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**COMPREHENSIVE PERMIT APPLICATION  
39 MAIN STREET**

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**TO:** ZONING BOARD OF APPEALS  
**FROM:** DAVID TRAVALINI, CHAIR – CONSERVATION COMMISSION  
BRIDGET GRAZIANO, CONSERVATION AGENT  
**SUBJECT:** COMPREHENSIVE PERMIT- 39 MAIN STREET  
**DATE:** APRIL 17, 2019

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The Conservation Commission informally discussed the Comprehensive Permit submission to the Zoning Board of Appeals for the project known as 39 Main Street at the last public meeting of April 11<sup>th</sup> 2019. The Commission briefly reviewed a draft of the comments but were not able to formally vote on the matter. Therefore, the Agent and the Chair would like to offer the following comments on the application and the applicants intent to request that the Zoning Board of Appeals (ZBA) act as the regulatory authority for the Medway General Bylaw Article XXI Section 21.1(a) and 21.4, and under its Regulations Section 2 and 8. Additionally, the applicant has requested that the ZBA also act as the regulatory authority for the Medway General Bylaw Article XXVI Section 26.5.2.4, as known as the Stormwater Bylaw. Based on a the review of the materials submitted, the following comments are being offered, on the Comprehensive Permit Applicant submitted, as it pertains to wetlands, stormwater requested administration by the ZBA. Please note that the applicant has filed a Notice of Intent with the Commission for the proposed development under the MA Wetlands Protection Act only, where the Commission will review and comments on the entire project under this regulations, therefore, extensive comments on the Stormwater Calculations and Plans will be reserved for the hearing on April 25, 2019 before the Commission.

**Recommendation of requested the ZBA act as the regulatory authority for the following Sections of the Medway General Bylaw, Article XXI its Rules and Regulations Section 2 and 8**

It should be noted that although comments are provided here for the waiver request within Section 11 of the Comprehensive Permit Application, there is some overall confusion on the request. In general, it is not supported for the ZBA to act as the regulatory authority for wetland resource permitting, but the Commission would be willing to review and consider a proposed waiver of certain portions of the Medway General Bylaw Article XXI and its Regulations. It is our preference to allow all wetland resource permitting to be administered by the appropriate Board, Committee, or Commission (in this case the Medway Conservation Commission) since this type of regulation is crucial to the protection of valuable resources within Medway. The Commission's extensive knowledge and continued education on wetlands protection make this Commission best suited for the administration of such laws. The Board of Selectmen appointed members of the Commission with specific environmental background to ensure that Medway's resources are properly protected, therefore, other Commissions, Boards and Committees may not have enough knowledge to execute the appropriate conditions for the protection of our wetland resources. Overall there is a concern that any conditions enacted by the ZBA (in the approve Comprehensive Permit), under this requested waiver, may be in direct conflict with conditions issued under the WPA by the Commission. This would be very disconcerting and could potentially lead to conflicts during construction. As noted above, the Commission would be willing to review and comment

on a list of regulations to be waived if the application wishes to waive certain portions of the Bylaw/Regulations.

- **Section 2 General Provision** – The Agent and Chair agreed to recommend to the Zoning Board of Appeals (ZBA) that the purpose of the Regulations not be governed by the Zoning Board of Appeals, as the importance of these regulations lie with a Commission whose members and staff have an expansive knowledge of the functionality of wetland resources and how to properly protection these resources, therefore it is request that all wetland resource permits be issued by the regulatory authority in which the protection of these resources lies under all permitting processes. The Commission overall determines that the protection of wetlands resources for Medway is extremely important.
- **Section 8 (Rules and Regulations) Filing Requirements** – The Agent and Chair agree that the information required for a filing under the MA Wetlands Protection Act and its Regulations 310 CMR 10.00 will properly satisfy this requirement for information. The Commission may request appropriate information required for the Commission to make a proper finding the proposed project. Therefore, it is recommended that this be requested to be waived and not administered by the ZBA.

**Recommendation of requested the ZBA act as the Regulatory Authority for the following Sections of the Medway General Bylaw, Article XXI Section 21.2(a) and 21.4**

- **Section 21.2 (a)** - The Agent and Chair agreed to recommend to the ZBA that the Conservation Commission administer all wetlands resource related permits for previous reasons noted above. It should be noted that the protection of the 100 foot buffer zone and the 25 foot no disturb setback under Section 21.1 (a) and (b) are of vital importance to Medway and its continued protection of these resources. It was noted that the applicant has not requested a waiver of the 25' No Disturb Zone but based on the plans it seems impossible to meet that burden. It is being asked that the applicant considered moving the development approximately 5' (or slightly more) from the proposed limit of work (LOW) line to allow for proper installation and protection of the 25'. Based on the submitted plans titled, "39 Main Street Site Plan of Land" by Legacy Engineering, dated October 11, 2018 there are erosion control and grading that will clearly encroach into the 25'. The Commission would like to work with the applicant to achieve complete protection of the 0-25'.
- **Section 21.4 Applicant and Permits** – The Agent and Chair agree to recommend to the ZBA to allow the Conservation Commission to administer all wetland resource related permits.

**Recommendation of requested the ZBA act as the Regulatory Authority for the following Sections of the Medway General Bylaw, Article XXVI Section 26.5.2.4**

The applicant has requested that the ZBA act as the regulatory authority for the Medway General Bylaw, Article XXVI Section 26.5.2.4. The Commission recommends that the applicant request a waiver of the Bylaw and allow the review of the Stormwater Report titled, "Stormwater Report for 39 Main Street Medway, MA" by Legacy Engineering, LLC, dated March 26, 2019 under the MA Wetlands Protection Act Regulations and not be administered by the ZBA.

