OF LEASED PREMISES

Tenant shall use the Premises only for the purpose of business offices, retail and for accessory uses customarily related thereto in conjunction with its licensed use generally in the Cannabis industry and such other use or purpose determined by the Tenant.

9. COMPLIANCE WITH LAWS

Tenant acknowledges that no trade or occupation shall be conducted in the Premises or use made thereof which will be unlawful or contrary to any legal or governmental requirement.

10. FIRE AND PROPERTY INSURANCE

Landlord shall maintain fire and other casualty insurance covering the Building and the Property consistent with that maintained by owners of similar properties in the location of the premises, or as may be required by Landlord's bank, commercial or institutional mortgage lenders. Tenant shall not permit any use of the Premises which will make violable any insurance on the Property, or on the contents of the Property or which shall be contrary to any legal or governmental requirement or any regulation from time to time established by the New England Fire Insurance Rating Association, or any similar body succeeding to its powers. Tenant shall on demand reimburse Landlord all extra insurance premiums caused by Tenant's use of the premises so long as written notice is provided thirty (30) days prior to such assessment, and the Tenant has the right to cure such reasons causing the insurance escalation.

Tenant shall, at all times, maintain full and adequate fire and other extended coverage casualty insurance on its personal property located at the Premises and on any alterations, improvements or betterments made by Tenant in or to the Premises. The insurance shall, at all times, be issued by responsible companies qualified to do business in Massachusetts, in sound condition, and in good standing therein. Such insurance on Tenant's property shall contain a waiver of subrogation clause in favor of Landlord, or shall name Landlord as an additional insured on a primary basis (without any obligation to pay any of Tenant's insurance premium) for the sole purpose of preventing a subrogation claim against Landlord.

Landlord and Tenant hereby release each other, to the extent of their respective insurance coverages, from any and all liability for any loss or damage caused by fire, any applicable extended coverage casualties, or other casualties insured against, even if such fire or other casualty shall be brought about by the fault or negligence of the party benefited by the release or its agents; provided however, this release shall be in force and effect only with respect to loss or damage occurring during such time as the policies of fire, extended coverage and other insurance, maintained by the releasing party shall contain a clause, or be subject to a statutory provision to the effect that such release shall not affect said policies or the right of the releasing party to recover thereunder. Landlord and Tenant each agree that their respective insurance policies will include such a clause so long as the same is obtainable from its insurance carriers. For this purpose, applicable deductible amounts shall be treated as though they were recoverable under such policies. Such insurance on Tenant's property shall contain a waiver of subrogation

clause in favor of Landlord, or shall name Landlord as an additional insured for the sole purpose of preventing a subrogation claim against Landlord.

Tenant is hereby authorized to utilize insurance coverage as provided by Lloyd's of London or such similar insurer as Tenant deems fit and appropriate.

11. MAINTENANCE

Tenant agrees, at its expense, to maintain the Premises in good order, condition and repair, damage by fire and other insured casualty and normal wear and tear excepted. Subject to the terms and conditions of Section 17 hereof, whenever necessary, Tenant shall replace plate glass and other glass in the Premises, Tenant hereby acknowledging that the Premises are now in good order and the glass whole.

A. TENANT'S OBLIGATIONS

Tenant shall not permit the Premises to be overloaded, damaged, stripped, or defaced, nor suffer any waste. Tenant shall not erect any signs on the Premises without first obtaining Landlord's written consent, which consent shall not be unreasonably withheld.

B. LANDLORD'S OBLIGATIONS

Landlord agrees to maintain and repair the structure of the Building and to preserve the parking lot surface. Landlord shall provide utilities and such additional site systems to the premises necessary for the Tenants use of the premises.

12. ALTERATIONS AND ADDITIONS

Tenant is authorized to make alterations to the premises as Tenant requires, and such alterations shall be at Tenant's expense and shall be in quality at least equal to the present construction. Tenant shall not permit any mechanic's liens, or similar liens, to remain upon the Premises for labor and material furnished to Tenant or claimed to have been performed at the direction of Tenant and shall cause any such lien to be released of record forthwith without cost to Landlord. Any alterations or improvements made by Tenant shall become the property of Landlord at the termination of occupancy as provided herein. All fixtures shall remain tenant property.

13. ASSIGNMENT – SUBLEASING

Tenant shall not assign or sublet the whole or any part of the Premises without Landlord's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding such consent, Tenant shall remain liable to Landlord for the payment of all rent and for the full performance of the covenants and conditions of this Lease. The following shall constitute assignments by Tenant requiring Landlord's consent: any direct or indirect transfer, assignment, sale, pledge, hypothecation or other change in the ownership or other beneficial interests of Tenant, including, without limitation, assignments of stock, membership interests, and partnership interests, resulting (whether from a single transaction or series of transactions) in a

change of control of Tenant. Notwithstanding anything herein to the contrary, Tenant shall be permitted to assign this Lease or sublet the Premises to any person or entity controlled by or under common control with Tenant or to any entity into which Tenant is merged or which purchases substantially all the assets of Tenant, without limitation, assignments of stock, membership interests, and partnership interests, resulting (whether from a single transaction or series of transactions) in a change of control of Tenant. Notwithstanding anything herein to the contrary, Tenant shall be permitted to assign this Lease or sublet the Premises to any person or entity controlled by or under common control with Tenant or to any entity into which Tenant is merged or which purchases substantially all the assets of Tenant, without obtaining Landlord's consent, so long as Tenant notifies the Landlord in writing of such assignment or sublet within ten (10) business days thereof.

14. SUBORDINATION

This Lease shall be subject and subordinate to any and all mortgages, deeds of trust and other instruments in the nature of a mortgage, now or at any time hereafter, a lien or liens on the Property and Tenant shall, when requested, promptly execute and deliver such written instruments as shall be necessary or appropriate to show the subordination of this Lease to said mortgages, deeds of trust or other such instruments in the nature of a mortgage. Notwithstanding the foregoing, Tenant's subordination to any future mortgages, deeds of trust and other instruments in the nature of a mortgage shall be conditioned upon the holder of such instrument(s) agreeing in writing not to disturb Tenant's use and occupancy of the Premises pursuant to the terms and conditions of this Lease (provided Tenant is in compliance with the terms and conditions hereof.)

15. LANDLORD'S ACCESS

Landlord is not permitted access to the premises without first obtaining approval by Tenant and only upon Tenant supervision at the times deemed appropriate by Tenant. Landlord acknowledges that the premises will be used as permitted by the Massachusetts Cannabis Control Commission, and cannabis and related products will be present upon the premises. Accordingly, the Landlord acknowledges that for both security as well as product purity, neither the Landlord or any Landlord agent or employee shall enter the property without prior notice to the Tenant and Tenant presence and supervision. Landlord shall not interfere with Tenant's operations or products or take any action which may violate governing rules of Massachusetts, City of Medway or the Massachusetts Cannabis Control Commission.

16. INDEMNIFICATION AND LIABILITY

Subject to the terms and conditions of Section 17 hereof, Tenant shall indemnify, defend and exonerate Landlord and save Landlord harmless from and against all loss, cost, expenses and damages occasioned by Tenant's use of the Premises unless the same is caused by the gross negligence or intentional misconduct of Landlord.

17. TENANT'S LIABILITY INSURANCE

Tenant shall maintain comprehensive general liability insurance with respect to the Premises and the Property. The minimum limits of liability of such insurance shall be One Million (\$1,000,000.00) Dollars combined Single Limit Bodily Injury and Property Damage and Two Million (\$2,000,000.00) Dollars each occurrence, or such other limits as Landlord's bank, commercial or institutional mortgage lenders from time to time may require. The insurance shall, at all times, be issued by responsible companies qualified to do business in Massachusetts and in good standing therein insuring Landlord as well as Tenant against injury to persons or damage to property as provided. Landlord shall be named as an additional insured party on a primary basis on Tenant's policies, without any obligation to pay any Tenant insurance premiums. Tenant shall deposit with the Landlord certifies for such insurance prior to the commencement of the Term, and thereafter within thirty (30) days prior to the expiration of any such policies. All such insurance certificates shall provide that such policies shall not be cancelled without at least ten (10) days prior written notice to each assured named therein. Landlord acknowledges that the liability insurance coverages evidenced by the Certificate of Liability Insurance delivered to Landlord on December 31, 2020 are satisfactory as of the date hereof.

18. FIRE, CASUALTY AND EMINENT DOMAIN

Should a substantial portion of the Premises, the Building or the Property, be substantially damaged by fire or other casualty, or be taken by eminent domain, Landlord or Tenant may elect to terminate this Lease. When such fire, casualty, or taking renders the Premises substantially unsuitable for their intended use, a just and proportionate abatement of the rent shall be made, and the Tenant may elect to terminate this Lease if:

- (a). Landlord fails to give written notice within sixty (60) days of its intention to restore Premises, or
- (b) Landlord fails to restore the Premises to a condition substantially suitable for their intended use within one hundred twenty (120) days of said fire, casualty or taking; or
- (c) If the damage or loss occurs during the final six (6) months of the Term.

Landlord reserves, and Tenant grants to Landlord, all rights which Tenant may be for damages or injury to the Premises for any taking by eminent domain, except for damage to Tenant's furniture, personal property or equipment, provided Landlord's compensation is not reduced thereby. Tenant shall have the right to freely and separately negotiate for its own benefit any relocation award or other benefit should the premises be altered or taken by power of eminent domain, and such additional award or benefit shall not be divided or shared with Landlord. To the extent such award is paid to the Landlord as property owner, the Landlord shall immediately transfer or assign such award to the Tenant.

19. DEFAULT AND BANKRUPTCY

In the event that:

- (a) Tenant shall default in the payment of any installment of rent or other sum herein specified and such default shall continue for five (5) business days after it shall be due; or
- (b) Tenant shall default in the observance or performance of any other of Tenant's covenants, agreements, or obligations under this Lease and such default shall not be corrected within thirty (30) days after written notice thereof (or such longer period if correction is not reasonably possible within such 30-day period, provided Tenant shall commence correction of same within such 30-day period and diligently continue with such correction or completion); or
- (c) Tenant shall file or initiate any proceeding for bankruptcy, insolvency or relief from any creditor, or be declared bankrupt or insolvent according to laws, or if any assignment shall be made of Tenant's property for the benefit of creditors;

In the event Landlord shall default in the observance or performance of any other Landlord's covenants, agreements, or obligations under this Lease and such default shall not be corrected within thirty (30) days after such written notice thereof (or such longer period if correction is not reasonably possible within such 30-day period, provided Landlord shall commence correction of same within such 30-day period and diligently continue with such correction to completion), then Tenant shall have all rights and remedies under this Lease or at law or in equity. If Tenant incurs any costs, including legal fees, in remedying Landlord default or failure to perform, then Landlord shall reimburse the Tenant or at Tenant's election, the Tenant may withhold any rents or other charges due to the Landlord hereunder until such balance is satisfied to the Tenant.

20. NOTICE

Any notice from Landlord to Tenant relating to the Premises or to the occupancy thereof, shall be deemed duly served if mailed to the Premises, by registered or certified mail, return receipt requested, postage prepaid, addressed to Tenant. Any notice from Tenant to Landlord relating to the Premises or to the occupancy thereof, shall be deemed duly served, if mailed by registered or certified mail, return receipt requested, postage prepaid, addressed to the Landlord at such address as the Landlord may from time to time advise in writing.

All rent shall be paid and sent to the Landlord at 82 Andover Street, Peabody, MA 01960.

21. EXPIRATION OF TERM

Tenant shall at the expiration or earlier termination of this Lease remove all Tenant's goods and effects from the Premises (including, without limitation, all signs and lettering affixed or painted by Tenant, either inside or outside the Premises). Tenant shall deliver to Landlord the Premises and all keys, locks thereto, and other fixtures connected therewith and all alterations and

additions made to or upon the Premises, in good condition, damage by fire or other insured casualty only excepted. In the event of Tenant's failure to remove any of Tenant's property from the Premises, Landlord is hereby authorized, without liability to Tenant for loss or damage thereto, and at the sole risk of Tenant, to remove and store any of the property at Tenant's expense, or to retain same under Landlord's control or to sell at public or private sale, without notice any or all of the property not so removed and to apply the net proceeds of such sale to the payment of any sum due thereunder, or to destroy such property.

22. CONDITION OF PREMISES

Subject to Landlord's obligations under this paragraph, Tenant shall accept the Premises "as is" in their condition as of the commencement of the Term of this Lease, and Landlord shall be obligated to perform no work whatsoever in order to prepare the Premises for initial occupancy by the Tenant.

(a) Environmental Issues

Landlord acknowledges that the property has had prior environmental hazards, and Landlord agrees to accept full financial responsibility for said environmental hazards and such additional hazards that may arise therefrom or have not yet been located or determined existing on the premises. Landlord shall indemnify Tenant from any costs (including legal fees) or other losses suffered by Tenant arising from said environmental hazards.

23. FORCE MAJEURE

In the event that Landlord or Tenant is prevented or delayed from making any repairs or performing any other covenants hereunder by reason of any cause reasonably beyond the control of the Landlord or Tenant, then said party's performance is excused. However, once the interrupting cause has ceased to exist, the party must diligently pursue efforts to perform.

24. LIABILITY OF OWNER

No owner of the Property shall be liable hereunder except for breaches of Landlord's obligations occurring during the period of such ownership. The obligations of the Landlord shall be binding upon the Landlord's interest in the Property, but not upon other assets of Landlord, and no individual partner, agent, trustee, stockholder, officer, director, manager, member, employee or beneficiary of the Landlord shall be personally liable for the performance of the Landlord's obligations hereunder.

25. BROKERAGE- N/A

Tenant warrants and represents that it has neither contacted nor utilized the services of any broker or finder in connection with this Lease or its occupancy of the Premises, nor is any person claiming through Tenant entitled to a fee or commission therefore.

26. FIRST RIGHT OF REFUSAL TO PURCHASE PREMISES

Tenant has the First Right of Refusal to purchase the subject premises. The Landlord is required to first offer the premises to the Tenant at least Thirty (30) days before offering the property for sale. Landlord is required to provide Tenant with a full and complete copy of any written offer received on the subject property, and the Tenant shall have Thirty (30) days thereafter to elect to purchase the property under the same terms and conditions. This lease terminates upon any transfer of the subject premises to the Tenant. Should the Tenant not purchase the subject property, the successor property owner after Landlord's sale shall honor all terms of this lease unless mutually modified with the Tenant in writing.

27. ADDITIONAL PROVISIONS

A. ESTOPPEL CERTIFICATES

Tenant agrees, at any time and from time to time, within ten (10) business days of written request and at no cost to Landlord, to execute, acknowledge and deliver to Landlord a statement in writing certifying that (except as may be otherwise specified by Tenant): (a) this Lease is (then) presently in full force and effect and unmodified; (b) the Tenant has accepted possession of the Premises; (c) Tenant has not delivered to Landlord notice of any uncured Landlord default under this Lease; (d) the addresses for notices to be sent to the Tenant is as set forth in this Lease or as specified in such certificate; (e) Tenant as of the date of executing the certificate has no charge, lien or claim of offset against rents or other charges due or to become due thereunder except as provided under this Lease, and (f) such other information as Landlord may reasonably request about the Lease or Tenant's occupancy.

B. AUTHORITY TO EXECUTE LEASE

Landlord and Tenant each represent and warrant to the other party that they have the authority to execute this Lease and that this Lease is binding on Landlord and Tenant, as the case may be.

C. LANDLORD'S REPRESENTATIVES AND WARRANTIES.

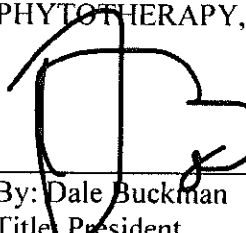
Landlord hereby represents and warrants as follows: (i) the Building is served by all utilities necessary for the operation thereof and Landlord has no knowledge that such utilities are not adequate with respect to service and capacity for the operation thereof, and (ii) there is no such claim, suit, litigation, proceeding or action pending or threatened against Landlord that relates to the Building and/or the use of ownership thereof, and (iii) Landlord is the owner of the Building.

IN WITNESS WHEREOF, the said parties hereunto set their hands and seals this 31st day of December, 2020.

LANDLORD:
MEDWAY FLOWER, LLC

By: Alexander Athanas
Title: Manager
Duly Authorized and not individually

TENANT:
PHYTOTHERAPY, LLC

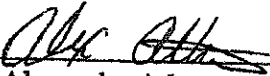


By: Dale Buckman
Title: President
Duly Authorized and not individually

IN WITNESS WHEREOF, the said parties hereunto set their hands and seals this 31st day of December, 2020.

LANDLORD:
MEDWAY FLOWER, LLC

TENANT:
PHYTOTHERAPY, LLC


By: Alexander Athanas
Title: Manager
Duly Authorized and not individually

By: Dale Buckman
Title: President
Duly Authorized and not individually

EXHIBIT A

Plan of the Premises

(attached hereto).



June 8, 2021
(revised October 27, 2021)

Ms. Susan E. Affleck-Childs
Medway Planning and Economic Development Coordinator
Medway Town Hall
155 Village Street
Medway, MA 02053

**Re: Phytopia Inc.
 Major Site Plan Review
 6 Industrial Park Road
 Medway, Massachusetts**

Dear Ms. Affleck-Childs:

Tetra Tech (TT) has performed a review of the proposed Site Plan for the above-mentioned Project at the request of the Town of Medway Planning and Economic Development Board (PEDB). The proposed Project is located at 6 Industrial Park Road in Medway, Massachusetts. The Project consists of redeveloping the vacant industrial building along with constructing a two-story addition for the purpose of growing and processing marijuana plants and byproducts. The scope of work also includes improving existing access driveways, curbing, 92 off-street parking spaces, landscaping, lighting, and installation of stormwater drainage facilities.

TT is in receipt of the following materials:

- A cover letter dated May 12, 2021, prepared by Edward V. Cannon, Jr.
- A plan (Plans) set titled "Industrial Park Road, 6 Industrial Park Road, Medway, MA" dated April 1, 2021, prepared by MEM.
- An Application for Major Site Plan Approval, dated April 30, 2021, prepared by Edward V. Cannon, Jr.
- An Application for Reduced Parking Special Permit Approval, dated May 1, 2021, prepared by Edward V. Cannon, Jr.
- An Application for Groundwater Protection District Special Permit Approval, dated May 1, 2021, prepared by Edward V. Cannon, Jr.
- A Marijuana Special Permit Application, dated April 30, 2021, prepared by Edward V. Cannon, Jr.

The Plans and accompanying materials were reviewed for conformance with Chapter 200 of the Town of Medway PEDB Rules and Regulations (Regulations) last amended October 8, 2019, Town of Medway Zoning Bylaw – Groundwater Protection District and good engineering practice. Review of the Project for zoning related matters, other than the Groundwater Protection District, is being conducted by the Town and is excluded from this review.

TT 10/27/21 Update

The Applicant has supplied TT with a revised submission addressing comments provided in our previous letter including the following documents:

- A Cover Letter dated October 12, 2021, prepared by WSE.
- A Response to Comments Letter dated October 12, 2021, prepared by WSE.
- A letter regarding Groundwater Special Permit, dated September 15, 2021, prepared by Edward V. Cannon, Jr.
- A plan (Plans) set titled "Industrial Park Road, 6 Industrial Park Road, Medway, MA", dated April 1, 2021, revised October 12, 2021, prepared by WSE.

The revised Plans and supporting information were reviewed against our previous comment letter (June 8, 2021) and comments have been tracked accordingly. Text shown in gray represents information contained in previous correspondence while new information is shown in black text.

SITE PLAN REVIEW

1. A written Development Impact Statement was not provided. However, the Applicant is requesting a waiver from this requirement. (Ch. 200 §204-3.F)
 - *WSE 10/12/21 Response: No response necessary.*
 - **TT 10/27/21 Update: No further action required for this item until PEDB decision on waiver requests.**
2. A Stormwater Pollution Prevention Plan (SWPPP) was not provided. However, the Applicant acknowledged in the cover letter that one will be completed once the final scope of the Project is clearly defined and will file it at a later date. (Ch. 200 §204-3.G.3)
 - *WSE 10/12/21 Response: A SWPPP will be prepared at the time the EPA NOI application is submitted, prior to land disturbance activities.*
 - **TT 10/27/21 Update: We recommend a Condition requiring the Applicant provide proof of coverage under the NPDES CGP prior to construction.**
3. A Construction Management Plan was not provided. However, the Applicant acknowledged in the cover letter that one will be provided once the final scope of the Project is clearly defined and will file it at a later date. (Ch. 200 §204-3.H)
 - *WSE 10/12/21 Response: See Land Disturbance Permit Application dated October 1, 2021.*
 - **TT 10/27/21 Update: Review of this item is being conducted by the Medway Conservation Commission. In our opinion, this item is resolved.**
4. Earthwork Calculations have not been provided. However, the Applicant acknowledged in the cover letter that one will be provided once the final scope of the Project is clearly defined and will file it at a later date. (Ch. 200 §204-3.I&J)
 - *WSE 10/12/21 Response: See attached earthwork calculations.*
 - **TT 10/27/21 Update: Earthwork on the Project is a net fill with approximately 1,685 cubic yards of import material expected. We recommend this information be provided on the Erosion and Sediment Control Plan.**
5. A copy of an Order of Resource Area Delineation (ORAD) was not provided. However, the Applicant has acknowledged in their cover letter that an NOI has been submitted with the Medway Conservation Commission. (Ch. 200 §204-3.K)
 - *WSE 10/12/21 Response: No response necessary.*
 - **TT 10/27/21 Update: Review of this item is being conducted by the Medway Conservation Commission. In our opinion, this item is resolved.**
6. Cover sheet has not been provided in the Plans. However, applicable cover sheet information is provided on the Site Context Sheet/Location Plan. A list of requested waivers should be added to the sheet once approved by the Board. (Ch. 200 §204-5.A)
 - *WSE 10/12/21 Response: A cover sheet with a list of waivers has been provided, see sheet 1 of 10.*
 - **TT 10/27/21 Update: The list of requested waivers has not been included on the Cover Sheet.**

7. The Locus Plan provided on the Location Plan is missing clearly labeled brooks, streams, wooded areas, protected open spaces, recreation fields, landmarks, and public facilities. (Ch. 200 §204-5.B.1)
 - *WSE 10/12/21 Response: A Site Context Plan has been provided, see sheet 2.*
 - **TT 10/27/21 Update: In our opinion, this comment is resolved.**
8. Dimensions of lot lines and easement areas (if applicable) have not been provided on the Site Context Sheet. Additionally, metes and bounds should be included on all plans. (Ch. 200 §204-5.B.3)
 - *WSE 10/12/21 Response: Dimensions of lot lines has been provided, see sheet 2.*
 - **TT 10/27/21 Update: Lot line dimensions have been added to the Site Context Sheet, but metes and bounds have not been added to the remainder of the Plans.**
9. The source of existing topography and the vertical datum reference have been provided. (Ch. 200 §204-5.B.4)
 - *WSE 10/12/21 Response: No response necessary.*
 - **TT 10/27/21 Update: In our opinion, this comment is resolved.**
10. An Erosion and Sediment Control Plan was not included in the plan set. However, the Applicant acknowledged in the cover letter that it will be completed and submitted to Medway Conservation Commission as part of the Land Disturbance Permit Application. (Ch. 200 §204-5.D.5)
 - *WSE 10/12/21 Response: See Land Disturbance Permit Application dated October 1, 2021.*
 - **TT 10/27/21 Update: Review of this item is being conducted by the Medway Conservation Commission. In our opinion, this item is resolved.**
11. A Building Elevations and Architectural Plan was not provided in the Plans. (Ch. 200 §204-5.D.9)
 - *WSE 10/12/21 Response: Refer to architectural plans.*
 - **TT 10/27/21 Update: In our opinion, this comment is resolved.**
12. Color Renderings were not provided in the Plans. (Ch. 200 §204-5.D.10)
 - *WSE 10/12/21 Response: Refer to architectural plans.*
 - **TT 10/27/21 Update: In our opinion, this comment is resolved.**
13. A Building Layout or Floor Plan was not provided in the Plans. (Ch. 200 §204-5.D.11)
 - *WSE 10/12/21 Response: Refer to architectural plans.*
 - **TT 10/27/21 Update: In our opinion, this comment is resolved.**
14. Entry and Exit locations to Structures were not provided in the Plans. (Ch. 200 §204-5.D.12)
 - *WSE 10/12/21 Response: Entry and exit locations have been provided, see sheet 6.*
 - **TT 10/27/21 Update: In our opinion, this comment is resolved.**
15. Site Amenities Details were not provided in the Plans. (Ch. 200 §204-5.D.13)
 - *WSE 10/12/21 Response: Site amenity details have been provided, see sheet 10.*
 - **TT 10/27/21 Update: In our opinion, this comment is resolved.**
16. A Master Signage Plan was not provided in the Plans. (Ch. 200 §204-5.D.14)
 - *WSE 10/12/21 Response: Refer to architectural plans. The plans presented by the project architect to the PEDB and Design Review Committee included proposed signage.*
 - **TT 10/27/21 Update: In our opinion, this comment is resolved.**

17. The Plans do not include horizontal sight distances for the public roads at any of the four curb cuts at the Site. The Applicant has acknowledged this will be completed and filed at a later date. (Ch. 200 §204-5.D.16)
- *WSE 10/12/21 Response: Horizontal site distances have been provided, see sheet 12.*
 - **TT 10/27/21 Update: In our opinion, this comment is resolved.**
18. Locations of proposed fire hydrants and emergency access lanes not provided on plans. A hydrant exists on Industrial Park Drive immediately across the street from the Project. We recommend Plans and supporting information be submitted to Medway Fire Department for review and comment. (Ch. 200 §204-5.D.18)
- *WSE 10/12/21 Response: There are two existing fire hydrants along the industrial Park Road and three existing fire hydrants along Jayar Road within close proximity to the subject property. It is our understanding that members of the development team have met with Police and Fire Department officials.*
 - **TT 10/27/21 Update: We recommend the Applicant provide written correspondence from the Medway Fire Department regarding their review of the Project.**
19. Sidewalks along the building in the west parking lot are proposed at 5-foot width but abut parking which requires width to be increased to seven feet to accommodate bumper overhang. (Ch. 200 §207-9.B.1)
- *WSE 10/12/21 Response: Curb stops have been added to the parking spaces directly adjacent to sidewalks. Propose sidewalks to remain five feet in width.*
 - **TT 10/27/21 Update: We do not recommend use of wheel stops as they are a nuisance in winter months and are typically either removed by the tenant or by snowplows. They also effectively reduce the length of parking stalls.**
20. There is a total of four curb cuts proposed for the Project which we believe may be excessive for a Project of this size. We recommend the Applicant explore combining the parking areas along the west property line to help reduce the proposed curb cuts. We understand there are three existing curb cuts, but we believe the site can be designed to reduce this condition. The Regulations favor one curb cut per roadway at corner lots. (Ch. 200 §207-11.A.2)
- *WSE 10/12/21 Response: The existing condition has three curb cuts and the proposed seeks to retain two while adding one and removing one for a total of three curb cuts as in the existing condition.*
 - **TT 10/27/21 Update: We believe the revised curb cuts are sufficient to serve the proposed parking and emergency access. However, we recommend the PEDB require the Applicant provide written correspondence from the Fire Department regarding their review of the Project.**
21. Bituminous berm is proposed for the entire curb length for the Project. Typically, curb cut radii are delineated with vertical granite curb which may transition to bituminous berm on the interior of the site is approved by the PEDB. (Ch. 200 §207-11.A.4)
- *WSE 10/12/21 Response: The existing curbing on Industrial Park Road and Jayar Road is bituminous and the proposed curbing at site entrances are proposed to remain bituminous.*
 - **TT 10/27/21 Update: We recommend the Applicant coordinate with the PEDB regarding this item and provide a formal waiver request. Typically, vertical granite curbing is preferred at entrance radii, particularly within the public right of way.**

22. Portions of the proposed driveways discharge stormwater runoff to the right of way. Stormwater and land disturbance permit is being reviewed by the Medway Conservation Commission and we believe this comment will be addressed during that review. (Ch. 200 §207-11.A.15)
- *WSE 10/12/21 Response: No response necessary.*
 - **TT 10/27/21 Update: Review of this item is being conducted by the Medway Conservation Commission. In our opinion, this item is resolved.**
23. Portions of the west and east parking lots are proposed within 15 feet of the property lines which does not comply with the Regulations. (Ch. 200 §207-12.G.3.b)
- *WSE 10/12/21 Response: The east parking lot essentially follows the existing pavement line and is proposed to remain. The west parking field remains as shown on the civil drawings.*
 - **TT 10/27/21 Update: We recommend the Applicant coordinate with the PEDB regarding this item.**
24. The Applicant has not supplied provisions for electric vehicle parking stations. (Ch. 200 §207-12.I)
- *WSE 10/12/21 Response: Two spaces are designated for electric vehicles, see sheet 6.*
 - **TT 10/27/21 Update: In our opinion, this comment is resolved.**
25. It appears the existing electric connection will be extended to the proposed addition and no new connections are proposed. It should be noted that all proposed connections shall be located underground. (Ch. 200 §207-16.A)
- *WSE 10/12/21 Response: Proposed transformer locations are shown. All underground electrical connections are proposed to be underground. A note is added to the plans that all proposed connections shall be underground, see sheet 5.*
 - **TT 10/27/21 Update: In our opinion, this comment is resolved.**
26. The Applicant has not proposed any screening of the existing dumpster location at the site. (Ch. 200 §207-17.C)
- *WSE 10/12/21 Response: The proposed trash enclosure is a 40-yard roll-off container that will be accessed via a chute from inside the building. A chain-link security fence with slats and gates are proposed. A detail of the chain-link fencing has been provided, see sheet 10.*
 - **TT 10/27/21 Update: We recommend the Applicant provide written correspondence from the Medway Design Review Committee (DRC) regarding their review of this item.**
27. The Photometric Plan does not show any light levels beyond the property lines. We anticipate light trespass along the northwestern and northeastern and eastern property lines. (Ch. 200 §207-18)
- *WSE 10/12/21 Response: The Photometric Plan has been revised to show light levels beyond the property line.*
 - **TT 10/27/21 Update: Light trespass occurs along each of the property lines to multiple abutters.**
28. The Applicant has not proposed any landscaping along the eastern property line to screen the Project. Existing tree line will remain along the northern and western portions of the site. We recommend the PEDB visit the site to determine if the extent of vegetation to remain conforms with the “spirit” of the Regulation. (Ch. 200 §207-18)
- *WSE 10/12/21 Response: A six foot high opaque fence is proposed along the eastern property line, see sheet 10.*
 - **TT 10/27/21 Update: We recommend the Applicant provide written correspondence from the Medway Design Review Committee regarding their review of the Project.**

29. The Applicant has not proposed any internal landscape islands to break up the parking areas and provide shade. (Ch. 200 §207-19.C)

- *WSE 10/12/21 Response: Additional trees and shrubs have been added to the landscape plan.*
 - **TT 10/27/21 Update: We recommend the Applicant coordinate with the PEDB and DRC regarding the scope of plantings for the Project.**

30. The Applicant shall provide narrative and note on Plans to describe method for irrigating proposed landscaping at the site. Town water supply shall not be used for irrigation at the property. (Ch. 200 §207-19.K)

- *WSE 10/12/21 Response: No irrigation system is proposed at the present time.*
 - **TT 10/27/21 Update: We anticipate an irrigation well or other means of irrigation will be required to ensure plantings remain viable at the site after Project completion.**

GROUNDWATER PROTECTION DISTRICT REVIEW

31. A generator is proposed for the Project and are prohibited in the Groundwater Protection District unless required by statute. The Applicant shall provide narrative related to the generator and whether it is a statutory requirement of the business. (ZBL §5.6.3.E.2.b)

- *WSE 10/12/21 Response: Please see application materials submitted to the PEDB in support of an application for a Groundwater Protection District Special Permit dated August 4, 2021 and subsequent letter from attorney Cannon dated September 15, 2021.*
 - **TT 10/27/21 Update: The proposed generator was not referenced in the letter dated September 15, 2021, we do not have the August 4, 2021 letter on file.**

32. The Applicant shall provide a list of any hazardous materials that may be stored at the site and their method of containment. (ZBL §5.6.3.E.2.k)

- *WSE 10/12/21 Response: Please see application materials submitted to the PEDB in support of an application for a Groundwater Protection District Special Permit dated August 4, 2021 and subsequent letter from attorney Cannon dated September 15, 2021.*
 - **TT 10/27/21 Update: The Applicant provided a letter dated September 15, 2021 regarding the Groundwater Special Permit which attests that the Project will not generate greater than 100kg/month of hazardous material (Very Small Quantity Generator) and that all hazardous materials will be stored in an acceptable manner on site, specifically ethanol which will be stored in a five gallon carboy in secondary containment. We recommend a Condition requiring the Applicant provide inventory of hazardous materials and manifest of its disposal to ensure ongoing compliance with the bylaw once the Project is in use.**

33. The Project proposes approximately 140,000 square feet of impervious coverage after the proposed expansion which triggers special permit review of the Project. Consequently, the Applicant has proposed groundwater recharge for the development, consistent with the bylaw, which is currently being reviewed by the Medway Conservation Commission. (ZBL §5.6.3.E.3.e)

- *WSE 10/12/21 Response: No response necessary.*
 - **TT 10/27/21 Update: Review of groundwater recharge is being conducted by the Medway Conservation Commission and is ongoing. In our opinion, this item is resolved.**

34. We have concerns whether proposed groundwater recharge at the site is viable due to historic contamination at the site. The Medway Conservation Commission is currently reviewing the Stormwater and Massachusetts Contingency Plan (MCP) reporting for the Project. (ZBL §5.6.3.F.1.a)
- *WSE 10/12/21 Response: Please see response letter from Knoll Environmental dated September 15, 2021.*
 - **TT 10/27/21 Update: Review of groundwater recharge is being conducted by the Medway Conservation Commission and is ongoing. In our opinion, this item is resolved.**

GENERAL COMMENTS

35. The Applicant is proposing two additional water connections to the site for a total of four. We recommend the Applicant coordinate with Medway Department of Public Works (DPW) to determine if these connections should be consolidated as part of this Project.
- *WSE 10/12/21 Response: The applicant has met with representatives from the DPW. The two existing water service lines will be cut and capped as shown on the site plan set.*
 - **TT 10/27/21 Update: We recommend the Applicant provide written correspondence from the Medway DPW regarding their review of the Project.**
36. There are no additional sewer connections proposed for the Project other than the one existing. We recommend the Applicant provide narrative to determine if the existing connection is sufficient to serve to Project as it appears the size of the existing service is unknown.
- *WSE 10/12/21 Response: When the DPW marked out the existing water and sewer service locations in the spring of 2019, we were informed that the existing sewer service is a 6-inch PVC pipe. The existing service is more than adequate to serve the needs of the proposed use. The applicant has also filed for and received an industrial discharge permit from the Charles River Pollution Control District.*
 - **TT 10/27/21 Update: In our opinion, this comment is resolved.**
37. Mulch sock should be depicted in the "Siltfence with Mulch Sock" detail on the Construction Details Plan.
- *WSE 10/12/21 Response: Mulch sock is depicted on the Construction Details Plan, see sheet 9.*
 - **TT 10/27/21 Update: The detail does not appear to be correct as certain information is missing on the detail or is not showing up correctly when printed from CAD.**
38. The existing information on the Plans is difficult to read and should be updated in future submissions for ease of review.
- *WSE 10/12/21 Response: The existing information has been updated to increase readability.*
 - **TT 10/27/21 Update: In our opinion, this comment is resolved.**

These comments are offered as guides for use during the Town's review and additional comments may be generated during the course of review. The Applicant shall be advised that any absence of comment shall not relieve them of the responsibility to comply with all applicable local, state and federal regulations for the Project. If you have any questions or comments, please feel free to contact us at (508) 786-2200.

