

**January 28, 2014**  
**Medway Planning and Economic Development Board**  
**155 Village Street**  
**Medway, MA 02053**

<b>Members</b>	<b>Andy Rodenhiser</b>	<b>Bob Tucker</b>	<b>Karyl Spiller-Walsh</b>	<b>Tom Gay</b>	<b>Matt Hayes</b>	<b>Rich Di Iulio</b>
<b>Attendance</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>

**ALSO PRESENT:**

Susy Affleck-Childs, Planning and Economic Development Coordinator  
 Amy Sutherland, Meeting Recording Secretary

The Chairman opened the meeting at 6:30pm.

There were no Citizen Comments.

**2 Spruce Rd:**

The Board is in receipt of a letter from Stephen Barrasso dated January 24, 2014. **(See Attached)**

The property owner is concerned about the fallen trees, limbs and brush behind his property. He is fearful of a fire starting.

The Chairman did walk in that area and indicated there was a tree fort and evidence of someone having a fire in the back. The area is forested and did see what he is taking about regarding the collection of brush.

Susy suggested that Mr. Barrasso speak with Mr. Costello about the limbs and brush which has accumulated.

Susy will also do a follow-up letter to Mr. Barrasso.

**1 Spruce Rd:**

Consultant Pellegri did speak with the resident about the water that comes out from the slab of her garage and runs down the driveway. This has only started happening over the last two springs. There may be an underdrain which may be clogged. Consultant Pellegri will follow-up with the resident.

**CERTIFICATE OF ACTION: Hill View Estates:**

The Board is in receipt of the draft Certificate of Action for Hill View Estates dated January 26, 2014. **(See Attached)**

The applicant did have a chance to review the draft decision.

Consultant Carlucci added text on page 5 for grading. It was suggested that the applicant proposed a 10.8% roadway grade instead of required 8%. There will also be language added about the fact that the curbing at the intersection roundings are in Holliston and not Medway.

Susy will add language on page 2 under project description that there is a pre-existing driveway. The bottom of page 6 should reference Lot 10A.

**VOTES:**

**Waivers Findings:**

**On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted unanimously to accept the action on waiver findings as modified.**

**Action on Mitigation Plan:**

**On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted to accept the action on the mitigation plan as modified.**

**Action on Waivers:**

**On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted unanimously to accept the action on waivers as modified.**

The gravel shoulders with existing gravel shoulders and hammerhead for turning around are adequate.

There is currently an existing turnaround which was created for safety and it will not change. This is an existing condition.

There was no feedback from safety officials.

**Project Evaluation Criteria:**

**On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted unanimously to accept the action on the project evaluation criteria as modified.**

**Other Findings:**

Susy wanted it noted that a small portion of the parcel (1369 square feet) is located in Holliston. She also wanted the decision to reference that a variance was granted in 1994.

The applicant would like to request that his attorney be able to review the most recent revisions.

Susy did indicate that this is fine, but the decision will then have to be provided back to our town counsel for review. The Board will hold on voting on this section.

Susy noted that the amount of time for completion should be four years instead of three.

Mr. Biochi referenced page 11. The covenant indicates that there is a mortgage on this property and now the owner of the lot is responsible for the road, maintenance and construction. The applicant indicated that she asked the mortgage company to consider that this is a paper road until constructed and if she tries to sell one lot to build on new parcel she would not be able to release this without some language written to allow such. It was proposed to put it in the verbage to post a bond to cover that road being completed. This is only for a hammerhead and drainage.

The Chairman noted that this may only be \$60,000-\$70,000.

Susy recommended that Attorney Fernandes could assist with writing language. The new lot would be conveyed without any work being done. Before a lot is released there is a minimum list of things to do.

**Extension of Hill View Estates Action Deadline:**

**On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted unanimously to accept the applicant's request for extension of the deadline for action for Hill View Estates until February 28, 2014.**

The decision for Hill View Estates will be finished at the February 11, 2014 meeting.

**Economic Development Committee Appointment:**

The Board is in receipt of an email and resume dated January 8, 2014 from Tina Chemini seeking appointment to the Economic Development Committee. (**See Attached**).

Tina Chemini was present at the meeting.

Chairman Rodenhiser endorses the appointment. Tina is the owner of T.C. Scoops.

The term of appointment would be through June 30, 2015.

**Economic Development Appointment:**

**On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted unanimously to appoint Tina Chemini to the Economic Development Committee through June 30, 2015.**

**Consultants' Reports:**

**Consultant Carlucci:**

- A new housing report came out from MAPC. It was suggested that SWAP host a presentation and discussion about the results of the report.
- Consultant Carlucci is looking to host a discussion on the new flood plan maps. This will probably happen in March.

## **Minutes:**

### **January 7, 2014:**

The minutes from January 7, 2014 will be tabled.

### **January 14, 2014:**

**On a motion made by Karyl Spiller-Walsh and seconded by Matt Hayes, the Board voted unanimously to accept the minutes from January 14, 2014 as revised.**

## **Coordinator's Report:**

- Susy is working with Consultant Carlucci on an Energy Grant Application. This will be in the front of the Board of Selectmen next week.
- Application of Green Communities competitive grant is due at the end of March 2014.

### **Proposed Expansion of Industrial II Zoning District:**

The Board is in receipt of a document entitled possible parcels to add to Industrial II Zoning district dated January 27, 2014. **(See Attached)**

The Board typically works on one area of the zoning district for clean-up. Susy recommended looking at the Industrial II zoning district. This would include a proposed expansion. Some of the parcels do not follow the parcel lines. The expansion would include the East side of West Street and West Side of West Street. There are a lot of power lines. A lot of the parcels are wet. The logic is to clean-up boundary edges of zoning districts. This would also be a use change. There are some parcels which may be good for solar installation.

