

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

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Matthew Hayes, P.E.*  
*Karyl Spiller Walsh*  
*Richard Di Iulio, Associate Member*

**Cumberland Farms @ Medway Gardens**  
**SPECIAL PERMIT AND SITE PLAN DECISION**  
**Approved with Conditions and Waivers**

**Decision Date:** February 4, 2014

**Name/Address of Applicant:** GCCF New England, LLC  
600 East 95<sup>th</sup> Street  
Indianapolis, IN 46240

**Name/Address of Owner:** Onilleva Realty, LLC  
38 Summer Street  
Medway, MA 02053

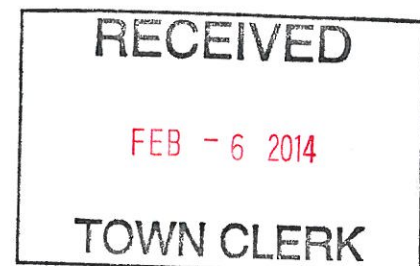
**Engineer:** Civil Design Group, LLC  
21 High Street  
North Andover, MA 01845

**Site Plan Dated:** June 28, 2013, last revised October 30, 2013

**Location:** 38 Summer Street and 39 & 41 Milford Street  
Medway, MA

**Assessors' Reference:** Parcels 56-37, 56-38 and 56-39.

**Zoning District:** Commercial V.



**I. PROJECT DESCRIPTION** – The applicant has sought a special permit and major site plan approval to construct a 4,513 sq. ft. Cumberland Farms convenience store and vehicular fuel dispensing facility with four fueling dispensers (*eight vehicle fueling positions*) through a long-term land lease with property owner Onilleva Properties, LLC of 1.35 acres on the northern portion of the combined 2.44 acres of property located on 3 parcels at 38 Summer Street and 39 and 41 Milford Streets. The proposal includes construction of a canopy structure above the fuel dispensers to provide weather protection and house fire suppression equipment. Site access/egress is to be provided by one curb cut on Summer Street and two curb cuts on Milford Street. The project plans include the construction/installation of stormwater management facilities, extensive landscaping, lighting, outdoor seating, parking and various pedestrian amenities.

Two residential structures currently located at 39 and 41 Milford Street are to be demolished. A portion of the structure presently occupied by Medway Gardens will also be demolished.

The proposed scope of work requires a special permit from the Medway Planning and Economic Development Board pursuant to the *Medway Zoning Bylaw, V. USE REGULATIONS, Sub-Section K. Commercial District V.* The proposed development also constitutes a *Major Site Plan Project* pursuant to the *Medway Zoning Bylaw, V. C. 2* and therefore is subject to *Complete Site Plan Review*.

## **II. PROCEDURAL HISTORY**

- A. July 12, 2013 – Special permit and site plan application filed with the Medway Planning & Economic Development Board and the Medway Town Clerk
- B. July 17, 2013 – Public hearing notice posted with Town Clerk and posted at the Town of Medway web site
- C. July 17, 2013 – Site plan distributed to Town boards, committees and departments for review and comment.
- D. July 22, 2013 - Public hearing notice mailed to abutters by certified sent mail.
- E. July 29 and August 6, 2013 – Public hearing notice advertised in *Milford Daily News*.
- F. August 13, 2013 – Public hearing commenced. The public hearing was continued to August 27, September 17, October 8 & 22, and to November 12, 2013 when the hearing was closed.
- G. August 22, 2013 - Applicant meets with the Design Review Committee as referred by the Planning and Economic Development Board. Additional meetings were held with the Design Review Committee on September 22 and October 17, 2013 and January 6, 2014.

- H. December 17, 2013 - Planning and Economic Development Board voted to reopen the public hearing.
- I. December 20, 2013 - Notice to re-open the public hearing was mailed to abutters by certified sent mail; public hearing notice filed with Medway Town Clerk.
- J. December 24 and 30, 2013 – Public hearing notice advertised in *Milford Daily News*.
- K. January 7, 2014 – The public hearing was reopened and was continued to January 14 and 28 and to February 4, 2014 when it was closed.

**NOTE – Before the special permit and site plan applications were submitted to the Board, the following occurred:**

- A. March 18, 2013 – The Cumberland Farms applicant and engineer met with Medway Internal Development Review Team.
- B. April 30, 2013 - Informal Pre-Application Meeting was held with the Planning and Economic Development Board
- C. April 22, 2013 - Informal Pre-Application Meeting was held with the Design Review Committee.

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

All matters of record were available for public review in the office of the Planning and Economic Development Board for all times relevant thereto.

### **III. INDEX OF DOCUMENTS**

#### **Application Materials**

- Site Plan application with addenda dated July 12, 2013
- Special Permit application with addenda dated July 12, 2013
- Site Plan for Cumberland Farms, dated June 28, 2013, prepared by Civil Design Group, North Andover, MA
- Stormwater Management Report for Cumberland Farms, 38 Summer Street, Medway, MA prepared by Civil Design Group of North Andover, MA, dated June 28, 2013
- Traffic Impact and Access Study for Cumberland Farms, Medway, MA by Tighe and Bond of Portsmouth, NH, dated June 14, 2013

#### **Town's Consultants Review Letters**

- Plan review letter dated August 6, 2013 from Gino Carlucci, PGC Associates
- Plan review letter dated August 20, 2013 from Gino Carlucci, PGC Associates

- Plan review letter dated August 8, 2013 from Dave Pellegrini, Tetra Tech
- Traffic Study review letter dated September 11, 2013 from Mike Hall, Tetra Tech
- Revised plan review letter dated October 4, 2013 from Dave Pellegrini, Tetra Tech
- Review letter dated November 5, 2013 from Mike Hall, Tetra Tech
- Review letter dated November 6, 2013 from Mike Hall, Tetra Tech
- Review letter dated November 7, 2013 from Mike Hall, Tetra Tech
- Email communication dated January 10, 2014 from David Pellegrini, Tetra Tech

**Supplemental Materials Submitted by the Applicant**

- Blasting booklet from State Fire Marshall's office
- Email communication dated September 10, 2013 from Jason Plourde of Tighe and Bond
- Letter dated September 6, 2013 from Jason Plourde of Tighe and Bond
- Response letter dated September 11, 2013 from Phil Henry of Civil Design Group
- Letter dated September 27, 2013 from Phil Henry of Civil Design Group to DPS Deputy Director David D'Amico
- Letter dated October 3, 2013 from Jason Plourde of Tighe and Bond
- Email dated October 10, 2013 from Phil Henry of Civil Design Group
- Request dated October 15, 2013 for Waivers from the *Site Plan Rules and Regulations*
- Two email communications each dated October 22, 2013 from Jason Plourde of Tighe and Bond
- Proposed shared Easement Plan dated September 20, 2013 by Civil Design Group
- Proposed Draft Easement document received October 21, 2013.
- Trash Maintenance Plan for Cumberland Farms dated May 5, 2013
- Email communication dated October 25, 2013 from Attorney Peter Paulousky
- Email communication dated October 28, 2013 from Attorney Peter Paulousky
- Proposed Scope of Work for Additional Traffic Analyses dated October 28, 2013 from Jason Plourde of Tighe and Bond
- Letter dated October 31, 2013 from property owner Joe Avellino



- Site Plan for Cumberland Farms, dated June 28, 2013, prepared by Civil Design Group, North Andover, MA – REVISED October 15, 2013
- Supplemental Stormwater documentation
- Email memo dated December 16, 2013 from Medway Building Commissioner/Zoning Enforcement Officer John Emidy
- Letter dated December 18, 2013 from James Owens, RA of Allevato Architects
- Letter dated January 17, 2014 from Jason Plourde of Tighe and Bond and associated materials re: audible pedestrian signals.
- Parcel Consolidation Plan for 38 Summer and 39 and 41 Milford Streets, dated September 9, 2004, prepared by Paul J. DeSimone P.L.S, Medway, MA recorded at the Norfolk County Registry of Deeds on December 13, 2005, Page 67 in Plan Book 547.
- Email communication dated January 22, 2014 from Jason Plourde of Tighe and Bond.