Very truly yours,



Steven M. Bouley, PE
Project Manager



Bradley M. Picard, EIT
Civil Engineer

Board Members

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



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TOWN OF MEDWAY

COMMONWEALTH OF MASSACHUSETTS

PLANNING AND ECONOMIC DEVELOPMENT BOARD

Revised Draft – November 19, 2021

Recreational Adult Use Marijuana Special Permit Non-Retail Registered Medical Marijuana Facility Special Permit _____ with Conditions

Decision Date: _____

Name/Address of Applicant/Permittee

Phytopia, Inc.
25 Newbury Street
Peabody, MA 01960

Name/Address of Property Owner:

Medway Flower, LLC
990 Paradise Road
Swampscott, MA 01907

Location: 6 Industrial Park Road

Assessors' Reference: 33 – 004

Zoning District: West Industrial

Site Plan: *Industrial Park Road*, dated April 1, 2021, last revised October 12, 2021, prepared by William Sparages Engineers, Planners and Surveyors of Middleton, MA. The architectural drawings dated April 6, 2021 were prepared by Anderson Porter Design of Cambridge, MA.

I. PROJECT DESCRIPTION - The Applicant seeks a Recreational (Adult Use) Marijuana Establishment special permit and a Non-Retail Registered Medical Marijuana Facility special permit pursuant to Sections 8.9 and 8.10 of the Medway *Zoning Bylaw* to operate a marijuana cultivation and processing facility at 6 Industrial Park Road. NOTE – The Applicant has also applied to the Planning and Economic Development Board for Major Site Plan Approval, a Reduced Parking Special Permit, and a Groundwater Protection Special Permit. This decision does not pertain to those three applications which are still pending before the Board. The property also includes wetlands resources which are under the jurisdiction of the Medway Conservation Commission for an Order of Conditions and a Land Disturbance Permit.

The Applicant proposes to use the existing 53,128 sq. ft. industrial manufacturing building at 6 Industrial Park Road and construct a 2-story addition (total of 66,238 sq. ft.) to the existing building for the cultivation, manufacturing, processing, and packaging of marijuana for medical use and adult recreational use and the delivery of such products off site to retail marijuana establishments in other communities. A retail marijuana operation at this location is NOT proposed.

The planned scope of work includes interior renovations to the existing building, construction of the addition, improvements to the access/egress driveways, installation of curbing, parking area improvements, landscaping, lighting, installation of and improvements to stormwater drainage facilities, and remediation of site contamination by the previous owner. The planned work is shown on a plan titled *Industrial Park Road*, dated April 1, 2021, last revised October 12, 2021, prepared by Williams & Sparages Engineers, Planners and Surveyors of Middleton, MA. The architectural drawings dated April 6, 2021 were prepared by Anderson Porter Design of Cambridge, MA.

The Applicant has requested the Board to act on these two marijuana special permit applications separate from the related applications for Major Site Plan Approval, a Reduced Parking Special Permit, and a Groundwater Protection Special Permit, so that they can apply to the Massachusetts Cannabis Control Commission. The Board's usual procedure is to review and act on all related applications together. As an accommodation to the Applicant, the Board has agreed to consider these two special permit applications separately, while the other applications are still pending.

II. VOTE OF THE BOARD – After reviewing the application and information gathered during the public hearing and review process, including statements of the Applicant and its representatives, comments offered by the public, and comments provided by the Board's consultants and Town staff, the Medway Planning and Economic Development Board, on _____, on a motion made by _____ and seconded by _____, voted to _____ with CONDITIONS as specified herein a special permit to operate a Recreational (adult use) Marijuana Establishment and a Non-Retail Registered Medical Marijuana Facility at 6 Industrial Park Road in Medway, MA.

The vote was _____ by a vote of ____ in favor and ____ opposed.

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

III. PROCEDURAL HISTORY

- A. May 12, 2021 – Marijuana special permits application filed with the Board; filed with the Town Clerk on May 19, 2021
- B. May 19, 2021– Public hearing notice filed with the Town Clerk and posted at the Town of Medway web site.
- C. May 19, 2021 - Public hearing notice mailed to abutters by certified sent mail.
- D. May 24 and June 1, 2021 - Public hearing notice advertised in *Milford Daily News*.
- E. June 8, 2021 - Public hearing commenced. The public hearing was continued to June 22, July 13, July 27, August 10, August 24, September 28, and October 26, 2021 and November 23, 2022 when a decision was rendered.

IV. INDEX OF DOCUMENTS

- A. The following documents were provided at the time the marijuana special permits application was filed with the Board:
 - Marijuana Special Permits application dated April 30, 2021 with Project Description (along with applications for major site plan review, reduced parking special permit, and a groundwater protection district special permit)
 - Phytotherapy Odor Control Approach, received May 12, 2021, prepared by BLW Engineers
 - 4-12-21 letter from Andy Carballeira, Acentech re: noise mitigation plan
 - 5-10-21 letter from Kevin Doherty of Knoll Environmental re: groundwater contamination
 - 4-9-21 Interest Disclosure Attestation for Phytopia
 - Site Plan dated 4-1-21 by William Sparages Engineers Planners and Surveyors of Middleton, MA
 - Parking Evaluation dated 5-12-21 from MDM Transportation Consultants
- B. During the course of the review, a variety of other materials were submitted to the Board by the Applicant and its representatives and consultants:
 - Parking memorandum from attorney Ted Cannon dated 7-8-21
 - Groundwater protection district special permit memorandum from attorney Ted Cannon dated 8-5-21
 - Noise Mitigation Plan by Acentech, updated 7-9-21
 - Letter from attorney Ted Cannon dated 7-22-21 in response to the 7-1-21 Tetra Tech parking and traffic review letter
 - Memorandum from Erik Gath, BLW Engineers, Inc. in response to the odor mitigation review letter dated 6-16-21 from Straughan Forensic
 - Email communication from Dan Dumais, MDM Transportation Consultants, dated 8-11-21 re: Fire Department's review of turning requirements on the site.
 - Updated site plan dated 10-12-21 by William Sparages Engineers Planners and Surveyors
 - Letter dated 10-12-21 to the PEDB from Chris Sparages to summarize site plan changes resulting from previous public hearings, consultant review letters, and

feedback from the PEDB, Design Review Committee and the Conservation Commission.

- Letter dated 10-12-21 to the PEDB from Chris Sparages in response to the June 8, 2021 technical letter from Tetra Tech.
- Email dated 10-18-21 from attorney Ted Cannon re: staff's request for information on the Applicant's policies/procedures for the transfer, acquisition, or sale of medical marijuana between approved RMMF's in compliance with 105 CMR 725.105(b) (2).
- Lease between Medway Flower, LLC (property owner) and Phytotherapy, LLC for use of the premises at 6 Industrial Park Road.

C. During the course of the review, a variety of other materials were submitted to the Board by the Board's consultants and Town staff:

- Plan review letter to the Board from Steve Bouley, P.E. Tetra Tech, dated 6-8-21
- Odor mitigation plan review letter from Bruce Straughan, Straughan Forensic dated 6-16-21
- Parking and Traffic Review letter to the Board from Courtney Sudak, P.E. Tetra Tech, dated 7-1-21
- Noise mitigation review letter to the Board from Jeff Komrower, Noise Control Engineering, dated 7-7-21
- Cultivation Facility Parking Guidelines Summary prepared by Tetra Tech, dated 7-13-21
- Email communication from Fire Chief Jeff Lynch dated 8-4-21 regarding Phytopia's security and emergency plans

D. Abutter Comments

- Email communication dated June 7, 2021 (with attachments) from resident John Lally, 35 Coffee Street
- Email communication dated June 21, 2021 (with attachments) from resident Leigh Knowlton, 14 Green Valley Road

E. Other Documentation

1. Mullins Rule Certification dated August 2, 2021 for Board member Matthew Hayes pertaining to the July 27, 2021 hearing.
2. Mullins Rule Certification dated August 24, 2021 for Board member Robert Tucker pertaining to the August 10, 2021 hearing.

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

- Steve Bouley, P.E, Tetra Tech – Commentary throughout the public hearing process
- Courtney Sudak, P.E. Tetra Tech – Commentary related to parking and traffic
- Jeff Komrower of Noise Control Engineering LLC, acoustic sound consultants for the Town.
- Andy Carballeira, Acentech Inc., acoustic sound consultant for the Applicant.
- Chris Sparges, Sparges Engineering Consultants, engineering consultant for the Applicant.
- Edward (Ted) Cannon, Doherty Dugan Cannon Raymond and Weil, P.C., attorney for the Applicant

- Brian Anderson of Anderson Porter Design, architect for the Applicant
- Kevin Doherty of Knoll Environmental LLC, environmental consultant for the Applicant
- Peter D’Agostino, Tenax Strategies, Inc. regulatory consultant for the Applicant
- Daniel Dumais, P.E. MDM Transportation Consultants, traffic consultant for the Applicant
- Former Norfolk County Sheriff Jerry McDermott and Retired State Police Major Pat Russolillo, security consultants for the Applicant
- Medway Conservation Agent Bridget Graziano
- Resident John Lally, 35 Coffee Street
- Resident Leigh Knowlton, 14 Green Valley Road

VI. FINDINGS

The Planning and Economic Development Board, at its meeting on _____, on a motion made by _____ and seconded by _____, voted to _____ the following **FINDINGS** regarding the special use permit application for a marijuana facility at 6 Industrial Park Road. The motion was _____ by a vote of _____ in favor and _____ opposed.

REGISTERED MEDICAL MARIJUANA FACILITIES SPECIAL PERMIT FINDINGS

(Sub-Section 8.9 of the Zoning Bylaw)

- (1) Section 8.9.E(1) and (2) and (3) and (5). The registered medical marijuana facility will be contained within an established building located at 6 Industrial Park Road and its associated addition which are located in the East Industrial zoning district where such facilities may be authorized by special permit. This is and will be a permanent stand-building which does not contain any residential uses or medical doctors’ offices or offices of other professional practitioners’ authorized to prescribe the use of medical marijuana. The site will include driveways, parking areas, utility systems, sidewalks and stormwater management facilities. The facility is not located within 500 feet of any lot with an existing public or private school serving students in grades K-12. Retail sales are prohibited at this site.
- (2) Concurrent with the Board’s review of the special permit application, the Board is also reviewing a major site plan for the property, which is still pending before the Board.
- (3) Section 8.9.E (4). The hours of operation are as prescribed in Specific Condition ____.
- (4) Section 8.9.E(6) and (7) As conditioned herein (Specific Condition ____) and as required by the *Zoning Bylaw*, smoking, burning and consumption of marijuana or marijuana-infused products on the premises is not allowed, and drive-through service is not allowed.
- (5) As conditioned in Specific Condition ____, any signage for the facility shall comply with Section 8.9.F and Section 7.2 of the *Zoning Bylaw*.
- (6) As conditioned in Specific Condition ____, the Permittee shall provide the contact information for management staff and key holders of the facility to Town officials as indicated in Section 8.9.G.

- (7) As conditioned in Specific Conditions ____, the Board finds that the operation of a registered medical marijuana facility will not create a nuisance to abutters or to the surrounding area or create any hazard. Both the Applicant and the Town have contracted with noise and odor consultants during the permitting process. The Applicant has prepared a noise mitigation plan which has been reviewed by the Town's noise consultant. It will be implemented in accordance with Specific Condition ____ herein. The Applicant has also provided an odor control plan which will be implemented in accordance with Special Condition ____ herein. As conditioned herein, any non-compliance will be addressed through zoning enforcement.

The Board has been briefed on the hazardous waste incident which occurred prior to the Applicant's ownership of the property for which the Applicant is actively pursuing clean-up in accordance with State law. Environmental clean-up will be ongoing under the guidance of the Applicant's Licensed Site Professional with oversight by the Town Boards and Commissions with jurisdiction over the project, agreeing in writing in advance on each step in the clean-up process.

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This language provided by the Applicant's attorney Ted Cannon

- (8) As conditioned in Specific Condition ____, the facility shall meet the Openness of Premises requirements of Section 8.9.I. No activities within the building or displays of products will be visible from the exterior of the building. The front of the building, which includes the primary entrance to the facility, is fully visible from the site's frontage on Industrial Park Road. All operations will be within the restricted building.
- (9) This special permit authorizes only the cultivation, processing and packaging of marijuana for medical use. Retail sale of medical marijuana is not allowed in this zoning district.
- (10) As conditioned in Specific Condition ____, copies of required licenses and permits issued by the Commonwealth will be provided upon approval by the Massachusetts Cannabis Control Commission. The registered medical marijuana facility will be operated in strict compliance with Massachusetts Cannabis Control Commission regulations.
- (11) The special permit application and associated documents include the submittals required in Section 8.9 J.4 of the Zoning Bylaw.

- Medway Flower, LLC is the record owner of the property as shown on the Medway Assessor's records as documented in a quitclaim deed from Alexander S. Athanas of Peabody, MA recorded at the Norfolk County Registry of Deeds, Book 36836, Pages 269 and 270, on May 30, 2019.

The Applicant, Phytopia, LLC will be a tenant in the subject property and building pursuant to a lease dated December 31, 2020 with Medway Flower LLC. Accordingly, the Applicant has the right to use the site for a registered marijuana establishment.

- The Applicant has provided a sworn statement disclosing the owner's or other similarly situated individuals' interest in the registered marijuana establishment.
- A certified list of all abutter and parties of interest was provided.

- A site plan was submitted and is under review by the Board, the Conservation Commission and the Town's consultants. A detailed floor plan of the premises showing the functional areas of the facility has also been provided. The facility's security plan including lighting, fencing, gates and alarms was submitted and provided to the Police and Fire Chiefs during the permitting process.
 - The Applicant has informed the Board that the policies/procedures for the transfer, acquisition, or sale of medical marijuana between approved RMMF's (seed-to-sale tracking) has been standardized and is now regulated via oversight by the Cannabis Control Commission through METRC, a national cannabis supply chain tracking and monitoring company.
 - A comprehensive noise mitigation plan prepared by Acentech, Inc. a qualified acoustical consultant has been provided. It has been reviewed by the Town's noise consultant, Noise Control Engineering. The plan was revised, re-submitted and re-reviewed. It will be implemented in accordance with Specific Condition ___ herein. The planned noise mitigation measures are expected to enable the facility to meet the Town's noise standards as included in Section 7.3 of the *Zoning Bylaw* and as further specified herein. As conditioned herein, any non-compliance will be addressed through zoning enforcement.
 - A comprehensive odor mitigation plan prepared by the Applicant's odor consultant, BLW Engineers, Inc., was submitted to the Board and reviewed by Straughan Forensic, LLC, the Board's odor consultant. The odor mitigation plan was revised, re-submitted and re-reviewed. It will be implemented in accordance with Specific Condition ___ herein. As conditioned herein, any non-compliance will be addressed through zoning enforcement.
- (12) The registered medical marijuana establishment, as conditioned herein, has been designed to minimize adverse visual or economic impacts on abutters and other parties in interest.
- (13) As conditioned herein, the proposed facility will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.
- (14) As conditioned herein, the Applicant has satisfied the conditions and requirements of this Section 8.9 and Section 3.4 of the *Zoning Bylaw*.

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

- (1) Section 8.10.E.(1) and (2). The recreational marijuana establishment will be contained within an established building located at 6 Industrial Park Road and its associated addition which are located in the East Industrial zoning district where such facilities may be authorized by special permit. This is and will be a permanent stand-building which does not contain any residential uses or medical doctors' offices or offices of other professional practitioners' authorized to prescribe the use of medical

marijuana. The site will include driveways, parking areas, utility systems, sidewalks and stormwater management facilities. Retail sales are prohibited at this site.

- (2) Section 8.10.E(4). None of the uses listed in Section 8.10 E. 4. of the *Zoning Bylaw* (public or private school serving students in grades K-12) are located within 500 feet of the site of the proposed facility.
- (3) Section 8.10.E.(5) and (6). As conditioned herein (Specific Condition ____), and as required by the *Zoning Bylaw*, smoking, burning and consumption of marijuana or marijuana-infused products on the premises is not allowed, and drive-through service is not allowed.
- (4) As conditioned herein (Specific Condition ____), any signage for the facility shall comply with Section 8.10.F and Section 7.2 of the *Zoning Bylaw*.
- (5) As conditioned herein (Specific Condition ____), the Permittee shall provide the contact information for management staff and key holders of the facility to Town officials.
- (6) As conditioned herein (Specific Condition ____), the Board finds that the operation of the recreational marijuana establishment will not create a nuisance to abutters or to the surrounding area or create any hazard. Both the Applicant and the Town have contracted with noise and odor consultants. The Applicant has prepared a noise mitigation plan which has been reviewed by the Town's noise consultant. It will be implemented in accordance with Specific Condition ____ herein. The Applicant has also provided an odor control plan which will be implemented in accordance with Specific Condition ____ herein.

The Board is requiring on-going noise and odor monitoring to ensure compliance with the Town's requirements. See Specific Conditions ____ and ____ in, any non-compliance will be addressed through zoning enforcement.

- (7) The existing building meets the requirements for "openness of premises" since no activities within the building or displays of products are visible from the exterior of the building and the front of the building, which includes the primary entrance to the facility, is fully visible from the site's frontage. All operations will be within the restricted building
- (8) The special permit authorizes only the following adult recreational marijuana establishment activities: cultivation, manufacturing, processing and packaging of marijuana and marijuana products, and the transport and delivery of such to other recreational marijuana establishments. Retail sales and marijuana social establishments are not allowed pursuant to the *Zoning Bylaw*.
- (9) As conditioned herein (Specific Condition ____), copies of required licenses and permits issued by the Commonwealth will be provided upon approval by the Massachusetts Cannabis Control Commission. The recreational marijuana operation will be operated in strict compliance with Massachusetts Cannabis Control Commission regulations.
- (10) Medway Flower, LLC is the record owner of the property as shown on the Medway Assessor's records as documented in a quitclaim deed from Alexander S. Athanas of

Peabody, MA recorded at the Norfolk County Registry of Deeds, Book 36836, Pages 269 and 270, on May 30, 2019.

The Applicant, Phytopia, LLC will be a tenant in the subject property and building pursuant to a lease dated December 31, 2020, with Medway Flower, LLC. Accordingly, the Applicant has the right to use the site for a registered marijuana establishment.

- (11) The Applicant has provided a sworn statement disclosing the owner's or other similarly situated individuals' interest in the registered marijuana establishment.
- (12) A certified list of all abutter and parties of interest was provided as part of the application submittal documents.
- (13) A site plan was submitted and is under review by the Board, the Conservation Commission and the Town's consultants. A detailed floor plan of the premises showing the functional areas of the facility has also been provided. The facility's security plan including lighting, fencing, gates and alarms was submitted and provided to the Police and Fire Chiefs for review during the permitting process.
- (14) The Applicant has informed the Board that the policies/procedures for the transfer, acquisition, or sale of medical marijuana between approved RMMF's (seed-to-sale tracking) has been standardized and is now regulated via oversight by the Cannabis Control Commission through METRC, a national cannabis supply chain tracking and monitoring company.
- (15) A comprehensive noise mitigation plan prepared by the Applicant's noise consultant, Acentech, Inc. was submitted and reviewed by Noise Control Engineering, the Board's noise consultant. The plan was revised, re-submitted, and re-reviewed. The planned noise mitigation measures are expected to enable the facility to meet the Town's noise standards as included in Section 7.3 of the *Zoning Bylaw* and further clarified herein. As conditioned herein (Specific Condition ____), any non-compliance will be addressed through zoning enforcement.
- (16) A comprehensive odor mitigation plan prepared by the Applicant's odor consultant, BLW Engineers, Inc., was submitted to the Board and reviewed by Straughan Forensic, LLC, the Board's odor consultant. As conditioned herein (Specific Condition ____), any non-compliance will be addressed through zoning enforcement.
- (17) The adult recreational marijuana establishment, as conditioned herein, (Specific Conditions ____), has been designed to minimize adverse visual or economic impacts on abutters and other parties in interest.
- (18) As conditioned herein, the proposed facility will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.
- (19) As conditioned herein, the Applicant has satisfied the conditions and requirements of this Section 8.10 and Section 3.4 of the *Zoning Bylaw*.

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

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

Sections 8.9 and 8.10 of the Zoning Bylaw and Table 1 – Schedule of Uses specifies that registered medical marijuana facilities and non-retail recreational marijuana establishments are allowed by special permit in the East and West Industrial zoning districts. The subject site at 6 Industrial Park Road is located within the East Industrial zoning district and is therefore an eligible location for the proposed use. Further, the site is not located within 500 feet of any of the uses from which marijuana establishments are prohibited (existing public or private school serving students in grades K-12). The site includes an existing industrial building constructed in 1973.

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

The recreational and medical marijuana cultivation and processing uses will occur within the existing industrial building at 6 Industrial Park Road and a planned addition. The project has been reviewed by the Town's engineering, noise and odor consultants. This special permit is conditioned (Specific Condition ___) on the Permittee's receipt of major site plan approval, a reduced parking special permit, and a groundwater protection special permit which have yet to be issued.

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

As conditioned in Specific Conditions ___, the Board finds that the operation of a registered medical marijuana facility will not create a nuisance to abutters or to the surrounding area or create any hazard. Both the Applicant and the Town have contracted with noise and odor consultants during the permitting process. The Applicant has prepared a noise mitigation plan which has been reviewed by the Town's noise consultant. It will be implemented in accordance with Specific Condition ___ herein. The Applicant has also provided an odor control plan which will be implemented in accordance with Special Condition ___ herein. As conditioned herein, any non-compliance will be addressed through zoning enforcement.

The Board has been briefed on the hazardous waste incident which occurred prior to the Applicant's ownership of the property for which the Applicant is actively pursuing clean-up in accordance with State law. Environmental clean-up will be ongoing under the guidance of the Applicant's Licensed Site Professional with oversight by the Town Boards and Commissions with jurisdiction over the project, agreeing in writing in advance on each step in the clean-up process.

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

The proposed facility is expected to have up to 87 employees. The planned parking configuration provides for 92 vehicles. As the facility will not have a retail operation, non-employee traffic to the site will be minimal. Industrial Park Road is adequate to handle the routine employee traffic. The site's access is from Main Street/Route 109,

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a major east-west arterial roadway, so there is no traffic impact on local residential roadways. Pursuant to Condition ____, the Applicant is required to staff the facility with 2 or 3 shifts with 30-minute intervals between shifts to minimize parking overlap and maximize parking available onsite for employees. No offsite parking is permitted.

- (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 Applicant, as a condition of receiving these special permits prior to completion of the Board's review of the Major Site Plan, Reduced Parking, and Groundwater Protection applications, has agreed that the conditions imposed by the Board in these other applications shall also apply to this special permit decision. (See Specific Condition ____). Further, the Applicant has agreed to comply with the new Environmental Standards, Section 7.3 of the Zoning Bylaw, as approved by Medway Town Meeting on 11-15-21.

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

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

The Board heard testimony from residential abutters and neighbors about their concerns regarding adverse noise and odor conditions which may emanate from the proposed facility. The Board contracted with outside consultants specializing in noise and odor control to review and provide guidance as to how to minimize potential noise and odors. The final site plan will include extensive and rigorous measures to ensure that the impacts are minimal at best. The Applicant will be held to the recently amended environmental standards included in Section 7.3 of the Zoning Bylaw. The Cannabis Control Commission requires its Applicants to also meet the MA DEP noise standards. Measures to address other types of potential impacts (lighting, flooding, dust, vibration, refuse materials, etc.) will also be included in the site plan decision. As conditioned herein, the Board finds that reasonable measures will be taken such that this particular industrial use will not adversely affect the surrounding neighborhood.

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

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

rigorously reviewed by the Board and its consultants, and as conditioned herein, it meets the purpose of the Zoning Bylaw.

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

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

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

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

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

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

SPECIFIC CONDITIONS OF APPROVAL

- A. All standard requirements included in Sections 8.9 and 8.10 of the *Zoning Bylaw* apply to this special permit. These include but are not limited to:
1. Prior to commencing operations on the property to cultivate and process marijuana for adult recreational and medical uses, the Permittee shall provide the Building Commissioner, Health Agent, Fire Chief, Police Chief, and the Board with a copy of the applicable state marijuana establishment licenses, permits, and approvals from the Massachusetts Cannabis Control Commission.
 2. The Permittee shall provide the Medway Police and Fire Departments, Building Commissioner, and the Board with the names, telephone numbers, and email addresses of all management staff and key holders to whom the Town can provide notice if there are operating problems associated with the establishment.
 3. The Permittee shall provide an annual report of Phytopia LLC to the Board and other Town officials no later than January 31st of each year, including a copy of all current state licenses and demonstrating continued compliance with the conditions of this special permit. Any change in ownership of Phytopia, LLC or change in management staff and key holders shall also be reported.
 4. This special permit is not transferrable to another party. It shall remain exclusively with the Permittee, Phytopia, LLC, as the operator of a recreational (adult use) marijuana establishment and a non-retail registered medical marijuana facility on the premises.

5. Smoking, burning and consumption of marijuana or marijuana infused products on the premises is prohibited.
 6. The Permittee shall notify the Building Commissioner, Health Agent, Fire Chief, Police Chief, and the Board in writing within forty-eight hours of the cessation of operation of the marijuana business or the expiration or termination of the license holder's certificates or registration with the Massachusetts Cannabis Control Commission.
 7. The Permittee shall fulfill the *Openness of Premises* requirements as specified in Sections 8.9 and 8.10 of the *Zoning Bylaw*.
- B. **Compliance with Other Permits** - This special permit is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies or commissions including the Planning and Economic Development Board and the Conservation Commission for the other pending permits including but not limited to site plan approval, groundwater protection special permit, reduced parking special permit, Order of Conditions, and a land disturbance permit.
- C. **Host Community Agreement** - There shall be a valid Host Community Agreement with the Town of Medway in effect at all times during the operation of this marijuana establishment.
- D. **Hours of Operation** – The hours of operation may be up to 24 hours a day, seven days a week. Staffing shall be split into 2 or 3 different shifts separated by at least 30 minutes to reduce parking overlap.
- E. **Nuisance** – The Permittee shall construct and maintain the property and establishment so as to not create a nuisance to abutters or to the surrounding area, or create any hazard, including but not limited to fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure, or dwelling in the area. The Permittee shall comply with Section 7.3 of the *Zoning Bylaw*, as recently amended at the November 15, 2021 Town Meeting.
- F. **Noise Management**
1. The Permittee shall install and maintain at all times effective noise reduction equipment for the property to comply with Section 7.3 of the *Zoning Bylaw* as recently amended as well as the Massachusetts Department of Environmental Protection (MA DEP) noise requirements as established in 310 CMR 7.10. The Permittee will achieve compliance through industry best practices and suitable noise abatement measures. The Permittee shall ensure proper maintenance of all noise abatement equipment to ensure maximum efficiency and effectiveness and ongoing compliance.
 2. Approximately six months after beginning operations under this Special Permit, the Permittee shall provide a supplemental noise study to the Building Commissioner, Health Agent and Board so as to determine compliance with the *Zoning Bylaw* and any conditions set forth herein as to noise. The Building

Commissioner, Health Agent or Board may forward the plan to the Town's noise consultant for review and comment, at the Permittee's expense.

3. The Permittee shall be required to implement additional noise mitigation measures if the facility is non-compliant with the *Zoning Bylaw* and the MA DEP Noise Policy.
4. The Permittee shall annually submit a certification by a registered professional mechanical engineer that there are no changes in the installed mechanical equipment which may impact the noise emanating from the facility. Such certification shall be provided to the Building Commissioner, Health Agent and the Board.
5. The Building Commissioner, in enforcing the conditions contained herein, may require the Permittee to provide additional noise studies by a qualified noise consultant and/or implement additional mitigation measures should legitimate concerns or complaints develop in the future about noise generation from the facility. The Building Commissioner, Health Agent or Board may forward the plan to the Town's noise consultant for review and comment, at the Permittee's expense. The Permittee may further be required to address such issues with the Board to its satisfaction.

G. Odor Management

1. The Permittee shall install and maintain at all times effective odor control technology to remove odors from the facility's exhaust system to comply with Section 7.3 of the *Zoning Bylaw* as recently amended by the 11-15-21 Town Meeting. The Permittee will achieve compliance through industry best practices and suitable building filtration systems. The Permittee shall maintain all odor migration equipment to ensure maximum efficiency and effectiveness and ongoing compliance.
2. The *Odor Control Approach* (odor mitigation plan) by BLW Engineers submitted to the Board does not include mechanical drawings for the odor management system. At such time as the mechanical drawings are available, they shall be submitted to the Board for review by the Board's odor consultant, at the Permittee's expense, to determine if they comply with the Town's odor requirements.
3. The June 16, 2021 review letter from Straughan Forensic, LLC, the Board's odor consultant, identifies a number of issues and information missing from the Applicant's odor mitigation plan. The noted letter is attached and made a part of this decision. The odor mitigation plan shall be revised to fully address these items and to comply with recently updated odor standards included in Section 7.3 of the *Zoning Bylaw* and shall be submitted to the Board for review and further revision, if needed. The Permittee's submittal to the Cannabis Control Commission shall indicate that the odor control system must comply with Section 7.3 of the *Zoning Bylaw*.

