

Tuesday, November 30, 2021
Medway Planning and Economic Development Board
Zoom Meeting

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

ALSO PRESENT VIA ZOOM:

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

All of the members announced their presence.

PUBLIC COMMENTS:

- There were no Public Comments.

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

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

- 11-30-21 notice to continue public hearing Phytopia.
- Email dated 11-29-21 from resident John Lally s John Lally
- Comments from attorney Ted Cannon dated 11-30

The members are in receipt of the most recent version of the decision dated November 19, 2021 which included comments (11-23-21) from attorney Ted Cannon and comments (11-29-21) from resident John Lally.

The Board began review of the document:

Noise Management:

There is language about a condition that requires the applicant to submit a noise mitigation plan for Phase 2. There was a suggestion by attorney Cannon that there be a condition in Phase 2 (b) that the noise compliance verification be provided prior to issuance of occupancy permit. The Board wants this linked to the building permit. The Board also wants to see what the wall will look like. A suggestion was made about having a preliminary approval in Part A.

Part B:

This condition was added and requires noise compliance. This condition was imposed for 2 & 4 Marc Road. Resident Lally communicated that this is needed since the noise is continuous and varies. This is relative to how the background noise carries. There needs to be pre-occupancy

compliance. Mr. Lally noted that without strong language, residents would need to keep a log of noise. There was a suggestion that the noise study should be done 6 months out.

Attorney Cannon noted his concern with Part B is that there needs to be compliance prior to Occupancy. The other facility did not have the same technology and this site is not the same entity. The applicant is aware that they need to comply with the bylaw. The language is too restrictive.

There was discussion that it is cumbersome to have the applicant submit an annual certification that there are no changes in the installed mechanical equipment. There was agreement that this does not need to be done annually.

There was a suggestion to remove the language regarding the cooling tower since this is from a different site.

There was also discussion about the reference to DEP. The local bylaw as written is more strict than the DEP and since the town has not adopted the DEP bylaw this should be removed. There was language added that the applicant must comply with the zoning bylaw. It is not the Town's job to enforce the DEP noise standards.

The language regarding water conservation was eliminated since this will be addressed in the site plan.

Findings:

On a motion made by Matt Hayes, seconded by Rich Di Iulio, the Board voted by roll call to approve the Findings as written.

Roll Call Vote:

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

Decision:

On a motion made by Matt Hayes, seconded by Rich Di Iulio, the Board voted by roll call to approve the special permit to authorize the applicant to operate a Recreational (adult Use) Marijuana Establishment and a Non-Retail Registered Medical Marijuana Facility at 6 Industrial Park Road with conditions.

Roll Call Vote:

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

Continuation:

On a motion made by Jessica Chabot, seconded by Rich Di Iulio, the Board voted by roll call to continue the public hearing for the Phytopia site plan, reduced parking special permit, and ground water protection special permit to January 11, 2022 at 8:00 p.m.

Roll Call Vote:

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

Close Hearing:

On a motion made by Bob Tucker, seconded by Rich Di Iulio, the Board voted by roll call to close the hearing for the Phytopia Medical and Adult Recreational Use Marijuana Special Permits.

Roll Call Vote:

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

MEDWAY PLACE PUBLIC HEARING:

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

- Notice of Public Hearing Continuation to 11-30-21
- Email dated 11-24-21 from Medway resident Lee Brundage
- Emails dated 11-24-21 and 11-29-21 from Deputy Fire Chief Mike Fasolino
- Email dated 11-29-21 from Sergeant Jeff Watson
- Email dated 11-30-21 from Andy Rodenhiser with link to aerial photography
- Revised draft decision dated 11-30-21

The Chairman opened the continued hearing for Medway Place.

Susy Affleck-Childs entered all of the above noted documents into the record.

There was an email dated November 23, 2021 from Lee Brundage. The email was requesting that if there is an ADA pedestrian path between Medway Place and Drybridge Crossing, it would be helpful to have a handicap parking spot located there. The Board communicated that this could be problematic as handicap spots are supposed to be located close to the businesses on the premises.

The Board discussed another email dated November 29, 2021 from Deputy Fire Chief Mike Fasolino regarding the dumpsters in the back of Medway Place. The email indicted there is a requirement for a 20' fire access around the building. There was another email which noted the

MA Fire Code 19.2.1.4 Rubbish within Dumpsters. It was explained that the Medway Place building is non-combustible so that the dumpsters being located close to the buildings is OK. The Board did recent an email from Chief Lynch about the traffic flow around the back of the site. It is his recommendation that all vehicles enter the back of the plaza from the West Side (Ocean State Job Lot) and exit from the East side (Rocky's Ace). There was a recommendation that all parking and storage of dumpsters be located up against the buildings. Do not enter signs should be placed at the driveway east of Rocky's Ace Hardware along with the one-way traffic signs (west to east) in the back.

The Chairman also supplied images which were entered into the record of the existing conditions of the parking lot at the plaza, taken the morning of 11-30-21 by drone.

The Board discussed the revised draft decision dated November 30, 2021.

The following recommendations were discussed:

- The Fire Department has also specified that Mass Fire Code requires that there must be 20 of clear access around the building for fire department access.
- In regards to the parking, the photos will be beneficial to include. It was recommended to remove #3.
- There was language added that the alley/drive between the two buildings is to be denoted as a fire lane pursuant to the Medway Fire Department's determination.
- The locations of all existing dumpsters and solid waste containers on the premises shall be updated and shown throughout the plan set.
- Language was included about the provision of truck turning movement documentation throughout the site for the largest anticipated delivery vehicles and fire apparatus.
- The decision includes language that the applicant can request an extension of the 120-day period for plan endorsement.
- There was discussion about removing the one-way driveway aisle on the west side of the main entrance and replacing it with landscaping.
- There should be reference to the underground wiring and this should be noted in the lighting and utility plan.

Required Actions Before Plan Endorsement:

D. #4 – There was discussion about the Solid Waste Management section. A question was asked if the requirement for a solid waste management plan should be completed before plan endorsement. This could be included as a condition. It was recommended that a timeframe be put together and should be within one year of plan endorsement.

The Board does want the truck turning movement documentation throughout the site provided before plan endorsement.

F. Use Limitations:

- Outdoor dining was added. This will have the applicant show this on the site plan. Any changes to expand existing or to add new outdoor dining needs the Board's review as a plan modification.

G. Traffic Pattern:

- There was language added about the Massachusetts Fire Code and that there must be 20 feet of clear access around the building for Fire Department access.

K. Parking Lot Paving and Stormwater Management:

- The Board would like language added that reports for stormwater should be provided. It was also suggested that language be included to visit the site during a storm event. There can also be monitoring and modeling.

The Applicant is required to reconstruct a portion of the Medway Place parking lot. This was shown on the site plan dated 8-30-21. Other sections will be repaved in the future. The Board is still concerned that this is an incomplete approach to the paving and grading which will negatively impact the adequacy of the management of stormwater on the site. There will be a one year period after the site work is completed where rainfall will be monitored to evaluate how the stormwater is working. There was a phasing plan for paving presented by Tetra Tech as a possible approach. However, the applicant has completely rejected it. Language can be added that there be review of the stormwater plan with the DPW when the MS4 permit needs to be renewed.

L. Electric Vehicle Charging Stations:

There was language added that half of the approved EVC stations shall be installed within 2 years after plan endorsement. The remaining EVC stations shall be installed within five years after plan endorsement.

O. Preschool:

The Board would like there to be language written in this section to require them to come in with a site plan if they are going to continue having the outside play area. The Board does not think the play area is viable. This site plan needs to be done by March 1, 2022.