**Written Communications from Town Staff, Boards/Committees**

- Status report memorandum from the Medway Design Review Committee dated August 8, 2013
- Fire Chief Jeff Lynch email communication dated August 19, 2013.
- DPS Deputy Director David D’Amico letter and email communication dated September 26, 2013
- DPS Director Thomas Holder email communication dated October 8, 2013
- Police Safety Office Sergeant Jeff Watson letter dated October 4, 2013
- Status report memorandum from the Medway Design Review Committee dated October 7, 2013.
- Letter of Recommendation dated November 8, 2013 from the Medway Design Review Committee.
- Email communication dated January 16, 2014 from DPS Director Thomas Holder

**Other Provided Reference Documents**

- Text and map of the Commercial V Zoning District
- Hours of Operation for Medway gas stations and convenience stores (prepared by Medway Planning and Economic Development office) – Dated September 30, 2013
- Cumberland Farms Public Hearing Schedule (multiple versions as revised) – Prepared by Susan Affleck-Childs, Medway Planning and Economic Development Coordinator

- Medway Stormwater Management General Bylaw
- Announcement, notes and audio recording of the October 28, 2013 Public Briefing by Town Staff and Consultants with interested residents/abutters
- Findings and Conditions Worksheet prepared by Susan Affleck-Childs for use by PEDB members

#### **IV. TESTIMONY**

##### ***Professional Consultants' Testimony during Public Hearings***

- Phil Henry, PE, Civil Design Group – Site engineer for the applicant
- David Pellegrini, PE, Tetra Tech – Town of Medway Consulting Engineer
- Michael Hall, PE, Tetra Tech – Town of Medway Consulting Engineer
- Gino Carlucci, AICP, PGC Associates – Town of Medway Consulting Planner
- Peter Paulousky of Doherty, Ciechanowski, Dugan and Cannon – Attorney for the applicant
- Jason Plourde, PE, Tighe and Bond – Traffic engineer for the applicant
- Eric Maki, PE, Tetra Tech – Town of Medway Consulting Engineer

##### ***Citizen and Abutter Testimony at Public Hearings***

- Jesse and Teigan Bain, 37 Milford Street
- Tracy Stewart, 21 Lovering Street
- Robert Parella (*Paramount Industries*), 42 Milford Street
- Donna Hainey, 6 Little Tree Road
- Paul G. Yorkis, 7 Independence Lane
- Audrey Alexander, 35 Summer Street
- Rod Condon, 3 Rustic Road
- John Flanagan, 12 Little Tree Road
- Resident, 13 Independence Lane
- Noreen Murphy, 13 Tulip Way
- Wes Truscott, 98 Winthrop Street
- Dennis Crowley, 6 Hill Street
- Resident, 1 Freedom Trail
- Tony Biocchi, 111 Winthrop Street
- Resident, 7 Little Tree Road
- Resident, 14 Little Tree Road
- Matt Buckley, 101 Main Street
- Resident, 38 Milford Street
- Resident, 10 Cedar Farms Road
- Resident, 8 Freedom Trail
- Pat Jensen, 13 Waterview Drive

**Other Testimony at Public Hearings**

- AJ Barbato - GCCF New England, LLC
- Joe Avellino - Onilleva Properties, LLC
- Matt Buckley - Chairman of the Medway Design Review Committee
- Jeff Lynch - Medway Fire Chief
- David D'Amico - Deputy Director, Medway Department of Public Services
- Ruthann McCarthy - Cumberland Farms District Manager
- Susan Affleck-Childs - Medway Planning and Economic Development Coordinator

**Written Communications from Abutters/Residents**

- Email from residents Pam Bellino-Rivera and Madelyn Rivera-Bellino, 2 Knollwood Road dated August 13, 2013
- Email from resident Tracy Stewart, 21 Lovering Street dated August 28, 2013
- Email from resident Sheila Marshall, 65 Summer Street dated September 12, 2013
- Email from resident Susan Allesandri, 8 Dean Street dated September 17, 2013
- Email from resident Burke Anderson, 15 Rockwood Road dated September 17, 2013
- Email from resident Jill Antonellis, 21 Oak Street dated September 17, 2013
- Email from residents Jesse and Teigan Bain, 37 Milford Street dated September 17, 2013
- Email from resident Chris Bell, 8 Little Tree Road dated September 15, 2013
- Email from resident Angela Carney, 163 Summer Street dated September 17, 2013
- Email from residents Joanna & Ron Cornwall, 7 Waterview Drive dated September 17, 2013
- Email from resident Vikas Dhole, 5 Little Tree Road dated September 17, 2013
- Email from residents Nicole and Matt Dwyer, 2 Mishawaum dated September 17, 2013
- Email from residents Andrew and Jennifer Evers, 4 Waterview Drive dated September 17, 2013
- Email from resident Jodi Ferrari, 2 Freedom Trail dated September 17, 2013
- Email from resident John Flanagan, 12 Little Tree Road dated September 17, 2013
- Email from resident Tanya Green, 1 Independence Way dated September 17, 2013
- Email from resident Karen Grossman, 15 Slocum Place dated September 17, 2013
- Email from residents Bob and Donna Hainey, 6 Little Tree Road dated September 17, 2013
- Email from resident Andrea Kerr, 67 Waterview Drive dated September 17, 2013
- Email from resident Sean Lynch, 15 Little Tree Road dated September 16, 2013
- Email from residents Sally and Neil Reynolds, 2 Fawn Road dated September 17, 2013
- Email from resident Tracy Stewart, 21 Lovering Street dated August 28, 2013
- Email from resident Greg Evers, 13 Causeway Street dated September 18, 2013
- Email from resident Greg Bedard, 4 Little Tree Road dated September 18, 2013
- Email from resident Grace Hoag, 116 Winthrop Street dated September 18, 2013
- Email from resident Ronnie Gibson, 19 Stable Way dated October 3, 2013
- Citizens Petition submitted October 7, 2013
- Email from residents Erin & Bill Hoyer, 7 Little Tree Road dated October 8, 2013
- Email from resident Jill Antonellis, 21 Oak Street dated October 7, 2013

- Email from resident Gay Rotatori, 14 Olde Surrey Lane dated October 7, 2013
- Email from resident Sheila Marshall, 65 Summer Street dated October 7, 2013
- Email from resident Julie Infanger, 6 Gorwin Drive, dated October 7, 2013
- Email from resident Tanya Green, 1 Independence Lane dated October 7, 2013
- Email from resident Kevin Mee, 26 Fisher Street dated October 8, 2013
- Email from resident Tom Price, 54 Fisher Street dated October 8, 2013
- Email from resident Heather Damon, 9 Little Tree Road dated October 8, 2013
- Email from residents Martin and Susan Dietrich, 46 Fisher Street dated October 8, 2013
- Email from resident Nick Sellitto, 28 Hooksett Circle dated October 8, 2013
- Email from resident Mike Droske, 1 Pheasant Run Road dated October 9, 2013
- Email from resident Anderson Huang, 6 Quail Drive, dated October 9, 2013
- Email from residents Wayne & Sheila Marshall, 65 Summer Street dated October 10, 2013
- Email from residents Peter and Patricia Jensen, 13 Waterview Drive dated October 14, 2013
- Letter from residents Teigan and Jesse Bain, 37 Milford Street dated October 31, 2013
- Email from resident Linda Tasker, 6 Cedar Farms Road dated November 7, 2013
- Email from resident Manuela Bartiromo, 10 Cedar Farms Road dated November 5, 2013
- Email from residents Shaun and Shannon Montana, 13 Slocumb Place dated November 12, 2013

**V. FINDINGS** - At its February 4, 2014 meeting, the Planning and Economic Development Board, on a motion made by Robert Tucker and seconded by Matthew Hayes, voted to approve the following FINDINGS pursuant to the *Medway Zoning Bylaw* and the *Rules and Regulations for the Submission and Approval of Site Plans*. The motion was approved unanimously by a vote of 5 in favor and 0 against.

