

Tuesday, September 27, 2022
Medway Planning and Economic Development Board
155 Village Street
Medway, MA 02053
Meeting Minutes

Member	Matt Hayes, Chair	Bob Tucker	Jessica Chabot	Sarah Raposa	Rich Di Iulio	Tom Gay Assoc. member
Attendance	X	X	X	X	X	X

PRESENT:

Barbara J. Saint Andre, Director of Community and Economic Development
Susan E. Affleck-Childs, Community and Economic Development Coordinator (via Zoom)

The meeting was called to order by Chair Hayes at 7:00 pm

There were no Citizen Comments.

NEWTON LANE STREET ACCEPTANCE:

Mr. Yorkis was present on behalf of developer John Claffey. He explained the progress to date on the Newton Lane Street Acceptance. The Board was informed that the stumps within the stormwater basin still need to be removed. The paving will be prepped the week of October 6, 2022. The easement documents for the sidewalk are being prepared by the Attorney for Mr. Claffey. Ms. Affleck-Childs noted that the Conservation Commission has not been asked to issue a Certificate of Compliance. Mr. Yorkis will follow up with the Conservation Commission.

Public Hearing – Proposed Zoning Bylaw Amendments for November 14, 2022 Town Meeting:

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

Proposed Amendments

Battery Energy Storage Systems
Solar Electric Installations
Table 1 Schedule of Uses Section 5.4E, Industrial Uses
Mitigation
Multifamily Housing
Housekeeping
Table 1 Schedule of Uses
Oak Grove and Central Business
Contractor's Quarters

Additional Documents:

- DEP Wetlands Program Policy 17-1: Photovoltaic System Solar Array Review
Mass Audubon, Losing Ground.
- Nature Heat Island Study
- NREL solar
- Pagepower solar glare info
- IEEE study solar heat island effects
- Vox Solar biodiversity article
- AG MLU decision Carver
- AG MLU decision Hopkinton
- Union of Concerned Scientists solar array
- Solar explained EIA
- Solar Energy Development PEIS

On a motion made by Jessica Chabot, seconded by Bob Tucker, the Board voted unanimously to dispense with the reading of the public hearing notice.

The first amendment discussed was the Battery Energy Storage Systems. There have been comments received from Eversource. **See Attached.**

Resident Paul Yorkis was present and provided some comments which included:

- Page 1 – the language and suggestion that the word “buildings or structures” be added.
- Under the purpose section, remove under #3 the word “important” and add words “wetland, other natural resources.”
- Page 3 – Section C. applicability 2A and 2B the words “room or enclosed area” need to be consistent.
- In the lighting section, the Board was asked to consider the word “security”.
- Page 9 item K- there needs to be clarification about when the facility is abandoned after a year.

The Board members had not all had the time to read the letter from Eversource since it was just submitted. Ms. Saint Andre explained that the basic concern of Eversource is to allow connections to the grid without needing a special permit. Eversource feels that the definition of BESS is so broad that it will include interconnections on Eversource property. In addition, Eversource also suggested establishing a threshold of over 1000 kWh for Tier 2, instead of over 600 kWh as proposed, to allow smaller BESS that Eversource believes do not need high level review. Eversource also questioned the need for the large setbacks. Resident Charlie Myers will also be reading the letter from Eversource and will provide feedback. Eversource also requested changes in definitions. Ms. Affleck-Childs noted that the current bylaw has a definition for public utility.

In regard to the applicability for small systems, it was recommended that site plan review is not needed for systems which are 1kWh. This is a small system. The Board is in agreement to eliminate the last line noting the 1 kWh.

Solar Electric Installation

Ms. Saint Andre explained that part of the reason for these amendments is the recent Tracer Lane case and the solar exemption under c. 40A, §3. We are acting to make our bylaw conform to the state law while still protecting the town's health, welfare, and safety, and environment, and to balance the Town's legitimate concerns with the state exemption. She referred to the background information provided to the Board about solar installations and their potential hazards and environmental concerns that the Town is trying to mitigate here.

Mr. Di Iulio stated he did not want to see large, forested areas removed for solar installations; trees are important to the environment. He also has concerns regarding herbicide use for these installations that can runoff the site. The Chair noted that the Board wants to comply with the state law and also protect the Town.

Schedule of Uses Industrial

Ms. Saint Andre noted that these are changes to the Schedule of Uses that accompany the proposed BESS bylaw and Solar Bylaw amendments. It allows solar installations in more districts than currently allowed.

Mitigation:

There is a proposed article which looks to amend the Zoning Bylaws by adding a new section 7.4 development mitigation.

Ellen Rosenfeld was present to discuss mitigation and wanted further explanation on why this is being presented as a bylaw. She is concerned about trying to develop her land and having to set aside twice the area of development potentially. Ms. Saint Andre noted that this mitigation is currently in the Solar Bylaw, due to the Town not wanting developers to clear forests in order to install solar. If the Town requires it for solar, it should require it for other uses also. It is proposed to be included in the BESS bylaw also. It would apply only to certain types of development under Section 8, Special Regulations, which are special permit uses, not all commercial uses. Ms. Rosenfeld stated it seemed a bit much. Ms. Saint Andre noted a recent trend in municipalities to enact similar protections for forested areas and trees due to their role in carbon sequestration and climate change. They want developers to look elsewhere rather than cutting down forests. The reason to set aside forested land as mitigation is that just planting trees to replace trees is not as effective as preserving existing trees. Ms. Rosenfeld stated this could stop a development such as an ARCPUD. Ms. Rosenfeld stated that this is a big change.

Contractor's Quarters

Ms. Rosenfeld asked if this new proposed use did not allow any outside storage, Ms. Saint Andre confirmed. This is an expansion of allowed uses. Contractors' yards with outside storage are a different use that is allowed in only a few districts.

Multi-Family Housing:

Steve Brody asked what the changes are. Ms. Chabot explained that the biggest change has to do with the density; a percentage of wetlands on a site cannot be used toward density. Ms. Chabot noted that this brings it in line with the Board's past decisions on density.

Housekeeping; Schedule of Uses:

No comments on either

Oak Grove and Central Business District:

This Article is to see if the town will amend the Zoning Bylaw, Section 9 Oak Grove Park Districts and Section 10 Central Business District Development Standards. There is an amendment to the language regarding determination of building type. Ms. Saint Andre noted that she sent the proposed zoning bylaw amendments to all applicants with current applications before the Board and noted that the proposed changes here might affect Milford Hospital's pending special permit application. The current application for Milford Regional Hospital does not meet the existing building types. This warrant article would authorize the Building Commissioner to classify any proposed structures according to building type. If it does not fit within the specified building types included in this section, the PEDB can grant a special permit. The issue is what dimensional requirements should apply. She suggested further amending this to allow the PEDB to use either the dimensional requirements for the closest building type, or the general dimensional requirements of Section 6.1. The proposed language would provide more flexibility and ensure that the Milford Hospital application is in compliance. The Board members were in general agreement.

On a motion made by Sarah Raposa, seconded by Rich Di Iulio, the Board voted to continue the public hearing to October 11, 2022 at 8:15 pm.

WINGATE FARM SUBDIVISION MODIFICATION – PUBLIC HEARING CONTINUATION:

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

- Notice dated September 15, 2022 to continue hearing to September 27, 2022
- Tetra Tech plan review letter dated September 15, 2022
- Email from project engineer Dan Merrikin dated September 25, 2022
- Email from Steve Bouley dated September 26, 2022
- DRAFT decision dated September 27, 2022

The public hearing for Wingate Farm was reopened.

The applicant was present; the applicant's representative Dan Merrikin was present via Zoom.

The Board is in receipt of the draft decision which was provided to both the applicant and Board in advance of the meeting. The comments provided by Mr. Merrikin have been included within the most recent revision of the decision dated September 27, 2022.

The draft decision was shown on the screen share.

The following were comments discussed when reviewing the decision:

- The owner of property needs to be clarified.
- The language referencing the old as-built needs to be updated since a new plan has been provided.
- Make reference to the modified plan.
- The Stormwater Management plan complies with current regulations
- Lot 3 can be added in the future by an ANR plan. The design takes into account the potential future lot.

- The applicant would like the area of Fairway Lane to be looked at to provide guidance about where the signage needs to go.
- Finding added with respect to Land Disturbance application.

On a motion made by Jessica Chabot, seconded by Bob Tucker, the Board voted 4-0-1 to approve the Findings in the 9.27.22 draft and as discussed (Sarah Raposa abstained).

The Board next reviewed the requests for waivers from the *Subdivision Rules and Regulations*. It was discussed that the previous waivers will remain in place to the extent applicable and the additional ones requested were recommended. The applicant asked to withdraw its request for waivers from Section 6.2.1 Plan Modification and Section 6.3.1 Plan Rescission as they are no longer needed.

On a motion made by Bob Tucker seconded by Jessica Chabot, the Board voted 4-0-1 to approve the waivers as discussed (Sarah Raposa abstained).

The last section reviewed were the Conditions. Many of the conditions required in prior Board decisions have been fulfilled or have been incorporated into the modified plan. There will be language added to grant a three-year completion date. The covenant will need to be updated. The Board will also need to release the old covenant.

On a motion made by Bob Tucker, seconded by Rich Di Iulio, the Board voted 4-0-1 to Approve the conditions and decision as modified. (Sarah Raposa abstained).

On a motion made by Bob Tucker, seconded by Rich Di Iulio, the Board voted 4-0-1 to close the hearing for Wingate Farm. (Sarah Raposa abstained).

MASTER’S TOUCH SITE PLAN – 83 Main Street:

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

- Notice dated August 10, 2022 to continue hearing to 9-27-22
- Request to continue hearing to October 25, 2022
- Request to extend action deadline to November 30, 2022
- Plans titled “Proposed Office Space” dated May 10, 2022

The Chair reopened the hearing.

The Board is in receipt of a request to continue the hearing to October 25, 2022 and extend the action deadline to November 30, 2022.

On a motion made by Sarah Raposa, seconded by Bob Tucker, the Board voted unanimously to accept the decision deadline extension to November 30, 2022

On a motion made by Sarah Raposa, seconded by Bob Tucker the Board voted unanimously to continue the hearing to October 25, 2022 at 7:30 p.m.

MILFORD REGIONAL HOSPITAL HEARING CONTINUATION:

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

- Notice dated September 15, 2022 to continue public hearing to September 27, 2022
- Email from Nolan Lynch dated September 16, 2022
- Email from Mike Fasolino dated September 16, 2022
- Email from Amanda Cavaliere dated September 21, 2022
- DRAFT decision dated September 22, 2022
- DRAFT decision dated August 29, 2022

The Chair opened the continued public hearing for the Milford Regional Hospital medical facility to be constructed on a portion of 86 Holliston Street.

The applicant/Engineer presented via zoom. Present were applicant Kevin Lobisser and Amanda Cavaliere from Guerriere and Halnon.

The draft decision was shown on a share screen.

The following comments were made relative to the decision:

- There was discussion about tree preservation on page 18. The applicant will do their best to preserve the trees along the existing Walgreens driveway. They are asking for a waiver from the Regulation for tree replacement requirements.
- Information from the Fire Chief was included.
- The noise study information was received and reviewed. The expected noise was found to be in compliance.
- Master Signage plan needs to be submitted timely.
- The work completion needs to be within 3 years.

There was discussion on proposed condition I for tree preservation. There are ten trees along the Walgreens driveway that could be impacted. The Regulations require measurement of trees and replacement based on a multiplier. Ms. Chabot did not think the multiplier should apply. Mr. Tucker observed that this is open field, not a forest area. The applicant stated it would be willing to replace each tree lost on a one tree lost-to-one replacement basis with a three-inch caliper tree. The Board is fine with this solution for 10 trees. The rest of the conditions were reviewed, including street openings, ANR plan, and traffic safety improvements.

On a motion made by Jessica Chabot, seconded by Bob Tucker, the Board voted unanimously to approve all the Findings in draft dated 9.21.22 as presented and discussed.

On a motion made by Jessica Chabot, seconded by Bob Tucker, the Board voted unanimously to approve all the Site Plan Waivers as noted in the draft decision.

On a motion made by Rich Di Iulio, seconded by Jessica Chabot, the Board voted unanimously to approve the major site plan application with the Conditions and waivers specified in the draft decision.

On a motion made by Jessica Chabot, seconded by Bob Tucker, the Board voted unanimously to approve the Parking, Building Type, and Groundwater Protection special permits as set forth on pages two and three of the draft decision.

On a motion made by Rich Di Iulio, seconded by Sarah Raposa, the Board voted unanimously to close the hearing.

PHYTOPIA PUBLIC HEARING CONTINUATION:

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

- Notice dated August 24, 2022 to continue public hearing to August 27, 2022
- DRAFT Decision dated 9-27-22

The public hearing for Phytopia was reopened.

Attorney Cannon was present at the meeting in person and project engineer Chris Sparages was present via Zoom.

The draft decision was shown on the screen share.

The following comments were made relative to the decision:

- Page #16 - A recommendation was made to not require granite curbing at the driveway entrance roundings and to grant a waiver.
- There needs to be something added about the fuel source for the generator
- DPW requested a note regarding back flow preventers.
- The maintenance of Phase 2 was discussed and there will be language added about evaluation of the site after two years. The Phase 2 area will be loamed and seeded until the addition is constructed. Part of the area is needed during construction for lay down area, staging, and soil stockpiles.
- Add language about the landscape plan two years after occupancy for phase one.
- There will be language added about a master signage plan submitted prior to the issuance of the occupancy permit.
- There was discussion regarding mitigation in the form of a payment in lieu of a sidewalk. Mr. Cannon stated that the enormously expensive environmental clean-up is significant mitigation. Any payment will be money placed into the sidewalk fund. It was recommended to reduce the amount from \$54,000 to \$25,000.00. The applicant agreed to this revised sum.
- The items necessary for an occupancy permit for Phase One were discussed. Drainage for Phase 1 will need to be completed. Other items were also discussed and added.

Findings:

On a motion made by Jessica Chabot, seconded by Bob Tucker, the Board voted 4-0-1 to approve all Findings for Phytopia decision dated September 27, 2022 as modified tonight. (Sarah Raposa abstained)

Waivers:

On a motion made by Jessica Chabot, seconded by Bob Tucker, the Board voted

4-0-1 to approve all Waivers from the Site Plan Rules and Regulations in the Phytopia decision dated September 27, 2022 as modified including to eliminate granite curbing at roundings. (Sarah Raposa abstained)

The applicant will submit a waiver request to not use granite curbing: Section 207-11A (4).

Decisions:

On a motion made by Jessica Chabot, seconded by Bob Tucker, the Board voted 4-0-1 to approve the major site plan application with conditions and waivers, and decision dated September 27, 2022 as discussed. (Sarah Raposa abstained)

On a motion made by Jessica Chabot, seconded by Bob Tucker, the Board voted 4-0-1 to approve the Parking and Groundwater Protection special permits as set forth in the decision dated September 27, 2022 and as discussed. (Sarah Raposa abstained)

On a motion made by Rich Di Iulio, seconded by Jessica Chabot, the Board voted 4-0-1 to close the public hearing. (Sarah Raposa abstained).

CONSTRUCTION REPORTS:

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

- Monthly Inspection Report for Medway Mill – Guerriere & Halnon, Inc - 9.13.22
- Monthly Inspection Report for William Wallace Village -Legacy Engineering – 9.19.22

Millstone Village: No one was present for Millstone, no action taken.

MASTER PLAN UPDATE:

Member Jessica Chabot informed the members that the final meeting of the Master Plan Committee will be October 4, 2022. This final meeting will be spent reviewing the final draft. This draft is available for review on the town website and social media. The final document will be provided to the PEDB for adoption.

DHCD Final Guidelines on MBTA Community Multi-Family Zoning District Requirements:

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

- Memo to Select Board dated 9.6.22
- DHC Compliance Guidelines for Multi-Family Zoning Districts

Resident Mr. Steven Brody, 39 West Street was present.

Ms. Saint Andre updated the Board on the final DHCD guidelines for establishing a Multi-Family Zoning District in MBTA communities, which include Medway, as required by G.L. c. 40A, §3A. The town is required to set aside at least 50 acres for development by right for multi-family housing. There is a minimum of 15 units per acre which would equate to 750 units for the 50 acres. Communities that do not comply will not be eligible for certain state grant programs.

The deadline for submitting an action plan to DHCD is January 31, 2023. She explained that the Town can include affordable housing requirements. The next step is for the town to determine whether to go forward with this, and if so what land in town to set aside for this district. The Select Board will be addressing this at a future meeting. There was discussion that 39 Main Street and the Glen Brook properties could be rezoned to meet this requirement. The Board members discussed the requirements, and what is the financial impact if the Town does not comply. There is a concern about the aggressive timeline for this zoning.

Mr. Brody communicated that he has been speaking with DHCD about the guidelines. These are policy based regulations. Different parcels can have different densities as long as overall it is 15 per acre. The town is able to seek technical assistance from DHCD.

PEDB MEETING MINUTES:

August 23, 2022: Mr. Di Iulio had one minor correction.

On a motion made by Jessica Chabot, seconded by Sarah Raposa, the Board voted unanimously to approve the minutes from August 23, 2022 and September 13, 2022 (with the correction).

ADJOURN:

On a motion made by Jessica Chabot, seconded by Sarah Raposa, the Board voted unanimously to adjourn the meeting.

The meeting was adjourned at 9:53 p.m.

Prepared by,
Amy Sutherland
Recording Secretary

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

Barbara J. Saint Andre
Director, Community and Economic Development



September 27, 2022
Medway Planning & Economic Development Board
Meeting

Public Hearing – Proposed Zoning Bylaw
Amendments for November 14, 2022
Town Meeting

- **Proposed Amendments:**
 - Battery Energy Storage Systems
 - Solar Electric Installations
 - Table 1, Schedule of Uses, Section 5.4E,
Industrial Uses
 - Mitigation
 - Multifamily Housing
 - Housekeeping
 - Table 1, Schedule of Uses, Section 5.4
 - Oak Grove and Central Business
 - Contractor's Quarters
- **Additional Documents:**
 - DEP Wetlands Program Policy 17-1: Photovoltaic
System Solar Array Review
 - Mass Audubon, Losing Ground

BATTERY ENERGY STORAGE SYSTEM

Article A: To see if the Town will vote to amend the Zoning Bylaw by:

(1) Amending Section 2 Definitions deleting the definition of Battery Energy Storage Facility and adding the following new definition in Section 2:

Battery Energy Storage System (BESS): One or more containers or cabinets containing batteries and related equipment, assembled together, capable of storing electrical energy in order to supply electrical energy at a future time. This includes all accessory equipment necessary for energy storage including but not limited to inverters, transformers, cooling equipment, switching gear, metering equipment, transmission tie-lines, and other power interconnection facilities and/or a project substation, but does not include a stand-alone 12-volt vehicle battery or an electric motor vehicle.

(2) Amending Table 3, Schedule of Off-Street Parking Requirements, by adding a new line:

Battery energy storage systems (as principal use)	2 spaces for Tier 1 3 spaces for Tier 2
---	--

(3) Amending Section 3.5 Site Plan Review as follows:

Amend Section 3.5.3.A.1 Major Site Plan Review by adding:
“f. Tier 2 Battery Energy Storage Systems”

And amend Section 3.5.3.A.2 Minor Site Plan Review by adding:
“h. Tier 1 Battery Energy Storage Systems”

(4) And adding a new Section 8.12 Battery Energy Storage Systems:

Section 8.12 Battery Energy Storage Systems

A. Purpose. The purpose of this Section is to advance and protect the public health, safety, welfare, and quality of life by creating regulations for the installation and use of battery energy storage systems, with the following objectives:

1. To provide a regulatory scheme for the location, construction and operation of battery energy storage systems consistent with best practices and safety protocols;
2. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems and to mitigate any potential impacts on abutting and nearby properties; and
3. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources.

This Section shall be construed to be consistent with state law, including but not limited to the provisions of General Laws chapter 40A, section 3, and state regulations, including but not limited to the provisions of the State Building Code, State Fire Code, and State Electrical Code. In the event of any conflict between the provisions of this section and the provisions of state law or regulations, the state law and regulations shall prevail.

B. Definitions

As used in this bylaw, the following terms shall have the meanings indicated. Terms that are not defined herein or elsewhere in this Zoning Bylaw shall be as defined in NFPA 855 if applicable.

ANSI: American National Standards Institute

Battery or batteries: A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this bylaw, batteries utilized in consumer products are excluded from these requirements.

Battery Energy Storage Management System: An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

Cell: The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

Commissioning: A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

Dedicated-Use Building: A building that is built for the primary intention of housing battery energy storage system equipment, and complies with the following:

- 1) The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
- 2) No other occupancy types are permitted in the building.
- 3) Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
- 4) Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:
 - a. The areas do not occupy more than 10 percent of the building area of the story in which they are located.
 - b. A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

Nationally Recognized Testing Laboratory (NRTL): A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

NFPA: National Fire Protection Association.

Non-Dedicated-Use Building: All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

Non-Participating Property: Any property that is not a participating property.

Non-Participating Residence: Any residence located on non-participating property.

Participating Property: A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

This bylaw: Section 8.12 of the Zoning Bylaw
add

UL: Underwriters Laboratory

C. Applicability

1. The requirements of this bylaw shall apply to battery energy storage systems permitted, installed, decommissioned or modified after the effective date of this bylaw, excluding general maintenance and repair. BESS subject to this bylaw are only those that exceed the following capacities:

- Lead-acid with a capacity of greater than 70 kWh
- Nickel with a capacity of greater than 70 kWh
- Lithium-ion with a capacity of greater than 20 kWh
- Sodium nickel chloride with a capacity of greater than 20 kWh
- Flow with a capacity of greater than 20 kWh
- Other battery technologies with a capacity of greater than 10 kWh
- BESS in one- and two-family dwellings with a capacity of greater than 1 kWh

BESS that do not meet the threshold capacities above are not subject to this bylaw and are allowed by right in all zoning districts.

2. A battery energy storage system that is subject to this bylaw is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

a). Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.

b). Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area.

D. General Requirements

1. A building permit, an electrical permit, and a fire department permit per state codes shall be required for installation of all battery energy storage systems.

2. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (a) contain or are otherwise associated with a battery energy storage system and (b) subject to the requirements of the State Building Code, shall be designed, erected, and installed in accordance with all applicable provisions of the State Building Code 780 CMR, State Fire Code 527

CMR 1.00, and State Electrical Code 527 CMR 12.00. All battery energy storage systems shall comply with NFPA 855, Standard for the Installation of Stationary Energy Storage Systems.

3. Energy storage system capacities, including array capacity and separation, are limited to the thresholds contained in NFPA 855.

E. Permitting Requirements for Tier 1 Battery Energy Storage Systems

Tier 1 Battery Energy Storage Systems are allowed by right in all zoning districts, subject to applicable provisions of the State Building Code, Electrical Code, Fire Code, and other applicable codes, and are subject to minor site plan review and such provisions of this bylaw as are applicable.

F. Permitting Requirements for Tier 2 Battery Energy Storage Systems

Tier 2 Battery Energy Storage Systems are subject to this bylaw and require the issuance of a special permit in those zoning districts identified in Table 1, Schedule of Uses, and are subject to Major Site Plan Review pursuant to Section 3.5. Tier 1 and Tier 2 BESS shall comply with the applicable requirements set forth in this bylaw, as well as this Zoning Bylaw, and the Medway General Bylaws. The following requirements apply to all Tier 1 and Tier 2 BESS subject to this bylaw, except where it is specifically noted to apply only to Tier 2 BESS:

1. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles.
2. Signage. Signage shall comply with the requirements of Section 7.2 of this Zoning Bylaw and the following additional requirements; in the event of a conflict between the provisions of Section 7.2 and this section, the requirements of this section shall prevail.
 - a) The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.
 - b) As required by the state electrical code, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
 - c) Signage compliant with ANSI Z535 shall be provided on doors to rooms, entrances to BESS facilities, and on BESS outdoor containers.
3. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall comply with Section 7.1.2 of this Zoning Bylaw.
4. Vegetation and tree-cutting. Areas within ten feet on each side of Tier 2 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single

specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

6. Setbacks. Tier 2 Battery Energy Storage Systems shall be set back a minimum of 50 feet from all side, rear, and front lot lines; except that Tier 2 BESS shall be set back a minimum of 100 feet from side, rear, and front lot lines that abut or are across a street from residential zoning districts or existing single, two-family, or multi-family structures. The minimum setback areas shall include a Buffer Area at least fifteen feet wide along all property lines. Access drives and parking are allowed in the setback areas, but shall not intrude into the required Buffer Areas except where necessary to provide access or egress to the property. In addition, a minimum of 10 feet must be maintained between BESS components and all buildings, stored combustible materials, hazardous materials, high-piled storage, personnel means of egress, and other exposure hazards not associated with electrical grid infrastructure.

7. Dimensional. Tier 2 Battery Energy Storage Systems shall comply with the dimensional limitations for principal structures of the underlying zoning district as provided in Section 6 of this Zoning Bylaw, unless otherwise provided in this bylaw.

8. Fencing Requirements. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a minimum eight foot high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building. Security barriers, fences, landscaping, and other enclosures must not inhibit required air flow to or exhaust from the BESS and components. Electrical equipment greater than 1,000V require a separate and additional means to restrict access. NFPA 855 requires specialty safety systems to be provided based on the BESS chemistry and installed location.

9. Screening and Visibility. Tier 2 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area. Such features may not inhibit required air flow to or exhaust from the BESS and components and must comply with the setbacks established in paragraph 6 above.

10. Mitigation for Loss of Carbon Sequestration and Forest Habitat. If land that is Forestland or has been Forestland within one year immediately preceding the filing an application to install a Tier 2 BESS, the plans shall designate thereon an area of unprotected (meaning, not subject to G.L. c. 184, sections 31-33 at time of application) land on the same lot and of a size equal to two times the total area of Forestland that will be eliminated, cut, destroyed, or otherwise disturbed by such installation. Such designated land shall remain in substantially its natural condition without alteration, including prohibition of commercial forestry or tree cutting not related to the maintenance of the installation, until such time as the installation is decommissioned; except in response to a natural occurrence, invasive species or disease that impacts the trees and requires cutting to preserve the health of the forest.

11. Mitigation for Disruption of Trail Networks. If existing trail networks, old roads, or woods or cart roads are disrupted by the location of a Tier 2 BESS, the plans shall show alternative trail alignments to be constructed by the applicant, although no rights of public access may be established hereunder.

12. Mitigation for Disruption of Historic Resources and Properties. Historic resources, structures and properties, such as cellar holes, farmsteads, stone corrals, marked graves, water wells, or pre-Columbian features, including those listed on the Massachusetts Register of Historic Places or as defined by the National Historic Preservation Act, shall be excluded from the areas proposed to be developed for a Tier 2 BESS. A written assessment of the project's effects on each identified historic resource or property and ways to avoid, minimize or mitigate any adverse effects shall be submitted as part of the application. A suitable buffer area as determined by the PEDB shall be established on all sides of each historic resource.

13. Batteries. Failed battery cells and modules shall not be stored on the site and shall be removed no later than 30 days after deemed failed by the BESS operator or cell/module manufacturer. The operator shall notify the Medway Fire Chief in advance if the type of battery or batteries used onsite is to be changed.

14. Decommissioning Plan. The applicant shall submit with its application a decommissioning plan for Tier 2 BESS to be implemented upon abandonment and/or in conjunction with removal of the facility. The owner or operator of the BESS shall notify the Building Commissioner in writing at least twenty days prior to when a Tier 2 BESS will be decommissioned. Decommissioning of an abandoned or discontinued Tier 2 BESS shall be completed within six months after the facility ceases operation. The decommissioning plan shall include:

- a. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
- c. The anticipated life of the battery energy storage system;
- d. The estimated decommissioning costs and how said estimate was determined;
- e. The method of ensuring that funds will be available for decommissioning and restoration;
- f. The method by which the decommissioning cost will be kept current;
- g. The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and
- h. A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

15. Decommissioning Fund. The owner and/or operator of the energy storage system, shall continuously maintain a fund or other surety acceptable to the Town, in a form approved by the Planning and Economic Development Board and Town Counsel, for the removal of the battery energy storage system, in an amount to be determined by the Town, for the period of the life of the facility. All costs of the financial security shall be borne by the applicant.

16. Proof of Liability Insurance. The applicant or property owner shall provide evidence of commercially liability insurance in an amount and type generally acceptable in the industry and

approved by the PEDB prior to the issuance of a building permit, and shall continue such insurance in effect until such facility has been decommissioned, removed, and the site restored in accordance with this bylaw.

G. Site plan application. For a Tier 2 Battery Energy Storage System the site plan application shall include the following information, in addition to that required by Section 3.5 of this Zoning Bylaw and the Planning and Economic Development Board Rules and Regulations Governing Site Plan Applications:

1. A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all State Electrical Code compliant disconnects and over current devices.
2. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
3. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.
4. Large-scale fire test data, evaluation information, and calculations, and modeling data. For any of the following, UL 9540A fire test data must be made available to the Planning and Economic Development Board for review:
 - BESS systems with a capacity of greater than 50kWh
 - BESS systems with spacing between arrays of less than 3 feet
5. Commissioning Plan. The system installer or commissioning agent shall prepare a commissioning plan prior to the start of commissioning. Such plan shall be compliant with NFPA 855 and document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in applicable state codes. Where commissioning is required by the Building Code, battery energy storage system commissioning shall be conducted by a Massachusetts Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required by applicable state codes shall be provided to Zoning Enforcement Officer prior to final inspection and approval and maintained at an approved on-site location.
6. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with state codes, including documentation that BESS components comply with the safety standards set forth in subsection 8.12.I.
7. Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth state codes and NFPA 855. Maintenance provisions will be driven by manufacturer requirements for the specific listed system.
8. Depending on the location of the BESS in relation to and its interaction with the electrical grid, interconnection will be completed per 527 CMR 12.00. System interconnections into utility

grids shall be in accordance with NFPA 855. An accessible disconnect is required per 527 CMR 12.00.

9 Prior to the issuance of the building permit, engineering documents must be signed and sealed by a Massachusetts Licensed Professional Engineer.

10. Emergency Operations Plan. An Emergency Operations Plan compliant with NFPA 855 is required. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. For so long as the BESS is operational, the operator shall provide the Fire Department, Police Department, Building Commissioner, and Town Manager's office with contact information for personnel that can be reached 24 hours per day every day, and this contact information shall be updated by the operator whenever there is a change in the information. The operator shall also be required to have an official representative be present onsite not later than two hours after notification by the Fire Chief, Police Chief, or their designee. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:

- a. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
- b. Procedures for inspection and testing of associated alarms, interlocks, and controls, including time intervals for inspection and testing.
- c. Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
- d. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
- e. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
- f. Procedures for safe disposal of battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
- g. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.
- h. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

H. Ownership Changes. If the owner of the battery energy storage system changes or the owner of the property changes, the special permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special permit, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the Building Commissioner

of such change in ownership or operator within 14 days of the ownership change. A new owner or operator must provide such notification to the Building Commissioner in writing.

I. Safety

1. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:

- a) UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
- b) UL 1642 (Standard for Lithium Batteries),
- c) UL 1741 or UL 62109 (Inverters and Power Converters),
- d) Certified under the applicable electrical, building, and fire prevention codes as required.
- e) Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.

2. Site Access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department.

3. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

K. Abandonment

The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than one year. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, after compliance with any applicable state and federal constitutional requirements, enter the property and utilize the available bond and/or security for the removal of a Tier 2 BESS and restoration of the site in accordance with the decommissioning plan.

Or act in any manner relating thereto.

SOLAR ELECTRIC INSTALLATIONS

Article B: To see if the Town will vote to amend the Zoning Bylaw by amending Section 2 Definitions, by adding the words in **bold**:

Electric Power Generation: The process of generating electric power from other sources of primary energy such as electromechanical generators, chemical combustion, and Renewable Energy, **but excluding Solar Electric Installations and Solar Photovoltaic Arrays.**

And by amending Section 8.11, Solar Electric Installations, as follows, with wording to be deleted shown in strikethrough, and added wording shown in **bold**:

SECTION 8.11 SOLAR ELECTRIC INSTALLATIONS

A. Purpose

The purpose of this bylaw is to facilitate and appropriately regulate the creation of Ground-Mounted Solar Electric Installations: (a) by providing standards for the approval, placement, design, construction, operation, monitoring, modification and removal of such installations to protect the public health, safety and welfare, including protection and preservation of Town infrastructure (including roads); providing for public safety; and mitigating any impacts upon environmental, scenic, and historic resources; (b) by providing adequate financial assurance for the eventual decommissioning of such installations; and (c) by protecting large, contiguous blocks of forest land, based on the understanding that large, contiguous tracts provide many ecological benefits, including improved water and air quality, sequestration of carbon, reduced movement of invasive species, provision of wildlife habitat and the support for greater biodiversity; and providing many recreational opportunities for town residents. **The Town through this bylaw also seeks to incentivize solar installations within already developed sites and lands with lower resource values (e.g., parking lots, roofs) in accordance with state policies such as the Department of Environmental Protection Wetlands Program Policy 17-1.**

B. Definitions

Where the following terms appear in this ~~section 8.11~~ **Zoning Bylaw**, they shall have the following meanings.

Forestland: A dense growth of trees and shrubs covering an area of one acre or more.

Ground-Mounted Solar Electric Installation: A Solar Electric System that is affixed to the ground (not roof-mounted) and all appurtenant fencing, access driveways, drainage infrastructure, electronics, and any surrounding shade management areas.

Large-Scale Ground-Mounted Solar Electric Installation: A Ground-Mounted Solar Electric Installation which occupies more than one acre of land and no greater than fifteen acres of land; **also including a Ground-Mounted Solar Electric Installation with a rated name plate capacity of 250 kW (DC).**

Small-Scale Ground-Mounted Solar Electric Installation: A Ground-Mounted Solar

Electric Installation which occupies one acre or less of land.

Solar Electric System: A group of Solar Photovoltaic Arrays used for electrical power generation.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Parking Canopy: An elevated structure that hosts solar panels installed over parking lots or other hardscape areas.

Solar Photovoltaic Array: An active Solar Energy collection device that converts solar energy directly into electricity whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

C. Applicability

1. Roof-mounted Solar Energy Facilities. Solar energy panels mounted on the roof of a building as an accessory portion of the structure, and related equipment which is necessary for and incidental to those solar energy panels, are allowed by right in all zoning districts, and do not need to comply with the other provisions of this Section 8.11.
2. Small-Scale Ground-Mounted Solar Electric Installations which are accessory to a residential or non-residential use, and which generate electricity principally used by such residential or non-residential use, may be allowed by special permit **in all zoning districts**, do not need to comply with the other provisions of this Section 8.11, but require Site Plan Review under Section 3.5 from the Planning and Economic Development Board.
3. Solar Parking Canopies which are accessory to a residential or non-residential use may be allowed by special permit in all zones except AR-I, AR-II, **OGN** and VR, or which are otherwise allowed under the provisions of this Zoning Bylaw, and are subject to the requirements of this Section 8.11.
4. All other Small-Scale and Large-Scale Ground-Mounted Solar Electric Installations are subject to the requirements of this Section 8.11, and are allowed in zoning districts only as specified in Table 1: Schedule of Uses, ~~under Section E Industrial and Related Uses, as "Electric power generation, which includes large scale ground mounted solar photovoltaic installations with a rated name plate capacity of 250 kw (DC) or more and other Renewable Energy sources."~~
5. The Planning and Economic Development Board (the Board) shall be the special permit granting authority for all special permit applications under Section 8.11.

D. General Requirements

1. Compliance with Laws, Bylaws, and Regulations - The construction and operation of all Ground-Mounted Solar Electric Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements, and require Site Plan Review per Section

3.5.3.A.1.d of this Zoning Bylaw.

2. Mitigation for Loss of Carbon Sequestration and Forest Habitat - If land that is Forestland or has been Forestland within the **one year immediately preceding the filing of an application to install** ~~past year is proposed to be converted to~~ a Ground-Mounted Solar Electric Installation, the plans shall designate thereon an area of unprotected (meaning, not subject to G.L. c. 184, sections 31-33 at time of application) land on the same lot and of a size equal to **two** ~~four~~ times the total area of **Forestland that will be eliminated, cut, destroyed, or otherwise disturbed by** such installation. Such designated land shall remain in substantially its natural condition without alteration, including prohibition of commercial forestry or tree cutting not related to the maintenance of the installation, until such time as the installation is decommissioned; except in response to a natural occurrence, invasive species or disease that impacts the trees and requires cutting to preserve the health of the forest.
3. Mitigation for Loss of Forest Habitat within the Installation - If Forestland is proposed to be converted to a Ground-Mounted Solar Electric Installation, the plans shall show mitigation measures that create a wildflower meadow habitat within and immediately around the Solar Electric System, and a successional forest habitat in the surrounding areas managed to prevent shading until such time as the installation is decommissioned. The wildflower meadow shall contain a wide variety of plants that bloom from early spring into late fall, that are planted in clumps rather than single plants to help pollinators find them, and that are native plants adapted to local climate, soil and native pollinators. At least 50% of the array footprint and perimeter shall be planned to have these flowering plants. Mowing shall be limited to no more than once annually. Plans for pollinator-friendly vegetation establishment and maintenance shall be compiled and written by a professional biologist or ecologist with relevant experience and expertise in pollinator habitat creation, grassland habitat restoration, and/or knowledge of native New England plant communities.
4. Mitigation for Disruption of Trail Networks - If existing trail networks, old roads, or woods or cart roads are disrupted by the location of the Ground-Mounted Solar Electric Installation, the plans shall show alternative trail alignments to be constructed by the applicant, although no rights of public access may be established hereunder.
5. Mitigation for Disruption of Historic Resources and Properties - Historic resources and properties, such as cellar holes, farmsteads, stone corrals, marked graves, water wells, or pre-Columbian features, including those listed on the Massachusetts Register of Historic Places or as defined by the National Historic Preservation Act, shall be excluded from the areas proposed to be developed, including clearing for shade management. A written assessment of the project's effects on each identified historic resource or property and ways to avoid, minimize or mitigate any adverse effects shall be submitted as part of the application. A suitable buffer area **as determined by the Planning and Economic Development Board** shall be established on all sides of each historic resource.
6. All plans and maps shall be prepared, stamped and signed by a Professional Civil Engineer licensed to practice in the Commonwealth of Massachusetts.
7. Vehicular access for the purpose of construction shall be from paved streets.

8. Lots for Ground-Mounted Solar Electric Installations shall have the required frontage on a street.
9. The special permit may be conditioned to effectuate and make enforceable these requirements.

E. Required Documents

The project applicant shall provide the following documents.

1. Site Plan. A Site Plan additionally showing:
 - a. Locations of wetlands and Priority Habitat Areas as defined by the Natural Heritage & Endangered Species Program (NHESP).
 - b. Locations of local or National Historic Districts.
 - c. Locations of all known, mapped or suspected Native American archaeological sites or sites of Native American ceremonial activity. Identification of such sites shall be based on responses, if any, to written inquiries with a requirement to respond within 35 days, to the following parties: all federally or state recognized Tribal Historic Preservation Officers with any cultural or land affiliation to the Medway area; the Massachusetts State Historical Preservation Officer; tribes or associations of tribes not recognized by the federal or state government with any cultural or land affiliation to the Medway area; and the Medway Historical Commission. Such inquiries shall serve as a notice to the aforesaid parties and shall contain a plan of the project, specific identification of the location of the project, and a statement that permitting for the project is forthcoming. Accompanying the site plan shall be a report documenting such inquiries, the responses from the parties, a description of the location and characteristics, including photographs, of any Native American sites and the outcomes of any additional inquiries made based on information obtained from or recommendations made by the aforesaid parties. A failure of parties to respond within 35 days shall allow the applicant to submit the site plans.
 - d. The project proponent must submit a full report of all materials to be used, including but not limited to the use of cleaning products, paints or coatings, hydro-seeding, fertilizers, and soil additives. When available, Material Safety Data Sheets will be provided.
2. Blueprints. Blueprints or drawings of the installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts, showing:
 - a. The proposed layout of the system and any potential shading from nearby structures.
 - b. One- or three-line electrical diagram detailing the Ground-Mounted Solar Electric Installation, associated components, and electrical interconnection methods, with all Massachusetts and National Electrical Code compliant disconnects and overcurrent devices.
3. General Documentation. The following information shall also be provided:
 - a. A list of any listed hazardous or known carcinogenic materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment as appropriate.
 - b. Name, address, and contact information for proposed system installer.
 - c. The name, contact information and signature of any agents representing the project applicant.

4. Site Control - The project applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed Ground-Mounted Solar Electric Installation.
5. Operation and Maintenance Plan - The project applicant shall submit a plan for the operation and maintenance of the Ground-Mounted Solar Electric Installation, which shall include measures for maintaining safe access to the installation, stormwater management (consistent with DEP's and, where appropriate, Medway's stormwater regulations), as well as general procedures for operational maintenance of the installation.
6. Financial Surety - Applicants for Ground-Mounted Solar Electric Installations shall provide a form of surety, either through a deposit of money, bond, triparty agreement, or other means acceptable to the Board, to cover the cost of removal in the event the Town must remove the installation and remediate the site to its natural preexisting condition, in an amount and form determined to be reasonable by the Board, but in no event to exceed more than 125% of the cost of removal and compliance with the additional requirements set forth herein. The project applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.
7. Utility Notification - No Ground-Mounted Solar Electric Installation shall be constructed, nor building permit issued until evidence has been provided to the Building Commissioner that the utility company that operates the electrical grid where the installation is to be located has approved the solar electric installation owner or operator's intent to install an interconnected customer-owned generator and that the utility has approved connection of the proposed generator into their power grid. Off-grid systems shall be exempt from this requirement.
8. Proof of Liability Insurance. The applicant or property owner shall provide evidence of liability insurance prior to the issuance of a building permit, **and shall continue such insurance in effect until such facility has been decommissioned, removed, and the site restored in accordance with subsection K of this bylaw.**

F. Dimensional Requirements

1. Minimum setbacks for all Large-Scale Ground-Mounted Solar Electric Installations shall be:
 - Front setback: 500 feet
 - Side and rear setback: 100 feet
2. Minimum setbacks for all Small-Scale Ground-Mounted Solar Electric Installations shall be:
 - Front setback: 100 feet
 - Side and rear setback: 50 feet
3. Minimum setbacks for all Ground-Mounted Solar Electric Installations that are installed on or above existing paved parking areas (Solar Parking Canopies):
 - Front setback: 50 feet
 - Side and rear setback: 50 feet
4. Required setback areas shall not be counted toward a facility's total acreage.

G. Design and Performance Standards

1. Lighting - ~~Large and Small Scale Solar Electric Installations, except Solar Parking Canopies, shall have no permanently affixed exterior lighting.~~ **Lighting shall be limited to that minimally required for safety and operational purposes and shall comply with Section 7.1.2 of this Zoning Bylaw.**
2. Signage
 - a. Sufficient signage shall be provided to identify the owner of the facility and provide a 24-hour emergency contact phone number.
 - b. Signage at the perimeter warning pedestrians is allowable.
 - c. Ground-Mounted Solar Electric Installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of such installation.
3. Control of Vegetation - Herbicides or pesticides may not be used to control vegetation or animals at a Ground-Mounted Solar Electric Installation.
4. Visual Impacts
 - a. Ground-Mounted Solar Electric Installation shall be designed to minimize visual impacts including preserving natural vegetation to the maximum extent possible, blending in equipment with the surroundings, and adding vegetative buffers to provide an effective visual barrier from adjacent roads and driveways, and to screen abutting residential dwellings.
 - b. When possible, a diversity of plant species shall be used, with a preference for species native to New England.
 - c. Use of invasive or exotic plants, as identified by the most recent copy of the "Massachusetts Prohibited Plant List" maintained by the Massachusetts Department of Agricultural Resources, is prohibited.
 - d. The Board may require vegetative screening, up to 30 feet in depth in locations it deems necessary. Such screening shall be composed of native trees, staggered for height and density, and shall be properly maintained.
 - ~~e. The owner and operator shall not remove any naturally occurring vegetation such as trees and shrubs unless it adversely affects the performance and operation of the solar installation.~~
 - f e. Landscaping shall be maintained and replaced as necessary by the owner and operator of the Ground-Mounted Solar Electric Installation.
5. Utility Connections - Electrical transformers, wires, or other utility interconnections shall be constructed as required by the utility provider and may be above ground if necessary; provided, however, that every reasonable effort shall be made to place all utility connections underground, depending on appropriate soil conditions and topography of the site and any requirements of the utility provider.
6. All electric power generated at a Ground-Mounted Solar Electric Installation shall be from Solar Energy.
7. Access Driveways shall be constructed to minimize finished width, grading, removal of stone walls or roadside trees, incompatible appearance from the roadway, and impacts to

environmental or historic resources.

H. Safety and Environmental Standards

1. Emergency Services
 - a. Ground-Mounted Solar Electric Installations owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief.
 - b. The owner or operator shall cooperate with local emergency services to develop a written emergency response plan that is provided to police and fire departments
 - c. All means of shutting down the solar electric installation shall be clearly marked on the equipment.
 - d. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation. Contact information shall be provided annually to the Town Manager including name, email and telephone number for the designated person and a back-up person.
2. Land Clearing, Soil Erosion and Land Impacts
 - a. The facility shall be designed to minimize impacts to open agricultural land and fields, even if not in production. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Ground-Mounted Solar Electric Installation. Grading that substantially disturbs the existing soil profile and structure is prohibited; sites shall be selected where construction may be accomplished without such earth work.
 - b. Prior to any site disturbance and construction, the limits of the work shown on the approved site plan shall be surveyed and clearly marked by a Professional Land Surveyor. Upon completion of the survey, the Professional Land Surveyor shall verify to the Building Commissioner, in writing, that the limit of work, as shown on the approved site plans, has been established on site.
 - c. The design shall minimize the use of concrete and other impervious materials to the maximum extent possible. **Except where necessary for structural or other reasons established by the applicant to the reasonable satisfaction of the PEDB,** Ground-Mounted Solar Electric Installations, except Solar Parking Canopies, shall be installed on water permeable surfaces **in order to promote groundwater recharge, minimize groundwater run-off, preserve wildlife habitat and biodiversity, and reduce heat island effects and climate change impacts.**
 - d. Locating Ground-Mounted Solar Electric Installations, including access driveways and any associated drainage infrastructure on original, pre-development grades in excess of 15% is prohibited.
3. Habitat Impacts - Large-Scale Ground-Mounted Solar Electric Installations shall not be located on permanently protected land subject to G.L. c. 184, sections 31-33, Priority Habitat and Bio Map 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage and Endangered Species Program (NHESP) and "Important Wildlife Habitat" mapped by the DEP.
4. Wetlands
 - a. In order to provide an adequate intervening land area for the infiltration of stormwater runoff from a Solar Electric Installation, ground alterations, such as stump removal,

excavation, filling, and grading, or the installation of drainage facilities or solar panels, are prohibited within 100 feet of any wetlands or hydrologic features subject to the jurisdiction of the Conservation Commission.

- b. The Board may impose conditions to contain and control stormwater runoff that might negatively impact identified wetlands or other hydrologic features even if the proposed work area is outside the jurisdiction of the Conservation Commission.