4. If the Cannabis Control Commission requires changes to the Permittee's odor mitigation plan, the Permittee shall inform the Board and the changes shall be reviewed by the Town's odor consultant at the Permittee's expense.
5. Prior to the issuance of an occupancy permit by the Medway Building Department, the Permittee shall provide a certification made by a licensed engineer that the odor mitigation measures included in the approved plan have been installed. Additional odor mitigation measures may be required if determined to be necessary by the Building Commissioner.
6. For each of the two successive years following occupancy, the Permittee shall annually submit a certification by a registered professional engineer to address all maintenance and changes in the mechanical equipment that has been installed to control the odor emanating from the facility. Such certification shall be provided to the Building Commissioner, Health Agent and the Board.
7. The Building Commissioner, in enforcing the conditions herein, may require additional odor investigations and/or odor mitigation measures should legitimate concerns and complaints develop in the future about odor generation from the facility. Permittee may further be required to address such issues with the Board to its satisfaction.

H. **Water Use and Conservation**

1. The development is relying on the Town's public water system and the Town is being held to its Water Management Act Permit with the MA Department of Environmental Protection. The Permittee shall incorporate the following water conservation measures for construction of the development:
 - a. private well water for landscape irrigation
 - b. rain-gauge controlled irrigation systems
 - c. water efficient appliances (toilets, etc.)

2. The Permittee shall not use Town water for irrigation of the site's lawn and landscaping.

- I. **Signage** – Any signs shall comply with Section 7.2 of the *Zoning Bylaw* and the respective signage requirements of Sections 8.9 and 8.10.

J. **Limitations**

1. This special permit is limited to the operation of a medical and recreational marijuana cultivation and processing establishment at 6 Industrial Park Road. This permit does not authorize operation of a retail outlet for the sale of adult recreational marijuana products or medical marijuana products, or the operation of a marijuana social establishment, or the operation of a marijuana testing facility on the premises.
2. This special permit does not relieve the Permittee from its responsibility to apply for, obtain, pay for, and comply with all other required federal, state and Town permits, licenses and approvals.
3. An approved site plan, groundwater special permit, reduced parking special permit, Order of Conditions, and a land disturbance permit are required before

Commented [BSA3]: Is this advisable given the contamination issues? Should the applicant be sinking a well?

The Applicant has asked if Town water may be used on a limited basis for landscape irrigation. The Board does not have the authority to approve that request. The Board has previously discussed directing roof runoff and greywater for irrigation.

any building permits can be issued or site work undertaken except for “white box” construction approved by the Town of Medway Building Commissioner and all environmental clean-up work in accordance with MA DEP requirements.

4. This special permit shall expire on December 1, 2022 if the Permittee has not secured the Board’s approval of the associated major site plan, reduced parking special permit, groundwater protection permit, Order of Conditions and land disturbance permit.

GENERAL CONDITIONS OF APPROVAL

- A. **Fees** - Prior to filing the special permit decision with the Town Clerk, the Board requires the Applicant to pay:

1. the balance of any outstanding project review fees owed to the Town for review of the application by the Town’s engineering, planning, noise, odor or other consultants;
2. an advance on fees for the continued review services to be provided by outside noise and odor consultants as approved by the Planning and Economic Development Board;
3. any other outstanding expenses or obligations due the Town of Medway pertaining to this property, including real estate and personal property taxes and business licenses.

- B. **Restrictions on Construction Activities** — During construction, all local, state and federal laws shall be followed regarding noise, vibration, dust and blocking of Town roads. The Permittee and its contractors shall at all times use all reasonable means to minimize inconvenience to abutters and residents in the general area. The following specific restrictions on construction activity shall apply.

1. ~~Construction Time~~ — Construction work at the site and in the building and the operation of construction equipment including truck/vehicular and machine start-up and movement shall commence no earlier than 7 a.m. and shall cease no later than 6 p.m. Monday – Saturday. No construction shall take place on Sundays or legal holidays without the advance approval of the Building Commissioner. These rules do not apply to interior construction work such as carpentry, installation of drywall, flooring, electrical and HVAC systems, painting, etc.
2. ~~Neighborhood Relations~~ — The Permittee shall notify neighbors in the general area around the site when site work and construction are scheduled to begin and provide a phone number for them to use for questions and concerns that arise during construction.
3. The Permittee shall take all measures necessary to ensure that no excessive dust leaves the premises during construction including use of water spray to wet down dusty surfaces.
4. There shall be no tracking of construction materials onto any public way. Daily sweeping of roadways adjacent to the site shall be done to ensure that any loose gravel/dirt is removed from the roadways and does not create hazardous or

Commented [SA4]:

Not needed here. Will include in subsequent site plan decision.

~~deleterious conditions for vehicles, pedestrians or abutting residents. In the event construction debris is carried onto a public way, the Permittee shall be responsible for all clean up of the roadway which shall occur as soon as possible and in any event within twelve (12) hours of its occurrence.~~

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

C. **Construction Oversight**

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

Commented [SA5]:

Not needed here. Will include in subsequent site plan decision

~~until the site work is completed and determined to be satisfactory, review as-built plans, and advise the Board as it prepares to issue a *Certificate of Site Plan Completion*.~~

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

~~D. **On-Site Field Changes**~~

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

Commented [SA6]:

Not needed here. Will include in subsequent site plan decision

~~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.~~

B. Modification of Decision

1. Proposed modifications to this *Decision* shall be subject to review by the Board.
2. Any work that deviates from this *Decision* shall be a violation of the *Zoning Bylaw*, unless the Permittee requests approval of a modification pursuant to Section 3.5.2.A.3.c. and such approval is provided in writing by the Board.
3. The request for a modification to a previously approved special permit 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 a proposed modification, the Permittee shall be billed and be responsible for all supplemental costs including filing fees, 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.
4. 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 special permit documents.

C. Enforcement

1. 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 special permit and its Conditions of Approval.
2. The Conditions of Approval are enforceable under Section 3.1. F. of the *Zoning Bylaw* (non-criminal disposition) and violations or non-compliance are subject to the appropriate fine.

H. Performance Security

1. ~~No occupancy permit shall be granted until the Board has provided a written communication to the Building Commissioner/Zoning Enforcement Officer that the project, as constructed, conforms completely and fully to the approved site plan and that any conditions including construction of any required on and off site improvements, have been satisfactorily completed OR that suitable security/performance guarantee has been provided to the Town of Medway, to the Board's satisfaction, to cover the cost of all remaining work.~~
2. ~~The Permittee shall propose a form of performance security which shall be of a source and in a form acceptable to the Board, the Treasurer/Collector and Town Counsel. The Board requires that the performance guarantee be accompanied by~~

Commented [SA7]:

Not needed here. Will include in site plan decision.

~~an agreement which shall define the obligations of the Permittee and the performance guarantee company including:~~

- ~~a) the date by which the Permittee shall complete construction~~
- ~~b) a statement that the agreement does not expire until released in full by the Board~~
- ~~c) procedures for collection upon default.~~

~~3. The amount of the performance guarantee shall be equal to 100% of the amount that would be required for the Town of Medway to complete construction of the site infrastructure including installation of stormwater management facilities, utilities, services, pedestrian facilities and all site amenities as specified in the approved Site Plan that remain unfinished at the time the performance guarantee estimate is prepared if the developer failed to do so.~~

~~4. The security amount shall be approved by the Board based on an estimate provided by the Town's Consulting Engineer based on the latest weighted average bid prices issued by the Mass Highway Department. The estimate shall reflect the cost for the Town to complete the work as a public works project which may necessitate additional engineering, inspection, legal and administrative services, staff time and public bidding procedures. The estimate shall also include the cost to maintain the infrastructure in the event the Permittee fails to adequately perform such and the cost for the development of as-built plans. In determining the amount, the Board shall be guided by the following formula in setting the sum: estimate of the Town's Consulting Engineer of the cost to complete the work plus a 30% contingency.~~

~~5. Final release of performance security is contingent on project completion.~~

~~I. Project Completion~~

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

~~2. Prior to issuance of a final occupancy permit, the Permittee shall request a **Certificate of Site Plan Completion** from the Board. The **Certificate** serves as the Board's confirmation that the completed work conforms to the approved site plan and any conditions and modifications thereto, including the construction of any required on and off site improvements. The **Certificate** also serves to release any security/performance guarantee that has been provided to the Town of Medway. To secure a **Certificate** of Site Plan Completion, the Permittee shall:~~

- ~~a) provide the Board with written certification from a Professional Engineer registered in the Commonwealth of Massachusetts that all building and site~~

Commented [SA8]:

Not needed here. Will include in site plan decision.

~~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.~~

- D. **Right to Enter Property** – Board members, its staff, consultants or other designated agents of the Town shall have the right to enter onto the property to ascertain compliance with the terms and conditions of this special permit.
- E. **Recording** - Within thirty days of recording the Decision, the Permittee shall provide the Board and the Building Commissioner with a receipt from the Norfolk County Registry of Deeds indicating that the Decision has been duly recorded, or supply another alternative verification that such recording has occurred.
- F. **Conflicts** –If there is a conflict between this Decision and the *Zoning Bylaw*, the *Bylaw* shall apply.

IX. APPEAL – The Board and the Applicant have complied with all statutory requirements for the issuance of this Decision on the terms set forth herein. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the 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.

In accordance with G.L c. 40A, §11, no special permit shall take effect until a copy of the Decision is recorded in the Norfolk County Registry of Deeds, and indexed in the grantor index under the name of the owner of record, or is recorded and noted on the owner's certificate of title, bearing the certification of the Town Clerk that twenty days have elapsed after the Decision has been filed in the office of the Town Clerk and no appeal has been filed within said twenty-day period, or that an appeal has been filed. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. The fee for recording or registering shall be paid by the Permittee. A copy of the recorded Decision, and notification by the Permittee of the recording, shall be furnished to the Board.

_____ by the Medway Planning & Economic Development Board: _____

AYE:

NAY:

COPIES TO: Michael Boynton, Town Manager
Stephanie Carlisle, DPW Compliance Officer
Michael Fasolino, Deputy Fire Chief
Bridget Graziano, Conservation Agent
Donna Greenwood, Assessor
Beth Hallal, Health Agent
Sean Harrington, Deputy DPW Director
Jeff Lynch, Fire Chief
Jack Mee, Building Commissioner and Zoning Enforcement Officer
Pete Pelletier, DPW Director
Joanne Russo, Treasurer/Collector
Barbara Saint Andre, Director of Community and Economic Development
Alan Tingley, Police Chief
Jeff Watson, Police Department
Steven Bouley, Tetra Tech
Edward Cannon
Phytopia, LLC



November 23, 2021

**Medway Planning & Economic Development Board
Meeting**

**Cassidy Field Parking Lot Site Plan –
Informal Pre-Application Discussion**

- *Cassidy Field Parking Improvements, Winthrop Street,
dated 9-8-2021 by Tetra Tech*

DPW Director Pete Pelletier will attend the meeting to discuss this project with you.

According to Pete, the goal for the Cassidy parking lot project is to establish a clear parking layout that is ADA accessible. With the proposed parking lot improvements and the removal of parking from the riverfront area, the DPW would like to also implement some stormwater mitigation strategies that would enhance this property when dealing with stormwater runoff. Costs will be an issue with this project but the DPW hopes to make every effort to improve this area and provide improved parking facilities for the town.

Medway Department of Public Works

Cassidy Field Parking Improvements

Winthrop Street, Medway, MA

100 Nickerson Road
Marlborough, MA 01752
Phone: (508) 786-2200 Fax: (508) 786-2201



www.tetratech.com

PROJECT LOCATION:
Winthrop Street,
Medway, MA 02053

CLIENT INFORMATION:
Medway Department of Public Works
45B Holliston Street,
Medway, MA 02053

Tt PROJECT No.:
143-21583-21012

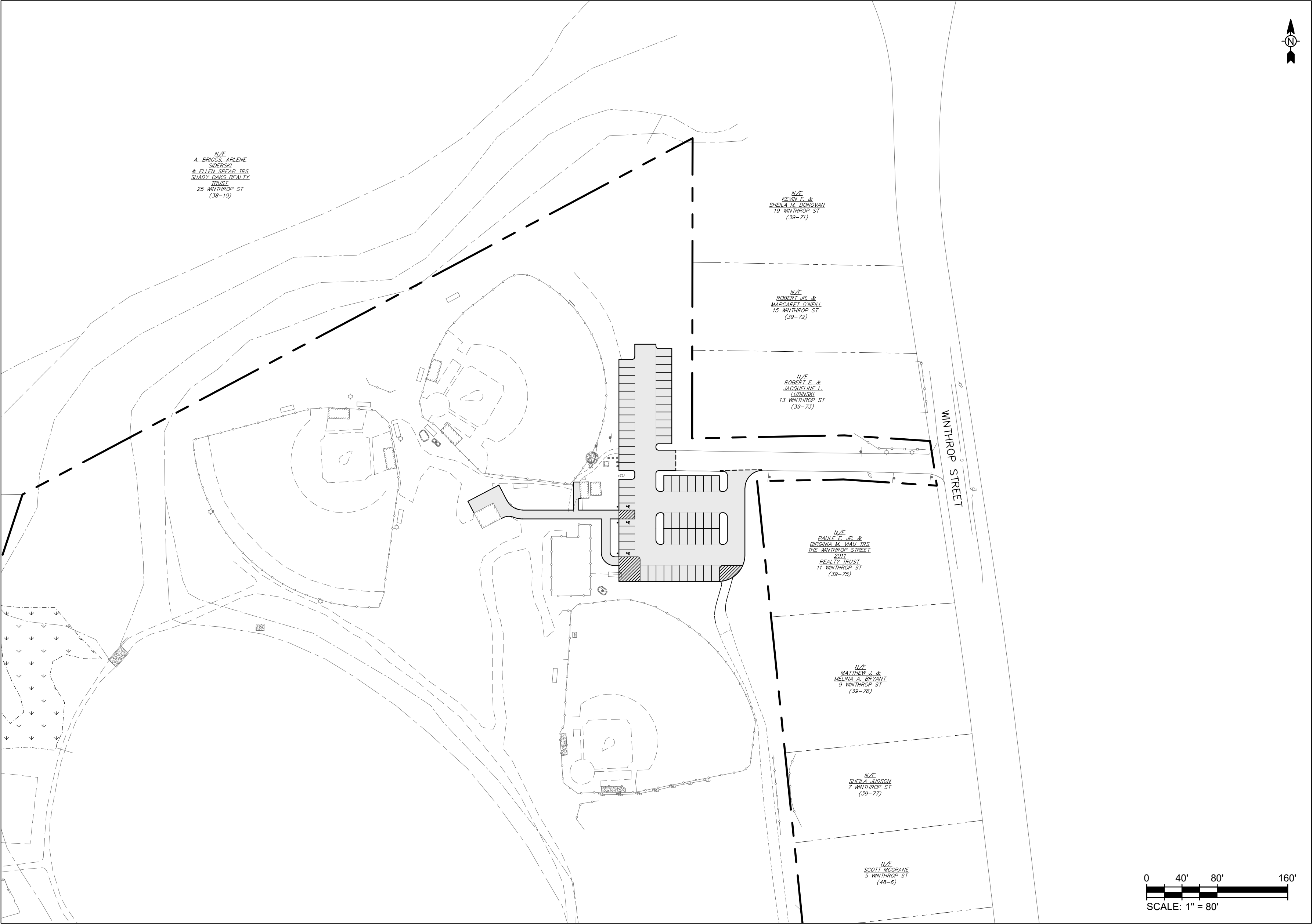
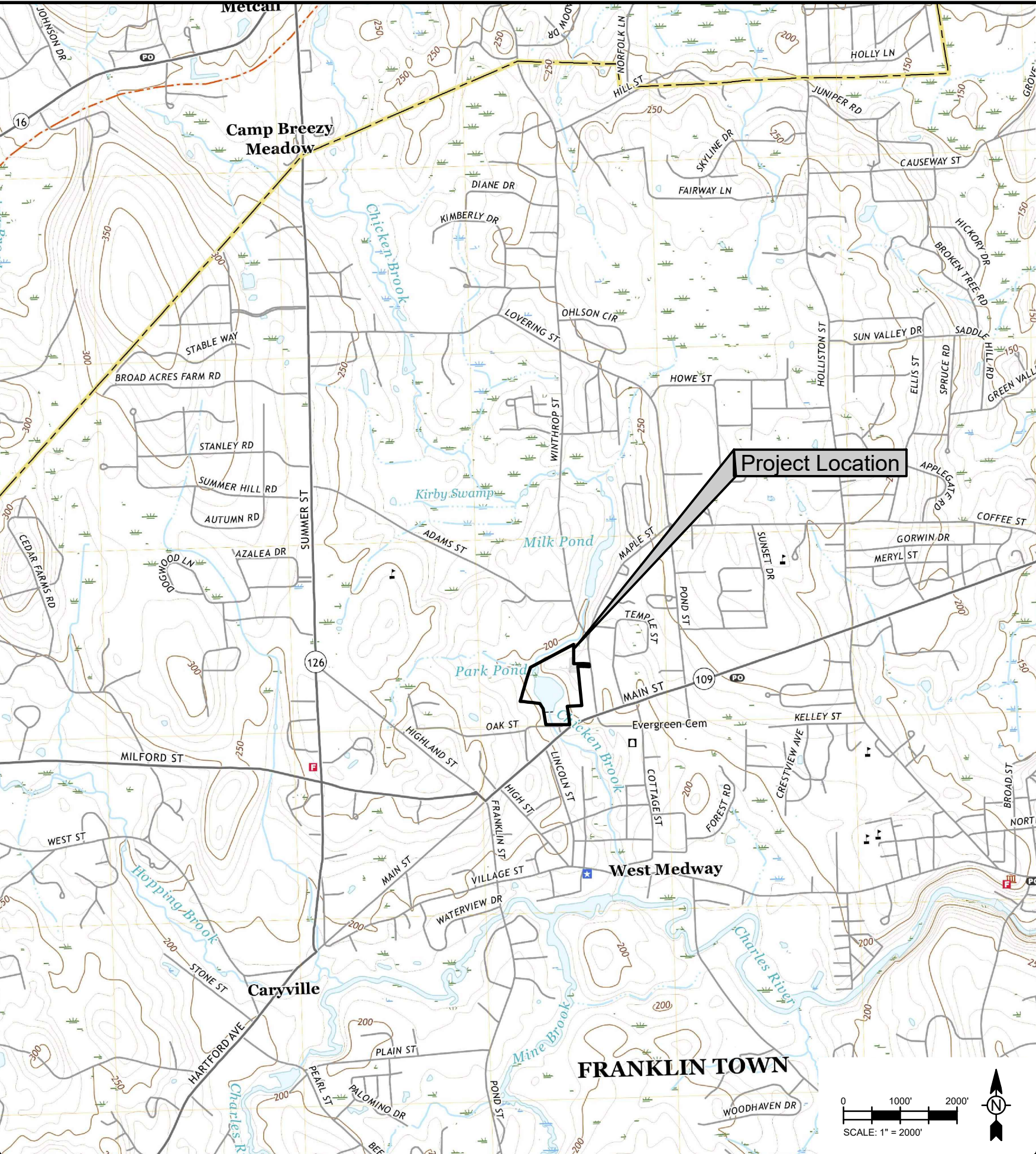
CLIENT PROJECT No.:

PROJECT DESCRIPTION / NOTES:

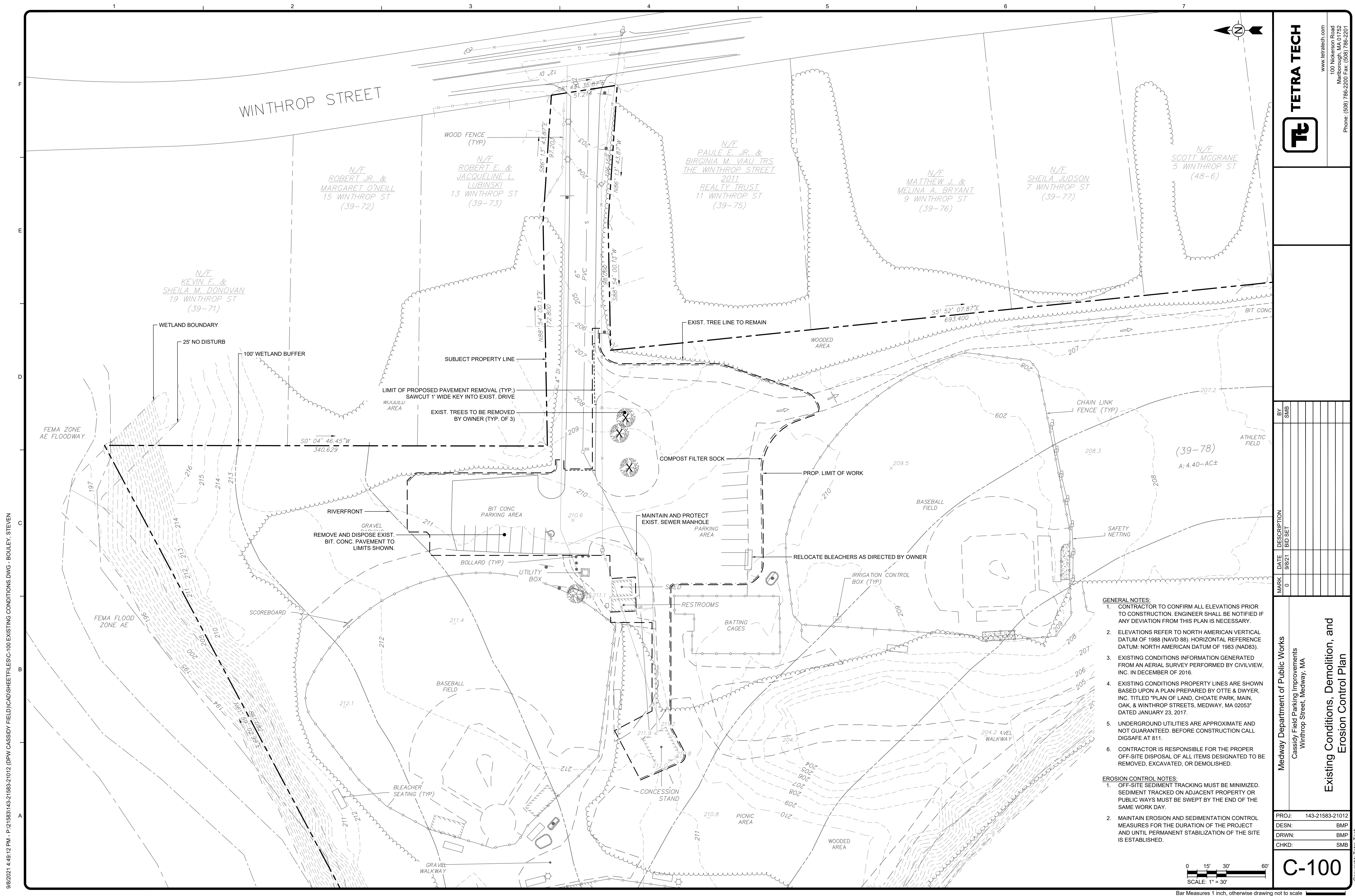
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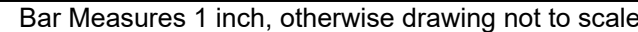
2021-09-08 - BID SET

VICINITY MAP:



SHEET NO.	SHEET TITLE
C-001	COVER SHEET
C-100	EXISTING CONDITIONS, DEMOLITION, AND EROSION CONTROL PLAN
C-101	LAYOUT AND MATERIALS PLAN
C-102	GRADING AND DRAINAGE PLAN
C-201	ADD ALTERNATE PLAN
C-301 to 302	CONSTRUCTION DETAILS





Medway Department of Public Works
Cassidy Field Parking Improvements
Winthrop Street, Medway, MA

PROJ:	143-21583-21012
DESN:	BMP
DRWN:	BMP
CHKD:	SMB

ALTERNATE 3: DEDUCT IMPROVEMENTS OF ALTERNATES 1 AND 2; SUBSTITUTE POROUS PAVEMENT FOR BIT. CONC. PAVEMENT IN PARKING LOT. (ESTIMATED AREA = 24,000 S.F.).

WINTHROP STREET

N/F
ROBERT JR. &
MARGARET O'NEILL
15 WINTHROP ST
(39-72)

WOOD FENCE _____
(TYP)

N/F
ROBERT E. &
JACQUELINE L.
LUBINSKI
13 WINTHROP S
(39-73)

N/F
PAULE E. JR. &
BIRGINIA M. VIAU TRS
THE WINTHROP STREET
2011
REALTY TRUST
11 WINTHROP ST
(39-75)

N/F
MATTHEW J. &
MELINA A. BRYANT
9 WINTHROP ST
(39-76)

N/F
SHEILA JUDSON
7 WINTHROP ST
(39-77)

N/F
SCOTT MCGRANE
5 WINTHROP ST
(48-6)

N/F
KEVIN F. &
SHEILA M. DONOVAN
19 WINTHROP ST
(39-71)

RIM:
INV. IN =
INV. OUT (ISOLATOR ROW):
INV. OUT (MANIFOLD):
SUMP =

CB-1
RIM= 209.95
INV. OUT = 207.45

CB-2
RIM = 206.80
INV. OUT = 204.30

SUBSURFACE INFILTRATION SYSTEM 2
8 ROWS OF 9 STORMTECH SC-740 CHAMBERS
(SEE DETAIL)
BOT. STONE ELEV. = 202.40

— PROP. CAPE COD BERM FROM EDGE OF
GRAVEL ROAD TO LIMIT OF PAVING

6" INSPECTION PORT (TYP.)

— ALTERNATE 2 (36' X 63',

— ALTERNATE 2 (18' X 63')

— ALTERNATE 2 (18' X 90')

GENERAL NOTES:

1. CONTRACTOR TO CONFIRM ALL ELEVATIONS PRIOR TO CONSTRUCTION. ENGINEER SHALL BE NOTIFIED IF ANY DEVIATION FROM THIS PLAN IS NECESSARY.
2. ELEVATIONS REFER TO NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88). HORIZONTAL REFERENCE DATUM: NORTH AMERICAN DATUM OF 1983 (NAD83).
3. EXISTING CONDITIONS INFORMATION GENERATED FROM AN AERIAL SURVEY PERFORMED BY CIVILVIEW, INC. IN DECEMBER OF 2016.
4. EXISTING CONDITIONS PROPERTY LINES ARE SHOWN BASED UPON A PLAN PREPARED BY OTTE & DWYER, INC. TITLED "PLAN OF LAND, CHOATE PARK, MAIN, OAK, & WINTHROP STREETS, MEDWAY, MA 02053" DATED JANUARY 23, 2017.
5. UNDERGROUND UTILITIES ARE APPROXIMATE AND NOT GUARANTEED. BEFORE CONSTRUCTION CALL DIGSAFE AT 811.
6. CONTRACTOR IS RESPONSIBLE FOR THE PROPER OFF-SITE DISPOSAL OF ALL ITEMS DESIGNATED TO BE REMOVED OR DEMOLISHED.

SITE NOTES:

1. ALL PROPOSED RADII ARE 3 FEET UNLESS OTHERWISE NOTED ON SHEET C-101.
2. ALL ON-SITE PAVEMENT MARKINGS ARE WHITE UNLESS OTHERWISE NOTED.
3. ACCESSIBLE PARKING SPACES MUST BE MARKED IN ACCORDANCE WITH ADA SPECIFICATIONS.

GRADING AND DRAINAGE NOTES:

1. GRADING OUTSIDE OF THE TIE IN LOCATIONS TO EXISTING GRADE SHOWN ON THE PLAN MUST BE MINIMIZED TO MAINTAIN EXISTING DRAINAGE PATTERNS.
2. GRADING MUST TIE INTO EXISTING GRADES AND NOT CONCENTRATE RUNOFF ONTO STEEP SLOPES, CREATE EROSION CONDITIONS, OR NUISANCE PONDING.
3. GRADING MUST SLOPE UNIFORMLY BETWEEN CONTOURS AND SPOT ELEVATIONS SHOWN.
4. SPOT ELEVATIONS ARE TO TOP OF PAVEMENT UNLESS OTHERWISE NOTED.
5. PIPE SIZES REFER TO THE INSIDE DIAMETER OF THE PIPE.
6. CONTRACTOR IS RESPONSIBLE FOR CLEANING ALL DRAIN LINES AND STRUCTURES PRIOR TO PROJECT CLOSEOUT.

SUBSURFACE INFILTRATION SYSTEM (SIS) DESIGN NOTES	
CAPACITY ANALYSIS	
10-YEAR STORM EVENT (4.86" DEPTH - TYPE III 24 HR)	
INFILTRATION RATE:	
SIS 1: 2.41 IN/HR (LOAMY SAND - TEST PIT CONFIRMED)	
PEAK FLOOD ELEVATION: 208.82'	
SIS 2: 1.02 IN/HR (SANDY LOAM - TEST PIT CONFIRMED)	
PEAK FLOOD ELEVATION: 205.18'	
INSTALLATION NOTES (SEE DETAILS SHEET C-302)	
<ul style="list-style-type: none"> FIRST ROW OF EACH SYSTEM TO BE INSTALLED AS INSULATOR ROWS. INLET INTO SYSTEM. BOTTOM OF EACH CAP AT INLET & CHAMBERS TO ALLOW FOR PROPER MAINTENANCE. SIDES AND TOP OF EXCAVATION TO BE WRAPPED IN FILTER FABRIC AS DETAILED, NO FABRIC BELOW BOTTOM STONE. 	
INSPECTION/MAINTENANCE (BY OWNER)	
<ul style="list-style-type: none"> INSPECT SYSTEM TWICE ANNUALLY OR GREATER IF SITE CONDITIONS WARRANT ADDITIONAL INSPECTIONS. CLEAN CATCH BASIN WHEN SEDIMENT ACCUMULATES TO $\frac{1}{2}$ OF PUMP DEPTH (APPROX. 24") OR MINIMUM OF ONCE ANNUALLY. CLEAN SUBSURFACE INFILTRATION BASIN SYSTEM WHEN SEDIMENT ACCUMULATES TO 3". 	