**ZONING BYLAW (Site Plan Section) - Does the proposed project constitute a suitable development based on conformance with the purposes of Site Plan Review as specified in the Zoning Bylaw and with the various site development standards and criteria set forth in the Site Plan Rules and Regulations?**

- (1) Are the buildings, uses and site amenities properly located on the development site in relation to the terrain and scale of other buildings in the vicinity and adjacent neighborhoods?

*The buildings, uses and site amenities are properly located. The use is allowed by special permit in this location within the Commercial V zoning district. This project is a redevelopment of a portion of the existing Medway Gardens site. The Cumberland Farms development is designed to minimize the grade change from Summer Street. Access to the site is maximized with entrances and exits on both Summer Street and Milford Street. It is integrated with the Medway Gardens use by sharing a driveway off of Milford Street. A decorative stone façade is provided on the retaining wall where it is facing Medway Gardens and Summer Street. The approximately 4,500 square foot convenience store*

*building is in scale with other commercial and municipal buildings in the Commercial V zoning district. Therefore, this criterion is met.*

- (2) Are the construction and renovation of buildings and the installation of site amenities thoughtfully designed to reflect or be compatible with Medway's New England architectural style as further detailed in the *Design Guidelines*?

*The building and site design has been reviewed by the Design Review Committee (DRC) in light of the Design Guidelines, and most of the changes recommended by the DRC have been incorporated into the revised building and site design. Some of the changes include reduced signage, changes to the canopy design, extending the water table stonework around the three sides of the building and on the rear retaining wall, changing the colors of the bollards to a neutral color, removing corporate colored banding from the building and canopy, incorporating portions of the natural ledge on the site into the landscaping plan, and upgraded landscaping in general. Therefore, this criterion is met.*

- (3) Are adjacent and neighboring properties protected from nuisance and harmful effects caused by noise, fumes, and the glare of headlights and other light sources generated by uses on the development site?

*As conditioned herein (Condition VII - J), there will be no spillage of light beyond the property boundaries. The access and egress driveways/curb cuts are located at Milford and Summer Streets where they face other commercial properties rather than residential properties, thus minimizing headlight glare. The most significant noise generated from the site will be from gasoline delivery trucks and the times of delivery are restricted per Condition VII - H to minimize the impact of this noise on the abutting residential property at 37 Milford Street. In addition, the applicant has agreed to install fencing and landscaping along the property line with the adjacent residential property at 37 Milford Street to provide a buffer to the Cumberland Farms site, as well as some additional shrubs on the property at 37 Milford Street. Therefore, this criterion is met.*

- (4) Are significant natural features on a development site (*i.e. hills, water bodies, wetlands, trees, tree groves, wooded areas, rock outcrops, native plants, wildlife habitats, and other areas of aesthetic and ecological interest*) preserved with as minimal site disturbance as possible?

*As this is a redevelopment project on a previously developed site, there are minimal natural features remaining on the site. However, there are rock outcroppings. The outcroppings will not be preserved in place, but portions will be relocated and integrated into the landscape plan for the site as noted in Condition VII – T. Therefore, this criterion is met.*

- (5) Are off-street loading facilities and methods for unloading vehicles, goods, products materials and equipment incidental to the normal operation of the establishment(s) on the development site conveniently and safely provided while the visual intrusion thereof is appropriately screened from public view?



*During the course of the public hearing, the location of the underground gasoline storage tanks were moved from the western part of the site to the eastern part of the site to improve the safety and convenience of filling the tanks. The off-street loading facilities have been reviewed by the Town's consulting engineer, the Police Safety Officer and the Fire Chief and no issues have been identified. Visual intrusion is limited by virtue of the tanks being underground (i.e. there are no loading docks). The loading area for delivery of both gasoline and goods to the convenience store is located on the east side of the building, which is the least visible area on the site. Therefore, this criterion is met.*

- (6) Are facilities for the storage, handling and disposal of sewage, refuse and other solid wastes resulting from the normal operations of the establishment(s) on the development site provided and adequately screened from public view?

*The facility is served by municipal sewer. A dumpster, properly screened, and located in the least visible area on the site, is provided to handle solid waste generated by the normal operations of the facility. Pursuant to Condition VII – J, the Applicant shall attend to the outside upkeep of the site to ensure that refuse is properly managed. Therefore, this criterion is met.*

- (7) Are pedestrian ways, access driveways, loading and parking facilities properly designed for the convenience and safety of customers, employees and the general public?

*The plan has been reviewed by Town's Public Safety Officer as well as the Town's Consulting Engineers and Consulting Planner. The access driveways, loading and parking facilities have been found to be adequately designed. Sidewalks are provided along the entire frontage of the site and pedestrian pathways consisting of walkways and crosswalks are provided within the site and are ADA/AAB compliant. Parking is provided adjacent to walkways across the front and side of the building and a bike rack is also provided. Therefore, this criterion is met.*

- (8) Is convenient and safe access for fire-fighting and emergency rescue vehicles provided to and within the development site in relation to adjacent streets?

*The Fire Chief has reviewed and approved the plans. Access is provided to three sides of the building, and there are three access points to the site. Additionally, the Town's primary fire station is located at the northwest corner of the Route 109/126 intersection and is therefore very close by. Therefore, this criterion is met.*

- (9) Are satisfactory methods for drainage of surface water to and from the development site provided?

*The applicant's stormwater management plan has been reviewed by the Town's Consulting Engineer as well as by the Department of Public Services. It is in compliance with Massachusetts Department of Environmental Protection Stormwater Management Guidelines. A waiver was necessary from the requirement to recharge groundwater with swales and detention basins due to the existence of ledge at high elevations throughout the site. Due to this physical inability to recharge the stormwater runoff, and due to the lack of a viable on-site discharge location, a waiver was also necessary to allow for the*



*connection of the Cumberland Farms stormwater system to the Town's stormwater drainage system in Summer Street. The applicant will mitigate the peak rate of stormwater runoff by means of a subsurface detention and treatment system and no downstream impacts from such a connection were found. Therefore, this criterion is met.*

- (10) Are public ways and private drives properly designed to be constructed to serve the intended use and provide an adequate level of service in relation to the traffic to be generated by the development site?

*The site abuts two state-numbered highways and both are properly designed and constructed to serve the intended use and, as conditioned by Condition VII – S, will provide an adequate level of service in relation to the traffic generated by the development. There are three site drives serving the site – two from Milford Street and one from Summer Street. Following review by the Town's Consulting Engineers and Public Safety Officials, the PEDB finds that these are adequate. The need for providing two driveways onto Milford Street was questioned during the public hearing. Most of the concern was directed at the easternmost Milford Street driveway, which will be also be used by Medway Gardens. While this new driveway has more impact on the residential abutters to the east at 37 Milford Street than the existing driveway on 39 Milford Street, the PEDB finds that an adequate buffer to the abutters is provided in the form an 8-foot fence and trees and shrubs along a 15-foot planting strip (Condition VII – V). Also, it was found that the westernmost access drive on Milford Street helps distribute traffic within the site thus facilitating access and circulation. Therefore, this criterion is met*

- (11) Have the effects and impacts of the proposed use of land or structures on vehicular and pedestrian traffic, municipal services and utilities, roadways, parking, drainage, environmental quality, water resources, signage, lighting, and community economics, character, values, amenities and appearance been identified and evaluated?

*Milford Street (Route 109) and Summer Street (Route 126) are adequate for the proposed use. Municipal services are adequate to serve the proposed facility. The quantity of on-site parking is adequate and exceeds the minimum requirement for the proposed use. Drainage is in compliance with Massachusetts Department of Environmental Protection Stormwater Management Guidelines. The site was designed to minimize impacts on environmental quality and water resources. Signage is subject to review and compliance with the sign provisions of the Zoning Bylaw; the Zoning Board of Appeals has issued a variance to allow for a taller height and larger sign surface area. Lighting is in compliance with the lighting provisions of the Zoning Bylaw as conditioned herein (Condition VII - I). The building and site design has been approved by the Design Review Committee which has provided a positive Letter of Recommendation. The facility will have a positive impact on community economics, amenities and appearance. As a permitted use within the C-V zoning district and approved by Town Meeting, this development will not detract from the character and values of the area. Therefore, this criterion is met.*

- (12) Have site design modifications been proposed and evaluated to lessen the negative and harmful impacts?

