

**December 17, 2013
Medway Planning and Economic Development Board
155 Village Street
Medway, MA 02053**

BOARD MEMBERS PRESENT: Andy Rodenhiser, Bob Tucker, Karyl Spiller-Walsh, Matthew Hayes and Associate Member Richard DiIulio

ABSENT WITH NOTICE: Tom Gay

ALSO PRESENT:

Susy Affleck-Childs, Planning and Economic Development Coordinator
Gino Carlucci, PGC Associates
Dave Pellegri, Tetra Tech

The meeting was opened at 7:00 pm by Chairman Rodenhiser

There were no Citizen Comments.

**CONTINUE DELIBERATIONS on CUMBERLAND FARMS SITE PLAN
AND SPECIAL PERMIT DECISION**

The Board was in receipt of a revised draft decision dated December 17, 2013. (See Attached). Susy noted here are still some areas that need some work.

Susy Affleck-Childs spoke to the Board about the status of the Cumberland Farms decision. She recapped that at the 12/10/13 PEDB meeting, the Board had reviewed an earlier draft and had discussed the criteria in the Commercial V section of the zoning bylaw that the gas canopy could not be closer to the intersection than any part of the convenience store OR that the canopy and convenience store had to be architecturally integral. The plans do not show a connection between the store and the canopy and the canopy is clearly closer to the intersection of routes 109/126 than the convenience store. The thinking at the 12/10/13 mtg had been to address this through a condition in the decision that would require the applicant to revise the site plan for the Board's approval before the plans were endorsed. That was the direction.

Susy indicated that she has come to believe that this is NOT the proper approach. She reported that she had discussed this matter individually with board members, with Town Counsel, with our consultants Gino Carlucci and Dave Pellegri, and with the Building Commissioner/Zoning Enforcement Officer. She has come to a conclusion that the approach from last week is not the way to go.

Her recommendation instead is that the Board should reopen the Cumberland Farms public hearing. Her reasons are as follows:

- The possible changes that might have to be made to the Cumberland Farms plans to make it comply with the zoning bylaw are pretty extensive and merit full public review, discussion and disclosure.
- This will give the applicant an opportunity to revise the site plan so it can comply with the zoning bylaw if they choose to do so – switch locations of the canopy and store, connect the canopy and store together, or go to the ZBA for a variance.
- This will provide an opportunity for the applicant and the Board to discuss other aspects of the draft decision. This has not been possible because the public hearing was closed on 11/12/13. The applicant's attorney has asked to address the Board with some comments on the draft decision. The Board has repeatedly declined to do so on the advice of Town Counsel.

Susy noted that to reopen the public hearing, it would have to be re-advertised and the abutters would have to be re-notified. She can start that process tomorrow. That would reopen it to citizen comments as well.

Bob Tucker asked if this had been communicated to the applicant.

Susy Affleck-Childs responded that she had spoken with Attorney Peter Paulousky earlier today.

Attorney Peter Paulousky, for the applicant, was present at the meeting. Chairman Rodenhiser asked him if he was amenable to all this.

Susy noted that the current deadline for the Board to act on the applications is December 31, 2013 and that the Board needs the applicant to request an extension of that deadline.

She recommended the Board pay for the legal ad and mailing costs associated with the new public hearing. The Board concurred.

Susy suggested January 7, 2014 as the new public hearing date.

Mr. Paulousky indicated he would have to consult with his client to see if they are willing to extend the deadline. We did not expect the hearing to be reopened. He said he would provide a response to the Board as soon as he could.

Andy Rodenhiser stated that the Board will either have to vote this down or get an extension.

Susy Affleck-Childs indicated that the Board could have an extra meeting to deal with this.

Andy Rodenhiser suggested it could be held between Christmas and New Year's.

The Board acknowledged that it would need 4 members to vote down the project.