I. Monitoring, Maintenance and Reporting

1. Solar Electric Installation Conditions

- a. The Ground-Mounted Solar Electric Installation owner or operator shall maintain the facility in good condition.
- b. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures.
- c. Site access shall be maintained to a level acceptable to the Fire Chief.
- d. The owner or operator shall be responsible for the cost of maintaining the Solar Electric Installation and any access driveways.

2. Annual Reporting

- a. The owner or operator of a Ground-Mounted Solar Electric Installation shall submit an annual report demonstrating and certifying compliance with the Operation and Maintenance Plan, the requirements of this Section 8.11 and the approved special permit, including but not limited to continued management and maintenance of vegetation, compliance with the approved plans and any special permit conditions, continuation of liability insurance, and adequacy of road access.
- b. The annual report shall also provide information on the maintenance completed during the course of the year and the amount of electricity generated by the facility.
- c. The report shall be submitted to the Department of Community and Economic Development and Building Commissioner, no later than 45 days after the end of the calendar year.

K. Abandonment or Decommissioning

1. Removal Requirements

- a. Any Ground-Mounted Solar Electric Installation which has reached the end of its useful life, has been abandoned, or taken off line shall be removed.
- b. The owner or operator shall physically remove the installation no later than 150 days after the date of discontinued operations.
- c. The owner or operator shall notify the Building Commissioner in writing at least sixty days in advance of the proposed date of discontinued operations and plans for removal.

2. Decommissioning shall consist of:

- a. Physical removal of all components of the Ground-Mounted Solar Electric Installation, including but not limited to structures, foundations, equipment, security barriers, and on-site above-ground transmission lines. Associated off-site utility interconnections shall also be removed if no longer needed.
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

Article C: To see if the Town will vote to amend the Zoning Bylaw by amending Table 1, Schedule of Uses in Section 5.4.E, Industrial Uses, as shown in the Table below, (deleted words shown in strikethrough, added words shown in **bold**):

TABLE 1: SCHEDULE OF USES													
	AR-I	AR-II	VR	CB	VC	NC	BI	EI	ER	WI	Form-Based Districts		
											OGV C	OGB P	OGN
E. INDUSTRIAL AND RELATED USES													
Warehouse/distribution facility	N	N	N	N	N	Y	N	Y	Y	Y	N	PB	N
Wholesale bakery <i>(Added 11-16-15; amended 11-15-21)</i>	N	N	N	N	N	N	N	Y	N	Y	N	Y	N
Wholesale showroom or office, including warehouse <i>(Amended 11-15-21)</i>	N	N	N	N	N	N	Y	Y	N	Y	N	Y	N
Manufacturing <i>(Amended 5-8-17; amended 11-15-21)</i>	N	N	N	N	N	N	Y	Y	N	Y	N	Y	N
Light Manufacturing <i>(Added 5-8-17; amended 11-15-21)</i>	N	N	N	N	N	Y	Y	Y	N	Y	N	Y	N
Contractor's yard	N	N	N	N	N	N	Y	Y	N	N	N	PB	N
Construction Equipment/Machinery Sales, Leasing or Rentals <i>(Added 11-15-21)</i>	N	N	N	N	N	N	N	N	N	PB	N	N	N
Research and development <i>(Amended 11-15-21)</i>	N	N	N	N	N	N	Y	Y	N	Y	N	Y	N
Brewery <i>(Amended 11-15-21)</i>	N	N	N	N	N	N	Y	Y	N	Y	N	Y	N
Research and development and/or manufacturing of renewable energy products <i>(Amended 11-16-20)</i>	N	N	N	N	N	N	Y	Y	Y	Y	N	Y	N
Bulk Storage <i>(Added 11-18-19)</i>	N	N	N	N	N	N	N	N	N	N	N	N	N
Electric power generation which includes large-scale ground-mounted solar photovoltaic installations with a rated name plate capacity of 250 kW (DC) or more and other Renewable Energy sources but excluding battery energy storage systems. See footnote 5 <i>(Amended 11-16-20)</i>	N	N	N	N	N	N	N	N	Y	N	N	N	N
Large-scale ground-mounted solar electric installations, including those with a rated name plate capacity of 250 kW (DC) or more; but excluding battery energy storage systems as a principal use.	N	N	N	N	N	N	Y	Y	Y	Y	N	Y	N
Small-scale ground-mounted solar electric installations (as principal use)	N	N	N	N	N	SP	Y	Y	Y	Y	N	Y	N
Tier 1 Battery Energy Storage System	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Tier 2 Battery Energy Storage System	N	N	N	N	N	N	N	N	PB	N	N	N	N
Gravel/loam/sand or stone removal, commercial	N	N	N	N	N	N	N	N	N	N	N	N	N
Accessory Uses													
Outdoor storage of materials and parking of vehicles and equipment associated with a business operated in a building on	N	N	N	N	N	N	Y	Y	Y	Y	N	PB	N

TABLE 1: SCHEDULE OF USES

	AR-I	AR-II	VR	CB	VC	NC	BI	EI	ER	WI	Form-Based Districts		
											OGV C	OGB P	OGN
the premises, subject to Section 7.1.3 of the Zoning Bylaw <i>(Amended 11-18-19)</i>													
Small-scale ground-mounted solar electric installations	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB
Solar Parking Canopies	N	N	N	PB	PB	PB	PB	PB	PB	PB	PB	PB	N
Tier 1 Battery Energy Storage System	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Footnotes:

1. In the OGN District, detached single family homes are permitted if they meet the designs standards for cottages under Section 9.4
2. In the OGVC and CB District, multi-family dwellings and developments include rowhouses (attached single family units) which are subject to the design standards under Section 9.4 *(Amended 5-10-21)*
3. Allowed by special permit from the Planning and Economic Development Board in the Multi-Family Overlay District (See Section 5.6.4) and the Medway Mill Conversion Subdistrict (See Section 5.6.2 E). *(Added 5-10-21)*
4. Vehicle fuel station with convenience store in the Central Business District (CB) is only allowed on the site of an existing vehicle fuel station with convenience store or an existing vehicle fuel station with repair services. Any substantial improvement to the existing building(s) or fueling station(s) shall require the site to comply with the design standards of Gas Station and Convenience Store in Section 9. Table 9.4.C.1.B *(Added 5-10-21)*
5. **Certain small- scale ground-mounted solar electric installations and Solar Parking Canopies are allowed in certain zoning districts under Section 8.11.C. Roof-mounted Solar Energy Facilities are allowed per Section 8.11.C.**

MITIGATION

Article D: To see if the Town will vote to amend the Zoning Bylaws, by adding a new Section 7.4 Development Mitigation as follows:

Section 7.4 Development Mitigation

- A. **Purposes.** The purposes of this bylaw include the encouragement of development design that protects the Town's environmental, scenic, and historic resources, by: a) providing mitigation of the impacts of significant development projects in order to protect the public health, safety and welfare, including mitigating any impacts upon environmental, scenic, and historic resources; and (b) protecting large, contiguous tracts of forest land, based on the understanding that large, contiguous tracts provide many ecological benefits, including improved water and air quality, sequestration of carbon, reduced movement of invasive species, provision of wildlife habitat and the support for greater biodiversity.
- B. **Applicability.** The requirements of this Bylaw (Section 7.4) apply to all developments under the following sections of this Zoning Bylaw: 8.4 Open Space Residential Development (OSRD); 8.5 Adult Retirement Community Planned Unit Development; 8.7 Wireless Communication Facilities; 8.8 Small Wind Generation; 8.9 Registered Medical Marijuana Facilities; 8.10 Recreational Marijuana; 8.11 Solar Installations, and 8.12 Battery Energy Storage Systems.
- C. **Standards.** For all developments that are subject to this Bylaw, mitigation for the impacts of the development shall be required for the following impacts.
1. Mitigation for Loss of Carbon Sequestration and Forest Habitat. If land that is Forestland or has been Forestland within the one year immediately preceding the filing an application for a development, the plans shall designate thereon an area of unprotected (meaning, not subject to G.L. c. 184, sections 31-33 at time of application) land on the same lot and of a size equal to two times the total area of Forestland that will be eliminated, cut, destroyed, or otherwise disturbed by such development. Such designated land shall remain in substantially its natural condition without alteration, including prohibition of commercial forestry or tree cutting not related to the maintenance of the development, except in response to a natural occurrence, invasive species or disease that impacts the trees and requires cutting to preserve the health of the forest. In the case of a development such as a solar array that is decommissioned, upon completion of decommissioning, these requirements will no longer apply.
 2. Mitigation for Disruption of Trail Networks. If existing trail networks, old roads, or woods or cart roads are disrupted by the location of the development, the plans shall show alternative trail alignments to be constructed by the applicant, although no rights of public access may be established hereunder.
 3. Mitigation for Disruption of Historic Resources and Properties. Historic resources, structures and properties, such as cellar holes, farmsteads, stone corrals,

marked graves, water wells, or pre-Columbian features, including those listed on the Massachusetts Register of Historic Places or as defined by the National Historic Preservation Act, shall be excluded from the areas proposed to be developed, including clearing for shade management. A written assessment of the project's effects on each identified historic resource or property and ways to avoid, minimize or mitigate any adverse effects shall be submitted as part of the application. A suitable buffer area as determined by the Planning and Economic Development Board shall be established on all sides of each historic resource.

Or act in any manner relating thereto.

MULTIFAMILY HOUSING

ARTICLE E: To amend the Medway Zoning Bylaw, Section 5.6.4 Multi-Family Housing, as follows. Proposed language is noted in **bold**.

By revising item 1. in C. Dimensional Regulations.

1. The minimum dimensional regulations as specified in Table 2 shall be the same **for a proposed multi-family building, apartment building, or multi-family development** as for the underlying zoning district in which the parcel is located. However, the Planning and Economic Development Board may adjust these dimensional requirements by a four-fifths vote if, in its opinion, such adjustment will result in a more desirable design of the development or provide enhanced buffering for adjacent residential properties. **Such adjustment may include increasing the underlying setback requirements.**

And by adding a new item 5. in C. Dimensional Regulations

5. The minimum lot size for a Multi-Family Building shall be 30,000 sq. ft.

And by amending D. Density Regulations by revising items 1 and 2 as follows, inserting a new item 3, and changing the numbering of item 3 to item 4.

1. For lots of one acre or more:
 - a. The density of a Multi-Family Building or a Multi-Family Development without an Apartment Building shall not exceed 8 dwelling units per whole acre **of Land Available for Development**. For example, the maximum density of a **lot with 1.8 Acres of Land Available for Development** shall not exceed 8 dwelling units.
 - b. The density of an Apartment Building or a Multi-Family Development which includes an Apartment Building shall not exceed 12 dwelling units per whole acre **of Land Available for Development**.
2. For lots under one acre, the density of a Multi-Family Building or a Multi-Family development shall not exceed its relative portion of an acre **of Land Available for Development**.
3. **Land Available for Development = Total area of the site minus the area subject to upland utility easements and minus 50% of all areas subject to protection under the Wetlands Protection Act, G.L. c. 131, §40, and the Town's General Wetlands Protection Bylaw, Article XXI of the General Bylaws.**
- 3.4.** An Applicant is not entitled to the maximum possible number of dwelling units described herein. The number of dwelling units for a Multi-Family Development and/or Multi-Family Building shall be determined by the Planning and Economic Development Board in accordance with the criteria specified in Paragraph I. Decision herein.

And by revising item 3. Parking in E. Special Regulations

3. Parking: At least ~~one and one-half~~ **two** off-street parking spaces shall be provided for each dwelling unit plus one additional visitor parking space for every two dwelling units. **The Planning and Economic Development Board may adjust this requirement by a four-fifths vote, in consideration of the size of the proposed dwelling units.**

And by adding a new item 8 in E. Special Regulations

8. Architectural Character – In designing new construction of a Multi-Family Building, Apartment Building, or Multi-Family development, Applicants should consider the existing character, scale, and architecture of the surrounding neighborhood and nearby buildings.

Or to act in any manner related thereto.

PLANNING AND ECONOMIC DEVELOPMENT BOARD

HOUSEKEEPING

Article F: Zoning Amendments – Housekeeping

To see if the Town will vote to amend the Zoning Bylaw, as provided below

1. Amend Open Space Residential Development, Section 8.4.F.1 by changing the reference “Paragraph I” to “Paragraph J”
2. Add a new definition:

Forestland: A dense growth of trees and shrubs covering an area of one acre or more.

3. Change all references in the Zoning Bylaw that now read “Board of Selectmen” to “Select Board” and all references that now read “Department of Public Services” to “Department of Public Works”. Delete “the Water and Sewer Commission” in Section 5.6.3.F.1.

or act in any manner related thereto.

- c. Restoration of the site, including stabilization or re-vegetation of the site as necessary to minimize erosion. The Board may allow the owner or operator to leave landscaping or designated below-grade foundations and electric lines in order to minimize erosion and disruption to vegetation.
3. Decommissioning by the Town - If the owner or operator of a Ground-Mounted Solar Electric Installation fails to remove such installation in accordance with the requirements of this Section 8.11 within 150 days of discontinued operations or abandonment, the Town may, **after compliance with any applicable state and federal constitutional requirements**, enter the property and physically remove the installation and stabilize the site, at the owner's expense, drawing upon the financial surety provided by the applicant.

or act in any manner relating thereto.

SCHEDULE OF USES

Article G: To see if the Town will vote to amend the Zoning Bylaws, Section 5.4, Table 1 Schedule of Uses, by:

- (1) changing the special permit granting authority for “Infill Dwelling Unit, Subject to Section 8.1”; and “Assisted living residence facility”, and “Electric vehicle charging station with digital advertising signage, subject to Section 5.4.2 of the Zoning Bylaw” from the Planning and Economic Development Board to the Zoning Board of Appeals in each zoning district in which said uses are currently allowed by special permit; and
- (2) changing the special permit granting authority for “Retail store larger than 20,000 sq. ft.” from the Zoning Board of Appeals to the Planning and Economic Development Board in the Business Industrial Zone; and
- (3) changing the special permit granting authority for “Shopping center/multi-tenant development” from the Zoning Board of Appeals to the Planning and Economic Development Board in the Neighborhood Commercial and Business Industrial Zones; and
- (4) changing the special permit granting authority for “Veterinary Hospital” and “Lodge or Club” from the Planning and Economic Development Board to the Zoning Board of Appeals in the Central Business District.

Or act in any manner related thereto.

OAK GROVE AND CENTRAL BUSINESS

Article H: To see if the Town will amend the Zoning Bylaw, Section 9 Oak Grove Park Districts, and Section 10 Central Business District Development Standards as follows (deleted wording shown in strikethrough, added wording shown in bold):

(1) Amend Oak Grove Park Districts, Section 9.4.B as follows:

B. Determination of Building Type

1. **At the time any application is filed with the PEDB under this Section 9, the applicant shall file a written request with the Building Commissioner to classify any new principal structures that are proposed as part of the application, or any existing structures that are to be expanded or converted to new uses.** The Building Commissioner shall classify new principal structures as a specific building type based on the definition of each type and upon finding that the structure is substantially similar in placement, height, massing, use, and features to one of the permitted building types for the zoning district where the structure is located. The Building Commissioner shall also classify existing structures that are being expanded or converted to new uses under this section. If the Building Commissioner is unable to classify an existing principal structure as one of the building types of this section, the structure is considered nonconforming. **The Building Commissioner shall respond to such requests, in writing, within twenty days of receipt of the request.**
2. If a new building is proposed that cannot be classified as one of the allowed building types of this section by the Building Commissioner, the building type is subject to special permit review by the PEDB under Section 9.9. **The PEDB shall determine if the building type is appropriate for the Zoning District, and, if so, determine the building type under Tables 9.4.C.1.A through 9.4.C.1.C that most closely resembles the proposed new building, and apply the standards for that building type to the new building.**
3. When granting a special permit for a building type that cannot be classified under Tables 9.4.C.1.A through 9.4.C.1.C., any such building shall not be used except for a use allowed by right or by special permit in Table 1 in Section 5.4 Schedule of Uses.

(2) And amend Tables 9.4.C.1.B and 9.4.C.1.C as follows: by deleting the text for Maximum Building Footprint (SF) in the columns for “Mixed-Use Building”, “General Commercial Building”, “Hotel” and “Fabrication or Flex Building”, and inserting in its place in each column the words “Not Required”.

(3) And amend Central Business District, Section 10.2.C.1; Section 10.3.C.1, and Section 10.4.C as follows:

10.2.C Building Placement and Orientation.

1. Building Lot and Type. The minimum lot size in the Central Business District is identified on Table 2 - Dimensional and Density Regulations in Section 6.1 of the Zoning Bylaws. For specific building types, ~~other there are alternative~~ dimensional standards for ~~building lot and for building design that~~ apply under Section 10.4 below.

10.3 MIXED-USE DEVELOPMENT STANDARDS

C. Dimensional Requirements.

1. Mixed-Use and Residential Development. ~~The dimensional requirements for the Central Business District are provided in Section 6.1. Schedule of Dimensional and Density Regulations.~~ For residential and mixed-use development, ~~however,~~ the following standards apply.
 - a. Front-yard Setback Encroachments. Principal buildings shall be set back a minimum of 10 feet from the front lot line. Architectural features such as bay windows, porches, balconies, porticos, canopies, etc. shall not be subject to the ten-foot minimum setback.
 - b. Side-Yard and Rear-Yard Setbacks. Notwithstanding the provisions of Section 10.2.E.3, there shall be a minimum setback of 25 feet from all side and rear lot lines abutting a residential zoning district, of which the first ten feet nearest each lot line shall not be used for the parking or storage of vehicles and shall be suitably landscaped. There is no side-yard or rear-yard setback for properties abutting other properties within the Central Business district.
 - c. Maximum Building Height: Residential and mixed-use buildings shall not exceed sixty feet in height, and are subject to the building height step back requirements in Section 10.2.C.3.

10.4 BUILDING TYPES AND DESIGN STANDARDS

C. Commercial, Residential and Mixed-Use Building Types.

1. Building Design Standards. The building types and associated design standards permitted in the Central Business District are identified below:
 - a. Rowhouse (RH) on Separate Lot as set forth in TABLE 9.4.C.1.A.
 - b. Rowhouse (RH) on Common Lot as set forth in TABLE 9.4.C.1.A.
 - c. Multi-Family Building as set forth in TABLE 9.4.C.1.A.
 - d. Mixed-Use Building as set forth in TABLE 9.4.C.1.B.
 - e. General Commercial Building as set forth in TABLE 9.4.C.1.B.
 - f. Hotel as set forth in TABLE 9.4.C.1.B.
 - g. Gas Station and Convenience Store as set forth in TABLE 9.4.C.1.B, applicable only to substantial redevelopment or renovation of existing vehicle fuel stations with repair or vehicle fuel stations with convenience store pursuant to Section 10.2.A.
 - h. Civic or Community Building as set forth in TABLE 9.4.C.1.C.

2. At the time any application is filed with the PEDB under this Section 10, the applicant shall file a written request with the Building Commissioner to classify any new principal structures that are proposed as part of the application, or any existing structures that are to be expanded or converted to new uses. The Building Commissioner shall classify new principal structures as a specific building type based on the definition of each type and upon finding that the structure is substantially similar in placement, height, massing, use, and features to one of the permitted building types for the zoning district where the structure is located. The Building Commissioner shall also classify existing structures that are being expanded or converted to new uses under this section. If the Building Commissioner is unable to classify an existing principal structure as one of the building types of this section, the structure is considered nonconforming. The Building Commissioner shall respond to such requests, in writing, within twenty days of receipt of the request.

23. Alternative Building Types. If the Building Commissioner cannot classify a proposed new building as one of the building types specifically allowed by this section, the building type is subject to issuance of a special permit by the PEDB. The PEDB shall determine if the building type is appropriate for the Zoning District, and, if so, determine the building type under Tables 9.4.C.1.A through 9.4.C.1.C that most closely resembles the proposed new building, and apply the standards for that building type to the new building.

Or take any action relative thereto.

CONTRACTOR'S QUARTERS

ARTICLE I: To see if the Town will vote to amend the Zoning Bylaw by adding the following definition in Section 2:

Contractor's Quarters: The premises of a building, construction, plumbing, wiring, landscaping, or other similar contracting or sub-contracting business, occupied and used by a contractor or subcontractor with offices for its administrative operations and any one or more of the following purposes to be conducted wholly indoors: storage of equipment, supplies and materials, and finished products; product assembly; servicing of equipment; wholesale or retail sales; or showroom for finished and unfinished products or materials.

And by amending Table 1, Schedule of Uses in Section 5 Use Regulations to allow Contractor's Quarters by right in the following zoning districts: Village Commercial, Business Industrial, West Industrial, East Industrial, Central Business District, Neighborhood Commercial and Oak Grove Business Park.

And to act in any manner related thereto.

PLANNING AND ECONOMIC DEVELOPMENT BOARD



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

Wetlands Program Policy 17-1: Photovoltaic System Solar Array Review

Effective Date: 9-23-2017

DWW Policy 08-1 (BWR/WWP 17-1)

Program Applicability: All Boston and Regional BWR Programs,
Municipal Conservation Commissions, and
developers of solar photovoltaic systems.

Supersedes Policy: None

Approved by: Lealdon Langley, Director - Wetlands and Waterways Program

PURPOSE: This policy sets forth the Department's approach for reviewing ground-mounted solar photovoltaic systems relative to wetland jurisdiction.

STATUTORY AND REGULATORY BACKGROUND:

MGL c. 131, s. 40: Wetlands Protection Act ("Act") and 310 CMR 10.00.

MGL c. 21, s. 27: Massachusetts Water Quality Certification regulations, 314 CMR 9.00.

MGL c. 40A, s. 3: Massachusetts Zoning law states that no zoning ordinance or by-law shall prohibit or unreasonably regulate solar energy systems except where necessary to protect public health, safety, or welfare.

Green Communities Act ("GCA"): Acts of 2008 Chapter 169 promotes adoption of new policies to encourage investment in renewable energy and boost energy efficiency; provides grants to municipalities; works with the Clean Energy Center and others to site projects; develops policy on emerging renewable energy issues; and encourages solar projects development on closed landfills and other brownfields. The GCA is designed to expand the ability of municipalities, residential customers, and businesses to produce

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

electricity on their own premises; and to facilitate commercialization of and growth in large-scale energy sources that produce little or no greenhouse gas emissions.

SITING PHOTOVOLTAIC SYSTEMS:

The Massachusetts Department of Environmental Protection (MassDEP) strongly encourages the use of upland properties for locating ground-mounted photovoltaic systems (PVS). Placement of PVSs within jurisdictional wetlands is highly discouraged. Placement of PVSs within wetland buffer zones may be permissible with proper oversight of the issues discussed in this policy and proper authorization through the permitting process of the Wetland Protection Act. Wetlands impacted by PVS projects may also be subject to Sections 401 and 404 of the federal Clean Water Act. Large wooded parcels of land, historically, which have been difficult to develop in the past due to steep topography, shallow bedrock, or poor percolation rates, are often targeted for conversion to solar, development of such sites present unique challenges. Clearing, stumping, and grading of large sloped areas require special measures and attention to control changes in site hydrology and associated erosion impacts during construction. In addition, conversion of forests to PVS arrays is less beneficial for greenhouse gas reduction than converting disturbed areas to PVSs.

STANDARDS OF REVIEW:

PVSs contemplated for locations in resource areas are subject to all regulatory performance standards. Alterations to resource areas include direct impacts associated with constructing PVS arrays as well as indirect wetland alterations resulting from either decreased sunlight from panel shading or increased solar exposure from the selective cutting of tree canopies. For purposes of this policy, use of the term “panels” includes “integrated panels (or tables)” which consist of a number of individual panels joined and manufactured as a single unit. The regulatory standard for all wetland resource areas requires the avoidance and minimization of project impacts, 310 CMR 10.55(4)(b). The regulatory standard for Bordering Vegetated Wetlands (BVW) is “shall not destroy or otherwise impair ...” MassDEP has determined that placing solar arrays over BVW will result in an impairment that is prohibited or requires mitigation in accordance with 310 CMR 10.55(4). Despite the discretionary allowance for BVW impacts afforded by 10.55(4)(b), direct and indirect BVW alterations require mitigation in the same general area of the water body or reach of the waterway as the lost area. Where the proposed BVW replacement is located in upland on the project locus, suitable upland locations need to be considered as a primary alternative for locating PVSs, which would avoid wetland resources impacts all together. As part of an alternatives analysis, the guiding presumption is that any on-site potential upland available for mitigation should be considered for use in constructing PVSs. As such, the Applicant must demonstrate why that the placement of solar arrays within BVW is not avoidable. The amount of alteration proposed must be based upon the areal extent of resource areas proposed to be altered, based on the canopy area of trees projected to reach shading height throughout the life of the project, not the basal area of trees and shrubs to be removed or pruned within resource areas. See [Appendix A](#).

Proposals to locate panels within other resource areas, for example Riverfront Area or Bordering Land Subject to Flooding should be evaluated as to whether the placement is avoidable and whether the placement would meet the performance standards for the resource area. In resource areas, consideration should also be given to impacts to wetland resource areas adjacent to, and within, PVSs anticipated from long-term vegetation controls for site maintenance. Project proponents should evaluate the extent of anticipated future vegetation management impacts that may require the filing of a subsequent Notice of Intent.

Certain components of PVS projects may qualify as a Limited Project per 310 CMR 10.53(3). PVS components include: new access roadways 10.53(3)(e); construction, operation, or maintenance of public utility electric distribution or transmission lines 10.53(3)(d); or the improvement, repair and/or replacement of an existing access roadway needed to transport equipment to a renewable energy project site 10.53(3)(t).

The following information is required as part of the Notice of Intent (NOI) to demonstrate avoidance, minimization and mitigation:

1. **Avoid:** An analysis of alternatives which avoids resource area alterations must be conducted which includes, but is not limited to:
 - An alternatives analysis that considers available upland locations for PVS arrays and other project components on the subject parcel.
 - A review of alternative interconnection locations and types available to the solar facility for connecting the solar PV system to the electric grid (e.g. overhead vs. underground connections and various routes).
 - A discussion as to how the size of the PVS array can be reduced through elimination of some panels, the use of fewer, more efficient, panels that generate a greater amount of electricity, or reducing the spacing between panels/tables, for example, while maintaining project viability.
2. **Minimize:** If it remains necessary to remove vegetation to reduce or eliminate shading and achieve the preferred PVS project, the amount of alteration proposed must be minimized. To demonstrate that project impacts are minimized, the applicant must:
 - Provide an analysis that evaluates the use of high efficiency panels (e.g. panels that track the sun) and locating panels in a manner that reduces the need for future vegetation management and wetland alteration;
 - Evaluate the extent to which selective canopy alteration (e.g. pollarding) is feasible to prevent shading of the PVS versus clear-cutting;
 - Evaluate the use of specialized tree clearing equipment from upland locations to reduce wetland alteration for selective tree removal;
 - Describe how access roads, wetland crossings, and work in the buffer zone will minimize erosion or sedimentation.

- Demonstrate that ancillary structures related to construction of a solar installation or transmission of power in wetland resource areas are using best design and management practices; if fencing is proposed, the fence shall be at least 6-inches off the ground to provide for wildlife passage for the length of the fence.
 - Apply the principles of Environmentally Sensitive Site Design and Low Impact Development (LID) Techniques (310 CMR 10.04) in the design and monitoring of stormwater controls (during both construction and post-construction).
3. Mitigate: Following all efforts to minimize impacts, the applicant must demonstrate that mitigation measures are provided that:
- assure alterations proposed to wetland resource area BVW will be mitigated pursuant to the requirements of 310 CMR 10.00 and 314 CMR 9.00 (i.e. the mitigation area corresponds to the areal extent of resource areas altered, including the canopy area of trees and shrubs to be removed or pruned within resource areas);
 - monitoring plans are designed to evaluate mitigation success;
 - to the extent practicable, native soils are undisturbed, or in the cases where topsoil is removed, a minimum of six inches of native topsoil, or a comparable compost-mulch mix, is replaced to facilitate plant growth and adequate vegetation coverage to control stormwater runoff.
 - post-construction tree and shrub maintenance plans related to avoiding future shading of panels are developed; and
 - use of seed mixes and plantings are comprised of species native or naturalized to Massachusetts. (Note that any future vegetation management, beyond that authorized or conditioned in the project Order of Conditions will require the filing of a separate Notice of Intent or Request for Determination of Applicability).

4. Stormwater Management

The Stormwater Management Standards contained at 310 CMR 10.05(6)(k) apply to PVS projects. The stormwater standards include: attenuation of peak rates of runoff caused by land development (310 CMR 10.05(6)(k)2), provision of recharge (310 CMR 10.05(6)(k)3), control of Total Suspended Solids (TSS) from impervious surfaces (excluding solar panels) (310 CMR 10.05(6)(k)4), and the provision of adequate erosion and sedimentation controls (310 CMR 10.05(6)(k)8).

Solar projects within the Buffer Zone or other jurisdictional area should endeavor to utilize Low Impact Development techniques and will receive credit for Environmentally Sensitive Site Design when LID is incorporated pursuant to the “Minimum Criteria for Credit” from Volume 3, Chapter 1 of the Massachusetts Stormwater Handbook.

DEP recommends the measures below to control the peak runoff rate, provide recharge, and treat TSS, provided the following are also met (note: the Applicant may provide documentation

for consideration demonstrating that the peak rate of runoff, recharge, and TSS treatment requirements are still met in cases where the factors below are not met):

- slopes on which the PVS arrays are placed are not greater than 3:1 (18° or 33.5% slope), naturally or as graded;
- an erosion control plan is developed and implemented which prevents direct discharges to wetlands and which grade the project site to avoid or minimize channelized stormwater flow from the Buffer Zone directly into wetland resource areas;
- land disturbance and grading is conducted in a phased and selective manner (i.e. avoid, if possible, or minimize clearing the entire site at one time in order to minimize soil mobilization and the amount of soil exposure at any one time to reduce construction period runoff), or other appropriate construction best management practices are incorporated to preclude construction period runoff/erosion. Provide temporary land stabilization measures for all disturbed surfaces such as mulching until permanent native vegetative cover is established, and utilize temporary sedimentation basins as appropriate;
- construction and post-construction phase stormwater management plans include sub-catchments under the PVS arrays which include stormwater BMPs such as infiltration trenches, water bar/log bars, and natural vegetative cover consisting solely of native grass and plant species (note: the extent of stormwater BMPs required will depend largely on the existing cover type as compared to the proposed cover type. In some instances, BMPs may not be necessary, where the proposed cover type represents an improvement over existing conditions);
- top soil is preserved or supplemented sufficient to maintain vegetation cover;
- solar panel rows are spaced in a manner to allow sunlight penetration sufficient to support vegetation between the solar panel rows;
- where panel rows follow the slope (i.e. the panel arrays are constructed down, rather than across, a slope) provide intermittent gaps between adjacent panels sufficient to accommodate anticipated runoff so that runoff occurs from individual panels rather than from the length of the entire array;
- panel drip edges (or leading edge of panels) are no greater than 10-feet above the ground surface;
- no conveyances or outfalls are constructed; and.
- no work is proposed in a buffer zone of Resource Areas that borders a Critical Area, as defined at 314 CMR 9.02, or in the estimated habitat identified on the most recent Estimated Habitat Map of State Listed Rare Species prepared by the Natural Heritage and Endangered Species Program.

PVS array designs which do not qualify for LID credits shall demonstrate compliance with the Stormwater Management Standards specified at 310 CMR 10.05(6)(k)1-10, except that no stormwater recharge or TSS treatment shall be required when the ground surface under, and adjacent to, the PVS arrays consists of gravel/crushed stone or is planted and maintained with

native vegetative cover sufficient to provide adequate infiltration and eliminate surface water runoff. For peak rate attenuation, the runoff curve number computations shall be reflective of the final land cover type being proposed below the panels and between the rows of panels. Further, the land cover type must accurately reflect the existing condition in the stormwater calculations; Applicants are cautioned to appropriately evaluate the existing land cover type to avoid post-construction issues arising from stormwater runoff. An erosion and sedimentation control plan is required to be submitted as part of the NOI review pursuant to 310 CMR 10.05(6)(b) and 10.05(6)(k)8. Provision of perimeter controls alone is not sufficient to meet 310 CMR 10.05(6)(b) and 10.05(6)(k)8. In addition to perimeter controls, the plan must demonstrate land disturbance will be minimized at any one time, or that other appropriate measures are implemented, to prevent erosion to resource areas.

When calculations show an increase in peak flow, MassDEP recommends that re-engineering be conducted to include construction of retention basins or grading modifications (such as terracing or berms), infiltration trenches, bioengineering techniques, non-structural practices (e.g. establishment of a suitably sized and graded buffer area between the panels and vegetated wetlands or land under water) to mitigate the peak flows.

5. Accessory Structures

Access roads, parking areas, and rooftops of buildings or structures associated with a PVS arrays are fully subject to the Stormwater Management Standards specified at 310 CMR 10.05(6)(k). The selected Runoff Curve Number must be from the U. S. Natural Resources Conservation Service WinTR55 Land Use Details list for roads, parking, or rooftops depending on proposed surface and Hydrologic Soil Group.

September 22, 2017

Lealdon Langley
Director
Wetlands and Waterways Program

Appendix A

Sample Template for Estimating Tree Clearing Impacts

Diameter of Tree at Breast Height (DBH) (inches)	Number of Trees of this DBH	Estimated Tree Basal Area Alteration (square feet) ⁽¹⁾	Estimated Tree Canopy Alteration (square feet) ⁽²⁾	Total Wetland Alteration (square feet) ⁽³⁾
4	1	0.09	133.3	133.3
5	1	0.14	133.3	133.4
6	1	0.20	133.3	133.4
7	1	0.27	133.3	133.5
8	2	0.70	266.5	267.2
9	2	0.88	266.5	267.4
10	2	1.09	266.5	267.6
11	2	1.32	266.5	267.8
12	2	1.57	266.5	268.1
13	2	1.84	266.5	268.3
14	2	2.14	266.5	268.6
15	2	2.45	266.5	269.0
16	2	2.79	266.5	269.3
17	2	3.15	266.5	269.7
18	2	3.53	266.5	270.0
19	2	3.94	266.5	270.4
20	2	4.36	266.5	270.9
22	1	2.64	133.3	135.9
23	1	2.88	133.3	136.1
24	1	3.14	133.3	136.4
25	2	6.81	266.5	273.3
30	1	4.91	133.3	138.2
Totals	36	50.83	4797.00	4847.83

Table Notes:

(1) Spreadsheet Formula: $=((3.14/4)*((A2/12)^2))*B2$

(2) Spreadsheet formula $=205*B2*0.65$. Tree canopy estimates should be determined in the field based on an assessment of the average drip line radius associated with the trees proposed to be selectively cut. In this example, if the average tree line drip radius of the trees proposed to be selectively removed is approximately 10 feet per tree (diameter 20 feet per tree), this translates to an approximate total canopy area of approximately 315 square feet per tree ($A = \pi r^2$). Then, based on visual observations made in the field, estimate the total percent cover of the tree layer to be altered by the selective tree removal using the methodology prescribed in MassDEP's BVW Delineation Handbook. For example, if the total estimated percent cover is 65% this would result in a refined canopy area impact estimate of approximately 205 s.f per tree (0.65×315 s.f.). Percent cover is the percent of the ground surface that would be covered if the foliage from a particular species or layer were projected onto the ground, ignoring small gaps between the leaves and branches. This methodology assumes the understory and shrub/sapling layers remain substantially intact and undisturbed as a result of selective tree removal, with mechanized equipment operating in the adjoining uplands and reaching into the wetlands or work is otherwise conducted by hand operated equipment (chainsaws, etc). This methodology does not apply to clear cuts or equipment operating in wetlands on construction mats that would disturb the surface of the wetland and understory vegetation.

(3) Total wetland alteration estimate includes the estimated basal area and percentage of tree canopy to be removed. This impact estimate is limited to the selective tree removal and does not take into account other wetland impacts that might be associated with a particular project.

A rapid transition to clean, renewable energy including solar photovoltaic (PV) systems is a crucial part of climate mitigation. But the choices we make in where to install these systems have a significant impact on other critical goals such as conservation of forests and farmlands. The Massachusetts Department of Energy Resources (DOER) offers financial incentives for solar PV development projects—a program that Mass Audubon wholeheartedly supports. However, the program has generated unanticipated, and quite unfortunate, land use outcomes thus far. Since 2012, an estimated 6,000 acres or more of previously undeveloped land have been converted to largescale, ground-mounted solar arrays. If this trend continues, as much as 150,000 acres of land may be lost to meet the targets for renewable energy development—land that is needed to provide other important functions in responding to climate change. This loss can be avoided by incentivizing solar installations within already developed sites and lands with lower resource values (e.g., parking lots, roofs, highway right-of-ways, and large turfgrass landscaped areas). Added benefits of this approach include distributed generation of power at locations where there is demand, avoiding expensive and environmentally damaging expansion of the electric grid, and support for decarbonization of the transportation and building sectors. It also avoids losses of functions provided by natural lands—including carbon sequestration, flood attenuation, clean air and water, cooling and wind breaks, and interconnected wildlife habitat—that are becoming more important due to climate change impacts. According to the National Renewable Energy Laboratory, existing rooftops in Massachusetts have the potential to support up to 22.5 gigawatts of solar capacity, meeting up to 47% of the total electrical demand. There are also vast expanses of parking lots where solar canopies could potentially be installed. The state's incentive program should be adjusted to ensure that the higher cost of these within-development installations are offset in order to make them cost-effective.



September 27, 2022

Matthew Hayes, P.E.
Chair, Planning and Economic Development Board
Town of Medway
155 Village Street
Medway, MA 02053

Via email to planningboard@townofmedway.org

Re: Draft Medway bylaw amendment covering Battery Energy Storage Systems

Dear Mr. Hayes:

Eversource Energy (Eversource) transmits and delivers electricity and natural gas and supplies water to 1.8 million customers throughout Massachusetts, including approximately 1.5 million electric customers in 139 communities, nearly 300,000 gas customers in 51 communities, and 19,800 water customers in five communities. Eversource harnesses the commitment of approximately 8,300 employees across three states to build a single, united company around the mission of safely delivering reliable energy and water with superior customer service. The number one energy efficiency provider in the nation, the company is empowering a clean energy future in the Northeast, with nationally-recognized energy efficiency solutions and successful programs to integrate new clean energy resources like solar, offshore wind, electric vehicles and battery storage, into the electric system.

Eversource's industry-leading goal to be carbon neutral by 2030 relies on clean energy transformation and enhancements to system resiliency. As Eversource strives to be a clean energy catalyst for the region, it is clear BESS are a critical component of a clean energy future for New England. BESS development aligns with the state's passage of the Global Warming Solutions Act in 2008 that established a greenhouse gas reduction goal of 80% by 2050 and further interim reductions provided by the enactment of An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy in 2021. They will bring key benefits by improving reliability, increasing the ability to bring distributed energy resources, like solar, onto the transmission and distribution grid, and providing support during peak load periods.

Eversource appreciates and supports Medway's effort through the proposed bylaw amendments to ensure BESS sited within the town meet all applicable national electrical and fire-safety standards. Eversource, in the recent establishment of a BESS in Provincetown, worked tirelessly with local and state officials to ensure safety standards were met and that systems were put in place to effectively monitor the site, ensure any incident was properly contained, and foster a safe and effective response to any incident by public safety officials and Eversource employees.

Eversource has reviewed the proposed zoning bylaw amendments applicable to Battery Energy Storage Systems (BESS) that are the subject of tonight's hearing and offers the following comments and some



suggestions for changes for your consideration. Eversource's comments focus on three key areas of concern:

(1) Medway has defined BESS to include facilities that are, or will be, owned and operated by Eversource and needed for the safe interconnection of BESS to the power grid. It is important to remember that oftentimes Eversource is merely facilitating the safe interconnection of a customer to the grid and is not the BESS project proponent.

Comment: The inclusion of Eversource interconnection equipment in the definition of BESS would unfairly subject the company to additional zoning requirements not already applicable to the existing Eversource facilities, which are allowed under the existing bylaw by special permit or as of right as a "Public Utility" use. If additional equipment within the existing substation property is needed for such interconnection, it should not be subject to a different standard just because it is connected to a BESS. To avoid further restricting substation operations, Eversource suggests amending the definition of BESS to exclude Eversource equipment as well as adding a definition of "Public Utility" to ensure such equipment remains subject to existing requirements for Public Utility uses outlined in the existing bylaw. This change would also be consistent with the model bylaw from New York that provided the basis for this proposal.

(2) The proposed bylaw limits the placement of any BESS over 0.600 MWH to the town's Energy Resources District without any consideration for whether there are other appropriate locations for such facilities.

Comment: Eversource would caution against any effort to summarily exclude BESS from any town and would welcome the opportunity to work further with local officials to discuss how the safety standards incorporated into the proposed bylaw amendment coupled with proper design, operational plans, and training should provide comfort that these facilities can be safely and responsibly sited elsewhere in town rather than limited to the Energy Resources District. As necessary partners in the effort to secure a clean energy future we would welcome the opportunity to help identify appropriate siting strategies that would fit within local development plans as well as address local public safety and aesthetic concerns. Eversource has the benefit of experience to participate meaningfully in a dialogue and address safety concerns and would request reconsideration of such a restriction.

(3) The proposed bylaw places restrictive setback requirements particular to BESS that could be challenging for even a relatively small battery project to meet.

Comment: The model bylaw from New York State, upon which the Medway bylaw is based, relies on setbacks contained within underlying zoning and focuses on the applicable fire safety and electrical standards. Eversource is unaware of a fire safety basis for a minimum 50-foot setback for BESS equipment, or a 100 feet setback from a residential property line or residential district. The requirements outlined in the remainder of the Medway bylaw amendment, including spacing between facilities and buffers from combustible vegetation, combined with active monitoring of active system conditions as well as fire suppression equipment associated with BESS operations, provide enhanced safety measures. If the setback requirements are also intended for aesthetic reasons, Eversource would note the potential to securely site such facilities within buildings that can be tailored to particular zoning districts as appropriate.



In addition to the potential restrictions placed on larger scale BESS and associated Eversource interconnection equipment, Eversource is also concerned about the application of the proposed bylaw amendments to BESS co-located with small solar projects to be developed by Eversource in response to section 77 of chapter 8 of the 2021 Session Laws (An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy). Most of these projects would be over the Tier 1 threshold of 0.600 MWh and now be subject to very restrictive setback requirements that may make such facilities unworkable in Medway. These types of facilities would include battery storage for rooftop solar projects and solar parking canopies that could be part of a distributed generation network that could power critical infrastructure and businesses within town during outages. There would be less impact on such projects if the threshold for Tier 1 was increased to 1000 kWh or 1.0 MWh.

Eversource firmly believes that all of the communities in Massachusetts could derive significant benefits from the siting of BESS within their borders from a reliability and resiliency standpoint, as well as from an economic development perspective, while demonstrating continued commitment to their role in the Commonwealth's clean energy future.

Thank you again for the opportunity to comment. The specific suggested amendments are on the following page. Eversource looks forward to a continued dialogue on the topic with Medway's leadership and its citizens.

Sincerely,

A handwritten signature in black ink, appearing to read "Eamon McGilligan".

Eamon McGilligan
Team Lead, Siting
Eversource
Ph: 781-441-3413
Email: Eamon.McGilligan@eversource.com



Suggestions for specific amendments are as follows:

Amend the definition of BESS to exclude Eversource interconnection equipment:

Battery Energy Storage System (BESS): One or more containers or cabinets on a lot containing batteries and related equipment, assembled together, capable of storing electrical energy in order to supply electrical energy to the power grid at a future time. This includes all accessory equipment on said lot necessary for energy storage including but not limited to inverters, transformers, cooling equipment, switching gear, metering equipment, transmission tie-lines, and other power interconnection facilities and/or a project substation, but does not include public utility owned and operated interconnection equipment, regardless of location, or other interconnection equipment to be located on the real property of the public utility or within its right of way, determined to be necessary by the public utility to facilitate the BESS interconnection with the power grid whether for bringing power to the BESS or for returning it to the power grid, a stand-alone 12-volt vehicle battery, or an electric motor vehicle.

Define “Public Utility” to allow Eversource to conduct its activities in accordance with existing zoning applicable to Public Utility uses and to clarify that the proposed exclusion of public utility equipment applies to a limited universe of companies:

Add to section 2:

Public Utility – a distribution company or transmission company as those terms are defined within MGL ch. 164, § 1.

Adjust the threshold for Tier 1 BESS to 1000 kWh/1.0 MWh:

2. A battery energy storage system that is subject to this bylaw is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

a). Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to ~~600kWh~~ 1000 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.

b). Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than ~~600kWh~~ 1000 kWh or are comprised of more than one storage battery technology in a room or enclosed area.

Adjust the setback requirements for Tier 2

6. Setbacks. Tier 2 Battery Energy Storage Systems shall be set back a minimum of ~~25~~ 50 feet from all side, rear, and front lot lines; ~~except that Tier 2 BESS shall be set back a minimum of 100 feet from side, rear, and front lot lines that abut or are across a street from residential zoning districts or existing single, two-family, or multi-family structures.~~ The minimum setback areas shall include a Buffer Area at least fifteen feet wide along all property lines. Access drives and parking are allowed in the setback areas, but shall not intrude into the required Buffer Areas except where necessary to provide access or egress to the property. In addition, a minimum of 10 feet must be maintained between BESS components and all buildings, stored combustible



materials, hazardous materials, high-piled storage, personnel means of egress, and other exposure hazards not associated with electrical grid infrastructure.



September 27, 2022
Medway Planning & Economic Development Board
Meeting

Wingate Farm Modification

- Notice dated September 15, 2022, to continue hearing to September 27, 2022
- Tetra Tech Review Letter dated September 15, 2022
- Email from Dan Merrikin dated September 25, 2022
- Email from Steve Bouley dated September 26, 2022
- DRAFT decision dated September 27, 2022

Board Members

Matthew Hayes, P.E., Chair
Robert Tucker, Vice Chair
Richard Di Iulio, Clerk
Jessica Chabot, Member
Sarah Raposa, Member
Thomas A. 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

September 15, 2022

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 Wingate Farm Subdivision Modification***
168 Holliston Street and Wingate Farm Road
Continuation Date – Tuesday, September 27, 2022 @7:30 p.m.

At its September 13, 2022 meeting, the Planning and Economic Development Board voted to continue the public hearing on the application of Karyl and Eugene Walsh of Medway, MA for approval of a modification to the previously issued subdivision decision and approved definitive subdivision plan for Wingate Farm to the Board's meeting on Tuesday, September 27, at 7:30 p.m. in Sanford Hall at Town Hall. The Wingate Farm definitive subdivision plan was approved in 2005; it divided the property into 4 lots with a permanent private roadway known as Wingate Farm Road.

Considerable work has been undertaken to install the subdivision's infrastructure. However, the specified completion deadline and various extensions have expired. The primary purpose of the current application is to establish a new deadline for project completion and for the Board to consider the applicant's request for waivers from certain provisions of the Board's *Subdivision Rules and Regulations* which are now in effect. The Board has also worked with the applicant and project engineer to revise the plan to bring it more in line with current subdivision standards.

The application and associated documents are on file at the offices of the Town Clerk and the Planning and Economic Development Board at Medway Town Hall, 155 Village Street and may be reviewed during regular business hours. The as-built plan and application materials have also been posted at the Board's web page at: <https://www.townofmedway.org/planning-economic-development-board/pages/wingate-farm-subdivision-plan>.