100 Nickerson Road
Marlborough, MA 01752
Phone: (508) 786-2200 Fax: (508) 786-2201

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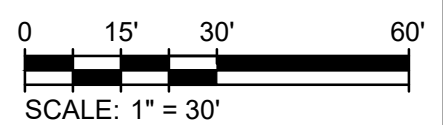
Medway Department of Public Works
Cassidy Field Parking Improvements
Winthrop Street, Medway, MA

Add Alternate Plan

PROJ:	143-21583-21012
DESN:	BMP
DRWN:	BMP
CHKD:	SMB

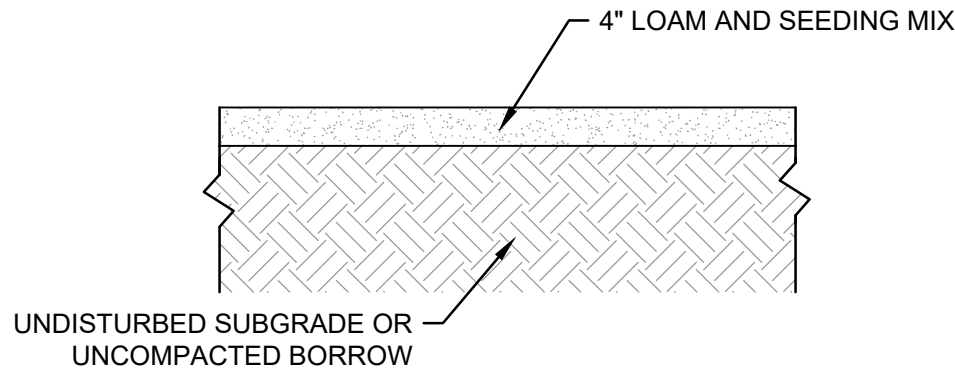
C-201

Copyright: Tetra Tech

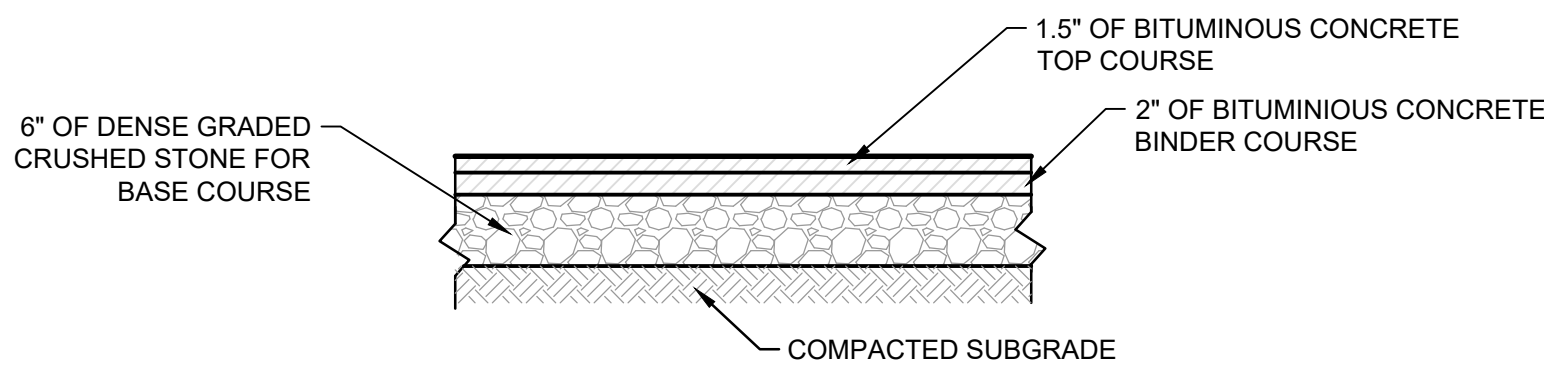


Bar Measures 1 inch, otherwise drawing not to scale

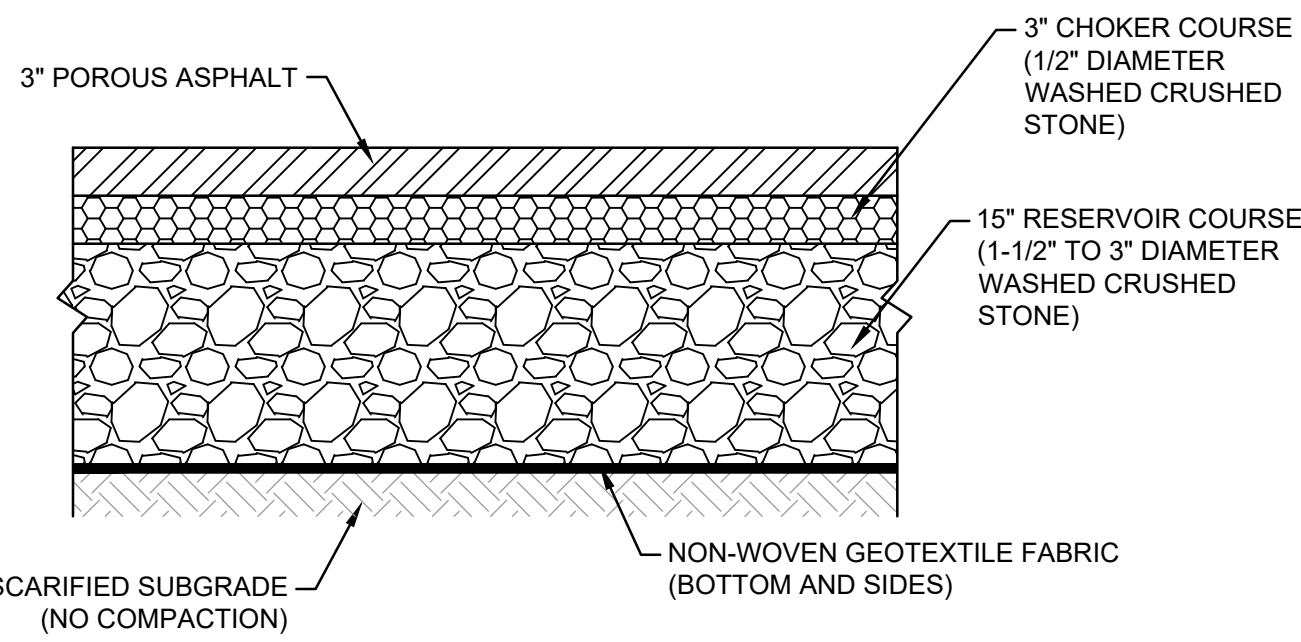
9/8/2021 4:41:08 PM - P:\21583\143-21583-21012 (DPW CASSIDY FIELD)\CAD\SHEETFILES\C-301-302 CONSTRUCTION DETAILS.DWG - BOULEY, STEVEN



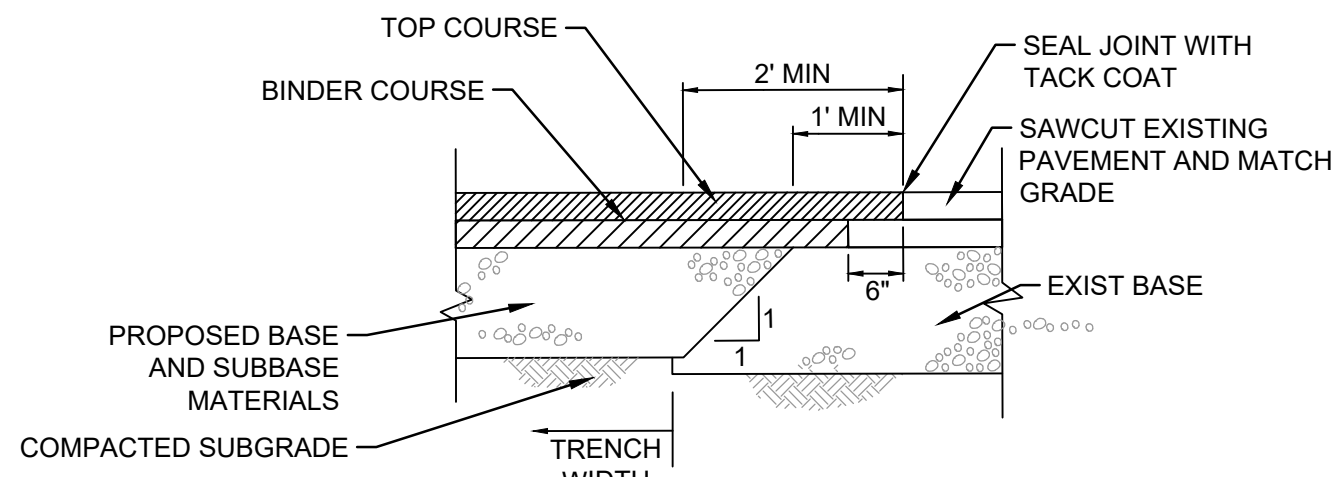
LOAM AND SEED
NOT TO SCALE



BITUMINOUS CONCRETE PAVEMENT SECTION
NOT TO SCALE



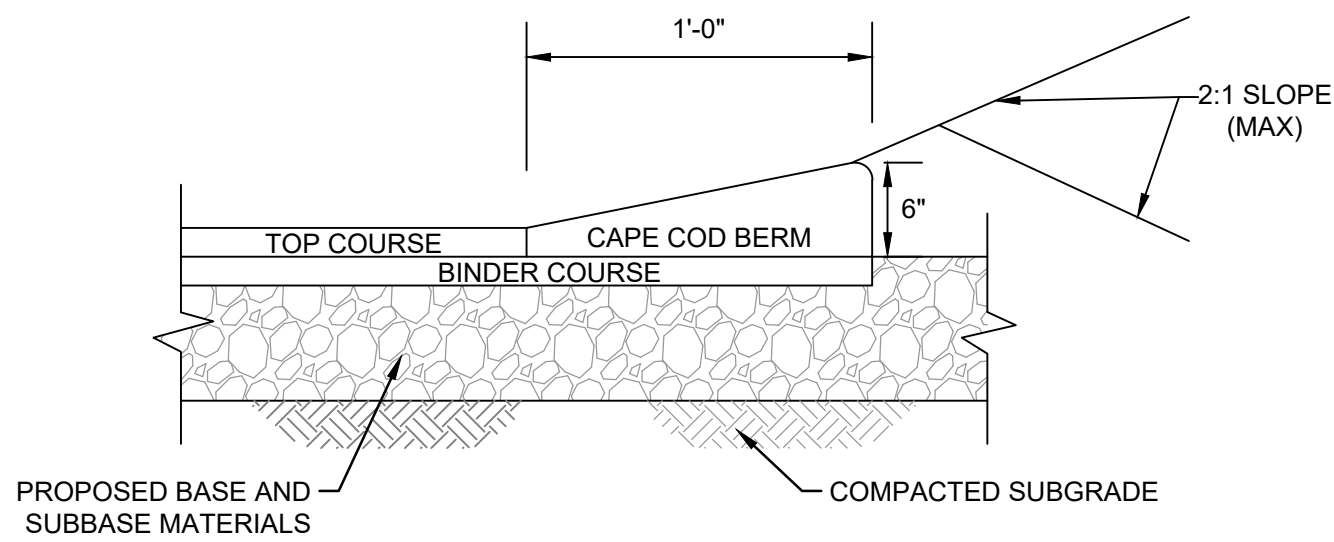
POROUS PAVEMENT SECTION
NOT TO SCALE



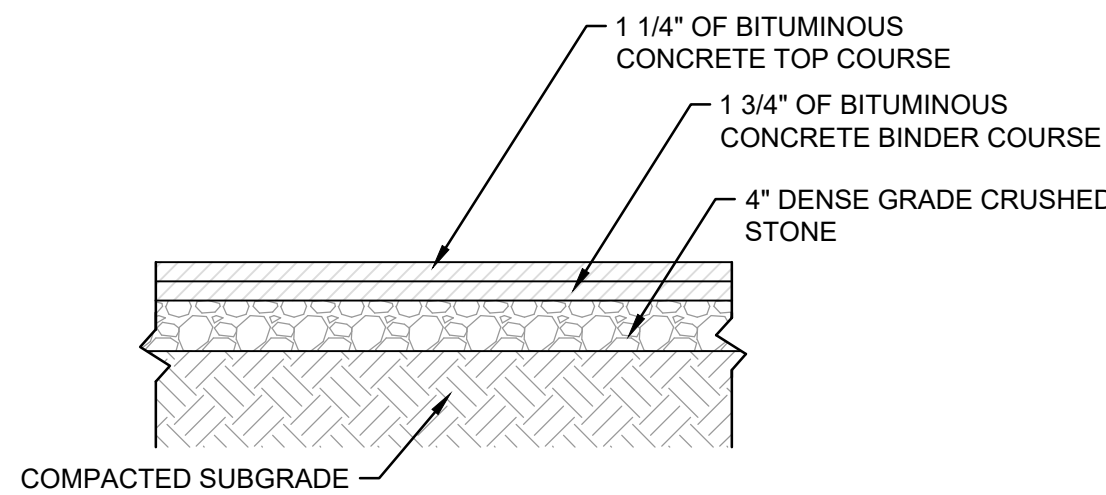
NOTES:

1. SAWCUTS MUST BE MADE PRIOR TO ANY TRENCH EXCAVATION.
2. SUBGRADE PREPARATION MUST BE IN ACCORDANCE WITH GEOTECHNICAL ENGINEER'S RECOMMENDATIONS.

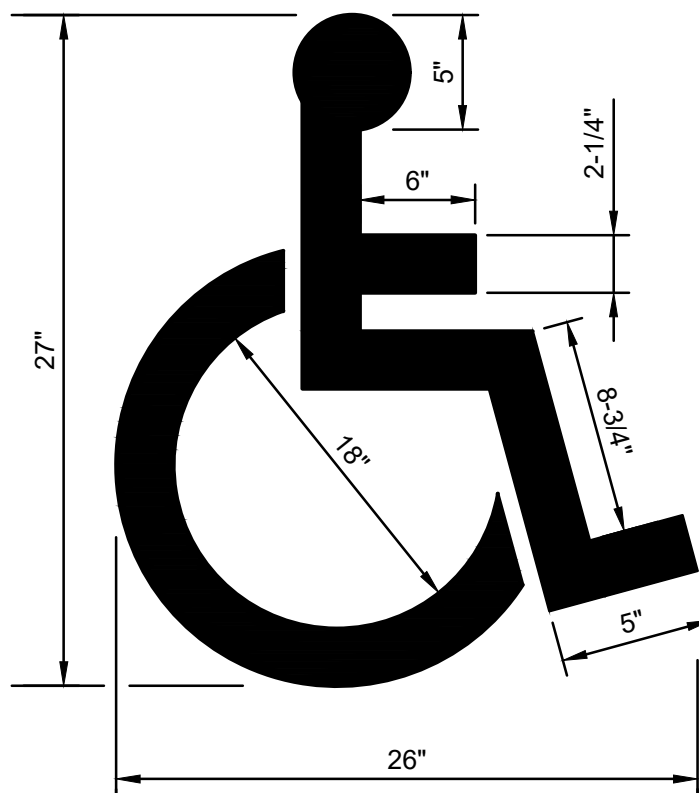
**PERMANENT BITUMINOUS CONCRETE
MATCHING TO EXISTING**
NOT TO SCALE



CAPE COD BERM
NOT TO SCALE



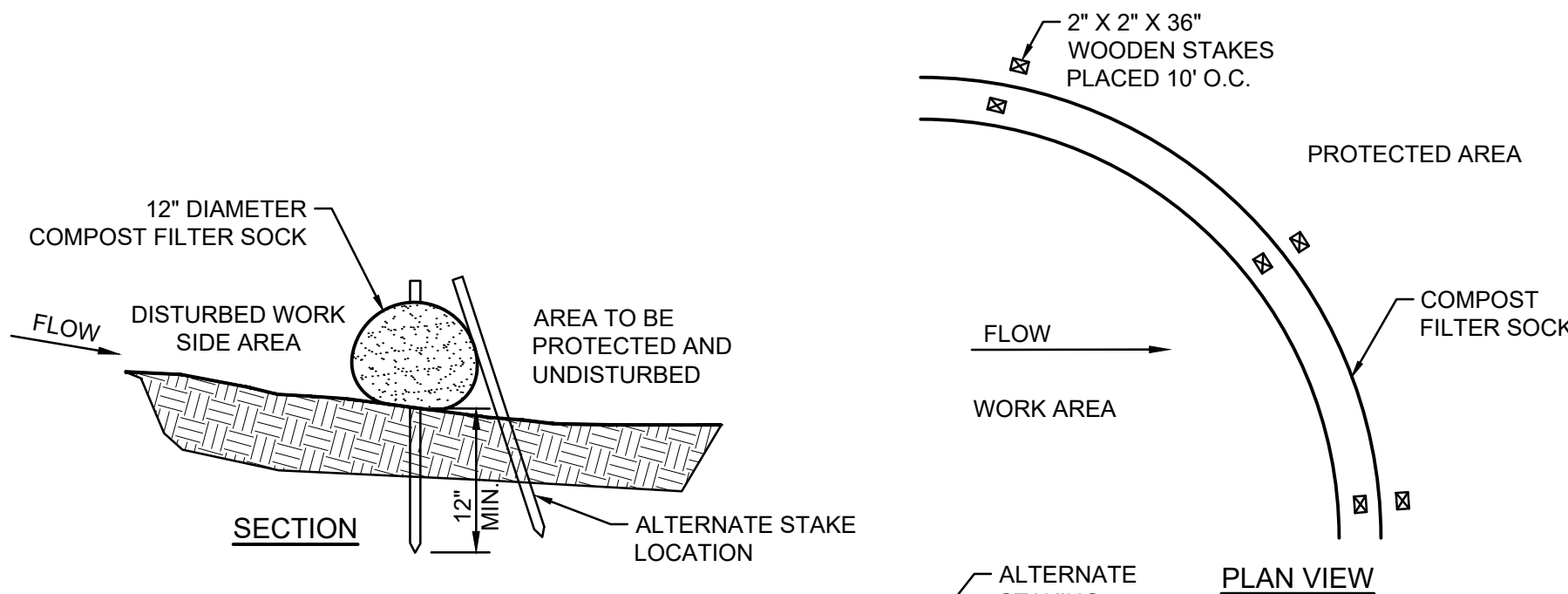
BITUMINOUS CONCRETE WALKWAY
NOT TO SCALE



NOTE:

WHITE PAVEMENT MARKING

ACCESSIBLE PARKING PAVEMENT MARKING
NOT TO SCALE



NOTES:

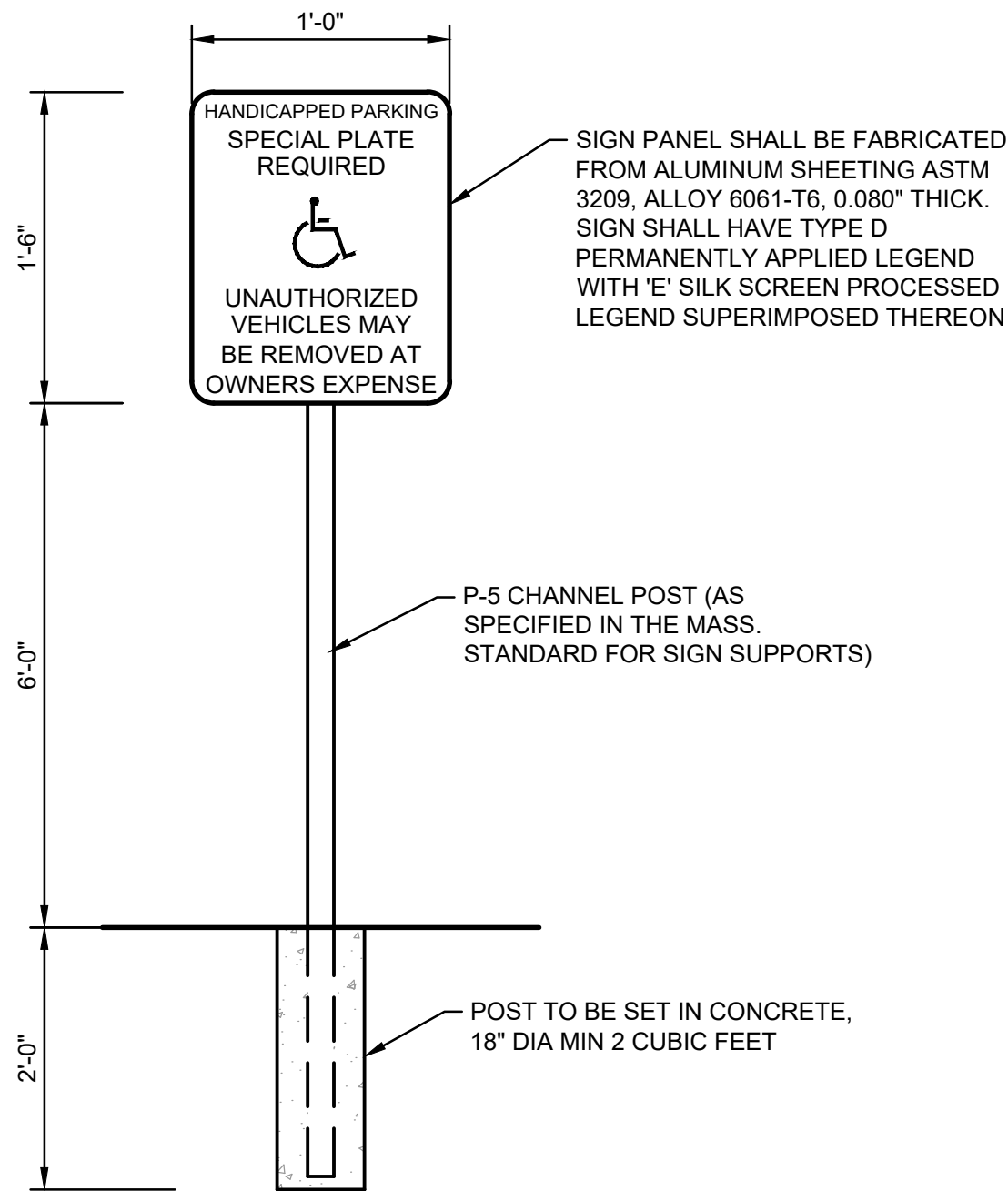
1. LINEAR SEDIMENTATION CONTROL SHALL BE PREFABRICATED COMPOST SOCK (FILTREXX SOXX) OR APPROVED EQUAL.
2. MATERIAL FOR SOCKS SHALL CONSIST OF SANITIZED MATURE COMPOST, FREE OF VIABLE WEED SEEDS AND FOREIGN DEBRIS SUCH AS GLASS AND PLASTIC. COMPOST SHALL BE IN SHREDDED OR GRANULAR FORM AND FREE FROM HARD LUMPS. IN ADDITION, NO KILN-DRIED WOOD OR CONSTRUCTION DEBRIS SHALL BE ALLOWED. CONTRACTOR SHALL REFER TO MASSDOT SPECIFICATIONS M1.06.0 FOR MATERIAL SPECIFICATIONS.
3. SOCK SHALL CONSIST OF JUTE MESH OR OTHER APPROVED BIODEGRADABLE MATERIAL.

PRACTICE: COMPOST FILTER SOCK. A COMPOST FILTER SOCK IS A TYPE OF CONTAINED COMPOST FILTER BERM CONSISTING OF A MESH TUBE FILLED WITH COMPOSTED MATERIAL THAT IS PLACED PERPENDICULAR TO SHEET-FLOW RUNOFF TO RETAIN SEDIMENT FROM DISTURBED AREAS. THE COMPOST FILTER SOCK ACTS AS A FILTER TO RETAIN SEDIMENT AND OTHER POLLUTANTS (E.G., SUSPENDED SOLIDS, NUTRIENTS) WHILE ALLOWING THE WATER TO FLOW THROUGH IT. COMPOST QUALITY MUST MEET AASHTO 2010 SPECIFICATIONS.

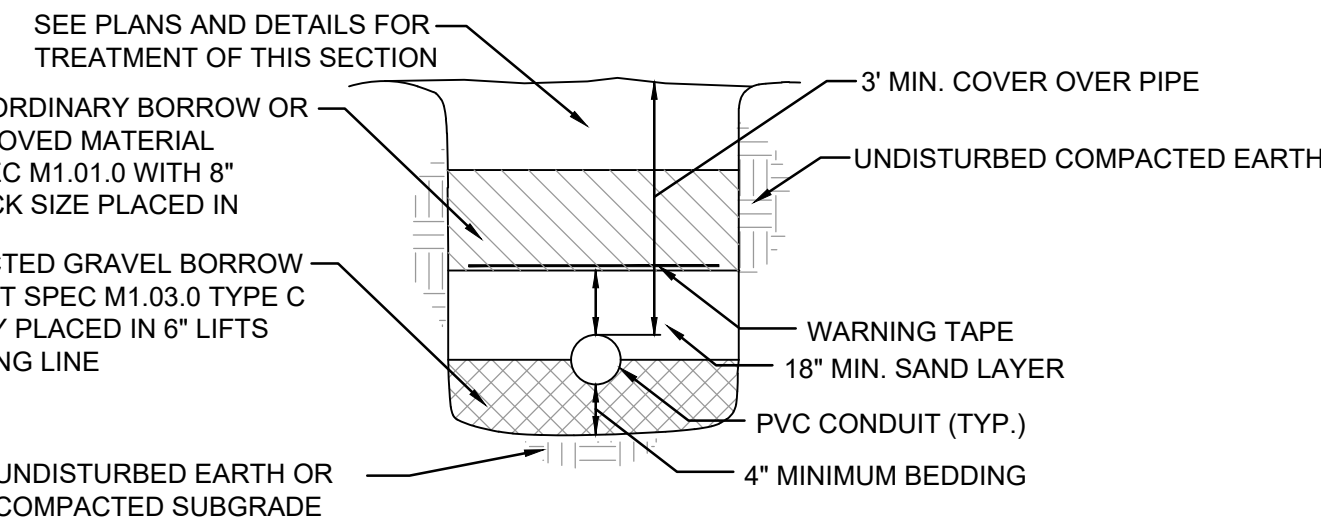
INSTALLATION: ONCE THE FILTER SOCK IS FILLED AND PUT IN PLACE, IT SHOULD BE ANCHORED TO THE SLOPE BY STAKES THROUGH THE CENTER OR OUTER EDGE OF THE SOCK AT REGULAR INTERVALS; ALTERNATIVELY, STAKES CAN BE PLACED ON THE DOWNSTREAM SIDE OF THE SOCK. THE ENDS OF THE FILTER SOCK SHOULD BE DIRECTED UPSLOPE, TO PREVENT STORMWATER FROM RUNNING AROUND THE END OF THE TUBE. THERE SHOULD BE NO GAPS BETWEEN SEGMENTS AND THE SOCK ENDS MUST OVERLAP A MINIMUM OF 6 INCHES.

MAINTENANCE: SOCKS MUST BE INSPECTED FOR SEDIMENT ACCUMULATION. IF THERE IS EXCESSIVE PONDING BEHIND THE FILTER SOCK OR ACCUMULATED SEDIMENT REACHES THE TOP OF THE SOCK, AN ADDITIONAL SOCK SHOULD BE ADDED ON TOP OR IN FRONT OF THE EXISTING FILTER SOCK IN THESE AREAS. AN ADEQUATE RESERVE OF SOCKS MUST BE KEPT ON SITE AT ALL TIMES FOR EMERGENCY AND/OR ROUTINE REPLACEMENT. SOCKS SHALL BE REMOVED ONLY AFTER EXPOSED SOILS IN THE CONTRIBUTING DRAINAGE AREA ACHIEVE FINAL STABILIZATION. SEDIMENT ACCUMULATION MUST BE REMOVED ONCE IT HAS REACHED 1/2 OF THE EXPOSED HEIGHT OF THE SOCK.

COMPOST FILTER SOCK
N.T.S.



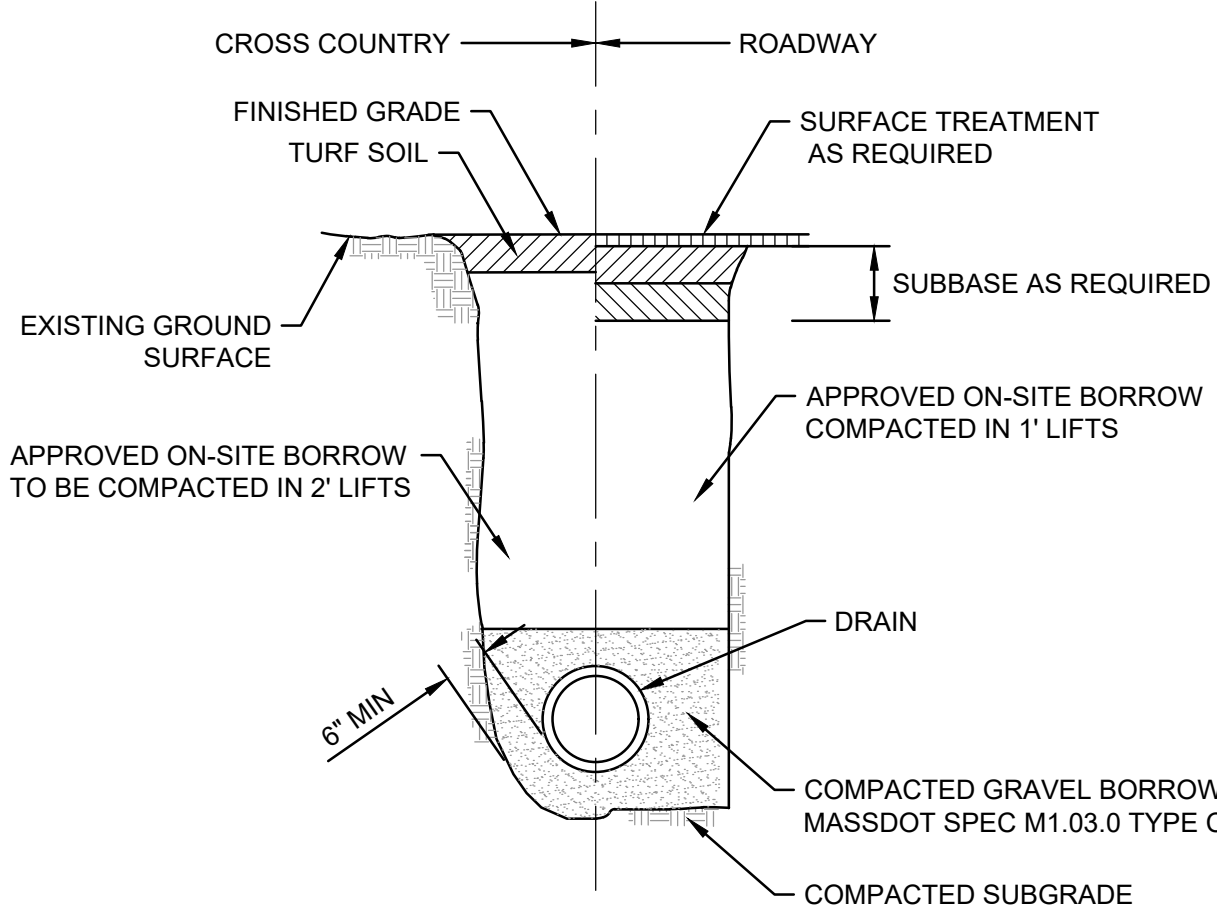
HANDICAP PARKING SIGN
NOT TO SCALE



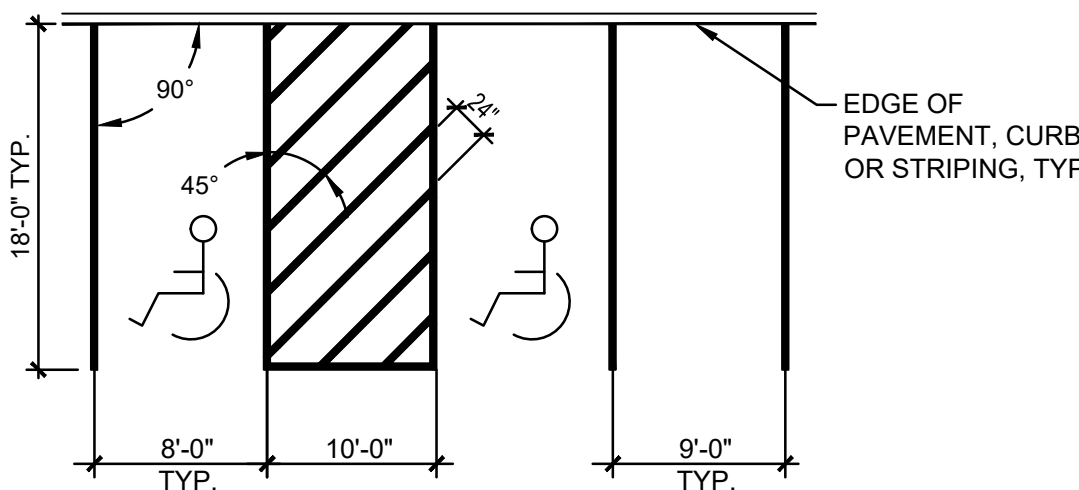
NOTES:

1. TRENCH EXCAVATION WIDTH TO ALLOW FOR FREE TRAVEL OF COMPACTION EQUIPMENT.
2. ALL COMPACTION TO A MINIMUM 95 PERCENT DRY DENSITY DETERMINED BY ASTM D1557 SEE SPECIFICATIONS FOR ADDITIONAL REQUIREMENTS.
3. AVOID HEAVY EQUIPMENT LOADS OVER PIPE DURING CONSTRUCTION.