R. Performance Security:

There is no option for performance security.

Q. Project Completion:

The included language for this is that the site plan approval shall lapse after two years of the site plan approval and the electric charging stations installed within three years.

R. Coordinated Deliveries:

The applicant will work with its tenants to develop a coordinated schedule and plan for product deliveries. This needs to be provided by July 1, 2022.

There was a suggestion to create a matrix of all the noted dates.

Findings:

On a motion made by Bob Tucker, seconded by Matt Hayes, the Board voted by roll call to approve the Findings as discussed.

Roll Call Vote:

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

Waivers:

On a motion made by Matt Hayes, seconded by Rich Di Iulio, the Board voted by roll call to approve and deny the Waivers as listed and discussed.

Roll Call Vote:

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

Decision:

On a motion made by Bob Tucker, seconded by Matt Hayes, the Board voted by roll call to approve the decision and conditions.

Roll Call Vote:

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

Close Hearing:

On a motion made by Matt Hayes, seconded by Rich Di Iulio, the Board voted by roll call to close the Medway Place site plan public hearing.

Roll Call Vote:

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

PEDB MEETING MINUTES:

November 16, 2021:

On a motion made by Matt Hayes, seconded by Rich Di Iulio, the Board to approve the minutes from the November 16, 2021 meeting.

Roll Call Vote:

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

ADJOURN:

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

Roll Call Vote:

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

The meeting was adjourned at 9:48 p.m.

Prepared by,
Amy Sutherland
Recording Secretary

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



November 30, 2021
Medway Planning & Economic Development Board
Meeting

Phytopia Public Hearing

- Notice of Public Hearing Continuation to 11-30-21
- Email dated 11-29-21 from John Lally with attached revised draft decision including his recommended edits. NOTE – I forwarded this to attorney Ted Cannon

NOTE – We have forwarded the draft decision to Town Counsel for review. I will share those comments with you upon receipt.

NOTE – If you approve the marijuana special permits, you also need to continue the PH for the site plan, groundwater special permit and reduced parking special permit AND establish a new date for the Board's deadline to act on the site plan 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



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

TOWN OF MEDWAY

COMMONWEALTH OF MASSACHUSETTS

PLANNING AND ECONOMIC DEVELOPMENT BOARD

MEMORANDUM

November 23, 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 30, 2021 at 7:00 p.m.***

At its November 23, 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 a special VIRTUAL MEETING of the Board to be held on Tuesday, November 30, 2021 at 7:00 p.m.

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 intends to vote its decision on the marijuana use special permits at this meeting. Further discussion on the site plan, reduced parking special permit, and groundwater special permit will be continued to future dates.

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

Susan Affleck-Childs

From: Lally, John - 0666 - MITLL <jlally@ll.mit.edu>
Sent: Monday, November 29, 2021 7:15 AM
To: Susan Affleck-Childs
Cc: Leigh Knowlton
Subject: RE: Updated Agenda for 11-30-21 PEDB meeting
Attachments: Phytopia_marijuana_special_permits_revised draft_11-23-21_TC_JL_Comments_29Nov2021.doc

Good morning Susy,

Below and attached are additional input to the public hearing for the Phytopia, 6 Industrial Park Rd facility; I ask that you please distribute this email and attachment to PEDB members for their consideration and please make sure it's included in the public record. Please feel free to distribute this email and attachment to others as you see fit.

The annotations in the attached Draft Decision capture my update requests, here's a summary with reasons for each request:

- 1.) VIII.G.2 & 3: Odor Management, Odor Control Approach & Mitigation Plan:
 - a. Expect it would be in everyone's best interest to get the specifics of the Odor Control Approach & Odor Mitigation plan reviewed and approved before implementation.
 - b. I respectfully request conditions that require the Mechanical Drawings for the Odor Control Approach and Updated Odor Mitigation plan to be submitted to the Board, reviewed, and approved, prior to the issuance of associated building permit(s).
- 2.) VIII.G.7: Odor Management, Building Commissioner Enforcement:
 - a. If a facility is in violation of the Town's Environmental Standards for Odor, the odor generated from the facility should be investigated and/or mitigated.
 - b. I respectfully request the "may" in VIII.G.7 is changed to "shall".
- 3.) VIII.F.3 - Noise Management, when additional noise mitigation is required:
 - a. The Draft Decision has "and" between "...non-compliant with the *Zoning Bylaw* and MA DEP...", that could be construed as the facility would not be required to implement additional noise mitigation unless the facility was non-compliant with both Zoning Bylaw "and" MA DEP Noise Policy. Think the intent is to require additional mitigation for non-compliance with either Zoning Bylaw "or" the MA DEP Noise Policy.
 - b. Because this is often confusing, suggest rather than try to fix by changing "and" to "or", better clarity is achieved by breaking up into 2 sentences as follows:
 - i. The Permittee shall be required to implement additional noise mitigation measures if the facility is non-compliant with the *Zoning Bylaw*. In addition, the Permittee shall be required to implement additional noise mitigation if the facility is non-compliant with the MA DEP Noise Policy.
- 4.) VIII.F – Noise Management, Phase II, The Two Story Building Addition:
 - a. The noise mitigation plan submitted by Acentech dated 09Jul2021 does not include noise emissions associated with the Phase II, the two story building addition.
 - b. It's understood that noise emitting equipment for Phase II may not be known until the Phase II design matures.
 - c. I respectfully request a condition be added to section VIII.F.) Noise Management, that requires the Permittee to submit a noise mitigation plan to the PEDB for Phase II prior to the issuance of a building permit for Phase II that demonstrates Phase I & Phase II combined are expected to be in compliance with the Town's and Commonwealth's noise requirements.

- i. This means that the noise emissions from Phase I & Phase II combined cannot increase broadband sound pressure levels by more than 2dB above the existing ambient in residential areas and at sensitive receptors.
- ii. Phasing construction should not allow noise compounding by 4dB, the recent bylaw updates intended only 2dB of noise compounding per new facility, and not exceed the new maximum limits.
 - 1. NOTE: This is especially important now that allowed nighttime Ind./Ind. noise emissions have been increased from 47dBA to 55dBA.

5.) VIII.F - Noise Management, how noise compliance is verified:

- a. As is in the Draft Decision, noise compliance verification relies on post-operation resident complaints or lack thereof; this is problematic for a number of reasons. These problems can be solved by pre-occupancy noise compliance verification by the Permittee.
- b. I therefore, respectfully request the decision include language that requires noise compliance verification prior to the issuance of an occupancy permit, and compliance verification performed with sound generating equipment emitting maximum sound levels or as limited by reviewed and approved process controls. Because this request is at variance with the applicant's suggestion at the 26Oct2021 PEDB public hearing, I think a detailed description of the basis for this request is warranted, and is set forth below.