The Chairman recommends leaving this section as is. He appreciates the suggestions from Susy but recommends that we hold on this until another time.

The Board is in agreement.

### **Cumberland Farms Special Permit and Site Plan Decision:**

The Board is in receipt of the following documents:

- Revised draft decision January 24, 2014 Special Permit and Site Plan Decision. **(See Attached)**
- Email from Thomas Holder dated January 16, 2014. **(See Attached)**
- Email from Jason Plourde dated January 22, 2014. **(See Attached)**
- Comments from applicant dated January 27, 2014 with requested edits **(See Attached)**
- Letter from Cory Kadlik dated January 15, 2014. **(See Attached)**
- Email from Susy Affleck-Childs dated January 15, 2014 in response to letter from Cory Kadlik. **(See Attached)**

The Chairman reopened the continuation hearing for Cumberland Farms.

The Chairman entered into the record a letter from Cory Kadlik who is a citizen of Medway. He was concerned that the Board was insensitive to the needs of the blind from the discussion which took place at the last planning Board meeting. The Chairman apologized for not taking a more direct stance in addressing the issue. The Chairman recommends that the Board look to utilize the resources and to do more research on devices. The Board did look to be consistent with the Route 109 project. The letter made good points on the devices. In the future, the Board will do a better job of having our consultant's research the various devices needed.

The Board was made aware that the Route 109 project will be applying to install pedestrian devices as required by Mass DOT on all their new projects. The Board was presented with documents regarding the accessible pedestrian signal installation policy. There are noted guidelines for the signals. MassDOT considers requests to install these devices based on demonstrated need.

Jason Plourde from Tighe and Bond explained that he received all the information provided and he noted that all the devices are to help people with disabilities to cross intersections. Mass DOT has different criteria to look at when deciding if an audio signal is warranted. First, the DOT looks to see if this is new construction they investigate. This is for a new signal in general. You need to make sure there are going to be crosswalks. The brand new signal is always investigated. They want to make sure that there is a need and that a person can cross safely. It is the thought that you do not want to put these in where there is going to be no pedestrian activity.

Mr. Plourde indicated that he worked on a project at Salem State University and an audio device was requested. MASS DOT turned down this request. It is not for people without disability. This is not for the motorist. It is to help a visible impaired person to cross the intersection since they know the sounds of the chirps. The push button vibrates letting the pedestrian know when to cross.

Currently, this is not new construction, it is an existing signal. The next criteria would be to see if the intersection could accommodate this signal; there are already pedestrian signals and crosswalks there. The second criteria to look at is would it improve safety. The answer to this would be yes. The third criteria, which has to be met is if there is a demand. It must meet National Cooperation of Highway Research Program, Manual Uniform Traffic, and MASS DOT. Of all the criteria, the third criteria demand must be met.

The Chairman asks if there is a resident in town that is visually impaired and wants this as part of the signal, what do we do.

Jason Plourde responded that as an entity, we cannot file the request for the audio signal. The request must be made by the individual. The application was referenced. MassDOT will then take the information and compare and determine if it is warranted.

Consultant Pellegri wanted to know how MassDOT determines the demand.

Jason Plourde responded that Mass DOT probably looks at the forms submitted for the same intersection. These are the guidelines which need to be followed by the State. New construction needs to be evaluated and must be investigated.

Susy responded that the devices are being put in at the Rt. 109 project but only Holliston St. to the Highland Intersection.

The question to answer is does the Board have the right to put this in the decision? This is not a done deal even if this is applied for. There is a 90 day investigation period.

The Board noted that having a walkable community should be for all and we can advocate for such.

There is no one in town who acts as the coordinator for the disabled. Sue Ellis is the key person in the town.

Consultant Pellegrini will meet with Mike Hall and Jason Plourde to discuss the audio signals. He will also discuss the pricing with Dave Amico.

Jason Plourde responded that the cost would be \$4000 - \$8,000

The Board looked at the direct comments which were provided by Attorney Palousky. These included some suggestions which were highlighted and more specific page 13. The second request is on page 26 #3 alternative language about the pedestrian signals.

Member Tucker wants to wait on this until we get further information from Consultant Pellegrini.

Dave Pellegrini will look at other alternatives instead of chirping.

Member Spiller-Walsh wanted to know if there are degrees of volume and other types of audible devices.

Mr. Plourde noted that there are a lot of different sounds and types.

Member Tucker is very concerned with inconsistency with Rt. 109 and where the devices may be versus where they may not be. There needs to be consistency. The individual with the disability should not be making the request; we should be working to address this on behalf of the resident.

The Board would like Mike Hall to come to the Board with the options.

The Attorney referenced page 27 regarding the mitigation.

Cumberland Farms wanted to take a five minute recess to discuss the request for extension.

**Rolling Hills:**

Mr. Wallace is the new owner of the Rolling Hill subdivision. He was provided an invoice from the town for construction services.

The Board wanted to know what Mr. Wallace is planning for the subdivision.

Mr. Wallace is not sure what he is planning with the land, but he provided this three options:

1. Build it.
2. Make it part of house and sell the house and let the subdivision expire.
3. Sell it to a builder.

Mr. Wallace has no timeline since he just acquired it.

Susy will check the expiration date on the subdivision.

The Chairman noted that the invoice is for a deposit for service in the future and essentially an escrow account for the project.

Susy indicated that the refund was not sent to the prior owner, since she had no interest in the project. Susy is not sure what the settlement of this land was. It was private.

The decision is an asset to project.

It was explained that the deed and property has been conveyed.

Mr. Wallace indicated that he probably should have paid for this at the closing. The previous owner should have sent a demand to him.