Bob Tucker asked Mr. Paulousky how much time he needed to come up with answer. Could it be by tomorrow? Bob asked Susy if she could post a meeting Wednesday morning so they board could have a short meeting on Friday.

Board members discussed various dates and options.

The Board decided to have a meeting on Monday evening, December 23 at 6 pm.

Andy Rodenhiser indicated that if Susy doesn't hear from Attorney Paulousky by Friday December 23rd, that she should start drafting a denial decision,

Andy Rodenhiser also noted that the Board would be inclined to waiver any fees associated with reopening the public hearing.

Andy Rodenhiser stated that he feels the Board cannot have a defensible decision if it does not reopen the public hearing to gather additional information.

Susy Affleck-Childs stated that Town Counsel has been pretty clear that we cannot take input after the public hearing is closed.

Andy Rodenhiser noted that everyone is best served if we do this right. We put so much time into the design of this project. We could screw it up pretty bad if it has to be changed.

The Board asked that Mr. Paulousky provide a response by Friday, December 20, 2013.

The Board agreed to hold a special meeting on Monday, December 23, 2013 at 6 pm. The expectation is that the Board will act on a request from the applicant for the Board to extend the action deadline to provide enough time to reopen the public hearing for additional discussion.
NOTE - The Board cannot extend the deadline without the applicant's consent.

A motion was made by Karyl Spiller-Walsh and seconded by Bob Tucker for the Board to reopen the public hearing on the Cumberland Farms site plan and special permit applications pending receipt of the correspondence from the applicant to request a deadline extension. The motion passed unanimously.

It was noted that if the action deadline is not extended, the Board will need to act/vote on the Cumberland Farms decision before the end of December. That action will need to be a denial as the Board cannot make the affirmative finding per the zoning bylaw that the gas canopy is not located closer to the intersection than any part of the convenience store.

A motion was made by Matthew Hayes, seconded by Karyl Spiller-Walsh for the Board to request that the applicant request an extension of the Board's action deadline for the Cumberland Farms project. The motion passed unanimously.

Gino Carlucci expressed his apologies to the Board for not catching this matter at the very beginning when he was reviewing the project.

Andy Rodenhiser indicated that the applicant missed it too.

CONSULTANT REPORTS

Millstone Village ARCPUD

Dave Pellegrini reported that he will revise their plan review estimate. He indicated he was awaiting notes from engineer Rob Truax about how the plans were different from the ones submitted in 2006 (Daniels Village ARCPUD).

25 Summer Street

Dave Pellegrini noted that Tetra Tech had modified the bond estimate for 25 Summer Street based on the bond and lot release discussion at the last meeting. The applicant did install some of the items on the punch list but not all of them. Tetra Tech went out last Friday before the storm to inspect and there are still a couple of more things to do.

Susy Affleck-Childs noted that Mike Fasolino's attorney had delivered the signed bond agreement but she is still waiting for the bond check.

Matt Hayes asked what was left to do.

Dave Pellegrini stated that they had to put in street signs and a silt sack.

OTHER REPORTS

Susy Affleck-Childs reported that SWAP had submitted an application to MAPC for DLTA funds to work on the regionalization of the senior van services.

Susy also reported that she had participated in a couple of meetings regarding the recently announced DOER's grant program for local Energy Manager positions. The Town is looking to go in jointly with Millis for the grant to fund a shared position between the 2 towns.

Matt Hayes asked if Medway's OSRD bylaw allows for farming in the open space. He had heard a story on NPR.

Karyl Spiller-Walsh noted that Randall Arendt had suggested this strategy in his work.

Gino Carlucci noted that Medway's OSRD bylaw would definitely allow for farming.

Matt Hayes suggested that maybe we could promote it more here in Medway.

PEDB MEETING MINUTES:

November 26, 2013:

The minutes from November 26, 2013 will be tabled until next meeting.

Adjourn Meeting:

On a motion made by Karyl Spiller-Walsh and seconded by Matt Hayes, the Board voted unanimously to adjourn the meeting.