ELECTRIC TRENCH
NOT TO SCALE



DRAIN TRENCH SECTION
NOT TO SCALE



NOTES:

1. LINE WIDTHS SHALL BE 4" UNLESS OTHERWISE INDICATED.

PARKING STALL STRIPING
NOT TO SCALE

TETRA TECH



www.tetrattech.com
100 Nickerson Road
Marlborough, MA 01752
Phone: (508) 786-2200 Fax: (508) 786-2201

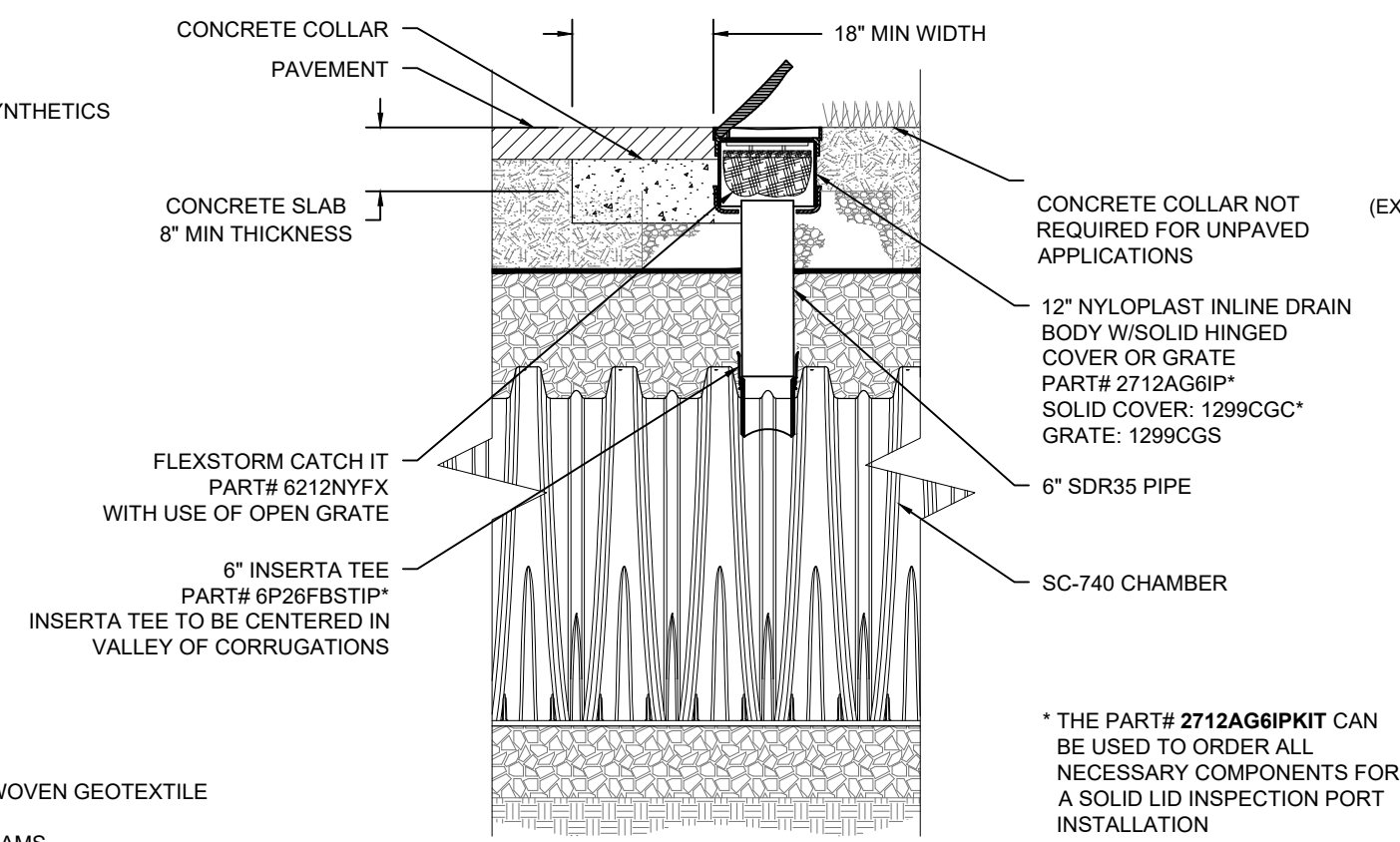
BY	SMB
DATE	9/8/21
DESCRIPTION	BID SET
MARK	0

Medway Department of Public Works
Cassidy Field Parking Improvements
Winthrop Street, Medway, MA

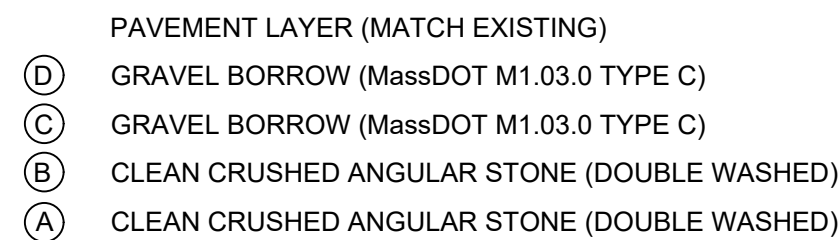
Construction Details

PROJ:	143-21583-21012
DESN:	BMP
DRWN:	BMP
CHKD:	SMB

C-301



SC-740 6" INSPECTION PORT DETAIL
NTS
SUBSURFACE INFILTRATION SYSTEM (SIS)
NOT TO SCALE



NOTES:


1. CATCH BASINS SHALL BE 48" INSIDE DIAMETER (ID) UNLESS OTHERWISE INDICATED ON PLANS.
2. EXCAVATION TO ALLOW FOR FREE TRAVEL OF COMPACTION EQUIPMENT.
3. ALL COMPACTION TO A MINIMUM 95 PERCENT DRY DENSITY DETERMINED BY ASTM D1557.
4. ALL PRECAST TO MEET OR EXCEED ASTM C-478 AND AASHTO M 199 SPECIFICATIONS.
5. REINFORCED STEEL TO MEET OR EXCEED ASTM A185 AND H-20 LOADING REQUIREMENTS.
6. ALL PRECAST CONCRETE TO BE 4,000 PSI MINIMUM AND MEET ASTM C-478 (6.1).
7. FILL ALL INTERNAL AND EXTERNAL HOLES WITH NON-SHRINK GROUT.

NOTES:

1. MANHOLES SHALL BE 48" INSIDE DIAMETER (ID) UNLESS OTHERWISE INDICATED ON PLANS
2. EXCAVATION TO ALLOW FOR FREE TRAVEL OF COMPACTION EQUIPMENT.
3. ALL COMPACTION TO A MINIMUM 95 PERCENT DRY DENSITY DETERMINED BY ASTM D1557.
4. ALL PRECAST TO MEET OR EXCEED ASTM C-478 AND AASHTO M 199 SPECIFICATIONS.
5. REINFORCED STEEL TO MEET OR EXCEED ASTM A185 AND H-20 LOADING REQUIREMENTS.
6. ALL PRECAST CONCRETE TO BE 4,000 PSI MINIMUM AND MEET ASTM C-478 (6.1).
7. FILL ALL INTERNAL AND EXTERNAL HOLES WITH NON-SHRINK GROUT.

[illegible]

1. SUB-BASE DEPTH AND PREPARATION IS DEPENDENT ON SITE CONDITIONS PLUS LOADING REQUIREMENTS.
2. TRIGGERED PRO PLUS PRODUCTS ARE SUFFICIENTLY RATED FOR 20/ 40/50/ 60/ 80 AND GREATER.
3. SEEDING METHOD: FILL SOIL/GROWING MEDIA UP TO GRID. APPLY SEEDING OR HYDROSEEDING PER MANUFACTURERS' (BY OTHERS) REQUIRED APPLICATION RATES.
4. SOIL INSTALLATION METHOD: FILL TOPSOIL/GROWING MEDIA HALF-WAY (~1") WITHIN TRIGGERED AND PRESS IN SOIL SO THAT GRID IS AT SOIL/ROOT LEVEL AND ONLY THE GRASS BRANCHES EXTEND ABOVE THE GRID.
5. GEOTEXTILE MESH OR GEOTAPES MAY BE REQUIRED BETWEEN SUBGRADE & SUBBASE FOR CERTAIN SOILS AND SITE SPECIFIC REQUIREMENTS.
6. NO STAKING NECESSARY WITH TRIGGERED PRO PLUS WHEN SLOPE IS BELOW 20 DEGREES. ASSESS PROJECT, AS NEEDED.
7. TRIGGERED PRO PLUS IS ASH COMPLIANT WITH PROPER FILL MATERIAL.
8. ALTERNATIVE ENGINEERED SUB-BASE MIXES CAN BE USED PROVIDED THEY PROMOTE GRASS GROWTH, HAVE ADEQUATE VOID SPACE FOR DRAINAGE, AND PROVIDE REQUIRED STRUCTURAL SUPPORT.
9. THIS CROSS SECTION IS FOR INFORMATION ONLY.

<div>  TETRA TECH </div> <div> www.tetrattech.com 100 Nickerson Road Marlborough, MA 01752 Phone: (508) 786-2200 Fax: (508) 786-2201 </div>					
<div> Medway Department of Public Works Cassidy Field Parking Improvements Winthrop Street, Medway, MA </div> <div> Construction Details </div>		MARK	DATE	DESCRIPTION	BY
		0	9/8/21	BID SET	SMB
PROJ:	143-21583-21012				
DESN:	BMP				
DRWN:	BMP				
CHKD:	SMB				
<div>C-302</div> <div>Copyright: Tetra Tech</div>					



November 23, 2021

**Medway Planning & Economic Development Board
Meeting**

**Rocky's Hardware Administrative Site
Plan and Outdoor Display Special
Permit**

UPDATED – 11/22/21

- Public Hearing Continuation Notice to 11-23-21
- Collection of minutes of the public hearings
- DRAFT decision dated 11-19-21
- **Letter dated 11-19-21 from attorney Gareth Orsmond re: draft decision**

Board Members

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



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TOWN OF MEDWAY

COMMONWEALTH OF MASSACHUSETTS

PLANNING AND ECONOMIC DEVELOPMENT BOARD

MEMORANDUM

November 10, 2021

RECEIVED TOWN CLERK
NOV 10 '21 AM 10:39

TO: Stefany Ohannesian, Town Clerk
Town of Medway Departments, Boards and Committees

FROM: Susy Affleck-Childs, Planning and Economic Development Coordinator

RE: **Public Hearing Continuation for Rocky's Hardware Outdoor Display Special Permit and Administrative Site Plan**
Continuation Date – Tuesday, November 23, 2021 at 8:15 p.m.

At its November 10, 2021 meeting, the Planning and Economic Development Board voted to continue the public hearing on the application of Rocky's Hardware of Springfield, MA for approval of outdoor display special permit and associated site plan to add an enclosed outdoor display area and an outdoor propane filling station area to their location in the Medway Place shopping plaza at 98 Main Street. The public hearing was continued to Tuesday, November 23, 2021 at 8:15 p.m. in Sanford Hall at Medway Town Hall, 155 Village Street. The hearing was continued at the request of the applicant.

The proposed project includes the establishment of a 1,200 square foot outdoor display area on a portion of the site that is currently paved, underutilized, and which abuts the eastern end of the Medway Place building where Rocky's is located. The display area will feature typical hardware store items such as seasonal tools, plants, and other merchandise. Proposed improvements include installation of fencing and protective bollards. Additionally, the applicant wishes to install a fenced in propane tank filling area on a 15' x 24' concrete pad, also with protective bollards. The planned improvements are shown on *Garden Center Design Plan* revised 9-9-21 by Sugrue Associates.

The applications, site plan and supporting documentation were filed with the Town on May 12, 2021 and are on file with the Medway Town Clerk and the Community and Economic Development Department at Medway Town Hall, 155 Village Street, Medway, MA. Project information including the revised site plan has been posted to the Planning and Economic Development Board's page at the Town's web site at: <https://www.townofmedway.org/planning-economic-development-board/pages/rockys-hardware-98-main-street>

The Board expects to vote its decision during the November 23rd meeting. Please do not hesitate to contact me if you have any questions or have any last minute comments.

since the applicant does not have the money. She would like more time to put together the needed information for the Board.

The Board noted that another issue for the applicant is that the former Order of Conditions has also expired. This will require a new filing with the Conservation Commission plus a Land Disturbance Permit.

The Board would like Susy Affleck-Childs to prepare a draft decision to deny the requested modification of plan and prior decision and the requested waivers from the current *Subdivision Rules and Regulations*.

The Board is also leaning toward not recommending the extension.

On a motion made by Jessica Chabot, seconded by Rich Di Iulio, the Board voted to continue the hearing to July 27, 2021 at 7:30. (The motion was approved; Member Tucker voted nay)

ROCKY'S HARDWARE – PUBLIC HEARING - ADMINISTRATIVE SITE PLAN REVIEW AND OUTDOOR DISPLAY SPECIAL PERMIT:

The Board is in receipt of the following documents: (See Attached)

- Public Hearing notice dated 6-23-2021
- Outdoor Display Special Permit application and project narrative
- Administrative site plan application, project description, and requests for waivers from *Site Plan Rules and Regulations*
- Site Plan dated 4-22-2021 by Howard Stein Hudson
- Project review memo dated 7-8-2021 from Susy Affleck-Childs
- Rocky's Garden Center plan dated 7-12-2021 by Sugrue Associates
- Review comments from Sergeant Watson dated 7-11-2021
- Review comments from Building Department dated 7-12-2021
- Review letter from engineering consultant, Steve Bouley, Tetra Tech
- Rocky's Garden Center plan, revised 7-13-2021 by Sugrue Associates

On a motion made by Rich Di Iulio, seconded by Matt Hayes, the Board voted unanimously to open the hearing for the Administrative Site Plan & Outdoor Display Special Permit for Rocky's Ace Hardware and to waive the reading of the public hearing notice.

The applicant is seeking an approval of an administrative site plan and an outdoor display special permit for the addition of an outdoor garden center and a propane filling station adjacent to its new location at Medway Place shopping plaza.

Applicant's team:

Attorney Joel Quick, Pierce Atwood
Todd Wilson, Diversified,
Matt Kelly, Rocky's Regional Manager
Chris Rich, Rocky's Store Manager

The representative showed a pdf of the revised site plan on the presentation screen. The updated plan is dated July 13, 2021.

A question was asked why this project was not part of the Medway Place site plan. It was explained that this is a special permit for the outdoor garden center for Rocky's. The shopping center owner is co-applicant as landlord permission is needed and the landlord needs to sign the application. A question was asked if this can be combined with the other application. The overall site plan will be updated based on the results of this permit.

A question was asked about the outdoor totes being stored outside. The Board would like an area inside of the building where these can be stored instead of outside. It was explained that there will be a front gate for customers which will be opened daily through the side door and front entrance. There is a safety concern that this area is not striped. The applicant communicated that there will be bollards. There will also be a long sidewalk, but the Board does not think it extends far enough. This is a highly trafficked area. There was a recommendation for more bollards. The loading area is for car pick up of items. It was suggested to extend the walkway for foot traffic across the drive aisle to the propane area. There was a note from the Fire Department about the location of the fire hydrant. A question was asked about the propane tank and if it will remain since it was not shown on the drawing. The Applicant communicated that having the large filling tank is effective from the business perspective vs. selling individual propane tanks. The hydrant was noted on the detail sheet. The Board was informed that there was a visit from the Code Enforcement Officer about the large banners. Those are in violation of the bylaw for signage. The Chairman read the email from Erika Robertson of the Building Department into the record. The Board would like to make sure there will be no creep of the outside products. The applicant communicated that in regards to the outdoor storage, they did not know there were rules about the outside items. The manager communicated that all items will be moved inside starting tomorrow. The Board was informed that the fence around the garden center will be black chain link with bollards. The display racks for products will be 6 ft. tall and not taller than the fence. The products inside the perimeter of the fence are soils, mulch, wood pellets, and some plants. These are stacked bagged products. There will also be presentation tables. The Medway's Rocky's location will not have Christmas trees.

The delivery and unloading of products was explained. Deliveries will take place through the back of the store and then the products will be moved to garden center space. The maximum number of staff is 10. The vendors are not permitted to stop in front of the building to make deliveries. The Board would like the truck turning radius shown for the deliveries and the filling of the propane tank. They need to show that a truck can access in and out of the site without leaving the Medway Place property. The turning movements need to be shown so the trucks do not have to go onto the Shell station's property. It was suggested to have signage. There was a suggestion to have a canopy over the garden center for the inclement weather.

There was a review letter provided from Tetra Tech. The applicant will be incorporating the comments from Tetra Tech into the revised plan. There will be no change to the current lighting. The updated plan will include the following: updated plan for the turning radius, crosswalk, new propane area and stripping area. There is a concern that there is not enough room for a truck to pull in and out of the spots. There will be the removal of ten parking spaces. This will need to be coordinated with overall Medway Place site plan. A suggestion was made that the major site

plan reflect the reduction of the parking spaces associated with the Rocky's Garden Center and propone work.

Shell Station representative Michael Brown commented that Shell has a good relationship with the shopping center and Rocky's. However, there is a concern that trucks filling the propane tank would block the 50' side easement area Shell has on the Medway Place property. The Shell representative does not think the property line shown on the plan is accurate. The second concern is parking and the Shell station does not want Rocky's customers parking in their parking area. It was suggested that the parking lot for Shell be delineated on the plan and that Shell consider placing signs to denote Shell Station parking only.

On a motion made by Matt Hayes, seconded by Bob Tucker, the Board voted to continue the hearing to August 10, 2021 at 7:00. Member Di Iulio voted (nay).

MEDWAY COMMUNITY CHURCH SITE PLAN COMPLETION:

The Board is in receipt of the following documents: (See Attached)

- Minor Site Plan endorsed 11-27-2018
- Email from Tetra Tech engineer Steve Bouley re: project completion dated 3-29-2021
- Email from Tetra Tech engineer Steve Bouley re: as-built review and sign off dated 6-28-2021
- Final Site Plan Decision dated 9-11-2018
- Stormwater Field Change dated 7-31-2019
- As-Built Plan dated 3-19-21 by Tata and Howard
- Long Term Stormwater Operation and Maintenance Plan dated -1-14-21
- Catch basin cleaning receipt
- Email from Tom Gay regarding site inspection dated 7-8-2020
- Draft PEDB Certificate of Site Plan Completion dated 7-8-2021

Member Rodenhiser recused himself due to a potential conflict of interest and Vice Chairman Tucker took over the meeting for this agenda item.

The Medway Community Church has requested a Certificate of Site Plan Completion. Pastor Carl Schultz was present. The only outstanding item pertains to the adequacy of the existing landscaping in the area beyond the new fence on the western side of the property and whether it provides sufficient buffering for abutting neighbors.

Member Gay communicated the green space has filled in well and there is new growth and plantings on the outside of fence. Spoke with two neighbors who reported no drainage problems. He feels the applicant has done everything they had committed to do. He visited site today. The circulation in the lot is working well. The consultant has signed off for project completion.

On a motion made by Matt Hayes, seconded by Jessica Chabot, the Board voted to determine that the Medway Community Church be approved for site plan completion. (Chairman Rodenhiser abstained)

Tuesday, August 10, 2021
Medway Planning and Economic Development Board
155 Village Street
Medway, MA 02053

Members	Andy Rodenhiser	Bob Tucker	Tom Gay	Matt Hayes	Rich Di Iulio	Jessica Chabot
Attendance	X	Absent with Notice	Absent with Notice	X	X	X

ALSO PRESENT:

- Susy Affleck-Childs, Planning and Economic Development Coordinator

PRESENT VIA ZOOM:

- Steve Bouley, Tetra Tech
- Gino Carlucci, PGC Associates

PUBLIC COMMENTS:

- There were no public comments.

ROCKY'S HARDWARE PUBLIC HEARING CONTINUATION -
ADMINISTRATIVE SITE PLAN REVIEW AND OUTDOOR DISPLAY
SPECIAL PERMIT - 98 MAIN STREET:

The Board is in receipt of the following: (See Attached)

- Public Hearing continuation notice to 8-10-21
- Revised Garden Center Design plan dated 7-29-21
- Applicant's responses to previous Town staff and consultant review comments
- Tetra Tech review letter dated 8-5-21 on revised plan

The Chairman opened the continued public hearing for Rocky's Hardware Administrative Site Plan Review and Outdoor Display Special Permit for 98 Main Street.

Present for the applicant were attorney Joel Quick, Rocky's Regional Manager Matt Kelly, and Rocky's Store Manager Chris Rich.

A share screen of the revised site plan was provided.

The first area explained was the location for the unloading and loading areas of delivery trucks. This was shown on the plan at the rear of the building. The plan has been resized as requested at the last hearing. There will be a waiver to the scale requirement. The truck turning radius was added to the site plan. The turning area to the south was noted where the propane will be delivered. The plan shows a stop sign on the pavement to increase the safety along with striping.

There will be no bollards included in this area. All parties had a meeting with the Shell gas station folks to discuss parking. An agreement was reached that each parking spot will have a sign noting that parking is for Shell customers only.

The gate area was next shown. This area will have a newly stripped crosswalk. There will be bollards, fence and signage “no parking any time”. There is over 24 ft. of clearance from the bollards and the display area. The south side bollards are 7.5 ft. apart. The Board is concerned that a car could fit through those bollards. A photo of what is proposed was shown. This needs to be noted on the plan since it is not consistent with the photo. The applicant communicated that the bollards could be moved closer. There may be more bollards needed to protect the propane tanks. The applicant has reached out to the Fire Chief for comments and recommendations.

There was a comment about losing 10 parking spaces to gain driveway width in this area. The applicant noted that 3 of the parking spaces will be lost due to the propane tank so it will be 7 spots lost. Regarding the dumpsters on site, the applicant was informed that the dumpsters require an enclosure. This information has yet to be provided.

At the last meeting, the applicant communicated that all outside pallets would be removed by the beginning of the next week. That has not occurred. Also, the convex containers need to be removed from the site. A question was asked about the water spigot on site. The applicant was informed that this water from the town is to not be used for watering the plants and a well should be used for irrigation.

The plan needs to show the dimensions for the outdoor display area. There also needs to be a plan for the cables securing product on the sidewalk so the pedestrians do not trip. The applicant is working with the DPW to resolve the sewer issue. The applicant continues to work on signage which will include no parking along with safety related signage. There will be no advertising signage on the propane tanks. The tank will be a basic white. The applicant was informed that the sidewalk needs to be labeled on the new plan along with the location of the dumpsters. The bollards will be yellow. It was suggested the applicant provide a letter from the Fire Chief.

On a motion made by Jessica Chabot, seconded by Matt Hayes, the Board voted to continue the hearing to August 24, 2021 at 7:15 pm. The motion was approved by a 3-1 vote with Rodenhiser, Chabot and Hayes in favor and Di Iulio opposed.

**PUBLIC HEARING CONTINUATION - MEDWAY PLACE SHOPPING
PLAZA SITE PLAN 98, 108, AND 114 MAIN STREET:**

The Board is receipt of the following: (See Attached)

- Notice dated 7-28-21 to continue the public hearing to 8-20-21.
- Cover letter dated 7-14-21 from Attorney Gareth Orsmond
- Supplemental Site Plan narrative overview dated 7-14-21
- Revised landscape plan dated 7-13-21
- Revised temporary seating plan dated 7-13-21
- Tetra Tech review letter dated 7-21-21
- PGC review letter dated 7-22-21
- Mullins Rule certification for Matt Hayes for 7-27-21 PEDB meeting

CONSTRUCTION REPORTS:

Tetra Tech engineer Steve Bouley was present via Zoom.

William Wallace:

The paving at William Wallace will be done later in the week along with the electrical trenches.

Millstone Village:

There will be a meeting on August 25, 2021 in the field. The meeting will address the remaining punch items.

MEDWAY MILL – SITE PLAN ENDORSEMENT:

Present for the Zoom call was project engineer Amanda Cavaliere of Guerriere and Halnon and attorney Danielle Justo.

The Board was made aware that a revised site plan has been submitted for Medway Mill for endorsement. This plan has been reviewed by Tetra Tech per the conditions of the site plan decision. The Board was informed that the plan is almost complete but the bridge plan sheets need to be reviewed by the DRC as required by the site plan decision. The applicant will need an extension of the deadline for plan endorsement. The Conservation Commission will be voting on their decision and issuing Order of Conditions next week. The Board was made aware that the Town Clerk has issued a Certificate of No Appeal and the applicant has paid the construction inspection fee.

On a motion made by Matt Hayes, seconded by Bob Tucker, the Board voted by Roll Call to extend the site plan endorsement to October 14, 2021.

Roll Call:

Matt Hayes	aye
Jessica Chabot	aye
Bob Tucker	aye
Andy Rodenhiser	aye
Rich Di Iulio	aye

MASTER PLAN UPDATE:

The Board was informed that there was a Master Plan Committee meeting on August 23, 2021. The revised Existing Conditions report is forthcoming later this week; it will be provided to the PEDB. The Committee continues to work on the community engagement piece. The survey is due back on September 8, 2021. If anyone wants to hold a "Meeting In A Box", this also needs to be completed by September 8, 2021. There will be a Community Forum held on Sunday, October 3, 2021 from 11:00 am to 3:00 pm. This will be held as an open house event with lots of activities for public and children.

ROCKY'S HARDWARE – ADMINISTRATIVE SITE PLAN AND OUTDOOR DISPLAY SPECIAL PERMIT PUBLIC HEARING CONTINUATION

The Board is in receipt of the following: (See Attached)

- Public Hearing Continuation Notice to 8-24-21
- Revised Site Plan dated 8-17-21 from Howard Stein Hudson
- Document from Attorney Joel Quick with summary of plan changes
- Tetra Tech Review letter dated 8-18-21
- Special Permit decision criteria from Section 3.4 of the Zoning Bylaw
- Email dated 8-24-21 from Kelly Millette at the Medway DPW re: water use restrictions

Attorney Quick was present to provide an update relative to items addressed since the last meeting. The revised plan now shows the location for the Rocky's dumpster and its enclosure in the northeast corner of the Medway Place site. The applicant will be providing a graphic detail of the actual appearance.

The Board needs to decide about the special permit findings for the outdoor display for the garden center. At the last meeting, the Rocky's manager noted that Rocky's is using the sidewalk space in front of its store for outside display of goods and merchandise. It was noted that Rocky's ongoing use of the sidewalk for outdoor display will need an outdoor display special permit even if it maintains 6' clearance on the sidewalk.

The Board next discussed the special permit decision criteria and provided feedback so that Susy Affleck-Childs can draft the decision.

Member Di Iulio noted his continuing objection to this project as stated in previous meetings. He feels it should be part of the overall Medway Place site plan. Chairman Rodenhiser noted that he wants all the notes and information from this hearing to be entered into the record for the Medway Place site plan hearing.

Within the decision it was recommended to include a condition that deliveries will follow the one-way around the back of the site to access Rocky's. The applicant communicated that he has informed his vendors about this. The existing lighting will remain. The Board would like confirmation that this lighting complies with the photometric plan. There is a hazardous concern about the propane tank. There was discussion about signage. The Board wants to make sure that the extent of signage does not creep on site. There will be no vendor signs. The propane tank will have safety signage only.

There was a letter received from the Town of Medway Water Department allowing the applicant to use the Town water for hand watering of the plants displayed outside but will be limited by the standard seasonal water restrictions. The applicant will also be required to be in compliance with all the Fire Code Regulations.

On a motion made by Bob Tucker, seconded by Matt Hayes, the Board voted by Roll call to continue the hearing to September 14, 2021 at 8:30 pm.

Roll Call:

Matt Hayes	aye
Jessica Chabot	aye
Bob Tucker	aye

The 9-27-21 draft defines evening hours as 7:00 pm to 11:00 pm. There was discussion about the commuter noise. It was suggested that there be language added about doing a background noise survey over a minimum of a 7-day period to establish levels at each residential property line and at any sensitive receptor property line (for abutters within 300 ft.). There was also language added that the “measurement metric to determine ambient noise levels will be A-weighted L90 sound level”. The next section discussed was the prominent discrete tone. There was a recommendation to strike some repetitive language here since the definition already defines a “prominent discrete tone” as an “audible tone” and creates a conflict with section 7.3.D.2.a.2. There was also language added that there be a new “late-nighttime” time period that will be applicable to the 2db noise source. The MA DEP allows a 10 dBA increase to ambient background. The Medway draft would allow each new project to increase by 2dBA. This is very conservative, but consistent with the community’s intent to limit the rate of ambient noise increase. The tonal requirements appear to apply to all receptor types. It is recommended that these requirements are for residential uses and other sensitive receptors only. It was suggested that this not be applied at the industrial to industrial.

Resident Lee Knowlton 14 Green Valley road was present at the meeting. He asked if the levels for times are absolute. He suggested to bundle times. Consultant Komrower indicated that this was done to establish last night hours. An hourly average was then determined for each day to then determine the ambient noise levels.

Dan Merrikin, project engineer for Ellen Rosenfeld, noted that the one topic which need discussion is the requirement that a noise study be conducted. There needs to be language added to address the applicant securing access to nearby properties to conduct the study. It was noted that not all people will allow others on their property. A notice may need to be sent by certified mail.

There was discussion to change the receptors to the nearest residential property around the site up to 2,000 ft. from the of the building.

Resident John Lally had two items which he wanted addressed.

- Concern regarding 60dBA at the Industrial/Industrial and 55 dBA at the Commercial property lines.
- Not -to exceed residential property line and sensitive receipt noise limits
- Eliminating the octave bands would leave the residents vulnerable.

The Board will continue to work on refining this language.

PUBLIC HEARING CONTINUATION: ROCKY’S HARDWARE:

The Board is in receipt of the following: (See Attached)

- Public Hearing Continuation notice to 9-28-21
- Revised draft decision dated 9-23-21
- Rocky’s Ace Hardware Garden Center Plan
- Rocky’s Ace Hardware Dumpster Fence detail
- Photometric plan by Highpoint Engineering dated 9-10-21

- Mullins Rule Certification for Bob Tucker for 8-10-21 PEDB meeting
- Mullins Rule Certification for Tom Gay for the 8-10-21 PEDB meeting
- Photos supplied by chairman Andy Rodenhiser

The Chairman opened the continued public hearing. Attorney Joel Quirk and Rocky's Vice President Kevin Bradley were present vis Zoom.

The Board was provided with some photos from the Chairman which were recently taken of the site. The photos showed items which are being stored outside the building which violates the bylaws. At the last meeting, the store manager had indicated that this was not occurring. It seems as though the outdoor storage changes on a daily basis. The applicant is not compliant with the bylaw. Chairman Rodenhiser noted that since the applicant is not following the rules, the Special Permit should not be granted. Member Di Iulio agrees with the Chairman. If the applicant cannot control what is currently on the site, there is hesitation about about granting this permit.

There was a suggestion to provide the applicant 30 days to improve the performance on the site.

The Board reviewed and discussed the special permit criteria. There are concerns that site does not have adequate space.

It was suggested to have staff prepare a denial decision based on the criteria which are not being met.

On a motion made by Matt Hayes, seconded by Jessica Chabot, the Board voted to continue the hearing to October 26, 2021, at 8:30 pm to will allow the applicant 30 days to improve their performance outside the site. (Member Di Iulio voted nay)

FUTURE MEETING:

- October 12, 2021

ADJOURN:

On a motion made by Jessica Chabot, seconded by Matt Hayes, the Board voted to adjourn the meeting.

The meeting was adjourned at 10:36 pm.

Prepared by,
Amy Sutherland
Recording Secretary

Reviewed and edited by,
Susan E. Affleck-Childs
Planning and Economic Development Coordinator



**ROCKY'S HARDWARE ADMINISTRATIVE SITE PLAN AND
OUTDOOR DISPLAY SPECIAL PERMIT PUBLIC HEARING
CONTINUATION**

The Board is in receipt of the following: (See Attached)

- 10-25-21 memo from Rocky's Vice President Kevin Bradley re: steps taken to address outdoor storage and display issues.
- Draft DENIAL decision dated 10-25-21
- Draft APPROVAL decision dated 10-25-21

The Board at the last meeting asked that Susy Affleck-Childs prepare both an approval and denial decision.

The Applicant's attorney and representative Joel Quick was present via Zoom along with Rocky's Vice President Kevin Bradley. The Board is in receipt of a memo from Rocky's Vice President Kevin Bradley regarding the steps Rocky's has taken to clean up the site since the last meeting (10-12-21). The Chairman communicated that he took photos on October 19, 2021 from and is not satisfied with the progress made to date and expressed concern that the management is not following the rules regarding outside storage.

Board members were asked for a straw poll on a possible vote. The Board is split with three for approval with conditions (Jess Chabot, Matt Hayes and Bob Tucker) and two against approval (Rich Di Iulio and Andy Rodenhiser). The Applicant is frustrated and communicated that at each meeting different issues seem to come up. It was noted that Rocky's representatives communicated that they are not in control of the traffic patterns of other leased businesses, only theirs. Susy will continue to work on both the approval and denial for the next meeting.

It was recommended to discuss this further at the Board's special meeting scheduled for November 2, 2021.