The Chairman noted that the only responsibly is for the delta in between the original estimate and new estimate. The town will not refund any money until we get clarity. The Board decided to not return the money.

Susy communicated that Mr. Wallace needs to show that he has claim to the property. This is something that the Board needs proof of. It seems as though Mr. Wallace has an obligation to the Board. The applicant's position is that he owes the difference. This money will stay in escrow until the Board received further information.

The hearing for Cumberland Farms was back in session at 8:21pm. The Attorney asked the Board to consider a condition and is willing to put in the signals, but they may not be allowed to. The decision can be issued with language that the applicant will do the signal if required by Mass DOT. We do not want to delay for another two weeks.

The Chairman responded that if the Board hears back from Mass DOT that they can do a voluntarily installation, then there is no issue.

The applicant is willing to do the audio signalization if approved by Mass DOT.

The signal must meet the criteria and then it is approved. The applicant does not want the signal to hold up the project.

The Chairman will visit with resident who may want to submit the form.

The applicant was informed that the comments from Town Counsel will be put into the revised version, but the comments seem to be relief on some aspects.

It was recommended that the decision be finalized on Tuesday February 4, 2014 and the extension will go to February 7, 2014.

**Extension of Action:**

**On a motion by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to extend the action of deadline until February 7, 2014. (See Attached).**

**Continue Hearing:**

**On a motion on Bob Tucker and seconded by Karyl Spiller-Walsh, the voted unanimously to continue the Cumberland Farms hearing until February 4, 2014.**

**Zoning Discussion:**

The following members of the ZBA were present to discuss Zoning Amendment ideas – David Cole, Tony Biocchi and Craig Olsen. Town Counsel Barbara Saint Andre was also present.

The Board began with the Commercial I district information. The various Board members were provided with the information for discussion.

There were also comments from John Emidy based on the various drafts.

**Commercial District I (See Attached Draft)**

Susy began by explaining that the Board is looking for feedback from the Zoning Board of Appeals about tying the special permit to the site plan in Commercial I.

Chairman Rodenhiser explained to the Board that he met with the Chairman of the Zoning Board of Appeals who provided a brief history of Medway Zoning Bylaw. This document was created in the 50's. This was only a three page bylaw. There was consensus that this document needs to be updated.

David Cole took his information from the meeting with Chairman Rodenhiser and brought it to the Zoning Board. The main concern is that the changes may leave the bylaw with inconsistencies in some of the commercial zoning districts. There is a concern about the kennel permits. The Zoning Board of Appeals has a good handle on these and would like to keep this under their control.



Susy responded that the kennels within other districts could stay with the Zoning Board of Appeals and anything which triggers a site plan would stay with the Planning Board. She agrees that the Zoning Board of Appeals has developed a good process with kennels through the years.

Member Biochi would like to see applicants be able to have a one stop shop in Commercial one. This is a good thing. He recommends that the Board with the most experience should act on the permit. He believes the site plan should take place and stay with the Planning Board. In regards to uses, the kennel should stay with Zoning Board of Appeals.

When a new business is applied for, the building inspector determines what permit is triggered. In some cases the special permit and site plan would be applied for at the same time.

David Cole noted that if the permit for drive through is granted, there is no mechanism to enforce traffic, or drainage since it was already granted by Zoning Board of Appeals. If the planning Board was able to get this application, we can put conditions on it. For example, the last gas station Extra Mart, this was site plan approval process and they walked away. This was all they needed at that time.

It was suggested that a joint meeting be held with the various Board s to work together as a single entity when things such as drive-thru are applied for. It would make the process run smoothly.

The Northeastern Group noted in their report that the town needs to make the process easier for applicants. We need to follow the master plan to make a bigger commercial district to help our tax base. Unfortunately, the Board of Selectmen only allows the planning Board to submit zoning warrant article in the spring, so there is only one opportunity a year to do this.

Consultant Carlucci recommended making setbacks changes by special permit to be business friendly.

The Chairman would like to have a formed based code for the community. This is a huge process to undertake. It could give relief for the shopping center to move some of those stores closer to the road. This would help with economic development.

Member Spiller-Walsh communicated how can the Zoning Board of Appeals grant a permit in regards to a drive-thru, if the site has not been designed to safely and visually accept this drive thru. The permit should be secured after.

The Chairman of the Zoning Board responded that this was one of the problems with granting the drive-thru in the last application. It was appropriate in the location but the Board deliberately abstained from putting in conditions since the planning Board vote on it.

Mr. Biochi further added that the Board needed to act on a plan that was not even approved by the planning Board.

Consultant Carlucci noted it is good idea to tie site plan to special permit since it that clinches that one Board will be dealing with it. There could be a list of uses and a catch all phrase for any uses which requires a site plan shall be granted by the planning Board.

The discussion next moved to if there can be a kennel in Commercial I. The zoning Board of appeals denied the application for Rabbit Hill.

The Chairman noted that if someone is keeping more than 4 dogs, you must have a kennel license. This could also be a retail dog store. There could be kennel in commercial one. There might be a pet store in the shopping plaza. The petco in Bellingham is a store, but no animals are sold there.

**Mixed Use:**

David Cole indicated that the zoning Board welcomes mixed uses. This creates a diversity of housing and maximizes the footprint. This meets the need for other types of housing in town.

This is letting residences into the commercial area. This allows a commercial property owner to allow rental.

Consultant Carlucci and Susy will rework the site plan section.

The Board will make the modifications and will provide back to the zoning Board for review and comment.

The warrant articles needs to be submitted by Monday February 3, 2014.

**Affordable Housing:**

Doug Havens from the Affordable Housing was present.