The meeting was adjourned at 7:31 pm.

Respectfully Submitted,



Susan E. Affleck-Childs
Planning and Economic Development Coordinator



**TOWN OF MEDWAY
Planning & Economic Development Board**

155 Village Street
Medway, Massachusetts 02053

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

REVISED DRAFT – December 17, 2013

SPECIAL PERMIT AND SITE PLAN DECISION

Decision Date: TBD

Name/Address of Applicant: GCCF New England, LLC
600 East 95th 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.

Telephone: 508-533-3291 Fax: 508-321-4987
planningboard@townofmedway.org

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.

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

- A. March 18, 2013 - Meeting was held with Medway Internal Development Review Team and the Cumberland Farms applicant and engineer
- 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.

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

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 dated 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

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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.

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 members of the PEDB

IV. TESTIMONY

Professional Consultants' Testimony during Public Hearings

- Phil Henry, PE, Civil Design Group – Site engineer for the applicant
- David Pellegri, 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

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, _____
 - 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 Pam Bellino-Rivera and Madelyn Rivera-Bellino, 2 Knollwood Road dated August 13, 2013

Email from Tracy Stewart, 21 Lovering Street dated August 28, 2013

Email from Sheila Marshall, 65 Summer Street dated September 12, 2013

Email from resident Susan Alessandri, 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 Overing 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

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Citizens Petition submitted October 7, 2013

Email from residents Erin & Bill Hoye, 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 Droeske, 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

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 # ___), 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 # ___ to minimize the impact of this noise on the abutting residential property at ___ 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 adjacent 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 # _____. 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 # _____, the Town will review 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/AAAB 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 _____ 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 shared with Meadow Gardens. While this driveway has more impact on the abutters to the east, the PEDB finds that adequate buffers to the abutters is provided in the form an 8-foot fence and trees and shrubs along a 15-foot planting strip (Condition # _____). Also, it was found that the westernmost access drive on Milford Street helps distribute traffic within the site thus facilitating access. 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 # ____). 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-Y 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 __ and __ of this Site Plan Decision. Therefore, this criterion is met.

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

- (13) 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, this criterion is met.

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

The convenience store is 4,513 square feet so this criterion is met.

- (15) 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 chosen to separate the convenience store and gasoline canopy for the following reasons: (1) to maximize safety by keeping the specialized fire suppression system enclosed within the canopy structure completely separate from the convenience store building; (2) because of the difficulty in designing a physical connection between the convenience store and the elongated canopy with a suitable architectural style; and (3) because such a connection would likely detract from the handsome appearance of the building's gable on the Milford Street facade of the convenience.

The site is at the corner of two roadways and has frontage on both Summer and Milford Streets. The address of the existing Medway Gardens site is 38 Summer Street from which Medway Garden's primary access has historically been located. Summer Street has also traditionally been the front of the Medway Gardens business. The applicant intends to use 38 Summer Street for Cumberland Farms' address. With the Cumberland Farms development, there will be vehicular and pedestrian access from Summer Street and the convenience store has a customer entrance on the Summer Street side of the building. As the site is at the corner of two roadways and has frontage on and access from both Summer and Milford Streets, the Board finds that both the north and western building sides of the convenience store can serve as the "front". The PEDB finds that the proposed gas canopy is located to the side of the Summer Street address side of the convenience store building. Therefore, this criterion is met.

(c) If it is a separate structure, the gasoline canopy shall not be located closer to the intersection than any part of the convenience store building.

As presently shown on the site plan, the gasoline canopy is located closer to the intersection of Route 109/Milford Street and Route 126/Summer Street than the convenience store and therefore does not comply with this standard.

OPTION A

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As presently shown on the most recently submitted site plan dated October 15, 2013, the western edge of the separate gasoline canopy is located closer to intersection of Milford and Summer Streets than is the far southeast corner of the convenience store. Consequently, this criterion is NOT met.