A further revised subdivision plan has been submitted and is available for review at the web site noted above. Please review that plan and provide any comments you wish by September 21st. Please direct your comments to both me and Anna Rice in our office. Thank you.



September 15, 2022

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

**Re: Wingate Farm
Definitive Subdivision Modification
Land Disturbance Permit Review
Medway, Massachusetts**

Dear Ms. Affleck-Childs:

Tetra Tech (TT) has performed a review of the proposed Definitive Subdivision Modification for the above-mentioned Project at the request of the Town of Medway Planning and Economic Development Board (PEDB). The proposed Project is a four-lot private subdivision on approximately 5.5 acres in Medway, MA. Proposed Project includes maintaining existing house (168 Holliston Street), constructing additional houses on lots generated by the subdivision as well as appurtenant private roadway, utilities, and drain infrastructure.

TT is in receipt of the following materials:

- A plan set (Plans) titled "Subdivision Modification Plan, Wingate Farm, A Private Way Definitive Subdivision Plan", dated August 18, 2022, with revisions through September 12, 2022, prepared by LEL.
- A stormwater management report (Stormwater Report) titled "Stormwater Report for Wingate Farm, 168 Holliston St., Medway, MA 02053", dated August 18, 2022, with revisions through September 12, 2022, prepared by LEL.
- A Land Disturbance Permit Application and appurtenant documentation dated September 12, 2022, prepared by LEL.

The Plans and accompanying materials were reviewed for conformance with the following Regulations and Bylaws:

- Town of Medway General Bylaws – Article XXVI Stormwater Management and Land Disturbance (Amended June 8, 2020)

We have also reviewed the documentation for good engineering practice as it relates to the Land Disturbance subject matter. Additionally, this review is concurrent with the Medway PEDB review of the Definitive Subdivision Modification with additional Tetra Tech review letters included in that process.

STORMWATER/LAND DISTURBANCE REVIEW

Town Stormwater Management and Land Disturbance Bylaw (Article 26)

1. The Applicant proposes to disturb greater than 20,000 sf of land area and is adding greater than 10,000 sf of impervious coverage. The Applicant meets the applicability standards of the Bylaw requiring a Land Disturbance Permit and have submitted an application for review. (§26.5.1)
2. The Applicant noted that all storm drain inlets are to be protected within the limit of work. We recommend a graphical representation of the protection be shown on the Erosion Control Plan to ensure it is obvious that the existing inlets are to be protected during construction. (§26.5.6.2.e)
3. The Applicant noted that a construction entrance is to be installed. We recommend a graphical representation of the construction entrance be shown on the Erosion Control Plan for both phases to ensure it is obvious that the entrances are to be installed. (§26.5.6.2.i)

4. The Applicant shall include location of stockpile areas on the Erosion Control Plan. We anticipate, at a minimum, that topsoil will remain stockpiled at the site for an extended period of time during completion of infrastructure. (§26.5.6.2.k)
5. It does not appear trees with a caliper of twelve inches or greater have been shown on the Plans. (§26.5.6.3.c.2)

General Comments

6. It does not appear that "Future Lot 2" has been included in the scope of work for the land Disturbance Permit. We recommend a Condition requiring the Applicant modify the permit application once "Future Lot 2" is developed. It should be noted that the modified stormwater design included development of "Future Lot 2".

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

Very truly yours,



Steven M. Bouley, PE
Project Manager

P:\21583\143-21583-22002 (PEDB WINGATE FARM MOD)\DOCS\WINGATE FARM MOD-PEDBREV(2022-09-15)_LD.DOCX

Anna Rice

From: Barbara Saint Andre
Sent: Monday, September 26, 2022 7:55 AM
To: Anna Rice
Subject: FW: [External] Re: Wingate Farm draft decision
Attachments: 9.21.22 draft wingate decision.docx

Please add to PEDB dropbox for Wingate Farm

Barbara J. Saint Andre
Director, Community and Economic Development
Town of Medway
155 Village Street
Medway, MA 02053
(508) 321-4918

From: Daniel Merrikin <dan@legacy-ce.com>
Sent: Sunday, September 25, 2022 9:39 AM
To: Barbara Saint Andre <bsaintandre@townofmedway.org>
Cc: Karyl Spiller-Walsh (wingatefarm@hotmail.com) <wingatefarm@hotmail.com>
Subject: [External] Re: Wingate Farm draft decision

Hi Barbara,

My comments are attached. Note that I am on vacation through Tuesday and am flying back home Tuesday afternoon. I expect to be able to attend the meeting Tuesday evening (likely by Zoom), assuming I have no flight delays. If I am delayed, I will give you a heads up.

The only substantive question about the attached draft decision is Condition 1, which is currently written to require a subdivision modification and an updated stormwater system design for the future creation of Lot 2. We have already accounted for the development of Lot 2 in our stormwater system design, so I thought that we would be able to create Lot 2 by ANR plan, which is much less costly to Karyl than a subdivision modification process. If it is the intent of the Town to require a subdivision modification to create Lot 2, Karyl will need to consider the potential future costs associated with that endeavor instead of just creating the lot now.

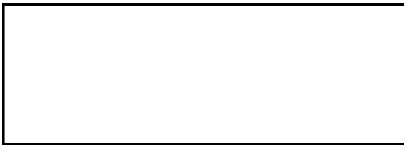
This is unexpected, so I'd appreciate it if you could let me know your thoughts on this topic ahead of the meeting so I can make sure that Karyl is prepared to make a decision about Lot 2. If the intention is to require a subdivision modification, Karyl may elect to have us put Lot 2 back in the plan now. You can feel free to call my cell at 508-868-8353 any time to discuss, and I will pickup if I can.

Thank you

Dan

Daniel J. Merrikin, P.E.

President



Legacy Engineering LLC
730 Main Street
Suite 2C
Millis, MA 02054

www.legacy-ce.com

dan@legacy-ce.com
508-376-8883(*office*)
508-868-8353(*cell*)

On Thu, Sep 22, 2022 at 3:00 PM Barbara Saint Andre <bsaintandre@townofmedway.org> wrote:

Dan, attached is the latest draft decision for next week's PEDB meeting. Please note that the attached is a draft only. Any decision must be reviewed and approved by the PEDB, and is subject to change until such time as it is finally approved by the Board. As you know, no decision has been made yet on this application.

If you have any comments or questions on the attached please feel free to contact me.

Barbara J. Saint Andre

Director, Community and Economic Development

Town of Medway

155 Village Street

Medway, MA 02053

(508) 321-4918

Anna Rice

From: Barbara Saint Andre
Sent: Monday, September 26, 2022 9:23 AM
To: Anna Rice
Subject: FW: [External] Re: Wingate Farm draft decision

Barbara J. Saint Andre
Director, Community and Economic Development
Town of Medway
155 Village Street
Medway, MA 02053
(508) 321-4918

From: Bouley, Steven <Steven.Bouley@tetrattech.com>
Sent: Monday, September 26, 2022 9:21 AM
To: Barbara Saint Andre <bsaintandre@townofmedway.org>
Cc: Susan Affleck-Childs <sachilds@townofmedway.org>
Subject: RE: [External] Re: Wingate Farm draft decision

Hi Barbara,



Yes, the stormwater analysis includes development of Lot 2. Please let me know if you have any other questions, thanks.

Steve

Steven M. Bouley, PE | Project Manager
Direct +1 (508) 786-2382 | Business +1 (508) 786-2200 | Fax +1 (508) 786-2201 | steven.bouley@tetrattech.com

This message, including any attachments, may include privileged, confidential and/or inside information. Any distribution or use of this communication by anyone other than the intended recipient is strictly prohibited and may be unlawful. If you are not the intended recipient, please notify the sender by replying to this message and then delete it from your system.

From: Barbara Saint Andre <bsaintandre@townofmedway.org>
Sent: Monday, September 26, 2022 7:57 AM
To: Bouley, Steven <Steven.Bouley@tetrattech.com>
Cc: Susan Affleck-Childs <sachilds@townofmedway.org>
Subject: FW: [External] Re: Wingate Farm draft decision

 **CAUTION:** This email originated from an external sender. Verify the source before opening links or attachments. 

Steve, please see email from Dan Merrikin below. Is this accurate with respect to the stormwater management system, that it is designed to include development of Lot 2?

Barbara J. Saint Andre
Director, Community and Economic Development
Town of Medway
155 Village Street

Medway, MA 02053
(508) 321-4918

From: Daniel Merrikin <dan@legacy-ce.com>
Sent: Sunday, September 25, 2022 9:39 AM
To: Barbara Saint Andre <bsaintandre@townofmedway.org>
Cc: Karyl Spiller-Walsh (wingatefarm@hotmail.com) <wingatefarm@hotmail.com>
Subject: [External] Re: Wingate Farm draft decision

Hi Barbara,

My comments are attached. Note that I am on vacation through Tuesday and am flying back home Tuesday afternoon. I expect to be able to attend the meeting Tuesday evening (likely by Zoom), assuming I have no flight delays. If I am delayed, I will give you a heads up.

The only substantive question about the attached draft decision is Condition 1, which is currently written to require a subdivision modification and an updated stormwater system design for the future creation of Lot 2. We have already accounted for the development of Lot 2 in our stormwater system design, so I thought that we would be able to create Lot 2 by ANR plan, which is much less costly to Karyl than a subdivision modification process. If it is the intent of the Town to require a subdivision modification to create Lot 2, Karyl will need to consider the potential future costs associated with that endeavor instead of just creating the lot now.

This is unexpected, so I'd appreciate it if you could let me know your thoughts on this topic ahead of the meeting so I can make sure that Karyl is prepared to make a decision about Lot 2. If the intention is to require a subdivision modification, Karyl may elect to have us put Lot 2 back in the plan now. You can feel free to call my cell at 508-868-8353 any time to discuss, and I will pickup if I can.

Thank you

Dan

Daniel J. Merrikin, P.E.
President



Legacy Engineering LLC
730 Main Street
Suite 2C
Millis, MA 02054

www.legacy-ce.com

dan@legacy-ce.com
508-376-8883(*office*)
508-868-8353(*cell*)

On Thu, Sep 22, 2022 at 3:00 PM Barbara Saint Andre <bsaintandre@townofmedway.org> wrote:

Dan, attached is the latest draft decision for next week's PEDB meeting. Please note that the attached is a draft only. Any decision must be reviewed and approved by the PEDB, and is subject to change until such time as it is finally approved by the Board. As you know, no decision has been made yet on this application.

If you have any comments or questions on the attached please feel free to contact me.

Barbara J. Saint Andre

Director, Community and Economic Development

Town of Medway

155 Village Street

Medway, MA 02053

(508) 321-4918

Board Members

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



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

TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
PLANNING AND ECONOMIC
DEVELOPMENT BOARD

DRAFT for PEDB meeting 9.22.22

CERTIFICATE OF ACTION
Wingate Farm
Modification to DEFINITIVE SUBDIVISION PLAN
And Land Disturbance Permit

Location: 168 Holliston Street and Wingate Farm Road
Assessors' Reference: Map 09, Parcels 037-0000, 036-0000, 035-0000, and 034-0000
Parcel Size: 5.77 acres
Name/Address of Applicant: Karyl and Eugene Walsh
168 Holliston Street
Medway, MA 02053
Name/Address of Property Owner: Karyl and Eugene Walsh
168 Holliston Street
Medway, MA 02053
Engineer: Legacy Engineering
730 Main Street, Suite 2C
Millis, MA 02054
Land Surveyor: ~~O'Driscoll Land Surveying~~ Colonial Engineering, Inc.
~~Cottage Street~~ P.O. Box 95
Medway, MA 02053
Plan: ~~As-Built Plan Wingate Farm Road, February 22, 2021~~
Subdivision Modification Plan – Wingate Farm dated August 18, 2022 by
Legacy Engineering, Millis, MA, last revised September 12, 2022
Zoning District: Agricultural Residential I
Members voting: [Matthew Hayes, Robert Tucker, Richard Di Iulio, Jessica Chabot](#)

Commented [DM1]: Not sure that the interrim asbuilt by Dan O'Driscoll has relevance to the subdivision modification. The reference could stay or go...

I. BACKGROUND: The Wingate Farm subdivision was approved by a Planning Board decision issued on 5-23-2000. That decision was modified on 4-28-2005 and the corresponding modified Wingate Farm subdivision plan was endorsed on 11-8-2005 and recorded in October and November 2007 at the Registry of Deeds. That plan divided the property into 4 lots with a permanent private roadway known as Wingate Farm Road; one lot includes the existing single-family home at 168 Holliston Street. The modified subdivision approval from April 2005 required the subdivision to be completed by November 8, 2008. This time limit was extended four years due to the state's Permit Extension Act, to November 8, 2012. Considerable work has been undertaken to install the subdivision's utilities and stormwater infrastructure and roadway. However, the project is not complete, and the specified (and extended) completion deadline has expired.

II. MODIFICATION DESCRIPTION: The applicant requests an extension of time to complete the subdivision and has requested associated waivers from the Board's current *Subdivision Rules and Regulations*. The applicant has also requested that the Board waive its regulation allowing rescission of the subdivision if not completed in a timely manner, although this was determined to not be relevant given the issuance of this subdivision modification decision. During the course of the review process, a modified subdivision plan was prepared and reviewed by the Board.

II. PROCEDURAL SUMMARY:

A. On March 31, 2021, the Planning and Economic Development Board received an application for approval of a modification to the Wingate Farm subdivision decision and plan. The application was filed with the Town Clerk the same date.

B. On May 10, 2021, the Board notified various Town boards and departments, including the Board of Health, of the public hearing on the proposed subdivision modification, provided copies of the plan, and requested review comments. The information was also posted to the Board's web page.

C. On May 25, 2021, the Board commenced a public hearing. The public hearing was duly noticed in the *Milford Daily News* on May 10 and May 13, 2021. The public hearing notice was posted with the Medway Town Clerk on May 4, 2021 and was sent by *Certified Sent Mail* on May 6, 2021 to abutters in Medway within 300 feet of the subject property and to parties of interest. The public hearing was continued to June 22, July 13, July 27, September 28, October 26, November 9, 2021; January 25, April 26, July 12, August 23, September 13, September 27, 2022, and to _____ when it was closed.

D. All members voting on this Certificate of Action were present at all sessions of the public hearing or have provided a certification pursuant to General Laws c. 39 section 23D.

- Certificate for Robert Tucker for 5-25-21 hearing
- Certificate from Matthew Hayes for 7-21-21 hearing

E. On September 12, 2022, the Applicant filed a Land Disturbance Permit Application with the Board.

III. PUBLIC HEARING SUMMARY: The public hearing and the Board's review of the proposed Wingate Farm subdivision were conducted over the course of _____ Board meetings, during which substantive information was presented and evaluated. The project

was reviewed for compliance with the *Subdivision Rules and Regulations* dated April 26, 2005 which are currently in effect.

Specified below is a list of plan documents and support materials, public comments, consultant and Town departmental board review documents, and supplemental information which have been provided by the Applicant or placed on the record by the Planning and Economic Development Board. All information is on file in the Medway Planning and Economic Development office and is available for public review.

Wingate Farm Definitive Subdivision Plan Modification Application Materials

- *Application to Modify Previously Approved Subdivision Plan and/or Decision*
- *Wingate Farm Subdivision As-Built Plan* - Prepared by O'Driscoll Land Surveying, Inc. dated 2-22-2021
- *Requests for Waivers from Subdivision Rules and Regulations* – Prepared by applicant
- *CWV-UNIFLOW 3*
- *168 Holliston Street – VZ Conduit Sketch*
- *Applicant's Response dated 11-13-18 to Tetra Tech's punch list dated 12-7-17*

Town Engineering Consultant Reviews

- Steven Bouley, P.E. Tetra Tech – 12-5-2017 email re: sight distance
- Steven Bouley, P.E. Tetra Tech – 12-7-2017 punch list and bond estimate
- Steven Bouley, P.E. Tetra Tech – 3-23-2018 review letter
- Steven Bouley, P.E. Tetra Tech – 6-22-2021 email
- Steven Bouley, P.E. Tetra Tech – 9-24-2021 review letter
- Courtney Sudak, P.E. Tetra Tech – 11-8-21 review letter

Supplemental Information Provided by Applicant's Consultants

- Letter from Daniel Merrikin, P.E. Legacy Engineering dated July 19, 2021
- Letter from Legacy Engineering dated September 14, 2021
- Letter from Legacy Engineering dated October 12, 2021
- Stormwater Report dated August 18, 2022
- Letter from Legacy Engineering dated August 18, 2022
- Subdivision Modification Plan dated August 18, 2022
- [Letter from Legacy Engineering dated September 8, 2022](#)
- [Letter from Legacy Engineering dated September 12, 2022](#)
- [Stormwater Report revised September 12, 2022](#)
- [Subdivision Modification Plan revised September 12, 2022](#)
- [Land Disturbance Application dated September 12, 2022](#)

Supplemental Information Entered into the Record by the Medway Planning and Economic Development Board

- Wingate Farm Certificate of Action 4-28-2005
- Wingate Farm modified definitive Subdivision Plan endorsed 11-8-2005
- Wingate Farm subdivision chronology prepared by Susan Affleck-Childs, dated 12-6-2017
- Notes summarizing Applicant's request, prepared by Susan Affleck-Childs, dated 5-25-2021

- Compilation of PEDB Meeting Minutes from 2017 and 2018 when [the Board discussed the status of the](#) Wingate Farm [subdivision](#) was discussed
- Excerpt from Timber Crest 40B decision (3-23-2016) - Condition #35 regarding required Holliston Street roadway regrading improvements to address sight distances and safety.
- Green International Sight Distance letter dated 3-15-2017 regarding regrading work on Holliston Street for the Timber Crest development.
- Email communication dated 6-18-2021 from PEDB member Jessica Chabot
- Notes from 6-15-21 site visit by 3 PEDB members

Professional Testimony

- Steven Bouley, P.E. and Courtney Sudak, P.E. of Tetra Tech
- Daniel Merrikin, P.E., of Legacy Engineering

Medway Departmental/Board Review Comments

- Email dated 7-12-21 from Fire Chief Jeff Lynch

IV. PROJECT EVALUATION CRITERIA – Before taking action on a definitive subdivision plan, the Board shall evaluate the proposed subdivision according to the criteria as specified in Section 5.16 of the *Subdivision Rules and Regulations*. At the public hearing on _____, the Board voted ____ to ____ to approve the Project Evaluation Findings below.

5.16.1 Completeness and technical accuracy of all submissions.

FINDINGS – All submissions were reviewed by Town staff and/or the Town's Consulting Engineer. The Board's consulting engineer has reviewed the 2005 modified subdivision plan against the current Subdivision Rules and Regulations and has identified a number of ways in which the previously endorsed subdivision plan does not meet the current subdivision standards. The submitted revised subdivision plans, stormwater report and other documents remedy these deficiencies as discussed further herein.

5.16.2 Determination that the street pattern is safe and convenient, and that proper provision is made for street extension. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed ways within the subdivision.

FINDINGS – The Board finds that the proposed street pattern within the subdivision is safe and convenient. The layout has been reviewed by the Board's Consulting Engineer. Future roadway extension to adjacent property is not feasible so provisions to do so are not required. The roadway shown on the approved subdivision plan was designed to the Board's construction specifications for a permanent private way subdivision road. The roadway width has been widened to 20 feet as requested by the Fire Chief.

5.16.3 Determination that development at this location does not entail unwarranted hazard to the safety, health, and convenience of future residents of the development or of others because of possible natural disaster, traffic hazard or other environmental degradation.

FINDINGS – The intersection sight distance (ISD) for traffic exiting Wingate Farm Road onto Holliston Street was reviewed by the Board's consulting engineer. Looking north, the ISD is 260 ft. The South ISD is well in excess of 500 feet. These calculations do not take into consideration the required future Timber Crest improvements on Holliston Street (including a 3.8% downhill slope correction) which will further increase the northerly ISD at Wingate Farm Road. In addition, the existing shoulder grade immediately to the north of Wingate Farm Road will be lowered 2-3 ft. to achieve the ISD. The big oak tree will not be taken out. Consultant Sudak's letter dated 9-8-21 indicates that the ISD will be met for the 35 m.p.h. posted speed limit on Wingate Farm Road.

With respect to Stopping Sight Distance (SSD) based on the AASHTO (American Association of State Highway Officials) formula, the recommended SSD for the posted 35 mph speed limit is 246 ft. To reinforce speed limits on the southbound Holliston Street travel lane, the applicant is willing to install reasonable signage including an intersection ahead warning sign and a radar speed display feedback sign. Also, the applicant is moving the roadway further north which is a safer location. Tetra Tech communicated that they continue to have concerns since this does not meet the AASHTO standard for stopping sight distance at the higher actual travel speeds on Holliston Street (vs. posted speeds) but what is proposed is reasonable for the three-lot subdivision. It was noted that the Board's Subdivision Rules and Regulations indicate that intersection sight distances shall meet AASHTO standards. However, the Regulations only address stopping speed distances within a subdivision, not on the approaching streets.

5.16.4 Determination, based on the environmental impact analysis, where submitted, that the subdivision as designed will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.

FINDINGS – Due to the small size of the subdivision, an environmental impact analysis is not required. The site is not within a Priority Habitat area. ~~and the wetlands of the site will be protected through action of the Medway Conservation Commission. The as-built condition previously approved design~~ of the stormwater management facilities has been reviewed by the Town's consulting engineer and does not comply with the current stormwater regulations and standards (Tetra Tech review letter dated 3-23-2018). However, the Applicant has provided a modified subdivision plan which does meet current standards. The project will result in a net increase of ~~three~~ two single-family houses. Significant trees on site that are not within the house footprints or infrastructure elements will be protected and retained. The Board finds that the subdivision does not cause substantial and irreversible damage to the environment

5.16.5 Determination that the roads and ways leading to and from the subdivision shall be adequate to provide emergency medical fire and police protection as well as safe travel for the projected volume of traffic. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed access or of any ways adjacent to or providing access to the subdivision.

FINDINGS – The subdivision site is accessed from Holliston Street, a major north-south arterial road in Medway. The Board finds that Holliston Street is adequate to

Commented [SAC2]: ConCom is not requiring a new Order of Conditions for this work.

Commented [DM3]: This is probably a more apt description since its not a construction issue, but a prior design issue

provide emergency medical, fire and police protection as well as safe travel for the anticipated additional volume of traffic to be generated by the 2-additional Wingate Farm residences. It is noted that the subdivision has the capacity for an additional three houses as shown on the 2005 subdivision plan, although the modified subdivision plans only create two new lots. The third new house lot may be created at a later date and the subdivision infrastructure design has given consideration to this potential. The plans have been reviewed by the Board's Consulting Engineer and the Town's safety and emergency personnel.

5.16.6 Conformity with all applicable requirements of the Medway Zoning Bylaw including but not limited to minimum area and frontage standards.

FINDINGS – The Board finds that the lots created by this plan conform to all applicable requirements of the Medway Zoning Bylaw, including minimum area and frontage requirements for the Agricultural Residential I zoning district.

5.16.55.16.7 Consistency with the purposes of the Subdivision Control Law.

*FINDINGS – The Board finds that the subdivision is **consistent/not consistent** with the purposes of the Subdivision Control Law*

V. ADDITIONAL FINDINGS - At the public hearing held on ____ the Board voted ____ to ____ to ____ the Additional Findings noted below.

- A. The original time period for project completion expired in November 2012. This includes the initial standard 3-year construction period plus 4 years of extensions through the Commonwealth's Permit Extension Act.
- B. The Board's consulting engineer has inspected the site and determined that the subdivision's current as-built condition does not fully comply with previously approved and endorsed modified Wingate Farm Definitive Subdivision Plan (Tetra Tech review letter dated 12-7-2017) nor the current *Subdivision Rules and Regulations*. (Tetra Tech review letter dated 3-23-2018). Based on the information received from the consulting engineer, testimony at the public hearing, and observations during the site visit, and the revised subdivision plan, the Board finds that the proposed modification complies with the current *Subdivision Rules and Regulations*.

C. Land Disturbance Permit Findings – After reviewing the application and information gathered during the public hearing and review process, the Board finds that the work proposed for construction of a three lot residential subdivision with the associated stormwater management system, utilities, parking and access was presented at a public hearing where the Applicant has presented evidence sufficient to demonstrate that the proposed activity meets the provisions under Medway General Bylaw Article XXVI Stormwater Management and Land Disturbance. It is noted that the new stormwater management system design is based on the original four lots (one existing house and three new houses). As such, should a fourth lot be created in the future by ANR endorsement, the Board finds that the stormwater management system accommodates it.

VI. ACTION ON REQUEST FOR WAIVERS OF SUBDIVISION RULES & REGULATIONS

– The [Planning Board granted a number of waivers in the original decision dated May 23, 2000](#). Those waivers were from the Board's November 21, 1978 regulations and [are no longer relevant](#). The Board also granted a number of waivers in the modification decision dated April 28, 2005. Those waivers are from the Board's April 25, 2000 regulations, and, to the extent that any are still applicable, those waivers [are hereby incorporated into this decision](#). The Applicant has requested [additional](#) waivers from the following sections of the *Subdivision Rules and Regulations*, dated April 26, 2005.

Section 5.6.3 Use of NAVD88 Datum – Applicant requests use of 1929 NGVD Datum.

EXPLANATION – The 1929 Datum was used previously [for the original and modified definitive subdivision plan, so](#) continuing to use the same Datum will avoid confusion. Also, the Board listed this as an approved waiver on the approved modified plan, although it was not reflected in the 2005 decision.

FINDINGS – The use of the previous Datum will provide consistency and requiring the change to the new datum would be an unnecessary expense. [The waiver is granted as it is in the public interest and consistent with the purpose of the Subdivision Control Law.](#)

Section 6.1.3 Time for Completion - *An extension of time to complete the ways and improvements within the subdivision may be granted by the Board if there are mitigating circumstances. At least ninety days prior to the expiration of the three-year approval period, the Applicant and/or owner may request in writing to the Board an extension of time, if necessary, to complete the construction of subdivision roadways, etc. The developer shall submit a written request to the Board outlining the mitigating circumstances necessitating such extension request. An extension request shall constitute a modification of the approved Definitive Subdivision Plan and shall be processed in accordance with Section 6.2 herein. Any modification is subject to the Rules and Regulations in effect at the time the modification is sought. Prior to approving any extension of time, the Board will review and revise the amount of the bond deposit or other surety and the Applicant shall provide a new or revised security instrument prior to the Board's vote to approve the requested extension. An extension shall not exceed one year. Additional extensions after the first may be applied for but not until at least nine months have expired on the extension in effect.*

EXPLANATION – The completion deadline for the Wingate Farm subdivision was November 8, 2012. That date is based on the original standard 3-year time window for completion after plan endorsement (November 8, 2005 → November 8, 2008) which was extended 4 years as a result of the Commonwealth's permit extension statute after the Great Recession of 2008. [thus automatically extending the completion deadline to November 8, 2012](#)– The Applicant's request for an extension of time to complete the subdivision was not made before November 8, 2012. The Applicant first started talking with the Planning and Economic Development Board in 2017 about an extension. The Applicant has requested a waiver from this particular regulation pertaining to the timetable for project completion.

The Applicant has provided written testimony documenting a series of mitigating circumstances in the lives of the Walsh family which halted project completion.

FINDINGS - The Board finds that an extension is warranted, and that the provisions of Section 6.1.3 requiring the filing 90 days prior to the expiration and requiring a new security instrument prior to the Board vote are not needed to safeguard the purposes of the Subdivision Control Law. The required subdivision surety will be provided in the usual course. The extension is in the public interest and consistent with the purpose of the Subdivision control Law and is granted

Section 6.2.1 Plan Modification – The Board, on its own motion or on the petition of the Applicant or any person interested, shall have power to modify or amend its approval of a subdivision, or to require a change in a plan as a condition of its retaining the status of an approved plan. All of the provisions of the Subdivision Control Law and these Rules and Regulations relating to the submission and approval of a plan of a subdivision shall, so far as apt, be applicable to the approval of the modification or amendment of such approval and to a plan which has been changed under this section. Any modification is subject to the Rules and Regulations in effect at the time of the modification is sought.

EXPLANATION - The Applicant has requested a waiver of the requirement that a plan modification comply with the Subdivision Rules and Regulations in effect at the time the modification is sought. The Applicant states that substantial infrastructure work has been completed pursuant to the previously approved, endorsed, and recorded plan as represented on the as-built plan. The Applicant indicates that it would be extremely burdensome to be held to the current subdivision standards when a significant amount of the infrastructure has already been installed.

FINDINGS – The Board believes it must uphold the more stringent Subdivision Rules and Regulations currently in effect, particularly as such relate to stormwater management and intersection safety. The proposed modification, with the waivers granted, will ~~will~~ not comply with the current requirements, thus, this waiver is not needed. This request is therefore not approved.

Section 6.3.1 Plan Rescission – The Board, on its own motion or on the petition of the Applicant or any person interested, shall have power to rescind its approval of a subdivision if applicant fails to perform within the completion period.

EXPLANATION - The Applicant wishes to complete the subdivision work and asks that the Board waive this provision and not rescind its previous approval.

FINDINGS – This waiver does not appear to be needed because the public hearing notice was only for a modification to the decision and did not include any potential Board action to rescind the subdivision approval and endorsed plan. The Board may initiate future action to rescind the subdivision decision and plan due to lack of performance. This request is therefore not approved.

Section 7.7.2.p – Requirement for stormwater basins to be on a separate lot; applicant requests that stormwater basin be located on one of the lots, as shown on the plan, with an appropriate easement.

Commented [DM4]: We can formally withdraw the request for this if it makes things easier...?

EXPLANATION – The Assessors have requested that the Board not approve subdivisions with separate parcels for stormwater infrastructure, as the taxes on these parcels often are not paid and become a burden on the Town.

FINDINGS – There will be a homeowners’ association that will be responsible for the stormwater system, with an appropriate easement for accessing the stormwater basins. This will address the need to assure the stormwater basins are maintained. The waiver is granted as it is in the public interest and consistent with the purpose of the Subdivision Control Law.

Section 7.7.4.b – Requirement for use of Class IV concrete drainage pipes. Applicant requests use of HDPE pipes where shown on the plan.

EXPLANATION – The outlet pipes for infiltration basin no. 1 are not conducive to concrete. HDPE is consistent with low impact design. Also, this is a private way subdivision, so the Town will not be responsible for any maintenance.

FINDINGS – The use of HDPE pipes is appropriate where shown for this subdivision. The waiver is granted as it is in the public interest and consistent with the purpose of the Subdivision Control Law.

ACTION ON WAIVERS – At the public hearing held on _____, the Board voted ___ to ___ to _____ the above noted requests for waivers from the *Subdivision Rules and Regulations*.

VII. DECISION – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on _____, the Board voted ___ to ___ to _____ the applicant’s requests to modify the previously endorsed site plan and modified subdivision certificate of action and to approve a Land Disturbance Permit MA, as shown on a plan titled Subdivision Modification Plan, Wingate Farm, A Private Way Subdivision, dated August 18., 2022, last revised September 12, 2022, prepared by Legacy Engineering, Inc. to be further revised as specified herein before endorsement and recording, subject to the following conditions.

VIII. CONDITIONS

The prior decisions of the Board included a number of conditions, some of which have already been fulfilled. The following conditions supersede any prior conditions imposed by the Board’s prior decisions, and are intended to be a complete and comprehensive list of all conditions for this subdivision.

1. Authorization - The Wingate Farm subdivision ~~is authorized for no more than plan shows~~ three, single-family residential house lots, ~~as well as. The plan shows~~ a “Future Lot 2”. The stormwater management plan and other aspects of the subdivision plan take into account the possible future creation of Lot 2 and construction of a single family home thereon. ~~The~~ further division of any lots, ~~including other than~~ the creation of “Future Lot 2”, shall require modification of this decision, although lot boundaries within the subdivision may be adjusted

so long as no additional lots are created. Any such modification to add "Future Lot 2" or otherwise further subdivide the lots shall require an updated stormwater management plan.

2. Completion Schedule - The Permittee or its Assignee shall construct the roadway and all related infrastructure including the stormwater management system, and install all utilities as shown on the endorsed Definitive Subdivision Plan, to the satisfaction of the Planning and Economic Development Board, within **two** years of the date of endorsement of the plan. The time for such construction and/or installation may be extended upon the written request of the applicant, for good cause shown, prior to the expiration of the two-year period, upon a vote of the majority of the Planning and Economic Development Board then present.

3. Plan Revisions - Prior to plan endorsement, the Definitive Subdivision Plan, last revised September 12, 2022, shall be further revised as follows:

- a. The Erosion Control Plan shall include a graphical representation of the protections for storm drain inlets during construction.
- b. The Erosion Control Plan shall include a graphical representation of the construction entrance.
- c. The Erosion Control Plan shall include the location of stockpile areas during construction.
- d. A sheet shall be added to the Plan set to display the property's Stormwater Operations and Maintenance Plan (Attachment A from the 9-12-22 revised Stormwater Report) and Cover Sheet index shall be revised to specify the additional plan sheet.
- e. Revise the waiver list on the cover sheet to be consistent with this decision
- f. Revise language on the cover sheet to reference a new subdivision covenant to be prepared and recorded

4. Documents to be Prepared and Approved Before Plan Endorsement – Prior to plan endorsement, the Permittee shall provide the following documents for review, comments, amendment and approval by Town Counsel and the Board.

- a. **Subdivision Covenant** – Prior to plan endorsement, the Permittee shall sign a Subdivision Covenant, on a form acceptable to the Planning and Economic Development Board, to secure construction of the ways and all related infrastructure and installation of utilities and services and any off-site mitigation measures as specified in the approved subdivision plan. Reference to the *Subdivision Covenant* shall be noted on the cover sheet of the Definitive Subdivision Plan. The *Subdivision Covenant* shall specify that the roadway and all relevant infrastructure including the stormwater management system shall be constructed and all utilities and services and any off-site mitigation measures shall be installed to the satisfaction of the Planning and Economic Development Board within three years of the date of plan endorsement. The Subdivision Covenant shall apply to Lots 3 and 4 as shown on the plan.
- b. **Articles of Association or Incorporation** - Prior to plan endorsement, the Permittee shall provide a proposed Articles of Association or Incorporation establishing the Wingate Farm Homeowner's Trust for review and comment by Town Counsel. This document shall include provisions for membership by the owners of Lots 1, 3 and 4, management responsibilities, procedures for voting and fee assessment, and for the ownership and financial responsibility for the on-going maintenance, upkeep and repair of Wingate Farm including but not limited to snowplowing and sanding, the stormwater management system, and any associated landscaping. The documents shall specify that the costs shall be divided equitably among the members.

Commented [DM5]: We would like to discuss this. The subdivision has been designed to accommodate four lots. Having to undertake a subdivision modification for the fourth lot will involve much more significant expense than an ANR plan and would be burdensome on the applicant... The last sentence is odd since we have already designed the stormwater management system for Future Lot 2....?

Commented [DM6]: What is the status of the current covenant? Was the original covenant released and if not, is it still valid? There should probably be some discussion of the current state of affairs so that it is clear what the applicant needs to do now and whether any action needs to be taken relative to the original covenant...

- c. **Lot Deeds** – Prior to plan endorsement, the Permittee shall provide the proposed deeds to convey the reconfigured house lots for review and comment by Town Counsel. Each lot deed shall reference the endorsed *Definitive Subdivision Plan for Wingate Farm* and clearly state that the Wingate Farm Homeowner’s Trust shall be responsible for the maintenance and upkeep of Wingate Farm as a permanent private road, the landscaping, and the stormwater drainage system. The deeds shall ensure that the owners of Lots 1, 3, and 4 will own to the centerline of Wingate Farm Road along their property’s frontage.
- d. **Easements** – Prior to plan endorsement, the Permittee shall provide a proposed easement for the owners of Lot 1, 3 and 4 to grant an easement to the Wingate Farm Homeowner’s Trust to maintain the stormwater drainage basin on Lots 1, 3 and 4, for review and comment by Town Counsel. The Permittee shall also provide drafts of other easements shown on the plan.

5. **Plan Endorsement**

- a. Within sixty days after the Board has filed this decision with the Town Clerk, the Permittee shall submit a revised subdivision plan reflecting all Conditions and required revisions as specified herein, to the Planning and Economic Development Board and the Town’s Consulting Engineer, for review and approval prior to plan endorsement. All conditions of this Certificate of Action requiring changes to the definitive subdivision plan must be addressed to the satisfaction of the Town’s Consulting Engineer and the Planning and Economic Development Board before the Board will endorse the definitive subdivision plan. The time limit may be extended by mutual agreement of the Board and Permittee.
 - b. Prior to plan endorsement, the Permittee shall pay the balance of any outstanding plan review services by any outside consultants retained by the Planning and Economic Development Board. Prior to plan endorsement, and any form of surety reduction, proof is required from the Medway Town Treasurer/Collector that all real estate taxes and other municipal fees and charges are current for the properties included in this subdivision and for all property owned in Medway by the Permittee.
 - c. The endorsed plan shall bear the certification of the Town Clerk that twenty days have elapsed after the decision was filed in the Town Clerk’s office and no appeal has been filed within said twenty-day period.
 - d. Within thirty days after plan endorsement, the Permittee shall provide the Town with two sets of the approved plan in 24” x 36” paper format. The Permittee shall also provide the approved plan in pdf format and CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp). The Permittee shall pay any reasonable associated costs, as may be determined by the Board of Selectmen, to update the Medway GIS/Assessor’s maps relative to this subdivision.
6. **Recording** – The Permittee shall record this decision, the endorsed definitive subdivision plan, the subdivision covenant, and associated easements at the Norfolk County Registry of Deeds. Within thirty days of such recording, the Permittee shall provide proof of recording to the Planning and Economic Development Board. No construction shall begin on the site and no building permit shall be issued before these documents are recorded. The fee for recording or registering shall be paid by the Permittee.

7. **Ownership of Wingate Farm**– There is no intention or expectation that the Town of Medway will ever accept the roadway as constructed pursuant to this plan.
8. **Homeowner's Association** - There shall be established a Wingate Farm Homeowner's Trust consisting of the owners of all lots in the subdivision to be responsible for the on-going maintenance, upkeep, and repair of the roadway including but not limited to snowplowing and sanding and for the stormwater detention and infiltration system, and related infrastructure located within the roadway right of way and easements including landscaping. Prior to endorsement, the Applicant shall provide a proposed Declaration of Protective Covenants and Restrictions Governing Wingate farm, which shall apply to all present and future owners of the property included on the subdivision plan, to be reviewed and approved by Town Counsel and the Board. At a minimum, the Declaration shall include a requirement for the installation of light posts on each lot and may include other requirements as deemed appropriate b the applicant. The organizational documents shall specifically refer to the Long-Term Pollution Prevention Plan and associated Stormwater Operations and Management Plan included in the *Stormwater Report for Wingate Farm* dated August 18, 2022, last revised September 12, 2022, prepared by Legacy Engineering, Inc.
9. **Maintenance Responsibility During Construction**
 - a. The Permittee shall provide for snow plowing, sanding, and full maintenance of Wingate Farm throughout the entire construction process until the roadway is determined to be complete by the Board. The Permittee shall do nothing which would alter the drainage patterns or characteristics as shown on the approved plan.
 - b. Construction is subject to the Storm Water Pollution Plan included in the most recent version of the *Stormwater Report for Wingate Farm* dated August 18, 2022, last revised September 12, 2022, prepared by Legacy Engineering, Inc. This document shall be included in all construction contracts, subcontracts and specifications dealing with the proposed work. The Permittee shall ensure that all contractors, subcontractors, and other personnel performing the permitted work are fully aware of the Construction Period Operation and Maintenance Plan.
 - c. No clearing of vegetation, including trees, or disturbance of soil shall occur prior to the Pre-Construction Meeting.
 - d. Prior to the Pre-Construction Meeting and commencement of any activity on the site, the erosion control plan included in the endorsed plan set and the limit of work lines shall be staked. The location of erosion controls shall be adjusted, if necessary, during the first erosion control inspection.
 - e. Immediately after installation of erosion controls, the Permittee shall notify the Board's consulting engineer to schedule a follow-up inspection to ensure that erosion controls and limits of work have been properly located and installed. No work shall be conducted until the Board's consulting engineer has inspected and approved the installation of the erosion controls.
 - f. It shall be the responsibility of the Permittee to conduct monitoring, maintenance, and repair of erosion control measures, as well as to take any other additional measures necessary to control erosion from the site. The erosion control measures designated on the subdivision plan shall be considered a minimum standard for compliance.

- g. All waste products, refuse, debris, grubbed stumps, slash, excavate, construction materials, etc. associated with the planned construction shall be contained and ultimately deposited at an appropriate off-site facility and shall not be incorporated in any manner into the project site.

10. **Maintenance Responsibility Post Construction** – As Wingate Farm shall be a permanent, private roadway, the ongoing maintenance responsibility for it, all associated infrastructure, landscaping, and the stormwater management system rests with the Wingate Farm Homeowner's Trust. The Town of Medway shall not have, now or ever, any legal responsibility for operation or maintenance of the roadway, snowplowing, stormwater system, sanding, etc. The Trust shall maintain the stormwater management system in accordance with the long-term stormwater operation and maintenance plan included with the stormwater report.

11. **Site Access** - Planning and Economic Development Board members, its staff, consultants or other designated Town agents and staff shall have the right to inspect the site during construction for compliance with the endorsed subdivision plan and the provisions of this Decision.

12. **Construction Oversight**

a. Construction Account

- 1) Inspection of roadway and infrastructure and utility construction, and installation of site amenities including landscaping by the Town's Consulting Engineer and review of legal documents by Town Counsel are required. Prior to plan endorsement the Permittee shall pay a construction services fee to the Town of Medway to establish a construction services account for such inspections and legal services. The amount shall be determined by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer based on the scope of the project. 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 work remains to be completed, prepare bond estimates, 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 authorize project completion.
- 2) 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, for reasonable additional construction services until the road construction and stormwater drainage system and other utilities are completed and the as-built plan has been reviewed and determined to be satisfactory.
- 3) Any funds remaining in the Permittee's construction inspection account after project completion shall be returned to the Permittee.

- b. Any construction work occurring in the Town's right-of way in conjunction with the Town of Medway Street Opening/Roadway Access Permit and any utility connection permits must meet the requirements of the Medway Department of Public Works and is subject to inspection by the DPW.

- c. 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. Failure of the Permittee to provide these reports may be reason to withhold building or occupancy permits.
13. **Other Permits** – This permit does not relieve the Permittee from its responsibility to obtain, pay and comply with all other required federal, state and Town permits. The contractor for the Permittee or assigns shall obtain, pay, and comply with all other required Town permits.
14. **Pre-Construction Meeting** – At least seven days prior to the start of any site preparation or construction, a pre-construction meeting shall take place with the Town’s Consulting Engineer, the Planning and Economic Development Coordinator, the Medway Department of Public Works, the Medway Conservation Agent, the developer, and site contractors. The construction schedule shall be reviewed and the procedures for inspections discussed. A copy of the final Stormwater Pollution Prevention Plan (SWPPP) as filed with the US Environmental Protection Agency shall be provided to the Town.
15. **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.
- a. **Construction Time** - Work at construction sites and in the operation of construction equipment including start-up and movement of trucks, vehicles, and machines shall commence no earlier than 7 a.m. and shall cease no later than 7 p.m. Monday through 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 painting, installation of drywall, flooring, etc.
 - b. **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.
 - c. 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.
 - d. 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.
 - e. 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.

- f. All erosion and siltation control measures shall be installed by the Permittee prior to the start of construction and observed by the Planning and Economic Development Board's consulting engineer and maintained in good repair throughout the construction period.
 - g. *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.
 - h. *Noise* - Construction noise shall not exceed the noise standards as specified in the *Zoning Bylaw*, Section 7.3. Environmental Standards.
16. **Traffic signage** – To reinforce speed limits on the southbound Holliston Street travel lane, the applicant shall install an “intersection ahead” warning sign. In addition, should the Timber Crest development not have installed and a radar speed display feedback sign on the southbound side of Holliston Street before occupancy of the first new home in Wingate Farm, the Applicant shall be required to install such sign prior to the issuance of such first occupancy permit. Such signage is subject to approval by the Medway DPW as to location and installation requirements.
17. **Subdivision Performance Surety**
- a. *Alternative Performance Security* - At such time as the Permittee wishes to secure a release of the Subdivision Covenant for any lot, the security provided by the *Subdivision Covenant* shall be replaced by a subdivision surety in compliance with General Laws chapter 41 §81U and the Board's *Regulations*, which method or combination of methods may be selected and from time to time varied by the Permittee, in a sufficient amount, source and form acceptable to the Board, the Treasurer/Collector and Town Counsel.
 - b. *Surety Amount* - 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 roadway and installation of stormwater management facilities, utilities, services, pedestrian facilities and all site amenities as specified in the Decision and Plan that remain unfinished at the time the performance guarantee estimate is prepared if the Permittee failed to do so. The security amount shall be approved by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer based on the latest weighted average bid prices issued by the Mass Department of Transportation. 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 roadway and infrastructure in the event the Permittee fails to adequately perform such. 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 25% contingency.
 - c. *Surety Agreement* - The Permittee shall enter into a surety agreement with the Planning and Economic Development Board as provided in the *Regulations* to define the obligations of the Permittee and the performance guarantee company including:
 - 1) the date by which construction shall be completed

- 2) a statement that the agreement does not expire until released in full by the Board
- 3) procedures for collection upon default.

- d. *Adjustment of Performance Guarantee* - At the Permittee's written request, the amount of the performance guarantee may be reduced from time to time over the course of the construction project by vote of the Board upon the partial completion of the roadway and infrastructure improvements as defined herein. In order to establish the amount to adjust the performance guarantee, the Town's Consulting Engineer shall prepare an estimate of the current cost for the Town to complete all work as specified on the approved Plan that remains unfinished at the time the estimate is submitted to the Board. The estimate shall be based on unit prices in the latest Weighted Average Bid Prices issued by the Mass Department of Transportation. 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 fees, staff time and public bidding procedures. The estimate shall also include the cost to maintain the roadway and infrastructure in the event the Permittee fails to adequately perform such. In determining the amount of the adjustment of the performance guarantee, the Board shall be guided by the following formula to determine the reduction amount: the estimate of the Town's Consulting Engineer of the cost to complete the work; plus, a 25% contingency. The Board may authorize up to three reductions in the amount of performance security however, the Board shall not reduce the performance security below \$40,000.
- f. *Final Release of Performance Security* - Final release of performance security is contingent on project completion.

18. Compliance with Plan and Decision

- a. All construction shall be as specified in the approved definitive subdivision plan and any modifications thereto and in full compliance with the *Subdivision Rules and Regulations* and all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act, the NPDES permit requirements, the Massachusetts Department of Environmental Protection Stormwater Management Policy requirements, MEPA requirements, the Massachusetts Wetland Protection Act (Chapter 131, Section 40, M.G.L.) and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.
- b. The Planning and Economic Development 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 this Decision.

19. On-Site Field Changes

- a. 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 plan.
- b. 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. 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.

20. *Modification of Plan and/or Decision*

- a. Proposed modifications to the plan or decision, not included on-site field changes, shall be subject to review by the Board.
- b. This approval is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies, or commissions. Any changes to the plan that may be required by the decisions of other Town boards, agencies or commissions shall be submitted to the Planning and Economic Development Board for review as a subdivision plan modification.
- c. Whenever additional reviews by the Planning and Economic Development Board, its staff or consultants are necessary due to proposed subdivision 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 Planning and Economic Development Board may reduce the scope of the required review and waive part of the filing and review fees.
- d. The Board shall issue its Modification Decision, file such with the Town Clerk and provide copies to the Building Commissioner, other Town officials and the Permittee. Any modifications approved by the Board shall be made a permanent part of the approved project. Any plan modifications shall be shown on the final as-built plan.