Basis For Requesting Pre-Occupancy Noise Compliance Verification:

Absence of pre-occupancy noise compliance verification by the Permittee and instead relying on post-operation resident complaints and investigations for compliance verification creates the following issues:

- 1.) An essential element of the Medway Zoning Bylaw Environmental Standard Updates (MZBLU's) limits the amount of noise budget consumed by a new noise source to 2dB in residential areas. The absence of residents' complaints will not verify the facility has not consumed more than its allowed share of the noise budget. If a facility consumes more than its allowed share of the noise budget, one of two things is likely to happen:
 - a. Industrial Park build-out and industrial tax base growth will be jeopardized.
 - or
 - b. Increases to the allowed absolute noise limits in residential areas in the MZBL.
- 2.) It effectively puts the burden of noise compliance verification (monitoring, logging, & reporting) upon residents, which is unreasonable. The Permittee should bear that burden. Please recall the experience with the 2 Marc Rd noise issue and how that demonstrated noise from a cannabis grow facility may be continuous but not constant. This has considerable ramifications for the degree of difficulty in verifying noise compliance of a cannabis facility after it's operational; here's why:
 - a. Noise emissions are highly dependent upon: Phase of the facility process (plant, grow, harvest, etc..), day vs. night temperatures, weather conditions, and seasonal conditions.
 - b. How the facility noise emissions impacts residents depends not only on the variations in a.) above but also on how the background noise varies relative to facility noise emissions. For example, a facility may emit louder noise during the day than at night, but residents are impacted more at night because background noise levels are much lower at night, making the nighttime noise from the facility at one's home more impactful.
 - c. The consequence of a.) & b.) is that when a resident lodges a noise complaint, subsequent "spot-checks" by the zoning enforcement officer may not find a situation they deem worth investigating. The consequences of that are:
 - i. Residents are compelled to monitor the noise, keep a log, and report observations.
 - ii. PEDB members may recall when I first reported the noise from 2 Marc Rd, I was asked if I had been keeping a log. I ended up having to keep a log that went from the spring of 2018 through the winter of 2020. NOTE: I came up with my own qualitative scale for this, not calibrated SPL measurements.
 - iii. Having been through that, I do not want to go through it again or see other folks put through a similar protracted process while their quality of life suffers. Most likely the folks on Oakland and Main Streets.

- 3.) Compounding the degree of difficulty of post-occupancy noise compliance verification for a cannabis grow facility is cannabis' sensitivity to disruption of facility noise sources, especially HVAC Units. The MZBLU's and MA DEP Noise Policy compliance require ambient sound level measurements with noise sources under investigation turned off. The MZBLU's also call for a seven-day measurement interval. It seems unlikely a cannabis grow facility with an extremely valuable crop at stake would be amenable to shutting off their Noise sources, especially for extended periods.
- 4.) Further compounding the degree of difficulty of post-occupancy noise compliance without turning off facility noise sources is resolving the facilities increases to the residential ambient noise level to less than 2dB as required by the MZBLU's. It would seem unwise to assume a "surrogate" location could be found with sufficiently close noise profile to the 6 Industrial Park Rd area to resolve a less than 2dB ambient noise increase.

Respectfully Submitted,
John Lally, Resident
35 Coffee Street
Medway, MA 02053

From: Susan Affleck-Childs <sachilds@townofmedway.org>
Sent: Tuesday, November 23, 2021 10:53 PM
To: Lally, John - 0666 - MITLL <jlally@ll.mit.edu>
Subject: RE: Updated Agenda for 11-30-21 PEDB meeting

Hi John,

Here is the draft decision the board was looking at tonight. It includes a few edits offered by attorney Ted Cannon on behalf of the applicant.

Susy

From: Lally, John - 0666 - MITLL [<mailto:jlally@ll.mit.edu>]
Sent: Tuesday, November 23, 2021 10:50 PM
To: Susan Affleck-Childs <sachilds@townofmedway.org>
Subject: RE: Updated Agenda for 11-30-21 PEDB meeting

Thanks Susy,

Can you please send me latest Phytopia decision, the one I have looked different than the one presented tonight.

-John

From: Susan Affleck-Childs <sachilds@townofmedway.org>
Sent: Tuesday, November 23, 2021 10:47 PM
To: /o=Medway Town Hall/ou=First Administrative Group/cn=Recipients/cn=zoning <IMCEAEX-o=Medway+20Town+20Hall_ou=First+20Administrative+20Group_cn=Recipients_cn=zoning@namprd09.prod.outlook.com>; siekierski.alex@gmail.com; Alison Dempsey <alijdempsey@gmail.com>; Chief Tingley <amtingley@medwaypolice.com>; Allison Potter <apotter@townofmedway.org>; Amy Sutherland <jdsals@msn.com>; Ann Sherry <asherry@charlesriverbank.com>; apires <apires@medwayschools.org>; Barbara Saint Andre <bsaintandre@townofmedway.org>; Barry Smith <bsmith@townofmedway.org>; Beth Hallal <bhallal@townofmedway.org>; Picard, Brad <brad.picard@tetrattech.com>; Brian Luther <bluther@mapc.org>; Brian White <brian@treefortgroup.com>; Bridget Graziano <bgraziano@townofmedway.org>; carey.bergeron@gmail.com; Carolyn Murray <cmurray@k-plaw.com>; Chris Lagan <cmlagan@yahoo.com>; Dan Connolly <dconnolly@blockbuildinc.com>; David <David@medwaycable.com>; David Travalini <dtravalini@verizon.net>; Debi

Rossi <drossi@townofmedway.org>; Denise Legee <dlegee@comcast.net>; Dennis Crowley <dennispcrowley@gmail.com>; Aicardi, Donald <daicardi@medwayschools.org>; Doug Havens <dhavens@townofmedway.org>; Erika Robertson <erobertson@townofmedway.org>; Fran Hutton Lee <fhuttonlee@townofmedway.org>; Gino Carlucci <gino@pgcassociates.com>; Glenn Trindade <glenntcindade@gmail.com>; Jack Mee <jmee@townofmedway.org>; Janine Clifford <janine@grouponeinc.com>; Jeanne Johnson <j22johnson2001@yahoo.com>; Jeff Lynch <ChiefLynch@townofmedway.org>; Jeff Watson <watson@medwaypolice.com>; Jennifer Kendall <jennifer.l.kendall@gmail.com>; Jim Sullivan <sullijames@comcast.net>; Jim Wickis <jbwickis@verizon.net>; Joanne Russo <jrusso@townofmedway.org>; John Foresto <jforesto46@gmail.com>; Lally, John - 0666 - MITLL <jlally@ll.mit.edu>; Judi LaPan <judelapan@gmail.com>; Julie Harrington <jharrington@townofmedway.org>; Karyl Spiller-Walsh <wingatefarm@hotmail.com>; Kristen Mucciarone <kmucciarone@charlesriverpcd.org>; Liz Langley <llangley@townofmedway.org>; Liz Taglieri <ltaglieri@charlesriverpcd.org>; Mark Cerel <mcerel@franklin.ma.us>; Matt Buckley <matt_buckley2@yahoo.com>; Michael Boynton <mboynton@townofmedway.org>; Mike Fasolino <mfasolino@townofmedway.org>; Paul Atwood <atwood.paul@gmail.com>; Paul Yorkis <pgyorkis@gmail.com>; Peter Pelletier <ppelletier@townofmedway.org>; Rachel Walsh <bostonbootstress@gmail.com>; Richard D'Innocenzo <radino51@yahoo.com>; Sandy Johnston <sjohnston@townofmedway.org>; Sean Harrington <sharrington@townofmedway.org>; Sean Reardon <sean.reardon@tetrattech.com>; Sgt. Jeffrey Watson <JWatson@medwaypolice.com>; Stefany Ohannesian <sohannesian@townofmedway.org>; Stephanie Carlisle <scarlisle@townofmedway.org>; Bouley, Steven <steven.bouley@tetrattech.com>; Steve Carew <scarew@townofmedway.org>; Sue Rorke <srorke00@gmail.com>; sdietrich@medwayschools.org; Tina Wright <tina.wright@aleragroup.com>; Will Lane <wlane272@gmail.com>; Zach Knowlton <zknowlton@comcast.net>

Subject: Updated Agenda for 11-30-21 PEDB meeting

Hi,

Attached is the agenda for an extra PEDB meeting on Tuesday, November 30th.

Happy Thanksgiving to you! Enjoy the day.