Mr. Havens informed the Board that in the past the in lieu of affordable housing has provided dissatisfaction with the payment in lieu of. There is a desire to have the affordable housing put in place. The trust is working with a consultant to revise the bylaw. Mr. Havens would like to see the density zoning revised. There needs to be incentives to build affordable on site. The design and construction of the affordable housing must be compatible with DHCD's local initiative program standards and suitable for inclusion on the subsized housing inventory should be a special permit approval.

Susy informed the Board that Judy Barrett has suggested that there be a joint meeting with affordable housing, planning Board and the zoning Board of appeals. (**See Attached memo**).

Member Spiller-Walsh commented that affordable housing enormously impacts land use and she wants to meet with Gino and Susy to discuss open space subdivision land use and its impact which enormously effects what we have in the ground today. She further asks Doug Haven if he would like to be part of this meeting.

The affordable housing bylaw will be put aside until more discussion takes place.

The Chairman suggested a meeting with all the parties at a later date.

### **Energy Committee:**

Members of the Energy Committee present include:

- Charlie Meyers and Larry Elsworth.

The Board is in receipt of an email from Shelley Wieler dated January 28, 2014. (**See Attached**)

The Chairman recommended that the representatives from Energy Committee be able to work with Consultant Carlucci since the planning Board does not have a grasp on this.

Susy suggested that Consultant Carlucci could come up with some language which may have implication on other things. One example was ground based solar for Cassidy Farm. The Board needs to think about the highest and best use. Do we want to allow solar farms in AR II.? Some of the items might be addressed within the rules and regulations and not the zoning bylaw.

Member Di Iulio does not want to allow solar farms they are unsightly.

The Board needs to get something more concrete on this topic before discussing it.

The Energy Committee discussed that there is a movement with 8 other states with MOU about the deployment for charging stations and dual infrasturure for fuel stations. This is a wide range transportation initiative. There will be green communities' language coming out. The state will be looking for preferential parking initiatives with battery charging stations. There will be provisions within the building code. There will need to be provisions for hydrogen. We need to look at electric vehicle charging stations, along with prep for battery electric charging stations. There will be a new edition of stretch code. Energy storage and technology will come into play and hydroelectric. There needs to be discussion about if this is an allowable use. FFCEV will be available in the state in small numbers starting 2015. Any new commercial fueling locations should be required to have expansion space available for hydrogen. The town needs to also look at adding provisions for commercial and industrial exterior lighting.

Member Gay suggested we take the stretch code and reference the standards and then it takes care of itself. We need to cover the current and the future and reference the leed specifications. This way we identify specific codes, but we do not need to have prescriptive writing.

A goal would be to remain open to this initiation.

Member Tucker recommends that we start to install the infrastructure into new facilities. This is a proactive approach.

Mr. Biochi is working with the DEP to put up a windmill in a wetland area. Every wetland in flood plan and has trees and wind is being created. We can promote this as a town.

The Chairman noted that this is a big topic and is the Board ok with having Consultant Carlucci work on this with the energy committee.

Member Gay wants to be careful since some of the technology and topics are very emotional. For example, there is a lot of debate about industrial wind turbines. We want to be careful with the prescriptive approach.

Member Hayes thinks it is important to remain flexibly with all the energy possibilities and we need experts to look at this and guide us.

Charlie indicated that when the Board starts discussion on energy, there are contacts the Mass Green Communities who will assist us. He also communicated that any location within 3 miles of 495 can get a free electric charging sign. The town needs to look at reducing the carbon footprint.

The language for the cell tower section needs to be revised.

Consultant Carlucci will get together with the energy committee.

### **Major, Minor and Mini Site Plan:**

Town Counsel was present.

The Board next discussed major, minor and mini site plan. (**See Attached**)

Member Tucker communicated that he sees mini site plan as something or any item relating to the structure itself. The zoning enforcement officer can handle these on a day to day basis. Those types of thing include: moving a doorway, installing an overhead door, installation of a double door versus single. He is probably the best qualified. We need to keep it simple in handling these things.

The discussion next moved to the fact that Norman Greens did not get a site plan review. The garage bay and sign in windows came from a building permit. We had no control since it was considered window replacement. A retail operation is by right. The interpretation was that this was replacement. The building inspector made this decision.

The Board indicates that as soon as he had a drawing with sidewalks and railing in front of store, this should have triggered a minor site plan. The Board does not know what was given to John. This was a missed opportunity to influence this in a positive way. Once it is outside the footprint, it needs to come to the Planning Board. There was also no site plan review for the shell station when the bays were taken out.

Consultant Carlucci noted that in terms of the mini site plan, perhaps it could be recharacterized and exempt from site plan review and subject to administrative review.

Member Tucker wanted to touch on a few items. When looking at mini site plan projects (page4) under improvements to land, the definition of mini this is to be contained to the structure and not landscaping or parking. It needs to meet the minimum requirements. We need to look at alterations of existing parking areas or buffers. Some of the items need to go into minor such as buffer and alteration of landscaping. He does not have a problem with A through D.

Susy noted that awnings currently get no review. It is simply a permit.

Member Tucker remembers that some people had an issue with awnings. He has no problems with replacing same for same. If there is a different change then it warrants review. If the architectural features are changed to add for example four dormers, then design review committee will want to look at this. If it is changing from shingles to metal, it is up to the homeowner.

Member Gay sees that as an administrative review which could trigger the applicant go to the design review committee.

The Board wants to change calling a mini review an administrative review.

The administrative review needs someone to endorse. This section will be revised on page 13 d (2).

The Board agrees that the distribution list under administrative review does not need to go to all the committees and Board s.

### **Medical Marijuana:**

The Board is in receipt of a revised draft dated January 13, 2014 for the registered marijuana dispensary. **(See Attached)**

Town Counsel did note that her comments were already covered in the most recent revision.