21. *Landscape Maintenance*

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

22. *Project Completion* – The Board shall determine project completion and refund/release the performance security once the Permittee has completed the following tasks to the Board's satisfaction:

- a. provided the Board with written certification from a Professional Engineer registered in the Commonwealth of Massachusetts that all site work has been completed in substantial compliance with the approved and endorsed Plan, and any modifications thereto; and

- b. submitted an As-Built Construction Plan prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts in accordance with the *Subdivision Rules and Regulations* in effect at the time the plans are submitted to the Board for review by the Town's Consulting Engineer and the Board's approval. The Permittee shall provide the final as-built plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp).
- c. paid the Town of Medway for any taxes and fees associated with these parcels or other property owned by the Permittee in the Town of Medway; and
- d. completed any mitigation measures specified in the subdivision certificate of action to the satisfaction of the Board.

VII. APPEAL

The Board and the Permittee 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 of the Decision will be mailed to all parties in interest.

Any person aggrieved by the decision of the Board with respect to subdivision approval may appeal to the appropriate court pursuant to Massachusetts General Laws, ch 41, § 81BB, which shall be filed within twenty days after the filing of this decision in the office of the Medway Town Clerk. Any person aggrieved by the decision of the Board with respect to the Land Disturbance permit under Article 26 of the General Bylaws may appeal to the appropriate court pursuant to Section 26.6.5 of the Bylaws.

[Signature page follows]

Date of Action by the Planning and Economic Development Board: _____

By a vote of ____ to ____, the Planning and Economic Development Board hereby _____ the Applicants, Karyl and Eugene Walsh, a ***MODIFICATION*** to the Wingate Farms Subdivision Definitive Plan and Certificate of Action approved May 23, 2000, as previously modified on April 28, 2005, and a Land Disturbance permit, for the Wingate Farms Subdivision located at 168 Holliston Street and Wingate Farm Road, to be constructed in accordance with this Certificate of Action, and subject to the ***CONDITIONS*** herein.

Member:

Vote:

Signature:

Matthew Hayes

Robert Tucker

Richard Di Iulio

Jessica Chabot

Date Signed: _____

Copies to: Karyl and Eugene Walsh
Michael Boynton, Town Manager
Stephanie Carlisle, DPW Compliance Officer
Bridget Graziano, Conservation Agent
Chris Park, Assessor
Jeff Lynch, Fire Chief
Rindo Barese, Building Inspector
Pete Pelletier, DPW Director
Joanne Russo, Treasurer/Collector
Barbara Saint Andre, Director of Community and Economic Development
Lt. Jeffrey Watson, Police Safety Officer
Steve Bouley, Tetra Tech
Dan O'Driscoll, O'Driscoll Land Surveying
Dan Merrikin, Legacy Engineering



September 27, 2022
Medway Planning & Economic Development Board
Meeting

Master's Touch Site Plan

- Notice dated August 10, 2022, to continue the Master's Touch site plan public hearing to September 27, 2022
- Action Deadline Extension to September 30, 2022, dated July 19, 2022
- Request to extend action deadline to November 30, 2022
- Plans titled "Proposed Office Space 83 Main Street Medway, MA" by SAH Design, dated May 10, 2022

Board Members

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

August 10, 2022

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

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

RE: **Public Briefing Continuation for Master's Touch Site Plan, 83 Main Street**
Continuation Date – Tuesday, September 27, 2022 at 8:00 p.m.

RECEIVED TOWN CLERK
AUG 11 '22 AM 8:37

At its August 9, 2022 meeting, the Planning and Economic Development Board voted to continue the public briefing on the application of Master's Touch of Holliston, MA for approval of a minor site plan for redevelopment of 83 Main Street to the Board's meeting on Tuesday, September 27, 2022 at 8:00 p.m. at Medway Town Hall, 155 Village Street. The meeting will also be available via Zoom.

The applicant proposes to improve and expand the existing building, renovate the building façade, construct a new building for storage, and add a series of site improvements to the property at 83 Main Street. The property will be used by Master's Touch, a custom home design build construction and remodeling firm, for its offices, showroom, and storage. Planned site work includes construction of a paved parking area, driveway extension, stormwater management facilities, and a second curb cut on Main Street.

The subject property (Map 40, Parcel 79) is owned by DEM Realty Enterprises, LLC of Holliston, MA. It is located in the Central Business zoning district on the south side of Main ST (Route 109).

The application documents and site plan are on file with the Medway Town Clerk and at the office of the Planning and Economic Development Board at Medway Town Hall, 155 Village Street and may be reviewed during regular business hours. The documents are also posted at the Board's web page at: <https://www.townofmedway.org/planning-economic-development-board/pages/masters-touch-site-plan-83-main-street>

Based on the feedback provided at the July 12th meeting, the Applicant will be revising the site plan to resubmit to the Board for further review. Upon receipt, we will upload it to the web site and inform you.

Please do not hesitate to contact me if you have any questions at 508-533-3291. Thanks.

Board Members

Matthew Hayes, P.E., Chair
Robert Tucker, Vice Chair
Richard Di Iulio, Clerk
Jessica Chabot, Member
Sarah Raposa, Member
Thomas A. 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

July 19, 2022

TO: Stefany Ohannesian, Town Clerk
FROM: Susy Affleck-Childs, Planning and Economic Development Coordinator
RE: ***Extension of Action Deadline for Master's Touch Site Plan Application Decision
(83 Main Street)***

At its July 12, 2022 meeting, the Planning and Economic Development Board voted to approve the request of applicant Doug Masters, owner of Master's Touch, to extend the deadline for the Board's action on the minor site plan application for the proposed redevelopment of 83 Main Street to September 30, 2022.

cc: Doug Masters
Jacob Gadbois

Anna Rice

From: Barbara Saint Andre
Sent: Wednesday, September 21, 2022 3:36 PM
To: Anna Rice
Subject: FW: [External] RE: Master's Touch - PH continuation and action deadline extension
Attachments: Request for Extension of Deadline.pdf

Barbara J. Saint Andre
Director, Community and Economic Development
Town of Medway
155 Village Street
Medway, MA 02053
(508) 321-4918

From: Jacob Gadbois <jake@masterstouchweb.com>
Sent: Wednesday, September 21, 2022 3:34 PM
To: Susan Affleck-Childs <sachilds@townofmedway.org>; Daniel Merrikin <dan@legacy-ce.com>
Cc: Barbara Saint Andre <bsaintandre@townofmedway.org>
Subject: [External] RE: Master's Touch - PH continuation and action deadline extension

Attached, for the 11/30 deadline request. Would also request continuance to the October 25th planning board meeting as well.

Jacob Gadbois, PMP

Program Manager
Masters Touch Design Build
24 Water Street
Holliston, MA 01746
P. 508-359-5900 x 219

We Build Trust.

www.masterstouchweb.com | [MTDB on Facebook](#) | [Blog](#) | [MTDB on Houzz](#) | [MTDB on YouTube](#)

From: Susan Affleck-Childs <sachilds@townofmedway.org>
Sent: Wednesday, September 21, 2022 2:19 PM
To: Jacob Gadbois <jake@masterstouchweb.com>; Daniel Merrikin <dan@legacy-ce.com>
Cc: Barbara Saint Andre <bsaintandre@townofmedway.org>
Subject: Master's Touch - PH continuation and action deadline extension
Importance: High

Hi,

We really need a separate email from you asking for a continuation of the Master's Touch site plan public hearing and an extension of the deadline for the Board's action.

I believe Barbara Saint Andre had previously suggested November 30th as the new action deadline.

When Doug and Jacob were at the DRC mtg Monday night, they wanted to plan for the next PH to be at the October 25th PEDB meeting.

Please reply ASAP. Otherwise, we will need to prepare a denial decision for the Board's action at the 9-27 hearing.

Thank you.

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



Request for Extension of Deadline
for Action by the
Medway Planning & Economic Development Board

The undersigned Applicant (or official representative) requests an extension of the deadline for action by the Planning and Economic Development Board on the application of Master's Touch for:

☐ *ANR (Approval Not Required/81P Plan)*

☐ *Preliminary Subdivision Plan*

☐ *Definitive Subdivision Plan*

☒ *Site Plan Application (or modification)*

☐ *Scenic Road Work Permit Application*

☐ *Special Permit Application*

☐ *Land Disturbance Permit Application*

☐ *Other*

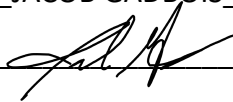
for the development project known as: Master's Touch

address of project: 83 Main Street

to the following date: _____11/30_____

Respectfully submitted,

Name of Applicant or official representative: _____JACOB GADBOIS_____

Signature of Applicant or official representative: __________

Date: 9-21_____

Date approved by Planning and Economic Development Board: _____

New Action Deadline Date: _____



FRONT PERSPECTIVE

PROPOSED OFFICE SPACE
83 MAIN ST
MEDWAY, MA

DD-4
 Date: 5/10/22

DESIGN DEVELOPMENT EXTERIOR :

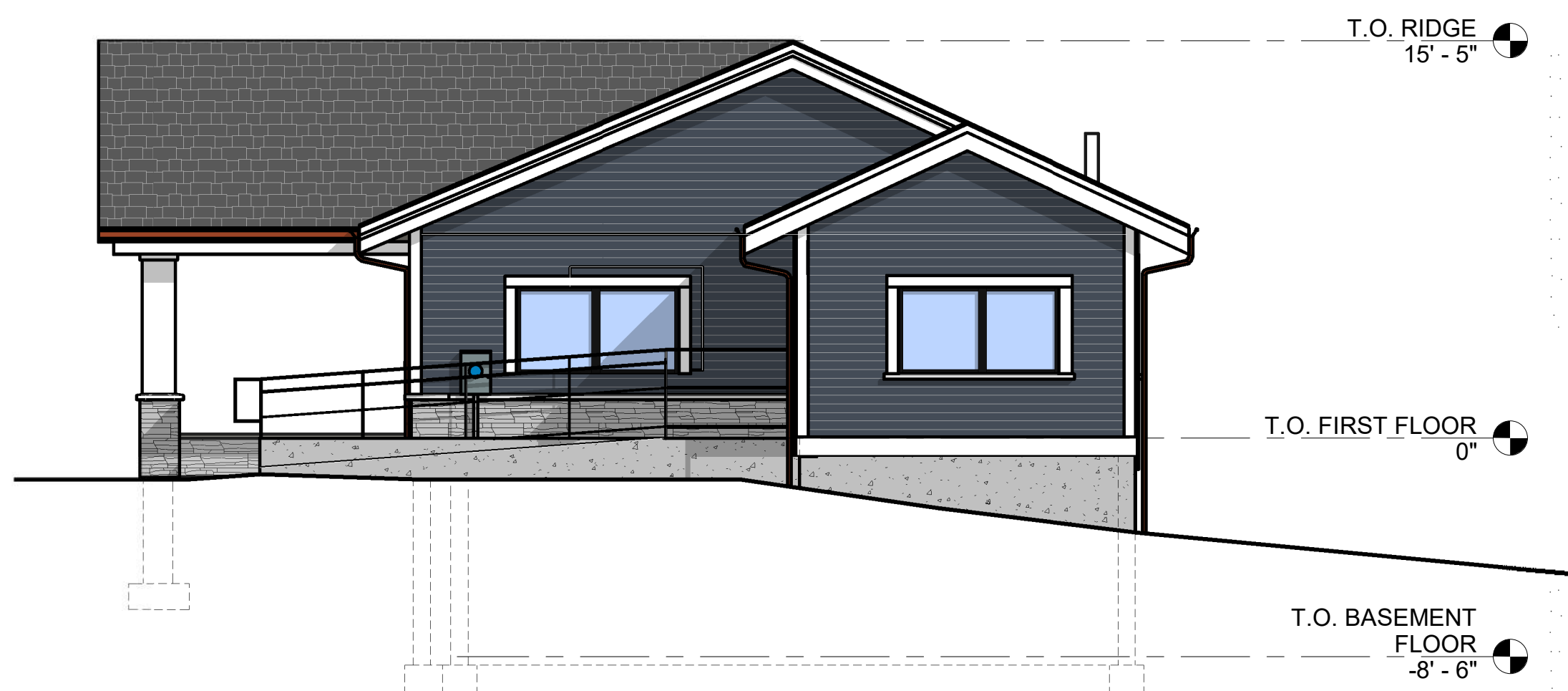


FUTURE OFFICE 83 MAIN ST MEDWAY, MA May 10, 2022

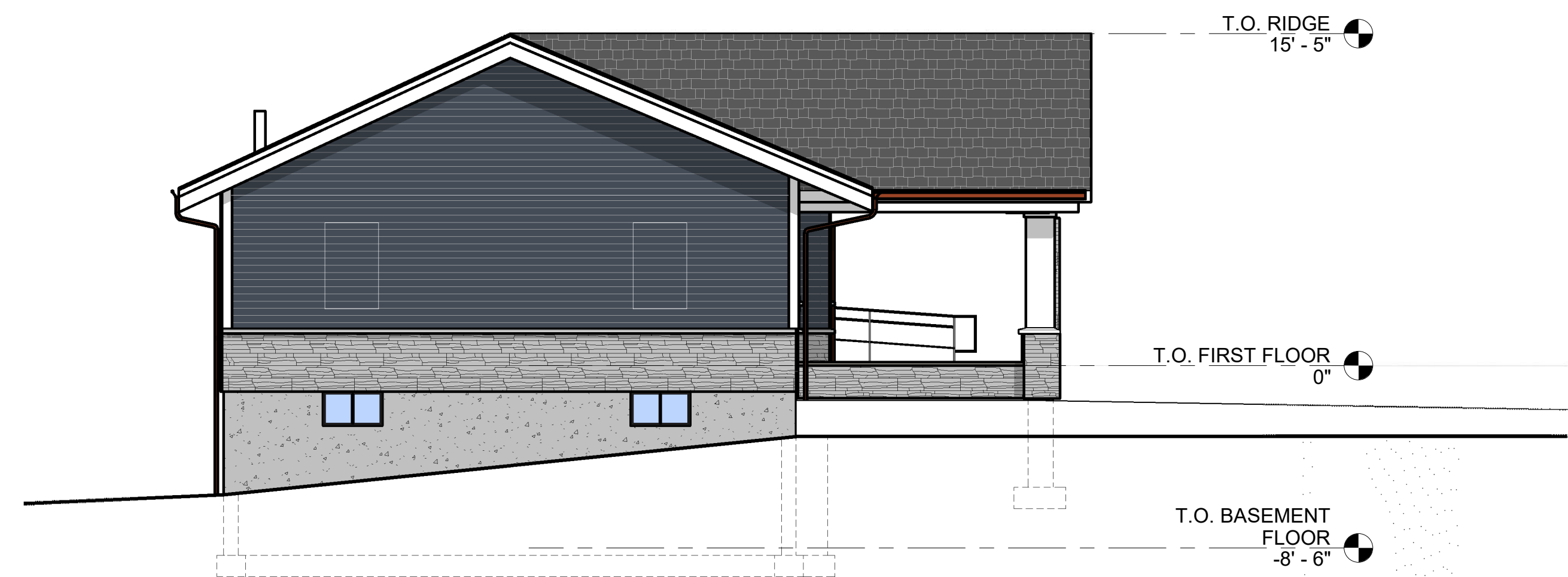
DRAWING INDEX

- DD-0 - COVER SHEET
- DD-1 - PROPOSED LOWER AND UPPER LEVEL FLOOR PLANS
- DD-1a - CODE SUMMARY
- DD-1b - LOWER AND UPPER LEVEL LIFE SAFETY PLANS
- DD-2 - ROOF PLAN
- DD-3 - PROPOSED ELEVATIONS
- DD-4 - EXTERIOR PERSPECTIVE

DD-0



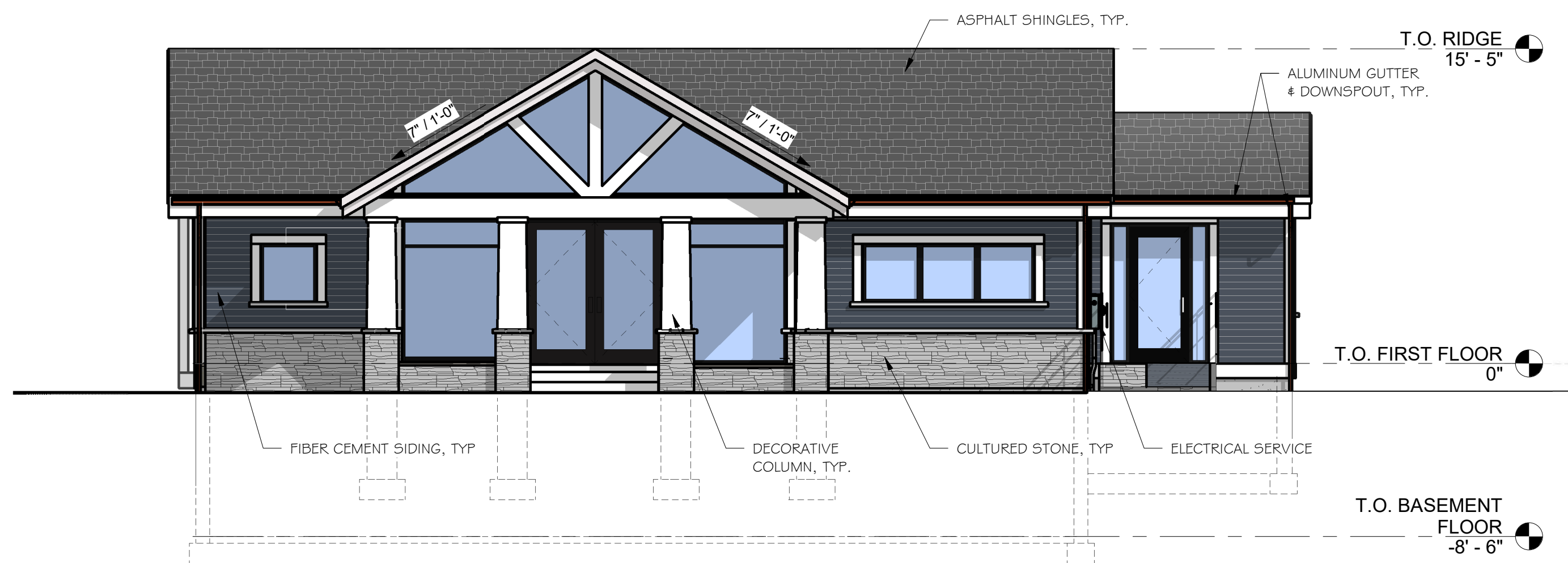
1 EAST ELEVATION
Scale: 1/4" = 1'0"



4 WEST ELEVATION
Scale: 1/4" = 1'0"

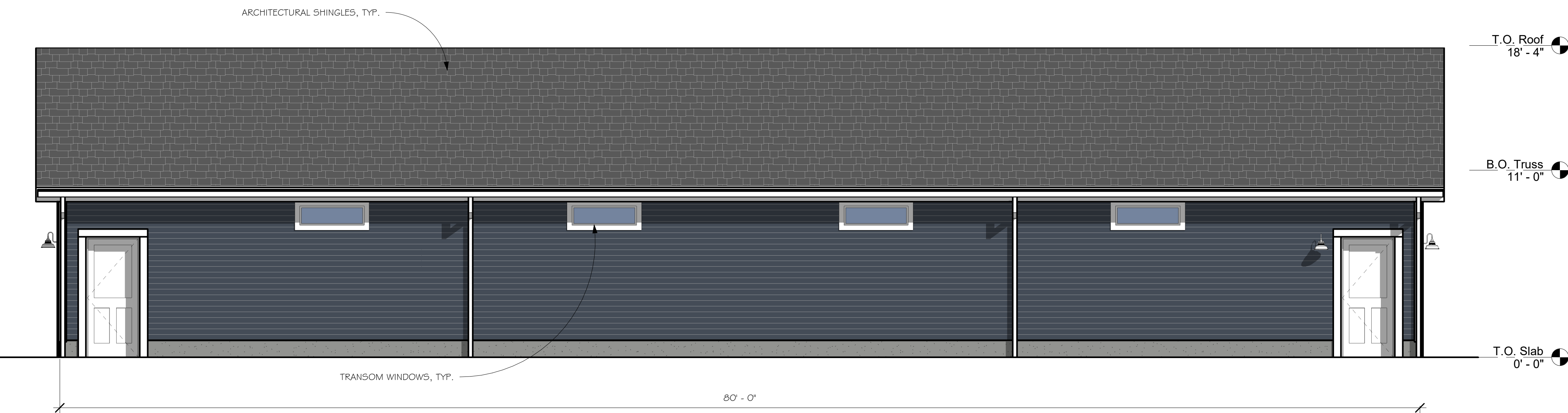


2 SOUTH ELEVATION
Scale: 1/4" = 1'0"

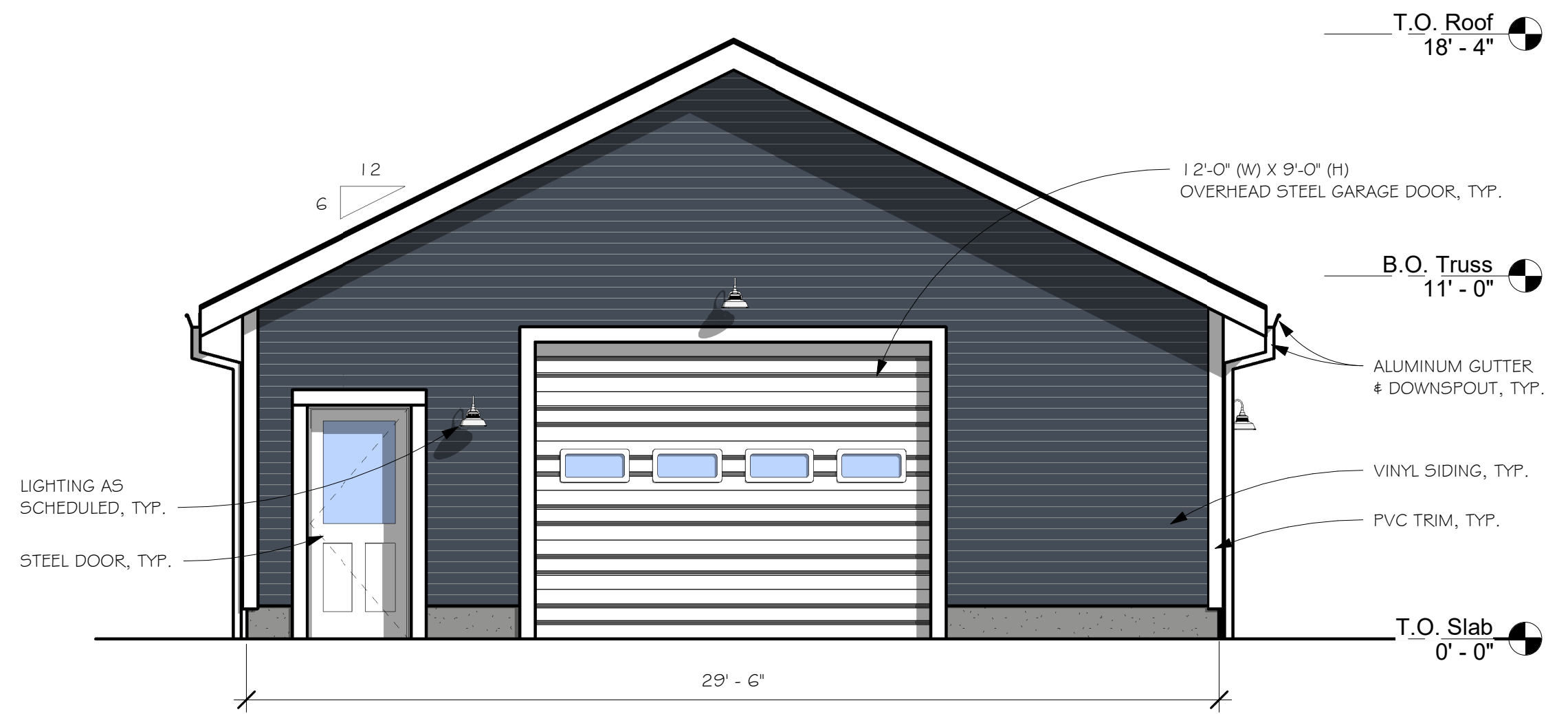


3 NORTH ELEVATION
Scale: 1/4" = 1'0"

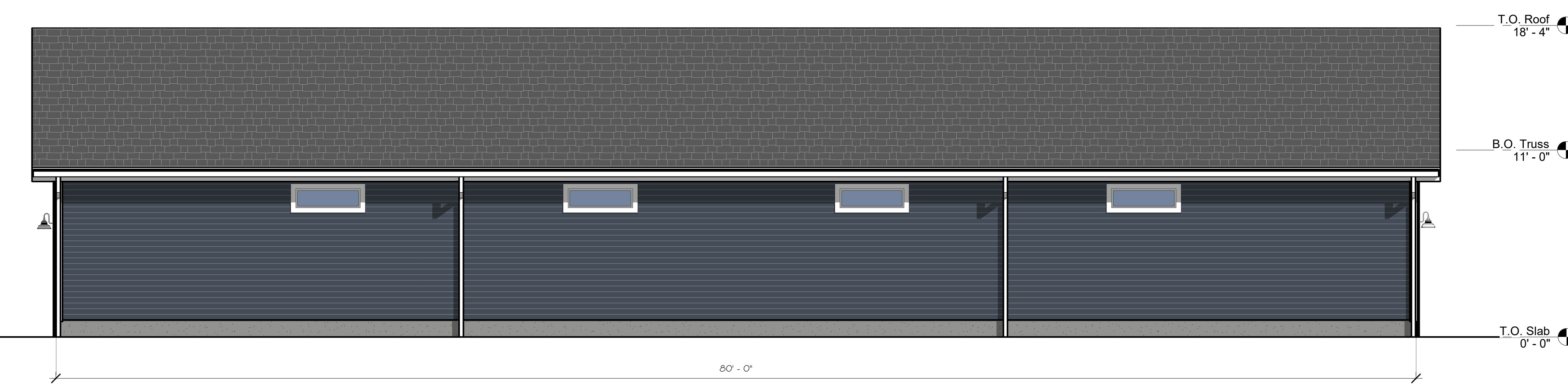




EAST ELEVATION



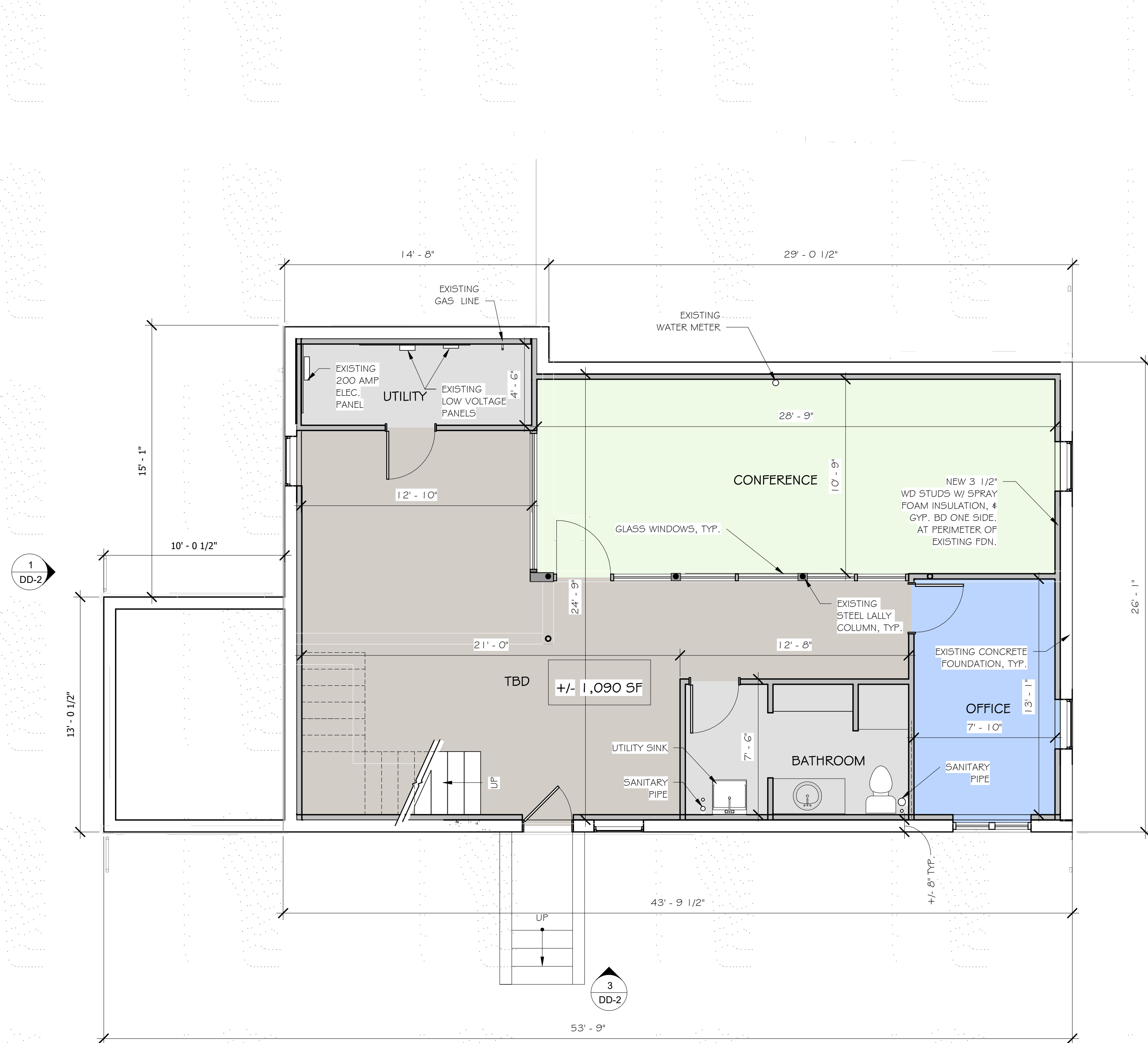
SOUTH ELEVATION



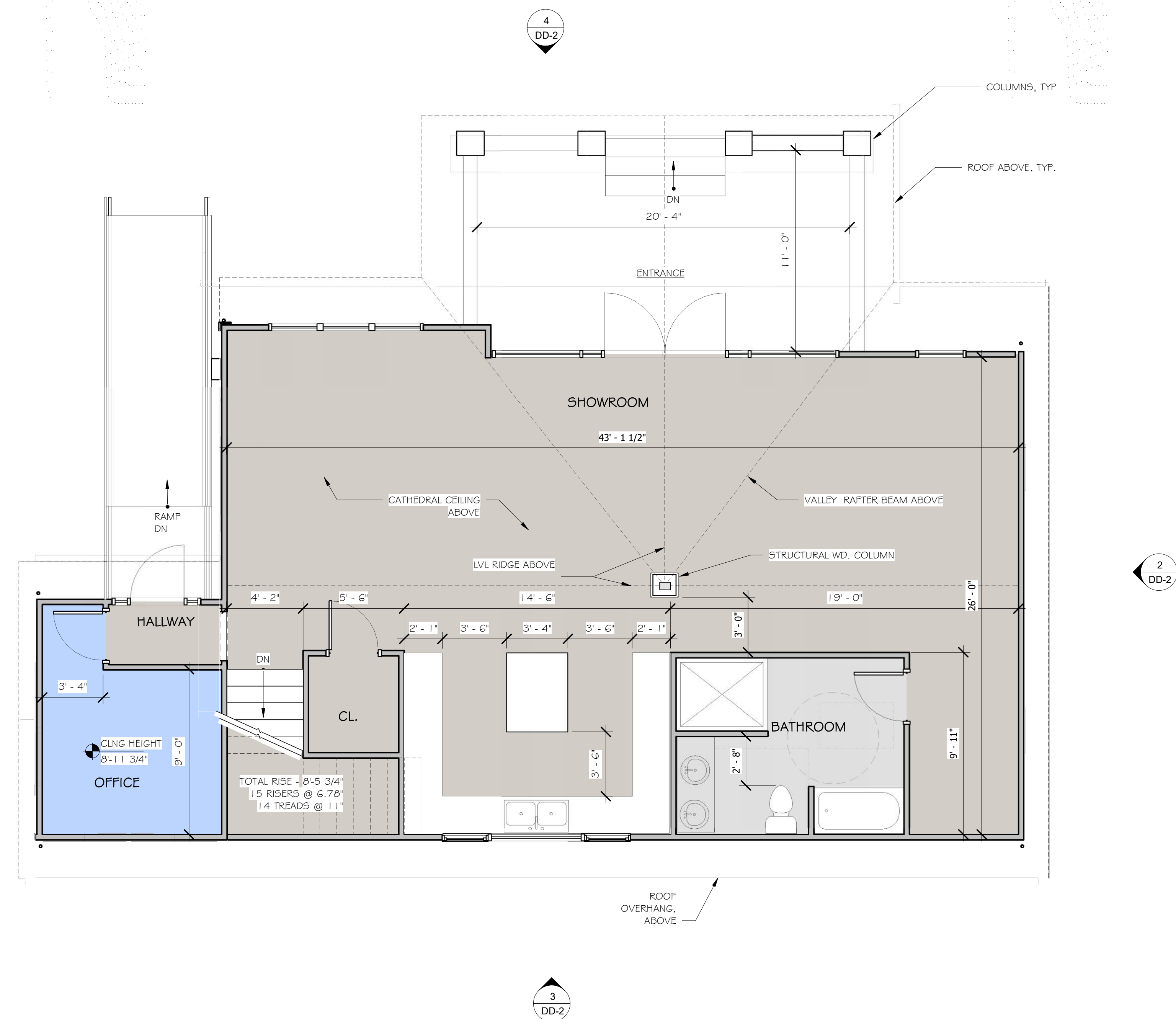
WEST ELEVATION



NORTH ELEVATION



PROPOSED LOWER LEVEL PLAN
 Scale: 1/4" = 1'0"



PROPOSED UPPER LEVEL FLOOR PLAN
 Scale: 1/4" = 1'0"

APPLICABLE CODES

Building Code	780 CMR: Massachusetts State Building Code, 9th Edition - International Existing Building Code with Mass amendments 780 CMR: Massachusetts State Building Code, 9th Edition - International Building Code with Mass amendments
Structural Code	780 CMR: Massachusetts State Building Code, 9th Edition - International Existing Building Code with Mass amendments 780 CMR: Massachusetts State Building Code, 9th Edition - International Building Code with Mass amendments
Access Codes	521 CMR: Architectural Access Board Rules and Regulations 28 CFR Part 36: ADA Accessibility Guidelines
Energy Code	780 CMR: Massachusetts State Building Code, 9th Edition - International Building Code 2015, Energy Efficiency (Chapter 13) 2015 International Energy Conservation Code with Massachusetts Amendments
Applicable Plumbing Code	248 CMR 10.00: Uniform State Plumbing Code
Applicable Mechanical Code	The International Mechanical Code 2015 Edition
Applicable Fire code	527 CMR: Massachusetts Board of Fire Prevention Regulations and the 2015 IBC Specific Sections
Applicable Electnc Code	NFPA 70 2014 National Electnc Code with 527 CMR Chapter 12 Massachusetts Electrical Code Amendments

IEBC: CHAPTER 5: CLASSIFICATION OF WORK

SECTION 604: ALTERATION LEVEL 3

SECTION 604.1 - SCOPE: LEVEL 3 ALTERATIONS APPLY WHERE THE WORK AREA EXCEEDS 50 PERCENT OF THE BUILDING AREA.

SECTION 604.2 - LEVEL 3 ALTERATIONS SHALL COMPLY WITH THE PROVISIONS OF CHAPTERS 7 AND 8 FOR LEVEL 1 AND 2 ALTERATIONS, RESPECTIVELY, AS WELL AS THE PROVISIONS OF CHAPTER 9.

TOTAL UPPER LEVEL BUILDING AREA - 1,312 SF
TOTAL LOWER LEVEL BUILDING AREA - 1,090 SF
TOTAL BUILDING AREA - 2,402 SF

ALTERATION BUILDING AREA - 2,402 SF

2,402/2,402 = 100%

THE WORK AREA IS MORE THAN 50%.

FIRE PROTECTION - AUTOMATIC SPRINKLER PROTECTION IS NOT REQUIRED

PER GENERAL LAW - PART I - TITLE XX, CHAPTER 14B, SECTION 26G "EVERY BUILDING OR STRUCTURE INCLUDING ANY ADDITIONS OR MAJOR ALTERATIONS THERETO WHICH TOTALS, IN THE AGGREGATE, MORE THAN 7,500 GROSS SQUARE FEET IN FLOOR AREA SHALL BE PROTECTED THROUGHOUT WITH AN ADEQUATE SYSTEM OF AUTOMATIC SPRINKLERS IN ACCORDANCE WITH THE PROVISIONS OF THE STATE BUILDING CODE."

NOTE: SPRINKLER SYSTEM NOT REQUIRED DUE TO SQUARE FOOTAGE

521 CMR: ARCHITECTURAL ACCESS BOARD RULES AND REGULATIONS

521 CMR 3: JURISDICTION

SECTION 3.1 - SCOPE: ALL WORK PERFORMED ON PUBLIC BUILDINGS OR FACILITIES, INCLUDING CONSTRUCTION, RECONSTRUCTION, ALTERATIONS, ADDITIONS, AND CHANGES OF USES SHALL CONFORM TO 521 CMR.

SECTION 3.3 - EXISTING BUILDINGS: ALL ADDITIONS TO, RECONSTRUCTION, REMODELING, AND ALTERATIONS OR REPAIRS OF EXISTING PUBLIC BUILDINGS OR FACILITIES, WHICH REQUIRE A BUILDING PERMIT OR WHICH ARE SO DEFINED BY A STATE OR LOCAL INSPECTOR, SHALL BE GOVERNED BY ALL APPLICABLE SUBSECTIONS IN 521 CMR 3.00: JURISDICTION

SECTION 3.3.1:

a - IF THE WORK COSTS LESS THAN \$100,000, THEN ONLY THE WORK BEING PERFORMED IS REQUIRED TO COMPLY WITH 521 CMR.

b - IF THE WORK COST \$100,000 OR MORE, THEN THE WORK BEING PERFORMED IS REQUIRED TO COMPLY WITH 521 CMR. IN ADDITION, AN ACCESSIBLE PUBLIC ENTRANCE AND AN ACCESSIBLE TOILET ROOM, TELEPHONE, DRINKING FOUNTAINS (IF TOILETS, TELEPHONES AND DRINKING FOUNTAINS ARE PROVIDED) SHALL ALSO BE PROVIDED IN COMPLIANCE WITH 521 CMR.

EXCEPTION: GENERAL MAINTENANCE AND ON-GOING UPKEEP OF EXISTING UNDERGROUND FACILITIES WILL NOT TRIGGER THE REQUIREMENT FOR AN ACCESSIBLE ENTRANCE AND TOILET UNLESS THE COST OF THE WORK EXCEEDS \$500,000 OR UNLESS WORK IS BEING PERFORMED ON THE ENTRANCE OR TOILET.

EXCEPTION: WHETHER PERFORMED ALONE OR IN COMBINATION WITH EACH OTHER, THE FOLLOWING TYPES OF ALTERATIONS ARE NOT SUBJECT TO 521 CMR 3.3.1, UNLESS THE COST OF THE WORK EXCEEDS \$500,000 OR UNLESS WORK IS BEING PERFORMED ON THE ENTRANCE OR TOILET. (WHEN PERFORMING EXEMPTED WORK, A MEMO STATING THE EXEMPTED WORK AND ITS COSTS MUST BE FILED WITH THE PERMIT APPLICATION OR A SEPARATE BUILDING PERMIT MUST BE OBTAINED.

- a. CURB CUTS: THE CONSTRUCTION OF CURB CUTS SHALL COMPLY WITH 521 CMR 21.00 CURB CUTS
- b. ALTERATION WORK WHICH IS LIMITED SOLELY TO ELECTRICAL, MECHANICAL, OR PLUMBING SYSTEMS, TO ABATEMENT OF HAZARDOUS MATERIALS; OR RETROFIT OF AUTOMATIC SPRINKLERS AND DOES NOT INVOLVE THE ALTERATION OF ANY ELEMENTS OR SPACES REQUIRED TO BE ACCESSIBLE UNDER 521 CMR. WHERE ELECTRICAL OUTLETS AND CONTROLS ARE ALTERED, THEY MUST COMPLY WITH 521 CMR.
- c. ROOF REPAIR OR REPLACEMENT, WINDOW REPAIR OR REPLACEMENT, REPOINTING AND MASONRY REPAIR WORK.
- d. WORK RELATING TO SEPTIC SYSTEM REPAIRS, (INCLUDING TITLE V, 310 CMR 15.00, IMPROVEMENTS) SITE UTILITIES AND LANDSCAPING.

SECTION 3.3.2

IF THE WORK PERFORMED, INCLUDED EXEMPTED WORK, AMOUNTS TO 30% OR MORE OF THE FULL AND FAIR CASH VALUE (SEE 521 CMR 5.38) OF THE BUILDING THE ENTIRE BUILDING IS REQUIRED TO COMPLY WITH 521 CMR.

COST OF CONSTRUCTION DOES NOT EXCEED 30% OF THE FULL AND FAIR CASH VALUE OF THE BUILDING

a. WHERE THE COST OF CONSTRUCTING AN ADDITION TO A BUILDING AMOUNTS TO 30% OR MORE OF THE FULL AND FAIR CASH VALUE OF THE EXISTING BUILDING, BOTH THE ADDITION AND THE EXISTING BUILDING MUST BE FULLY ACCESSIBLE.

SECTION 3.3.3
ALTERATIONS BY A TENANT DO NOT TRIGGER THE REQUIREMENTS OF 521 CMR 3.3.1b AND 3.3.2 FOR OTHER TENANTS. HOWEVER, ALTERATIONS, RECONSTRUCTION, REMODELING, REPAIRS, CONSTRUCTION, AND CHANGES IN USE FALLING WITHIN 521 CMR 3.3.1b AND 3.3.2, WILL TRIGGER COMPLIANCE WITH 521 CMR IN AREAS OF PUBLIC USE, FOR THE OWNER OF THE BUILDING.

SECTION 3.3.4

NO ALTERATION SHALL BE UNDERTAKEN WHICH DECREASES OR HAS THE EFFECT OF DECREASING ACCESSIBILITY OR USABILITY OF A BUILDING OR FACILITY, THAT SPACE SHALL BE MADE ACCESSIBLE.

SECTION 3.3.5

IF ALTERATIONS OF SINGLE ELEMENTS, WHEN CONSIDERED TOGETHER, AMOUNT TO AN ALTERATION OF A ROOM OR SPACE IN A BUILDING OR FACILITY, THAT SPACE SHALL BE MADE ACCESSIBLE.

SECTION 3.3.6

NO ALTERATION OF AN EXISTING ELEMENT, SPACE, OR AREA OF A BUILDING OR FACILITY SHALL IMPOSE A REQUIREMENT FOR GREATER ACCESSIBILITY THAN THAT WHICH WOULD BE REQUIRED FOR NEW CONSTRUCTION.

IBC: CHAPTER 3: USE AND OCCUPANCY

MIXED USE OCCUPANCY
SECTION: 304 - BUSINESS GROUP B

IBC: CHAPTER 5: ALLOWABLE BUILDING HEIGHT AND AREA

TABLE 504.3, 504.4, & 506.2

GROUP	CONSTRUCTION TYPE	STORIES	HEIGHT ABOVE GRADE PLANE	TABULAR AREA
B	5B	2	55'	23,000 FT ²

EXISTING BUILDING AREA

Upper FLOOR LEVEL -(B) - 1,312 SF
Lower FLOOR LEVEL -(B) - 1,090 SF
TOTAL AREA - 2,402 SF

EXISTING HEIGHT ABOVE GRADE PLANE

EXISTING HEIGHT ABOVE GRADE PLANE = 15'-5"

CONSTRUCTION TYPE: IIB

TABLE 601 - FIRE-RESISTANCE RATING REQUIRMENTS FOR BUILDING ELEMENTS (hours)

BUILDING ELEMENT	TYPE I		TYPE II		TYPE III		TYPE IV	TYPE V	
	A	B	A	B	A	B		A	B
Primary structural frame ^f (see Section 202)	3 ^a	2 ^a	I	O	I		HT	I	O
Bearing walls									
Exterior ^{e,f} Interior	3 ^a	2 ^a	I	O	I	O	I/HT	I	O
Nonbearing walls and partitions Exterior	See Table 602								
Nonbearing walls and partitions Interior ^d						O	See Section 602.4.6	O	O
Floor construction and associated secondary members (see Section 202)	2	2	I		I		HT	I	O
Roof construction and associated secondary members (see Section 202)	I	1/2 ^b	I ^{b,c}	I ^{b,c}	O ^c	I ^{b,c}	O	I ^{b,c}	O

a. Roof supports: Fire-resistance ratings of primary structural frame and bearing walls are permitted to be reduced by 1 hour where supporting a roof only.

b. Except in Group F-1, H, M and S-1 occupancies, fire protection of structural members shall not be required, including protection of roof framing and decking where every part of the roof construction is 20 feet or more above any floor immediately below. Fire-retardant-treated wood mems shall be allowed to be used for such unprotected members.

c. In all occupancies, heavy timber shall be allowed where a 1-hour or less fire-resistance rating is required.

d. Not less than the fire-resistance rating required by other sections of this code.

e. Not less than the fire-resistance rating based on fire-separation distance (see table 602)

f. Not less than the fire-resistance rating as referenced in Section 704.10.

OCCUPANT LOAD

TABLE 1004.1.2 - MAXIMUM FLOOR AREA ALLOWANCES PER OCCUPANT

FUNCTION OF SPACE	OCCUPANT LOAD FACTOR
Accessory storage areas, mechanical equipment room	300 gross
Assembly without fixed seats: Concentrated (chairs only- not fixed seats) Standing Space Unconcentrated (Tables and chairs)	7 net 5 net 15 net
Business areas	100 gross

	Floor Area	Sq. Ft/ Occupancy	Occupancy Load
Lower Level			
Mechanical/ Utility Room	145 Gross sf	300 gross	1
Business Areas:	551 Gross sf	100 Gross	7
Assembly Area:	308 Net sf	15 Net	21
Total Lower Level Occupancy:			29
Upper Level			
Business Areas:	1,108 Gross sf	100 Gross	12
Total Upper Level Occupancy:			12

MINIMUM # OF EXITS REQ'D PER FLOOR

TABLE 1006.3.1 - MINIMUM NUMBER OF EXITS OR ACCESS TO EXITS PER STORY

OCCUPANCY LOAD	MINIMUM NUMBER OF EXITS
1-500	2
500 -1,000	3
MORE THAN 1,000	3

EXCEPTION:
Table 1006.3.3 (2)
Stones with One Exit or Access to One Exit for Other Occupancies
Maximum Occupant Load Per Story -149
Maximum Common Path of Egress Travel - 75 Feet

ENERGY CONSERVATION - 2015 IECC

SECTION 908.1 - MINIMUM REQUIREMENTS.
LEVEL 3 ALTERATIONS TO EXISTING BUILDINGS OR STRUCTURES ARE PERMITTED WITHOUT REQUIRING THE ENTIRE BUILDING OR STRUCTURE TO COMPLY WITH THE ENERGY REQUIREMENTS OF THE INTERNATIONAL ENERGY CONSERVATION CODE THE ALTERATIONS SHALL CONFORM TO THE ENERGY REQUIREMENTS OF THE INTERNATIONAL ENERGY CONSERVATION CODE.