Susan E. Affleck-Childs
Planning and Economic Development Coordinator
Town of Medway
155 Village Street
Medway, MA 02053
508-533-3291

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



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

TOWN OF MEDWAY

COMMONWEALTH OF MASSACHUSETTS

PLANNING AND ECONOMIC DEVELOPMENT BOARD

Revised Draft – November 19, 2021

11-23-21 TED CANNON COMMENTS

[11-29-21 JOHN LALLY COMMENTS](#)

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-East~~ 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 Sparages, Sparages 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
- Maria Walzer, 11 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.

- (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.

Commented [SA1]:
This language provided by the Applicant's attorney Ted Cannon

- 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 [Phase I](#) 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.

Commented [SA2]:

This language provided by the Applicant's attorney Ted Cannon

- (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, 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**
Requested Additions to Noise Management:
a.) A condition that requires the Permittee to submit a noise mitigation plan to the Board for Phase II-The two story addition, prior to the issuance of a building permit for Phase II

Commented [LJ-0-M3]: Please see accompanying email from J. Lally to S. Affleck-Childs of 29Nov2021 that explains the basis for these requests.

Formatted: Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

that demonstrates Phase I & Phase II combined are expected to be in compliance with the Town's and Commonwealth's noise requirements.

b.) A condition that requires noise compliance verification prior to the issuance of an occupancy permit with compliance verification performed with sound generating equipment emitting maximum sound or as limited by reviewed and approved noise limiting process controls, e.g. cooling tower limited to 80% during nighttime hours.

Formatted: Font: Bold

Formatted: Indent: Left: 0.75", First line: 0"

Formatted: Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: Not Bold

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~~ In addition, the Permittee shall be required to implement additional noise mitigation if the facility is non-compliant with the MA DEP Noise Policy.
4. Upon the Town's written request, ~~t~~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 adversely 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 the premises fail to comply with the Town's environmental standards bylaw for 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.

Commented [LJ-0-M4]: The general rule is: Non-Compliance is the "or" of non-compliant conditions, Compliance is the "and" of compliant conditions. This is checking for non-compliance so think "or" is intended. However, this is often confusing so best clarity achieved with two sentences.

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, and before associated building permit(s) are issued, 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 before associated building permit(s) are issued, 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 shall require additional odor investigations and/or odor mitigation measures should legitimate concerns and complaints develop in the future about the premises fail to comply with the Town's environmental standards bylaw for 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~~

Commented [LJ-0-M5]: Think it would be in everyone's best interest for odor control management system mechanical drawings to be reviewed prior to the issuance of associated building permit(s).

If this is problematic for permits required for hazardous waste clean-up then add "...excepting those permits required for hazardous waste clean-up..."

Commented [LJ-0-M6]: Think it would be in everyone's best interest for odor mitigation plan to be updated and reviewed prior to the issuance of associated building permit(s).

If this is problematic for permits required for hazardous waste clean-up then add "...excepting those permits required for hazardous waste clean-up..."

Commented [LJ-0-M7]: Why would it be optional to require additional investigations and/or mitigation if the premises are in violation of the Town's Environmental Standards for odor generation?

Commented [BSA8]: 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.

- ~~b. rain gauge controlled irrigation systems~~
- ~~e. 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 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~~

Commented [SA9]:
Not needed here. Will include in subsequent site plan decision.

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 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**

Commented [SA10]:

Not needed here. Will include in subsequent site plan decision

- ~~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 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 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.~~

Commented [SA11]:

Not needed here. Will include in subsequent site plan decision

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 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.

Commented [SA12]:

Not needed here. Will include in site plan decision.

I. ~~Project Completion~~

Commented [SA13]:
Not needed here. Will include in site plan decision.

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 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, subject to MA Cannabis Control Commission regulations, 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 30, 2021
Medway Planning & Economic Development Board
Meeting

Medway Place Public Hearing

- Notice of Public Hearing Continuation to 11-30-21
- Email dated 11-23-21 from Medway resident Lee Brundage
- Emails dated 11-24-21 and 11-29-21 from Deputy Fire Chief Mike Fasolino re dumpster locations and fire lane
- Email dated 11-29-21 from Sergeant Jeff Watson
- Email dated 11-30-21 from Andy Rodenhiser with link to aerial photography
- REVISED Draft decision dated 11-30-21

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



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

TOWN OF MEDWAY

COMMONWEALTH OF MASSACHUSETTS

PLANNING AND ECONOMIC DEVELOPMENT BOARD

MEMORANDUM

November 23, 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 30, 2021 at 7:30 p.m.

At its November 23, 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 a special VIRTUAL MEETING to be held on Tuesday, November 30, 2021 at 7:30 p.m.

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 refine the site plan decision at this meeting and vote.

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

Susan Affleck-Childs

From: LEE BRUNDAGE <saute45@comcast.net>
Sent: Tuesday, November 23, 2021 9:44 PM
To: Susan Affleck-Childs
Subject: in regards to plaze

Hi Susie,

I was wondering if the pb would take into consideration in regards to midway plaza conditions for site plan. If they are going to do an ADA path to get to drybridge (which would be wonderful), is there any way there could be a HC parking spot near it? There are only a few HC spots in front of Muffin house and there are lots of HC plates in town. I am disabled and like to save steps. I go to plaza once a week and also wish there were more HC spots in front of all stores. Thanks for listening.

Have a Happy Thanksgiving!

Sincerely,

Lee Brundage

Susan Affleck-Childs

From: Mike Fasolino
Sent: Monday, November 29, 2021 2:00 PM
To: Susan Affleck-Childs; Jeff Lynch
Cc: Andy Rodenhiser
Subject: Re: Medway Place - dumpsters in the back

Hi Suzy,

There is currently 20' around the building.

Thanks

Michael Fasolino
Deputy Chief
Town of Medway
155 Village Street
Medway, Ma 02053
508-533-3211

Mailing Address:
44 Milford Street
Medway, Ma 02053

From: Susan Affleck-Childs <sachilds@townofmedway.org>
Sent: Monday, November 29, 2021 9:37 AM
To: Mike Fasolino <mfasolino@townofmedway.org>; Jeff Lynch <ChiefLynch@townofmedway.org>
Cc: Andy Rodenhiser <andyrodenhiser@gmail.com>
Subject: RE: Medway Place - dumpsters in the back

Hi Mike,

Thanks for the info. However, I am looking for more than a reference to the code.

Please inspect the Medway Place property and provide an evaluation as to whether there is presently 20' of clear access around the building for fire department access. Could you please do so today and let us know? The Board has to finalize its decision Tuesday night.

Thanks.

Susan E. Affleck-Childs
Planning and Economic Development Coordinator
Town of Medway
155 Village Street
Medway, MA 02053
508-533-3291

From: Mike Fasolino
Sent: Wednesday, November 24, 2021 6:54 AM
To: Susan Affleck-Childs <sachilds@townofmedway.org>; Jeff Lynch <ChiefLynch@townofmedway.org>
Cc: Andy Rodenhiser <andyrodenhiser@gmail.com>
Subject: Re: Medway Place - dumpsters in the back

Hi Suzy,

See Mass Fire Code below as it relates to dumpsters.

19.2.1.4 Rubbish Within Dumpsters

Dumpsters and [containers](#) with an individual capacity of 1.5 yd³ [40.5 ft³ (1.15 m³)] or more shall not be stored in buildings or placed within 10 ft (3 m) of [combustible](#) walls, openings, or [combustible](#) roof eave lines.

The building is non combustible so the dumpsters are ok where they are.

Also there must be 20' of clear access around the building for fire department access.