Susy indicated that this was submitted and reviewed by the police chief and the health agent.

Member Tucker wants to know if there is an actual area where someone can build this.

Susy responded yes and indicated this on the map.

There are parcels which have sufficient area for a dispensary.

The Board agrees that the Town is better off having regulations in place instead of having nothing at all.

The Board requested that something be sent out town-wide to inform the community about the hearings.

Consultant Carlucci informed the Board that this Friday the State is issuing 35 licenses. There were two licensed in Franklin.

The Board would like to have the list of those places where the licenses were granted. It would also be good to know who applied for a license.

There are only five allowed per county.

The Board is wondering if they did not receive any applications since there was a moratorium.

**Other Business:**

The Chairman wanted to know what Town Counsel is noting as problematic and needs attention.

Susy responded that counsel is not particularly comfortable with performance security for commercial projects, such as bonding. Counsel does not share this philosophy.

Member Tucker noted that in the building code, if the landscaping is not done, the building inspector does not need to issue occupancy. This can be pulled at any time. The only thing we can hold over a builder is occupancy.

**Bylaw Enforcement:**

**Land Clearing:**

The Board is in receipt of the land clearance bylaw dated December 31, 2013 (**See Attached**).

The Board agrees with the land clearing bylaw as written.

**Building Height:**

The Board is in receipt of the building height bylaw as written. (**See Attached**)

The Board is comfortable with the school language definition as written.

**Enforcement**

The Board is in receipt of the revised draft dated December 31, 2013 of the fines and penalties for the enforcement in section III Administration. (**See Attached**)

The Building Inspector is comfortable and has reviewed the most recent revision.

**Definitions:**

The Board is in receipt of amendments to the definitions within the zoning bylaw dated December 30, 2013. (**See Attached**)

The Building Inspector has indicated that he is comfortable with the changes.

The Board is also comfortable with the amendments for the definitions.

**Exempt Signs**

The Board is in receipt of the revised draft dated September 13, 2013 of the sign regulations.  
(See Attached).

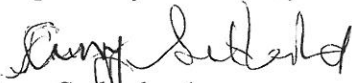
**Other Business:**

- Susy will be scheduling a meeting with Judy Barrett to discuss the Zoning Bylaw.
- The Board would like to schedule a general discussion for zoning on February 18, 2014.

**Adjourn Meeting:**

**On a motion made by Karyl Spiller-Walsh and seconded by Matt Hayes, the Board voted unanimously to adjourn the meeting at 11:02 pm.**

Respectfully Submitted,

  
Amy Sutherland  
Recording Secretary

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**Stephen J. Barrasso**

2 Spruce Road · Medway, Massachusetts 02053

Cell: 508-269-5817 Home: 508-533-6029 Email: sbarrasso@gmail.com

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Planning & Economic Development Board  
115 Village Street  
Medway, MA 02053



January 24, 2014

Dear Chairman Rodenhiser:

I am in receipt of your January 23, 2014 letter alerting me of the board's decision to amend the Applegate Farms plan. My name is Stephen Barrasso and I reside at 2 Spruce Road. I am concerned about an aspect of the Applegate subdivision and do not know to whom I should address my concern. Your letter prompted me to write to you and I would appreciate you addressing my concern or passing it on to the proper authority.

My property at 2 Spruce Road is contiguous to lots 4B and 5B of Applegate Farms. The lots have been neglected for many years. Recently trees have fallen and tree limbs and brush have accumulated to the extent that I am fearful of a fire. In years past the former owner, Bruno Fontanella, would drag the limbs and brush from the forest floor to the adjacent meadow and control burn the debris. This needs to happen again prior to the heat of summer.

I appreciate your attention to this matter and look forward to hearing from you.

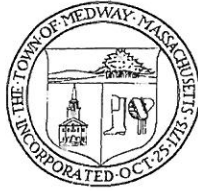
Thank you.

Sincerely,

A handwritten signature in black ink that reads "Stephen Barrasso". The signature is written in a cursive, flowing style.

Stephen Barrasso





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

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

REVISED DRAFT – January 26, 2014

**CERTIFICATE OF ACTION**  
**HILL VIEW ESTATES – A PERMANENT PRIVATE WAY**  
**DEFINITIVE SUBDIVISION PLAN**  
( \_\_\_\_\_ *with Waivers and Conditions* )

Location: 32R Hill Street  
Assessors' Reference: 3-033 (formerly known as Map 8 – Parcel 16)  
Parcel Size: 12.7 acres  
Name/Address of Applicant: Christine Price  
32R Hill Street  
Medway, MA 02053  
Name/Address of Property Owner: Christine Price  
32R Hill Street  
Medway, MA 02053  
Engineer: Merrikin Engineering  
730 Main Street  
Millis, MA 02054  
Surveyor: Colonial Engineering  
11 Awl Street  
Medway, MA 02053  
Plan Dated: March 12, 2012, last revised October 28, 2013  
Zoning District: Agricultural Residential I  
Street Name: Nirvana Way

**I. PROJECT DESCRIPTION:** The *Hill View Estates Definitive Subdivision Plan* dated March 12, 2012, last revised October 28, 2013, shows two residential house lots and a road/drainage parcel (Parcel A) on a 12.7 acres of land located at 32R Hill Street, a Medway Scenic Road, in the Agricultural Residential I zoning district. The subject parcel is presently owned by Christine Price of Medway, MA and includes one existing single-family house, Ms. Price's residence, which will be retained on Lot 10B (4 acres +/-) as shown on the plan. The second house lot is shown as Lot 10A (8 acres +/-). The site is accessed from Hill Street. A very small portion of the road Parcel A where it intersects with Hill Street is located within the Town of Holliston.