On a motion made by Matt Hayes, seconded by Jessica Chabot, the Board voted to continue the hearing to November 2, 2021 at 7:30 pm. (Member Di Iulio voted nay)

PEDB MEETING MINUTES:

The Board is in receipt of the draft minutes of the July 17, 2021 & October 12, 2021 meetings.

On a motion made by Jessica Chabot, seconded by Matthew Hayes, the Board voted unanimously to accept the minutes from July 17, 2021 & October 12, 2021.

OTHER BUSINESS:

- Matt Hayes announced will be a CPC meeting on November 1, 2021 to discuss additional funding for the Accessible Trail at the meadows.
- The Master Plan Committee will be holding a joint meeting with the PEDB and the Select Board on January 10, 2022. A first draft of Vision and Goals is being reviewed.

Board Members

Andy Rodenhiser, Chair
Robert Tucker, Vice Chair
Jessica Chabot, Member
Richard Di Iulio, Member
Matthew Hayes, P.E.,
Member
Thomas A. Gay, Associate
Member



TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
PLANNING AND ECONOMIC
DEVELOPMENT BOARD

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REVISED DRAFT – November 19, 2021
APPROVAL

Site Plan and Outdoor Display Special Permit
Rocky's Hardware – 98 Main Street
with Waivers and Conditions

Decision Date: _____

**Name/Address of Applicant:
And Permittee** Rocky's Ace Hardware, LLC
40 Island Pond Road
Springfield, MA 01118

Name/Address of Property Owner: Medway Realty, LLC
63 Atlantic Avenue
Boston, MA 02110

Designated Representative: Gareth Orsmond
Pierce Atwood LLP
100 Summer Street
Boston, MA 02110

Site Plan: *Medway Place Site Plan and Landscape Plan and*
Prepared by Howard Stein Hudson, Boston, MA
Dated April 22, 2021, last revised September 30, 2021 to be further
revised as specified herein.

Location: 98 Main Street within Medway Place shopping plaza

Assessors' Reference: 40-055

Zoning District: Central Business District

I. PROJECT DESCRIPTION – Rocky's Hardware proposes to create a 1,200 square foot enclosed, year-round outdoor merchandise display area on a portion of the site that is currently paved, and which abuts the eastern end of the Medway Place shopping plaza building where Rocky's Hardware is located at 98 Main Street. The outdoor display area will feature typical hardware store items such as seasonal tools, plants, and other related merchandise. Proposed improvements include installation of fencing and protective bollards. Additionally, the applicant wishes to install a fenced-in propane filling station on a 15' x 24' concrete pad, also with protective bollards. A 24' drive aisle will be maintained between the two uses. The planned improvements result in the loss of ten parking spaces. The planned improvements are shown on *Medway Place Site Plan and Landscape Plan* (Sheets C1.00 and C2.00) dated April 22, 2021 by Howard Stein Hudson of Boston, MA, revised August 17, and September 30, 2021. The proposal requires administrative site plan review and an outdoor display special permit pursuant to the *Medway Zoning Bylaw*; when a project needs both site plan review and a special permit, the Planning and Economic Development Board serves as the permit granting authority.

In addition to this application from Rocky's Hardware, there is also currently pending before the Board an application from the owners of Medway Place for site plan approval for site improvements to the parking lot, lighting, landscaping, and other items. Any changes to Medway Place resulting from this pending application could impact this site plan and special permit approval.

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 _____, on a motion made by _____ and seconded by _____, **voted to _____ with WAIVERS and CONDITIONS** as specified herein, a site plan and an outdoor display special permit for the construction of site improvements for Rocky's Hardware at 98 Main Street as shown on *Medway Place Site Plan and Landscape Plan Temporary Seating Plan and Gate Detail* dated April 22, 2021, last revised September 30, 2021, prepared by Howard Stein Hudson of Boston, MA to be further revised as specified herein.

The motion was _____ by a vote of _____ in favor and _____ opposed.

Planning & Economic Development Board Member

Vote

Jessica Chabot
Richard Di Iulio
Matthew Hayes
Andy Rodenhiser
Robert Tucker

NOTE – Mullins Rule certifications pursuant to G.L. c. 39, §23D were provided by Bob Tucker and Tom Gay for the 8-10-21 public hearing.

III. PROCEDURAL HISTORY

- A. June 14, 2021 - Site plan and outdoor display special permit applications and associated materials filed with the Board; the information was filed with the Town Clerk on 6-22-2021
- B. June 23, 2021 – Notice for July 13, 2021 public hearing filed with the Town Clerk and posted at the Town of Medway web site's master meeting calendar.
- C. June 24, 2021 - Project information distributed to Town boards, committees, and departments for review and comment and posted to the Board's web page.
- D. June 24, 2021 – Notice for the July 13, 2021 public hearing was sent to abutters and parties of interest by certified sent mail.
- E. June 28 and July 6, 2021 - Public hearing notice advertised in *Milford Daily News*.

- F. July 13, 2021 – Public hearing begins. The hearing was continued to August 10, August 24 September 14, September 28, 2021, October 26, 2021, November 2, 2021 and November 23, 2021 (when a decision was rendered and the hearing was closed.)

IV. INDEX OF SITE PLAN DOCUMENTS

- A. The site plan and special permit applications for the proposed Rocky's outdoor display area and propane tank service area included the following plans and information that were provided to the Board at the time the applications were filed:
1. Administrative Site Plan and Outdoor Display Special Permit applications dated June 8, 2021, project description and narrative, certified abutters' list, and requests for waivers from the *Site Plan Rules and Regulations*.
 2. *Medway Place Site Plan and Landscape Plan and Temporary Seating Plan and Gate Detail* dated April 22, 2021, prepared by Howard Stein Hudson of Boston, 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. Rocky's Ace Hardware Garden Center plan dated 7-12-2021 by Sugrue Associates of Smithfield, RI
 2. Rocky's Ace Hardware Garden Center plan, revised 7-13-2021 by Sugrue Associates
 3. Rocky's Ace Hardware Garden Center plan, revised 7-27-21 by Sugrue Associates
 4. Rocky's Ace Hardware Garden Center plan, revised 8-16-21 by Sugrue Associates
 5. Rocky's Ace Hardware Garden Center plan, revised 9-9-21 by Sugrue Associates
 6. Response document by attorney Joel Quick, received 8-19-21 to the discussion and Board comments provided during the 8-10-21 public hearing
 7. *Medway Place Site Plan and Landscape Plan and Temporary Seating Plan and Gate Detail* dated April 22, 2021, revised August 17, 2021, last revised September 30, 2021 prepared by Howard Stein Hudson of Boston, MA.
 8. Existing Conditions Photometric Plan for Medway Place Shopping Center dated 9-10-21 by Highpoint Engineering, Inc. of Canton, MA
 9. *Rocky's Ace Hardware Dumpster Fence Details*, dated 8-30-21 by Sugrue & Associates.
 10. Memorandum dated 10-25-21 from Rocky's Vice President Kevin Bradley re: steps taken to address outdoor storage and display issues.
- C. During the course of the Board's review, a variety of materials were submitted to the Board by its staff, consultants, and other Town Boards and Committees.
1. Project review memorandum dated 7-8-2021 from Susy Affleck-Childs, Planning and Economic Development Coordinator
 2. Review comments dated 7-11-2021 from Police Sergeant Jeff Watson
 3. Review comments dated 7-12-2021 from Compliance Coordinator Erika Robertson, Medway Building Department
 4. Review letters dated 7-12-2021, 8-5-2021 and 8-18-2021 from the Board's engineering consultant, Steve Bouley of Tetra Tech
 5. Review comments dated 6-24-2021 and 8-24-21 from Deputy Fire Chief Mike Fasolino
 6. Review comments dated 8-24-2021 from Kelly Millette, Medway DPW

- 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 testimony from:

- Steve Bouley, P.E. of Tetra Tech, Inc., the Town's Consulting Engineer
- Joel Quick, attorney, Pierce Atwood
- Todd Wilson, Medway Realty, LLC
- Matt Kelly, Rocky's Hardware Regional Manager
- Chris Rich, Rocky's Hardware Medway Store Manager
- Kevin Bradley, Rocky's Vice President
- Attorney Michael Brown of Adler Pollock & Sheehan presenting Colbea Enterprises, LLC owners of the adjacent Shell gas station

VI. FINDINGS – The Board, at its meeting on _____, on a motion made by _____ and seconded by _____, voted to _____ the following FINDINGS regarding the special permit application for Rocky's Hardware at 98 Main Street. The motion was _____ by a vote of _____ in favor and _____ opposed.

Special Permit Findings pursuant to Medway Zoning Bylaw Section 3.4.

- 1. The proposed site is an appropriate location for the proposed use.** Rocky's Hardware is a new anchor tenant within the Medway Place shopping plaza, a retail shopping center first established in the mid-1960's. The center is located within Medway's central business zoning district which includes several other shopping centers – Drybridge Crossing, Gould's Plaza, and Medway Commons. Rocky's is located in the easternmost section of Medway Place adjacent to an existing paved, but underutilized area where the proposed outdoor garden center and propane filling station would be located. This area has typically had minimal traffic and is not generally used for customer parking. An outdoor garden center and propane filling station are customary accessory uses to a retail hardware store. Placing these facilities on the side of the building near underutilized parking spaces will allow store staff to direct people to those specific nearby parking spaces to promote easier loading of merchandise. As conditioned herein, the site is appropriate for the proposed use.
- 2. Adequate and appropriate facilities will be provided for the operation of the proposed use.** The proposed enclosed garden center is modestly sized at 1,200 sq. ft. and the propane filling station area will be positioned on a 15' by 24' concrete pad, also enclosed by fencing. Rocky's Hardware employees will be responsible for moving merchandise into and out of the garden center, assisting customers to load merchandise from the garden center into vehicles, and filling propane tanks for customers. The site plan has been reviewed by the Board's consulting engineer and the Town's safety and emergency personnel and has been modified to address concerns raised about the size of the outdoor garden center, positioning of the propane tank, width of the traffic aisle, traffic routing, and safety signage. Existing exterior building lighting will remain in place; no additional lighting is planned for these accessory uses. **However, the Board has some reservations about the adequacy of the size of the drive aisle to service these uses, particularly for delivery vehicles and has included Conditions E.1 and E.3 to address traffic flow in this area. Condition C.1 provides a time limitation on the special permit, to allow an evaluation as to whether the site improvements will be adequate and appropriate once constructed.**
- 3. The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians or the environment.** Abutters to the east, south and west are all commercial uses. During the public hearing, the immediate abutter, Colbea Enterprises (Shell gas station) raised concerns about Rocky's customers using Shell station parking spaces; the parties met and suitable parking signage will be added to the Shell building to specify Shell customer parking only. There is a residential neighborhood on the north side of the property, however those homes are screened

from the shopping center by a fence and vegetated buffer; those abutters were notified of the hearing and no one attended the hearing or expressed any concerns or comments. The location of the propane tank and outdoor garden center were reviewed by the Medway Fire Department which will have oversight and regular permitting for the propane tank. The Fire Department offered comments on its location to ensure that fire trucks can safely and easily access the building, on suitable safety signage, and various protective measures which have been incorporated into the site plan. **Condition C.1 provides a time limitation on the special permit, to allow an evaluation as to whether the site improvements will create a hazard.** As conditioned, the proposed use will not create a hazard to abutters, vehicles, pedestrians or the environment.

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

The goal of locating these new facilities in the specified area at the eastern end of the building is to keep open the main channel in front of the building for customer vehicles and pedestrians. As conditioned herein (Condition E.1), delivery vehicles to Rocky's Hardware are not permitted to use the driveway area adjacent to (east of) the outdoor garden center and propane filling station area to access the back of the store for deliveries. **They are required to access the back of the Rocky's store via the center's western drive aisle west of the Ocean State retail space. The Applicant has agreed to implement this limitation for its vendors. Condition E. 3 requires the installation of signage prohibiting traffic from using the driveway area to the east of Rocky's as a way to access the back of the Medway Place buildings and action by the Medway Place owners to revise the traffic pattern around the back of the building to one way, west to east, for all traffic.** **Condition C.1 provides a time limitation on the special permit, to allow an evaluation as to whether the site improvements will cause any traffic congestion or conflict and whether the traffic restrictions are enforced.** Altogether, these changes will reduce traffic conflicts in this immediate area.

Commented [BSA1]: Has this been agreed to by Medway Place? Or is it just applicable to Rocky's vendors?

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 uses do not necessitate any changes to lighting. There will be no change to the amount of impervious surface area so no increased flooding impacts are anticipated. There will be no notable increase in odors, dust or vibration. The existing dumpster servicing Rocky's will be enclosed as shown on the site plan. This will minimize that undesirable visual feature; the dumpster enclosure details are included on the site plan. **Condition C.1 provides a time limitation on the special permit, to allow an evaluation as to whether there will be any adverse visual attributes once constructed.** The planned additional uses are reasonable accessory extensions of the operation of the main hardware store retail use.

6. The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district. The proposed uses are customary accessory uses associated with a retail hardware store. The modest size of the garden center (1,200 sq. ft.) will not significantly alter the character of the central business zoning district. The impacts of these uses on the adjacent neighborhood will not be different than those from the existing shopping center's operation.

7. The proposed use is in harmony with the general purpose and intent of the Zoning Bylaw. The Zoning Bylaw's Table of Uses specifies a wide array of permitted business and retail uses for the central business district. The Bylaw authorizes outdoor display areas in the central business zoning district by special permit. By going through the special permit process, the location of these facilities is permanently designated and concerns for vehicle and pedestrian safety have been addressed pursuant to the Conditions specified in Section VIII herein.

8. **The proposed use is consistent with the goals of the Medway Master Plan.** The use is consistent with the Master Plan's goal of further economic development within the Town's existing commercial areas. As a regional hardware store, Rocky's has wide name recognition and its services and merchandise provide a draw to customers to the Medway Place shopping plaza, thus serving to strengthen the viability and importance of Medway Place to the community.

9. **The proposed use will not be detrimental to the public good.** For all the above reasons, the impacts of the proposed uses will not outweigh the beneficial services to be provided to the community. Potential adverse effects have been mitigated and addressed in the conditions included in this decision in Section VIII.

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

VII. **WAIVERS** – At its _____ meeting, the Board, on a motion made by _____, and seconded by _____, voted to _____ waivers from the following provisions of Section 206-3 of the *Rules and Regulations for the Submission and Approval of Site Plans*, as amended October 8, 2019. The Board's action and reasons for approving 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 _____ by a vote of _____ in favor and _____ opposed.

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

Administrative Site Plan Submittal Requirements/Plan Contents

1. **Section 206-3 Stormwater Drainage Evaluation Report.** Concurrent with this application, the shopping center owner, Medway Realty LLC, is in public hearing with the Planning and Economic Development Board for a site plan for the full Medway Place shopping plaza. As part of that application, a full stormwater report and drainage plan has been prepared, submitted and reviewed by the Board's consulting engineer and the Medway Department of Public Works. The specific site for these proposed Rocky's improvements is located on existing asphalt so there is no increase in impervious surface. The planned installation of stormwater infrastructure for the plaza has been added to the Rocky's site plan. *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. CONDITIONS - The *Special and General Conditions* included in this *Decision* shall assure that the Board's _____ of this site plan and special permit is consistent with the *Zoning Bylaw* and 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 _____ is subject to the following conditions.

SPECIFIC CONDITIONS OF APPROVAL

- A. **Plan Endorsement** - Within one hundred twenty days after the Board has filed the *Decision* with the Town Clerk, the site plan for Rocky's Hardware dated April 21, 2021, last revised August 17, 2021, prepared by Howard Stein Hudson of Boston, MA shall be further revised to reflect all Conditions 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.
- B. **Plan Revisions** – Prior to plan endorsement, the following plan revisions shall be made to the April 21, 2021 site plan, last revised August 17, 2021, to be approved by the Board.
1. The plan sheets shall be revised to comply with Section 206-4 E of the Site Plan Rules and Regulations including the addition of a cover sheet to include approved waivers, index, signature box, etc.
 2. Plan shall be formatted suitably for recording at the Norfolk County Registry of Deeds
 3. The plan shall be revised to specify the revised one-way traffic pattern west to east behind the building pursuant to Condition E.3.
 4. The plan shall be revised to add details and notes regarding the text and locations for signage to prohibit the use of the paved area to the east of Rocky's pursuant to Condition E.3.
- C. **Use Limitations**
1. In addition to this application from Rocky's Hardware, there is also currently pending before the Board an application for site plan review from Medway Realty LLC for site improvements to the parking lot, lighting, landscaping, and other items. Any changes to Medway Place resulting from this pending application could impact this site plan and special permit approval for Rocky's Hardware. Accordingly, this special permit shall expire two years after the expiration of the 20-day appeal period. An application to modify this condition to extend the special permit may be filed after the expiration of 20 months from the expiration of the 20-day appeal period.
 2. The permittee shall not place fertilizers, de-icing chemicals or other substances that are potential sources of pollutants as defined in the Town's Stormwater Management and Land Disturbance Bylaw, Article XXVI of the Town's General Bylaws in the outdoor garden center that may enter the Town's MS4 stormwater system.
 3. Hours of operation – The outdoor garden center and the propane tank filling station shall be closed during any time the retail store is closed.

4. Outdoor Storage – Consistent with the Zoning Bylaw, Table 1 Schedule of Uses, outside storage as defined in the Zoning Bylaw of materials associated with a business operating in a building on the premises is not permitted in the Central Business District.
5. Other Outdoor Display - This decision does not apply to or authorize the applicant's use of the outdoor sidewalk area in front of the Rocky's Hardware store for product display purposes. Such outdoor display activity requires a separate special permit from the Zoning Board of Appeals.
- 6.
- 7.

E. Other Conditions

1. Deliveries for all Rocky's Hardware merchandise shall be from behind the store, not through the store's front entrance or gate to the garden center. The traffic route for Rocky's delivery vehicles shall be one-way (west to east) from the far western end of the shopping center complex and around the rear of the buildings to the back of the Rocky's store. No delivery vehicles for Rocky's merchandise are permitted to access its back unloading area via the paved area and drive aisle at the easternmost end of the shopping center building where the Rocky's garden center and propane filling station are located.
2. No signage other than the safety signs shown on the site plan is allowed for the propane tank and filling station area. No product signage or banners are allowed on the fencing for the outdoor garden center.
3. Signage shall be installed to:
 - Direct traffic to move one-way only from west to east behind the Medway Plaza buildings. This may include pavement markings as well as wall signage.
 - Prohibit traffic from entering the paved area to the east of Rocky's Hardware
4. The permittee shall comply with Town of Medway water restrictions issued by the Department of Public Works as such apply to the watering of plant materials located within the garden center.

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** – After conclusion of the 20-day appeal period, 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. 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.

F. 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.

G. 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.

H. 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.

I. **Project Completion**

1. Site plan approval shall lapse after two years of the grant thereof if substantial use has not commenced except for good cause. The work shown on the approved site plan shall be completed by the Permittee or its assignees within two 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.
2. 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.

- J. **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.

- K. **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.

###

Decision Date: _____

AYE:

NAY:

Signature *Printed Name*

Signature *Printed Name*

Signature *Printed Name*

Signature *Printed Name*

Signature *Printed Name*

Signature *Printed Name*

- COPIES TO:** Michael Boynton, Town Manager
Mike Fasolino, Deputy Fire Chief
Bridget Graziano, Conservation Agent
Donna Greenwood, Assessor
Beth Hallal, Health Agent
Jeff Lynch, Fire Chief
Jack Mee, Building Commissioner and Zoning Enforcement Officer
Pete Pelletier, DPW Director
Joanne Russo, Treasurer/Collector
Barbara Saint Andre, Director of Community and Economic Development
Jeff Watson, Police Department Safety Officer
Gareth Orsmond, Pierce Atwood
Joel Quick, Pierce Atwood
Steven Bouley, Tetra Tech

Gareth I. Orsmond

100 Summer Street, 22nd Floor
Boston, MA 02110

617.488.8181 voice
617.824.2020 fax
gorsmond@pierceatwood.com
www.pierceatwood.com

Admitted in: MA, NH

November 19, 2021

By Electronic Mail

Town of Medway Planning and Economic Development Board
c/o Susan Affleck-Childs, Planning and Economic Development Coordinator
Town Hall
155 Village Street
Medway, MA 02053

Re: Rocky's Ace Hardware Outdoor Display Special Permit and Administrative
Site Plan Review, 98 Main Street, Medway, Massachusetts

Dear Board Members:

I write on behalf of Medway Realty, LLC ("Medway Realty") in response to two aspects of the above-referenced matter, both of which were brought to my attention by the draft decision for an outdoor display special permit and administrative site plan approval sent to Rocky's Ace Hardware on November 1, 2021 and further revised on November 19, 2021 (the "Draft Decision").

First, the Draft Decision requires that the driveway behind the buildings (the "Back Driveway") be made into a one-way drive going from west to east and that certain signs be installed to implement this requirement.

Second, the Draft Decision refers to and requires changes to the site plan separately submitted to the Board by Medway Realty under reservation of right as part of a major site plan review process, which the Draft Decision identifies as "Medway Place Site Plan and Landscape Plan and / Prepared by Howard Stein Hudson, Boston, MA / Dated April 22, 2021, last revised September 30, 2021" (the "Parking Site Plan"), and states that this plan will be "further revised as specified herein".

As you know, Medway Realty is not the special permit or administrative site plan applicant, is not party to the applications, and is not bound by any conditions of the special permit or site plan review. Only Rocky's is so bound. Rocky's rights to pursue the

administrative site plan review and special permit come solely from its lease with Medway Realty, and by signing the applications Medway Realty is doing no more than acknowledging Rocky's lease rights. Its signature was not necessary. Additionally, Medway Realty signed as the owner of 98 Main Street, where Rocky's is located. As the Board is aware, this is only one of three adjoining properties owned by Medway Realty.

That said, I offer the following to guide the Board's decision.

With respect to the first issue above, Medway Realty is willing to make the Back Driveway a one-way drive (and to implement the necessary signage) subject to two conditions. First, Medway Realty would only agree to this limitation for so long as Rocky's outdoor display area and propane-filling station are allowed to remain and to operate. In the event that the Board insists on its two-year "trial" period and does not permit Rocky's to continue these operations, then Medway Place will no longer agree to maintain the Back Drive as a one-way drive and will remove the signage. Second, by agreeing to this accommodation for the sake of Rocky's, Medway Realty does not agree to designate any of the parking at the side or back of the buildings as "employee only" parking.

With respect to the second issue above, please make it clear in the special permit and site plan review decision that the only approved site plan is the plan prepared by Sugrue Associates. Although Rocky's introduced a long-since-outdated version of the Parking Site Plan early on the special permit and site plan review proceedings, that plan was supplanted by the Sugrue Associates plan, no longer represents Medway Realty's proposal in its own site plan review proceedings, and Medway Realty has not authorized Rocky's to submit the Parking Site Plan for review or approval as part of Rocky's applications for a special permit and site plan review. As is clear from the identification of the property as 98 Main Street, only part of the property shown on the Parking Site Plan is at issue here: the part of the property that Rocky's is seeking approval to improve as shown on the Sugrue Associates plan.

As set forth above, Medway Realty is not party to and is not bound by the Board's decision regarding Rocky's applications, but is willing to make the above-described accommodations to help Rocky's business.

Very truly yours,



Gareth I. Orsmond

GIO/msg

cc: Joel Quick, Esq. (by email)
Todd Wilson (by email)
Kevin Bradley (by email)



November 23, 2021
Medway Planning & Economic Development Board
Meeting

Construction Reports

- **Harmony Village – Tetra Tech Field Report #10 (11-8-21)**
- **Harmony Village – Tetra Tech Field Report #11 (11-12-21)**
- **Medway Mill – Guerriere and Halnon report (11-18-21)**
- **Medway Mill – Tetra Tech Field Report #3 (11-8-21)**
- **Medway Mill – Tetra Tech Field Report #4 (11-15-21)**
- **Choate Trail – Connorstone Engineering report (11-15-21)**

Tetra Tech
100 Nickerson Road, Suite 200
Marlborough, MA 01752

FIELD REPORT

Project Harmony Village	Date 11/8/2021	Report No. 10
Location 218-220 Main Street, Medway, MA	Project No. 143-21583-20018	Sheet 1 of 2
Contractor Gary Feldman, Marcelo Alves (Applicant/Developer)	Weather A.M. P.M. CLEAR	Temperature A.M. P.M. 63°F

FIELD OBSERVATIONS

On Monday, November 8, 2021, Tucker D. Paradee, E.I.T. from Tetra Tech (TT) visited the project location to inspect the current condition of the site and monitor construction progress. The following report outlines observations made during the site visit.

1. OBSERVATIONS

- A. Site Conditions/Erosion Controls: Dry ground surface that is firm throughout the site. Compost filter socks have been installed along the western and southern portions of the site and appear to be in good condition. The remaining portions of the site slopes towards the temporary basin adjacent to the construction entrance and appears to be functioning as expected. Stockpiles of excavated material are present throughout the site.
- B. Contractor not on-site during inspection. Electrical conduit has been installed and backfilled with sand in accordance with the Approved Plans. Backfill of DW-2 has begun with clean crushed stone directly on top of Cultec chambers then wrapped with filter fabric. Contractor to install two inspection ports at either corner of the system prior to completing stone placement and installing filter fabric. TT will return to the site on Monday (11/15) to inspect the filter fabric installation and provide final endorsement of the system prior to backfilling to proposed finish grades.

CONTRACTOR'S FORCE AND EQUIPMENT					WORK DONE BY OTHERS		
Sup't		Bulldozer		Asphalt Paver		Dept. or Company	Description of Work
Foreman		Backhoe		Asphalt Reclaimer			
Laborers		Loader		Vib. Roller			
Drivers		Rubber Tire Backhoe/Loader		Static Roller			
Oper. Engr.		Skid Steer	1	Vib. Walk Comp.			
Carpenters		Hoeram		Compressor			
Masons		Excavator	2	Jack Hammer			
Iron Workers		Grader		Power Saw			
Electricians		Crane		Conc. Vib.			
Flagpersons		Scraper		Tack Truck			
Surveyors		Conc. Mixer		Man Lift			
Roofers		Conc. Truck		Skidder		OFFICIAL VISITORS TO JOB	
Mechanical/HVAC		Conc. Pump Truck		Compact Track Loader			
		Pickup Truck		Well Drilling Rig			
		Tri-Axle Dump Truck					
		Trailer Dump Truck					
Police Details: N/A					RESIDENT REPRESENTATIVE FORCE		
Contractor's Hours of Work: 7:00 A.M. to 6:00 P.M.					Name		Time on-site
					Tucker D. Paradee, EIT		3:30 P.M. – 3:45 P.M.

NOTE: Please use reverse side for remarks and sketches

Project Harmony Village	Date 11/8/2021	Report No. 10
Location 218-220 Main Street, Medway, MA	Project No. 143-21583-20018	Sheet 2 of 2

FIELD OBSERVATIONS CONTINUED

2. SCHEDULE

A. TT will maintain communication with the Developer and will inspect the site on an as-needed basis.

3. NEW ACTION ITEMS

A. N/A

4. PREVIOUS OPEN ACTION ITEMS

A. Contractor shall provide photos of drainage installation for TT review.

5. MATERIALS DELIVERED TO SITE SINCE LAST INSPECTION

A. N/A

Tetra Tech
100 Nickerson Road, Suite 200
Marlborough, MA 01752

FIELD REPORT

Project Harmony Village	Date 11/12/2021	Report No. 11
Location 218-220 Main Street, Medway, MA	Project No. 143-21583-20018	Sheet 1 of 3
Contractor Gary Feldman, Marcelo Alves (Applicant/Developer)	Weather A.M. CLOUDY P.M.	Temperature A.M. 45°F P.M.

FIELD OBSERVATIONS

On Friday, November 12, 2021, Bradley M. Picard, E.I.T. from Tetra Tech (TT) visited the project location to inspect the current condition of the site and monitor construction progress. The following report outlines observations made during the site visit.

1. OBSERVATIONS

- A. Site Conditions/Erosion Controls: Dry ground surface that is firm throughout the site. Compost filter socks have been installed along the western and southern portions of the site and appear to be in good condition. The remaining portions of the site slopes towards the temporary basin adjacent to the construction entrance and appears to be functioning as expected. Stockpiles of excavated material are present throughout the site, contractor relocating material to the center of the site during the inspection.
- B. TT on-site to inspect the filter fabric installation for DW-2 and to provide final endorsement prior to backfilling. Upon arrival, contractor has installed non-woven filter fabric around the perimeter of the excavation, burying the filter fabric 6" into the stone base. Crushed stone has been placed to 6" above the Cultec C-100 infiltration chambers and inspection ports have been placed at two corners of the system. Contractor wrapped the top of the system with filter fabric, over 12" of overlap between sections is present throughout. Contractor to begin backfilling system with excavated material to approximate finish grades.

CONTRACTOR'S FORCE AND EQUIPMENT					WORK DONE BY OTHERS	
Sup't		Bulldozer		Asphalt Paver	Dept. or Company	Description of Work
Foreman		Backhoe		Asphalt Reclaimer		
Laborers	1	Loader		Vib. Roller		
Drivers		Rubber Tire Backhoe/Loader		Static Roller		
Oper. Engr.	1	Skid Steer	1	Vib. Walk Comp.		
Carpenters		Hoeram		Compressor		
Masons		Excavator	2	Jack Hammer		
Iron Workers		Grader		Power Saw		
Electricians		Crane		Conc. Vib.		
Flagpersons		Scraper		Tack Truck		
Surveyors		Conc. Mixer		Man Lift		
Roofers		Conc. Truck		Skidder	OFFICIAL VISITORS TO JOB	
Mechanical/HVAC		Conc. Pump Truck		Compact Track Loader		
		Pickup Truck		Well Drilling Rig		
		Tri-Axle Dump Truck				
		Trailer Dump Truck				
Police Details: N/A					RESIDENT REPRESENTATIVE FORCE	
Contractor's Hours of Work: 7:00 A.M. to 6:00 P.M.					Name	Time on-site
					Bradley M. Picard, EIT	9:15 A.M. – 9:45 A.M.

NOTE: Please use reverse side for remarks and sketches

Project Harmony Village	Date 11/12/2021	Report No. 11
Location 218-220 Main Street, Medway, MA	Project No. 143-21583-20018	Sheet 2 of 3

FIELD OBSERVATIONS CONTINUED

2. SCHEDULE

- A. TT will maintain communication with the Developer and will inspect the site on an as-needed basis.

3. NEW ACTION ITEMS

- A. N/A

4. PREVIOUS OPEN ACTION ITEMS

- A. Contractor shall provide photos of drainage installation for TT review. **TT 11/12/21 Update: Developer's design engineer submitted photos of drainage installation on 11/9/2021, see photos on Page 3. TT recommends the Contractor remove and replace DMH-2 (too many pipes entering that size structure) as well as piping from DCB-01 and CB-03 (pipe runs to DMH-2 include bends, limiting access for cleaning). TT will coordinate with the Developer's engineer to develop a final mitigation plan for these issues.**

5. MATERIALS DELIVERED TO SITE SINCE LAST INSPECTION

- A. N/A

Project Harmony Village	Date 11/12/2021	Report No. 11
Location 218-220 Main Street, Medway, MA	Project No. 143-21583-20018	Sheet 3 of 3

FIELD OBSERVATIONS CONTINUED

6. PHOTOS

Photo 1 (DMH-2 connections)



Photo 2 (typical pipe trench)

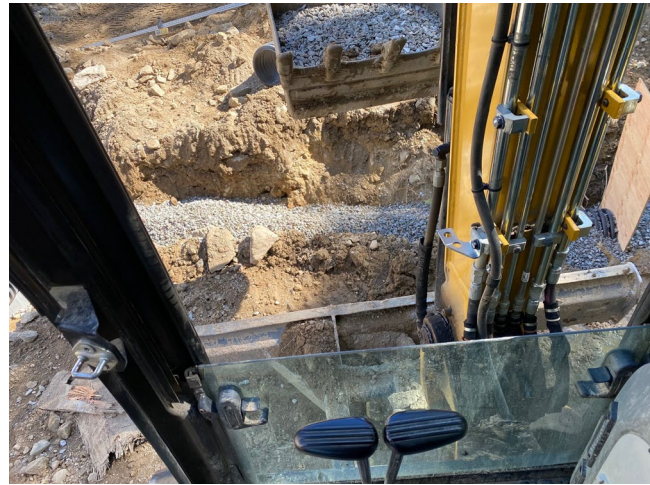
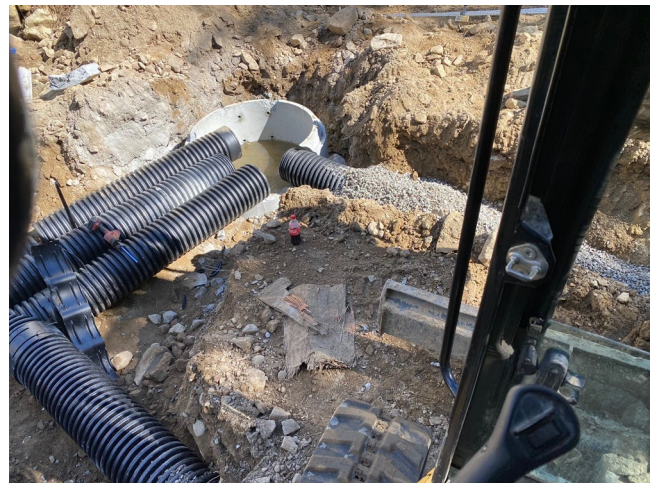


Photo 3 (CDS-1)



Photo 4 (DMH-2 connections)





Guerriere & Halnon, Inc.