- The applicant is required to comply with MA DEP Stormwater Management Standards under the State laws/Regulations 310 CMR 10.05 (6)(k-q). It is the Commission's recommendation that all Stormwater Management is overseen by the Medway Conservation Commission under the above stated regulation. The administration of stormwater regulations by two regulatory authorities may cause a conflict in conditioning and unnecessary overlap in work. The Commission is well versed

in review of Stormwater Management with sufficient Peer Review and members who in their professional career work in this field. Therefore the Commission at the April 11, 2019 meeting voted to have the Commission adjudicate the MA Stormwater Management Regulations under the MA Wetlands Protection Act and not recommend the ZBA adjudicate the Medway General Bylaw, Article XXVI Section 26.5.2.4.

- The Agent and Chair would like to request a snow plowing plan for this development. It is not clear where the snow will be stored. It is recommended that applicants provide locations outside the buffer zone for snow storage and/or not allow the plowing of snow into natural buffer zone, such as over retaining walls and down into these sensitive areas. The native vegetation within these locations are not salt tolerant and no respond well to any type of deicer chemicals, therefore, the placement of snow in sensitive locations would in fact cause and alteration of these areas. Please provide designated locations of snow storage.

### **Stormwater Management System – MA Stormwater Management Standards**

- It is recommended that the ZBA condition that the applicant provide evidence that they have applied to the EPA for a NPDES permit for the proposed project.
- Stormwater Management Standards - The Applicant has to meet all the requirements of the Stormwater Management Standards under 310 CMR 10.05 (6) (k), this includes all drainage calculations, document depicting and discussing how the applicant meets the stormwater standards, Operation and Maintenance Plan (the O&M plan should not to be simply written on the engineering plan but in separate document), log sheets for construction and post-construction. All Stormwater Report, plans and calculations will be reviewed by Conservation Commission during the Notice of Intent process under MGL c. 131 s.40 regulations, 310 CMR 10.05 (6) (k).
- The Agent and Chair are asking the applicant to consider the use of Climate Resiliency Practices, such as the use of NOAA Atlas 14 for the 1, 2, 10, 25 and 100 year storm. It is the Commission opinion based on recent observations that there are a number of stormwater management systems designed with the out-dated precipitation calculations from May 1961, which are still used under the MA Stormwater Management Standards, accepted, and over 50 years old. However, it is the Commission's hope to begin to have developers implement the new precipitation frequency estimates, to protect not only the wetland resources, but the residents. For this particular development under Standard 2 Peak Discharge Rates the 100 year storm would be 8.27" instead of the proposed 6.7". The Commission asks that the applicant consider this improvement, as it would be a sound benefit to the residents living within this watershed.

### **General Comments:**

- Wetlands Resources consisting of intermittent stream approved under an Order of Conditions DEP #216-0904, issued by the Commission on issued September 28, 2017.
- Proposed Erosion Controls should consist of 12" biodegradable compost sock and siltation fencing, with the additional orange fencing for the operator's sight lines. In addition, it will be mentioned that the applicant has not depicted erosion controls for all jurisdictional locations. A Limit of Work (LOW) must be established and erosion controls must be proposed.
- Review and consider using only salt and sand applicants for snow, as this area is within a Zone II for public drinking water. This may be sodium chloride or calcium chloride. Other deicer chemical can be harmful to the environment and drinking water.

- Comprehensive Permit Application - the permit application does not discuss fill sources, if any are proposed. The Medway Conservation Commission regulates the type of fill that is brought into proposed project sites within the jurisdiction of the Conservation Commission and requires testing of all material to ensure this meets the standards of GW-1/S-1 method 1 Standards, as described in the Massachusetts Contingency Plan environmental regulations, as revised. It is recommended the conditioning the fill throughout the entire site not just jurisdiction areas be done under the Comprehensive Permitting process to ensure the protection of Medway's groundwater and drinking water as the proposed work is partly within a Zone II.
- Generally, the Commission has concerns that the proposed removal of nearly all of the mature trees and other vegetation within the buffer zone and within the limit of work, the biological pollutant attenuation functioning that deeper root systems provide to both infiltrated surface flow and subsurface or groundwater flow from stormwater system recharge is lost. Additionally, the Town has been working to incorporate climate change effects into its regulations. It is important to Medway that the review tree removal is not taken for granted. Trees provide a number of benefits to humans and the environment. Listed is a number of concerns that come from the removal of trees, loss of carbon sequestration, reduction of oxygen, loss of shade and increase in temperature, loss of storm protection, increase in flooding, etc. The Commission recommends that the ZBA require the preservation of specified specimen trees, which will work to assist in the above mentioned protections. The Commission has concerns that the existing large tree cover provides important shading to the resource area and has important implications in the evapotranspiration process that cannot be replaced by the mitigation planting of smaller sized trees or providing replication is alternate locations. The Commission would like to recommend the use of LID standards should be applied in this particular development. Possibility of the following design standards being implemented,

The Conservation Commission would like to reserve the right to provide additional comments or elaborate on matters of concern mentioned in this letter during the ZBA hearing process for the Comprehensive Permit. It is our hope to continue to work with the ZBA during this process.