NOTE: WHOLE BUILDING WILL NEED TO CONFORM TO 2015 IECC

EXIT ACCESS TRAVEL DISTANCE

TABLE 1017.2 - WITHOUT SPRINKLER SYSTEM OF EXITS OR ACCESS TO EXITS PER STORY

OCCUPANCY	WITHOUT SPRINKLER SYSTEM (feet)	WITH SPRINKLER SYSTEM (feet)
A,E,F-1,M,R,S-1	200	250 ^b
I-1	Not Permitted	250 ^b
B	200	300 ^c
F-2, S-2, U	300	400
H-1	Not Permitted	75 ^d
H-2	Not Permitted	100 ^d
H-3	Not Permitted	150 ^d
H-4	Not Permitted	175 ^d
H-5	Not Permitted	200 ^c
I-2, I-3, I-4	Not Permitted	200 ^c

MINIMUM REQUIRED EGRESS WIDTH

FLOOR	OCCUPANT LOAD	EXIT ALLOWANCE (in / person)	TOTAL EXIT CAPACITY PROVIDED (person)	STATUS
UPPER LEVEL	12	.3 (Stair) .2 (Door)	72' / .3 = 240 Occupants 68' / .2 = 340 Occupants	Compliant
LOWER LEVEL	29	.3 (Stair) .2 (Door)	40.5' / .3 = 135 Occupants 32' / .2 = 160 Occupants	Compliant

1010.1 - The required capacity of each door opening shall be sufficient for the occupant load thereof and shall provide a minimum clear width of 32"

EGRESS WIDTH

EGRESS WIDTH PER OCCUPANT SERVED

OCCUPANCY	WITHOUT SPRINKLER SYSTEM		WITH SPRINKLER SYSTEM	
	Stairways (inches per occupant)	Other egress components (inches per occupant)	Stairways (inches per occupant)	Other egress components (inches per occupant)
Occupancies other than listed below	.3	.2	.2	.15
Hazardous: H-1, H-2, H-3, & H-4	.7	.4	.3	.2
Institutional: I-2	NA	NA	.3	.2

PLUMBING FIXTURES - 248 CMR - TABLE 1

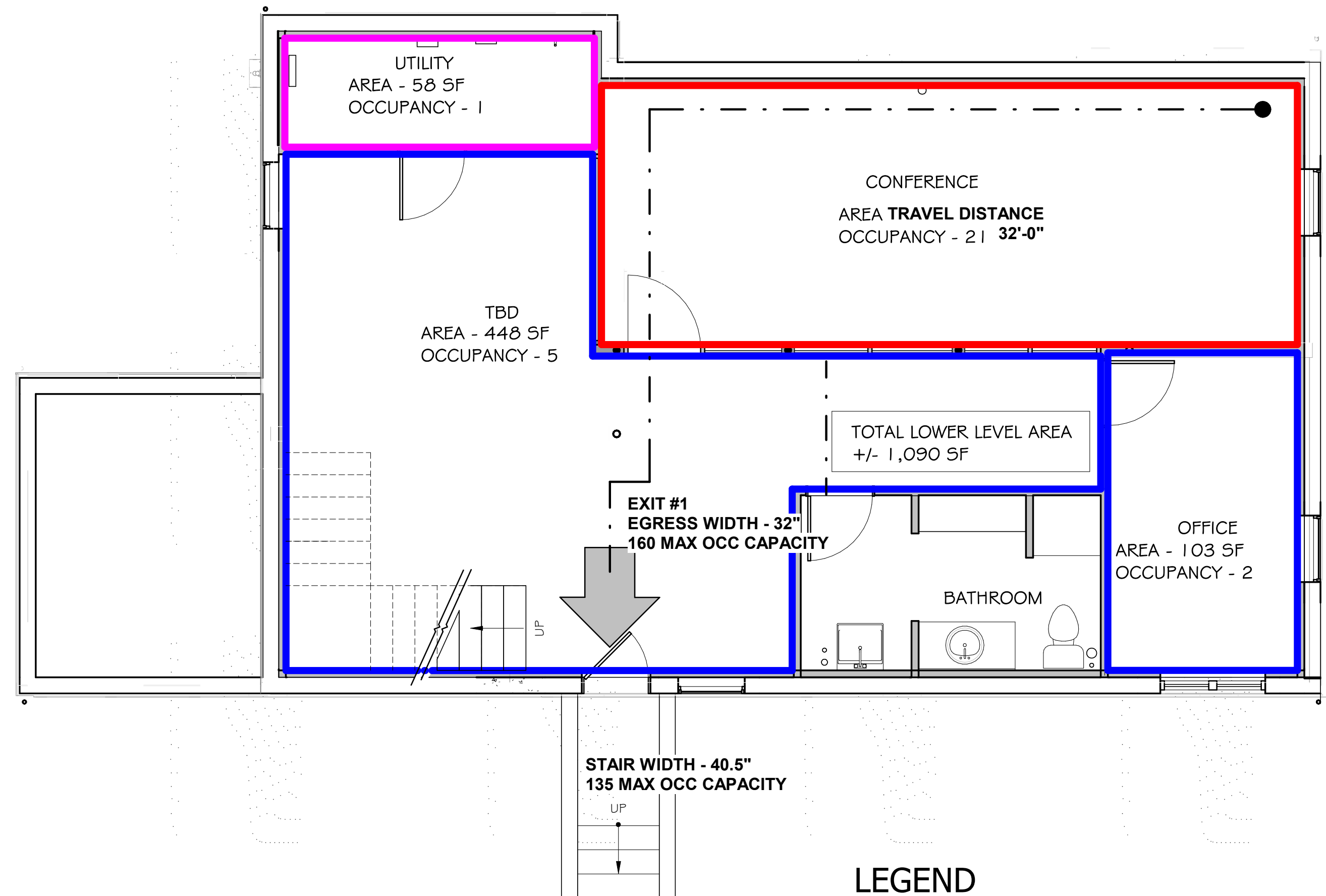
MINIMUM NUMBER OF FIXTURES REQUIRED	CLASSIFICATION	FIXTURE TYPE	Min. Required	Occupants	Fixtures Required	Fixtures Provided
	Business	Water Closets	Female 1 per 20 Female 1 per 20	3 LOWER LEVEL 3 UPPER LEVEL	1 1	1 1
			Male 1 per 25 Male 1 per 25	3 LOWER LEVEL 3 UPPER LEVEL	1 1	1 1
		Urinals	33%		0	0
		Lavatories each sex	1 per 50	6 LOWER LEVEL 6 UPPER LEVEL	1 1	1 1
		Drinking Fountain	1 per 75	PROVIDE WATER STATION WITHOUT DRAIN		
		Service Sink	1 PER FLOOR	EXISTING BUILDING HAS A SERVICE SINK		

1. PLUMBING FIXTURE COUNT IS BASED ON ACTUAL NUMBER OF EMPLOYEES
2. 248 CMR 10.10.10:
In business or commercial establishments (except industrial) where the total number of employees that can be accommodated at any one time is 20 individuals and the total gross space is less than 2,000 square feet, or do not have reasonable access (within 300 feet and on the same floor) to core or common toilet facilities, one toilet room located within the establishment provided with the number of fixtures according to the standard set forth in 248 CMR 10.10.10(18): Table 1 for employee facilities, shall meet the minimum requirement.

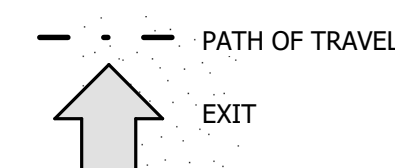
CODE SUMMARY SHEET

PROPOSED OFFICE SPACE
83 MAIN ST
MEDWAY, MA



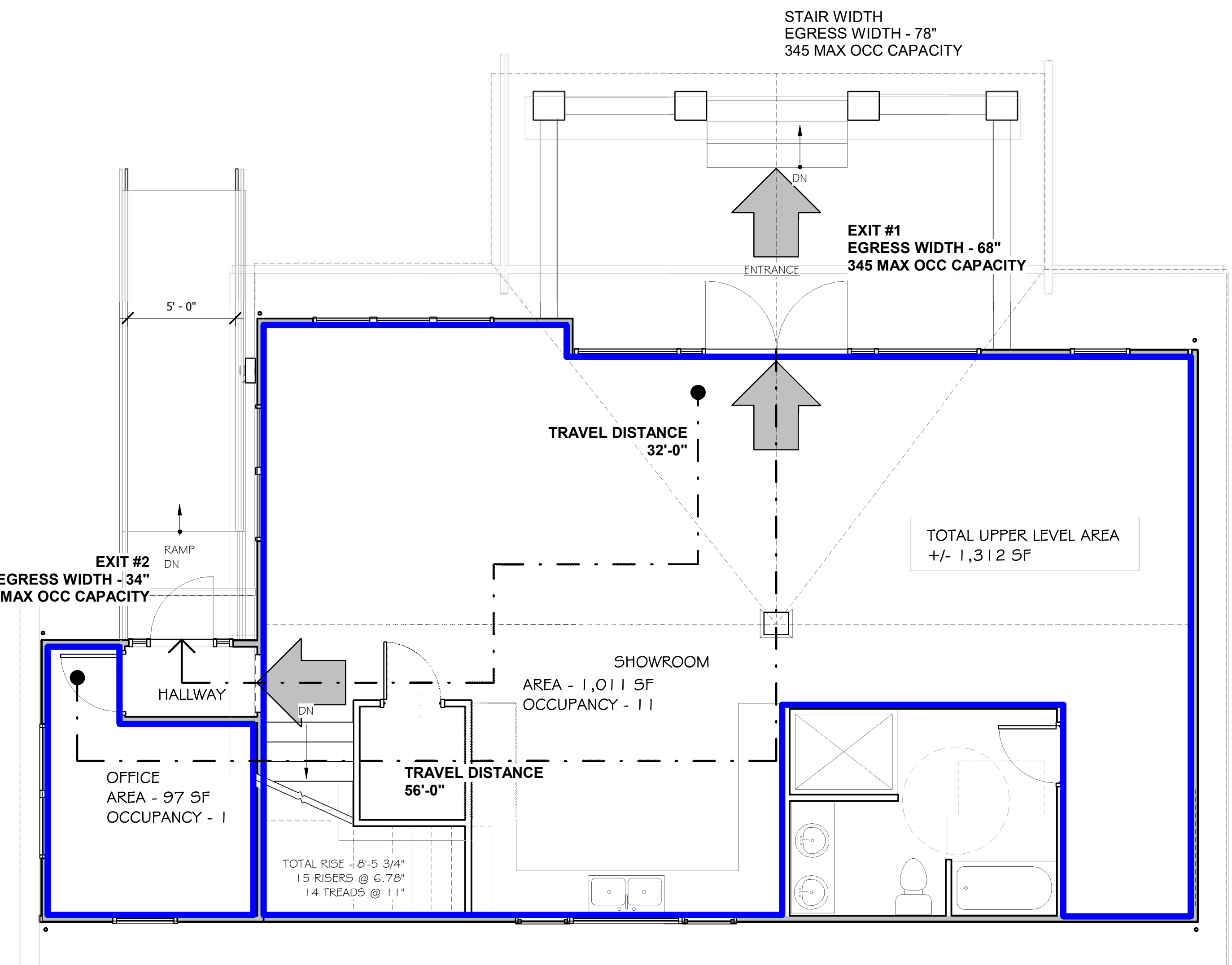


LEGEND



LOWER LEVEL LIFE SAFETY PLAN

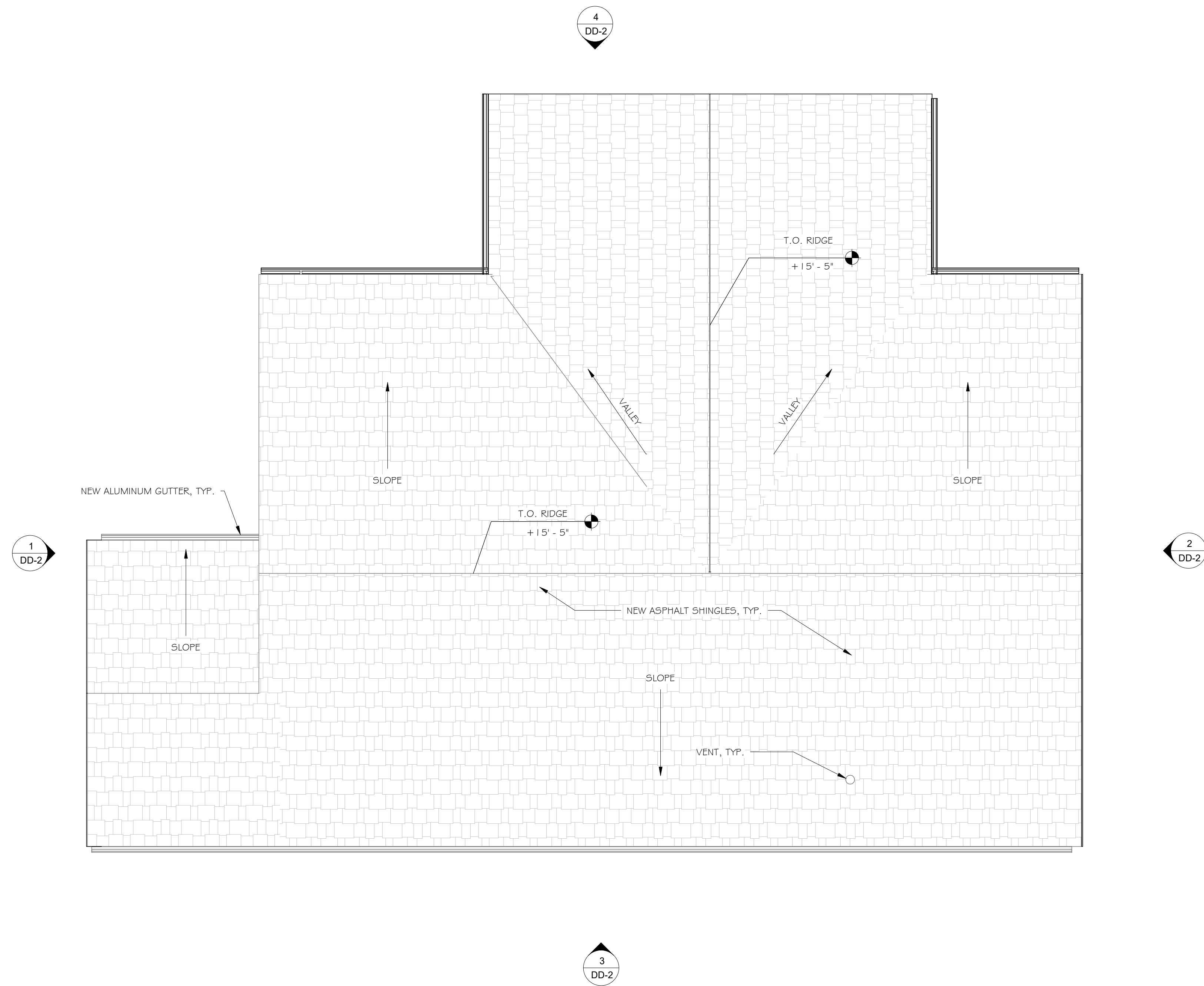
Scale: 1/4" = 1'0"



UPPER LEVEL LIFE SAFETY PLAN

Scale: 1/4" = 1'0"






PROPOSED ROOF PLAN
Scale: 1/4" = 1'0"



SIGN

ROAD

-  ORNAMENTAL GRASS
 -  WHITE PINE
 -  TAXUS
 -  AZALEA
 -  RHODODENDRON
 -  PLUM TREE
 -  CHAMEACYPARIS

ITEM					QTY	COST
TOTAL COST						
CJC	17	6	22	XXX		
DRAWN	DAY	MO.	YR.	RELEASED	SHEET NO.	
						
TITLE					FRONT	PAR. OR DWG. NO.
FRONT ROAD PARKING AREA BED					A	REV.



Plum Tree – *Prunus Americana*



Pine Tree – *Pinus Strobus*



Azalea – Variety



Taxus - Yew



Golden Cypress – Chamaecyparis



Rhododendron - Roseum



Ornamental Grass Variety



September 27, 2022
Medway Planning & Economic Development Board
Meeting

Phytopia Public Hearing Continuation

- Notice dated August 24, 2022, to continue public hearing to August 27, 2022
- DRAFT decision dated September 22, 2022

Board Members

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

August 24, 2022

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 - Major Site Plan, Groundwater Protection Special Permit, and Reduced Parking Special Permit**
Continuation Date – Tuesday, September 27, 2022 @ 8:30 p.m.

At its August 23, 2022 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 a major site plan, a groundwater protection district special permit, and a reduced parking special permit for its proposed development at 6 Industrial Park Road to the Board's meeting on Tuesday, September 27, 2022 at 8:30 p.m. at Medway Town Hall, 155 Village Street. The meeting will also be available via Zoom.

BACKGROUND - On November 30, 2021, the Board approved special permits 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.

The planned scope of work currently under review for site plan approval and for the groundwater protection and reduced parking special permits 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 project has also been reviewed by the Conservation Commission for an Order of Conditions and a Land Disturbance Permit.

The site plan titled *Industrial Park Road*, last revised dated May 13, 2022 prepared by Williams & Sparages Engineers, Planners and Surveyors of Middleton, MA. is posted at the Board's page at the Town's web site at: https://www.townofmedway.org/sites/g/files/vyhlf8006/f/uploads/spindustrial6_r10stamped_signed.pdf **Please review the revised site plan and provide any further comments to me and Anna Rice in our office by September 21, 2022. The Board plans to continue working on a decision for this project at the September 27th meeting.**

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

Board Members

Matthew J. Hayes, P.E., Chair
Robert Tucker, Vice Chair
Richard Di Iulio, Clerk
Jessica Chabot, Member
Sarah Raposa, A.I.C.P., 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 – September 22, 2022

Major Site Plan, Groundwater Protection Special Permit and Reduced Parking Special Permit DECISION

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

Parcel Size: 4.24 acres

Assessors' Reference: 33 – 004

Zoning District: East Industrial
Groundwater Protection District (Mass DEP Zone II wellhead protection area)

Engineer: Chris Sparages, P.E.
Williams & Sparages LLC, Engineers, Planners and Surveyors
189 North Main Street – Suite 101
Middleton, MA 01949

Site Plan: *Industrial Park Road*, dated April 1, 2021, last revised May 13, 2022, prepared by Williams & Sparages LLC, Engineers, Planners and Surveyors to be further revised as specified herein before plan endorsement

The architectural drawings dated April 6, 2021, prepared by Anderson Porter Design of Cambridge, MA.

Members Voting: Matthew Hayes, Robert Tucker, Richard Di Iulio, and Jessica Chabot

I. PROJECT DESCRIPTION - The Applicant seeks major site plan approval, a groundwater protection special permit and a reduced parking special permit pursuant respectively to Sections 3.5, 5.6.3, and 7.1.1 of the Medway *Zoning Bylaw* for the development of a marijuana cultivation, manufacturing, and processing business at 6 Industrial Park Road. NOTE – The Applicant previously applied for and received medical marijuana and adult use recreational marijuana special permits from the Board dated October 30, 2021. The subject property, located at 6 Industrial Park Road is located at the southeast corner of Industrial Park and Jayar Roads, is 4.24 acres (184,685 sq. ft.). The site presently includes an existing 53,128 sq. ft. industrial manufacturing building and paved areas which comprise 89,869 sq. ft. of the property (48.7% impervious).

The Applicant proposes to renovate and use the existing building and construct a 66,238 sq. ft., 2-story addition, both to be used 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. 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, installation of noise and odor mitigation measures, and remediation of site contamination incurred by the previous owner. The planned work is shown on a plan titled *Industrial Park Road*, dated April 1, 2021, last revised May 13, 2022, prepared by Williams & Sparages LLC, Engineers, Planners and Surveyors of Middleton, MA.

The property also includes wetlands resources which are under the jurisdiction of the Medway Conservation Commission which issued an Order of Conditions and a Land Disturbance Permit pursuant to Article XXVI of the *Medway General Bylaws* on June 27, 2022.

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 and MA Department of Environmental Protection regulations. 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.

Phasing Plan – The Applicant intends to build out the project in two phases as follows:

Phase 1

- 1) Renovate existing building.
- 2) Install new water services for fire and domestic flow.
- 3) Install new 6-inch water line to new hydrant on east side of building.
- 4) Install new sewer service.
- 5) Install new electric service, transformer, utility meter & dual breaker station, and generator.
- 6) Install the following stormwater infrastructure: SWMA2P, SWMA1P, CDS1515-5, CDS1515-3, DMH6, DGCB2, DMH4, CB1, CB7, DMH10, DMH14, DGCB8, DGCB11, JFS10404-12, and JFS10406-9. This includes all connecting drainage piping.
- 7) Construct the cooling tower concrete pad and cooling tower for the Phase 1 Building.
- 8) Install landscape improvements on the south side and west side of the Phase 1 Building.
- 9) Install binder course of pavement in all parking areas and sidewalks.
- 10) Install as much bituminous curbing as needed to ensure that stormwater is directed to the drainage structures. All rims of drainage structures to be set at binder course of pavement in Phase 1.

- 11) Install fencing along 24 Jayar Road shared property line.
- 12) Install Dumpster with fencing.
- 13) Install CO2/ storage tank enclosure with fencing.
- 14) Future additional building pad to be treated with temporary seeding.
- 15) Install parking lot light poles and building mounted lighting.
- 16) Complete all work within jurisdictional areas of the Conservation Commission, including loam, seed, and plantings.

Phase 2 - Construction to begin within 24 months of the issuance of a certificate of occupancy for Phase 1.

- 1) Construct new building addition.
- 2) Install second cooling tower.
- 3) Install electric service to EV Parking Spaces and EV Charging Stations.
- 4) Install the following stormwater infrastructure: SWMA3P (Rain Garden), SWMA4P (subsurface infiltration basin for addition), and DMH13.
- 5) Raise all drainage structures and install finish pavement and remaining curbing.
- 6) Install remaining Landscape Improvements.
- 7) Install transformer and generator.
- 8) Install remaining building mounted lighting.

II. VOTES OF THE BOARD

A. **MAJOR SITE PLAN** - 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 _____, voted to _____ with CONDITIONS and WAIVERS from the *Site Plan Rules and Regulations* as specified herein, a site plan titled *Industrial Park Road*, dated April 1, 2021, last revised May 13, 2022, prepared by Williams & Sparages LLC, Engineers, Planners and Surveyors of Middleton, MA with associated attachments including Architecture plans by Anderson Porter dated April 6, 2021, to be further revised as specified herein.

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

B. **REDUCED PARKING SPECIAL PERMIT** - 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 _____, voted to _____ with CONDITIONS a reduced parking special permit for 6 Industrial Park Road, pursuant to Section 7.1.1 of the Zoning Bylaw.

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

C. **GROUNDWATER PROTECTION SPECIAL PERMIT** - 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 _____

_____, voted to _____ with CONDITIONS a groundwater protection special permit for 6 Industrial Park Road pursuant to Section 5.6.3 of the Zoning Bylaw.

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

III. PROCEDURAL HISTORY

- A. May 12, 2021 – Major site plan approval and two special permit applications were filed with the Board, one for a Groundwater Protection Special Permit and one for a Reduced Parking Special Permit.
- B. May 19, 2021– Public hearing notice was filed with the Town Clerk and posted at the Town of Medway web site.
- C. May 19, 2021 - Public hearing notice was mailed to abutters by certified sent mail.
- D. May 24 and June 1, 2021 - Public hearing notice was 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, October 26, November 23, and November 30, 2021 and January 11, February 8, March 8, April 12, April 26, May 24, July 12, July 26, August 9, August 23, September 27, and _____, 2022 when a decision was rendered, and the hearing was closed.

IV. INDEX OF DOCUMENTS

- A. The following documents were provided at the time the site plan and special permit applications were filed with the Board:
 - Major site plan application dated 4-30-21 and groundwater protection special permit application and reduced parking special permit application both dated 5-1-21, along with special permit applications for Recreational (Adult Use) Marijuana Establishment and Non-Retail Registered Medical Marijuana Facility Special Permit applications dated 4-30-21 with Project Descriptions
 - Phytotherapy Odor Control Approach (undated), received 5-12-21, prepared by BLW Engineers
 - 4-12-21 Letter from Andy Carballeira of Acentech regarding the noise mitigation plan
 - 5-10-21 Letter from Kevin Doherty of Knoll Environmental regarding groundwater contamination
 - 4-9-21 Interest Disclosure Attestation for Phytopia
 - Site Plan dated 4-1-21 by Williams & Sparages LLC, Engineers Planners and Surveyors of Middleton, MA
 - Parking Evaluation dated 5-12-21 from MDM Transportation Consultants
 - *Stormwater Report for 6 Industrial Park Road*, dated April 1, 2021, prepared by Williams & Sparages LLC of Middleton, MA
- B. During the course of the review, the following additional materials were submitted to the Board by the Applicant and its representatives and consultants:
 - Architectural drawings dated 4-6-21 prepared by Anderson Porter Design of Cambridge, MA.

- Architectural drawings updated 6-6-21 prepared by Anderson Porter Design of Cambridge, MA.
- Updated Noise Mitigation Plan by Acentech, dated 7-9-21
- Parking Memorandum dated 7-8-21 from Attorney Ted Cannon in support of reduced parking special permit application
- Letter from Attorney Ted Cannon dated 7-22-21 in response to the 7-1-21 Tetra Tech parking and traffic review
- Memorandum from Erik Gath, BLW Engineers, Inc. dated 7-9-21 in response to the 6-16-21 Straughan Forensic odor mitigation review.
- Groundwater protection district special permit memorandum from Attorney Ted Cannon dated 8-5-21
- Email from Andy Caballeria of Acentech, dated 7-20-22 responding to Noise Control Engineering review letter dated 7-7-21
- Memorandum dated 7-27-21 from Robert Michaud and Dan Dumais, MDM Transportation Consultants in response to Tetra Tech review letter dated 7-1-21
- Email from Dan Dumais, MDM Transportation Consultants, dated 8-11-21 regarding the Fire Department's review of turning requirements on the site.
- Letter dated 8-18-21 from Attorney Ted Cannon regarding chemical and materials expected to be used for business operation
- Letter dated 9-21-21 from Attorney Ted Cannon re: disposal of plant waste
- Updated site plan dated 10-12-21 by Williams & Sparages LLC, Engineers Planners and Surveyors.
- Letter dated 10-12-21 to the PEDB from Civil Engineer Chris Sparages, P.E. in response to the 6-8-21 technical review letter from Tetra Tech.
- Email dated 10-18-21 from Attorney Ted Cannon regarding 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 Agreement between Medway Flower, LLC (property owner) and Phytotherapy, LLC for use of the premises at 6 Industrial Park Road.
- Email dated 11-30-21 from Attorney Ted Cannon re: draft marijuana special permit decision
- Revised site plan dated 3-7-22 by Williams & Sparages LLC, Engineers Planners and Surveyors.
- Response letter dated 4-12-22 to the PEDB from Civil Engineer Chris Sparages, P.E. to address previously issued Tetra Tech site plan review comments dated 10-27-21.
- Revised site plan dated 5-13-22 by Williams & Sparages LLC, Engineers Planners and Surveyors.
- Requests for Waivers from the *Site Plan Rules and Regulations* dated 4-30-21.
- Email dated 5-17-22 from attorney Ted Cannon re: status report, with attachments
- Letter dated 8-9-22 from attorney Ted Cannon re: Cannabis Control Commission's requirement for an on-site generator
- Phasing Plan received 8-11-22 from Civil Engineer Chris Sparages, P.E.
- Impervious surface information received 8-16-22 from Civil Engineer Chris Sparages, P.E.

- Information on sizes of various uses within the buildings received 8-18-22 from project architect.

C. During the course of the review, additional 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
- Reduced 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
- Marijuana Cultivation Facility Parking Guidelines Summary prepared by Tetra Tech, dated 7-13-21
- Noise mitigation review letter to the Board from Jeff Komrower, Noise Control Engineering, dated 8-2-21
- Email from Fire Chief Jeff Lynch regarding Phytopia's security and emergency plans, dated 8-4-21
- Email from Fire Chief Jeff Lynch dated 8-11-21
- Plan review letter to the Board from Steve Bouley, P.E., Tetra Tech, dated 10-27-21
- Plan review letter to the Board from Steve Bouley, P.E. Tetra Tech, dated 4-22-22.
- Review letter dated 5-6-22 from Medway DPW Director Pete Pelletier
- Email dated 5-13-22 from Medway Building Commissioner Jack Mee
- Review letter dated 5-20-22 from Deputy Fire Chief Mike Fasolino
- Email dated 7-12-22 from Medway Building Commissioner Jack Mee
- Order of Conditions dated 6-27-22 from Medway Conservation Commission
- Design Review Committee letter dated 7-25-22
- Plan review letter to the Board from Steve Bouley, P.E., Tetra Tech, dated 8-22-22.

D. Citizen Comments

- Email dated June 7, 2021 (with attachments) from resident John Lally, 35 Coffee Street
- Email dated June 21, 2021 (with attachments) from resident Leigh Knowlton, 14 Green Valley Road
- Email dated November 29, 2021 (with attachments) from resident John Lally, 35 Coffee Street

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, the Town’s acoustic sound consultant
- Andy Carballeira, Acentech Inc., acoustic sound consultant for the Applicant.
- Chris Sparges, P.E., Williams & Sparages LLC, Engineers Planners and Surveyors, civil 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

A. **Site Plan Rules and Regulations Findings** – The Board shall determine whether the proposed development is in conformance with the standards and criteria set forth in the *Site Plan Rules and Regulations*, unless specifically waived. In making its decision, the Board makes the following findings in accordance with Section 204-8 of the *Site Plan Rules and Regulations*, as amended October 8, 2019. and Section 3.5 of the *Bylaw*:

- 1) **Has internal circulation, queuing and egress been designed such that traffic safety is protected, access via minor streets servicing residential areas is minimized, and traffic backing up into the public way is minimized?** *The plan has been thoroughly reviewed by Town officials and the Board’s Consulting Engineer. No access from minor streets is necessary or available, there is no backing onto a public way, and Industrial Park Road and Jayar Roads are adequate to safely handle the additional traffic from the new establishment.*
- 2) **Does the site plan show designs that minimize any departure from the character, materials, and scale of buildings in the vicinity as viewed from public ways and places?** *The proposed building is in an industrial style; its scale and materials are suitable for the site and use. The design has been positively reviewed by the Design Review Committee and is acceptable for its location. There are no particularly distinguished industrial buildings in the vicinity with which the proposed building renovation and new construction would conflict in terms of character, materials, and scale.*
- 3) **Is reasonable use made of building location, grading, and vegetation to reduce the visible intrusion of structures, parking areas, outside storage or other outdoor service areas (e.g., waste removal) from public views or from (nearby) premises residentially used and zoned.** *The subject property is centrally located within the East Industrial zone and is abutted on all sides by other industrial and business properties.*

The dumpster is located adjacent to the building and within the rear parking area in the southeastern portion of the site, well out of public view from Industrial Park Road and Jayar Road. Suitable provisions have been made to screen the dumpster. The landscape plan shows a landscape buffer along the southern property line to screen the building for the adjacent property at 4 Industrial Park Road. The entrances to the front and rear parking areas will be landscaped.

- 4) **Is adequate access to each structure for fire and service equipment provided?** *Access for fire and service equipment is provided with paved surfaces on three sides of the combined existing building and planned addition. The Fire Department has reviewed the proposed driveway and parking lot reconfiguration and the provided auto turn analysis provided by the Applicant's traffic consultant. The Fire Department has determined that its fire apparatus will be able to maneuver throughout the site. Further, at the request of the Fire Department, an additional hydrant has been added on the east side of the building at the back and is shown on Sheet C4.1 of the May 13, 2022 plan set.*
- 5) **Will the design and construction minimize, to the extent reasonably possible, the following environmental impacts?**
- a) the volume of cut and fill;
 - b) the number of trees to be removed with particular care taken with mature trees and root systems;
 - c) the visual prominence of man-made elements not necessary for safety;
 - d) the removal of existing stone walls;
 - e) the visibility of building sites from existing streets;
 - f) the impacts on waterways and environmental resource areas;
 - g) soil pollution and erosion;
 - h) noise.

The site plan and proposed stormwater drainage system have been rigorously reviewed by the Town's Consulting Engineer and the Conservation Commission which issued an Order of Conditions and Land Disturbance Permit on June 27, 2022. Appropriate soil pollution and erosion controls have been incorporated into the plan. The building will be highly visible from both Industrial Park Road and Jayar Road. However, the robust landscaping plan and building design have been reviewed and positively recommended by the Design Review Committee. No stone walls are being removed. The site is already heavily disturbed; the existing industrial building on the property was constructed in 1973. Since the site is located within a Groundwater Protection District, this Decision also includes a groundwater protection special permit to ensure that the project will not adversely affect groundwater.

The Applicant provided an initial (April 2021) and updated noise study and plan (July 2021) prepared by Acentech that were reviewed by the Board's noise consultant, Jeff Komrower of Noise Control Engineering for compliance with the Town's noise standards in effect at the time the project applications were submitted to the Town in May 2021. The updated noise predictions pertain only to Phase 1 of the project and do not consider any measure of acoustic shielding that would be provided from the Phase 2 building addition. The updated plan includes noise controls to meet the Town's noise limits at the property line nearest to the noise source for noise radiated continuously from the source between 10 PM and 7 AM. The projections also meet the MassDEP standards. The updated predicted noise levels at all adjacent residential receptors and property lines are

at or below the Town of Medway's noise requirements and meet the Mass DEP requirements. At all industrial property lines, overall noise levels are predicted to meet the Town's daytime and nighttime requirements.

- 6) **Is pedestrian and vehicular safety both on the site and egressing from it maximized?** Because of its use as a marijuana cultivation facility, the building is not open to the general public. The entrances and egresses to the site and its parking facilities have been designed for safe operation and have been reviewed by the Board's consulting engineer. The site plan has been revised to have only one vehicular entrance from Industrial Park Road instead of two as originally proposed. A sidewalk connecting the rear parking area to the main entrance at the front of the building has been added to enable employees to walk safely from their cars to the building. The site plan shows the provision of bicycle racks to accommodate employees who may wish to cycle to work.
- 7) **Does the design and will the construction incorporate, to the maximum extent possible, the visual prominence of natural and historic features of the site?** There are no visually prominent natural or historic features on site.
- 8) **Does the lighting of structures and parking area avoid glare on adjoining properties and minimize light pollution within the town?** The lighting plan was reviewed by the Board's consulting engineer and the Permittee is required to comply with Section 7.1.2 of the Zoning Bylaw regarding Outdoor Lighting.
- 9) **Is the proposed limit of work area reasonable and does it protect sensitive environmental and/or cultural resources? The site plan as designed should not cause substantial or irrevocable damage to the environment, which damage could be avoided or ameliorated through an alternative development plan or mitigation measures.** The plan has been vigorously reviewed by both the Conservation Commission and the Planning and Economic Development Board and their consulting engineer and has been modified to address environmental concerns. The limit of work is reasonable, and the site design has evolved to protect sensitive environmental resources. The project has been reviewed by the Conservation Commission and an Order of Conditions has been issued. The installation of a stormwater management system reduces the current impacts of presently untreated stormwater discharge.

Vote on Site Plan Findings - The Planning and Economic Development Board, at its meeting on _____ voted to _____ the above noted Site Plan Findings regarding the major site plan application for 6 Industrial Park Road (the "Property"). The motion was _____ by a vote of ____ in favor and ____ opposed.

- B. **Reduced Parking Special Permit Findings (Sub-Section 7.1.1.J. of the Zoning Bylaw)** - The Board may grant a special permit for reduced parking, not to exceed 30% of the minimum number of spaces required under Table 3 of the Zoning Bylaw for the specified use), only upon finding that the reduction is warranted.

- 1) The Applicant has provided a site plan showing parking areas to accommodate 92 vehicles including 4 handicapped spaces and 4 spaces to charge electric vehicles. Phase 1 of the project includes renovation of the existing building (53,128 sq. ft.) for use by approximately 53 employees. Phase 2 which includes the building addition will provide an additional 66,238+/- sq. ft of space. The project, when both phases are completed, will

include 119,366 sq. ft. of space with 89,247 sq. ft. devoted to horticultural cultivation space, and the remaining 30,089 sq. ft. will be used for office space, storage, processing and preparation, shipping and receiving, and various building systems.

- 2) The Applicant expects to have up to 90 employees working at the location once both Phase 1 and Phase 2 of the project are complete. However, the number of employees would be spread out over two shifts once Phase 2 is constructed and occupied with approximately 53-65 employees on the first shift and the remaining employees on the later shift.
- 3) Table 3 of the Zoning Bylaw does not include a parking standard for a marijuana cultivation and processing facility. The closest, somewhat similar parking standard is for “manufacturing” which requires 2 parking spaces for each employee plus 1 parking space for every 1,000 sq. ft. of building space. At final buildout, the Phytopia facility would have 119,336 sq. ft. and 90 employees; the total required number of parking spaces required by strict adherence to this manufacturing standard is 165. With the maximum possible 30% parking space reduction cap specified in the Bylaw, the maximum number of parking spaces could be reduced to 105.
- 4) The Applicant has requested that the Board determine that the Town’s Parking Table does not include a suitable parking standard applicable to a marijuana cultivation facility and that therefore, the 30% parking cap is also not applicable. NOTE - Table 3 indicates that industry parking standards or the most nearly comparable use in Table 3 may be used when a particular use is not specifically referenced in the Parking Table.
- 5) The Applicant, Town staff and traffic consultants have supplied information that the industry parking standard for marijuana cultivation facilities is 1 space per 1,000 sq. ft. of cultivation space. With this standard, 89 parking spaces would be needed for the cultivation portion of the building which the site can accommodate. The Board finds that the industry standard is the most appropriate measure for determining the minimum parking requirements for the facility.
- 6) The facility will not include retail sales, so there will be no customer traffic. Parking will be limited primarily to employees.
- 7) The Applicant has committed to coordinate shift times such that the parking limit is observed at all times and demand is eliminated during transition periods.
- 8) The parking information has been reviewed by Building Commissioner/Zoning Enforcement Officer Jack Mee who has provided an email dated 7-12-22 indicating that the proposed number of parking spaces should be adequate for this use.
- 9) The reduced number of parking spaces is consistent with the general purposes of Section 7.1.1 of the Zoning Bylaw, the primary ones being to ensure the availability of safe and convenient parking and to minimize excessive off-street parking areas that result in unneeded paved impervious surfaces.
- 10) The decrease in required off-street parking is supported by a parking analysis prepared by a registered professional engineer. The Applicant has supplied a parking report prepared by MDM Transportation Consultants, dated May 12, 2021 which has been reviewed by Tetra Tech’s traffic consultant.

- 11) Accordingly, the Board finds that the proposed development meets the criteria for a Reduced Parking Special permit under Section 7.1.1.J. of the Zoning Bylaw.

Vote on Reduced Parking Findings - The Planning and Economic Development Board, at its meeting on _____ voted to _____ the above noted Reduced Parking Special Permit Findings for 6 Industrial Park Road (the “Property”). The motion was _____ by a vote of ____ in favor and ____ opposed.

- C. **Groundwater Protection Special Permit Findings (Sub-Section 5.6.3 of the Zoning Bylaw)** – The subject property at 6 Industrial Park Road is located within the Town’s Groundwater Protection District (MA Department of Environmental Protection Zone 2 recharge area). The scope of the project with the building addition and site improvements will increase the extent of impervious surface to more than 15% of the lot area. Accordingly, a groundwater protection special permit is required. Section 5.6.3 specifies that the following findings must be made to issue a groundwater protection special permit:

- 1) **Permitted Uses** – *Enlargement of an existing structure and new construction are permitted uses, subject to certain restrictions, within the Groundwater Protection District. As conditioned herein, the project will comply with those restrictions.*
- 2) **Prohibited Uses** - *The project includes an on-site emergency generator which is not allowed in the groundwater protection district unless required by statute, rule, or regulation. The Applicant has provided documentation that the Cannabis Control Commission requires marijuana facilities to maintain the ability to remain operational during power outages for a minimum of 4 hours, thus necessitating the installation of a generator.*
- 3) **Uses and Activities Requiring a Groundwater Special Permit** – *Specific to this project, the following activities are allowed only upon issuance of a special permit.*
 - *Any use which will render impervious more than 15% or 2,500 sq. ft. of any lot whichever is greater. The proposed building expansion and site improvements planned for 6 Industrial Park Road increase the extent of impervious surface to from the current 48.7% of the site (89,869 sq. ft.) to 76.1% of the site, thus triggering the need for a Groundwater Protection special permit.*
- 4) **Special Permit Granting Authority** - *The Board of Appeals is the designated special permit granting authority for the Groundwater Protection District. However, the Bylaw (Section 3.5. Site Plan Review, 4. a.) provides that authority to the Planning and Economic Development Board when both site plan approval and a special permit are needed so as to consolidate and streamline the review process.*
- 5) **Does the site design include a system for groundwater recharge which does not degrade groundwater quality? Does the recharge system use stormwater infiltration basins, or a similar system covered with natural vegetation? Are such basins preceded by oil, grease, and sediment traps to facilitate removal of contamination? Is there a plan for all recharge areas to be permanently maintained in full working order by the owner? The existing facility, proposed addition, and associated site improvements will render the site to be 76.1% impervious. The stormwater management plan includes construction of subsurface infiltration structures,**

subsurface pipe network, proprietary stormwater devices, and a rain garden to mitigate the rate of peak runoff, treat stormwater for water quality, and promote groundwater recharge.

The Board's Consulting Engineer has reviewed the stormwater management plan to ensure that groundwater recharge does not degrade groundwater quality. The Conservation Commission is responsible for stormwater review on this site and has issued its Order of Conditions and a Land Disturbance permit which includes numerous conditions and protective measures. As part of its review, the Commission used the services of a consulting peer review engineer to ensure compliance with DEP's Stormwater Management Regulations and the Town's Stormwater Management and Land Disturbance Bylaw.

- 6) **Does the proposed use, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District?** *The project has been reviewed by the Conservation Commission and the Town's Consulting Engineer to ensure that the planned stormwater management facilities and the associated groundwater recharge does not degrade groundwater quality. The Conservation Commission issued an Order of Conditions and Land Disturbance Permit on June 27, 2022 which specifies suitable measures to protect groundwater. The comprehensive stormwater management system approved for this site is a considerable improvement over current conditions where stormwater simply runs off the site and into the ground uncontrolled and without treatment.*
- 7) **Is the proposed development designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed?** *The plan for the proposed development has been developed and revised such that the impact of the planned stormwater infrastructure on groundwater is minimized.*
- 8) **Has the applicant provided sufficiently detailed, definite, and credible information to supportive positive findings in relation to the standards given herein?** *The Board finds that the Applicant has provided sufficiently detailed, definite, and credible information to support positive findings in relation to the standards for a Groundwater Protection special permit as documented in the application materials and additional information provided during the course of the public hearing.*
- 9) **Were the submission requirements and hearing procedures conducted in accordance with Section 3.4 of the Zoning Bylaw?** *The submission requirements and public hearing procedures have been conducted in accordance with Section 3.4 of the Bylaw and the Board's Site Plan Rules and Regulations including the posting of a public hearing notice with the Town Clerk, abutter notification, and legal advertisement. In a local newspaper of general circulation. Information about the project has also been posted to the Board's web page and review and comments have been sought from the Board of Health, Conservation Commission, Water and Sewer Advisory Board and the Department of Public Works.*
- 10) **Has the Board consulted with the Board of Health, Conservation Commission, Water and Sewer Commission and the Department of Public Works and referred this project to those entities for review and comment?** *The site plan has been provided*

to the Board of Health, Conservation Commission, Water and Sewer Advisory Board, and Department of Public Works Services for review and consultation. The noted boards and committees were kept apprised of the status of the Board's review of the project and were able to provide information and recommendations throughout the process. Further, the Conservation Commission has rigorously reviewed this project and issued an Order of Conditions and Land Disturbance Permit with associated conditions.

- 11) **Other Conditions** - For further protection, the Board has included a series of conditions in this decision which require certain measures to address groundwater protection. See Specific Condition H.
- 12) **Project Meets the Special Permit Decision Criteria (Zoning Bylaw, Section 3.4 C. 1-9)** Special permits shall be granted by the special permit granting authority only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In making its determination, the special permit granting authority, in addition to any specific factors that may be set forth in other sections of the Bylaw, shall make findings on all of the applicable criteria. See *Special Permit Findings included in the previously issued Phytopia marijuana special permit issued by the Board dated October 30, 2021.*
- 13) Accordingly, the Board finds that the proposed development meets the criteria for a Groundwater Protection Special permit under Section 5.6.3 of the Zoning Bylaw.

Vote on Groundwater Protection Findings - The Planning and Economic Development Board, at its meeting on _____ voted to _____ the above noted Groundwater Protection Special Permit Findings for 6 Industrial Park Road (the "Property"). The motion was _____ by a vote of ____ in favor and ____ opposed.

VII. WAIVERS - At its _____, 2022 meeting, the Board, voted to grant waivers from the following provisions of the *Rules and Regulations for the Submission and Approval of Site Plans, as amended* _____, 2019. The Board's action and reasons for granting each waiver 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.

Site Plan Submittal Requirements

1. **Section 204-3 F. Development Impact Statement** – The Applicant shall provide a 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. A Development Impact Statement shall consist of four elements: Traffic Impact Assessment, Environmental Impact Assessment, Neighborhood Impact Assessment and Parking Impact Assessment.

The Applicant has requested a waiver from this requirement for a single Development Impact Statement and points to the submittal of separate professionally prepared documents to

address traffic and parking, noise, and odor. The project and the site's pre-existing contamination issue have also been subject to intense environmental scrutiny by the Conservation Commission and are addressed in the Order of Conditions. 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.

2. **Section 204-5 C. 3) Existing Landscape Inventory** - An Existing Landscape Inventory shall be prepared by a Professional Landscape Architect licensed in the Commonwealth of Massachusetts. This inventory shall include a "mapped" overview of existing landscape features and structures and a general inventory of major plant species including the specific identification of existing trees with a diameter of one foot or greater at four (4) feet above grade.

The Applicant has requested a waiver from this requirement as the site has been used for many years by the previous owner and is already considerably disturbed. The site plan denotes the location of three trees along the property's Industrial Park Road frontage which are specified to be retained and which is included as a condition of this decision (See Condition L). 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.

3. **Section 204-5 D. Landscape Plan, a)** A Landscape Plan shall be prepared by a Registered Professional Landscape Architect licensed to practice in the Commonwealth of Massachusetts or a Massachusetts Certified Landscape Professional.

The Applicant has requested a waiver from this requirement. Instead, a landscape plan has been prepared by the Applicant's project engineer who has completed many such plans for other development projects. The landscape plan has been reviewed by both the Conservation Commission and the Design Review Committee and has been found to be acceptable. 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.