OPTION B

Pursuant to Condition # ___ herein, the applicant shall revise the site plan to demonstrate compliance with V. K. I. (1) (b) of the Zoning Bylaw so that the edge of any part of the gasoline canopy is not closer to the intersection than the edge of any part of the convenience store. There are a number of options available to the applicant to comply. This could consist of revising the building/canopy design such that the canopy is architecturally integral and connected to the convenience store, in which case a finding under ___ of the Zoning Bylaw would not be necessary. It could also consist of relocating the store and/or the gas canopy in a manner that complies with this requirement. In the event that the canopy is retained as a separate structure, for the purpose of measuring the distance from the convenience store and the gas canopy to the intersection, the term "intersection" shall be defined as the midpoint of the arc that constitutes the corner rounding along the southeast intersection of Routes 126 and 109 that serves as the northwest lot line of the subject property. Therefore this criterion is met.

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to the intersection of Routes 109/126 (AND to the intersection of Rustic Road and Route 126-???) For the purpose of measuring the distance from the building and the gas canopy to the intersection, the term "intersection" shall be defined as the intersection of the centerlines of the two roadways. The applicant shall provide a revised site plan showing compliant locations for the gas canopy and convenience store building which shall be subject to the Board's approval before the plan is endorsed. The revised site plan shall be reviewed by the Design Review Committee which shall provide its recommendation to the Planning and Economic Development Board to consider before it acts on the revised plan.

(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 canopy is located approximately 150 feet from the western facade of the Bain's home. Therefore this criterion 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:

(16) 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 PEDB finds that this criterion is met.

- (17) 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 PEDB finds that this criterion is met.

- (18) 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, this criterion is met.

- (19) 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, owners of the adjacent easterly residential property at 37 Milford Street in the Agricultural/ Residential II zoning district. Their testimony expressed 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 presently serving 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.

As conditioned herein (Condition # ____), 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 # _____. 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 # ____), the store's operation plan will require patrolling for and removing refuse and debris that may be found on the grounds. Outdoor displays are also limited by Condition # ____ 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.

- (20) 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. MORE NEEDED HERE As a result of the traffic analysis and peer review, recommendations for changes in the plan, further pre-construction traffic analyses of existing conditions at Summer Street/Medway High School and Milford Street/Little Tree Road and Summer Street/Rustic Road, as well as off-site mitigation of traffic impacts have been made and incorporated. These will serve to minimize any additional traffic congestion generated by the project. Further, Condition # ____ provides that an evaluation of the performance of the traffic signal at the intersection of Routes 109/126 will occur to determine if adjustments or upgrades are needed. Therefore, this criterion is met.

- (21) 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 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:

(22) 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 # _____), the applicant will install signage in the right of way on Milford Street to discourage such cut-through traffic into the neighbor hood. 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.

(23) 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, this criterion is met.

(24) 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 # _____). 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, this criterion is met.

- (25) 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, this criterion is met.

- (26) 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 # ___). Therefore, this criterion has been met.

- (27) 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, this criterion is met.

- (28) 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.

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

As conditioned, there will be no off-site glare from the site and the lighting will comply with the lighting section of the Zoning Bylaw. Therefore, this criterion is met.

(30) 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, this criterion is met.

Other Findings

(31) Considerable citizen opposition to the proposal was evidenced by a citizens' petition, numerous emails and testimony at public hearings. Concerns were expressed about the 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.

(32) Town Staff and Consultants participated in a briefing held on October 28, 2013 for Medway residents concerned about the proposed Cumberland Farms project.

(33) The Board finds that "the intersection" that is referred to in the Commercial V section of the Medway Zoning Bylaw is the intersection of Summer Street (Route 126) and Milford Street (Route 109).

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 _____, on a motion by _____, seconded by _____, **voted to** _____ of 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.