*The site plan has been reviewed by Town officials and the Town's Consulting Engineers and Consulting Planner. Modifications were suggested and the applicant has responded positively to those comments with a revised plan. The revised plan has been reviewed and the applicant has addressed each of the comments received. Therefore, this criterion is met.*

- (13) Have reasonable conditions, limits, safeguards and mitigation measures been established? *Specific reasonable conditions have been included in Sections VII and VIII of this Decision. Therefore, this criterion is met.*

**ZONING BYLAW (Commercial V Zoning District for Local Convenience Retail store with associated gasoline sales)**

- (14) A Local Convenience Retail store with associated gasoline sales is allowed a maximum of 4 pumps.

*In an effort to downsize the scale of the gas canopy, the Board asked the applicant to consider having 3 pumps instead of 4. The applicant presented its case that the geography of the site and the associated site development costs are such that having 4 pumps is necessary to make the project work financially. As the bylaw allows for up to 4 pumps, the Board finds this criterion is met.*

- (15) The convenience store shall be a minimum of 4,000 sq. ft.

*The convenience store is 4,513 square feet so the Board finds this criterion is met.*

- (16) Gasoline canopy

(a) Any canopy over the gasoline pumps shall not exceed 2,200 sq. ft. in area and shall not exceed 60 ft. in length unless a greater length is authorized by the Planning and Economic Development Board

*The proposed canopy over the gasoline pumps is 2,200 square feet and its length is 100 feet. The PEDB has authorized the greater length of the canopy as allowed by the Zoning Bylaw for four primary reasons. These are: (1) the arrangement of four pumps in a single row provides for safer vehicular and pedestrian movement within the site; (2) the shape of the site provides a more efficient use of space if the four pumps are aligned in a single row rather than as two tandem sets of pumps; (3) the single row of four pumps provides more convenient access to the pumps by motorists while also facilitating traffic movement within the site; and (4) the applicant is providing extensive landscaping with specimen trees to soften the aesthetic impact of the canopy. The PEDB finds that this criterion is met.*

(b) The gas canopy shall be either an architecturally integral part of the local convenience store retail building or a separate structure located to the rear or the side of the local convenience store.

*The applicant has physically separated the convenience store and gasoline canopy to maximize public safety by enclosing the specialized fire suppression system for the gas*

*pumps within the canopy structure thereby keeping it completely separate from the convenience store building.*

*The Board has taken additional testimony from the Applicant together with a letter dated December 18, 2013, from James Owens, RA, LEED AP, of Allevato Architects, Inc., and finds that the gas canopy and convenience store are designed to be architecturally integrated through the use of similar materials, colors and details. The two buildings have been designed to be visually unified with each other. The applicant worked diligently with the Medway Design Review Committee over the course of many meetings to refine the position, scale, proportions and aesthetics of the gas canopy and the convenience store building and how they relate to each. A highly cohesive and aesthetically pleasing development scheme has been achieved and is endorsed and recommended by the Design Review Committee. Furthermore, the site's landscaping plan was specifically designed to be integrated with the buildings and their positions on the site. Accordingly, the many elements of the building architecture and site design are integrated with each other. Therefore the Board finds this criterion is met.*

(c) If the gasoline canopy and convenience store are not architecturally integrated, the gasoline canopy structure shall not be located closer to the intersection than any part of the convenience store building.

*As the Board has made an affirmative Finding for item (15) (b) above, this criterion is not applicable.*

(d) The canopy shall not be closer than 50' to any lot used for residential purposes.

*The eastern edge of the gas canopy is located approximately 105 feet from the western edge of the Bain property line at 37 Milford Street, the closest lot used for residential purposes. Further, the eastern edge of the gas canopy is located approximately 150 feet from the western facade of the Bain's home. Therefore the Board finds this criterion is met.*

- (17) Design of the convenience store and any canopy shall reflect, in the opinion of the Planning and Economic Development Board, traditional New England architectural styles and generally comply with the Planning and Economic Development Board's *Design Guidelines*.

*The design of the convenience store and canopy, as well as the associated landscaping, parking, lighting, signage and other site features and amenities, have been reviewed multiple times by the Design Review Committee in accordance with the Planning and Economic Development Board's Medway Design Guidelines which reflect traditional New England architectural styles. Several revisions were made by the applicant and reviewed by the Design Review Committee over a period of several months until a design package including architectural styles, colors, locations of plantings, decorative rock features, sign designs and lighting that were compatible and integral with each other were agreed to. The Planning and Economic Development Board also reviewed the interim versions of the design features and finds that the final design plan for the building*

*and canopy does reflect traditional New England architectural styles and generally complies with the Medway Design Guidelines.*

- (18) Side or rear lot lines that abut a residentially zoned district shall maintain a suitably landscaped buffer zone of at least 15 ft. unless the buffer area includes an existing alternative egress or access for the principal use. However, if in the opinion of the Planning and Economic Development Board, an access/egress from a second way is necessary, the buffer zone may be used for this purpose.

*The easterly lot line of the subject site abuts a residentially zoned district. The site does include a suitably landscaped buffer zone that is at least 15 feet wide. In addition, the applicant has agreed to install an 8-foot high wood grain vinyl fence along the length of the property line as well as shrubs on the property of the abutter. There is no access/egress within this 15-foot buffer zone. There is an access/egress abutting the buffer zone and the radius of the entrance abuts the residential zoning district but only within the Town right-of-way and not the abutting property. The Planning and Economic Development Board finds that this requirement is met.*

**ZONING BYLAW (Special Permits) - The Planning and Economic Development Board must find that the following criteria are met before granting a special permit:**

- (19) The use is in harmony with the general purpose and intent of the zoning bylaw

*The C-V district specifically allows for a Local Convenience Retail store with associated gasoline sales by special permit so the Board finds that this criterion is met.*

- (20) The use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district

*The C-V district is the only Medway zoning district that specifically provides for the combined convenience store/vehicular fuel sales use so it is in an appropriate location and is in character with the zoning district. The proposed building is in scale with other commercial buildings in the district and the building and site details have been reviewed by Town officials including, but not limited to, the Fire Chief and Police Safety Officer, Department of Public Services, and Design Review Committee, as well as the Town's Consulting Engineers (including a traffic engineer) and Consulting Planner to ensure that the use is not detrimental to the neighborhood. Property included in this zoning district and its environs have housed a number of gasoline/automotive service stations in the past. The site's location at the intersection of two state roadways makes it suitable for the proposed use. Finally, the facility provides services to a part of the community where they are not currently available which may slightly reduce cross-town traffic to other commercial areas. The Board finds that this criterion is met.*

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

*The facility is served by municipal sewer and the stormwater runoff will be connected to public infrastructure within Summer Street and managed in compliance with Mass DEP*



*Stormwater standards. A dumpster, properly screened, and located in the least visible area on the site, is provided to handle the solid waste/trash generated by the normal operations of the convenience store and fueling station. The access driveways, loading and parking facilities have been found to be adequately designed. Sidewalks are provided along the entire frontage of the site and pedestrian pathways consisting of walkways and crosswalks are provided within the site. Parking is provided adjacent to walkways across the front and side of the building and a bike rack is also provided. Stormwater is being managed in compliance with Mass DEP Stormwater Regulations. Therefore, the Board this criterion is met.*

- (22) The proposed use will not be detrimental or otherwise offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials, visual or other nuisances.