Thanks

Michael Fasolino
Deputy Chief
Town of Medway
155 Village Street
Medway, Ma 02053
508-533-3211

Mailing Address:
44 Milford Street
Medway, Ma 02053

From: Susan Affleck-Childs <sachilds@townofmedway.org>
Sent: Tuesday, November 23, 2021 12:42 PM
To: Jeff Lynch <ChiefLynch@townofmedway.org>
Cc: Mike Fasolino <mfasolino@townofmedway.org>; Andy Rodenhiser <andyrodenhiser@gmail.com>
Subject: Medway Place - dumpsters in the back

Hi Chief,

The Planning Board is working on its decision for Medway Place. We have to finish it up in the next week or so. You have provided comments in the past for this project. Thank you.

One of the areas of concern to the Board is traffic flow around the back of the site, particularly the locations of the varied trash dumpsters. From your perspective, are there any safety issues related to the multiplicity of the dumpsters and their rather haphazard locations?

Please advise at your earliest convenience.

Thanks.

Susan E. Affleck-Childs
Planning and Economic Development Coordinator
Town of Medway
155 Village Street
Medway, MA 02053
508-533-3291

Susan Affleck-Childs

From: Sgt. Jeffrey Watson <JWatson@medwaypolice.com>
Sent: Monday, November 29, 2021 2:33 PM
To: Susan Affleck-Childs
Subject: Medway Place

Hello,

I am so sorry for delay, I ended up taking Friday off and was not back until today. I looked at the plan on line and it does not show this area as being in the plan. Did I not see the right plan or is this something we are adding?

I originally wanted one way traffic to enter from the East side of the building that would have alleviated two site line issues. However, I spoke with Ocean State Job lot about the delivery trucks and what loading dock they use. It appears that they have to use the doc located on the East side. This means that the truck has to enter from the West side of the Store and then back into the docking area. It would not be able to do this safely coming from the other direction.

So my recommendation would be for all vehicles to enter the back of the plaza from the West Side (Ocean State Job Lot) and exit from the East side (Rocky's Ace). I would also recommend that all parking and storage of dumpsters be located up against the building. Do not enter signs should be placed at Rocky's ace along with one way signs be placed in the back. The painted bi-directional arrow on the wall near the day care should be cleaned off.

I would also recommend no parking signs in the area between 116 Main St and Ocean State Job lot. This will allow for trucks to make the turn safely. The two dumpsters at the corner of Ocean State will need to be removed from the corner of the build.

As for the one way entrance between the two buildings. Currently the one way in as well as the distance between the two buildings work for our vehicles. We will need to make sure that the marked parking spots in the back allow for the correct radius to take a right to exit.

Jeffrey W. Watson
Sergeant
Medway Police Department
315 Village St.
Medway Ma 02053
(508)-533-3212

Susan Affleck-Childs

From: Andy Rodenhiser <Andy@rodenhiser.com>
Sent: Tuesday, November 30, 2021 10:14 AM
To: Susan Affleck-Childs
Cc: Bouley, Steven
Subject: Medway Shopping Center Parking Lot Photos

I would like to enter these images into the record as evidence of the existing conditions of the parking lot at the plazza. These are high resolution and can be zoomed in for closer inspection.
<https://photos.timricephoto.com/gallery/shoppingcenterlot/home>

Andy Rodenhiser
President
Rodenhiser Home Services Inc.

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**

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

REVISED DRAFT – November 30, 2021

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 Main Street (Route 109). Route 109 was recently repaved and improved through a major Massachusetts Department of Transportation (DOT) project, which included construction of a new signalized intersection and boulevard style entrance at the main entrance to Medway Place. The traffic count on Route 109 in front of the site is approximately 23,000 cars per day. Existing tenants include Ocean State Job Lot, O'Reilly Auto Parts, Anytime Fitness, Bank of America, Rocky's Hardware, multiple restaurants, and independent local operators.

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

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

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

II. VOTE OF THE BOARD – After reviewing the application and information gathered during the public hearing and review process, the Medway Planning and Economic Development Board (the "Board"), on _____, 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 5, 2020, and March 24, 2020.
- I. March 16, 2021 - Administrative Site Plan application filed with the Town for fencing.

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

- J. March 24, 2020 – The public hearing was continued without presentation or testimony to April 14, 2020, May 12, 2020, May 26, 2020, June 9, 2020, June 23, 2020, July 14, 2020, July 28, 2020, August 11, 2020, August 25, 2020, September 8, 2020, September 22, 2020, and October 27, 2020,
- K. The hearing resumed on November 24, 2020, and was continued to January 26, 2021, February 23, 2021, April 13, 2021, May 11, 2021, June 22, 2021, July 27, 2021, August 10, 2021, September 14, 2021, October 2, 2021, October 26, 2021 and November 9, 2021, November 16, 2021, November 23, 2021 and November 30, 2021 at which time a decision was rendered and the hearing was closed.
- L. By means of written communications from attorney Gareth Orsmond, the Applicant granted written extensions of the action deadline to: February 28, 2020, April 30, 2020, November 30, 2020, September 30, 2021, November 15, 2021 and December 3, 2021.

IV. INDEX OF SITE PLAN DOCUMENTS

- A. The site plan application for the proposed Medway Place site improvement project included the following plans, studies and information that were provided to the Board at the time the application was filed:
 - 1. Site Plan Application dated October 24, 2019 with submittal letter, project narrative, certified abutters' list, deed, and requests for waivers from the *Site Plan Rules and Regulations*
 - 2. *Site Plan and Landscape Plan – Medway Place*, dated October 15, 2019 prepared by Howard, Stein, Hudson of Chelmsford, MA.
 - 3. *Drainage Improvement Plan*, dated September 7, 2019 by Grady Consulting, LLC of Kingston, MA
- B. During the course of the Board's review, a variety of other materials were submitted to the Board by the Applicant and its representatives:
 - 1. **Attorney Gareth Orsmond, Pierce Atwood**
 - **2-6-20 letter** with submittal of a revised *Site Plan and Landscape Plan* dated 2-4-20, an existing conditions plan, and a Response to Comments from the 12-5-19 PGC Associates review letter, the 12-10-19 Tetra Tech review letter, 12-10-19 letter from John Russell of Addler Pollock and Sheehan (counsel to Colbea Property/Shell Station), comments provided during the 12-12-19 public hearing