The Hill View Estates subdivision creates a 387 linear foot long roadway right of way with a cul-de-sac at its end to provide access and legal frontage for both house lots. The existing 12' wide driveway is located within the roadway right of way. A hammerhead turnaround will be constructed at its end from which two driveways will emanate to serve the individual houses. The private way will be known as Nirvana Way. The project also includes the construction of stormwater management facilities to comply with Massachusetts Department of Environmental Protection (DEP) stormwater management requirements. A small portion of the site is in a Wetlands Resource Area.

The applicant intends for the owner of Lot 10A to also own and be responsible for upkeep and maintenance of the roadway and the stormwater drainage facilities.

**II. PROCEDURAL SUMMARY:**

1. On January 16, 2013, the Planning and Economic Development Board received an application for approval of the *Hill View Estates Definitive Subdivision Plan*, dated March 12, 2012 prepared by Colonial Engineering of Medway, MA and Merrikin Engineering of Millis, MA. This definitive subdivision plan was preceded by submission of a preliminary subdivision plan which the Planning and Economic Development Board reviewed during the first quarter of 2011.
2. On February 12, 2013, the Board commenced the public hearing. The public hearing notice was posted with the Medway Town Clerk on January 24, 2013 and was sent by *Certified Sent* mail on January 25, 2013 to abutters in Medway and Holliston within 300 feet of the subject property and to parties of interest. The public hearing was duly noticed in the *Milford Daily News* on January 29 and February 5, 2013. The Board continued the public hearing to March 26, April 23, May 28, June 25, July 23, August 27, October 8, November 12, and November 26, 2013 when it was closed.
3. During the course of the public hearing, the *Hill View Estates Definitive Subdivision Plan* was revised and resubmitted. The revised plan date was October 28, 2013.
4. During the course of the public hearing, the applicant requested and the Board approved two extensions of the deadline for the Board's action on the definitive subdivision plan application. On March 26, 2013, the action deadline was extended to December 31, 2013. On November 26, 2013, the action deadline was extended to January 31, 2014.

5. All members voting on this Certificate of Action were present at all sessions of the public hearing or provided a Mullins Rule certification (Bob Tucker for the 10/9/13 hearing) or participated remotely (Tom Gay on 3/26/13).

**III. PUBLIC HEARING SUMMARY:** The public hearings and Board review of the proposed *Hill View Estates Definitive Subdivision Plan* were conducted on the dates noted above. The plan and its submitted revisions were reviewed for compliance with the *Subdivision Rules and Regulations* dated April 26, 2005 which were in effect at the time the applicant submitted a preliminary subdivision plan to the Board in February 2011.

Specified below is a list of plan documents and support materials, public comments, consultant and town departmental board review documents, and supplemental information which have been provided by the Applicant or placed on the record by the Planning and Economic Development Board since the application was received in January 2013. All information is on file in the Medway Planning and Economic Development office and is available for public review (except for confidential communications from Town Counsel).

***Hill View Estates Definitive Subdivision Plan*** – Colonial Engineering and Merrikin Engineering  
Dated - March 12, 2012  
Revised – October 28, 2013

***Hill View Estates – 32R Hill Street Stormwater Report*** – Merrikin Engineering  
Dated – March 12, 2012  
Revised – October 28, 2013

***Request for Waivers from Subdivision Rules and Regulations*** - April 20, 2012

***Town Engineering Consultant Reviews*** – David Pellegrini, P.E. Tetra Tech  
February 7, 2013  
November 6, 2013

***Town Planning Consultant Review Letters*** – Gino Carlucci, AICP, PGC Associates  
February 7, 2013  
November 5, 2013

***Supplemental Information Provided By Applicant and his Consultants***

Letter from Daniel Merrikin, P.E. Merrikin Engineering dated October 31, 2013 in response to review letters from PGC Associates and Tetra Tech dated February 7, 2013

Letter from Paul DeSimone, Colonial Engineering, dated October 29, 2013 in response to review letters from PGC Associates and Tetra Tech dated February 7, 2013

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

Variance decision dated September 25, 1994 from the Medway Zoning Board of Appeals pertaining to 32R Hill Street.

**Citizen/Resident/Abutter Letters** – None

**Citizen/Resident Testimony** – None

**Professional Testimony**

Gino Carlucci, AICP, PGC Associates, Inc. – Franklin, MA

David Pellegrini, P.E., Tetra Tech – Framingham, MA

Paul DeSimone, Colonial Engineering – Medway, MA

Dan Merrikin, P.E. Merrikin Engineering – Millis, MA

**Medway Departmental/Board Review Comments** – None

**IV. ACTION ON REQUEST FOR WAIVERS OF SUBDIVISION RULES & REGULATIONS –**

The Applicant has requested and the Board has identified needed waivers from the following sections of the *Subdivision Rules and Regulations*, dated April 26, 2005.

**SECTION 7.6.2 – UTILITIES INSTALLATION**

**b) Water Facilities Installation** – *Water mains, with hydrants, valves and other fittings, shall be constructed and installed within the subdivision as necessary to provide to all lots therein adequate water supply for domestic and fire protection use.*

**FINDINGS** – The applicant has asked for a waiver from this particular requirement because there is no public water supply available in this area of Medway and Holliston to which this subdivision could connect. The applicant’s current residence is served by a private well and construction of a house on the newly created house will also include installation of a private well.