*During the hearing, oral and written testimony was provided by Jesse and Teigan Bain, the current owners and residents of the adjacent easterly residential property at 37 Milford Street in the Agricultural/Residential II zoning district. Their testimony expressed their serious concerns about the impacts of the Cumberland Farms development on the livability of their home. Of particular concern is the relocation of the curb cut/driveway which presently serves 39 Milford Street by moving it 65' easterly/closer to their property line such that the eastern edge of the new driveway is 15' off their property line. That driveway will serve as one of two driveways for customers to access and egress Cumberland Farms and for deliveries for the continued operation of Medway Gardens to the southwest of the Bain's property. The site plan does comply with the requirement that there be at least a 15 ft. suitably landscaped buffer zone along the property line, and in fact, also includes additional mitigation in the form of the installation of an 8 ft. high wood grain vinyl fence running the entire length of the property line as well as adding shrubs on the Bain's property to provide additional screening and protection.*

*As conditioned herein (Condition VII – I), there will be no spillage of light beyond the property boundaries. The most significant noise generated from the site will be from gasoline delivery trucks and the times of delivery are restricted to minimize the impact of this noise. See Condition VII - H. No smoke will be generated by the convenience store facility. Gasoline fumes must comply with state and federal regulations. The site is served by municipal sewer. A dumpster, properly screened, will handle refuse. As conditioned (Condition VII – J), the store's operation plan requires patrolling for and removing refuse and debris that may be found on the grounds. Outdoor displays are also limited by Condition VII - F of this approval. Furthermore, the applicant has agreed to install fencing and landscaping on the Bain's property as part of its mitigation plan. Therefore, the Board finds that this criterion is met.*

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

*Extensive analysis of traffic information has been provided by the applicant's Traffic Engineer and reviewed by the Town's Traffic Engineer. As a result of the traffic analysis and peer review, recommendations for off-site mitigation of traffic impacts have been*

*made and incorporated. See Condition VII – S. Therefore, the Board finds this criterion is met.*

- (24) The proposed use is consistent with the Medway Master Plan.

*One of the goals of the 2009 Medway Master Plan is to encourage additional commercial/industrial development in the community. Preserving community character is another important goal of the Master Plan. The extensive review of and resulting changes in the site plan as a result of the Design Review Committee's review of the project in light of the Medway Design Guidelines was a significant component of the review process. The PEDB finds that the project has appropriately balanced the goals of economic development and the preservation of community character. Therefore, the Board finds this criterion is met.*

**Site Plan Rules and Regulations - In making its recommendation, the Board shall find 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 its recommendation, the Planning Board shall determine the following:**

- (25) 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?

*There are three drives serving the site – two from Milford Street and one from Summer Street. Following review by the Town's Consulting Engineers and Public Safety Officials, the PEDB finds that these are adequate. The single row of gasoline pumps facilitates internal circulation and the three access drives help spread the traffic to minimize internal congestion. The possibility of the Cumberland Farms development causing an increase in cut-through traffic on residential streets Rustic Drive and Little Tree Road was discussed during the public hearing. As conditioned herein (Condition VII - S), the applicant will install signage in the right of way on Milford Street to discourage such cut-through traffic into the neighborhood. The on-site parking spaces are all located such that no backing out onto a public way is necessary. Therefore, the Board finds that this criterion is met.*

- (26) 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 convenience store building, gas canopy and site was a major concern of the PEDB. The buildings and site went through several rigorous review sessions with the Design Review Committee and many of its recommendations were incorporated into the revised design of the canopy, signage and landscaping in order to better match the character of the area and the Town. The building size is in scale with other commercial buildings in the C-V. zoning district. The landscaping has been designed specifically to soften the view of the gas canopy, and rock outcroppings are incorporated into the landscape plan in order to highlight one of the natural features of the area's character. Therefore, the Board finds this criterion is met.*



- (27) 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.

*This project is a redevelopment of a portion of the Medway Gardens site. The development was designed to minimize the grade change from Summer Street. It is integrated with the adjacent Medway Gardens use by sharing a driveway on Milford Street, and it provides a decorative stone façade on the retaining wall where it is facing Medway Gardens and Summer Street. Parking areas are away from the street. Outside storage is limited by the conditions of this site plan and special permit approval (Condition VII - F). Waste removal is addressed through a dumpster properly located and screened, as well as through an operations plan that requires the regular monitoring and removal of waste on site. The landscaping plan both enhances the visual amenities of the site and helps soften views of the canopy. Extensive landscaping and fencing is planned to provide a substantial buffer with the residentially zoned and used property to the east to reduce the visible impact of the development. The PEDB finds that the buildings, uses and site amenities are properly located. Therefore, the Board finds this criterion is met.*

- (28) Is adequate access to each structure for fire and service equipment provided?

*The building has vehicular access on three sides and the site has 3 access driveways. The Fire Chief has reviewed and approved the plans. Medway's primary fire station is located across the street from the subject site. The canopy above the gasoline pumps incorporates a built-in fire suppression system. Therefore, the Board finds this criterion is met.*

- (29) 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 project is a redevelopment of an existing developed site so environmental impacts are minimal. The volume of cuts and fills is minimized. Few trees will be removed since there are few on the site. Landscaping has been designed to reduce the visual prominence of man-made elements and buildings on the site. No stone walls are being impacted. The drainage plan complies with Massachusetts Stormwater Guidelines and has been reviewed by the Town's Consulting Engineer and Department of Public Services. An erosion control plan will minimize soil pollution and erosion during construction and*

*noise generated by the site is minimal. Blasting on the site during construction will be completed in compliance with State requirements and as further conditioned herein. (Condition VII – D). Therefore, the Board finds this criterion has been met.*

- (30) Is pedestrian and vehicular safety both on the site and egressing from it maximized?

*The plan has been reviewed by Town Public Safety Officials as well as the Town's Consulting Engineers and Consulting Planner. The access driveways, loading and parking facilities have been found to be adequately designed. Sidewalks are provided along the entire frontage of the site and pedestrian pathways consisting of walkways and crosswalks are provided within the site. Parking is provided adjacent to walkways across the front and side of the building and a bike rack is also provided. Therefore, the Board finds this criterion is met.*

- (31) Does the design and will the construction incorporate, to the maximum extent possible, the visual prominence of natural and historic features of the site?

*As an existing developed site, the only visually prominent natural features are the rock outcroppings. The landscape plan has incorporated rock outcroppings to retain a form of this feature on the site. Therefore, this criterion is met.*

- (32) Does the lighting of structures and parking area avoid glare on adjoining properties and minimize light pollution within the town?

*As conditioned herein (Condition VII – I), there will be no off-site glare from the site and the lighting will comply with the lighting section of the Zoning Bylaw. Therefore, the Board finds this criterion is met.*

- (33) Is the proposed limit of work area reasonable and does it protect sensitive environmental and/or cultural resources? The site plan as designed should not cause substantial or irrevocable damage to the environment, which damage could be avoided or ameliorated through an alternative development plan or mitigation measures.

*The limit of work is reasonable and as a redevelopment project, the site plan will not cause substantial damage to the environment. Reasonable measures are included to minimize any impacts. Therefore, the Board finds this criterion is met.*

### **Other Findings**

- (34) *Considerable citizen opposition to the proposal was evidenced by a citizens' petition, numerous emails and testimony at public hearings. Concerns were expressed about the proposed use, the anticipated traffic congestion at the intersection of Routes 109/126 resulting from the development, the scale of the project, impacts of site blasting during construction on nearby properties, and the impact of the development on both livability and property values of nearby residential neighborhoods.*
- (35) *Town Staff and Consultants participated in a briefing held on October 28, 2013 for Medway residents concerned about the proposed Cumberland Farms project.*

**VI. VOTE OF THE BOARD** - After reviewing the application and information gathered during the public hearing and review process, the Medway Planning and Economic Development Board, at its meeting held on February 4, 2014, on a motion by Robert Tucker and seconded by Matthew Hayes, voted to APPROVE a special permit and site plan to GCCF New England, LLC of Indianapolis, IN to construct a Cumberland Farms convenience store and vehicular fuel facility with associated site improvements, drainage, parking and landscaping on a 1.35 acre portion of 38 Summer Street and 39 and 41 Milford Streets in Medway, MA subject to WAIVERS and CONDITIONS as specified herein.