4. **Section 204-5 D. 14 Master Signage Plan** – A Master Signage Plan shall be provided including preliminary proposed designs, locations, materials, dimensions, and lighting for proposed development sign and all business identification signage.

The Applicant has requested a waiver from fulfilling this requirement at this time. Instead, the Applicant proposes to provide such master signage plan to the Board as construction plans are finalized. See Specific Condition O. 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.

5. **Section 207-12 Parking, G. 3. b)** - Parking spaces shall not be located within 15' feet of the front, side, and rear property lines.

The Applicant has requested a waiver from this requirement. Portions of the east and west parking lots are located within the 15' of the side property. The Applicant indicates that the

proposed spaces do not impede proper traffic flow and follow similar parking layouts on other properties within the existing industrial park. The use of a portion of the 15' setback area is needed to allow for suitable drive aisle widths to provide access to accommodate emergency vehicles. For the foregoing reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.

VIII. CONDITIONS The *Specific and General Conditions* included in this Decision are to assure that the Board's approval of the major site plan, groundwater protection special permit, and reduced parking special permit are consistent with the *Zoning Bylaw*, 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. **Limitations** - Notwithstanding any future amendment of the *Bylaw*, G.L. c.40A, or any other legislative act:
1. The tract(s) of land on which this proposed development will be located at 6 Industrial Park Road shall not be altered or used except:
 - a) as granted by this site plan and special permits decision;
 - b) as granted by the marijuana uses special permit granted November 30, 2021 and recorded on January 18, 2022 in Book 40248, Pages 330 – 350 at the Norfolk County Registry of Deeds.
 - c) substantially as shown on the site plan *Industrial Park Road*, dated April 1, 2021, last revised May 13, 2022, prepared by Williams and Sparages Engineers, Planners and Surveyors including landscaping, lighting, and architectural plans, to be further revised as specified herein before plan endorsement.
 - d) in accordance with any subsequently approved field changes, modified plans, or amendments to this site plan/special permit decision; and
 2. The tract of land and buildings comprising 6 Industrial Park Road shall not be used, sold, transferred, or leased except in conformity with this decision and approved site plan and shall not be further divided.
 3. The reduced parking and groundwater protection special permits are limited to the operation of the property for the cultivation, manufacturing and processing of medical and adult use recreational marijuana and marijuana products.
- B. All conditions included in the previously issued marijuana uses special permit approved by the Board on October 30, 2021 are incorporated herein.
- C. **Plan Endorsement** – Within 60 days after the Board has filed its *Decision* with the Town Clerk, the site plan *Industrial Park Road*, dated April 1, 2021, last revised May 13, 2022, prepared by Williams & Sparages LLC, Engineers, Planners and Surveyors of Middleton, MA including building elevations, renderings, landscaping plan and lighting plan, shall be further revised to reflect all Conditions and required revisions as specified herein, and shall be submitted to the Board to review for compliance with

the Board's *Decision*. (Said plan is hereinafter referred to as the *Plan*). Upon approval, the Applicant shall provide the revised Plan in its final form to the Board for its endorsement prior to recording at the Norfolk County Registry of Deeds along with this decision. All plan sheets shall be bound together in a complete set. Prior to plan endorsement, the Permittee shall also provide a Certificate of No Appeal from the Town Clerk's office.

- D. **Recording** - No construction shall begin on the site and no building permit for any work shall be issued before this Decision and the *Plan* are recorded at the Norfolk County Registry of Deeds and proof of such recording is provided to the Board within thirty days of recording.
- E. **Cover Sheet Revisions** – The following revisions shall be made to the Cover Sheet of the plan set.
1. Revise the cover sheet to include a plan set title and date and a list of APPROVED waivers.
 2. Add a reference to the previously issued marijuana special use permit including the recording information.
 3. Add reference to the Anderson Porter architectural plans to the index.
 4. Add a standard box for the Town Clerk's certification of no appeal
 5. Any other revisions as required by the Registry of Deeds for recording purposes.
- F. **Other Plan Revisions** – The following revisions shall be made to other sheets in the plan set.
1. Add the Long-Term Stormwater Operations and Maintenance plan as a sheet of the plan set and reference it on the cover sheet plan index.
 2. Designate and label the open space areas and note the amount of area included in each.
 3. As requested by the Medway Fire Department, an additional fire hydrant shall be installed in the southeast corner of the project and shown on the plan set.
 4. As recommended by Tetra Tech, revise the plan to shown standard vertical granite curbing on roundings at driveway entrances to project site. The Applicant wishes to use bituminous berm to match driveway openings elsewhere in the industrial park. What did the Board decide on this?
 5. As recommended by Tetra Tech, add a note to indicate the fuel source for the emergency generator.
 6. Add a note to specify the following as requested by the Medway department of Public Works. Back flow preventors shall be installed on both the fire service water line and the domestic water service line. A by-pass metering device shall be installed at the backflow preventor for the fire service line to detect any leakage or unauthorized use of water from the fire/automatic sprinkler system.
- G. **Parking**
1. The Permittee shall require employees to park on the premises and that on-street parking is not allowed on Industrial Park and Jayar Roads.
 2. Parking or use of the parking areas at 6 Industrial Park Road shall be limited only to vehicles for Phytopia employees, deliveries, vendors, and customers.

The parking area shall not be leased or made available to any other businesses for any purposes.

H. **Conditions Pertaining to Groundwater Protection District Special Permit**

1. Use and storage of toxic and hazardous materials is prohibited unless stored within a free-standing container located inside the building. Any accidental spillage must be contained within the building and any that enters the sewer system shall be treated prior to being discharged to the municipal sewer system. Operation and maintenance procedures are in place to prevent any accidental outdoor spillage from reaching groundwater.
2. Any commercial fertilizers, as defined in Massachusetts General Law, c. 128 §64, used for the growing of marijuana plants shall be stored within containers and kept inside the 6 Industrial Park Road building. Any fertilizers used on landscape material anywhere on the site shall be the slow-release organic granular type, and only the absolute minimum necessary. All storage of fertilizers must be in a free-standing container within a building, have adequate secondary storage capacity or be within a facility designed to prevent the generation and escape of contaminated runoff or leachate. Application of fertilizers on site must be done in a manner to prevent adverse impacts on groundwater.
3. Outdoor storage anywhere on the site shall consist only of non-hazardous materials. Metal materials stored outside shall be under cover of a building or structure to prevent leaching of the metal into the groundwater.
4. There shall be no outdoor storage of pesticides, herbicides, fungicides, or insecticides anywhere on the site. Any such products shall be stored inside.
5. Deicing materials shall be limited to calcium chloride or other deicer material approved by the Medway Department of Public Works.
6. Plowed snow for the site shall be stored only in the designated areas shown on the plan or taken off site in times of substantial storms.
7. All vehicles shall be parked or stored on the paved surface to ensure treatment of any leaks of fluids from the vehicles. There shall be no outdoor maintenance or cleaning of vehicles.
8. There shall be no earth removal within six feet of the historical high groundwater level.
9. The Town reserves the right to periodically inspect the site to ensure compliance with these conditions.
10. [The Conservation Commission issued an Order of Conditions and Land Disturbance Permit on June 27, 2022 which specifies suitable measures and conditions to protect groundwater. This groundwater special permit is subject to those applicable conditions.](#)

- I. **Nuisance** – The Permittee shall construct and maintain the property and building 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.

- J. **Noise Management** – See conditions included in the marijuana special permit decision dated October 30, 2021.
- K. **Odor Management** – See conditions included in the marijuana special permit decision dated October 30, 2021.
- L. **Tree Preservation** – Sheet #C7.1 Landscape Plan of the site plan denotes the location of three trees along the property's Industrial Park Road frontage which are specified to be retained. These include: 16" maple, 18" maple, and 10" maple clump.
1. The Permittee and its contractors shall not remove the 3 noted trees during site preparation and construction of infrastructure and the buildings.
 2. The 3 trees shall be clearly identified in the field and verified by the Board's consulting engineer before site preparation and construction commences.
 3. If any of the 3 identified trees are removed or damaged during site preparation or construction, the Permittee shall be responsible for tree restoration by replacing the removed or damaged trees with nursery grade trees on a one square inch per two square inch replacement basis within one year after the tree removal or damage has occurred. The one square inch per two square inch replacement amount is calculated by squaring 1/2 the established diameter of each tree that is removed or damaged and multiplying that amount by 3.14 to determine its trunk area (tree radius squared x pi rounded to 3.14). The resulting figure is halved, and that square inch total is the amount of required square inches of the replacement tree(s). The location of the replacement trees shall be recommended by the Permittee and approved by Planning and Economic Development Board (as a field change). The species of replacement tree(s) shall be from those listed in Section 207-19. F of the *Site Plan Rules and Regulations*
- M. **Open Space** – At least 20% of the site shall be permanently retained as open space and/or yard in perpetuity. This is an on-going obligation of the Permittee. This area shall be unpaved but may be landscaped or left natural with the balance being trees, shrubs, and grass suitable for the site. The area may include communal gathering space for employees.
- N. **Maintenance of the Phase 2 building addition property** – In the event that the Permittee does not proceed with construction of the Phase 2 building addition, the Permittee shall prepare a landscaping plan for this area for review by the Design Review Committee and approval of the Board. **TIMING???? To be handled as a plan modification?**
- O. **Signage** – Any business signage for this project shall comply with the sign regulations of the Zoning Bylaw (Section 7.2) and is subject to review by the Design

Review Committee. Within six months after plan endorsement and before an occupancy permit is issued, the Permittee shall provide a Master Signage Plan as specified in Section 204-5 D. 14 Master Signage Plan of the Site Plan Rules and Regulations for review by the Design Review Committee and approval of the Planning and Economic Development Board.

- P. **Sidewalk Construction on Industrial Park Road and Jayar Road** – Pursuant to Section 3.5.4. I.3. Procedures for Site Plan Review of the *Zoning Bylaw*, sidewalks shall be provided along the entire frontage of properties along existing public ways. The Applicant has not proposed to provide sidewalks along the property's frontages on Industrial Park Road and Jayar Road. In lieu of sidewalk construction, the Applicant will make a payment to the Town's Sidewalk Fund in the amount of \$54,286.00 as calculated by the Board's Consulting Engineer (Tetra Tech 8-15-22 estimate) as the amount needed for the Town to construct 775 linear feet of 5' wide asphalt sidewalk with Cape Cod berm and accessible ramps. The funds shall be held in the Town's Sidewalk Fund for use to construct sidewalks elsewhere in the community. **The funds shall be paid to the Town before an occupancy permit is issued by the Building Department.**
- Q. **Snow Storage and Removal**
1. On-site snow storage shall not encroach upon nor prohibit the use of any parking spaces required by the Bylaw.
 2. Accumulated snow which exceeds the capacity of the designated snow storage areas on-site shall be removed from the premises within 72 hours after the conclusion of the storm event.
- R. **Water Conservation** – 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:
1. Any landscape irrigation system shall not be connected to municipal water supply. Irrigation wells must be permitted by the Board of Health.
 2. rain-gauge controlled irrigation systems
 3. low flow plumbing fixtures
 4. water efficient appliances for toilets, etc.
 5. any irrigation planned for the property shall not use potable water
- S. **Construction** – In conjunction with the pre-construction meeting (See General Condition), the Permittee shall provide the following:
1. Stormwater Pollution Prevention Plan (SWPPP) and documentation under the NPDES General Construction Permit program of the US EPA.
 2. Construction Management Plan compliant with Section 204-3 H. Site Plan Submittals of the *Site Plan Rules and Regulations*
- T. **Occupancy Permit**
1. **Phase 1** – The occupancy permit for Phase 1 shall not be issued until:
 - a. the following Phase 1 items, at a minimum, are installed in compliance with this decision, the Plan, and applicable bylaws and regulations and determined

to be acceptable to the Board and the Board so notifies the Building Commissioner/Zoning Enforcement Officer.

- i) driveways and parking areas gravel sub-base
- ii) driveways and parking areas binder course
- iii) drainage system completed
- iv) as-built plan of each stormwater facility with all critical elevations and details
- v) stop line pavement markings and traffic control signs
- vi) provisions for fire prevention and protection
- vii) xxxx
- viii) xxxx;

- b. suitable performance security has been provided to the Town of Medway, to the Board's satisfaction, to cover the cost of all remaining site work for Phase 1 and all Phase 2 work as specified herein. See General Condition ____.

- 2. **Phase 2** – Prior to the final occupancy permit for Phase 2 being issued, the applicant shall obtain a Certificate of Site Plan Completion from the Planning and Economic Development Board. See General Condition ____.

GENERAL CONDITIONS OF APPROVAL

- U. **Applicability** – This Decision shall apply to any successor in control or successor in interest to the subject property
- V. **Fees** - Prior to filing this 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 or other consultants;
 - 2. 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.
- W. **Compliance with Other Permits** – This special permit does not relieve the Applicant from its responsibility to apply for, obtain, pay for, and comply with all other required federal, state and Town permits, licenses, and approvals. The Permittee or agent shall apply for, obtain, pay for, and comply with all other required Town permits.
- X. **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* – Work at construction sites and in the operation of construction equipment including start-up and movement of trucks, vehicles, and machines shall commence no earlier than 7 a.m. and shall cease no later than 6 p.m. Monday through 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 and 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 *Zoning Bylaw*, SECTION 7.3 Environmental Standards.
9. *Stormwater Management* – During construction, the Applicant shall maintain the site and installed stormwater management facilities in accordance with the Construction Period Pollution Prevention Plan included in the *Stormwater Report for 6 Industrial Park Road*, dated April 1, 2021, last revised May 18, 2022, prepared by Williams and Sparges, LLC of Middleton, MA

Y. Construction Oversight

1. *Pre-Construction Meeting* – At least seven days prior to the start of any site preparation or construction, the Applicant shall meet with the Town's Consulting Engineer, the Planning and Economic Development Coordinator, the Medway Department of Public Works, the Medway Conservation Agent, other Town officials as may be appropriate, and the Permittee's project engineer and site

contractors 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. Right to Enter Property - Board members, its staff, consultants or other designated Town agents and staff shall have the right to enter the property at reasonable times during construction and with advance notice to the Permittee to inspect the site for compliance with the terms and conditions of this decision and the Plan and while on site, may acquire any information, measurements, photographs, observations and/or materials deemed necessary for that evaluation.
4. DPW Inspections - 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. Monthly Reports - 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 and shall start immediately once any work begins on the property. The Permittee's engineer shall prepare a written report of each inspection and provide a copy to the Board within five days of inspection. The Board may provide a template for such monthly reports.

Z. 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 *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 the Planning and Economic Development Coordinator 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.

AA. Modification of Plan and/or Decision

1. Proposed modifications, not including on-site field changes, to this *Decision* or the endorsed *Plan* shall be subject to review by the Board.
2. This site plan and special permit 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 *Plan* or this *Decision* may be a violation of the *Zoning Bylaw* unless the Permittee requests approval of a modification pursuant to Section 208-4 of the *Site Plan Rules and Regulations* and such approval is provided in writing by the Board, or as provided in General Condition E.
4. The request for a modification to a previously approved special permit and/or *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 modifications, 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.

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 special permit documents and shall be shown on the final as-built plan.

BB. Compliance with Plan and Decision

1. The Permittee shall construct all improvements in compliance with the approved and endorsed *Plan* and this *Decision* 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 decision and the foregoing Specific and General Conditions of Approval.
3. The Specific and General 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.

CC. Performance Security

1. Prior to the grant of an occupancy permit, the Board must provide a written communication to the Building Commissioner/Zoning Enforcement Officer that the project, as constructed, substantially conforms 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 performance security 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 security be accompanied by an agreement which shall define the obligations of the Permittee and the performance security 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 security 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 security estimate is prepared if the developer failed to do so.
4. The performance 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 Department of Transportation.

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. Something about reductions in performance security.....~~

Commented [BSA1]: Do we really need to allow for reductions?
This is not a subdivision. Not sure how some of the improvements are integrated into the phases.

6. Final release of performance security is contingent on project completion.

DD. Project Completion

1. Site plan approval shall lapse after two years of the grant thereof as provided in Section 3.5.7 of the Zoning Bylaw if construction has not begun except for good cause. 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 specify the additional 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. The work shown on the approved Plan [including all site work and the building addition for Phases 1 and 2](#) shall be completed by the Permittee or its assignees within 5 years of the date of plan endorsement. Upon receipt of a written request from the Permittee filed at least thirty days prior to the date of expiration, the Board may grant an extension for good cause. The request shall state the reasons for the extension and specify the additional 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, in its opinion, the completed work conforms to the approved 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 performance security that has been provided to the Town of Medway.
 - a) Before issuing such Certificate, the Board's Agent shall conduct a final inspection of the site and prepare a punch list to identify any remaining work to be completed. The Board may consult with its consulting engineer and various Town staff and boards or committees to determine whether the project is complete.
 - b) To secure a Certificate of Site Plan Completion, the Permittee shall complete or provide the following items to the satisfaction of the Board.
 - i. receipts to document cleaning of the stormwater system

- ii. a signed statement from the Permittee committing to the ongoing maintenance of the stormwater management facilities and replacement of landscaping.
 - iii. removal of erosion controls
 - iv. full stabilization of the site
 - v. a 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
 - vi. an electronic version of a final 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.
- EE. **Landscaping Maintenance** - The site's landscaping shall be maintained in good condition throughout the life of the facility and to the same extent as shown on the *Plan of Record*. Any shrubs, trees, bushes, or other landscaping features shown on the Plan that die shall be replaced by the following spring.
- FF. **Right to Enter Property** – Board members, its staff, consultants, or other designated agents of the Town shall have the right to enter the property at reasonable times during construction to inspect the site to evaluate for compliance with the terms and Conditions of this special permit and endorsed site plan and while on site, may acquire any information, measurements, photographs, observations deemed necessary for that evaluation.

Conflicts –If there is a conflict between the Plan and the Decision's Specific and General Conditions, the Decision shall rule. 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.

###

DRAFT

Decision Date: _____

AYE:

Jessica Chabot

Richard Di Iulio

Matthew Hayes

Robert Tucker

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



September 27, 2022
Medway Planning & Economic Development Board
Meeting

Milford Regional Hospital Public
Hearing Continuation

- Notice dated September 15, 2022, to continue public hearing to September 27, 2022
- Email from Nolan Lynch dated September 16, 2022
- Email from Mike Fasolino dated September 16, 2022
- Email from Amanda Cavaliere dated September 21, 2022
- DRAFT decision for Milford Hospital Medical Facility Major Site Plan, Parking Location Special Permit, Building Type Special Permit and Groundwater Protection Special Permit dated 9.22.2022

Board Members

Matthew Hayes, P.E., *Chair*
Robert Tucker, *Vice Chair*
Richard Di Iulio, *Clerk*
Jessica Chabot, *Member*
Sarah Raposa, A.I.C.P, *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

September 15, 2022

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 Milford Regional Medical Center Site Plan,
Groundwater Protection Special Permit, and Central Business District Special Permit
for Building Type and Parking Location - 86 Main Street***
Continuation Date – Tuesday, September 27, 2022 at 8:05 p.m.

At its September 13, 2022 meeting, the Planning and Economic Development Board voted to continue the public hearing on the application of Lobisser Companies of Hopedale, MA for approval of a major site plan, a groundwater protection special permit, and a Central Business District special permit (building type and parking location) for the proposed 21,900 sq. ft. medical office building to be constructed on a portion of 86 Holliston Street to the Board's meeting on Tuesday, September 27, 2022 at 8:05 p.m. at Medway Town Hall, 155 Village Street.

The proposed facility is to be located on approximately 2.2 acres on the eastern end of the subject property. The building will be accessed from the existing curb cut and driveway from Main Street currently used by Walgreens. Other planned site improvements include parking, utilities, grading, lighting, landscaping, and stormwater management. The facility will offer pediatric care, women's health, wellness, urgent care, lab & x-ray services.

The planned improvements are shown on *Site Plan, 86 Holliston Street, Medway, MA* dated April 14, 2022, *LAST REVISED June 29, 2022*, prepared by Guerriere & Halnon, Inc. of Franklin, MA. The site is also under the jurisdiction of the Conservation Commission for an Order of Conditions and a Land Disturbance Permit.

The site plan and associated application documents are on file with the Medway Town Clerk and the Community and Economic Development office at Medway Town Hall. Those documents and the above referenced revised site plan is also posted at Board's page at:

https://www.townofmedway.org/sites/g/files/vyhli8006/f/uploads/2022-06-30_milford_hospital_site_plan_set_rev1.pdf

The Board welcomes your review of the revised site plan. Please provide any comments to me and Anna Rice in our office.

Anna Rice

From: Nolan Lynch
Sent: Friday, September 16, 2022 10:43 AM
To: Barbara Saint Andre; Susan Affleck-Childs; Anna Rice
Subject: Re: Public Hearing Continuations - Wingate Farm subdivision, Milford Hospital

To reflect what I just mentioned on the phone:

Highlighting the extra requirements for any trench work that falls in the road under moratorium per DPW street opening permit guidelines, number 6 subsection e, lays out the work that needs to be completed. In regards to the Milford Hospital project.

Nolan Lynch
Town of Medway
Superintendent of Highway
Cell 774-278-3626

From: Barbara Saint Andre <bsaintandre@townofmedway.org>
Sent: Friday, September 16, 2022 7:36 AM
To: Susan Affleck-Childs <sachilds@townofmedway.org>; Alison Dempsey <alijdempsey@gmail.com>; Allison Potter <apotter@townofmedway.org>; Andy Rodenhiser <andy@rodenhiser.com>; Ann Sherry <asherry@charlesriverbank.com>; apires <apires@medwayschools.org>; Barry Smith <bsmith@townofmedway.org>; Brian White <brian@treefortgroup.com>; Bridget Graziano <bgraziano@townofmedway.org>; Christopher Park <cpark@townofmedway.org>; David Travalini <dtravalini@verizon.net>; Denise Legee <dlegee@comcast.net>; Derek Kwok <dkwok@townofmedway.org>; Aicardi, Donald <daicardi@medwayschools.org>; Doug Havens <dhavens@townofmedway.org>; Erika Robertson <erobertson@townofmedway.org>; Gail Hachenberg <hachen5@gmail.com>; Gibb Phenegar <gibbp@aol.com>; Glenn Trindade <glenntcindade@gmail.com>; Janine Clifford <janine@grouponeinc.com>; jeanne Johnson <j22johnson2001@yahoo.com>; Jeff Lynch <ChiefLynch@townofmedway.org>; Jeff Watson <jwatson@medwaypolice.com>; Jess Chabot <jesswchabot@gmail.com>; Jim Wickis <jbwickis@verizon.net>; Joanne Russo <jrusso@townofmedway.org>; abdiokhalid@gmail.com <abdiokhalid@gmail.com>; Kristen Mucciarone <kmucciarone@charlesriverpcd.org>; Laura Mullen <lmullen@townofmedway.org>; Liz Langley <llangley@townofmedway.org>; Liz Taglieri <ltaglieri@charlesriverpcd.org>; Mark Cerel <mcerel@franklin.ma.us>; Martin Dietrich <papadietrich132@gmail.com>; Matt Buckley <matt_buckley2@yahoo.com>; Michael Boynton <mboynton@townofmedway.org>; Mike Fasolino <mfasolino@townofmedway.org>; Nolan Lynch <nlynch@townofmedway.org>; Paul Atwood <atwood.paul@gmail.com>; Peter Pelletier <ppelletier@townofmedway.org>; Rindo Barese <rbarese@townofmedway.org>; Sandy Johnston <sjohnston@townofmedway.org>; Sean Harrington <sharrington@townofmedway.org>; Stefany Ohannesian <sohannesian@townofmedway.org>; Stephanie Carlisle <scarlisle@townofmedway.org>; Bouley, Steven <steven.bouley@tetrattech.com>; Sue Rorke <srork00@gmail.com>; Tina Wright <tina.wright@aleragroup.com>; William Kingsbury <wkingsbury@medwaypolice.com>
Subject: RE: Public Hearing Continuations - Wingate Farm subdivision, Milford Hospital

Attached is corrected notice for proposed Milford Hospital development at 86 Holliston Street.

Barbara J. Saint Andre
Director, Community and Economic Development
Town of Medway
155 Village Street
Medway, MA 02053

(508) 321-4918

From: Barbara Saint Andre

Sent: Thursday, September 15, 2022 1:23 PM

To: Susan Affleck-Childs <sachilds@townofmedway.org>; Alison Dempsey <alijdempsey@gmail.com>; Allison Potter <apotter@townofmedway.org>; Andy Rodenhiser <andy@rodenhiser.com>; Ann Sherry <asherry@charlesriverbank.com>; apires <apires@medwayschools.org>; Barry Smith <bsmith@townofmedway.org>; Brian White <brian@treefortgroup.com>; Bridget Graziano <bgraziano@townofmedway.org>; Christopher Park <cpark@townofmedway.org>; David Travalini <dtravalini@verizon.net>; Denise Legee <dlegee@comcast.net>; Derek Kwok <dkwok@townofmedway.org>; Aicardi, Donald <daicardi@medwayschools.org>; Doug Havens <dhavens@townofmedway.org>; Erika Robertson <erobertson@townofmedway.org>; Gail Hachenberg <hachen5@gmail.com>; Gibb Phenegar <gibbp@aol.com>; Glenn Trindade <glenntcindade@gmail.com>; Janine Clifford <janine@grouponeinc.com>; jeanne Johnson <j22johnson2001@yahoo.com>; Jeff Lynch <ChiefLynch@townofmedway.org>; Jeff Watson <jwatson@medwaypolice.com>; Jess Chabot <jesswchabot@gmail.com>; Jim Wickis <jbwickis@verizon.net>; Joanne Russo <jrusso@townofmedway.org>; abdiokhalid@gmail.com; Kristen Mucciarone <kmucciarone@charlesriverpcd.org>; Laura Mullen <lmullen@townofmedway.org>; Liz Langley <llangley@townofmedway.org>; Liz Taglieri <ltaglieri@charlesriverpcd.org>; Mark Cerel <mcerel@franklin.ma.us>; Martin Dietrich <papadietrich132@gmail.com>; Matt Buckley <matt_buckley2@yahoo.com>; Michael Boynton <mboynton@townofmedway.org>; Mike Fasolino <mfasolino@townofmedway.org>; Nolan Lynch <nlynch@townofmedway.org>; Paul Atwood <atwood.paul@gmail.com>; Peter Pelletier <ppelletier@townofmedway.org>; Rindo Barese <rbarese@townofmedway.org>; Sandy Johnston <sjohnston@townofmedway.org>; Sean Harrington <sharrington@townofmedway.org>; Stefany Ohannesian <sohannesian@townofmedway.org>; Stephanie Carlisle <scarlisle@townofmedway.org>; Bouley, Steven <steven.bouley@tetrattech.com>; Sue Rorke <srorke00@gmail.com>; Tina Wright <tina.wright@aleragroup.com>; William Kingsbury <wkingsbury@medwaypolice.com>

Subject: Public Hearing Continuations - Wingate Farm subdivision, Milford Hospital

Good afternoon, attached are Planning and Economic Development Board public hearing continuation notices for public hearings continued to September 27th. Please let me know if you have any questions.

Barbara J. Saint Andre

Director, Community and Economic Development

Town of Medway

155 Village Street

Medway, MA 02053

(508) 321-4918

Anna Rice

From: Barbara Saint Andre
Sent: Monday, September 26, 2022 8:07 AM
To: Anna Rice
Subject: FW: proposed Milford Regional Hospital medical facility

Barbara J. Saint Andre
Director, Community and Economic Development
Town of Medway
155 Village Street
Medway, MA 02053
(508) 321-4918

From: Mike Fasolino <mfasolino@townofmedway.org>
Sent: Friday, September 16, 2022 10:15 AM
To: Barbara Saint Andre <bsaintandre@townofmedway.org>; Jeff Lynch <ChiefLynch@townofmedway.org>
Cc: Susan Affleck-Childs <sachilds@townofmedway.org>
Subject: Re: proposed Milford Regional Hospital medical facility

Hi Barbara,

I met with Lobisser Companies and they have fulfilled all our requests. We are ok with the proposed site plan and its revisions dated 7/25/22. This included the additional request for a hydrant at the rear of the building.

Thanks

Michael Fasolino

Deputy Chief

Town of Medway

155 Village Street

Medway, Ma 02053

508-533-3211

Mailing Address:

44 Milford Street

From: Barbara Saint Andre <bsaintandre@townofmedway.org>
Sent: Friday, September 16, 2022 10:02 AM
To: Jeff Lynch <ChiefLynch@townofmedway.org>
Cc: Mike Fasolino <mfasolino@townofmedway.org>; Susan Affleck-Childs <sachilds@townofmedway.org>
Subject: proposed Milford Regional Hospital medical facility

Good morning, Chief, attached is a copy of an email you sent to Susy on May 9th regarding the proposed development at 86 Holliston Street. Did you receive the requested turning analysis, and do you have any further comments on the turning analysis, hydrants, or any other concerns regarding this proposal? Please let me know, thanks. We are putting together the proposed decision and want to be sure we cover anything your department requires.

Barbara J. Saint Andre
Director, Community and Economic Development
Town of Medway
155 Village Street
Medway, MA 02053
(508) 321-4918

Anna Rice

From: Barbara Saint Andre
Sent: Monday, September 26, 2022 8:08 AM
To: Anna Rice
Subject: FW: [External] FW: F4516 86 Holliston Street Medway

Barbara J. Saint Andre
Director, Community and Economic Development
Town of Medway
155 Village Street
Medway, MA 02053
(508) 321-4918

From: Amanda Cavaliere <ACavaliere@gandhengineering.com>
Sent: Wednesday, September 21, 2022 5:28 PM
To: Susan Affleck-Childs <sachilds@townofmedway.org>
Cc: Barbara Saint Andre <bsaintandre@townofmedway.org>; Kevin Lobisser <kevin@lobissercompanies.com>; Michael Hassett <MHassett@gandhengineering.com>
Subject: [External] FW: F4516 86 Holliston Street Medway

Hi Susy

I was able to discuss the following with Kevin and hope this helps with filling in the remaining blanks of the decision:

- Page 4 (bottom) – who was the provider/preparer of the color photos of the site from the different angles that we discussed with both Planning Board and Design Review. – **Keith Carlson Rendering Studios**
- Page 16 at the bottom – Just want to confirm that we are still proposing to use a 6 foot stockade fence around the dumpster pad. We show on our details that the fence shall be 6 foot non-glossy wood looking, stockade fence color of natural wood. – **We respectfully request that the decision reflect our discussions with Design Review regarding the fence color being allowed to be gray or wood looking depending on availability.**
- Page 19-20 (Q) Please review all items listed under the Traffic Safety Audit to be completed prior to occupancy. – **All items listed “Q” on pages 19-20 for Traffic Safety are amenable to Kevin, specifically 1, 2, 3 and 5. And we are all in agreement that the DPW does not want the traffic signals adjusted so that will be omitted from the decision.**

Additional discussion items:

- Page 18 Item I Tree Preservation – it was discussed at our last meeting with Planning Board that there was correspondence received questioning the trees previously planted along the driveway to Walgreens and if they would be replanted. Would it be possible to either have in the decision that the existing trees along the Walgreens driveway will be replanted as practically possible or the tree preservation section be removed in its entirety from the decision? We do have an extensive landscaping plan that appeared to satisfy the Board and Con Com to date and adding in a condition to remove and replant the existing trees at this time may not compliment the proposed landscaping plan and/or site layout.

Thank you in advance for your consideration

Amanda K. Cavaliere, Office Manager



55 West Central Street
Franklin, MA 02038
Ph. 508.528.3221
Fx. 508.528.7921
Email: acavaliere@gandhengineering.com
Website: www.gandhengineering.com

From: Amanda Cavaliere
Sent: Wednesday, September 21, 2022 1:43 PM
To: Kevin Lobisser <kevin@lobissercompanies.com>
Cc: Michael Hassett <MHassett@gandhengineering.com>
Subject: F4516 86 Holliston Street Medway

Kevin

I spoke with Susy and Barbara this morning and we will need the following info to wrap up the decision:

Page 4 (bottom) – who was the provider/preparer of the color photos of the site from the different angles that we discussed with both Planning Board and Design Review.

Page 16 at the bottom – Just want to confirm that we are still proposing to use a 6 foot stockade fence around the dumpster pad. We show on our details that the fence shall be 6 foot non-glossy wood looking, stockade fence color of natural wood.

Page 19-20 (Q) Please review all items listed under the Traffic Safety Audit to be completed prior to occupancy. Please confirm you are good with all the items listed so I can let Susy know.

Let me know if you have any further questions, but it is believed to be wrapped up after these final thoughts on our end.

Amanda K. Cavaliere, Office Manager



55 West Central Street
Franklin, MA 02038
Ph. 508.528.3221
Fx. 508.528.7921
Email: acavaliere@gandhengineering.com
Website: www.gandhengineering.com

Board Members

Matthew J. Hayes, P.E., Chair
Robert Tucker, Vice Chair
Richard Di Iulio, Clerk
Jessica Chabot, Member
Sarah Raposa, A.I.C.P., 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 9.22.22 DRAFT for PEDB meeting

Milford Hospital Medical Facility Major Site Plan, Parking Location Special Permit, Building Type Special Permit, and Groundwater Protection Special Permit

Decision Date:

Name/Address of Applicant/Permittee: Lobisser Companies
1 Charlesview Road
Hopedale, MA 01747

Name/Address of Property Owner: Friel Realty II, LLC
86 Holliston Street
Medway, MA 02053

Location: 86 Holliston Street

Parcel Size: 8.027 acres

Assessors' Reference: 41-08

Zoning District: Central Business District
Groundwater Protection District (Mass DEP Zone II Wellhead Protection)

Engineer: Guerriere & Halnon, Inc.
55 West Central Street
Franklin, MA 02038

Site Plan: *Site Plan, 86 Holliston Street, Medway, MA* dated April 14, 2022, last revised June 29, 2022, prepared by Guerriere & Halnon, Inc. to be further revised as specified herein before plan endorsement (herein the Site Plan)

The architectural drawings dated February 11, 2021, prepared by HPA Design, Inc. of Milford, MA, last revised April 18, 2022. [Renderings undated, Keith Carlson Rendering Studios, received August 1, 2022.](#) Architectural drawings, undated, prepared by DiGiorgio Associates, Inc., of Boston, MA.

Members Voting: Matthew Hayes, Robert Tucker, Richard Di Iulio, Jessica Chabot, and Sarah Raposa

I. PROJECT DESCRIPTION - The Applicant seeks major site plan approval, a groundwater protection special permit, a parking location special permit, and a building type special permit pursuant to Sections 3.5, 5.6.3, 10.2, and 10.4 of the Medway *Zoning Bylaw* for the development of a medical building for Milford Regional Medical Center, to be located on a 2.2 acre portion of the 8+-acre parcel known as 86 Holliston Street.

The proposed development includes construction of a one-story, 21,900 sq. ft. medical building for the Milford Regional Medical Center to be accessed from the existing curb cut on Main Street for Walgreens. Other planned improvements include driveways, parking, utilities, grading, lighting, landscaping, and stormwater management facilities. The facility will consist of pediatric care, women's health, wellness, emergency care, lab, and x-ray services. A total of 88 parking spaces are proposed. The planned improvements are shown on *Site Plan, 86 Holliston Street, Medway, MA*, dated April 14, 2022, last revised June 29, 2022, to be further revised as specified herein.

The property also includes wetlands resources which are under the jurisdiction of the Medway Conservation Commission which issued an Order of Conditions and a Land Disturbance Permit pursuant to Article XXVI of the *Medway General Bylaws* on August 16, 2022.

It is noted that the Applicant and property owner intend to divide the subject property into 2 parcels, one for the proposed medical office building with a new Main Street address, and the other comprised of the remaining property (86 Holliston Street).

II. VOTES OF THE BOARD

A. MAJOR SITE PLAN - 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 _____, voted __ to __ to _____ with CONDITIONS and WAIVERS from the *Site Plan Rules and Regulations* as specified herein, a site plan titled *Site Plan, 86 Holliston Street, Medway, MA* dated April 14, 2022, last revised June 29, 2022, prepared by Guerriere & Halnon, Inc. to be further revised as specified herein before plan endorsement with associated attachments including architectural plans by HPA Design Inc., **to be further revised as specified herein.**

B. PARKING LOCATION SPECIAL PERMIT - 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 _____, voted __ to __ to _____ with CONDITIONS a parking location special permit for 86 Holliston Street pursuant to Section 10.2. D. 2. C. Parking Placement of the *Zoning Bylaw*.

C. BUILDING TYPE SPECIAL PERMIT - 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 _____, voted __ to __ to _____ with CONDITIONS a building type special permit for 86 Holliston Street pursuant to Section 10.4 C. 2 of the *Zoning Bylaw*.

D. GROUNDWATER PROTECTION SPECIAL PERMIT - 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 _____, voted ____ to ____ to _____ with CONDITIONS a groundwater protection special permit for 86 Holliston Street pursuant to Section 5.6.3 of the Zoning Bylaw.

III. PROCEDURAL HISTORY

- A. April 14, 2022 – Major site plan approval and groundwater protection district special permit applications were filed with the Board and provided to the Town Clerk on April 25, 2022
- B. April 25, 2022 - Public hearing notice was filed with the Town Clerk and posted at the Town of Medway web site.
- C. April 25, 2022 - Public hearing notice was mailed to abutters by certified sent mail.
- D. April 25 and May 3, 2022 - Public hearing notice was advertised in the *Milford Daily News*
- E. April 25, 2022 - Notice was distributed to Town boards and departments requesting review and comments
- F. May 10, 2022 - Public hearing commenced. The public hearing was continued to June 14, July 26, August 23, September 13, September 27 and to _____, 2022 when a decision was rendered, and the hearing was closed.
- G. August 2, 2022 – Special permit application for Central Business District standards for Building Type and Parking Location was filed with the Board and provided to the Town Clerk
- H. August 3, 2022 – Second public hearing notice was mailed to abutters by certified sent mail.
- I. August 5, 2022 - Second public hearing notice was filed with the Town Clerk and posted to the Town of Medway web site.
- J. August 8 and 16, 2022 – Second public hearing notice was advertised in the *Milford Daily News*.

IV. INDEX OF DOCUMENTS

- A. The following documents were provided at the time the site plan and groundwater special permit applications were filed with the Board:
 - Major site plan application dated 4-13-22 and groundwater protection special permit application dated 4-13-22 with Project Narrative, submittal letter, property deeds, and abutters list.
 - *Site Plan, 86 Holliston Street, Medway, MA* dated April 14, 2022 by Guerriere & Halnon, Inc. of Franklin, MA
 - Photometric Plan dated April 15, 2022 by Holbrook Associates
 - Requests for Waivers from the *Medway Site Plan Rules and Regulations*, last revised October 8, 2019.
 - *Stormwater Report for Medway Medical Building, 86 Holliston Street, Medway, MA* dated April 14, 2022, prepared by Robert J. Duff, P.E., Guerriere & Halnon, Inc. of Franklin, MA.

- B. During the course of the review, the following additional materials were submitted to the Board by the Applicant and its representatives and consultants:
- Ground floor plan of proposed medical facility dated April 7, 2022 prepared by The SLAM Collaborative
 - Architectural elevations dated April 18, 2022 by HPA Design, Inc.
 - *Transportation Impact Assessment, Proposed Medical Office Building, 86 Holliston Street, Medway, MA*, dated April 2022 by Vanasse & Associates, Inc. of Andover, MA
 - Letter from Jeffrey Dirk of Vanasse & Associates dated May 31, 2022 in response to the Tetra Tech review letter dated May 23, 2022
 - Underground Piping Inspection dated June 22, 2022 from DWD Engineering
 - Letter from Jeffrey Dirk of Vanasse & Associates dated July 15, 2022 as a follow-up to the July 14, 2022 meeting with Town staff and Tetra Tech re: transportation improvement measures to be undertaken in connection with the medical office building project at 86 Holliston Street
 - Updated site plan dated June 29, 2022 by Guerriere & Halnon.
 - *Ladder Truck Turning Plan* for 86 Holliston Street dated April 14, 2022, last revised June 29, 2022 by Guerriere & Halnon.
 - Additional Requests for Waivers from the *Site Plan Rules and Regulations*, dated July 2022
 - Letter from Marc Wallace of Tech Environmental (Applicant's consultant), dated July 6, 2022 summarizing the results of an acoustic modeling study of the proposed medical building at 86 Holliston Street.
 - Revised lighting plan and light fixture specifications dated July 6, 2022 by Holbrook Associated
 - *Development Impact Statement* dated July 25, 2022 prepared by Guerriere & Halnon
 - Letter from Amanda Cavaliere of Guerriere & Halnon dated July 25, 2022 in response to review comments dated April 27, 2022 from Community and Economic Development Director Barbara Saint Andre
 - Letter from Amanda Cavaliere of Guerriere & Halnon dated July 25, 2022 in response to review comments dated May 25, 2022 from DPW Director Pete Pelletier
 - Letter from Amanda Cavaliere of Guerriere & Halnon dated July 25, 2022 in response to review comments dated May 9, 2022 from Planning and Economic Development Coordinator Susy Affleck-Childs
 - Letter from Amanda Cavaliere of Guerriere & Halnon dated July 25, 2022 in response to review comments dated May 10, 2022 from Police Safety Officer Sergeant Jeff Watson
 - Letter from Amanda Cavaliere of Guerriere & Halnon dated July 25, 2022 in response to review comments dated May 23, 2022 from Tetra Tech
 - Architectural elevations undated by DiGiorgio Associates, Inc. of Boston, MA, received July 29, 2022
 - [Renderings undated, Keith Carlson Rendering Studios, received August 1, 2022](#)
 - Special permit application for Central Business District parking location and building type, dated August 2, 2022, with associated narratives.
 - Email communication dated August 16, 2022 from Amanda Cavaliere of Guerriere & Halnon forwarding an email from Marc Wallace of Tech

Environmental in response to the sound study review memorandum issued on August 8, 2022 by Jeff Komrower of Noise Control Engineering, the Board's noise consultant.

- [Letter from Tech Environmental dated September 6, 2022 – results of acoustic modeling study](#)
- [Email dated September 14, 2022 from Amanda Cavaliere of Guerriere & Halnon](#)
- [Email dated September 21, 2022 from Amanda Cavaliere of Guerriere & Halnon](#)

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

- Plan review letter from Steve Bouley, P.E. Tetra Tech, dated May 23, 2022
- *Road Safety Audit – Main Street (Route 109) at Medway Commons and Walgreens Driveways*, March 2022, prepared for Mass Department of Transportation by Vanasse & Associates, Inc. of Andover, MA
- Review comments dated April 27, 2022 by Medway Community and Economic Development Director Barbara Saint Andre
- Review comments dated May 9, 2022 from Fire Chief Jeff Lynch
- Review comments dated May 9, 2022 from Planning and Economic Development Coordinator Susan Affleck-Childs
- Review comments dated May 10, 2022 from Police Safety Officer Sergeant Jeff Watson
- Review comments dated May 10, 2022 from the Medway Design Review Committee
- Review comments dated May 25, 2022 from Medway DPW Director Pete Pelletier
- Review comments dated July 21, 2022 from Building Commissioner Jack Mee re: building type within the Central Business District
- Review comments dated August 8, 2022 from Jeff Komrower of Noise Control Engineering, the Board's noise consultant, of the noise modeling study prepared for the applicant by Tech Environmental
- Plan review letter from Steve Bouley at Tetra Tech, dated July 19, 2022
- Email comments dated July 27, 2022 from Medway DPW Director Pete Pelletier
- [Noise Control Engineering memo dated September 11, 2022 reviewing revised acoustic modeling study](#)
- [Email from Deputy Fire Chief Fasolino dated September 16, 2022](#)

D. ~~Citizen-Butter~~ Comments

- Email dated May 11, 2022 from resident Andrew Page, 11 Applegate Road
- [Email dated May 15, 2022 from Matthew and Courtney Fricker, 110 Village Street](#)
- [Email from Glenn Trindade dated August 10, 2022 with attachment](#)

E. Other Documentation

1. Mullins Rule Certification dated July 10, 2022 for Board member Jessica Chabot pertaining to the June 14, 2022 hearing.
2. Mullins Rule Certification dated June 29, 2022 for Board member Robert Tucker pertaining to the June 14, 2022 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
- Kevin Lobisser, Applicant
- Amanda Cavaliere, Guerriere & Halnon, engineering consultant for the Applicant
- Mike Hassett, Guerriere & Halnon, engineering consultant for the Applicant
- Jeffrey Dirk, Vanasse and Associates, traffic consultant for the Applicant
- Resident Nicholas Fair, 3 Howe Street
- Abutter Jessica Collins, 9 Robin Circle
- Unspecified abutter

VI. FINDINGS

A. Site Plan Rules and Regulations Findings – The Board shall determine whether the proposed development is in conformance with the standards and criteria set forth in the *Site Plan Rules and Regulations*, unless specifically waived. In making its decision, the Board makes the following findings in accordance with Section 204-8 of the *Site Plan Rules and Regulations*, as amended October 8, 2019. and Section 3.5 of the *Bylaw*:

- 1) **Has internal circulation, queuing and egress been designed such that traffic safety is protected, access via minor streets servicing residential areas is minimized, and traffic backing up into the public way is minimized?** *The site plan and traffic impact assessment study has been thoroughly reviewed by Town officials and the Board's Consulting Engineer. No access from minor streets is necessary or available, there is no backing onto a public way, and Main Street is adequate to safely handle the additional traffic from the new establishment. Based on input from the Board and Police Department, vehicular access to the parking area in front of the building has been adjusted so that the front parking area is not immediately accessible from the entry driveway into the site, so to avoid back-up out onto Main Street.*
- 2) **Does the site plan show designs that minimize any departure from the character, materials, and scale of buildings in the vicinity as viewed from public ways and places?** *The design of the proposed building has been positively reviewed by the Design Review Committee. There are no particularly distinguished buildings in the vicinity with which the proposed building renovation and new construction would conflict in terms of character, materials, and scale.*
- 3) **Is reasonable use made of building location, grading, and vegetation to reduce the visible intrusion of structures, parking areas, outside storage or other outdoor service areas (e.g., waste removal) from public views or from (nearby) premises residentially used and zoned.** *The subject property is located within the Central Business zoning district and abutted on the east and south sides by other business properties. The dumpster is located within the rear parking area in the northwestern corner of the site, well out of public view from Main Street. The landscaping plan shows a fence and landscape buffer along the southern property line to screen the building for nearby residential properties. A robust landscaping plan has been developed for the open*

space area between Main Street and the front parking area and adjacent to wetland resources.

- 4) **Is adequate access to each structure for fire and service equipment provided?** Access for fire and service equipment is provided with paved surfaces on four sides of the proposed building. The Fire Department has reviewed the proposed driveway and parking lot reconfiguration and the auto turn analysis provided by the Applicant's engineering consultant and agrees that the project will comply with its requirements.
- 5) **Will the design and construction minimize, to the extent reasonably possible, the following environmental impacts?**
 - a) the volume of cut and fill;
 - b) the number of trees to be removed with particular care taken with mature trees and root systems;
 - c) the visual prominence of man-made elements not necessary for safety;
 - d) the removal of existing stone walls;
 - e) the visibility of building sites from existing streets;
 - f) the impacts on waterways and environmental resource areas;
 - g) soil pollution and erosion;
 - h) noise.