- **4-23-21 letter** with submittal of a revised *Site Plan and Landscape Plan* dated 4-22-21, with a summary of the revised site plan changes, a *Temporary Seating Plan* dated 4-22-21, and an administrative site plan application for site fencing.
 - **7-14-21 letter** with submittal of revised *Site Plan and Landscape Plan* dated 7-13-21, and *Supplementary Site Plan Submittal* dated 7-14-21 with a summary of the revised site plan changes, Response to Comments from the 5-4-21 PGC Associates review letter, the 5-6-21 Tetra Tech review letter, comments provided during the 5-11-21 public hearing, the 5-7-21 review memorandum from Susan Affleck-Childs, Planning and Economic Development Coordinator, and comments from the 5-10-21 Design Review Committee memorandum
 - **9-30-21 letter** with *Site Plan for Medway Place* dated 8-30-21, a *Master Signage Plan* dated 9-30-21, a *Landscape Maintenance Program* dated 9-30-21, and *Supplementary Site Plan Submittal* dated 9-30-21 with a summary of revised site plan changes, a Response to Comments from the 7-22-21 PGC Associates review letter, the 7-21-21 Tetra Tech review letter, comments from the 7-27-21 public hearing, and comments from the DRC's 8-30-21 meeting,
 - **10-25-21 letter** in response to Tetra Tech review letter dated 10-20-21.
2. **Darren Grady, P.E., Grady Consulting, LLC**
- 1-10-20 letter in response to Tetra Tech review letter dated 12-10-19.
 - 4-22-21 letter regarding the Howard Stein Hudson site plan dated 4-22-21.
3. **Plan Submittals**
- *Existing Conditions Plan*, dated June 12, 2019, prepared by Grady Consulting, LLC.
 - *Site Plan and Landscape Plan – Medway Place*, revised February 4, 2020 prepared by Howard Stein Hudson of Chelmsford, MA. (or February 11??)
 - *Site Plan and Landscape Plan – Medway Place*, revised April 22, 2021 prepared by Howard Stein Hudson of Chelmsford, MA.
 - *Site Plan and Landscape Plan – Medway Place*, revised July 13, 2021 prepared by Howard Stein Hudson of Chelmsford, MA.
 - *Temporary Seating Plan and Gate Detail – Medway Place*, dated April 22, 2021 prepared by Howard Stein Hudson of Chelmsford, MA
 - *Temporary Seating Plan and Gate Detail – Medway Place*, revised July 13, 2021 Prepared by Howard Stein Hudson of Chelmsford, MA
 - *Drainage Improvement Plan* revised March 1, 2021 by Grady Consulting, LLC of Kingston, MA
 - *Site Plan for Medway Place*, dated 8-30-21, by Howard Stein Hudson including *Drainage Improvement Plan* revised 3-1-21 by Grady Consulting, LLC
4. **Administrative Site Plan Review application filed with the Town March 16, 2021**
- C. During the course of the Board's review, a variety of materials were submitted to the Board by its staff, **Board members**, and other Town Boards and Committees.
- 1-22-20 email from DPW Director David D'Amico
 - 2-10-20 email from Fire Chief Jeff Lynch
 - 8-17-20 email from Medway Cultural Council
 - 9-2-20 email from DPW Compliance Officer Stephanie Carlisle
 - 11-18-20 (or 11-5-20?) email from DPW Director David D'Amico

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

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

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

Abutter and Resident Testimony

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

VI. FINDINGS – The Board, at its meeting on _____, 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. In addition to this application, there is also currently pending before the Board an application for administrative site plan review and an outdoor display special permit for Rocky's Ace Hardware located within Medway Place at 98 Main Street.
3. Something about scope of site plan review for a pre-existing, non-conforming use
4. Something about safety
5. **Parking Lot Paving** – The Applicant has proposed to partially reconstruct the parking lot as shown in grey highlights on Sheet C1.00 Layout and Materials of the Medway Place site plan dated August 30, 2021 by Howard Stein Hudson. Paving will also occur around all proposed curb at the landscaped islands approximately one foot from the edge of the curb which is not shown on the plan or in any detail. The Applicant has indicated additional paving will be undertaken in the future when the pavement in areas not initially repaved as part of this project reaches the end of its useful life. The Town's Consulting Engineer, Tetra Tech, in its various project review letters, has repeatedly noted problems associated with this incomplete approach indicating that this manner of work will lack the quality expected. Installing curb in degraded asphalt will result in poor quality. Issues are expected to occur at the joints between the newly paved areas and the existing deteriorated pavement.

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

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

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

- *traffic circulation around the buildings*
- *the highly disorganized nature of 31+/- trash dumpsters located around the back of the site*

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

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

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

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

The proposed scope of work does not include any building construction work. The existing site design is characteristic of a typical 1960's shopping center with a heavy reliance on parking and little consideration for landscaping and site amenities. The proposed site improvements represent some positive steps in a good direction but are incomplete and do not attain the caliber of a primary community shopping area as envisioned in the 2009 Medway Master Plan. More recently, the community's dissatisfaction with Medway Place has been repeatedly noted as a compelling and concerning issue facing Medway during the Master Plan update project currently in process.

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

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

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

The design and layout of the proposed entrance drive into Medway Place from Main Street has been revised to address Fire Chief Jeff Lynch's concerns; the drive aisle has been widened from 16 feet to 20 feet in response to the Chief's feedback. The selection of trees for the landscaped drive has been changed to provide for a taller canopy so as to not interfere with emergency vehicles. The parking lot layout has been modified from perpendicular style to angle style based

on feedback from the Board. The use of the alley/drive aisle/fire lane between the two Medway Place buildings concerns the Board due to its narrow dimensions, landscape installation, and use by delivery trucks. There are conflicts between delivery trucks and 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 provided comments and recommendations for plan revisions to address the driveway/fire lane between the two buildings, the width of the eastern aisle of the new main entrance, and the species of trees selected for the main entrance driveway. After reviewing such revisions, the Fire Department determined that the project complies with the Fire Code.

The Fire Department has also recently specified that Mass Fire Code requires that there must be 20' of clear access around the building for fire department access. Condition # _ addresses this requirement.

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

The volume of cut and fill is minimal and pertains primarily to landscaping. As the site is already highly developed, there are no stone walls to be removed. A landscaping plan has been provided and no existing trees will be removed. As conditioned herein, erosion controls will be implemented during construction. No increase in noise is anticipated to be generated by the operation of Medway Place post-construction. The Applicant secured an MS4 permit from the Medway DPW based on a site plan dated _____. 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 from angle to perpendicular parking will be safer and more efficient to the driving public. Speed bumps will be installed to reduce traffic speed within the center. However, the planned continuation of 2-way traffic around the back of the building, used primarily for deliveries and trash disposal, is of great concern to the Board and is addressed through Conditions # _____. Further, the Applicant has not been willing to provide for pedestrian access between Medway Place and the adjacent Drybridge Crossing center to the west by providing selected breaks in the fencing between the two properties. This shortcoming is addressed in 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 7.1.2 of the Zoning Bylaw which shall be incorporated into the Site Plan set.

12. The proposed limit of work area is reasonable and protects sensitive environmental and/or cultural resources on the site and on adjacent parcels. The project as designed will not cause substantial or irrevocable damage to the environment, which damage could be avoided or ameliorated through an alternative development plan or mitigation measures.

The limit of work is reasonable. There are no sensitive environmental or cultural resources on the site as it is 95% developed. Erosion control measures are required during construction. The installation of a stormwater management system reduces the current impacts of presently untreated stormwater discharge to the Town's MS4 system and is a positive step toward protecting the community's water resources. However, the stormwater plan does not fully

address or mitigate the site's current stormwater situation. The Board is aware of . . . (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 existing 2-way traffic flow around the back of the building is problematic and is exacerbated by signage at the end of the fire lane between the buildings authorizing such 2-way traffic. The narrow space behind the Ocean State Job Lot's loading dock area and an unprotected drop off makes for dangerous site conditions. The requested turning details for large delivery vehicles have not been provided and thus the Board cannot analyze the maneuvering capabilities and limitations for deliveries. The disorganized nature of the location of the 31 refuse dumpsters behind the buildings contributes to travel difficulties and is a further safety concern for the Board.

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

Stormwater management is a standard component of site plan review and is under the Board's jurisdiction. Around the same time as the Applicant was preparing its site plan submittal to the Board, the Medway Department of Public Works (DPW) was in discussion with the Applicant about the property's absence of stormwater management facilities; the center's stormwater was

not being managed on site and instead was flowing to the Town's MS4 system. The owners of Medway Place needed to address that situation pursuant to Medway General Bylaws, Article XXVI Stormwater Management and Land Disturbance which requires an MS4 Connection Permit.