<u>Planning &amp; Economic Development Board Member</u>	<u>Vote</u>
Thomas Gay	Yes
Matthew Hayes	Yes
Andy Rodenhiser	Yes
Karyl Spiller-Walsh	Yes
Robert Tucker	Yes

NOTE - Member Thomas Gay was absent from the August 13, 2013 public hearing but participated remotely via speakerphone as approved by PEDB Chairman Andy Rodenhiser.

NOTE - Member Robert Tucker was absent from the October 8, 2013 public hearing but provided a *Mullins Rule* certification which was entered into the record during the November 12, 2013 public hearing.

NOTE - Member Thomas Gay was absent from the January 7, 2014 public hearing but provided a *Mullins Rule* certification which was entered into the record during the January 14, 2014 public hearing.

**VII. WAIVERS** - At its February 4, 2014 meeting, the Planning and Economic Development Board, on a motion made by Robert Tucker and seconded by Matthew Hayes, voted to APPROVE waivers from the following provisions of the *Rules and Regulations for the Submission and Approval of Site Plans, as amended December 3, 2002*. The Planning and Economic Development 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 approved unanimously by a vote of 5 in favor and 0 against.

**A. SUBMITTAL REQUIREMENTS/PLAN CONTENTS**

1. **204-5 (C) 3 – 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 (1) foot or greater at four (4) feet above grade.

**EXPLANATION** - *The proposal involves redevelopment of an existing site which includes multiple residential and commercial buildings which are shown on the*

*Existing Conditions sheet. There are a few noteworthy landscape features on the site that will be retained. The submitted landscape plan is extensive and includes the addition of more than fifty new trees and three hundred-fifty new shrubs and ground cover.*

**BOARD ACTION** - *The Board agrees that the requirement for an Existing Landscape Inventory is not warranted for this particular project and the waiver is granted.*

**B. CONSTRUCTION STANDARDS – Site Plan Rules and Regulations**

1. **205-3 (C-1)** – The slope of the paved entrance way shall not exceed two percent (2%) for the first 25 feet measured perpendicular from the front property line.

**EXPLANATION** – *The applicant seeks approval for a 3% slope for the first 25 feet of the paved entranceway off of Route 126/Summer Street. By allowing for a minimally steeper slope, the need for more extensive site blasting is reduced. Steeper slope allows the developed site to be more consistent with the existing topography.*

**BOARD ACTION** - *The Board concurs that the site can be safely developed without applying the more rigorous slope standard to the access drive off of Route 126. The waiver is granted.*

2. **205-4 (C)** – The applicant must demonstrate that there are not other suitable means to discharge stormwater other than tying into the public drainage system.

**EXPLANATION** – *The applicant seeks a waiver from this requirement to not discharge stormwater into the public drainage system. Presently, the majority of the current runoff flows untreated to the public drainage system in Summer Street. Stormwater cannot be managed on site due to the existence of shallow bedrock at high elevations throughout the site. Instead, the applicant will mitigate the peak rate of stormwater runoff by means of a subsurface detention system and will improve the quality of the stormwater by installing a water quality system to treat the stormwater before connecting to the Town's public drainage system. No downstream impacts from such a connection were found.*

**BOARD ACTION** – *The Board finds that the applicant has demonstrated that there are no suitable means of discharging stormwater on site. Furthermore, the Board finds that the proposed subsurface treatment and detention facilities will improve the quality of stormwater without increasing the rate at which it enters the system. The Department of Public Services has verified that the applicant's proposal for connection to the public drainage system meets its criteria. Therefore, the treated stormwater will not have a negative impact on the Town's public stormwater drainage system. The waiver is granted.*

3. **205-4 (D)** – Runoff discharge to ground and surface drainage by means of swales and detention areas shall be required.

**EXPLANATION** – *The applicant seeks a waiver from this regulation because the stormwater cannot be recharged on-site by means of swales and detention areas. The existence of shallow bedrock at high elevations throughout the site is a seriously limiting factor which precludes the construction of on-site swales and detention areas to allow stormwater to recharge on site. Instead the applicant has proposed to connect to the Town’s stormwater drainage system in Summer Street. The stormwater plan has been reviewed by the Town’s Consulting Engineer and has been found to meet state stormwater guidelines. The Medway Department of Public Services is receptive to the applicant’s plan to connect to the Town’s system.*

**BOARD ACTION** - *The Board concurs that the applicant has documented that the site’s physical features (extensive ledge) limit the applicant’s ability to discharge stormwater on site by means of swales and detention areas. Further, the Board finds the applicant has provided a sub-surface detention area. Therefore, the waiver is granted.*

**VII. SPECIFIC CONDITIONS** – At its February 4, 2014 meeting, the Planning and Economic Development Board, on a motion made by Matthew Hayes and seconded by Robert Tucker, voted to approve the SPECIFIC AND GENERAL CONDITIONS included herein. The motion was approved unanimously by a vote of 5 in favor and 0 against.

This approval is subject to the following *Specific Conditions/Limitations*:

- A. **Plan Revisions** – Within sixty (60) days after the Board has filed its Decision with the Town Clerk, the site plan set for Cumberland Farms dated June 28, 2013 last revised October 30, 2013 shall be further revised to reflect all Conditions and required revisions, including those as follows, and submitted to the Planning and Economic Development Board for review and approval. *(Said plan is hereinafter referred to as the Plan)*. Upon approval, the Applicant shall provide a Mylar set of the revised Plan in its final form to the Board for signature/endorsement. All Plan sheets shall be bound together in a complete set.
1. Cover Sheet
    - a. All waivers from the *Site Plan Rules and Regulations* that have been granted as specified herein shall be listed on the cover sheet of the Plan presented for endorsement.
    - b. The cover sheet shall prominently display a final Plan revision date.
  2. Revise the signature box on each sheet to remove references to the Board of Selectmen and replace with Medway Planning and Economic Development Board.
  3. Sheet CFG8.0 Landscape Plan shall be revised to include notes regarding the use of rock outcroppings resulting from site blasting and feature lighting. See Condition VII - T herein.



4. A separate sheet titled Off-Site Mitigation shall be added to the Plan set. This sheet shall include:
  - a) specifications for the speed monitoring signal to be located on the north side of Milford Street east of Summer Street
  - b) specifications and detailed plans for the installation of landscaping along the western edge of the property at 37 Milford Street presently owned by Jesse and Teigan Bain.
  - c) specifications for accessible pedestrian signals at the intersection of Route 109 and 126 as specified in Condition VII - S.

B. **Fees** - Prior to Plan endorsement by the Planning and Economic Development Board, the Applicant shall pay:

1. the balance of any outstanding plan review fees owed to the Town for review of the site plan by the Town's engineering, planning or other consultants; and
2. any construction inspection fee required by the Planning and Economic Development Board; and
3. any other outstanding expenses or obligations due the Town of Medway pertaining to this property, including real estate and personal property taxes and business licenses.

The Applicant's failure to pay these fees in their entirety shall be reason for the Planning and Economic Development Board to withhold plan endorsement.

C. **Document/Plan Recording** - Within thirty (30) days of recording the Decision and the associated Plan, the Applicant or his assign shall provide the Board with a receipt from the Norfolk County Registry of Deeds indicating that all documents have been duly recorded, or supply another alternative verification that such recording has occurred.

D. **Blasting**

1. The applicant shall follow all procedures as specified by the Massachusetts Department of Fire Services regarding site blasting.
2. The applicant shall provide at least 24 hours written notice of the scheduling blasting to all property owners and residents within 500 feet of 38 Summer Street and 39 and 41 Milford Streets.
3. Blasting shall be limited to occur between the hours of 9:00 am and 5:00 pm, Monday through Saturday only. No blasting to occur on Sundays or legal holidays.