The site plan and proposed stormwater drainage system have been rigorously reviewed by the Town's Consulting Engineer and the Conservation Commission which issued an Order of Conditions and Land Disturbance Permit on August 16, 2022. Appropriate soil pollution and erosion controls have been incorporated into the plan. The building will be highly visible from Main Street. However, the robust landscaping plan and building design have been reviewed and positively recommended by the Design Review Committee. No stone walls are being removed. The site is presently undeveloped and functions as agricultural land for cow grazing. Since the site is located within a Groundwater Protection District, this Decision also includes a groundwater protection special permit to ensure that the project will not adversely affect groundwater. Tech Environmental, the applicant's sound engineer, performed an acoustic study which was peer reviewed by the Town's consultant, Jeff Komrower of Noise Control Engineering. The Town's consultant concurred with the analyses submitted by the applicant that the proposed development will comply with the Town's Zoning Bylaw requirements, Section 7.3.

- 6) **Is pedestrian and vehicular safety both on the site and egressing from it maximized?** The entrances and egresses to the site and its parking facilities have been designed for safe operation and have been reviewed by the Board's consulting engineer. The site plan has been revised to adjust access to the parking area in front of the building. The site plan shows the provision of bicycle racks to accommodate employees and patients who may wish to cycle to the facility. A sidewalk is planned on the three sides of the building with public access plus a connecting sidewalk between the building and the Main Street sidewalk is included.
- 7) **Does the design and will the construction incorporate, to the maximum extent possible, the visual prominence of natural and historic features of the site?** The site is presently undeveloped and functions as agricultural land for cow grazing. The prominent

feature of the open field to the west of the proposed building will not be directly affected. The fencing design to separate the new commercial use from the agricultural use is in keeping with the agricultural character of the adjacent property.

- 8) **Does the lighting of structures and parking area avoid glare on adjoining properties and minimize light pollution within the town?** *The lighting plan was reviewed by the Board's consulting engineer and the Permittee is required to comply with Section 7.1.2 of the Zoning Bylaw regarding Outdoor Lighting.*
- 9) **Is the proposed limit of work area reasonable and does it protect sensitive environmental and/or cultural resources? The site plan as designed should not cause substantial or irrevocable damage to the environment, which damage could be avoided or ameliorated through an alternative development plan or mitigation measures.** *The site plan has been vigorously reviewed by both the Conservation Commission and the Planning and Economic Development Board and their consulting engineer and has been modified to address environmental concerns. The limit of work is reasonable. The location of the building and parking on the site has been repositioned northerly onto the site to protect environmental resources. An Order of Conditions has been issued by the Conservation Commission.*

Vote on Site Plan Findings - The Planning and Economic Development Board, at its meeting on _____ voted ___ to ___ to _____ the above noted **Site Plan Findings** regarding the major site plan application for the Milford Regional Medical facility (the "Property").

- B. **Groundwater Protection Special Permit Findings (Sub-Section 5.6.3 of the Zoning Bylaw)** – The subject property at 86 Holliston Street is located within the Town's Groundwater Protection District (MA Department of Environmental Protection Zone 2 recharge area). The scope of the project will increase the extent of impervious surface to more than 15% of the lot area. Accordingly, a groundwater protection special permit is required. Section 5.6.3 specifies that the following findings must be made in order to issue a groundwater protection special permit:

- 1) **Permitted Uses** – *New construction is a permitted use, subject to certain restrictions, within the Groundwater Protection District. As conditioned herein, the project will comply with those restrictions.*
- 2) **Prohibited Uses** – *There are no prohibited uses. However, the project will include a natural gas-powered emergency generator which is acceptable as it does not use liquid petroleum products.*
- 3) **Uses and Activities Requiring a Groundwater Special Permit** – *Specific to this project, the following activities are allowed only upon issuance of a special permit.*
 - *Any use which will render impervious more than 15% or 2,500 sq. ft. of any lot whichever is greater. The proposed building and site improvements planned for the new parcel increase the extent of impervious surface from 0% to 68.3% of the site, thus triggering the need for a Groundwater Protection special permit.*
- 4) **Special Permit Granting Authority** – *The Board of Appeals is the designated special permit granting authority for the Groundwater Protection District. However, the Bylaw*

(Section 3.5. Site Plan Review, 4. a.) provides that authority to the Planning and Economic Development Board when both site plan approval and a special permit are needed so as to consolidate the review process.

- 5) **Does the site design include a system for groundwater recharge which does not degrade groundwater quality? Does the recharge system use stormwater infiltration basins, or a similar system covered with natural vegetation? Are such basins preceded by oil, grease, and sediment traps to facilitate removal of contamination? Is there a plan for all recharge areas to be permanently maintained in full working order by the owner?** *The proposed building and site improvements will render the site to be 68.3% impervious. The stormwater management system consists of Deep Sump Hooded Catch Basins, Contech water quality manholes, a rain garden and three Cultec infiltration chamber systems. The stormwater management system has been designed in accordance with the Town of Medway's Stormwater Bylaw and will be permanently maintained in full working order by the owner in accordance with Standard 9 of the Stormwater Management Standard 9 – Long-Term Operation and Maintenance Plan.*

The Board's Consulting Engineer has reviewed the stormwater management plan to ensure that groundwater recharge does not degrade groundwater quality. The Conservation Commission is responsible for stormwater review on this site and has issued its Order of Conditions and a Land Disturbance permit which includes numerous conditions and protective measures.

Does the proposed use, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District? *The project has been reviewed by the Conservation Commission and the Town's Consulting Engineer to ensure that the planned stormwater management facilities and the associated groundwater recharge does not degrade groundwater quality. The Conservation Commission issued an Order of Conditions and Land Disturbance Permit on August 16, 2022 which specifies suitable measures to protect groundwater.*

- 6) **Is the proposed development designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed?** *The plan for the proposed development has been developed and revised such that the impact of the planned stormwater infrastructure on groundwater is minimized.*
- 7) **Has the applicant provided sufficiently detailed, definite, and credible information to supportive positive findings in relation to the standards given herein?** *The Board finds that the Applicant has provided sufficiently detailed, definite, and credible information to support positive findings in relation to the standards for a Groundwater Protection special permit as documented in the application materials and additional information provided during the course of the public hearing.*
- 9) **Were the submission requirements and hearing procedures conducted in accordance with Section 3.4 of the Zoning Bylaw?** *The submission requirements and public hearing procedures have been conducted in accordance with Section 3.4 of the*

Bylaw and the Board's Site Plan Rules and Regulations including the posting of a public hearing notice with the Town Clerk, abutter notification, and legal advertisement in a local newspaper of general circulation. Information about the project has also been posted to the Board's web page and review and comments have been sought from the Board of Health, Conservation Commission, and the Department of Public Works.

- 10) **Has the Board consulted with the Board of Health, Conservation Commission, and the Department of Public Works and referred this project to those entities for review and comment?** *The site plan has been provided to the Board of Health, Conservation Commission, and Department of Public Works Services for review and consultation. The noted boards and committees were kept apprised of the status of the Board's review of the project and were able to provide information and recommendations throughout the process.*
- 11) For further protection, the Board has included a series of conditions in this decision which require certain measures to address groundwater protection. See Specific Condition [F](#).
- 12) Accordingly, the Board finds that [the proposed development meets the criteria for a Groundwater Protection special permit under Section 5.6.3.](#)

Vote on Groundwater Protection Findings - The Planning and Economic Development Board, at its meeting on _____ voted __ to __ to _____ the above noted Groundwater Protection Special Permit Findings for the Milford Regional Medical office facility (the "Property").

C. **Central Business District Building Type Special Permit Findings** – Section 10.4 Central Business District, C. Building Types, 1. specifies a series of building types allowed in the Central Business District by right.

- 1) Building Commissioner/Zoning Enforcement Officer [Jack Mee](#) has determined that the proposed medical office building does not fit any of the specified building types allowed in the Central Business District.
- 2) Section 10.4.C.2. authorizes the Planning and Economic Development Board to issue a special permit for alternative building types.
- 3) The proposed uses of the medical office building include pediatric care, women's health, family medicine, urgent care, laboratory, and x-ray services. These uses are consistent with a General Commercial Building, one of the authorized building types.
- 4) The larger size of the proposed building is only minimally larger than the 20,000 sq. ft. allowed by right for a General Commercial Building. The building design has been positively reviewed by the Design Review Committee and the Board finds that the scale is compatible and complimentary to the Central Business zoning district.
- 5) Accordingly, the Board finds that [the proposed development meets the criteria for a Central Business District Building Type special permit under Section 10.4.](#)

Vote on Central Business District Building Type Findings - The Planning and Economic Development Board, at its meeting on _____ voted __ to __ to _____

_____ the above noted Building Type Findings for the Milford Hospital facility for 86 Holliston Street, (the “Property”).

D. **Central Business District Parking Location Special Permit** - Section 10.2 Central Business District Site Development Standards, D.2.c. Parking Placement specifies that all off-street parking shall be located behind or beside buildings. Vehicle parking between the front building line and the street right-of-way line is permitted only if the Board grants a special permit and the applicant can demonstrate that no other reasonable alternative exists.

- 1) The proposed parking plan as shown on the June 29, 2022 revised site plan includes 88 parking spaces, 29 of which are located between the front building line and the Main Street right-of-way line. The remaining parking spaces are to be located north (behind) and west (beside) of the proposed building.
- 2) Parking and building placement were coordinated to align with the existing Walgreens building located to the east of the shared access driveway so as to provide a coordinated appearance from the street.
- 3) If the building were positioned on the site closer to Main Street and parking was relocated to the back of the building, customer accessibility to the main entrances of the various medical disciplines to be housed within the facility would be impacted. This would result in a longer walking distance to the customer entrances on the south and western sides of the building, and thus would be less convenient for the facility’s patients.
- 4) The positioning of the building further away from the frontage is dictated in great measure by the need to locate the building and parking area outside the 25’ no disturb buffer and 50’ no structure buffer under the Medway Wetlands Protection Bylaw.
- 5) Accordingly, the Board finds [that the proposed development meets the criteria for a Central Business District Parking Location special permit under Section 10.4.](#)

Vote on Central Business Parking Location Findings - The Planning and Economic Development Board, at its meeting on _____ voted __ to __ to _____ the above noted Parking Location Findings for the Milford Hospital facility for 86 Holliston Street, (the “Property”).

E. **Special Permit Decision Criteria Findings (Zoning Bylaw, Section 3.4 C. 1-9)**

Special permits shall be granted by the special permit granting authority only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In making its determination, the special permit granting authority, in addition to any specific factors that may be set forth in other sections of the Bylaw, shall make findings on all of the applicable criteria. The Board makes the following Findings in accordance with Section 3.4 of the *Bylaw*.

- 1) **The proposed site is an appropriate location for the proposed use.** *The proposed use is a 21,900 sq. ft. medical office facility for Milford Regional Hospital to be located on Route 109, Medway’s primary east/west travel route, in Central Business zoning district. It will offer a variety of medical services including pediatric care, women’s health, family medicine, urgent care, and lab and x-ray services. Such a facility will be an asset to the*

community and provide additional health care services not presently available in Medway.

- 2) **Adequate and appropriate facilities will be provided for the operation of the proposed use.** *As documented in the plans and associated materials, and conditioned herein, adequate, and appropriate facilities will be provided for the operation of the proposed medical facility. Town officials and the Town's Consulting Engineer have reviewed the proposed facility and associated site improvements. The project will be serviced by Town water and sewer systems. The stormwater management system has been designed in accordance with the applicable local and State regulations.*
- 3) **The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians, or the environment.** *The site plan and traffic impact assessment study has been thoroughly reviewed by the Board and its Consulting Engineer. Sidewalks are included to provide pedestrian access to the site and within the site. The access driveway to serve the facility is shared with the adjacent Walgreen's property so no new curb cuts are needed. Parking areas are provided. The project has been reviewed by the Conservation Commission which issued an Order of Conditions on August 16, 2022.*
- 4) **The proposed use will not cause undue traffic congestion or conflicts in the immediate area.** *The project's use of the existing curb cut for Walgreens for access will be instrumental in avoiding congestion at the intersection Main and Holliston Street. The expected traffic to be generated by the planned facility can be accommodated by Main Street.*
- 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 has provided documentation reviewed by the Town's Consulting Engineer that its stormwater management plan is adequate to prevent flooding. The dumpster is located within the rear parking area in the northwestern corner of the site and will be fully screened from view. The photometric plan documents that there is no light trespass off the property. A substantial landscaping plan will be implemented to enhance the property's aesthetics and provide a buffer to the residential property to the north. A noise study was prepared and reviewed, and suitable noise mitigation measures have been incorporated into the project.*
- 6) **The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district.** *The site is abutted on the east and south by other business properties. The project will include substantial landscaping and fencing to buffer the residential property to the north. A robust landscaping plan has been developed, particularly for the frontage area along Main Street to enhance the property's aesthetics. The architectural design of the been thoroughly reviewed by the Design Review Committee and the Board and modified to further refine the building's style and character.*
- 7) **The proposed use is in harmony with the general purpose and intent of the Zoning Bylaw.** *The proposed use fulfills one of the purposes of the Zoning Bylaw which is to support the most appropriate use of land throughout the town. This presently vacant parcel is located in the Central Business District (CBD). As the town has limited areas*

for commercial development, it is important to utilize the land area within the CBD to help strengthen the community's business tax base.

- 8) **The proposed use is consistent with the goals of the Medway Master Plan.** *The proposed medical office building use is consistent with the 2009 Master Plan goals of facilitating smart redevelopment of the Route 109 corridor and encouraging commercial and industrial development in the community.*
- 9) **The proposed use will not be detrimental to the public good.** *As documented in the plans and application, and the Findings and Conditions of this decision, the proposed use is in accordance with the goals of the Master Plan while protecting against potential adverse impacts.*

For all of the above reasons, the Board finds the adverse effects of the proposed Milford Regional medical facility use will not outweigh the beneficial impacts of the proposed development to the town or neighborhood.

VII. WAIVERS - At its _____, 2022 meeting, the Board, voted ___ to ___ to grant 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 granting each waiver are listed below. All waivers are subject to the *Special and General Conditions of Approval*, which follow this section.

1. **Section 204-5 B. Site Context Sheet.** The site plan shall include a site context sheet including a locus plan, abutters' names and addresses; lot lines with dimensions and easement area; existing topography at 2' intervals; easements and rights of way; zoning district boundaries.

The Applicant has requested a waiver from this requirement that all of the required information be included on one sheet. Instead, the site plan has been developed with the abutter information, zoning parcel IDs, and street names being shown on Sheet 2 of the plan set. This is an acceptable alternative as all the needed information is supplied. For the foregoing reason, 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.

2. **Section 204-5 D. Landscape Plan, 8. a)** A Landscape Plan shall be prepared by a Registered Professional Landscape Architect licensed to practice in the Commonwealth of Massachusetts or a Massachusetts Certified Landscape Professional.

The Applicant has requested a waiver from this requirement. Instead, a landscape plan has been prepared by personnel of Guerriere and Halnon with many years of experience who have completed many such plans for other development projects. The landscape plan has been reviewed by both the Conservation Commission and the Design Review Committee and has been found to be acceptable. 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.

3. **Section 204-5 D. (14) Master Signage Plan.** The site plan submittal shall include a master signage plan with preliminary proposed designs, locations, materials, dimensions and lighting for the proposed development sign and all business identification signage, standards for tenant signs, etc.

The Applicant has requested a waiver from this regulation and has asked that the Board authorize a delay in the submittal of a master signage plan until such time as an occupancy permit is approved. The delay is needed because the design of the building façade has been modified during the course of project review and because input needs to be secured from all the various Milford Hospital groups and services that will be occupying the building. The Board has included a Condition in this Decision to require the master signage plan to be submitted within 120 days after plan endorsement. For the foregoing reasons, the Board APPROVES this waiver request with the noted condition 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.

4. **Section 207-9 B. 1. Pedestrian and Bicycle Access and Sidewalks.** Five-foot sidewalks shall be provided within parking areas. Where sidewalks abut parking areas, the sidewalk width shall be increased by two feet to accommodate vehicular bumper overhang so as to not impede foot traffic.

The Applicant has requested a waiver to authorize them to provide a 5' sidewalk for approximately 28' feet in front of the building near the main entrance where a 7' sidewalk is required. The front entrances to the building are positioned perpendicular to the right and left of the proposed 5' sidewalk. Pedestrians can access the building from either entrance and will not be impeded by vehicular overhang. The doorways will not open outward into the sidewalk area. Further, there are no access points to the building within that 28' area. For the foregoing reasons, the Board APPROVES this waiver request with the noted condition 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.

5. **Section 207-12 Parking, G. 3) a)** Parking spaces shall not be located in fire lanes or within twenty feet of building entrances, building exits, emergency access points, loading and unloading areas, pedestrian ways, and location for fire hydrants, and sprinkler and standpipe connections. Parking shall not be located within 20' of building entrances or exits

The Applicant has requested waiver from this requirement as they wish to locate parking within 20' of building entrances and exits. Due to the multiple medical services offered in the building with multiple entrances and exits and varied hours of operation, such a requirement would serve to reduce the amount of available parking. Allowing parking closer to the entrances would provide safer access/egress for patients. For the foregoing reasons, the Board APPROVES this waiver request with the noted condition 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.

6. **Section 207-19 Landscaping, B. 2. Landscape Buffers.** Landscaping shall be provided around the perimeter of all parking areas to prevent direct views of parked vehicles from the streets and sidewalks, avoid spillover light, glare, noise, or exhaust fumes onto adjacent properties, and to provide parking areas with a reasonable measure of shade.

The Applicant has requested a waiver from the full applicability of this requirement to all parking areas. Landscaping along the northern edge of the parking area in the rear is provided and a robust landscaping plan will be installed between the front parking area and Main Street. Adding landscaping along the western edge of the property and the side parking area will conflict with the existing sub-surface drainage piping in that area. For the foregoing reasons, the Board APPROVES this waiver request ~~with the noted condition~~ 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.

7. Section 207-19 Landscaping, C. Parking Areas 1) d) At least one deciduous shade or canopy tree of a minimum three inches caliper with a height of not less than 12 feet above grade shall be provided for every parking spaces. Only trees providing shade to the parking area shall be counted as meeting this requirement. The Board may waive this requirement in favor of the preservation for existing site trees.

The Applicant has requested a waiver from this regulation. Instead, they propose to provide shade trees where possible that do not interfere with the required underground utilities and the stormwater drainage system which together limit planting options. For the foregoing reasons, the Board APPROVES this waiver request ~~with the noted condition~~ as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.

VIII. CONDITIONS The Specific and General Conditions included in this Decision are to assure that the Board's approval of the major site plan, groundwater protection special permit, and reduced parking special permit are consistent with the Zoning Bylaw, 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. Notwithstanding any future amendment of the Bylaw, G.L. c.40A, or any other legislative act:
1. The tract(s) of land on which this proposed development will be located is presently located at 86 Holliston Street. It is understood that the parcel will be divided into two lots, one for the proposed medical facility (with a Main Street address) and the other for the remaining property at 86 Holliston Street. The new parcel shall not be altered or used except:
 - a) as granted by this site plan and special permits decision;
 - b) substantially as shown on the site plan titled *Site Plan, 86 Holliston Street, Medway, MA* dated April 14, 2022, last revised June 29, 2022, prepared by Guerriere & Halnon, Inc. including landscaping, lighting, and architectural plans, to be further revised as specified herein before plan endorsement
 - c) in accordance with any subsequently approved field changes, modified plans, or amendments to this site plan/special permit decision; and

2. The tract of land and buildings comprising the Milford Regional medical facility Road shall not be used, sold, transferred, or leased except in conformity with this decision and approved site plan and shall not be further divided.
- B. **Plan Endorsement** - Within 60 days after the Board has filed its *Decision* with the Town Clerk, the site plan entitled *Site Plan, 86 Holliston Street, Medway, MA* dated April 14, 2022, last revised June 29, 2022, prepared by Guerriere & Halnon, Inc. including building elevations by HPA Designs, renderings, landscaping plan and lighting plan, shall be further revised to reflect all Conditions and required revisions as specified herein, and shall be submitted to the Board to review for compliance with the Board's *Decision*. (*Said plan is hereinafter referred to as the Plan*). Upon approval, the Applicant shall provide the revised Plan in its final form to the Board for its endorsement prior to recording at the Norfolk County Registry of Deeds along with this decision. All plan sheets shall be bound together in a complete set. Prior to plan endorsement, the Permittee shall also provide a Certificate of No Appeal from the Town Clerk's office. The time period may be extended by mutual agreement of the Permittee and Board.
- C. **Recording** - No construction shall begin on the site and no building permit for any work shall be issued before this Decision and the *Plan* are recorded at the Norfolk County Registry of Deeds and proof of such recording is provided to the Board within thirty days of recording.
- D. **Cover Sheet Revisions**
1. Update waiver information to specify all APPROVED waivers
 2. Revise signature box to include decision approval date AND plan endorsement date
 3. Revise Town Clerk box to remove reference to a covenant and include reference to the decision
- E. **Other Plan Revisions (Civil and Architectural)**
1. As recommended by Tetra Tech, add a specific note to the plan set that the utilities will be installed underground.
 2. As recommended by Tetra Tech, the plan shall be revised to install Cultec Separator Rows on the proposed SIS systems as required by Section 207-14. D of the *Site Plan Rules and Regulations*.
 3. As recommended by Tetra Tech, the plan shall be revised to round off the northern end of the access driveway to prevent vehicles parking at the squared-off (as currently shown) portion of the driveway.
 4. As recommended by the Design Review Committee, the plan shall be revised to adjust the height of the parking lot light poles to 14'. The fixture head should include shielding to prevent glare at the street and the LED light color rendering index (CRI) should be a little higher (>79), and correlated color temp (CCT) between 3200-3500 for both safety and aesthetics. A more decorative head for the post top should be selected to coordinate with the decorative lighting on the building.

Commented [SAC1]: Added these

Commented [SAC2]: Added a series of plan revisions

5. As recommended by the Design Review Committee and as requested by the Applicant, the color of the proposed “barn style doors” on the east and west building façade should be a dark red or burgundy color.
6. As recommended by the Design Review Committee, the detail on the proposed natural wood-look vinyl perimeter fence should be revised to indicate a grey or wood color.
7. As recommended by the Design Review Committee, the proposed new split rail agricultural style fence along the western boundary should be fabricated with a non-glossy finish in order to more closely resemble the existing wood painted fence on the property.

~~F. Conditions Pertaining to CBD Parking Location Special Permit~~

~~G. Conditions Pertaining to CBD Building Type Special Permit~~

F. Conditions Pertaining to Groundwater Protection District Special Permit

1. Use and storage of toxic and hazardous materials is prohibited unless stored within a free-standing container located inside the building. Any accidental spillage shall also be contained within the building and any that enters the sewer system shall be treated prior to being discharged to the municipal sewer system. Operation and maintenance procedures are in place to prevent any accidental outdoor spillage from reaching groundwater.
2. Any commercial fertilizers, as defined in Massachusetts General Law, c. 128 §64 will be stored within containers and kept inside the building. Any fertilizers used on landscape material anywhere on the site shall be the slow-release organic granular type, and only the absolute minimum necessary. All storage of fertilizers must be in a free-standing container within a building, have adequate secondary storage capacity or be within a facility designed to prevent the generation and escape of contaminated runoff or leachate. Application of fertilizers on site must be done in a manner to prevent adverse impacts on groundwater.
3. Outdoor storage anywhere on the site shall consist only of non-hazardous materials. Metal materials stored outside shall be under cover of a building or structure to prevent leaching of the metal into the groundwater.
4. There shall be no outdoor storage of pesticides, herbicides, fungicides, or insecticides anywhere on the site. Any such products shall be stored inside.
5. Deicing materials shall be limited to calcium chloride or other deicer material approved by the Medway Department of Public Works.
6. Plowed snow for the site shall be stored only in the designated areas shown on the plan or taken off site in times of substantial storms.

7. All vehicles shall be parked and stored on the paved surface to ensure treatment of any leaks of fluids from the vehicles. There shall be no outdoor maintenance or cleaning of vehicles.
8. There shall be no earth removal within six feet of the historical high groundwater level except for excavations for building foundations, roads, or utility works.
9. The Conservation Commission issued an Order of Conditions and Land Disturbance Permit on August 16, 2022 which specifies suitable measures to protect groundwater. This groundwater special permit is subject to those applicable conditions.

G. **Hours of Operation** – The hours of operation for the facility are as follows:

- Monday through Friday from 7 a.m. to 8 p.m.
- Saturday and Sunday from 9 a.m. to 5 p.m.

H. **Nuisance** – The Permittee shall construct and maintain the property and building 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 Environmental Standards of the *Zoning Bylaw*, as amended at the November 15, 2021 Town Meeting.

~~K. **Noise Management**~~

~~Wait for results of noise study and any recommendations from Jeff Komrower.~~

I. **Tree Preservation** – Sheet 8 Landscape Plan of the site plan denotes the location of ten trees along the west side of the driveway into Walgreens which are specified to be retained or transplanted. These include: _____

1. The Permittee and its contractors shall not remove the ten noted trees during site preparation and construction of infrastructure and the buildings unless necessary. Any trees removed shall be replanted on the site if feasible.
2. The ten trees shall be clearly identified in the field and verified by the Board's consulting engineer before site preparation and construction commences.
3. If any of the ten identified trees are removed or damaged during site preparation or construction, and cannot be replanted, the Permittee shall be responsible for tree restoration by replacing the removed or damaged trees with nursery grade trees on a one square inch per two square inch replacement basis within year after the tree removal or damage has occurred. The one square inch per two square inch replacement amount is calculated by squaring 1/2 the established diameter of each tree that is removed or damaged and multiplying that amount by 3.14 to determine its trunk area (tree radius

squared x pi rounded to 3.14). The resulting figure is halved, and that square inch total is the amount of required square inches of the replacement tree(s). The location of the replacement trees shall be recommended by the Permittee and approved by the Planning and Economic Development Board (as a field change). The species of replacement tree(s) shall be from those listed in the *Site Plan Rules and Regulations* or as otherwise approved by the Board.

4. TREES along the driveway?

- J. **Open Space** – At least 20% of the site shall be permanently retained as open space and/or yard in perpetuity. This is an on-going obligation of the Permittee. This area shall be unpaved but may be landscaped or left natural with the balance being trees, shrubs, and grass suitable for the site. The area may include communal gathering space for employees.
- K. **Signage** – Prior to 120 days after plan endorsement, the Permittee shall provide a master signage plan for review by the Design Review Committee and approval of the Planning and Economic Development Board.
- L. **Snow Storage and Removal**
 - 1. On-site snow storage shall not encroach upon nor prohibit the use of any parking spaces required by the Bylaw.
 - 2. Accumulated snow which exceeds the capacity of the designated snow storage areas on-site shall be removed from the premises.
- M. **Water Conservation** – 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:
 - 1. Any landscape irrigation system shall not be connected to municipal water supply. Irrigation wells must be permitted by the Board of Health.
 - 2. rain-gauge controlled irrigation systems
 - 3. low flow plumbing fixtures
 - 4. water efficient appliances for toilets, etc.
- N. **Construction** – In conjunction with the pre-construction meeting (see General Condition ____), the Permittee shall provide the following:
 - 1. Stormwater Pollution Prevention Plan (SWPPP) and documentation under the NPDES General Construction Permit program of the US EPA.
 - 2. Construction Management Plan compliant with Section 204-3 H. of the *Site Plan Rules and Regulations*
 - 3. Soil Management Plan Compliant with Section 207-8. D of the *Site Plan Rules and Regulations*
- O. Occupancy Permit**Street Openings** – The Permittee will comply with the Medway DPW requirements for all street openings. It is noted that Main Street in front of the site was recently re-paved, and the DPW imposes a five year moratorium on street openings after a public way has been paved. As a result, any street openings that are

granted by DPW will include more stringent requirements under the DPW Street Opening Guidelines.

- P. **ANR plan** – The applicant shall prepare and submit to the Board a plan for review and endorsement under G.L. c. 41, §81P, dividing the parcel on which the project will be built into a separate lot. This plan must be recorded prior to the issuance of a building permit.
- Q. **Traffic Safety** – A Traffic Safety Audit (TSA) was conducted by Vanasse & Associates for MassDOT of the signalized intersection at Walgreens driveway/ Medway Commons driveway/Main Street, dated March 2022. The TSA analyzed the crash data for this intersection and made recommendations for improvements to increase safety. The applicant has agreed to implement the following recommendations set forth in the TSA, to the extent these items are within the applicant's authority, or the applicant is granted permission by the Town. These items are to be completed in accordance with Medway DPW instructions and requirements and shall be completed prior to occupancy of the building.
1. Install retroreflective strips to the backplates of the signal heads to make signal heads more conspicuous.
 2. Trim trees on the north side of Main Street that obscure signal heads. The trees should be checked when they have leaves to determine what needs to be trimmed.
 3. Restriping the intersection.
 4. Post warning sign of solar glare on westbound side of Main Street, at location to be determined by Medway DPW. Sign shall comply with Medway DPW specifications.

GENERAL CONDITIONS OF APPROVAL

- R. **Applicability** – This Decision shall apply to any successor in control or successor in interest to the subject property
- S. **Fees** - Prior to filing this 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 or other consultants;
 2. 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.
- T. **Compliance with Other Permits** – This special permit does not relieve the Applicant from its responsibility to apply for, obtain, pay for, and comply with all other required federal, state and Town permits, licenses, and approvals. The Permittee or agent shall apply for, obtain, pay for, and comply with all other required Town permits.
- U. **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* - Work at construction sites and in the operation of construction equipment including start-up and movement of trucks, vehicles, and machines shall commence no earlier than 7 a.m. and shall cease no later than 6 p.m. Monday through 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 ~~and~~ 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 *Zoning Bylaw*, SECTION 7.3 Environmental Standards.
9. *Stormwater Management* – During construction, the Applicant shall maintain the site and installed stormwater management facilities in accordance with the Construction Period Pollution Prevention Plan included in *Stormwater Report for Medway Medical Building, 86 Holliston Street, Medway, MA* dated April 14,

2022, prepared by Robert J. Duff, P.E., Guerriere & Halnon, Inc. of Franklin, MA.

V. Construction Oversight

1. Pre-Construction Meeting – At least seven days prior to the start of any site preparation or construction, the Applicant shall meet with the Town’s Consulting Engineer, the Planning and Economic Development Coordinator, the Medway Department of Public Works, the Medway Conservation Agent, other Town officials as may be appropriate, and the Permittee’s project engineer and site contractors 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. Right to Enter Property - Board members, its staff, consultants or other designated Town agents and staff shall have the right to enter the property at reasonable times during construction and with advance notice to the Permittee to inspect the site for compliance with the terms and conditions of this decision and the Plan and while on site, may acquire any information, measurements, photographs, and observations deemed necessary for that evaluation.
4. DPW Inspections – Permittee will coordinate with the Department of Public Works for 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. Monthly Reports - 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 and shall start immediately once any work begins on the property. The Permittee's engineer shall prepare a written report of each inspection and provide a copy to the Board within five days of inspection. The Board may provide a template for such monthly reports.

W. 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 *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 the Planning and Economic Development Coordinator 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.

X. Modification of Plan and/or Decision

1. Proposed modifications, not including on-site field changes, to this *Decision* or the endorsed Plan shall be subject to review by the Board.
2. This site plan and special permit 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 *Plan* or this *Decision* may be a violation of the *Zoning Bylaw* unless the Permittee requests approval of a modification pursuant to Section 208-4 of the *Site Plan Rules and Regulations* and such approval is provided in writing by the Board, or as provided in condition X.

4. The request for a modification to a previously approved special permit and/or *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 modifications, 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.
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 special permit documents and shall be shown on the final as-built plan

Y. Compliance with Plan and Decision

1. The Permittee shall construct all improvements in compliance with the approved and endorsed *Plan* and this *Decision* 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 decision and the foregoing Specific and General Conditions of Approval.
3. The Specific and General 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.

Z. Performance Security

1. Prior to grant of an occupancy permit, the Board shall provide a Certificate of Site Plan Completion to the Building Commissioner or notify the Building Commissioner that suitable performance security 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 security be accompanied by an agreement which shall define the obligations of the Permittee and the performance security 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 security 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 security estimate is prepared if the developer failed to do so.

4. The performance 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~~25% contingency.

~~5. Something about reductions in performance security ...~~

- ~~6~~5. Final release of performance security is contingent on project completion.

AA. **Project Completion**

1. Site plan approval shall lapse after two years of the grant thereof as provided in Section 3.5.7 of the Zoning Bylaw if construction has not begun except for good cause. 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 specify the additional 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. The work shown on the approved Plan shall be completed by the Permittee or its assignees within years of the date of plan endorsement. Upon receipt of a written request from the Permittee filed at least thirty days prior to the date of expiration, the Board may grant an extension for good cause. The request shall state the reasons for the extension and specify the additional 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.
3. 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, in its opinion, the completed work conforms to the approved 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.
 - a) Before issuing such Certificate, a Board member or the Board's Agent shall conduct a final inspection of the site and prepare a punch list to identify any remaining work to be completed. The Board may consult with its consulting

engineer and various Town staff and boards or committees to determine whether the project is complete.

- b) To secure a Certificate of Site Plan Completion, the Permittee shall complete or provide the following items to the satisfaction of the Board.
 - i. receipts to document cleaning of the stormwater system
 - ii. a signed statement from the Permittee committing to the ongoing maintenance of the stormwater management facilities and replacement of landscaping.
 - iii. removal of erosion controls
 - iv. full stabilization of the site
 - v. a 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
 - vi. an electronic version of a final 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.

BB. ***Landscape Maintenance*** - The site's landscaping shall be maintained in good condition throughout the life of the facility and to the same extent as shown on the *Plan of Record*. Any shrubs, trees, bushes, or other landscaping features shown on the Plan that die shall be replaced by the following spring.

Conflicts –If there is a conflict between the Plan and the Decision's Specific and General Conditions, the Decision shall rule. 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.

DRAFT

Decision Date: _____

By a vote of ____ to ____ , the Planning and Economic Development Board hereby _____ the Applicant, Lobbiser Companies, a major site plan approval, a groundwater protection special permit, a parking location special permit, and a building type special permit pursuant to Sections 3.5, 5.6.3, 10.2, and 10.4 of the Medway *Zoning Bylaw* for the development of a medical building for Milford Regional Medical Center, to be located on a 2.2 acre portion of the 8+ acre parcel known as 86 Holliston Street, to be constructed in accordance with this Decision, the Site Plan, the architectural plans, and subject to the **CONDITIONS** herein.

Member:

Vote:

Signature:

Matthew Hayes, Chair

Robert Tucker

Richard Di Iulio

Jessica Chabot

Sarah Raposa

Date Signed: _____

COPIES TO: Michael Boynton, Town Manager
Stephanie Carlisle, DPW Compliance Officer
Michael Fasolino, Deputy Fire Chief
Bridget Graziano, Conservation Agent
Sean Harrington, Deputy DPW Director
William Kingsbury, Police Chief
Derek Kwok, Health Agent
Jeff Lynch, Fire Chief
Building Commissioner and Zoning Enforcement Officer
Christopher Park, Assessor
Pete Pelletier, DPW Director
Joanne Russo, Treasurer/Collector
Barbara Saint Andre, Director of Community and Economic Development
Jeff Watson, Police Department
Steven Bouley, Tetra Tech
Kevin Lobisser, Lobisser Companies
David Cassidy, Friel Realty LLC
Amanda Cavaliere, Guerriere & Halnon



September 27, 2022

**Medway Planning & Economic Development Board
Meeting**

**DHCD Final Guidelines on MBTA
Community Multi-family zoning district
requirements**

- Memo to Select Board Re: DHCD Compliance Guidelines for Multi-family Housing Zoning Districts, dated September 6, 2022
- DHCD Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act



TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
**COMMUNITY AND ECONOMIC
DEVELOPMENT**

Medway Town Hall
155 Village Street
Medway, MA 02053
Telephone (508) 321-4918
Email:
bsaintandre@townofmedway.org
www.townofmedway.org

Director

Barbara J. Saint Andre

**To: Select Board
Planning and Economic Development Board
Michael Boynton, Town Manager**

**From: Barbara J. Saint Andre
Director, Community and Economic Development**

Re: DHCD Compliance Guidelines for Multi-family Housing Zoning Districts

Date: September 6, 2022

I. Overview and Deadlines

On August 10, 2022, the Department of Housing and Community Development (DHCD) issued the final “Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act”, (the “Guidelines”) intended to implement Chapter 40A, §3A, enacted as part of the Housing Choice legislation, Chapter 358 of the Acts of 2020 (Section 3A). This memorandum updates my memorandum to the Board of January 6, 2022, which explained the DHCD Draft Guidelines. There are a number of changes incorporated into the final Guidelines that affect Medway, such as the deadlines, but many significant provisions remain very similar to the Draft Guidelines.

As you may recall, Section 3A requires each MBTA community, which includes Medway, to provide at least one zoning district of “reasonable size” that allows multi-family housing by right, and complies with certain other requirements, including a minimum gross density of 15 units per acre. If the Town does not comply, the Town will not be eligible for Housing Choice, Local Capital Projects Fund, or MassWorks grants. The Guidelines also state that determinations of compliance with Section 3A may “inform decisions by EOHED, DHCD, MBTA and other state agencies which consider local housing policies when evaluating applications for discretionary grant programs, or making other discretionary funding decisions.”

To remain in compliance with chapter 40A, §3A and be eligible for funding under the three programs listed above, we must:

- Submit an Action Plan to DHCD no later than **January 31, 2023** (which must be approved by DHCD)
- Enact zoning that complies with the Guidelines and submit a District Compliance Application no later than **December 31, 2024**

II. Requirements for Compliance

The Guidelines use a formula for determining a “reasonable size”, which DHCD has calculated for each MBTA community. For Medway, which is considered an “adjacent” community under the Guidelines, the determination of “reasonable size” has not changed from the Draft Guidelines, and is still defined as 50 acres. With the required density of 15 units per acre, this means that the minimum multi-family district unit capacity requirement for Medway is still 750 multi-family units.

Please note that the multi-family district may include existing multi-family housing. As noted in my prior memorandum, a review of the Assessors’ records indicates the Glen Brook and 39 Main Street multi-family developments currently under construction should meet the required minimum density of 15 units per acre. Existing developments including Sanford Mill, Lovering Heights, and the Brick House apartments, also meet the minimum 15 units per acre based on Assessors’ records.

According to the Guidelines, our multi-family zoning district must meet the following requirements in order to comply with Section 3A:

- Multi-family housing must be allowed as of right, meaning that no discretionary permit, such as a special permit, is required. Site plan review may be required, but cannot be used to deny a project, or impose conditions that make multi-family housing impractical.
- The Guidelines provide that we must use the DHCD compliance model to provide an estimate of the number of multi-family housing units that can be developed as-of-right in the multi-family zoning. This compliance model, using GIS data, takes into account the amount of developable land in the district, dimensional requirements, and parking, to calculate an estimate of the number of units that could be constructed on each lot in the district, and the overall gross density for each district. As noted above, the gross density must be at least 15 units per acre.
- The multi-family district may be an overlay district, and may include more than one area, but at least one portion of the overlay district must include at least 25 contiguous acres of land, and no portion of the district that is less than 5 acres will be counted toward the minimum 50 acre requirement.
- The multi-family district must be without age restrictions and may not place restrictions on the size of the units, the number or size of bedrooms, or the number of occupants.
- Because Medway does not have land within one-half mile of a transit station, the multi-family district should, if feasible, be located in an area with reasonable access to a transit station, or consistent with the state’s sustainable development principles, such as near a downtown or village center.

The Guidelines outline the process for submitting information to DHCD on the multi-family housing district once it has been enacted, in order to obtain a determination that the Town is in compliance. Please note that we have applied for a state grant to be used to hire a consultant to assist with preparing zoning that will comply with the Guidelines.

III. Interim Compliance

As noted above, Medway can stay in interim compliance by submitting an Action Plan by January 31, 2023 and having it approved by DHCD. The Action Plan must be on the DHCD form, and provide information on current zoning, past planning for multi-family housing, and potential locations for the required multi-family housing. We must also provide a time line for the necessary actions for creating the new multi-family district, including public outreach, PEDB hearings, and town meeting action. CED will prepare and submit this form on behalf of the Town; however, the designation of potential areas to designate for multi-family housing is a policy decision that needs input from the PEDB and SB.

IV. Affordable Units

Section 3A does not require that the multi-family housing district require any affordable units. However, the Town has an Affordable Housing provision in Section 8.6 of the Zoning By-law. It requires that any two-family, multi-family, or mixed- use development that results in a net increase of six or more dwelling units must include a percentage of affordable housing units which are eligible to be included on the Town's Subsidized Housing Inventory (SHI), and thus count towards the Town's 10% affordable housing requirement under G.L. c. 40B. That percentage ranges from 10% of the units for developments with a net increase of 6 to 12 units, up to 20% for developments with a net increase of 21 or more.

In order to apply this existing affordable housing requirement to the new multi-family housing district, we will need to meet the requirements of the Guidelines. The Guidelines provide that DHCD will consider an affordability requirement to be consistent with "as of right" zoning if the units are eligible for the SHI, the zoning requires no more than 10% affordable units, and the income cap is not less than 80% of Area Median Income. For municipalities that have existing affordable housing by-laws, however, the Guidelines allow the percentage of affordable units to be up to 20% if the municipality "demonstrates to DHCD that the affordability requirement has not made and will not make multi-family housing production infeasible".

I will be happy to discuss these items further or provide additional information.



Commonwealth of Massachusetts

DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Jennifer D. Maddox, Undersecretary

Issue Date: August 10, 2022

Compliance Guidelines for Multi-family Zoning Districts **Under Section 3A of the Zoning Act**

1. Overview of Section 3A of the Zoning Act

Section 3A of the Zoning Act provides: *An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.*

The purpose of Section 3A is to encourage the production of multi-family housing by requiring MBTA communities to adopt zoning districts where multi-family housing is allowed as of right, and that meet other requirements set forth in the statute.

The Department of Housing and Community Development, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, is required to promulgate guidelines to determine if an MBTA community is in compliance with Section 3A. DHCD promulgated preliminary guidance on January 29, 2021. DHCD updated that preliminary guidance on December 15, 2021, and on that same date issued draft guidelines for public comment. These final guidelines supersede all prior guidance and set forth how MBTA communities may achieve compliance with Section 3A.

2. Definitions

“Adjacent community” means an MBTA community that (i) has within its boundaries less than 100 acres of developable station area, and (ii) is not an adjacent small town.

“Adjacent small town” means an MBTA community that (i) has within its boundaries less than 100 acres of developable station area, and (ii) either has a population density of less than 500 persons per square mile, or a population of not more than 7,000 year-round residents as determined in the most recently published United States Decennial Census of Population and Housing.

“Affordable unit” means a multi-family housing unit that is subject to an affordable housing restriction with a term of no less than 30 years and eligible for inclusion on DHCD’s Subsidized Housing Inventory.

“Age-restricted housing” means any housing unit encumbered by a title restriction requiring a minimum age for some or all occupants.

“As of right” means development that may proceed under a zoning ordinance or by-law without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.

“Bus station” means a location with a passenger platform and other fixed infrastructure serving as a point of embarkation for the MBTA Silver Line. Upon the request of an MBTA community, DHCD, in consultation with the MBTA, may determine that other locations qualify as a bus station if (i) such location has a sheltered platform or other fixed infrastructure serving a point of embarkation for a high-capacity MBTA bus line, and (ii) the area around such fixed infrastructure is highly suitable for multi-family housing.

“Commuter rail community” means an MBTA community that (i) does not meet the criteria for a rapid transit community, and (ii) has within its borders at least 100 acres of developable station area associated with one or more commuter rail stations.

“Commuter rail station” means any MBTA commuter rail station with year-round, rather than intermittent, seasonal, or event-based, service, including stations under construction and scheduled to being service before the end of 2023, but not including existing stations at which service will be terminated, or reduced below regular year-round service, before the end of 2023.

“Compliance model” means the model created by DHCD to determine compliance with Section 3A’s reasonable size, gross density, and location requirements. The compliance model is described in further detail in Appendix 2.

“Determination of compliance” means a determination made by DHCD as to whether an MBTA community has a multi-family zoning district that complies with the requirements of Section 3A. A determination of compliance may be determination of interim compliance or a determination of district compliance, as described in section 9.

“Developable land” means land on which multi-family housing can be permitted and constructed. For purposes of these guidelines, developable land consists of: (i) all privately-owned land except lots or portions of lots that meet the definition of excluded land, and (ii) developable public land.

“Developable public land” means any publicly-owned land that (i) is used by a local housing authority; (ii) has been identified as a site for housing development in a housing production plan approved by DHCD; or (iii) has been designated by the public owner for disposition and redevelopment. Other publicly-owned land may qualify as developable public land if DHCD determines, at the request of an MBTA community and after consultation with the public owner, that such land is the location of obsolete structures or uses, or otherwise is suitable for conversion to

multi-family housing, and will be converted to or made available for multi-family housing within a reasonable period of time.

“Developable station area” means developable land that is within 0.5 miles of a transit station.

“DHCD” means the Department of Housing and Community Development.

“EOHED” means the Executive Office of Housing and Economic Development.

“Excluded land” means land areas on which it is not possible or practical to construct multi-family housing. For purposes of these guidelines, excluded land is defined by reference to the ownership, use codes, use restrictions, and hydrological characteristics in MassGIS and consists of the following:

- (i) All publicly-owned land, except for lots or portions of lots determined to be developable public land.
- (ii) All rivers, streams, lakes, ponds and other surface waterbodies.
- (iii) All wetland resource areas, together with a buffer zone around wetlands and waterbodies equivalent to the minimum setback required by title 5 of the state environmental code.
- (iv) Protected open space and recreational land that is legally protected in perpetuity (for example, land owned by a local land trust or subject to a conservation restriction), or that is likely to remain undeveloped due to functional or traditional use (for example, cemeteries).
- (v) All public rights-of-way and private rights-of-way.
- (vi) Privately-owned land on which development is prohibited to protect private or public water supplies, including, but not limited to, Zone I wellhead protection areas and Zone A surface water supply protection areas.
- (vii) Privately-owned land used for educational or institutional uses such as a hospital, prison, electric, water, wastewater or other utility, museum, or private school, college or university.

“Ferry terminal” means the location where passengers embark and disembark from regular, year-round MBTA ferry service.

“Gross density” means a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.

“Housing suitable for families” means housing comprised of residential dwelling units that are not age-restricted housing, and for which there are no zoning restriction on the number of bedrooms, the size of bedrooms, or the number of occupants.

“Listed funding sources” means (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2E of chapter 29; and (iii) the MassWorks infrastructure program established in section 63 of chapter 23A.

“Lot” means an area of land with definite boundaries that is used or available for use as the site of a building or buildings.

“MassGIS data” means the comprehensive, statewide database of geospatial information and mapping functions maintained by the Commonwealth's Bureau of Geographic Information, within the Executive Office of Technology Services and Security, including the lot boundaries and use codes provided by municipalities.

“MBTA” means the Massachusetts Bay Transportation Authority.

“MBTA community” means a city or town that is: (i) one of the 51 cities and towns as defined in section 1 of chapter 161A; (ii) one of the 14 cities and towns as defined in said section 1 of said chapter 161A; (iii) other served communities as defined in said section 1 of said chapter 161A; or (iv) a municipality that has been added to the Massachusetts Bay Transportation Authority under section 6 of chapter 161A or in accordance with any special law relative to the area constituting the authority.