ENGINEERING & LAND SURVEYING

www.guerriereandhalnon.com

Est. 1972

Milford Office
333 West Street, P. O. Box 235
Milford, MA 01757-0235
(508) 473-6630/Fax (508) 473-8243

Franklin Office
55 West Central Street
Franklin, MA 02038-2101
(508) 528-3221/Fax (508) 528-7921

Whitinsville Office
1029 Providence Road
Whitinsville, MA 01588-2121
(508) 234-6834/Fax (508) 234-6723

F3519

November 18, 2021

Town of Medway
Planning and Economic Development Board
155 Village Street
Medway, MA. 02053
Attn: Susan Affleck-Childs

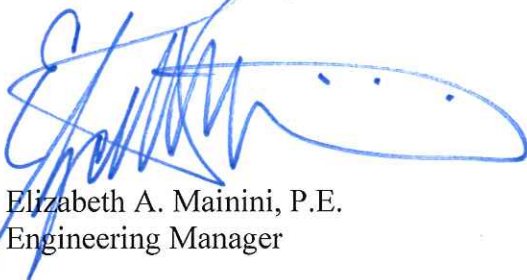
RE: Medway Mills – Monthly Inspection Report: 165 Main Street, Medway, MA 02053.

On behalf of the Applicant, 165 Main Street Realty Trust, and in accordance with Major Site Plan Decision dated June 22, 2021 General Conditions of Approval Paragraph (G)(4), Guerriere & Halnon, Inc. conducted the monthly site inspection on November 15, 2021 and observed the following construction activities:

- Clearing of trees has been completed;
- Erosion control measures and construction fencing have been installed on the west side of the project site and appear to be in satisfactory condition;
- Construction entrance has been installed and
- Drainage structures CB #1, CB#2, DMH #1, Outlet Control Structure OCS #1, DMH #3 and DCB #4 have been installed. 10" PVC drainage pipe connecting the Outlet Control Structure to DMH #3 is installed and backfilled.

Should you have any questions or require additional information, please contact our office.

Sincerely,
Guerriere & Halnon, Inc.



Elizabeth A. Mainini, P.E.
Engineering Manager

cc: Mr. John Greene, Applicant



Tetra Tech
100 Nickerson Road, Suite 200
Marlborough, MA 01752

FIELD REPORT

Project Medway Mills	Date 11/8/2021	Report No. 3
Location 165 Main Street, Medway, MA	Project No. 143-21583-20011	Sheet 1 of 2
Contractor Peter McCarthy (Site Contractor) John Greene (Developer)	Weather A.M. P.M. CLEAR	Temperature A.M. P.M. 63°F

FIELD OBSERVATIONS

On Monday, November 8, 2021, Tucker D. Paradee, EIT from Tetra Tech (TT) visited the project location to inspect the current condition of the site and monitor construction progress. The following report outlines observations made during the site visit.

1. OBSERVATIONS

- A. Site Conditions/Erosion Controls: Dry ground surface that is firm throughout. Construction entrance has been installed at the driveway off Lincoln Street, driveway is clean and free of sediment. Silt fence barrier (SFB) and compost filter socks have been installed along the perimeter of the site in accordance with approved site plans and appear to be in good condition. Additional erosion controls have been installed at the small unpaved parking area at the north corner of the site. Trees proposed to be preserved throughout the site have been marked with flagging. Excavated material and construction materials have been stockpiled throughout the site.
- B. Contractor is in the process of installing proposed drainage. Double Catch Basin (DCB#4) and Drainage Manhole (DMH#3) have been installed along with 10" SDR35 PVC. Structures and piping are backfilled with clean crushed stone followed by processed gravel. Remaining drainage structures and piping are to be installed when parking area and infiltration basin are constructed.

CONTRACTOR'S FORCE AND EQUIPMENT					WORK DONE BY OTHERS	
Sup't		Bulldozer		Asphalt Paver	Dept. or Company	Description of Work
Foreman		Backhoe		Asphalt Reclaimer		
Laborers		Loader	1	Vib. Roller		
Drivers		Rubber Tire Backhoe/Loader		Static Roller		
Oper. Engr.	2	Skid Steer		Vib. Walk Comp.		
Carpenters		Hoeram		Compressor		
Masons		Excavator	2	Jack Hammer		
Iron Workers		Grader		Power Saw		
Electricians		Crane		Conc. Vib.		
Flagpersons		Scraper		Tack Truck		
Surveyors		Conc. Mixer		Man Lift		
Roofers		Conc. Truck		Skidder	OFFICIAL VISITORS TO JOB	
Mechanical/HVAC		Conc. Pump Truck		Compact Track Loader		
		Pickup Truck	2			
		Tri-Axle Dump Truck				
		Trailer Dump Truck				
Police Details:					RESIDENT REPRESENTATIVE FORCE	
Contractor's Hours of Work: 7:00 A.M. to 6:00 P.M.					Name	Time on-site
					Tucker D. Paradee, EIT	3:00 P.M. – 3:30 P.M.

NOTE: Please use reverse side for remarks and sketches

Project Medway Mills	Date 11/8/2021	Report No. 3
Location 165 Main Street, Medway, MA	Project No. 143-21583-20011	Sheet 2 of 2

FIELD OBSERVATIONS CONTINUED

2. SCHEDULE

A. TT will maintain communication with the developer and will inspect the site on an as-need basis.

3. NEW ACTION ITEMS

A. N/A

4. PREVIOUS OPEN ACTION ITEMS

A. N/A

5. MATERIALS DELIVERED TO SITE SINCE LAST INSPECTION

A. N/A

Tetra Tech
100 Nickerson Road, Suite 200
Marlborough, MA 01752

FIELD REPORT

Project Medway Mills	Date 11/15/2021	Report No. 4
Location 165 Main Street, Medway, MA	Project No. 143-21583-20011	Sheet 1 of 2
Contractor Peter McCarthy (Site Contractor) John Greene (Developer)	Weather A.M. P.M. CLOUDY	Temperature A.M. P.M. 48°F

FIELD OBSERVATIONS

On Monday, November 15, 2021, Tucker D. Paradee, EIT from Tetra Tech (TT) visited the project location to inspect the current condition of the site and monitor construction progress. The following report outlines observations made during the site visit.

1. OBSERVATIONS

- A. Site Conditions/Erosion Controls: Dry ground surface that is firm throughout. Construction entrance has been installed at the driveway off Lincoln Street, driveway is clean and free of sediment. Silt fence barrier (SFB) and compost filter socks have been installed along the perimeter of the site in accordance with approved site plans and appear to be in good condition. Some sections of SFB have fallen off the stakes at multiple locations and should be reset. Additional erosion controls have been installed at the small unpaved parking area at the north corner of the site. Trees proposed to be preserved throughout the site have been marked with flagging. Excavated material and construction materials have been stockpiled throughout the site. Orange snow fencing has been installed around the perimeter of the site as a safety measure.
- B. TT on site to inspect the installation of drainage infrastructure on-site. Contractor is installing proposed Catch Basins (CB#1 and CB#2) and proposed Drainage Manhole (DMH#1). Contractor is using GPS equipment in addition to a rotary laser level and rod to ensure proper elevations and leveling is achieved. Crushed stone bed is established underneath each structure then backfilled with excavated material. Proposed Outlet Control Structure (OCS) has been set in place and connected to previously installed 10" SDR35 PVC. Contractor to connect drainage structures with RCP piping and seal connections with non-shrink mortar.

CONTRACTOR'S FORCE AND EQUIPMENT					WORK DONE BY OTHERS	
Sup't		Bulldozer		Asphalt Paver	Dept. or Company	Description of Work
Foreman		Backhoe		Asphalt Reclaimer		
Laborers		Loader	1	Vib. Roller		
Drivers		Rubber Tire Backhoe/Loader		Static Roller		
Oper. Engr.	2	Skid Steer		Vib. Walk Comp.		
Carpenters		Hoeram		Compressor		
Masons		Excavator	2	Jack Hammer		
Iron Workers		Grader		Power Saw		
Electricians		Crane		Conc. Vib.		
Flagpersons		Scraper		Tack Truck		
Surveyors		Conc. Mixer		Man Lift		
Roofers		Conc. Truck		Skidder	OFFICIAL VISITORS TO JOB	
Mechanical/HVAC		Conc. Pump Truck		Compact Track Loader		
		Pickup Truck	2			
		Tri-Axle Dump Truck				
		Trailer Dump Truck				
Police Details:					RESIDENT REPRESENTATIVE FORCE	
Contractor's Hours of Work: 7:00 A.M. to 6:00 P.M.					Name	Time on-site
					Tucker D. Paradee, EIT	1:00 P.M. – 1:45 P.M.

NOTE: Please use reverse side for remarks and sketches

Project Medway Mills	Date 11/15/2021	Report No. 4
Location 165 Main Street, Medway, MA	Project No. 143-21583-20011	Sheet 2 of 2

FIELD OBSERVATIONS CONTINUED

- C. Contractor has raised the grate of DCB #4 to proposed rim elevations using brick and mortar. TT recommends additional mortar be placed around the frame of the grate and brick as several sections appear to be insufficiently parged. Riser and cover have been placed at DMH #3, contractor has yet to raise manhole cover to proposed rim elevations.

2. SCHEDULE

- A. TT will maintain communication with the developer and will inspect the site on an as-need basis.

3. NEW ACTION ITEMS

- A. Repair fallen SFB around the perimeter of the site as needed.
- B. Install additional mortar at the frame and leveling bricks at DCB #4.

4. PREVIOUS OPEN ACTION ITEMS

- A. N/A

5. MATERIALS DELIVERED TO SITE SINCE LAST INSPECTION

- A. N/A

CONNORSTONE ENGINEERING, INC.

10 SOUTHWEST CUTOFF, #7
NORTHBOROUGH, MASSACHUSETTS 01532
TEL: 508-393-9727 FAX: 508-393-5242

Construction Observation Report

Project Information

Project Name: Choate Trail
Location: Copper Drive (off Highland Street) Medway, MA
Report Number: 6
Inspection Date: 11/15/2021
Inspection Time: 1:00 pm

On Thursday, November 15, 2021, Vito Colonna, PE, from Connorstone Engineering, Inc. (CSEI) performed a progress inspection in accordance with the Definitive Subdivision Approval Condition VII.B.5.c. The following report summarizes the observations made during the site visit.

Recent Precipitation Events:

Based upon available data, since the last inspection the site received the following precipitation.

- Previous 24 hours: 0 inches
- Previous 72 hours: 0.4 inches

Completed / On-Going Work

Time Period: 10/7/2021 to 11/14/2021

- Underground electric conduit was installed through initial sand bedding/backfill. Final trench backfill is still required.

Site Conditions / Recommendations:

1. The entrance showed no signs of tracking onto Highland Street.
2. The internal Roadway (Copper Drive) had a fair amount of tracking/sediment on the paved areas. This should be swept as soon as possible to reduce sediment entering the drainage system. The sand stockpile within the cul-de-sac area should also be moved or protected from precipitation. A stone construction entrance should be installed if any future traffic is anticipated (applicable to all lots). All of the driveway entrances, stockpiles, and lots should maintain grading that directs runoff away from the roadway until stabilized.
3. The overall site condition was generally stable, and the perimeter erosion barriers appeared in good condition and functioning as intended. No sediment or erosion was observed beyond the barriers or limit of work. Except at Roadway Station 1+50 the low area has been collecting runoff from Lot 1. A small amount of sediment was noted behind the erosion barrier (leaf staining) and a hole in the silt fence was noted. This should be repaired and flow from Lot 1 reduced with check dams other practices.
4. Catch basins were equipped with silt sacks that appeared to be in good condition. It is recommended that the gutter mouths be temporarily blocked to prevent bypass around the silt sack to reduce the chances of sediment or debris from entering the drainage system.
5. The two water quality structures (Stormceptors) should be adjusted to grade at some point to allow for inspection and maintenance when required.
6. Stockpiles of loam / soil were located on future Lots 3 and 4, and appeared generally stable with no notable erosion.
7. An open excavation was located on the rear of Lot 4. This should be backfilled or otherwise protected for safety.

Vito Colonna, PE
Connorstone Engineering, Inc.





Roadway Entrance



Cul-de-sac Area



Internal Roadway Near Entrance



Typical Erosion Barrier Condition



Typical CB Inlet Protection



Low Area Near Station 1+50 Right



Utility Installation



Excavation Rear Lot 4



November 23, 2021

**Medway Planning & Economic Development Board
Meeting**

Medway Place Site Plan Public Hearing

- Public Hearing Continuation Notice to 11-23-21
- REVISED DRAFT decision dated 11-22-21. Not complete; language for conditions needs much more attention.

NOTE – I have requested comments from Sergeant Jeff Watson and Conservation Agent Bridget Graziano. I hope to have those for you on Tuesday.

Board Members

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



Medway Town Hall
155 Village Street
Medway, MA 02053
Phone (508) 533-3291
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TOWN OF MEDWAY COMMONWEALTH OF MASSACHUSETTS

PLANNING AND ECONOMIC DEVELOPMENT BOARD

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MEMORANDUM

November 17, 2021

TO: Stefany Ohannesian, Town Clerk
Town of Medway Departments, Boards and Committees

FROM: Susy Affleck-Childs, Planning and Economic Development Coordinator

RE: **Public Hearing Continuation for Medway Place Shopping Plaza Site Plan**
98, 108 and 114 Main Street
Continuation Date – Tuesday, November 23, 2021 at 8:30 p.m.

At its November 16, 2021 meeting, the Planning and Economic Development Board voted to continue the public hearing on the application of Medway Realty LLC of Boston, MA for approval of a major site plan for proposed site improvements at the Medway Place shopping plaza to Tuesday, November 23, 2021 at 8:30 p.m. The meeting will be held in Sanford Hall at Medway Town Hall, 155 Village Street and virtually via the Zoom online meeting platform.

Proposed are a series of changes in the layout of and landscaping for the Medway Place parking lot as a result of the recently completed Route 109 improvement project. The proposed parking lot work will align the plaza's parking space layout with the Mass DOT constructed boulevard style main entrance. Also proposed are new stormwater management controls to treat stormwater collected from the parking lot before it is discharged to the Town's municipal storm drain system. Other site improvements will include landscaping and electric vehicle charging stations.

The site plan and landscaping revisions are shown on *Medway Place Site Plan and Landscape Plan* dated October 16, 2019, last revised September 30, 2021 by Howard Stein Hudson of Boston, MA. The *Drainage Improvement Plan for 98, 108 and 114 Main Street* is dated September 7, 2019, last revised March 1, 2021 and was prepared by Grady Consulting, LLC of Kingston, MA. The documents are on file with the Medway Town Clerk and the Community and Economic Development office at Medway Town Hall. The information is also posted at the Planning and Economic Development Board's page at the Town's web site at: <https://www.townofmedway.org/planning-economic-development-board/pages/medway-plaza-site-plan>

The Board will continue to work on the site plan decision at the November 23rd meeting and will vote on the decision at a special meeting on November 30th.

Please don't hesitate to contact me if you have any questions. Thanks.

Board Members

Andy Rodenhiser, Chair
Robert Tucker, Vice Chair
Jessica Chabot, Member
Richard Di Iulio, Member
Matthew Hayes, P.E.,
Member
Thomas A. Gay, Associate
Member



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TOWN OF MEDWAY **COMMONWEALTH OF MASSACHUSETTS**

PLANNING AND ECONOMIC DEVELOPMENT BOARD

REVISED DRAFT – November 22, 2021
3:53 p.m.

Major Site Plan ***Medway Place – 98, 108 and 114 Main Street*** ***with Waivers and Conditions***

Decision Date: _____

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 Attorney Gareth Orsmond
Pierce Atwood, LLP
100 Summer Street, Floor 22
Boston, MA 02110

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 Route 109 which was recently repaved through a major Mass DOT project. As part of this project, a new signalized intersection has been installed at the main entrance. The traffic count 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 Department of Transportation Route 109 improvement project noted above. The parking lot work will align the internal parking spacing with the Mass DOT constructed boulevard style main entrance to improve traffic circulation within the site and provide pedestrian access to the shopping center from Main Street. That work will include installation of a berm near the entrance to the Shell Station at 86 Main Street, widening of the east side of the entrance aisle to the property to 20' wide, and relocation of several light fixtures. Repaving of portions of the parking lot are planned. The Applicant has also proposed stormwater management controls to 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, xxx. 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 _____, on a motion made by _____ and seconded by _____, voted to _____ **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 _____ by a vote of ____ in favor and ____ opposed.

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

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 3, 2020, and March 24, 2020.
- I. Filing of Administrative Plan application for fencing . . .

NOTE - 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, October 27, 2020, November 24, 2020, 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.

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. **Correspondence from attorney Gareth Orsmond, on behalf of the applicant, to extend the deadline for Planning and Economic Development Board action on the site plan application**
- 3-3-20 email granting an extension to 4-30-20
COVID – extensions
 - 6-8-21 email granting an extension to 9-30-21
 - 9-8-21 email granting an extension to 11-15-21
 - _____ email granting an extension to 12-3-21
3. **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.
4. **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
5. **Administrative Site Plan Review application**
- C. During the course of the Board's review, a variety of materials were submitted to the Board by its staff 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
- DRC review comments . . multiple

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 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

VI. FINDINGS – The Board, at its meeting on _____, on a motion made by _____ and seconded by _____, voted to _____ the following FINDINGS regarding the site plan application for Medway Place. The motion was _____ by a vote of ____ in favor and ____ opposed.

Planning & Economic Development Board Member

Vote

Richard Di Iulio
Matthew Hayes
Andy Rodenhiser
Robert Tucker

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 __, 2022.
2. Something about the Rocky's site plan
3. Something about scope of site plan review for a pre-existing, non-conforming use
4. Something about safety
5. Shortcomings of paving plan

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 outdoor dining areas, food truck spaces, electric vehicle charging stations, bike racks, motorcycle parking, relocation of parking lot light fixtures, fencing, landscaping, and xxxxxxxxxxxxxx. 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 the 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 parking for drop off and pick up at the child care center; the parking layout. Condition #___ addresses this issue by _____. 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 Condition #_____.

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 various versions of the site plan as submitted by the Applicant and after such revisions has determined that the project complies with the Fire Code.

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 a ___ site plan. 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. It is noted that the Applicant will need to return to the Medway DPW to amend the MS4 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 building. The site plan includes the installation of ___ bicycle racks (___ bikes) and ___ motorcycle parking spaces to accommodate employees and cycling customers. The rearranged parking configuration to angle 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 Condition # which _____. 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 selected breaks in the fencing between the two properties. This shortcoming is addressed in Condition # ____.

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 (Condition ____), and prior to plan endorsement, the Applicant shall provide a lighting plan compliant with the requirements of Section ____ 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 . . . (something about the e-coli matter)

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 2-way traffic flow around the back of the building is problematic and is exacerbated by signage authorizing such 2-way traffic. The tight space behind the Ocean State Job location's loading dock area makes for dangerous site conditions. The turning details for large delivery vehicles have not been provided and thus the Board cannot analyze the site's 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 their 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 flowing 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 a water quality unit 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 has identified that stormwater runoff from certain areas of the parking lot is not being captured and treated. 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. Further, the Applicant is not 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.

We note that the Applicant, in response to the Board's request for additional site landscaping in the parking lot, has proposed a series of curbed landscaped areas with gutter inlets to address stormwater flow. This will likely necessitate the relocation of several catch basins. This and any additional stormwater work the Board requires will necessitate a modification to the Applicant's MS4 permit with the Medway DPW.

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. Condition # ____ 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 _____ meeting, the Board, on a motion made by _____, and seconded by _____, voted to _____ waivers from the following provisions of the *Rules and Regulations for the Submission and Approval of Site Plans*, as amended October 8, 2019. The Board's action and reasons for approving 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 _____ by a vote of ____ in favor and ____ opposed.

Planning & Economic Development Board Member **Vote**

Richard Di Iulio
Matthew Hayes
Andy Rodenhiser
Robert Tucker

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 overall impacts of the current use of the center on the community 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.

However, the parking configuration and internal traffic flow components of the project are of concern to the Board. Also the Board remains troubled by the e-coli

Therefore, the Board disapproves 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 Condition #___ which requires the construction 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 #___ 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. 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 9-30-21 revised submittal, the Applicant has included a Grading, Drainage and Utilities Sheet in the Site Plan set dated 8-30-21. It shows existing contours and the proposed drainage modifications. However, the Board has determined that the grading details shown on the noted sheet are not adequate. 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 the other stormwater management measures 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 inclusion of a table to indicate the status of zoning compliance is a routine element of any site plan set and is considered standard practice. The preparation of this site plan is the opportune time to provide such a table. The Board disapproves 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 odors. 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 _____ 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.
- 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. References to the Master Signage Plan and Landscape Maintenance Plan
- 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 or drawings 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. The marked parking spaces located along the northern edge of the property, behind the center's buildings, shall be specifically designated for employee parking.

3. A drawing for a standard dumpster enclosure shall be submitted for the Board's approval and a detail for such shall be included on the site plan. Such enclosures shall be fabricated with non-glossy material, shall resemble wood, be of a natural wood color, and be of a height to fully shield the view of the enclosed dumpsters and recycling containers. Chain link fencing with plastic slats is prohibited.
4. Traffic Flow Pattern – The traffic pattern pavement arrows shall be revised to show one-way traffic west to east across the back of the buildings.
5. Pedestrian Access between Medway Place and Drybridge Crossing – Something, to be approved by the Board prior to endorsement
6. The pavement markings for the back parking area behind PJ's as shown on the plan are shown as existing conditions. That is not an accurate depiction. The reflective of existing conditions or proposed? Needs to be clearer.
7. The plan shall be revised to include the actual location of the irrigation well and the planned landscaping to screen the irrigation well shall be included on the Planting Plan (Sheet C3.00).
8. Add a pedestrian ramp in front of Ocean State Job Lot.
- 9.
- 10.
- 11.
- 12.
- 13.

D. 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.

E. Traffic Pattern

1. Use of the alley/driveway between New England Cabinetry and MG Salon & Spa shall be one-way only (northbound) for vehicular traffic. Exiting traffic out of this 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.

- F. **Pedestrian Access** – The Permittee shall provide a safe means for pedestrian access between Medway Place and the adjacent Drybridge Crossing, the location of which shall be approved by the Board prior to plan endorsement and the plan shall be revised to depict such pedestrian connection.
- G. **Trash Dumpsters** – Something about dumpster enclosures and consolidation as leases come up; new requirements for new tenants. Provide a drawing for a standard dumpster enclosure and add to the detail sheets. Applicant should come up with a master plan for how to transition including specific parameters for locations.
- H. **Lighting** – Site lighting shall comply with Section ___ of the Zoning Bylaw which applies to lighting modifications as well as new installations.
- I. **Parking** – The marked parking spaces located along the northern edge of the site shall be designated for employee parking.
- J. **Parking Lot Paving** – What do you want to say about this? 5 years to complete?
- K. **Electric Vehicle Charging Stations** – Something about using the highest level technology available at the time. Before installation of the EVC stations, the Permittee shall secure the Board's approval for the particular model of EVC device to be installed.
- L. **Master Signage Plan** – Shall be used by the Permittee and may be adjusted by action of the PEDB without a public hearing.
- M. **Food Trucks/landscaping/barriers** – Come back to the Board for a modification at a public meeting.
- N. **Construction Schedule and Construction Management Plan**
- O. **Landscape Maintenance**
1. Refer to the submitted Landscape Maintenance Plan
 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.
- P. **Performance Security** –

- 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 ____ years of the date of plan endorsement. The electric vehicle charging stations shall be installed by _____. 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.
- R.
- S.
- T.

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.

###

Decision Date: _____

AYE:

NAY:

Signature *Printed Name*

Signature *Printed Name*

Signature *Printed Name*

Signature *Printed Name*

Signature *Printed Name*

COPIES TO: Michael Boynton, Town Administrator
Bridget Graziano, Conservation Agent
Donna Greenwood, Assessor
Beth Hallal, Health Agent
Jeff Lynch, Fire Chief
Jack Mee, Building Commissioner and Zoning Enforcement Officer
Pete Pelletier, DPW Director
Joanne Russo, Treasurer/Collector
Barbara Saint Andre, Director of Community and Economic Development
Jeff Watson, Police Department Safety Officer
Gareth Orsmond, Pierce Atwood
Steven Bouley, Tetra Tech
Gino Carlucci, PGC Associates



November 23, 2021
Medway Planning & Economic Development Board
Meeting

ANR Application - 39 Waterview Drive
UPDATED 11-22-21

- ANR application from Michelle Earle and Todd Houle
- ANR plan of land dated November 12, 2021 by Colonial Engineering, Medway, MA
- Project description letter dated November 16, 2021 from Paul DeSimone
- **ANR plan review letter by Susy Affleck-Childs dated November 19, 2021**

The applicant has filed an ANR plan showing a 7,977 sq. ft. Parcel A immediately north of their property at 39 Waterview Drive at the northwest corner of Franklin Street and Waterview Drive. Parcel A is part of the abandoned railroad right of way. The Applicant wishes to claim a share of the Parcel to the centerline of the railroad right of way.

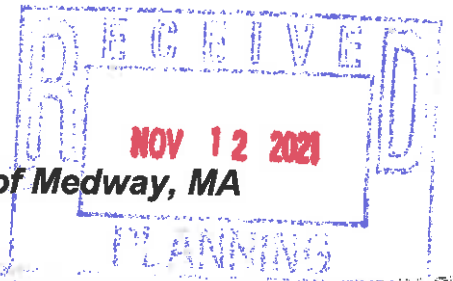
We have asked Town Counsel for some guidance on this for you. I will supply that to you upon receipt. Please note the Town may have a legal interest in the land comprising the railroad right of way.

~~I have not yet had a chance to review the plan for all the standard ANR elements. Stay tuned.~~



Planning & Economic Development Board - Town of Medway, MA

LAND SUBDIVISION – FORM A



RECEIVED TOWN CLERK
NOV 17 '21 11:21

**Application for Endorsement of Plan
Believed Not to Require Subdivision Approval (ANR)**

INSTRUCTIONS TO APPLICANT/OWNER

This Application is made pursuant to the Medway Subdivision Rules and Regulations.
Please complete this entire Application.

Submit two (2) signed originals of this ANR Application, two copies of the ANR Plan, an electronic version (PDF) of the ANR plan, two Project Explanations, and the appropriate ANR application/filing fee checks to the Medway Planning and Economic Development office, 155 Village ST, Medway, MA 02053.

The Applicant certifies that the information included in this Application is a true, complete and accurate representation of the facts regarding the property under consideration.

In submitting this application, the Applicant and Property Owner authorize the Planning & Economic Development Board and its agents to access the site during the plan review process.

The Town's Planning Consultant will review the Application, Project Explanation and ANR plan and provide a recommendation to the Planning & Economic Development Board.

A copy of that letter will be provided to you. Revisions to the plan may be needed.

**You or your duly authorized agent is expected to attend the Board meeting
when the ANR Plan will be considered to answer any questions and/or submit such
additional information as the Board may request.**

Your absence may result in a delay in the Board's review and decision.

November 12, 2021

TO: The Planning & Economic Development Board of the Town of Medway, MA

The undersigned, wishing to record the accompanying plan of property in the Town of Medway and believing that the plan does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submits this Application and ANR Plan to the Medway Planning and Economic Development Board and requests its determination and endorsement that the Board's approval under the Subdivision Control Law is not required.

PROPERTY INFORMATION

ANR Location Address(es): 39 Waterview Drive

The land shown on the plan is shown on Medway Assessor's Map # 67 Parcel(s) # 26

Total Acreage of Land to be Divided: 0

Subdivision Name (if applicable): N/A

Medway Zoning District Classification: AR II

Frontage Requirement: 150' Area Requirement: 22,500 S.F.

Is the road on which this property has its frontage a designated **Medway Scenic Road**? NO

The owner's title to the land that is the subject matter of this application is derived under deed from: Michelle S. Earle to Michelle S. Earle & Todd Houle dated February 23, 2021 and recorded in Norfolk County Registry of Deeds, Book 39070 Page 404 or Land Court Certificate of Title Number _____, Land Court Case Number _____, registered in the Norfolk County Land Registry District Volume _____, Page _____.

ANR PLAN INFORMATION

Plan Title: Plan of Land in Medway, MA.

Prepared by: Anthony Dellorco

P.E. or P.L.S registration #: 34303 Plan Date: _____

APPLICANT INFORMATION

Applicant's Name: Michelle S. Earle & Todd Houle

Address: 39 Waterview Drive

Medway, MA.

Telephone: 617-470-2353 Email: _____

PROPERTY OWNER INFORMATION

(If different than the applicant or if the plan shows a land swap between two adjacent properties)

Property Owner's Name: _____

Address: _____

Telephone: _____ Email: _____

ENGINEER or SURVEYOR INFORMATION

Name: Anthony M. Dellorco

Address: 11 Owl St.

Medway, MA. 02053

Telephone: 508-533-1644 Email: colonial.eng@verizon.net

ATTORNEY INFORMATION

Name: _____

Address: _____

Telephone: _____ Email: _____

OFFICIAL REPRESENTATIVE INFORMATION

Name: Paul DeSimone
Address: 11 Owl St.
Medway, MA. 02053
Telephone: 508-533-1644 Email: colonial.eng@verizon.net

PROJECT EXPLANATION

Provide a cover letter with a detailed explanation of how you propose to divide the land, what land transaction will occur, and what land reconfiguration will result from the endorsement and recording of this ANR Plan.

APPROVAL NOT REQUIRED JUSTIFICATION

The Applicant believes that the Board's approval under the Subdivision Control Law is not required for the following reasons: *(Check all that apply.)*

- ☒ 1. The accompanying plan does not show a division of land.
- ☐ 2. Every lot shown on the plan has frontage as required by the Medway Zoning Bylaw. The frontage required by the Zoning Bylaw is located on _____ *(name of way(s), which is:*
- ☐ a. A public way. Date of street acceptance: _____
- ☐ b. A way certified by the Town Clerk as being maintained and used as a public way. *(Attach Town Clerk's certification)*
- ☐ c. A way shown on a definitive subdivision plan entitled _____
- that was previously endorsed by the Planning and Economic Development Board on _____ and recorded at the Norfolk County Registry of Deeds on _____
- Provide detailed recording information: _____
- ☐ d. A private way in existence on the ground before 1952 when the Subdivision Control Law was adopted in the Town of Medway, which has, in the opinion of the Planning & Economic Development Board, adequate width, suitable grades, and adequate construction to provide vehicular access to the lot(s) for their intended purpose of _____ and to permit the installation of municipal services to serve the lot(s) and any buildings thereon.
- ☒ 3. The division of land shown on the accompanying plan is not a "subdivision" for the following reasons: No new ways or streets.

SIGNATURES

The undersigned, being the Applicant as defined under Chapter 41, Section 81P for endorsement of an Approval Not Required Plan, herewith submits this application and Approval Not Required Plan to the Medway Planning and Economic Development Board for review and endorsement.

I hereby certify, under the pains and penalties of perjury, that the information contained in this application is a true, complete and accurate representation of the facts regarding the property under consideration.

(If applicable, I hereby authorize Paul DeSimone to serve as my Agent/Official Representative to represent my interests before the Medway Planning & Economic Development Board with respect to this Approval Not Required Application.)