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**SECTION 7.7.2 STORMWATER MANAGEMENT** – *(p) Detention and retention basins and underground infiltration systems and any related drainage structures shall be located on separate parcels and shall not be included on individual house/building lots. The limits of detention and retention basins and related structures shall not be closer than thirty feet (30’) from its lot parcel line and any right-of-way.*

**FINDINGS** - The applicant has proposed installing the stormwater management facilities within the layout of the private roadway (Parcel A) and within an easement on lot 10A as shown on the plan. A stormwater basin will be constructed within the roadway cul-de-sac which is a separate parcel from the house/building lots. The PEDB has allowed detention basins to be located within the roadway layout of other private way subdivisions. The stormwater plan also includes shallow infiltration trenches (less than 1.1’ deep) within the roadway cul-de-sac and within the drainage easement on Lot 10A. Trench #2 on Lot 10A receives runoff only from that lot’s specific development and is independent from the roadway drainage so it is reasonable that Trench #2 be located on the lot which it serves. This approach to stormwater management is a low impact design which is unobtrusive, blends into the landscape and is more aesthetically pleasing.

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**SECTION 7.9.5 GRADE b)** – *The maximum centerline grade for a Permanent Private Way shall be 8%.*

**FINDINGS** - The applicant proposes a 10.8% roadway grade instead of required 8%. The 10.8% grade is an existing condition and no alteration of the existing roadway is proposed. Requiring compliance with this standard would require significant disruption of the existing topography and require the removal of many mature trees, resulting in a greater impact on the neighborhood.

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**SECTION 7.9.7 g) ROADWAY CONSTRUCTION (width)** - *The minimum width of the roadway pavement shall be Eighteen Feet (18') for a Permanent Private Way.*

**SECTION 7.9.7 h) ROADWAY CONSTRUCTION (composition)** - *Pavement for roadways in subdivisions shall be Hot Mix Asphalt Pavement.*

**FINDINGS** – The applicant proposes to reuse approximately 325 feet linear feet of existing roadway which is 12' wide with a 3' gravel apron on each side. The combined overall surface width of 18' is consistent with the Town's standards for a Permanent Private Way. The applicant proposes that the hammer head area be constructed of gravel within the cul-de-sac area of the road. The gravel aprons are an important component of the drainage system. The ~~reduced~~ current roadway construction and pavement width will result in more extensive preservation of the highly wooded setting and minimize site and neighborhood impacts that would be necessitated by the additional drainage that a wider a larger-width paved roadway would require.

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**SECTION 7.10.1 CURBS AND BERMS** – *Vertical Granite Curbing shall be installed at intersection roundings and cul-de-sac entrances.*

**FINDINGS** – The applicant proposes to not install any form of curbing at the intersection roundings at Hill Street. This would leave the entrance to the subdivision in its existing natural state. No issues with the current construction have been identified and leaving it in its current state would result in fewer impacts on the neighborhood.

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**SECTION 7.10.2 CURBS and BERMS** – *Hot Mix Asphalt Cape Cod Berm shall be provided the full length of Permanent Private Ways along each side of the roadway.*

**FINDINGS** – The applicant proposes to not install any curbing along the subdivision roadway. The existing crushed stone aprons along both sides of the existing driveway have been in use for years and fit the natural setting along Hill Street. The berms or curb would either need to be installed along the edge of the existing pavement which would render the drainage function of the gravel aprons useless, or the aprons would need to be paved and additional drainage installed. No adverse impacts from the

current configuration have been identified, and leaving it in its current state would result in fewer impacts on the neighborhood.

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**SECTION 7.17.1 FIRE PREVENTION AND PROTECTION MEASURES** – A fire alarm system shall be installed in accordance with the specifications of and located as directed by the Medway Fire Department or a sum of money paid to the Town equal to the cost of installing a fire alarm system within the subdivision, for use by the Fire Department for capital purchases.

**FINDINGS** – The applicant proposes to not install a fire alarm system for this small, private way subdivision. The Fire Department no longer requires the installation of fire alarm boxes because it is converting to a higher technology alarm system. The widespread use of cellular phones makes fire alarm systems obsolete. Further, the Town has determined that it may not collect a sum of funds in lieu of fire alarm installation. Therefore, the Board finds this waiver to be acceptable.

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**SECTION 7.21 – STREET LIGHTS** – It shall be the responsibility of the developer to install street lighting within the subdivision at the entrance to the subdivision, at all intersections within the subdivision, sharp turns, or other areas where the Traffic Safety Officer deems they are needed for public safety.

**FINDINGS** – The applicant has requested a waiver from the required installation of street lights as this subdivision is for only two residences. The subdivision “road” functions more like a driveway than a street. Its entrance off of Hill Street does not constitute an intersection where a street light would be merited. The roadway is fairly straight for its length of 387 linear feet. Further, Hill Street is a scenic road and less light intrusion is in keeping with that quality.

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**SECTION 7.19.2 – TREES AND SLOPE STABILIZATION** - To enhance the aesthetic quality of the streetscape, deciduous street trees of nursery stock conforming to the standards of the American Association of Nurserymen, shall be planted on each side of each street in a subdivision. . . . At least three (3) trees are to be placed on each lot at approximately forty foot (40’) intervals . . . .

**FINDINGS** – The applicant does not propose to plant additional street trees ~~on the house lots~~ along the existing roadway. The site is already heavily wooded and the applicant has provided a landscaping plan for the area where the roadway forms a hammerhead and splits into driveways for the two residences. The Board finds that this is an acceptable substitute.

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**MITIGATION PLAN**

1. The new road will be private in perpetuity, owned and maintained by the owner of Lot 10B thus relieving the Town of this on-going responsibility and expense.

2. Maintenance and upkeep of the stormwater management facilities will be the responsibility of the owner of Lot 10B thus relieving the Town of this on-going responsibility and expense.
3. The reduced width of road paving will result in reduced disturbance to the topography and less impact on the site's wetlands, woodlands and other natural resources.

**ACTION ON WAIVER FINDINGS** - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 28, 2014, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the above noted Waiver Findings. The motion was \_\_\_\_\_ by a vote of \_\_\_ in favor ( ) and \_\_\_ opposed ( ).