- E. **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 applicant and its contractors shall at all times use all reasonable means to minimize inconvenience to abutters and residents in the general area. The following specific restrictions on construction activity shall apply.
1. *Construction Time* - Construction work at the site and in the building and the operation of construction equipment including truck/vehicular and machine start-up and movement shall commence no earlier than 7 a.m. and shall cease no later than 6 p.m. Monday – Saturday. No construction shall take place on Sundays or legal holidays without the advance approval of the Inspector of Buildings.
  2. The applicant 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.
  3. 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 Applicant shall be responsible for all clean-up of the roadway which shall occur as soon as possible and in any event within twelve (12) hours of its occurrence.
  4. The Applicant 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.
  5. All erosion and siltation control measures shall be installed by the Applicant 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.
  6. *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.
  7. *Noise* - Construction noise shall not exceed the noise standards as specified in the *Medway Zoning Bylaw*, SECTION V. USE REGULATIONS, Sub-Section B. Area Standards, Paragraph 2. b).

- F. **Outside Displays and Storage** – Except for an air machine, the following items shall not be permitted outside the building on the premises or in the right-of-way nor are they considered accessory to the convenience store/vehicular fueling facility uses.
1. Outside displays and storage of materials and products including but not limited to firewood, beverages, propane, etc.
  2. Machines or vending type devices for dispensing goods or products such as but not limited to vending machines or self-serve kiosks for dispensing food, beverages, DVD's or any other item.
  3. Shipping and packaging materials unless stored within the dumpster enclosure.
  4. Promotional/advertising banners/signs, etc.
- G. **Hours of Operation** – The convenience store and vehicular fueling facility shall not be open to the public before 5 am or after 10 pm.
- H. **Deliveries**
1. Fuel and product deliveries shall occur no earlier than 9:15 am and no later than 10 pm and are also prohibited in the afternoon from 2:30 – 3:30 pm on days when the Medway public schools are in session.
  2. Fuel and product delivery trucks shall access the site only from Summer Street.
- I. **Lighting**
1. Lighting shall not exceed the maximum allowed as specified in SECTION V. USE REGULATIONS of the *Medway Zoning Bylaw*, Sub-Section B. Area Standards, Paragraph 7 Exterior Lighting.
  2. The exterior surfaces of the perimeter of the gasoline canopy shall not be illuminated.
  3. The standard store and gas canopy lighting shall be turned off when the premises is closed.
  4. The least impactful but sufficient security lighting shall be permitted after the closing hours of the convenience store and fueling facility.
  5. The applicant shall notify the Board upon completion of the site lighting installation. After said notification, the Board shall have one year to review illumination. During this review period, the Board reserves the right to require adjustment of the number and/or intensity of the exterior light fixtures if it determines that spill-over onto adjacent properties is occurring.

J. **Site Maintenance**

1. The applicant shall diligently attend to daily inspections and clearing the outside of the premises of refuse and litter in accordance with the Cumberland Farms Trash Maintenance schedule provided during the public hearing.
2. Trash storage shall be completely contained within the trash enclosure area as shown on the Plan.

K. **Landscape Maintenance**

1. The site's landscaping shall be maintained in good condition throughout the life of the convenience store and vehicular fueling facility and to the same extent as shown on the endorsed Plan. Any shrubs, trees, bushes or other landscaping features shown on the Plan that die shall be replaced by the following spring.
2. Within 60 days after two years after the occupancy permit is issued for the convenience store, the Town's Consulting Engineer shall 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 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.

- L. **Fire Suppression System** – The fire suppression system for the fueling pumps shall be located completely within the canopy located above the fuel pumps and shall comply with all applicable federal, state and local regulations.

M. **Outdoor Seating**

1. The request for outdoor seating is granted on a trial basis for 6 months after an occupancy permit is issued for the convenience store.
2. Before the conclusion of that period, the Applicant shall contact the Medway Police Safety Officer to evaluate the performance of the outdoor seating area to determine if there are safety or other problems related to the outdoor dining area such as trash, noise, or other disturbance to the neighboring properties. Should it be reported that a safety or other problem exists due to the outdoor seating, the Board shall consider the matter at a public meeting after due notice to the Applicant and parties in interest and may direct that the outdoor seating be removed.

N. **Snow Storage and Removal**

1. On-site snow storage shall not encroach upon nor prohibit the use of any parking spaces required by the zoning bylaw.

2. Accumulated snow which exceeds the capacity of the designated snow storage areas on-site shall be removed from the premises within 24 hours after the conclusion of the storm event.

O. **Sidewalks and Crosswalks**

1. The applicant shall coordinate with the Medway Department of Public Services regarding easements as may be necessary for the sections of public sidewalk along Route 109 which extend onto the private property.
2. The applicant shall coordinate with the Medway Department of Public Services to determine maintenance practices and responsibilities for the painted crosswalks located at each of the three site driveways.

P. **Signage**

1. There shall be no product signage or promotional posters displayed in the store windows of the convenience store or outside on the premises.
2. The entrance/egress signs at the site driveways shall not include any corporate names, colors, text, symbols or logos
3. The fueling pumps shall not include any corporate names, colors, text, symbols or logos.
4. The gas canopy shall not include any signage, corporate logo or color stripe nor shall its exterior face be illuminated.

Q. **Eastern Driveway to the Site from Milford Street** – The Cumberland Farms site plan shows an area with an access easement located east of the eastern boundary of the designated lease area for the Cumberland Farms project. The property owner of 38 Summer Street will grant an easement to Cumberland Farms to allow it to use the easement area for its easternmost access and egress drive on Milford Street. The site plan drawing shows a gate to separate the Cumberland Farms driveway area from the portion of the site currently operated by Medway Gardens.

1. The subject easement area shall not be used by the operator of the site presently occupied by Medway Gardens for regular customer traffic.
2. Prior to issuance of a demolition permit for the structures located on 38 Summer Street, 39 and 41 Milford Street, the applicant shall provide the Board the recorded easement document pertaining to the location and use of the eastern driveway area on the site as shown on the site plan.
3. Product and fuel delivery vehicles shall use this easternmost driveway to egress the site.

R. **Use of Premises** – The use of the premises is limited to the convenience store and vehicular fueling facility. No other vehicular services are permitted pursuant to this special permit at this location.

**S. Traffic Management**

1. Within thirty days of commencement of site construction, the applicant shall install suitable signs in the Town's right of way on the south side of Milford Street to indicate that cut-thru traffic onto Little Tree and Rustic Roads (unaccepted streets) between Milford Street and Summer Street is not permitted. The sign locations and content are subject to approval of the Medway Department of Public Services.
2. Traffic shall be directed not to exit the Cumberland Farms site turning left (westbound) out of the two Milford Street curb cuts.
3. The Applicant has agreed and shall install new Accessible Pedestrian Signals (APS) pushbuttons at the intersection of Routes 109/126. The pushbuttons shall include both audible and vibrotactile functions. The Applicant has agreed to follow Mass DOT's *Traffic Signal Regulation* policy for the design, permitting, installation and testing of the equipment. All equipment installed at the intersection shall be new, consistent with the devices to be installed at other locations along Route 109 and included in Mass DOT's "Approved Equipment" list. Said installation shall be completed by a Mass DOT approved Contractor and shall occur within two years after an occupancy permit is issued. The design and construction efforts shall be coordinated with the Medway Department of Public Services. In the event that MassDOT does not approve the installation, or their approval is delayed beyond the required two year time frame, the Applicant shall be relieved of this requirement.

**T. Site Amenities**

1. Rock Outcroppings – The site blasting that will occur during construction is expected to result in rock outcroppings. The applicant has agreed to position such rock outcroppings within the landscaped area behind the planned hydrangea. The rock outcroppings as located should be 6 ft. high and 10 ft. wide. The rock outcroppings shall be positioned to the satisfaction of the Design Review Committee.
2. Landscaping – The Town's Consulting Engineer shall inspect the landscaping installation to determine if it complies with the landscaping plan.
3. The umbrellas for the outside seating area shall be fabricated with opaque material.
4. The landscaped area shall include feature landscape lighting that complies with the Exterior Lighting provisions of the Medway Zoning Bylaw (V. B. 7).