“Multi-family housing” means a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.

“Multi-family unit capacity” means an estimate of the total number of multi-family housing units that can be developed as of right within a multi-family zoning district, made in accordance with the requirements of section 5.b below.

“Multi-family zoning district” means a zoning district, including a base district or an overlay district, in which multi-family housing is allowed as of right; provided that the district shall be in a fixed location or locations, and shown on a map that is part of the zoning ordinance or by-law.

“One Stop Application” means the single application portal for the Community One Stop for Growth through which (i) the Executive Office of Housing and Economic Development considers requests for funding from the MassWorks infrastructure program; (ii) DHCD considers requests for funding from the Housing Choice Initiative, (iii) EOHED, DHCD and other state agencies consider requests for funding from other discretionary grant programs.

“Private rights-of-way” means land area within which private streets, roads and other ways have been laid out and maintained, to the extent such land areas can be reasonably identified by examination of available tax parcel data.

“Publicly-owned land” means (i) any land owned by the United States or a federal agency or authority; (ii) any land owned by the Commonwealth of Massachusetts or a state agency or authority; and (iii) any land owned by a municipality or municipal board or authority.

“Public rights-of-way” means land area within which public streets, roads and other ways have been laid out and maintained, to the extent such land areas can be reasonably identified by examination of available tax parcel data.

“Rapid transit community” means an MBTA community that has within its borders at least 100 acres of developable station area associated with one or more subway stations, or MBTA Silver Line bus rapid transit stations.

“Residential dwelling unit” means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

“Section 3A” means section 3A of the Zoning Act.

“Sensitive land” means developable land that, due to its soils, slope, hydrology, or other physical characteristics, has significant conservation values that could be impaired, or vulnerabilities that could be exacerbated, by the development of multi-family housing. It also includes locations where multi-family housing would be at increased risk of damage caused by flooding. Sensitive land includes, but is not limited to, wetland buffer zones extending beyond the title 5 setback area; land subject to flooding that is not a wetland resource area; priority habitat for rare or threatened species; DEP-approved wellhead protection areas in which development may be restricted, but is not prohibited (Zone II and interim wellhead protection areas); and land areas with prime agricultural soils that are in active agricultural use.

“Site plan review” means a process established by local ordinance or by-law by which a local board reviews, and potentially imposes conditions on, the appearance and layout of a specific project prior to the issuance of a building permit.

“Subway station” means any of the stops along the MBTA Red Line, Green Line, Orange Line, or Blue Line, including any extensions to such lines now under construction and scheduled to begin service before the end of 2023.

“Transit station” means an MBTA subway station, commuter rail station, ferry terminal or bus station.

“Transit station area” means the land area within 0.5 miles of a transit station.

“Zoning Act” means chapter 40A of the Massachusetts General Laws.

3. General Principles of Compliance

These compliance guidelines describe how an MBTA community can comply with the requirements of Section 3A. The guidelines specifically address:

- What it means to allow multi-family housing “as of right.”
- The metrics that determine if a multi-family zoning district is “of reasonable size.”
- How to determine if a multi-family zoning district has a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code.

- The meaning of Section 3A’s mandate that “such multi-family housing shall be without age restrictions and shall be suitable for families with children.”
- The extent to which MBTA communities have flexibility to choose the location of a multi-family zoning district.

The following general principles have informed the more specific compliance criteria that follow:

- MBTA communities with subway stations, commuter rail stations and other transit stations benefit from having these assets located within their boundaries and should provide opportunity for multi-family housing development around these assets. MBTA communities with no transit stations within their boundaries benefit from proximity to transit stations in nearby communities.
- The multi-family zoning districts required by Section 3A should encourage the development of multi-family housing projects of a scale, density and aesthetic that are compatible with existing surrounding uses, and minimize impacts to sensitive land.
- “Reasonable size” is a relative rather than an absolute determination. Because of the diversity of MBTA communities, a multi-family zoning district that is “reasonable” in one city or town may not be reasonable in another city or town.
- When possible, multi-family zoning districts should be in areas that have safe, accessible, and convenient access to transit stations for pedestrians and bicyclists.

4. Allowing Multi-Family Housing “As of Right”

To comply with Section 3A, a multi-family zoning district must allow multi-family housing “as of right,” meaning that the construction and occupancy of multi-family housing is allowed in that district without the need for a special permit, variance, zoning amendment, waiver, or other discretionary approval. DHCD will determine whether zoning provisions allow for multi-family housing as of right consistent with the following guidelines.

a. Site plan review

The Zoning Act does not establish nor recognize site plan review as an independent method of regulating land use. However, the Massachusetts courts have recognized site plan review as a permissible regulatory tool, including for uses that are permitted as of right. The court decisions establish that when site plan review is required for a use permitted as of right, site plan review involves the regulation of a use and not its outright prohibition. The scope of review is therefore limited to imposing reasonable terms and conditions on the proposed use, consistent with applicable case law.¹ These guidelines similarly recognize that site plan review may be required for multi-

¹ See, e.g., *Y.D. Dugout, Inc. v. Board of Appeals of Canton*, 357 Mass. 25 (1970); *Prudential Insurance Co. of America v. Board of Appeals of Westwood*, 23 Mass. App. Ct. 278 (1986); *Osberg v. Planning Bd. of Sturbridge*, 44 Mass. App. Ct. 56, 59 (1997) (Planning Board “may impose reasonable terms and conditions on the proposed use, but it does not have discretionary power to deny the use”).

family housing projects that are allowed as of right, within the parameters established by the applicable case law. Site plan approval may regulate matters such as vehicular access and circulation on a site, architectural design of a building, and screening of adjacent properties. Site plan review should not unreasonably delay a project nor impose conditions that make it infeasible or impractical to proceed with a project that is allowed as of right and complies with applicable dimensional regulations.

b. Affordability requirements

Section 3A does not include any express requirement or authorization for an MBTA community to require affordable units in a multi-family housing project that is allowed as of right. It is a common practice in many cities and towns to require affordable units in a multi-family project that requires a special permit, or as a condition for building at greater densities than the zoning otherwise would allow. These inclusionary zoning requirements serve the policy goal of increasing affordable housing production. If affordability requirements are excessive, however, they can make it economically infeasible to construct new multi-family housing.

For purposes of making compliance determinations with Section 3A, DHCD will consider an affordability requirement to be consistent with as of right zoning as long as: (i) any affordable units required by the zoning are eligible to be listed on DHCD's Subsidized Housing Inventory; (ii) the zoning requires not more than 10 percent of the units in a project to be affordable units; and (iii) the cap on the income of families or individuals who are eligible to occupy the affordable units is not less than 80 percent of area median income. Notwithstanding the foregoing, the percentage of units required to be affordable units may be up to, but not more than, 20 percent of the units in a project, only if (i) the affordability requirement applicable in the multi-family zoning district pre-dates the enactment of Section 3A and the MBTA community demonstrates to DHCD that the affordability requirement has not made and will not make multi-family housing production infeasible, or (ii) the multi-family zoning district requires DHCD review and approval as a smart growth district under chapter 40R, or under another zoning incentive program administered by DHCD.

c. Other requirements that do not apply uniformly in the multi-family zoning district

Zoning will not be deemed compliant with Section 3A's requirement that multi-family housing be allowed as of right if the zoning imposes requirements on multi-family housing that are not generally applicable to other uses. The following are examples of requirements that would be deemed to be inconsistent with "as of right" use: (i) a requirement that multi-family housing meet higher energy efficiency standards than other uses; (ii) a requirement that a multi-family use achieve a third party certification that is not required for other uses in the district; and (iii) a requirement that multi-family use must be combined with commercial or other uses on the same lot or as part of a single project. Mixed use projects may be allowed as of right in a multi-family zoning district, as long as multi-family housing is separately allowed as of right.

5. Determining "Reasonable Size"

In making determinations of "reasonable size," DHCD will take into consideration both the land area of the multi-family zoning district, and the multi-family zoning district's multi-family unit capacity.

a. *Minimum land area*

A zoning district is a specifically delineated land area with uniform regulations and requirements governing the use of land and the placement, spacing, and size of buildings. For purposes of compliance with Section 3A, a multi-family zoning district should be a neighborhood-scale district, not a single development site on which the municipality is willing to permit a particular multi-family project. DHCD will certify compliance with Section 3A only if an MBTA community's multi-family zoning district meets the minimum land area applicable to that MBTA community, if any, as set forth in Appendix 1. The minimum land area for each MBTA community has been determined as follows:

- (i) In rapid transit communities, commuter rail communities, and adjacent communities, the minimum land area of the multi-family zoning district is 50 acres, or 1.5% of the developable land in an MBTA community, whichever is *less*. In certain cases, noted in Appendix 1, a smaller minimum land area applies.
- (ii) In adjacent small towns, there is no minimum land area. In these communities, the multi-family zoning district may comprise as many or as few acres as the community determines is appropriate, as long as the district meets the applicable minimum multi-family unit capacity and the minimum gross density requirements.

In all cases, at least half of the multi-family zoning district land areas must comprise contiguous lots of land. No portion of the district that is less than 5 contiguous acres land will count toward the minimum size requirement. If the multi-family unit capacity and gross density requirements can be achieved in a district of fewer than 5 acres, then the district must consist entirely of contiguous lots.

b. *Minimum multi-family unit capacity*

A reasonably sized multi-family zoning district must also be able to accommodate a reasonable number of multi-family housing units as of right. For purposes of determinations of compliance with Section 3A, DHCD will consider a reasonable multi-family unit capacity for each MBTA community to be a specified percentage of the total number of housing units within the community, with the applicable percentage based on the type of transit service in the community, as shown on Table 1:

Table 1.

<u>Category</u>	<u>Percentage of total housing units</u>
Rapid transit community	25%
Commuter rail community	15%
Adjacent community	10%
Adjacent small town	5%

To be deemed in compliance with Section 3A, each MBTA community must have a multi-family zoning district with a multi-family unit capacity equal to or greater than the minimum unit capacity shown for it in Appendix 1. The minimum multi-family unit capacity for each MBTA community has been determined as follows:

- (i) First, by multiplying the number of housing units in that community by 0.25, 0.15, 0.10, or .05 depending on the MBTA community category. For example, a rapid transit community with 7,500 housing units is required to have a multi-family zoning district with a multi-family unit capacity of $7,500 \times 0.25 = 1,875$ multi-family units. For purposes of these guidelines, the number of total housing units in each MBTA community has been established by reference to the most recently published United States Decennial Census of Population and Housing.
- (ii) Second, when there is a minimum land area applicable to an MBTA community, by multiplying that minimum land area (up to 50 acres) by Section 3A's minimum gross density requirement of 15 units per acre. The product of that multiplication creates a floor on multi-family unit capacity. For example, an MBTA community with a minimum land area of 40 acres must have a district with a multi-family unit capacity of at least 600 (40×15) units.
- (iii) The minimum unit capacity applicable to each MBTA community is *the greater of* the numbers resulting from steps (i) and (ii) above, but subject to the following limitation: In no case does the minimum multi-family unit capacity exceed 25% of the total housing units in that MBTA community.

Example: The minimum multi-family unit capacity for an adjacent community with 1,000 housing units and a minimum land area of 50 acres is determined as follows: (i) first, by multiplying $1,000 \times .1 = 100$ units; (ii) second, by multiplying $50 \times 15 = 750$ units; (iii) by taking the larger number, but adjusting that number down, if necessary, so that unit capacity is no more than 25% of $1,000 = 250$ units. In this case, the adjustment in step (iii) results in a minimum unit capacity of 250 units.

c. *Methodology for determining a multi-family zoning district's multi-family unit capacity*

MBTA communities seeking a determination of compliance must use the DHCD compliance model to provide an estimate of the number of multi-family housing units that can be developed as of right within the multi-family zoning district. The multi-family unit capacity of an existing or proposed district shall be calculated using the unit capacity worksheet described in Appendix 2. This worksheet produces an estimate of a district's multi-family unit capacity using inputs such as the amount of developable land in the district, the dimensional requirements applicable to lots and buildings (including, for example, height limitations, lot coverage limitations, and maximum floor area ratio), and the parking space requirements applicable to multi-family uses.

Minimum unit capacity is a measure of whether a multi-family zoning district is of a reasonable size, not a requirement to produce housing units. Nothing in Section 3A or these guidelines should be interpreted as a mandate to construct a specified number of housing units, nor as a housing production target. Demonstrating compliance with the minimum multi-family unit capacity requires only that an MBTA community show that the zoning allows multi-family housing as of right and that a sufficient number of multi-family housing units could be added to or replace existing uses and structures over time—even though such additions or replacements may be unlikely to occur soon.

If an MBTA community has two or more zoning districts in which multi-family housing is allowed as of right, then two or more districts may be considered cumulatively to meet the minimum land area and minimum multi-family unit capacity requirements, as long as each district independently complies with Section 3A's other requirements.

d. *Water and wastewater infrastructure within the multi-family zoning district*

MBTA communities are encouraged to consider the availability of water and wastewater infrastructure when selecting the location of a new multi-family zoning district. But compliance with Section 3A does not require a municipality to install new water or wastewater infrastructure, or add to the capacity of existing infrastructure, to accommodate future multi-family housing production within the multi-family zoning district. In most cases, multi-family housing can be created using private septic and wastewater treatment systems that meet state environmental standards. Where public systems currently exist, but capacity is limited, private developers may be able to support the cost of necessary water and sewer extensions. While the zoning must allow for gross average density of at least 15 units per acre, there may be other legal or practical limitations, including lack of infrastructure or infrastructure capacity, that result in actual housing production at lower density than the zoning allows.

The multi-family unit capacity analysis does not need to take into consideration limitations on development resulting from existing water or wastewater infrastructure within the multi-family zoning district, or, in areas not served by public sewer, any applicable limitations under title 5 of the state environmental code. For purposes of the unit capacity analysis, it is assumed that housing developers will design projects that work within existing water and wastewater constraints, and that developers, the municipality, or the Commonwealth will provide funding for infrastructure upgrades as needed for individual projects.

6. Minimum Gross Density

Section 3A expressly requires that a multi-family zoning district—not just the individual lots of land within the district—must have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A. The Zoning Act defines “gross density” as “a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.”

a. *District-wide gross density*

To meet the district-wide gross density requirement, the dimensional restrictions and parking requirements for the multi-family zoning district must allow for a gross density of 15 units per acre of land within the district. By way of example, to meet that requirement for a 40-acre multi-family zoning district, the zoning must allow for at least 15 multi-family units per acre, or a total of at least 600 multi-family units.

For purposes of determining compliance with Section 3A's gross density requirement, the DHCD compliance model will not count in the denominator any excluded land located within the multi-family zoning district, except public rights-of-way, private rights-of-way, and publicly-owned land used for recreational, civic, commercial, and other nonresidential uses. This method of

calculating minimum gross density respects the Zoning Act’s definition of gross density—“a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses”—while making it unnecessary to draw patchwork multi-family zoning districts that carve out wetlands and other types of excluded land that are not developed or developable.

b. *Achieving district-wide gross density by sub-districts*

Zoning ordinances and by-laws typically limit the unit density on individual lots. To comply with Section 3A’s gross density requirement, an MBTA community may establish reasonable sub-districts within a multi-family zoning district, with different density limits for each sub-district, provided that the gross density for the district as a whole meets the statutory requirement of not less than 15 multi-family units per acre. DHCD will review sub-districts to ensure that the density allowed as of right in each sub-district is reasonable and not intended to frustrate the purpose of Section 3A by allowing projects of a such high density that they are not likely to be constructed.

c. *Wetland and septic considerations relating to density*

Section 3A provides that a district of reasonable size shall have a minimum gross density of 15 units per acre, “subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A.” This directive means that even though the zoning district must permit 15 units per acre as of right, any multi-family housing produced within the district is subject to, and must comply with, the state wetlands protection act and title 5 of the state environmental code—even if such compliance means a proposed project will be less dense than 15 units per acre.

7. Determining Suitability for Families with Children

Section 3A states that a compliant multi-family zoning district must allow multi-family housing as of right, and that “such multi-family housing shall be without age restrictions and shall be suitable for families with children.” DHCD will deem a multi-family zoning district to comply with these requirements as long as the zoning does not require multi-family uses to include units with age restrictions, and does not limit or restrict the size of the units, cap the number of bedrooms, the size of bedrooms, or the number of occupants, or impose a minimum age of occupants. Limits, if any, on the size of units or number of bedrooms established by state law or regulation are not relevant to Section 3A or to determinations of compliance made pursuant to these guidelines.

8. Location of Districts

a. *General rule for determining the applicability of Section 3A’s location requirement*

Section 3A states that a compliant multi-family zoning district shall “be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.” When an MBTA community has only a small amount of transit station area within its boundaries, it may not be possible or practical to locate all of the multi-family zoning district within 0.5 miles of a transit station. Transit station area may not be a practical location for a multi-family zoning district if it does not include developable land where multi-family housing can actually be

constructed. Therefore, for purposes of determining compliance with Section 3A, DHCD will consider the statute’s location requirement to be “applicable” to a particular MBTA community only if that community has within its borders at least 100 acres of developable station area. DHCD will require more or less of the multi-family zoning district to be located within transit station areas depending on how much total developable station area is in that community, as shown on Table 2:

Table 2.

<u>Total developable station area within the MBTA community (acres)</u>	<u>Portion of the multi-family zoning district that must be within a transit station area</u>
0-100	0%
101-250	20%
251-400	40%
401-600	50%
601-800	75%
801+	90%

The percentages specified in this table apply to both the minimum land area and the minimum multi-family unit capacity. For example, in an MBTA community that has a total of 500 acres of transit station area within its boundaries, a multi-family zoning district will comply with Section 3A’s location requirement if at least 50 percent of the district’s minimum land area is located within the transit station area, *and* at least 50 percent of the district’s minimum multi-family unit capacity is located within the transit station area.

A community with transit station areas associated with more than one transit station may locate the multi-family zoning district in any of the transit station areas. For example, a rapid transit community with transit station area around a subway station in one part of town, and transit station area around a commuter rail station in another part of town, may locate its multi-family zoning district in either or both transit station areas.

b. MBTA communities with limited or no transit station area

When an MBTA community has less than 100 acres of developable station area within its boundaries, the MBTA community may locate the multi-family zoning district anywhere within its boundaries. To encourage transit-oriented multi-family housing consistent with the general intent of Section 3A, MBTA communities are encouraged to consider locating the multi-family zoning district in an area with reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that qualifies as an “eligible location” as defined in Chapter 40A—for example, near an existing downtown or village center, near a regional transit authority bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new multi-family housing.

c. General guidance on district location applicable to all MBTA communities

When choosing the location of a new multi-family zoning district, every MBTA community should consider how much of a proposed district is sensitive land on which permitting requirements and other considerations could make it challenging or inadvisable to construct multi-family housing. For example, an MBTA community may want to avoid including in a multi-family zoning district

areas that are subject to flooding, or are known habitat for rare or threatened species, or have prime agricultural soils in active agricultural use.

9. **Determinations of Compliance**

Section 3A provides that any MBTA community that fails to comply with Section 3A's requirements will be ineligible for funding from any of the listed funding sources. DHCD will make determinations of compliance with Section 3A in accordance with these guidelines to inform state agency decisions on which MBTA communities are eligible to receive funding from the listed funding sources. Determinations of compliance also may inform funding decisions by EOHED, DHCD, the MBTA and other state agencies which consider local housing policies when evaluating applications for discretionary grant programs, or making other discretionary funding decisions.

DHCD interprets Section 3A as allowing every MBTA community a reasonable opportunity to enact zoning amendments as needed to come into compliance. Accordingly, DHCD will recognize both *interim* compliance, which means an MBTA community is taking active steps to enact a multi-family zoning district that complies with Section 3A, and *district* compliance, which is achieved when DHCD determines that an MBTA community has a multi-family zoning district that complies with Section 3A. The requirements for interim and district compliance are described in more detail below.

Table 3.

Transit Category (# of municipalities)	Deadline to Submit Action Plan	Deadline to Submit District Compliance Application
Rapid transit community (12)	January 31, 2023	December 31, 2023
Commuter rail community (71)	January 31, 2023	December 31, 2024
Adjacent community (58)	January 31, 2023	December 31, 2024
Adjacent small town (34)	January 31, 2023	December 31, 2025

a. Process to achieve interim compliance

Many MBTA communities do not currently have a multi-family zoning district of reasonable size that complies with the requirements of Section 3A. Prior to achieving district compliance (but no later than the deadlines set forth in Table 3), these MBTA communities can achieve interim compliance by taking the following affirmative steps towards the creation of a compliant multi-family zoning district.

- i. *Creation and submission of an action plan.* An MBTA community seeking to achieve interim compliance must first submit an action plan on a form to be provided by DHCD. An MBTA community action plan must provide information about current zoning, past planning for multi-family housing, if any, and potential locations for a multi-family zoning district. The action plan also will require the MBTA community to establish a timeline for various actions needed to create a compliant multi-family zoning district.
- ii. *DHCD approval of an action plan.* DHCD will review each submitted action plan for consistency with these guidelines, including but not limited to the timelines in

Table 3. If DHCD determines that the MBTA community's action plan is reasonable and will lead to district compliance in a timely manner, DHCD will issue a determination of interim compliance. DHCD may require modifications to a proposed action plan prior to approval.

- iii. *Implementation of the action plan.* After DHCD approves an action plan and issues a determination of interim compliance, an MBTA community must diligently implement the action plan. DHCD may revoke a determination of interim compliance if an MBTA community has not made sufficient progress in implementing an approved action plan. DHCD and EOHED will review an MBTA community's progress in implementing its action plan prior to making an award of funds under the Housing Choice Initiative and Massworks infrastructure program.
- iv. *Deadlines for submitting action plans.* To achieve interim compliance for grants made through the 2023 One Stop Application, action plans must be submitted by no later than January 31, 2023. An MBTA community that does not submit an action plan by that date may not receive a DHCD determination of interim compliance in time to receive an award of funds from the listed funding sources in 2023. An MBTA community that does not achieve interim compliance in time for the 2023 One Stop Application may submit an action plan to become eligible for a subsequent round of the One Stop Application, provided that an action plan must be submitted by no later than January 31 of the year in which the MBTA community seeks to establish grant eligibility; and provided further that no action plan may be submitted or approved after the applicable district compliance application deadline set forth in Table 3.

b. *Assistance for communities implementing an action plan.*

MBTA communities are encouraged to communicate as needed with DHCD staff throughout the process of implementing an action plan. DHCD will endeavor to respond to inquiries about whether a proposed multi-family zoning district complies with Section 3A prior to a vote by the municipal legislative body to create or modify such a district. Such requests shall be made on a form to be provided by DHCD and should be submitted at least 90 days prior to the vote of the legislative body.

c. *Requests for determination of district compliance*

When an MBTA community believes it has a multi-family zoning district that complies with Section 3A, it may request a determination of district compliance from DHCD. Such a request may be made for a multi-family zoning district that was in existence on the date that Section 3A became law, or for a multi-family zoning district that was created or amended after the enactment of Section 3A. In either case, such request shall be made on an application form required by DHCD and shall include, at a minimum, the following information. Municipalities will need to submit:

- (i) A certified copy of the municipal zoning ordinance or by-law and zoning map, including all provisions that relate to uses and structures in the multi-family zoning district.
- (ii) An estimate of multi-family unit capacity using the compliance model.

- (iii) GIS shapefile for the multi-family zoning district.
- (iv) In the case of a by-law enacted by a town, evidence that the clerk has submitted a copy of the adopted multi-family zoning district to the office of the Attorney General for approval as required by state law, or evidence of the Attorney General's approval.

After receipt of a request for determination of district compliance, DHCD will notify the requesting MBTA community within 30 days if additional information is required to process the request. Upon reviewing a complete application, DHCD will provide the MBTA community a written determination either stating that the existing multi-family zoning district complies with Section 3A, or identifying the reasons why the multi-family zoning district fails to comply with Section 3A and the steps that must be taken to achieve compliance. An MBTA community that has achieved interim compliance prior to requesting a determination of district compliance shall remain in interim compliance for the period during which a request for determination of district compliance, with all required information, is pending at DHCD.

10. Ongoing Obligations; Rescission of a Determination of Compliance

After receiving a determination of compliance, an MBTA community must notify DHCD in writing of any zoning amendment or proposed zoning amendment that affects the compliant multi-family zoning district, or any other by-law, ordinance, rule or regulation that limits the development of multi-family housing in the multi-family zoning district. DHCD may rescind a determination of district compliance, or require changes to a multi-family zoning district to remain in compliance, if DHCD determines that:

- (i) The MBTA community submitted inaccurate information in its application for a determination of compliance;
- (ii) The MBTA community failed to notify DHCD of a zoning amendment that affects the multi-family zoning district;
- (iii) The MBTA community enacts or amends any by-law or ordinance, or other rule or regulation, that materially alters the minimum land area and/or the multi-family unit capacity in the multi-family zoning district;
- (iv) A board, authority or official in the MBTA community does not issue permits, or otherwise acts or fails to act, to allow construction of a multi-family housing project that is allowed as of right in the multi-family zoning district;
- (v) The MBTA community takes other action that causes the multi-family zoning district to no longer comply with Section 3A; or
- (vi) An MBTA community with an approved multi-family zoning district has changed transit category as a result of a newly opened or decommissioned transit station, or the establishment of permanent, regular service at a transit station where there was formerly intermittent or event-based service.

11. Changes to MBTA Service

Section 3A applies to the 175 MBTA communities identified in section 1A of the Zoning Act and section 1 of chapter 161A of the General Laws. When MBTA service changes, the list of MBTA communities and/or the transit category assignments of those MBTA communities in Appendix 1 may change as well.

The transit category assignments identified in Appendix 1 of these guidelines reflect certain MBTA service changes that will result from new infrastructure now under construction in connection with the South Coast Rail and Green Line Extension projects. These service changes include the opening of new Green Line stations and commuter rail stations, as well as the elimination of regular commuter rail service at the Lakeville station. These changes are scheduled to take effect in all cases a year or more before any municipal district compliance deadline. Affected MBTA communities are noted in Appendix 1.

Municipalities that are not now identified as MBTA communities and may be identified as such in the future are not addressed in these guidelines or included in Appendix 1. New MBTA communities will be addressed with revisions to Appendix 1, and separate compliance timelines, in the future.

Future changes to Silver Line routes or stations may change district location requirements when expanded high-capacity service combined with new facilities creates a bus station where there was not one before. Changes to other bus routes, including the addition or elimination of bus stops or reductions or expansions of bus service levels, do not affect the transit categories assigned to MBTA communities and will not affect location requirements for multi-family zoning districts. Any future changes to MBTA transit service, transit routes and transit service levels are determined by the MBTA Board of Directors consistent with the MBTA's Service Delivery Policy.

List of Appendices:

Appendix 1: MBTA Community Categories and Requirements

Appendix 2: Compliance Methodology/Model

Appendix 1:
MBTA Community Categories and Requirements

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
Abington	Commuter Rail	6,811	1,022	50	307	40%
Acton	Commuter Rail	9,219	1,383	50	246	20%
Amesbury	Adjacent Community	7,889	789	50	-	0%
Andover	Commuter Rail	13,541	2,031	50	587	50%
Arlington	Adjacent Community	20,461	2,046	32	58	0%
Ashburnham	Adjacent Small Town	2,730	137	-	-	0%
Ashby	Adjacent Small Town	1,243	62	-	-	0%
Ashland	Commuter Rail	7,495	1,124	50	272	40%
Attleboro	Commuter Rail	19,097	2,865	50	467	50%
Auburn	Adjacent Community	6,999	750	50	-	0%
Ayer	Commuter Rail	3,807	750	50	284	40%
Bedford	Adjacent Community	5,444	750	50	-	0%
Bellingham	Adjacent Community	6,749	750	50	-	0%
Belmont	Commuter Rail	10,882	1,632	27	502	50%
Berkley	Adjacent Small Town	2,360	118	-	79	0%
Beverly	Commuter Rail	17,887	2,683	50	1,435	90%
Billerica	Commuter Rail	15,485	2,323	50	308	40%
Bourne	Adjacent Small Town	11,140	557	-	-	0%
Boxborough	Adjacent Small Town	2,362	118	-	-	0%
Boxford	Adjacent Small Town	2,818	141	-	-	0%
Braintree	Rapid Transit	15,077	3,769	50	485	50%
Bridgewater	Commuter Rail	9,342	1,401	50	181	20%
Brockton	Commuter Rail	37,304	5,596	50	995	90%
Brookline	Rapid Transit	27,961	6,990	41	1,349	90%

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
Burlington	Adjacent Community	10,431	1,043	50	-	0%
Cambridge	Rapid Transit	53,907	13,477	32	1,392	90%
Canton	Commuter Rail	9,930	1,490	50	451	50%
Carlisle	Adjacent Small Town	1,897	95	-	-	0%
Carver	Adjacent Small Town	4,701	235	-	-	0%
Chelmsford	Adjacent Community	14,769	1,477	50	-	0%
Chelsea	Rapid Transit	14,554	3,639	14	608	75%
Cohasset	Commuter Rail	3,341	638	43	241	20%
Concord	Commuter Rail	7,295	1,094	50	519	50%
Danvers	Adjacent Community	11,763	1,176	50	-	0%
Dedham	Commuter Rail	10,459	1,569	49	507	50%
Dover	Adjacent Small Town	2,046	102	-	-	0%
Dracut	Adjacent Community	12,325	1,233	50	-	0%
Duxbury	Adjacent Community	6,274	750	50	-	0%
East Bridgewater	Adjacent Community	5,211	750	50	-	0%
Easton	Adjacent Community	9,132	913	50	-	0%
Essex	Adjacent Small Town	1,662	83	-	-	0%
Everett	Rapid Transit	18,208	4,552	22	200	20%
Fitchburg	Commuter Rail	17,452	2,618	50	601	75%
Foxborough	Adjacent Community	7,682	768	50	-	0%
Framingham	Commuter Rail	29,033	4,355	50	270	40%
Franklin	Commuter Rail	12,551	1,883	50	643	75%
Freetown	Commuter Rail	3,485	750	50	346	40%
Georgetown	Adjacent Community	3,159	750	50	-	0%
Gloucester	Commuter Rail	15,133	2,270	50	430	50%
Grafton	Adjacent Community	7,760	776	50	82	0%
Groton	Adjacent Small Town	4,153	208	-	-	0%

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
Groveland	Adjacent Small Town	2,596	130	-	-	0%
Halifax	Commuter Rail	3,107	750	50	300	40%
Hamilton	Commuter Rail	2,925	731	49	184	20%
Hanover	Adjacent Community	5,268	750	50	-	0%
Hanson	Commuter Rail	3,960	750	50	218	20%
Harvard	Adjacent Small Town	2,251	113	-	-	0%
Haverhill	Commuter Rail	27,927	4,189	50	415	50%
Hingham	Commuter Rail	9,930	1,490	50	757	75%
Holbrook	Commuter Rail	4,414	662	41	170	20%
Holden	Adjacent Community	7,439	750	50	-	0%
Holliston	Adjacent Community	5,562	750	50	-	0%
Hopkinton	Adjacent Community	6,645	750	50	79	0%
Hull	Adjacent Community	5,856	586	7	34	0%
Ipswich	Commuter Rail	6,476	971	50	327	40%
Kingston	Commuter Rail	5,364	805	50	345	40%
Lakeville	Adjacent Small Town	4,624	231	-	30	0%
Lancaster	Adjacent Small Town	2,788	139	-	-	0%
Lawrence	Commuter Rail	30,008	4,501	39	271	40%
Leicester	Adjacent Small Town	4,371	219	-	-	0%
Leominster	Commuter Rail	18,732	2,810	50	340	40%
Lexington	Adjacent Community	12,310	1,231	50	-	0%
Lincoln	Commuter Rail	2,771	635	42	130	20%
Littleton	Commuter Rail	3,889	750	50	244	20%
Lowell	Commuter Rail	43,482	6,522	50	274	40%
Lunenburg	Adjacent Small Town	4,805	240	-	-	0%
Lynn	Commuter Rail	36,782	5,517	50	637	75%
Lynnfield	Adjacent Community	4,773	607	40	-	0%

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
Malden	Rapid Transit	27,721	6,930	31	484	50%
Manchester	Commuter Rail	2,433	559	37	305	40%
Mansfield	Commuter Rail	9,282	1,392	50	327	40%
Marblehead	Adjacent Community	8,965	897	27	-	0%
Marlborough	Adjacent Community	17,547	1,755	50	-	0%
Marshfield	Adjacent Community	11,575	1,158	50	-	0%
Maynard	Adjacent Community	4,741	474	21	-	0%
Medfield	Adjacent Community	4,450	750	50	-	0%
Medford	Rapid Transit	25,770	6,443	35	714	75%
Medway	Adjacent Community	4,826	750	50	-	0%
Melrose	Commuter Rail	12,614	1,892	25	774	75%
Merrimac	Adjacent Small Town	2,761	138	-	-	0%
Methuen	Adjacent Community	20,194	2,019	50	-	0%
Middleborough	Commuter Rail	9,808	1,471	50	260	40%
Middleton	Adjacent Community	3,359	750	50	-	0%
Millbury	Adjacent Community	5,987	750	50	-	0%
Millis	Adjacent Community	3,412	750	50	-	0%
Milton	Rapid Transit	9,844	2,461	50	404	50%
Nahant	Adjacent Small Town	1,680	84	-	-	0%
Natick	Commuter Rail	15,680	2,352	50	680	75%
Needham	Commuter Rail	11,891	1,784	50	1,223	90%
Newbury	Adjacent Small Town	3,072	154	-	69	0%
Newburyport	Commuter Rail	8,615	1,292	35	213	20%
Newton	Rapid Transit	33,320	8,330	50	2,833	90%
Norfolk	Commuter Rail	3,601	750	50	333	40%
North Andover	Adjacent Community	11,914	1,191	50	5	0%
North Attleborough	Adjacent Community	12,551	1,255	50	-	0%

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
North Reading	Adjacent Community	5,875	750	50	-	0%
Northborough	Adjacent Community	5,897	750	50	-	0%
Northbridge	Adjacent Community	6,691	750	50	-	0%
Norton	Adjacent Community	6,971	750	50	-	0%
Norwell	Adjacent Community	3,805	750	50	-	0%
Norwood	Commuter Rail	13,634	2,045	50	861	90%
Paxton	Adjacent Small Town	1,689	84	-	-	0%
Peabody	Adjacent Community	23,191	2,319	50	-	0%
Pembroke	Adjacent Community	7,007	750	50	-	0%
Plymouth	Adjacent Community	28,074	2,807	50	-	0%
Plympton	Adjacent Small Town	1,068	53	-	-	0%
Princeton	Adjacent Small Town	1,383	69	-	-	0%
Quincy	Rapid Transit	47,009	11,752	50	1,222	90%
Randolph	Commuter Rail	12,901	1,935	48	182	20%
Raynham	Adjacent Community	5,749	750	50	-	0%
Reading	Commuter Rail	9,952	1,493	43	343	40%
Rehoboth	Adjacent Small Town	4,611	231	-	-	0%
Revere	Rapid Transit	24,539	6,135	27	457	50%
Rochester	Adjacent Small Town	2,105	105	-	-	0%
Rockland	Adjacent Community	7,263	726	47	-	0%
Rockport	Commuter Rail	4,380	657	32	252	40%
Rowley	Commuter Rail	2,405	601	40	149	20%
Salem	Commuter Rail	20,349	3,052	41	266	40%
Salisbury	Adjacent Community	5,305	750	50	-	0%
Saugus	Adjacent Community	11,303	1,130	50	11	0%
Scituate	Commuter Rail	8,260	1,239	50	373	40%
Seekonk	Adjacent Community	6,057	750	50	-	0%

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
Sharon	Commuter Rail	6,581	987	50	261	40%
Sherborn	Adjacent Small Town	1,562	78	-	-	0%
Shirley	Commuter Rail	2,599	650	43	338	40%
Shrewsbury	Adjacent Community	14,966	1,497	50	52	0%
Somerville	Rapid Transit	36,269	9,067	24	1,314	90%
Southborough	Commuter Rail	3,763	750	50	167	20%
Sterling	Adjacent Small Town	3,117	156	-	-	0%
Stoneham	Adjacent Community	10,159	1,016	27	12	0%
Stoughton	Commuter Rail	11,739	1,761	50	317	40%
Stow	Adjacent Small Town	2,770	139	-	-	0%
Sudbury	Adjacent Community	6,556	750	50	-	0%
Sutton	Adjacent Small Town	3,612	181	-	-	0%
Swampscott	Commuter Rail	6,362	954	20	236	20%
Taunton	Commuter Rail	24,965	3,745	50	269	40%
Tewksbury	Adjacent Community	12,139	1,214	50	-	0%
Topsfield	Adjacent Small Town	2,358	118	-	-	0%
Townsend	Adjacent Small Town	3,566	178	-	-	0%
Tyngsborough	Adjacent Community	4,669	750	50	-	0%
Upton	Adjacent Small Town	2,995	150	-	-	0%
Wakefield	Commuter Rail	11,305	1,696	36	630	75%
Walpole	Commuter Rail	10,042	1,506	50	638	75%
Waltham	Commuter Rail	26,545	3,982	50	470	50%
Wareham	Adjacent Community	12,967	1,297	50	-	0%
Watertown	Adjacent Community	17,010	1,701	24	27	0%
Wayland	Adjacent Community	5,296	750	50	-	0%
Wellesley	Commuter Rail	9,282	1,392	50	921	90%
Wenham	Commuter Rail	1,460	365	24	111	20%

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
West Boylston	Adjacent Community	3,052	587	39	-	0%
West Bridgewater	Adjacent Small Town	2,898	145	-	-	0%
West Newbury	Adjacent Small Town	1,740	87	-	-	0%
Westborough	Commuter Rail	8,334	1,250	50	194	20%
Westford	Adjacent Community	9,237	924	50	-	0%
Westminster	Adjacent Small Town	3,301	165	-	30	0%
Weston	Commuter Rail	4,043	750	50	702	75%
Westwood	Commuter Rail	5,801	870	50	470	50%
Weymouth	Commuter Rail	25,419	3,813	50	713	75%
Whitman	Commuter Rail	5,984	898	37	242	20%
Wilmington	Commuter Rail	8,320	1,248	50	538	50%
Winchester	Commuter Rail	8,135	1,220	37	446	50%
Winthrop	Adjacent Community	8,821	882	12	14	0%
Woburn	Commuter Rail	17,540	2,631	50	702	75%
Worcester	Commuter Rail	84,281	12,642	50	290	40%
Wrentham	Adjacent Community	4,620	750	50	-	0%

* Minimum multi-family unit capacity for most communities will be based on the 2020 housing stock and the applicable percentage for that municipality's community type. In some cases, the minimum unit capacity is derived from an extrapolation of the required minimum land area multiplied by the statutory minimum gross density of 15 dwelling units per acre. In cases where the required unit capacity from these two methods would exceed 25% of the community's housing stock, the required unit capacity has instead been capped at that 25% level.

** Minimum land area is 50 acres for all communities in the rapid transit, commuter rail and adjacent community types. There is no minimum land area requirement for adjacent small towns. Where 50 acres exceeds 1.5% of the developable land area in a town, a cap has been instituted that sets minimum land area to 1.5% of developable land area in the town.

*** Developable station area is derived by taking the area of a half-mile circle around an MBTA commuter rail station, rapid transit station, or ferry terminal and removing any areas comprised of excluded land.

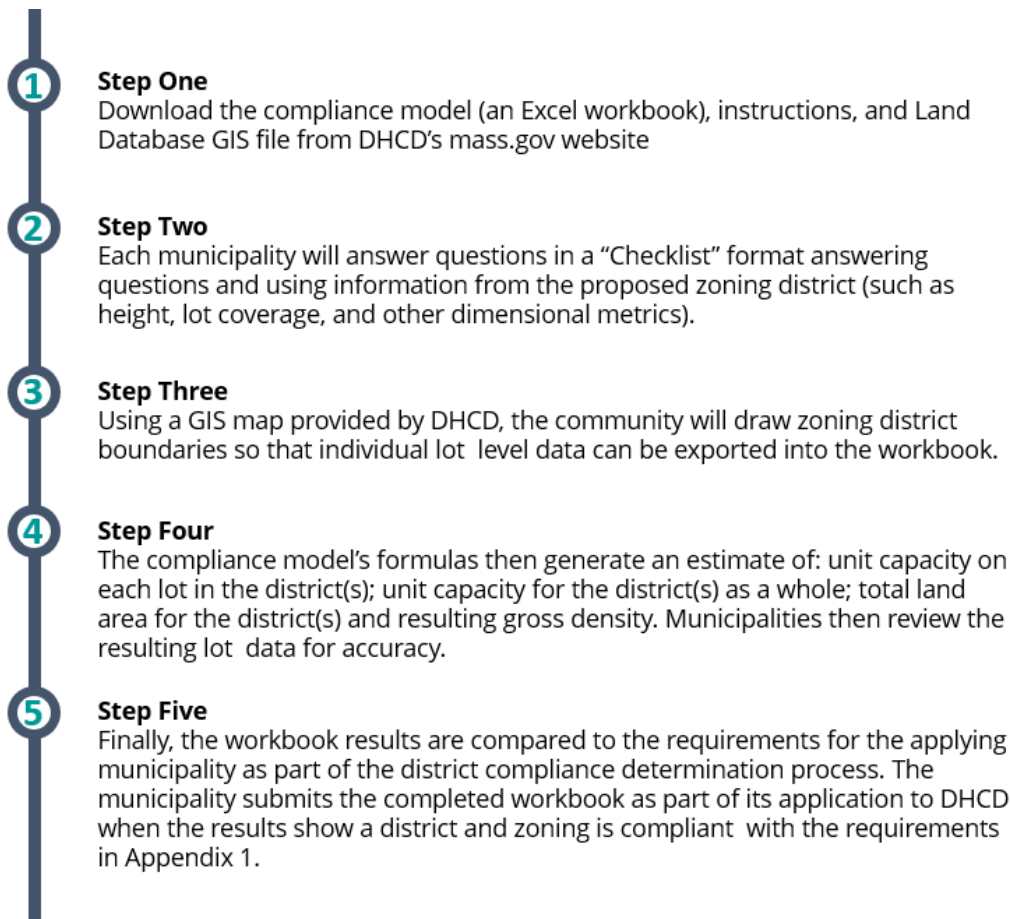
Appendix 2

Compliance Model Overview

The purpose of the compliance model is to ensure a consistent approach to measuring and evaluating multi-family zoning districts for compliance with Section 3A. The compliance model is intended to create a reasonable estimate of multi-family unit capacity of each multi-family zoning district. It is not intended to provide a precise determination of how many units may be developed on any individual lot or combination of lots.

The model uses geospatial tax parcel data from local assessors, compiled and hosted by MassGIS, to define lot boundaries and dimensions in each multi-family zoning district. The model also captures key dimensional and regulatory elements of the multi-family zoning district that impact multi-family unit capacity. The product of the compliance model is a Microsoft Excel workbook that must be submitted as part of a compliance application to DHCD. Consultant support is available at no cost to assist MBTA communities in meeting all the technical requirements of compliance.

The Compliance Modeling Process at a Glance:



Components of the Compliance Model

Land database

The compliance model includes geospatial parcel data for each MBTA community that identifies how much land area on each lot within a multi-family zoning district is developable land. Applicants will prepare this parcel data for the model's calculations by creating a shapefile for each district, measuring each district's land area, and exporting all lot records within the district's boundaries into an Excel or .csv file. These exported tables can then be pasted into the zoning review checklist and unit capacity estimator, described below.

Zoning review checklist and unit capacity estimator

To capture the data needed to estimate a district's multi-family unit capacity, municipalities will be required to complete a zoning review checklist. The checklist is of a series of questions and responses about allowed residential uses, parking requirements, dimensional restrictions (such as maximum building height and minimum open space), and other regulatory elements applicable in the district.

The unit capacity estimator uses the GIS exported lot information from the land database and the information entered into the zoning review checklist to calculate an estimate of the maximum number of multi-family residential units that could be constructed on each lot in each district as of right. It then aggregates the unit capacity estimates for each lot into an estimate of total unit capacity for each district. It also derives an estimate of the gross density for each district.

Case-Specific Refinements to the Compliance Model Inputs and Outputs

To ensure the integrity and reasonableness of each unit capacity estimate, DHCD may adjust the compliance model inputs and outputs as necessary to account for physical conditions or zoning restrictions not adequately captured by the compliance model. For example, DHCD may override the GIS data and change one or more lots from excluded land to developable land where a municipality demonstrates those lots meet the definition of developable land. DHCD may also adjust the unit capacity estimator's algorithm when it does not adequately account for an atypical zoning requirement or other local development restriction that will clearly impact unit capacity.



September 27, 2022
Medway Planning & Economic Development Board
Meeting

Construction Reports

- 9-13-22 Monthly Inspection Report for Medway Mill – Guerriere & Halnon, Inc.
- 9-19-22 Monthly Inspection Report for William Wallace Village – Legacy Engineering



Guerriere & Halnon, Inc.

ENGINEERING & LAND SURVEYING

www.gandhengineering.com

Est. 1972

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

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

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

F3519

September 13, 2022

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

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

On behalf of the Applicant, 165 Main Street Realty Trust, and in accordance with Major Site Plan Decision dated June 22, 2021 General Conditions of Approval Paragraph (G)(4), Guerriere & Halnon, Inc. has prepared an inspection and construction summary for the month of August. There have been no construction activities at the site since the previous inspection in July, and disturbed areas onsite remain stabilized.

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

Sincerely,
Guerriere & Halnon, Inc.

Amanda Cavaliere

Amanda Cavaliere
Franklin Office Manager



cc: Mr. John Greene, Applicant



dan@legacy-ce.com

508-376-8883(o)

508-868-8353(c)

730 Main Street

Suite 2C

Millis, MA 02054

CONSTRUCTION INSPECTION REPORT

Date of Inspection: 9/19/2022 **Time On-Site:** 9:30 am **Weather:** 60F, Cloudy

Location: William Wallace Village, 274 Village Street, Medway, MA

Inspection By: Daniel J. Merrikin, P.E.

Date of Report: 9/19/2022

Observation Requested by: DTRT LLC
Medway Planning & Economic Development Board

Activity Summary:

At the time of inspection work on the following structures was ongoing:

- Unit 2/4 is substantially complete and occupied.
- Unit 18 (old house) is substantially complete and occupied.
- Unit 6/8 is weather tight and interior construction continues.
- Unit 20/22/24 appears to be substantially complete and partially occupied.
- Unit 10/12 is substantially complete on the exterior. Interior fit and finish continues.
- Unit 14/16 building foundation is installed with underslab utilities underway.
- The mail kiosk is substantially complete.

Note the following site construction activities since our last inspection.

- Some site subgrade work has been conducted around unit 14/16 and 20/22/24 in preparation of loaming and seeding.
 - Vertical concrete curbing at the entrance is partially installed.
 - The irrigation well has been installed.
-



Erosion Controls:

Note the following:

- Removal of the remainder of an old concrete foundation behind unit 10/12 is expected to occur shortly. Once complete, the erosion control should be re-established behind that unit.

Recommended Improvements:

1. Refresh erosion controls behind unit 10/12.
2. During well installation, some sediment was deposited at the edge of the stormwater basin. It should be removed and the affected area re-seeded.