Planning & Economic Development Board Member

Vote

Thomas Gay
Matthew Hayes
Andy Rodenhiser
Karyl Spiller-Walsh
Robert Tucker

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

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.

VII. WAIVERS - At its _____ meeting, the Planning and Economic Development Board, on a motion made by _____, seconded by _____, voted to _____ 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 _____ by a vote of _____ in favor (_____) and _____ 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 (???) – is this true? 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 Planning and Economic Development Board agrees that this requirement 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 Planning and Economic Development 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 Planning and Economic Development 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 Planning and Economic Development 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.

VIII. MITIGATION PLAN

- A. further traffic studies and review of functioning of the intersection after _____
- B. traffic signal sounds
- C. installation of speed signal
- D. landscaping on the Bain's property

VIII. SPECIFIC CONDITIONS – This approval is subject to the following Specific Conditions/Limitations:

- A. **Plan Revisions** - Prior to endorsement, the site plan set for Cumberland Farms dated June 28, 2013 last revised October 30, 2013 shall be further revised as follows and submitted to the Planning and Economic Development Board for review and approval.
 - 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 site 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. As indicated in FINDING # _____, the site plan shall be revised to relocate the convenience store and/or gasoline canopy such that the western edge of the convenience store is closer than the western edge of the gasoline canopy to the intersection of Routes 109 and 126.

3. As indicated in FINDING, the site plan shall be revised to comply with SECTION V. K. 1. (1) (b) of the Medway Zoning Bylaw. A number of options are available to the applicant to comply with this provision. The PFDB does not specify any particular solution, but requires that a revised plan demonstrating compliance be submitted to the PFDB for review and approval prior to endorsement. The revised plan shall be reviewed by the Design Review Committee which shall provide its recommendation to the PFDB to consider before it acts on the revised plan.

4. A separate sheet titled Off-Site Mitigation shall be added to the plan set. This sheet shall include:

- a). the specifications for the speed monitoring signal to be located on the north side of Milford Street east of Summer Street
- b). the specifications and plan for the landscaping installation on the Bain property at 37 Milford Street

B. Blasting – Insert text here to expand blasting impact area

C. During Construction

1. Construction Time - Construction work at the site and in the building and the operation of construction equipment shall commence no earlier than 7 a.m. and shall cease no later than 5, 6 or 7 p.m.) Monday – Friday (Saturday). No construction shall take place on Sundays or legal holidays.
2. The applicant shall take all measures necessary to ensure that no excessive dust leaves the premises during construction.
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 loose gravel/dirt 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 within twenty-four (24) hours of its occurrence.
4. On a daily basis, the Applicant is responsible for having the contractor (2) clean-up the construction site and the adjacent properties onto which construction debris may fall.
5. All erosion and siltation control measures shall be installed 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 - per town bylaw~~ 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).

D. **Outside Displays and Storage** – The following items shall not be permitted outside on the premises nor are they considered accessory to the convenience store/vehicular fueling facility uses.

1. Outside displays and storage of products including but not limited to firewood, beverages, propane, etc.
2. Except for an air machine, other machines for dispensing goods or products such as but not limited to an ice machine or Redbox kiosk.
3. Shipping and packaging materials unless stored within the dumpster enclosure.
4. Promotional/advertising banners/signs, etc.

E. **Hours of Operation** – The convenience store and vehicular fueling facility shall not be open to the public before 6 5 am or after 10 pm.

F. **Deliveries**

1. Fuel and product deliveries may occur after 9:15 am during normal business hours except during the morning rush period from 6:45 am and 9:15 am and in the afternoon during the Medway High School dismissal time period from 2:30 – 3:30 pm.
2. Fuel and product delivery trucks shall access the site only from Summer Street.

G. **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 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 requirement adjustment of the number and/or intensity of the

exterior light fixtures if it determines that illumination is not sufficient for security purposes or if spill-over onto adjacent properties is occurring.