U. **Construction Oversight**

1. Construction Account
  - a) Inspection of infrastructure and utility construction, installation of site amenities including landscaping, the review of post construction traffic analyses by the Town's Consulting Engineer, and the review of legal documents by Town Counsel is required. Prior to plan endorsement, the applicant shall establish a construction account with the Planning and Economic Development 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 Applicant shall pay an advance toward the cost of these services to the Town of Medway. The advance amount shall be determined by the Planning and Economic Development 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 Applicant shall provide supplemental payments to the project's construction inspection account, upon invoice from the Board.
  - d) Any funds remaining in the applicant's construction inspection account after the *Certificate of Site Plan Completion* is issued shall be returned to the applicant.
2. Planning and Economic Development Board members, its staff, consultants or other designated Town agents and staff shall have the right to inspect the site at any time, for compliance with the endorsed site plan and the provisions of this Decision.
3. The Department of Public Services 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.
4. The applicant shall have a professional engineer licensed in the Commonwealth of Massachusetts conduct progress inspections 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 Planning and Economic Development Board within 5 days of inspection.

V. **Off-site Mitigation**

1. To establish a more complete sound and visual buffer, the applicant has agreed to and shall install a barrier fence along the property line between the site and the property of Jesse and Teigan Bain at 37 Milford Street. The fence shall have a wood grain texture in the color of natural wood and shall not be white vinyl. The applicant shall also install shrubbery on the inside of the barrier fence on the property of Jesse and Teigan Bain at 37 Milford Street. The shrubbery shall be as specified on the additional plan sheet required per Condition VII - V herein.
2. The applicant has agreed to and shall install a solar power electronic driver feedback traffic speed signal on westbound Route 109 east of Route 126. The signal shall be installed prior to Town's issuance of the occupancy permit for the convenience store. Prior to installation, the applicant shall provide the Board, Tetra Tech, Police Department and the Department of Public Services with the plans/specifications for the feedback sign for review and approval.

W. **Performance Security**

1. No occupancy permit shall be granted until the Planning and Economic Development Board has provided a written communication to the Inspector of Buildings/Zoning Enforcement Officer that the project, as constructed, conforms completely and fully to the approved site plan and that any conditions including construction of any required on and off-site improvements, have been satisfactorily completed OR that suitable security/performance guarantee has been provided to the Town of Medway, to the Planning and Economic Development Board's satisfaction, to cover the cost of all remaining work.
2. The applicant shall propose a form of performance security which shall be of a source and in a form acceptable to the Planning and Economic Development Board, the Treasurer/Collector and Town Counsel. The Board may require that the performance guarantee be accompanied by an agreement which shall define the obligations of the developer and the performance guarantee company including:
  - a) the date by which the developer shall complete construction
  - b) a statement that the agreement does not expire until released in full by the Planning and Economic Development Board
  - c) procedures for collection upon default.
3. The amount of the performance guarantee shall be equal to 100% of the amount that would be required for the Town of Medway to complete

construction of the site infrastructure including installation of stormwater management facilities, utilities, services, pedestrian facilities and all site amenities as specified in the Site Plan that remain unfinished at the time the performance guarantee estimate is prepared if the developer failed to do so.

4. The security amount shall be approved by the 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 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 developer 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 twenty-five percent (25%) contingency.
5. Final release of performance security is contingent on project completion.

## VIII. GENERAL CONDITIONS OF APPROVAL

- A. **Other Town Permits** – This permit does not relieve the applicant from its responsibility to obtain, pay and comply with all other required federal, state and Town permits, including but not limited to a Street Opening/Roadway Access Permit from the Department of Public Services, a Common Victualler's License and Underground Storage Tank Permit from the Board of Selectmen, and Food Establishment and Tobacco Sales permits from the Board of Health.
- B. **Plan Modification**
  1. This Approval is subject to all subsequent conditions that may be imposed by other Town boards, agencies or commissions. Any changes to the Plan that may be required by the decisions of other boards, agencies or commissions shall be submitted to the Planning and Economic Development Board for review as plan modifications pursuant to SECTION V. C. 10 of the *Medway Zoning Bylaw*.
  2. Any work that deviates from the approved Plan and Decision shall be a violation of the *Medway Zoning Bylaw*, unless the Applicant requests approval of a plan or decision modification pursuant to SECTION V. C. 10 of the *Medway Zoning Bylaw* and such approval is provided in writing to the Planning and Economic Development Board.

3. Whenever additional reviews by the Planning and Economic Development Board, its staff or consultants are necessary due to proposed site plan modifications, the Applicant 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.

C. **Plan Compliance**

1. The Applicant shall construct all improvements in compliance with the approved and endorsed Plan and any modifications thereto.
2. The Planning and Economic Development Board or its agent(s) may use all legal options available to it, including referring any violation to the Inspector of Buildings/Zoning Enforcement Officer for appropriate enforcement action, to ensure compliance with the foregoing Conditions of Approval.

D. **Project Completion**

1. Site plan approval shall lapse after one year of the grant thereof if substantial use has not commenced except for good cause. All improvement shown on the Plan shall be completed by the applicant within two years of the date of plan endorsement. Upon receipt of a written request by the applicant filed at least thirty days prior to the date of expiration, the Planning and Economic Development Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested. If no request for extension is filed and approved, the site plan approval shall lapse and may be reestablished only after a new filing, hearing and decision.
2. Prior to issuance of a final occupancy permit, the Board shall provide a **Certificate of Site Plan Completion** to the Inspector of Buildings/Zoning Enforcement Officer. The **Certificate** serves as the Planning and Economic Development Board's confirmation that 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.

To secure a **Certificate of Site Plan Completion** from the Board, the applicant shall:

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

has been completed in strict compliance with the approved and endorsed Plan, and any modifications thereto; and

- b) submit six copies of an As-Built Plan, prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts, to the Planning and Economic Development Board for review by the Town's Consulting Engineer and the Board's approval. The As-Built Plan shall show actual as-built locations and conditions of all work shown on the original site plan and any modifications thereto. The final As-Built Plan shall also be provided to the Town in an electronic format as may be specified by the Board of Assessors.
- c) Be current with the Town of Medway for any taxes/fees associated with these parcels or other property owned by the applicant in the Town of Medway.

E. **Construction Standards** - All construction shall be completed in full compliance with all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.

F. **Conflicts** – If there is a conflict between the site plan and the Decision's Conditions of Approval, the Decision shall rule. If there is a conflict between this Decision and/or site plan and the *Medway Zoning Bylaw*, the Bylaw shall apply.

**IX. APPEAL** - Appeals if any, from this Decision shall be made to the court within twenty (20) days of the date the Decision is filed with the Town Clerk.


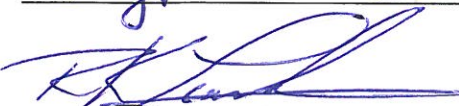
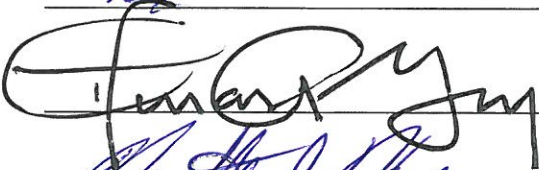


After the appeal period has expired, the applicant must obtain a certified notice from the Town Clerk that no appeals have been made and provide such certification to the Planning and Economic Development Board before plan endorsement.

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**Medway Planning & Economic Development Board:**

**AYE:**

**NAY:**

  
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**ATTEST:**

  
Susan E. Affleck-Childs  
Planning & Economic Development Coordinator

2/4/2014  
Date

- COPIES TO:** Stephanie Bacon, Health Agent  
Patty Barry, Conservation Agent  
Matt Buckley, Design Review Committee  
John Emidy, Inspector of Buildings and Zoning Enforcement Officer  
Tom Holder, Department of Public Services  
Donna Greenwood, Assessor  
Suzanne Kennedy, Town Administrator  
Jeff Lynch, Fire Chief  
Melanie Phillips, Treasurer/Collector  
Jeff Watson, Police Department  
Gino Carlucci, PGC Associates  
David Pellegri, Tetra Tech  
Peter Paulousky, attorney for the applicant