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

During the course of the Board's site plan review public hearing process, the Town's consulting engineer, Tetra Tech, has reviewed the proposed stormwater plan for the site and identified that stormwater runoff from certain areas of the parking lot is not being fully captured and treated. Tetra Tech has opined that the Applicant's proposed additional stormwater measures (installation of additional catch basins and enlarged curb breaks (gutter inlets) in the landscaped islands) may not function as intended, particularly during intense storm events. Nor has the Applicant incorporated low impact development techniques into the design of the proposed drainage improvements. Darren Grady, P.E. of Grading Consulting LLC, the Applicant's stormwater engineer, reports that infiltration and recharge is not a viable alternative due to the property's poor soils and high groundwater. However, the Board's Consulting Engineer did not witness any test pit excavations. The Applicant has proposed modest measures to reduce the amount stormwater flow off the property by reducing the amount of impervious pavement with the planned landscape installation. Nor is the Applicant adding any impervious surface to the site. However, the Board believes further measures could be taken to reduce the amount of impervious pavement, and/or to install pervious materials in suitable locations, and ensure that the maximum amount of stormwater is directed to the catch basins. We note that the Applicant will need to return to the Medway Department of Public Works for a modification to its MS4 permit.

Medway Land Disturbance Permit – The Board would like the Applicant to calculate the amount of impervious area that will be “disturbed”, as defined in Article XXVI of the Medway General Bylaws, by both the MS4 stormwater work and the site plan improvements. 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 current use of the center will remain unchanged. Most of the site is already developed; no additional leasable space is proposed in conjunction with the planned site improvements that would generate additional traffic.

However, the parking configuration and internal traffic flow components of the project are of concern to the Board and 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 Applicant's 9-30-21 submittal, a Grading, Drainage and Utilities Sheet has been included in the revised Site Plan set dated 8-30-21. It shows existing contours and the proposed drainage modifications. However, the grading plan is not adequate as it does not show how the property will be regraded to direct stormwater flow to the catch basins and water quality units. Accordingly, the Board DISAPPROVES this request.

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

The Applicant has requested a waiver from this requirement indicating that it is not needed as the site is 95% developed and there will be no increase in the amount of impervious surface as a result of the planned site improvements. The Applicant has noted that that Drainage Plan submitted to the Medway DPW for the MS4 permit includes an erosion and sediment control plan for that scope of work and that they will provide similar erosion and sediment controls during construction for the site plan improvements pursuant to this permit. Because very little excavation work is planned, the Applicant does not believe that an additional erosion and sedimentation control plan is necessary. The Board's Consulting Engineer has advised that a complete erosion and sediment control plan should be incorporated into the site plan set as the limits of work are spread throughout the site with potential to affect multiple drainage catchments. The excavation associated with the proposed curbing, landscaping and stormwater controls may generate sediment-laden stormwater; the existing catch basin should be protected and measures should be implemented to prevent sediment from traveling off-site. Further, the Drainage Plan (and associated erosion and sediment control plan) provided to the DPW considered only drainage improvements associated with the MS4 permit and did not address other site drainage measures included in the site plan. Accordingly, the Board DISAPPROVES this request.

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

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

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

The Applicant has requested a waiver from this regulation noting that there are no changes in use or changes in the layout of utilities except for what is shown on the Drainage Improvement Plan.

With the 9-30-21 revised submittal, the Applicant has included a Grading, Drainage and Utilities Sheet in the Plan set dated 8-30-21 which shows existing utility information, as well as the relocation of light poles and the electrical lines that will have to be relocated to beneath the surface to accommodate installation of electric vehicle charging stations. The Board's Consulting Engineer notes that the planned site improvements include some changes in light pole locations, installation of electric vehicle charging stations, and landscaping, all of which may conflict with existing utilities. The site plan does not address refuse and trash disposal systems and enclosures. The Board finds that the submittal is not complete. Accordingly, the Board **DISAPPROVES** this request.

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

Section 204-5 D. 10) Color Renderings

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

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

The Applicant has requested waivers from the above noted requirements indicating that no new structures or changes to existing structures are proposed. Therefore, these standards do not apply. For the foregoing reasons, the Board **APPROVES** this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.

Section 204-5 D 13) Site Amenities Details

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

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

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

Section 204-5 D. 16) Horizontal Sight Distances

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

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

The Applicant has requested a waiver from this requirement indicating that no new structures or changes to the existing structures are proposed and therefore the requirement is not applicable. The

Applicant has provided a Parking Spaces summary on Sheet C1.00 of the revised site plan set dated 8-30-21 but none of the other items are addressed. The 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 September 7, 2019, last revised March 1, 2021 by Grady Consulting, LLC of Kingston, MA, shall be further revised to reflect all Conditions specified herein and required revisions and additions, including those as follows, and shall be submitted to the Board to

Commented [SA1]: Is this enough time considering all the items that need to be addressed?

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. Reference that the site plan is subject to the Master Signage Plan dated _____ and Landscape Maintenance Plan dated _____.

C. Other Plan Revisions – Prior to plan endorsement, the following plan revisions shall be made to the 8-30-21 site plan set for review by the Board's Consulting Engineer and approval by the Board. Revisions can be made to the drawings or details and/or include revised notes. Additional details, drawings and sheets may also be added to the plan set.

1. Lighting Plan. A photometric lighting plan shall be added to the site plan set showing site lighting compliant with Section 7.1.2 of the *Zoning Bylaw*.
2. Traffic Flow Pattern – To comport with Condition ____, the traffic pattern pavement arrows and other traffic pattern directional signage shall be revised and added to indicate one-way traffic only west to east across the back of the buildings, one-way traffic northbound on the west side of the west building, and one-way traffic southbound on the east side of the east building.
3. Parking
 - West of Ocean State Job Lot – Remove ??? parking spaces between 116 Main Street and Ocean State Job Lot per Jeff Watson's 11-29-21 email – Need Clarification on this from Jeff Watson.
 - ANY OTHER CHANGES?
4. Pedestrian Access between Medway Place and Drybridge Crossing – The plan shall be revised to include one safe means for pedestrian access between Medway Place and the adjacent Drybridge Crossing at 116 Main Street, the location of which shall be in the center third of the span, for approval by the Board prior to plan endorsement. The pedestrian access shall be compliant with state and federal handicap accessibility laws and regulations.
5. Handicapped Parking – The Applicant shall have its project engineer recheck the details of the handicapped parking spaces and walkways as shown on the plan to ensure that they are compliant with applicable state and federal law including provisions for van parking.
6. Irrigation Well - The plan shall be revised to include the correct location of the recently installed irrigation well and the correct size of the island on which it is positioned. Sheet C3.00 Planting Sheet shall be revised to show four season landscaping to screen the irrigation well.
7. Utilities Plan compliant with Section 204-5 D. 7) of the *Site Plan Rules and Regulations*

8. Grading Plan compliant with Section 204-5D. 2) of the *Site Plan Rules and Regulations*
9. Erosion plan compliant with Section 204-5 D. 5) of the *Site Plan Rules and Regulations*
10. Horizontal Sight Distance compliant with Section 204-5 D. 16 of the *Site Plan Rules and Regulations*
11. Zoning Table compliant with information specified in Section 204-5 D. 17 of the *Site Plan Rules and Regulations*
12. Locations of fire hydrants and fire lanes compliant with Section 204-5 D. 18) of the *Site Plan Rules and Regulations*. The alley/drive aisle between the 2 buildings is to be denoted as a fire lane pursuant to the Medway Fire Department's determination.
13. Eliminate the one-way southbound drive aisle to the west of the main entrance boulevard by moving the curb line approximately 16' to the west, convert this space to a landscaped area, and revise the Planting Plan to include a robust, 4 season landscaping installation.
14. The locations of all existing dumpsters and solid waste containers on the premises shall be updated and shown throughout the plan set.