H. **Site Maintenance – trash, litter, outside seating area.** . Still to be written

I. **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 or shall be replaced.
2. Within 60 days after two years after the occupancy permit is issued for the convenience store, the Town's Consulting Engineer shall inspect the landscaping to determine what items need replacement. **MORE NEEDED HERE.**

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

K. **Outdoor Seating**

1. The allowance for outdoor seating is granted 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/loitering problems. Should it be determined that a safety problem exists due to loitering, the seating shall be removed.

L. **Snow Storage and Removal**

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

M. **Stormwater Management** – is something needed here?? Still to be written

N. **Signage**

1. There shall be no product signage/posters displayed in the store windows of the convenience store.
2. The entrance/egress signs at the site driveways shall not include any corporate colors, text, symbols or logos
3. The fueling pumps shall not include any corporate colors, text, symbols or logos.

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O. Site Consolidation – Prior to the issuance of a any demolition permit for structures located on 38 Summer Street, 39 and 41 Milford Street, the Applicant shall present a plan to consolidate the 3 subject parcels to the PEDB for endorsement and subsequent recording at the Norfolk County Registry of Deeds.

P. Easement with Onilleva Trust LLC – still to be written: location of gate to access Medway Gardens . . .

Q. 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.

R. Traffic Management

1. The performance of the intersection of Route 109 and 126 shall be evaluated approximately 6 months after the opening of the Cumberland Farms (not including June, July, August and December) after months of operation of the convenience store and vehicular fueling facility but before to determine if any adjustments are needed to the traffic signal as a result of the Cumberland Farms operation. The schedule for conducting such traffic counts analyses shall be determined by the Medway Department of Public Services. The Applicant shall bear the costs associated with the evaluation of the intersection's performance, the Town's review of that traffic analysis by its Consulting Traffic Engineer, and any needed adjustments or upgrades to the operation and timing of the traffic signal at Route 109/126.

2. The applicant shall add audio signals to the pedestrian cross walk signals currently located at the intersection of Routes 109/126 . . . MORE NEEDED HERE

S. Construction Inspection

1. 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.
2. 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.
3. 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.

4. In the event the applicant seeks an occupancy permit before all site plan work is satisfactorily completed (see VIII. General Condition F. 2 herein), the Applicant shall establish a construction inspection account with the Medway Planning and Economic Development Board. The Applicant shall pay a construction inspection fee to the Town of Medway in an amount to be determined by the Planning and Economic Development Board. The funds may be used at the Planning and Economic Development Board's discretion to retain professional outside consultants to inspect the site, 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* (see VIII. General Condition G. 2 herein). Depending on the scope of professional outside consultant assistance that the Planning and Economic Development Board may need, the Applicant shall be required to provide supplemental payments to the project's construction inspection account, upon invoice. 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.

I. Off-site Mitigation

1. To establish a more complete sound and visual buffer, the applicant has agreed to install shrubbery on the property of Jesse and Teigan Bain at 37 Millford Street on the inside of the fence that shall be also be installed along the property line. The shrubbery shall include:
2. The applicant has agreed to 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 Cumberland Farms. Prior to installation, the applicant shall provide the Board, Teira Tech, Police Department and the Department of Public Services with the plans/specifications for the feedback sign for review and approval.

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IX. GENERAL CONDITIONS OF APPROVAL

- A. **Plan Endorsement** - Within sixty (60) days after the Planning and Economic Development Board has filed its *Decision* with the Town Clerk, the Applicant shall submit a final site plan reflecting all Conditions and required revisions, if any, to the Planning and Economic Development Board to review for compliance with the Board's *Decision*. Upon approval, the Applicant shall provide a Mylar

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.