In submitting this application, I authorize the Board, its consultants and agents, and Town staff to access the site during the plan review process.



Signature of Property Owner

11/12/21

Date

Signature of Applicant (if other than Property Owner)

Date



Signature of Agent/Official Representative

11/12/21

Date

ANR PLAN FILING FEE

\$250 plus \$100 per lot or parcel for a plan involving three (3) or more lots/parcels, not to exceed a maximum of \$750.

**Please prepare two checks: one for \$100 and one for the balance.
Each check should be made payable to: Town of Medway**

Fee approved 11-2-06

APPLICATION CHECKLIST – All items must be submitted

- _____ 2 signed original ANR applications (FORM A)
- _____ 2 full size prints of ANR plan
- _____ Electronic version of ANR plan – A flash drive may be provided or a PDF of the plan may be emailed to: planningboard@townofmedway.org.
- _____ 2 copies of the Project Explanation
- _____ Application/Filing Fee (2 checks) – Check with PEDB office for amounts.

ANR Application/Filing Fee Paid:

Amount: _____ Check # _____

Amount: _____ Check # _____

N O T
A N
O F F I C I A L
C O P Y

N O T
A N
O F F I C I A L
C O P Y

QUITCLAIM DEED

I, MICHELLE S. EARLE, a married woman, of 39 Waterview Drive, Medway, Norfolk County, MA, 02053,

for consideration paid and in full consideration of Ten Dollars and No Cents (\$10.00),

grant to MICHELLE S. EARLE and TODD HOULE, husband and wife as tenants-by-the-entirety, of 39 Waterview Drive, Medway, Norfolk County, MA, 02053

with QUITCLAIM COVENANTS:

See legal description marked Exhibit A attached hereto and made a part hereof.

PROPERTY ADDRESS: 39 Waterview Drive
Medway, MA 02053

Being the same premises conveyed to Grantor by deed of Michelle S. Earle and James F. Earle, Jr., dated March 13, 2015 and recorded at the Norfolk County Registry of Deeds in Book 33039, Page 21.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE ON FOLLOWING PAGE

LOCUS: 39 Waterview Drive, Medway, Norfolk County, MA, 02053

UPON RECORDING,
PLEASE RETURN TO:

William S. Bonaccorso, Esq.
Bonaccorso & Associates
131 Dartmouth Street -- 501
Boston, MA 02116

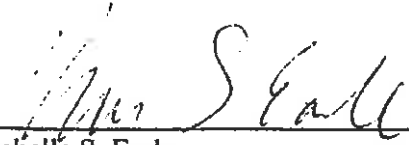
MASSACHUSETTS STATE EXCISE TAX
Norfolk Registry of Deeds
Date: 03-01-2021 @ 12:58pm
Ct1#: 883 Doc#: 26415
Fee: \$.00 Cons: \$10.00

WILLIAM P. O'DONNELL, REGISTER
NORFOLK COUNTY REGISTRY OF DEEDS
RECEIVED & RECORDED ELECTRONICALLY

NOT
AN
OFFICIAL
COPY

NOT
AN
OFFICIAL
COPY

Witness the execution hereof under seal this 23rd day of February 2021.



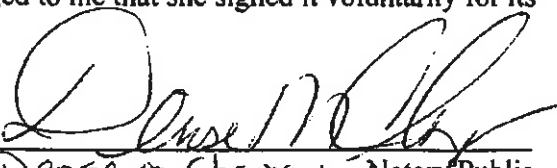
Michelle S. Earle

COMMONWEALTH OF MASSACHUSETTS

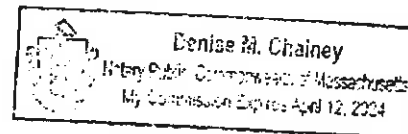
Essex, SS.

February 23, 2021

On this 23rd day of February 2021, before me, the undersigned notary public, personally appeared Michelle S. Earle, proved to me through satisfactory evidence of identification, which was MA license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purposes.



Denise M. Chainey, Notary Public
My commission expires: 4/12/2024



N O T
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O F F I C I A L
C O P Y

N O T
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O F F I C I A L
C O P Y

EXHIBIT A

The following property in Medway, Norfolk County, Massachusetts:

The land with the buildings thereon in Medway, Norfolk County, Massachusetts, being shown as Lot 17A on a plan entitled "Plan of Land in Medway, Mass., Property of Gary Hanson and Francis N. Murphy, Trustees of Humarco Realty Trust", Scale 40 feet to an inch, dated June 22, 1981 by Guerriere & Halnon, Inc., Engineering and Land Surveying, 326 West Street, Milford, Mass., recorded in the Norfolk County Registry of Deeds as Plan No. 635 of 1981 in Plan Book 290 to which plan reference is hereby made for a more particular description.

Said Lot 17A contains an area of 22,253 square feet, more or less, according to said plan.

COLONIAL ENGINEERING INC.
Surveying and Consulting

11 AWL STREET
MEDWAY, MA. 02053
(508) 533-1644
(508) 533-1645 FAX
colonial.eng@verizon.net

November 16, 2021

Medway Planning Board
Town Hall
155 Village Street
Medway, MA. 02053

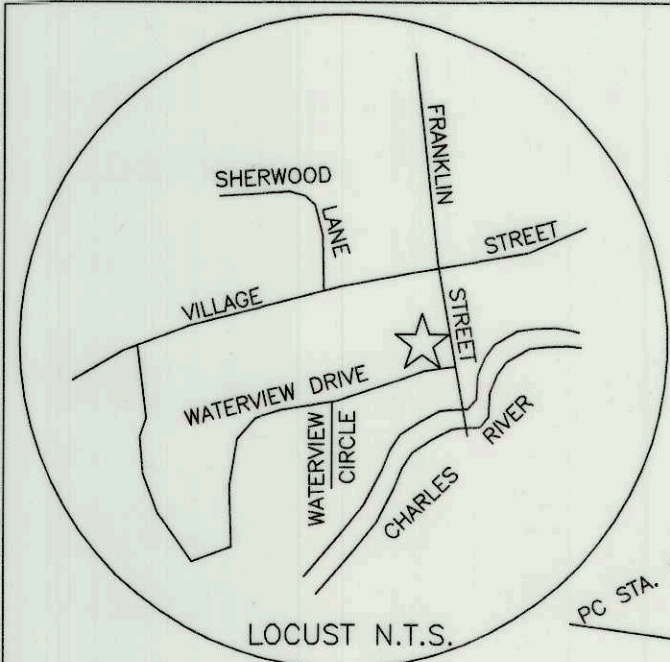
RE: 39 Waterview Drive

Dear Board Members,

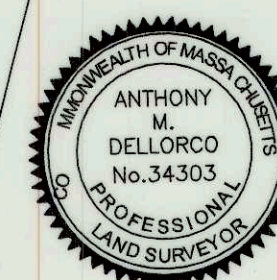
This plan is not a subdivision, the owners of 39 Waterview Drive are claiming out to the centerline of the abandoned railroad bed. There has been many other such claims made along this particular rail road bed in the past.

If you have any questions please do not hesitate to call or email our office.

Thank You
Paul DeSimone



ZONE AR II
AREA 22,500 S.F.
FRONTAGE 150'
SETBACK 35'
SIDEYARD 15'
REARYARD 15'



I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

Anthony M. Dellorco

DATE: NOVEMBER 12, 2021

APPROVAL UNDER SUBDIVISION CONTROL LAW IS NOT REQUIRED.
DATE APPROVED: _____

TOWN OF MEDWAY PLANNING BOARD
"PLANNING BOARD ENDORSEMENT DOES NOT CONSTITUTE A DETERMINATION OF COMPLIANCE WITH THE MEDWAY ZONING BY-LAWS."

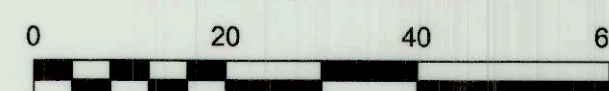
NOTE: PROPERTY SHOWN ON THIS PLAN IS NOT CLASSIFIED AS CHAPTER 61A OR 61B.

PLAN OF LAND
IN
MEDWAY, MA.

SCALE: 1"=20' NOV. 12, 2021

OWNER: Michelle S. Earle
& Todd Houle
39 Waterview Drive
Medway, Ma. 02053

COLONIAL ENGINEERING INC.
11 AWL STREET MEDWAY, MA. 02053
508-533-1644



N/F CONSOLIDATED RAIL CORP.

N/F CONSOLIDATED RAIL CORP.

PARCEL A
7,997 S.F.
NOT A BUILDABLE LOT
UNDER CURRENT TOWN
OF MEDWAY ZONING

LOT 17A
22,523 S.F.
Map 67 Parcel 26

LOT 18A
N/F Darrick & Andrea Kerr
37 Waterview Drive
Map 67 Parcel 27

BITUMINOUS DRIVE

2ST. W/F
HSE#39

DECK

SHED

WATERVIEW (PUBLIC 50' WIDE) DRIVE

FRANKLIN (PUBLIC 50' WIDE) STREET
(COUNTY LAYOUT OF 1981)

N/F Kimberly M. Kasten
38 Waterview Drive
Map 67 Parcel 71

N/F Phillip & Cathy D'Alesio
40 Waterview Drive
Map 67 Parcel 72

N/F John & Sandra Currier
2 Franklin Street
Map 67 Parcel 74

Susan E. Affleck-Childs

Planning and Economic
Development Coordinator



Medway Town Hall
155 Village Street
Medway, MA 02053
Phone (508) 533-3291
Fax (508) 321-4987
Email: sachilds@
townofmedway.org
www.townofmedway.org

TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
PLANNING AND ECONOMIC
DEVELOPMENT OFFICE

MEMORANDUM

November 19, 2021

TO: Planning and Economic Development Board members
FROM: Susy Affleck-Childs
RE: ANR Plan for 39 Waterview Drive

I have reviewed the ANR plan of land, application, and accompanying submittal letter filed by Michelle Earle and Todd Houle of Medway, MA for 39 Waterview Drive, at the northwest corner of Waterview Drive and Franklin Street in the ARII zoning district. The plan was prepared by Colonial Engineering of Medway, MA and is dated November 12, 2021. The plan shows Lot 17A at 39 Waterview Drive, (Medway Map 67, Parcel 26) (22,523 sq. ft.) and the adjacent Parcel A, a 7,997 sq. ft. parcel, which is a portion of the abandoned railroad bed that runs along the northern property line of 39 Waterview Drive. The ownership of Parcel A is not specified however it is identified as not being a separate buildable lot under the *Zoning Bylaw*. Colonial Engineering has explained that the applicants wish to claim ownership of Parcel A to add to their property nothing that other properties along the railroad bed have done so as well.

I have comments as follows based on Section 3.2 ANR Plan Contents of the *Subdivision Rules and Regulations*.

1. The plan is drawn at a scale of 1" = 20'. The *Subdivision Rules and Regulations* call for the plan scale to be 1" = 40' or such other scale as the Board may accept. The 1" = 20' scale displays the parcel dimensions and arrangements more clearly and is suitable for this instance.
2. The calculation for the lot shape factor for Lot 17A is missing. However, the plan depicts a rectangular shaped lot without any odd configurations.
3. Other than the 2 items noted above, the plan includes all other details required to be shown on an ANR plan pursuant to Section 3.2 ANR Plan Contents of the *Medway Subdivision Rules and Regulations*.
4. The ownership of the abandoned railroad bed is complicated and the Town is involved in the chain of title. The applicant's representative has not provided documentation that the applicants have rights to claim Parcel A. We have asked Town Counsel for some guidance on this matter. However, the ownership is not a particularly relevant matter when it comes to an ANR plan. The key question is whether the land shown on the plan constitutes a subdivision, and it clearly does not.



November 23, 2021
Medway Planning & Economic Development Board
Meeting

ZBA Petition

- Dimensional variance petition for 5 Oakview Circle to allow for the construction of a front porch with a landing and stairs to provide for the future installation of a handicapped ramp. The applicant requests a variance for a 30' front setback instead of the 35' standard setback.

NOTE – The ZBA hearing on this project is December 1, 2021.

GENERAL APPLICATION FORM



TOWN OF MEDWAY

ZONING BOARD OF APPEALS

155 Village Street
Medway MA 02053

Phone: 508-321-4915 | zoning@townofmedway.org
www.townofmedway.org/zoning-board-appeal

NOTE: THE APPLICATION WILL NOT BE CONSIDERED "COMPLETE" UNLESS ALL NECESSARY DOCUMENTS, FEES, & WAIVER REQUESTS ARE SUBMITTED. A GENERAL APPLICATION FORM MUST BE COMPLETED FOR ALL APPLICATIONS.

TO BE COMPLETED BY THE APPLICANT

Applicant/Petitioner(s):	Application Request(s):
Property Owner(s):	Appeal <input type="checkbox"/>
	Special Permit <input type="checkbox"/>
Site Address(es):	Variance <input type="checkbox"/>
	Determination/Finding <input type="checkbox"/>
	Extension <input type="checkbox"/>
	Modification <input type="checkbox"/>
Parcel ID(s):	Comprehensive Permit <input type="checkbox"/>
Zoning District(s):	
Registry of Deeds Book & Page No. and Date or Land Court Certificate No. and Date of Current Title:	

TOWN CLERK STAMP

TO BE COMPLETED BY STAFF:

Check No.:
Date of Complete Submittal:
Comments:

APPLICANT/PETITIONER INFORMATION

The owner(s) of the land must be included as an applicant, even if not the proponent. Persons or entities other than the owner may also serve as co-applicants in addition to the owner(s), however, in each instance, such person shall provide sufficient written evidence of authority to act on behalf of the owner(s). For legal entities such as corporations, LLCs, etc., list the type and legal status of ownership, the name of the trustees/officer members, their affiliation, and contact information. Please provide attachment for information if necessary.

Applicant/Petitioner(s):	Phone:
	Email:
Address:	
Attorney/Engineer/Representative(s):	Phone:
	Email:
Address:	
Owner(s):	Phone:
	Email:
Mailing Address:	

Please list name and address of other parties with financial interest in this property (use attachment if necessary):

Please disclose any relationship, past or present, interested parties may have with members of the ZBA:

No relationships past or present

I hereby certify that the information on this application and plans submitted herewith are correct, and that the application complies with all applicable provisions of Statutes, Regulations, and Bylaws to the best of my knowledge, and that all testimony to be given by me during the Zoning Board of Appeals public hearing associated with this application are true to the best of my knowledge and belief.

John Deckers

Signature of Applicant/Petitioner or Representative

Date

Signature Property Owner (if different than Applicant/Petitioner)

Date

GENERAL APPLICATION FORM

APPLICATION INFORMATION

		YES	NO
Applicable Section(s) of the Zoning Bylaw:	Requesting Waivers?	Y	N
	Does the proposed use conform to the current Zoning Bylaw?	Y	N
Present Use of Property:	Has the applicant applied for and/or been refused a building permit?	Y	N
	Is the property or are the buildings/ structures pre-existing nonconforming?	Y	N
Proposed Use of Property:	Is the proposal subject to approval by the BOH or BOS?	Y	N
	Is the proposal subject to approval by the Conservation Commission?	Y	N
Date Lot was created:	Is the property located in the Floodplain District?	Y	N
Date Building was erected:	Is the property located in the Groundwater Protection District?	Y	N
Does the property meet the intent of the Design Review Guidelines?	Is the property located in a designated Historic District or is it designated as a Historic Landmark?	Y	N
Describe Application Request:			

GENERAL APPLICATION FORM

FILL IN THE APPLICABLE DATA BELOW

Required Data	Bylaw Requirement	Existing	Proposed
A. Use			
B. Dwelling Units			
C. Lot Size			
D. Lot Frontage			
E. Front Setback			
F. Side Setback			
G. Side Setback			
H. Rear Setback			
I. Lot Coverage			
J. Height			
K. Parking Spaces			
L. Other			

FOR TOWN HALL USE ONLY

To be filled out by the Building Commissioner:

Date Reviewed

Medway Building Commissioner

Comments:

After completing this form, please submit an electronic copy to zoning@townofmedway.org
and 4 paper copies to the Community & Economic Development Department.

TO: OAKLAND
STREET

N/F LEVINE

OAKVIEW

160.00'

MIN. ZONING SETBACK LINE

LOT 13
14,523 S.F.

53.98'

CBDH
FND.

36.8'

22.7'

No S.T. WD.

DK.

43.3'

PROP.
GAR.

24'

24'

19'

LOT 14

145.54'

R=175.51'
L=148.46'

CIRCLE

CBDH
FND.

Add covered porch 7' x 16' with
5 x 5' landing with stairs – built
in preparation for handicap
accessible ramp (in red, if
needed)

ND. DENOTES CONCRETE BOUND WITH DRILL
JUND



Existing view of house



Proposed Front Porch addition





TOWN OF MEDWAY

ZONING BOARD OF APPEALS

155 Village Street
Medway MA 02053

Phone: 508-321-4915 | zoning@townofmedway.org
www.townofmedway.org/zoning-board-appeal

NOTE: THE APPLICATION WILL NOT BE CONSIDERED "COMPLETE" UNLESS ALL NECESSARY DOCUMENTS, FEES, & WAIVER REQUESTS ARE SUBMITTED. A GENERAL APPLICATION FORM MUST BE COMPLETED FOR ALL APPLICATIONS.

TO BE COMPLETED BY THE APPLICANT

Please provide evidence regarding how the Variance Criteria, outlined below, is met. All Variance Criteria must be met to be considered. Provide attachments if necessary.

1. What circumstances exist relating to the shape, topography, or soil conditions of the subject property which do not generally affect other land in the zoning district? (See MGL c. 40A Section 10)

2. What substantial hardship, financial or otherwise, is caused by the circumstances listed above when the literal enforcement of Medway Zoning Bylaw is applied? (See MGL c. 40A Section 10) (Cannot be *personal hardship*)

3. State why desirable relief may be granted without substantial detriment to the public good.

4. State why relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

John Deckers

Signature of Applicant/Petitioner or Representative

Date



November 23, 2021

**Medway Planning & Economic Development Board
Meeting**

Cutler Place Multi-Family Plan Review
Fee Estimate

- Plan Review fee estimate from Tetra Tech for Cutler Place (\$6,351)

On 11-17-21, we received the applications (site plan, land disturbance permit and multi-family housing special permit) for Cutler Place, a 5-unit residential development at 6 Cutler Street, the former American Legion Post building. Applicant/developer is Anthony Varrichione. The hearing will begin December 14th.



November 17, 2021

Ms. Susan E. Affleck-Childs
Medway Planning and Economic Development Coordinator
155 Village Street
Medway, MA 02053

**Re: Peer Review Proposal
Cutler Place
6 Cutler Street
Medway, Massachusetts**

Dear Ms. Affleck-Childs:

We are pleased to submit this Proposal to the Town of Medway Planning and Economic Development Board (the Client) for professional engineering services associated with the above-referenced Project (the Project). The objective of our services is to provide technical review and general assistance to the Board during its review of the above-referenced Project for compliance with the following Regulations and Standards:

- Town of Medway Planning & Economic Development Board Rules and Regulations, Chapter 200 – Site Plans, Rules & Regulations for Submission, Review and Approval of Site Plans (last Amended October 8, 2019)
- Town of Medway General Bylaws – Article XXVI, Stormwater Management and Land Disturbance
- Massachusetts Department of Environmental Protection (MA DEP) Stormwater Management Standards (Standards) and associated Stormwater Management Handbook (Handbook).

The Plans and supporting documentation will also be reviewed for general site planning design and sound engineering practice. We have excluded from our scope, the review of the application package as it relates to Town of Medway Zoning Bylaws.

SCOPE OF SERVICES

The following specifically describes the Scope of Services to be completed:

Task 1 Site Visit

A. Perform one (1) site visit to review the site and its surroundings.

- Budget Assumption: 1 Visit
3 hours @ \$167/hr = \$501
Total = \$501

Task 2 Design Review

A. Review the permit Application, and supporting documentation, and incorporate comments into review letter in Item 2.D below.

- Budget Assumption: 1 hour @ \$167/hr = \$167
1 hour @ \$120/hr = \$120
Total = \$287

B. Review one (1) set of proposed Plans against the above-mentioned Regulations and Bylaws and sound engineering practice and incorporate comments into review letter in Item 2.D below.

- Budget Assumption: 2 hours @ \$167/hr = \$334
6 hours @ \$120/hr = \$720
Total = \$1,054

- C. Review one (1) set of Proposed Plans and Stormwater Report for compliance with applicable town stormwater related standards, MA DEP Stormwater Standards and good engineering practice and incorporate comments into review letter in Item 2.D below.
- Budget Assumption: 4 hours @ \$167/hr = \$668
4 hours @ \$120/hr = \$480
Total = \$1,148
- D. Prepare one (1) letter summarizing findings for presentation to the Town of Medway PEDB.
- Budget Assumption: 4 hours @ \$167/hr = \$668
2 hours @ \$120/hr = \$240
Total = \$908
- E. Coordinate with Applicant to address items in initial review letter and issue one (1) revised letter upon receipt of modifications. This task is limited to minor changes in the site plans which directly address comments from our initial review letter. Major changes to the Plans and/or Stormwater Report will require additional funds.
- Budget Assumption: 4 hours @ \$167/hr = \$668
4 hours @ \$120/hr = \$480
Total = \$1,148

Task 3 Meetings

- A. Participate in three (3) hearings/meetings with the Town of Medway PEDB by video conference, including time for preparation for each meeting.
- Budget Assumption: 6 hours @ \$167/hr = \$1,002
Total = \$1,002

BUDGET

The fee for the work outlined in this proposal will be billed on a Time and Expenses basis according to Tetra Tech's and Medway's then current contract rates. Reimbursable expenses budget for execution of the tasks included in this scope of work are limited to mileage, field equipment, internal-use printing costs and hard-copy production of deliverables for submission and are billed at a fixed fee of five (5) percent of labor costs. We suggest that you establish a budget as summarized below, which will not be exceeded without your approval.

Please be advised that this estimate is for initial review of submitted materials, is based on our current understanding of the Project needs and is for budget purposes only. The total actual cost of our services will largely depend on the number and complexity of revisions and resubmittals, quality and completeness of the information submitted by the applicant and the depth to which specific issues are explored. Cost for each task is based on a comparison with other similarly sized projects we have reviewed. Please be advised, additional funding will be required if additional or revised materials are submitted, if additional subject areas require review or additional coordination is required beyond what is specifically described above.

The breakdown of this fee by task is as follows:

Task	Task Description	Budget
Task 1	Site Visit	\$501
Task 2	Design Review	\$4,545
Task 3	Meetings	\$1,002
	Labor Subtotal	\$6,048
	Expenses (5%)	\$303
	Total	\$6,351

SCHEDULE AND CONDITIONS

We recognize that timely performance of these services is an important element of this proposal and will put forth our best effort, consistent with accepted professional practices to complete the work described within the Client's schedule. We are not responsible for delays in performance caused by circumstances beyond our control or that could not have been anticipated or prevented.

To signify your acceptance of this Agreement, please sign and return one copy and the retainer to us along with the attachments. When signed by representatives of both parties, this Proposal will become an agreement between Tetra Tech, Inc. (ENGINEER) and Town of Medway (CLIENT). The Agreement is subject to the existing contract Terms and Conditions between the Engineer and Client. The price is valid for 60 days from the date of this letter.

We appreciate the opportunity to provide these services, and we look forward to working with you. Please contact us if you have any questions or require additional information.

Very truly yours,



Steven M. Bouley, P.E.
Project Manager



Sean P. Reardon, P.E.
Vice President

Certified by:

Authorized Representative
Town of Medway

Date

M:\SITE\BOULEY\MEDWAY_PEDB_6 CUTLER ST REVIEW_2021-11-17.DOCX



November 23, 2021

**Medway Planning & Economic Development Board
Meeting**

**Town Line Estate – Request for Project
Completion Extension**

- Letter dated 11-16-21 from owner/permittee Rob Lapinsky
- Excerpt from endorsed subdivision plan

Robert Lapinsky
62 Allston Ave,
Worcester, MA 01604
rlapinsky@gmail.com

November 16, 2021

Andy Rodenhiser, Chair
Medway Planning and Economic Development Board
155 Village Street
Medway, MA 02053

Dear Mr. Rodenhiser and Board,

You may remember approving our family project to construct a single family home located behind the residence on 22 Populatic St (Town Line Estate – Bunny Lane). The Board had given us approval on January 22nd, 2019. At that time, we were given a 3-year window to complete the road, infrastructure and our home. I can remember hearing that and saying to my self “I’ll have it done in one”. My intentions at the time were to serve as the general contractor for the job myself. During the following year I struggled. It took months to finalize house plans and the frustration of trying to get subs to just give me quotes never mind scheduling them was proving to be way more difficult than I could handle. Ultimately I came to the conclusion I needed help and started working with a contractor. Then our great friend COVID 19 hit and slowed our progress even further, not to mention the skyrocketing price hikes on all the building materials needed to complete our home. I feel we are now through the weeds and intend on breaking ground in the spring to fulfil our dream of building our home. Unfortunately, there is no way to complete the construction before our approval expires on 1/22/2022. My intention with this letter is to formally request an extension of our approval for an additional 1-2 years to complete our project.

Thank you for your time on this matter and thank you in advance for your consideration of my request.

Sincerely,

Robert Lapinsky Jr.

This Subdivision is subject to a Certificate of Action Signed by the Medway Planning and Economic Development Board, Dated April 24, 2018 to be Recorded at the Norfolk County Registry of Deeds.

All Present and Future Owners of Lot 2 are subject to a Declaration of Protective Covenants & Restrictions and Private Roadway Agreement Governing Town Line Estate Subdivision.

DATE APPROVED: April 24, 2018

[Signature]
[Signature]
[Signature]
MEDWAY PLANNING AND ECONOMIC DEVELOPMENT BOARD

MEDWAY PLANNING AND ECONOMIC DEVELOPMENT BOARD

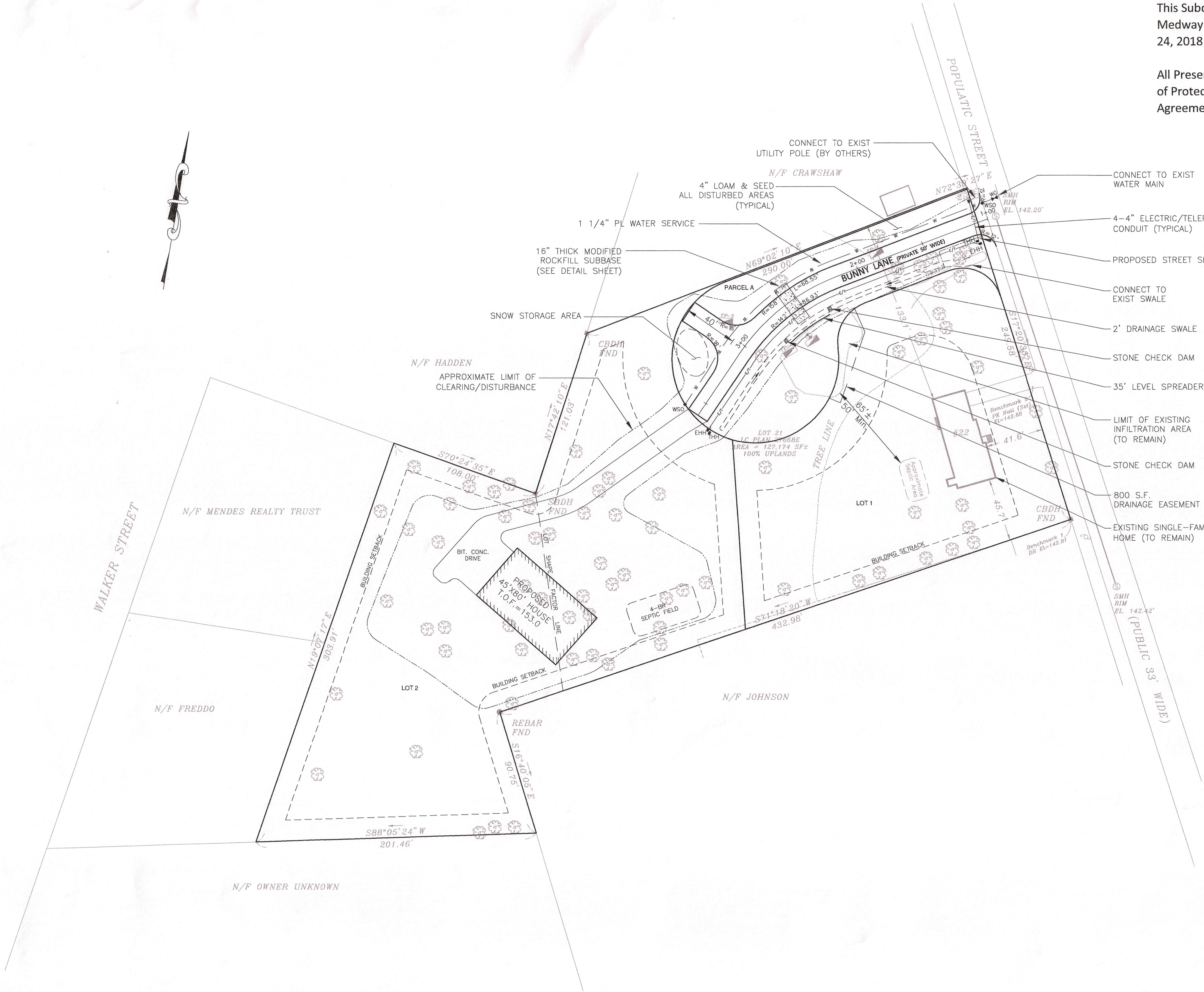
DATE ENDORSED: January 22, 2019

APPROVED _____ SUBJECT TO COVENANT CONDITIONS SET FORTH IN A COVENANT EXECUTED BY _____ DATED _____, AND TO BE RECORDED HEREWITH.

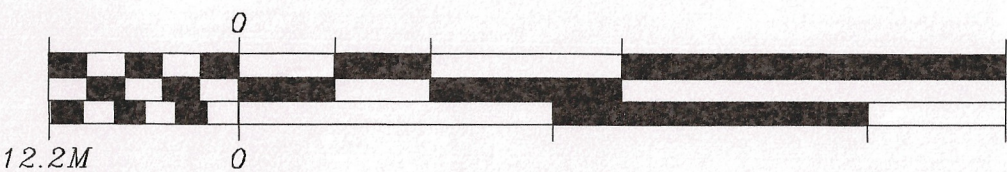
I CERTIFY THAT 20 DAYS HAVE PASSED SINCE PLANNING BOARD APPROVAL AND NO APPEAL HAS BEEN FILED IN THIS OFFICE.

DATE : _____

TOWN CLERK OF MEDWAY



GRAPHIC SCALE



(IN FEET)
1 inch = 40 ft.

ASSESSORS REFERENCE
MAP 71, PARCEL 020

ZONING REFERENCE

AR-II

LEGEND

TEL/ELEC. HAND HOLE	HYDRANT
TEST HOLE	STONE CHECK DAM
THH TELEPHONE HANDHOLE	STONE WALL
EHH ELECTRIC HANDHOLE	DRILL HOLE
WSO WATER SHUTOFF	BOUND
GG GAS GATE	IRON PIN/PIPE
SWL SOLID WHITE LINE	

NO.	DATE	REFERENCE
2	6/8/18	PROJECT ENDORSEMENT
1	2/23/18	PROJECT REVIEW REVISIONS
REVISIONS		
DATE: DECEMBER 12, 2017		

Engineer:

L.A.L. Engineering Group
DESIGN ~ PERMITTING ~ PEER REVIEW ~ LAYOUT
730 Main St, Suite 1F
Millis MA 02054
P: (781) 248-1133 F: (508) 376-8440

Surveyor:

CONTINENTAL LAND SURVEY, LLC
105 BEAVER STREET, FRANKLIN, MA
(508) 528 - 2528

SITE LOCATION:

22 POPULATIC STREET
MEDWAY, MASSACHUSETTS

PREPARED FOR:

ROBERT & LISA LAPINSKY
62 ALLSTON AVE.
WORCESTER, MASSACHUSETTS

"TOWN LINE ESTATE"
DEFINITIVE SUBDIVISION PLAN
SITE & UTILITY PLAN
MEDWAY, MASSACHUSETTS

SHEET NO.

4

SCALE

1"=40'

JOB NO.

5332