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

1. Development Impact Statement compliant with Section 204-3F. of the *Site Plan Rules and Regulations*
2. Calculations for Land Disturbance pursuant to Article XXVI of the *Medway General Bylaws*, Stormwater Management and Land Disturbance
3. Updated Stormwater Report and Revised Post Construction Stormwater Plan compliant with Section 204-3G of the *Site Plan Rules and Regulations*. Further, the Applicant's current proposed stormwater management measures shall be submitted to the Medway Department of Public Works pursuant to the conditions of the Applicant's MS4 permit which may necessitate modification.
4. Solid Waste Management - Prior to plan endorsement, the Applicant shall prepare a master solid waste management plan for the property for the Board's review and approval. Such plan shall include but is not limited to an overall, coordinated scheme for trash management for the shopping center and shall include dumpster and compactor locations, details of timing associated with lease expiration dates to transition to the management plan, and provisions for recycling. The plan should reflect a reduction in the number of dumpsters, a consolidation in dumpster locations, utilization of best practices for shopping center solid waste management including compactors, and maximum consideration for safe vehicular and pedestrian movement. The Applicant shall consult with the Medway Fire and Police Departments in preparing the plan.
5. Truck turning movement documentation throughout the site for the largest anticipated delivery vehicles and fire apparatus.

Commented [SA2]:

Should this be a requirement to be completed before plan endorsement or be included as a condition to be completed within ??? after plan endorsement and handled as a future site plan modification.

- E. **Required Action Before Construction** Due to the Board's denials of various waiver requests, the Applicant is required to submit the following items to the Board for its review and approval prior to commencement of any site preparation or improvements.
1. Earth Removal Calculations pursuant to Section 204-3 I of the *Site Plan Rules and Regulations*
 2. Earth Fill Calculations pursuant to Section 204-3 J. of the *Site Plan Rules and Regulations*
 3. Construction Schedule and Construction Management Plan pursuant to Section 204-3 H. of the *Site Plan Rules and Regulations*
- F. **Use Limitations**
1. *Outdoor Storage* – Pursuant to Section 5.4, Table 1: Schedule of Uses of the *Zoning Bylaw*, no Outdoor Storage of materials associated with a business operating the Medway Place shopping plaza is permitted.
 2. *Outdoor Display* – Pursuant to Section 5.4, Table 1: Schedule of Uses of the *Zoning Bylaw*, the Outdoor Display of good and products sold by a business establishment operating in the Medway Plaza outside display building on the premises is allowed only by special permit.
 3. *Outdoor Dining* – Outdoor dining locations are limited to those shown on the site plan. Any changes to expand existing or add new outdoor dining facilities at Medway Place shall be considered by the Board as a plan modification.
- G. **Traffic Pattern**
1. Use of the alley/drive aisle between New England Cabinetry and MG Salon & Spa shall be one-way only (northbound) for vehicular traffic. Southbound traffic exiting out of this alley/drive aisle to the front of the buildings is prohibited.
 2. The drive aisle starting at the western end of the building (Ocean State Job Lot) running behind the buildings and concluding at the eastern end of the building (Rocky's Hardware) shall be one-way west to east.
 3. The above noted traffic patterns shall be clearly denoted with both pavement signage and suitable wall signage. The 2-way traffic sign painted on the back wall near the day care center shall be removed and replaced with signage to denote one-way traffic eastbound (right turn) only.
 4. Pursuant to the Massachusetts Fire Code, there must be 20" of clear access around the building for Fire Department Access.
- H. **Pedestrian Access** – The Permittee shall provide one safe means for pedestrian access between Medway Place and the adjacent Drybridge Crossing to the west at 116 Main Street, the location of which shall be in the center third of the span, for approval by the Board prior to plan endorsement. The pedestrian access shall be compliant with state and federal handicap accessibility laws and regulations.

I. **Solid Waste Management**

1. The Applicant is required to work with tenants and trash collectors to relocate the existing dumpsters so as to not interfere with traffic, deliveries, parking, emergency vehicles, and pedestrian traffic and to monitor such relocations for ongoing compliance. IS there more you want to say here? Any sort of report/update to be provided? Timing for provision of such report or plan?
2. Dumpsters shall be repositioned directly against the building and shall not be positioned to interfere with parking or traffic flow.
3. No refuse or solid waste is allowed outside the approved dumpsters.

J. **Lighting** – Site lighting shall comply with Section 7.1.2 of the *Zoning Bylaw* which applies to lighting modifications as well as new installations. A corresponding photometric shall be included in the plan set.

K. **Parking Lot Paving and Stormwater Management**

1. The Applicant has indicated this project will include reconstruction a portion of the Medway Place parking lot (full depth pavement in the grey shaded area as shown on the site plan dated 8-30-21) and that it will repave the remaining sections in the future. The Board has serious reservations that this incomplete approach to paving and grading will negatively impact the adequacy of the management of stormwater on the site. Accordingly, for a one-year period after the site improvement work is completed, the Applicant is required to monitor rainfall during storm events greater than ½” and provide such reports to the Board and the Medway Department of Public Works.
2. At such time as the Applicant plans to complete the parking lot paving, . . . what do you want here??

Commented [SA3]:

More needed here. What to do after such monitoring.

L. **Electric Vehicle Charging Stations**

1. The Applicant is required to use the highest level EVC technology available at the time of installation. Before installation of the EVC stations, the Permittee shall secure the Board's approval for the particular design of EVC equipment to be installed.
2. Half of the approved EVC stations shall be installed within 2 years after plan endorsement. The remaining EVC stations shall be installed within five years after plan endorsement.

M. **Master Signage Plan** – The Master Signage Plan submitted as part of this review process shall be used by the Permittee and may be adjusted by action of the PEDB without a public hearing. The Master Signage Plan dated 9-30-21 is made a part of this decision.

N. **Food Trucks/Landscaping/Barriers** – The Applicant has presented a plan that shows their intention to establish Flex Space Area A for outdoor dining and Flex Space Areas B and C for food trucks, planters, and associated outdoor seating. However, the timetable for doing so is not specified nor are details provided for the planting scheme, winter season planter storage, safety barricades, etc. At such time as the Applicant decides to proceed with

this component of their site improvements, the Applicant is required to return to the Planning and Economic Development Board with more detailed plans for review and approval.

O. **Back to Basics Preschool (114D Main Street) - WHAT DO YOU WANT TO SAY ABOUT THIS?**

P. **Landscape Maintenance**

1. The Applicant has provided a Landscape Maintenance Program dated 9-30-21 which shall guide the Applicant in its care and maintenance of the landscape installation. This Landscape Program is made a part of this decision.
2. The site's landscaping shall be maintained in good condition throughout the life of the facility and to the same extent as shown on the endorsed Plan. Any shrubs, trees, bushes or other landscaping features shown on the Plan that die shall be replaced by the following spring.
3. Within 60 days after two years after the Board certifies project completion, the Town's Consulting Engineer or the Building Commissioner may inspect the landscaping to determine whether and which landscape items need replacement or removal and provide a report to the Board. At any time, subsequent to this initial inspection, the Town's Consulting Engineer or the Building Commissioner may conduct further inspections of the landscaping to determine whether and which landscaping items need replacement or removal and provide a report to the Board. The Board may seek enforcement remedies with the Building Commissioner/Zoning Enforcement Officer to ensure that the comprehensive landscaping plan is maintained.

R. ~~**Performance Security** Cannot require upfront 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. **Coordinated Deliveries** – The Applicant shall work with its tenants to develop a coordinated schedule and plan for product deliveries. The purpose of this initiative is to reduce traffic conflicts among delivery vehicles and to maximize safety for pedestrians and safe access for emergency vehicles.

Commented [SA4]: More is needed here. Submit to PEDB when!?

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