4. In the event the applicant seeks an occupancy permit before all site plan work is satisfactorily completed (see VIII. General Condition F. 2 herein), the Applicant shall establish a construction inspection account with the Medway Planning and Economic Development Board. The Applicant shall pay a construction inspection fee to the Town of Medway in an amount to be determined by the Planning and Economic Development Board. The funds may be used at the Planning and Economic Development Board's discretion to retain professional outside consultants to inspect the site, 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* (see VIII. General Condition G. 2 herein). Depending on the scope of professional outside consultant assistance that the Planning and Economic Development Board may need, the Applicant shall be required to provide supplemental payments to the project's construction inspection account, upon invoice. 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.

T. Off-site Mitigation

1. To establish a more complete sound and visual buffer, the applicant has agreed to install shrubbery on the property of Jesse and Teigan Bain at 37 Millford Street on the inside of the fence that shall be also be installed along the property line. The shrubbery shall include:
2. The applicant has agreed to 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 Cumberland Farms. 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

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IX. GENERAL CONDITIONS OF APPROVAL

- A. **Plan Endorsement** - Within sixty (60) days after the Planning and Economic Development Board has filed its *Decision* with the Town Clerk, the Applicant shall submit a final site plan reflecting all Conditions and required revisions, if any, to the Planning and Economic Development Board to review for compliance with the Board's *Decision*. Upon approval, the Applicant shall provide a Mylar

set of the revised site plan in its final form to the Planning and Economic Development Board for signature/endorsement. All plan sheets shall be bound together in a complete set.

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. **Other Town Permits** - The contractor for the applicant or assigns shall obtain, pay and comply with all other required Town permits, including but not limited to a Street Opening/Roadway Access Permit from the Department of Public Services, a Common Victualer's License from the Board of Selectmen, and Food Establishment and Tobacco Sales permits from the Board of Health.

D. **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 site plan that may be required by the decisions of other boards, agencies or commissions shall be resubmitted 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 shall be a violation of the Medway Zoning Bylaw, unless the Applicant requests approval of a plan 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.

E. **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) shall use all legal options available to it, including referring any violation to the Building Commissioner/Zoning Enforcement Officer for appropriate enforcement action, to ensure compliance with the foregoing Conditions of Approval.
3. The Conditions of Approval are enforceable under Section. V. C. 12 of the *Medway Zoning Bylaw* (non-criminal disposition) and violations or non-compliance are subject to the appropriate fine.

F. *Performance Security*

1. No occupancy permit shall be granted until the Planning and Economic Development Board has provided a written communication to the Building Commissioner that the project, as constructed, conforms completely and fully to the approved site plan and 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 costs of all remaining work. MORE NEEDED HERE . . . to calculate a bond estimate . . .

G. *Project Completion*

1. Site plan approval shall lapse after one (1) year of the grant thereof if substantial use has not commenced except for good cause. Approved site plans shall be completed by the applicant or its assignees within two (2) years of the date of plan endorsement. Upon receipt of a written request by the applicant filed at least thirty (30) 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 Applicant Board shall provide a *Certificate of Site Plan Completion* from the Planning and Economic Development Board to the Building Commissioner. The *Certificate* serves as the Planning and Economic Development Board's confirmation that the completed work conforms to the approved site plan and any conditions and modifications thereto, including the construction of any required on and off-site improvements. The *Certificate* also serves to release

any security/ performance guarantee that has been provided to the Town of Medway. MORE HERE on checking for taxes paid, etc.

_____ 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 site plan, and any modifications thereto; and
 - b) submit six (6) 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.
- H. **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.
- I. **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.
- X. **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.

Medway Planning and Economic Development Board
SPECIAL PERMIT & SITE PLAN DECISION
Cumberland Farms – 38 Summer Street
REVISED DRAFT – December 17, 2013

Approved by the Medway Planning & Economic Development Board:

AYE:

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_____	_____
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_____	_____
_____	_____

NAY:

ATTEST:

_____	_____
Susan E. Affleck-Childs	Date
Planning & Economic Development Coordinator	

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