**ACTION ON MITIGATION PLAN** - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 28, 2014, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the above noted Mitigation Plan. The motion was \_\_\_\_\_ by a by a vote of \_\_\_ in favor ( ) and \_\_\_ opposed ( ).

**ACTION ON WAIVERS** - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 28, 2014, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the above noted waivers from the *Subdivision Rules and Regulations*. The motion was \_\_\_\_\_ by a vote of \_\_\_ in favor ( ) and \_\_\_ opposed.

**V. PROJECT EVALUATION CRITERIA** - Before taking action on the *Hill View Estates Definitive Subdivision Plan*, the Board shall evaluate the proposed subdivision modification according to the criteria as specified in Section 5.16 of the *Subdivision Rules and Regulations*. At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 28, 2014, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the Project Evaluation Findings noted below. The motion was \_\_\_\_\_ by a vote of \_\_\_ in favor ( ) and \_\_\_ opposed ( ).

5.16.1 Completeness and technical accuracy of all submissions.

*FINDINGS - The Planning and Economic Development Board finds that the submissions were complete and technically accurate.*

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

*FINDINGS - The Board finds that, as conditioned, the proposed street pattern within the new subdivision is safe and convenient. The proposed new roadway within the subdivision is comparable to other recently-approved permanent private subdivision roadways that have been found to be safe and convenient.*

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

*FINDINGS – The Board finds that the location of the development does not entail unwarranted hazard. A drainage plan has been designed to handle anticipated stormwater runoff and the sight distances from the proposed road are adequate. The new house will use a private well and septic system to be approved by the Board of Health, and erosion controls will be in place during construction.*

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

*FINDINGS – The site of the subdivision is not within a Priority Habitat area and the wetlands of the site are well away from the developed area. There will be an increase of only one single-family house to be constructed. The Board finds that the subdivision will not cause substantial and irreversible damage to the environment and is much preferred to the fuller development of the land which could occur under present zoning.*

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

*FINDINGS – The Board finds that the proposed roadway is adequate to provide emergency medical, fire and police protection as well as safe travel for the anticipated volume of traffic. The roadway shown on the plan meets the Board's specifications for a permanent private way. [The road does not meet the specs so I suggest removing this sentence.]*

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

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

- 5.16.7 Consistency with the purposes of the Subdivision Control Law.

*FINDINGS – The Board finds that the proposed subdivision is consistent with the purposes of the Subdivision Control Law because the infrastructure proposed is adequate for the new development and the impacts of the subdivision have been mitigated to a reasonable extent. Reasonable waivers have been granted herein with good cause.*

## **VI. OTHER FINDINGS**



At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 28, 2014, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the **Other Findings** noted below. The motion was \_\_\_\_\_ by a vote of \_\_\_ in favor ( ) and \_\_\_ opposed ( ).

- A. In 1994, the Medway Zoning Board of Appeals authorized a variance for the 12.7 acre property at 32R Hill Street from the Zoning Bylaw's frontage requirements in order to allow for the construction of a single family home on the property. The variance was granted to former owner Michael Curatola subject to the condition that only one single family home could be built on that lot. The Board finds that its authority pertains only to subdividing the subject property and in so doing, does not conflict with the above noted variance condition. The status of the previously issued variance is a matter to be resolved by the applicant and the Zoning Board of Appeals.
- B. A small portion of the roadway parcel at its intersection with Hill Street is located within the Town of Holliston. The Board will provide this decision and the latest plans to the Holliston Planning Board which may determine its level of review and authority.

**VII. DECISION** – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 28, 2014, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the **Hill View Estates Definitive Subdivision Plan**, prepared by Colonial Engineering and Merrikin Engineering, dated \_\_\_\_\_, last revised \_\_\_\_\_ and further to impose the Specific and General Conditions as specified herein with Waivers from the following sections of the Subdivision Rules and Regulations dated April 25, 2005.

**LIST APPROVED WAIVERS . . . .**

The motion was approved by a vote of \_\_\_\_\_ in favor ( ) and \_\_\_\_\_ opposed ( ).

**VIII. CONDITIONS** – The following specific and general conditions shall apply to the Applicant, its executors, administrators, devisees, heirs, successors and assigns:

**A. Specific Conditions**

1. This subdivision of the subject property is authorized for no more than two residential house lots and one roadway/drainage parcel. As a permanent condition of the approval of this plan, no further subdivision of the property is allowed.
2. The Applicant shall construct the roadway and all related infrastructure including the stormwater management system, and install all utilities as shown on the definitive subdivision plan, to the satisfaction of the Planning and Economic Development Board, within three years of the date of endorsement of the plan.
3. Prior to plan endorsement, the revised plan dated October 28, 2013, shall be further revised to include the following references:

- A note shall be added to all plan sheets indicating that the plan is subject to this *Certificate of Action* which shall be recorded with the Definitive Subdivision Plan at the Norfolk County Registry of Deeds.
  - A note shall be added to all plan sheets to indicate that present and future owners are subject to a Subdivision Covenant to be recorded with the Definitive Subdivision Plan at the Norfolk County Registry of Deeds.
  - A note shall be added to the plan that the house address numbers shall be marked on a post at the end of each house lot driveway to facilitate easy identification from the private roadway for emergency and safety vehicles.
  - Show an easement across Roadway Parcel A for use by the owner of Lot 10B.
4. *Ownership of Nirvana Way* - The roadway depicted on this subdivision plan shall remain privately owned in perpetuity. There is no intention or expectation that the Town of Medway will ever accept the roadway as constructed pursuant to this plan. The owner of Lot 10B shall own and maintain the private roadway parcel including but not limited to snowplowing and sanding, and maintain and operate the stormwater detention/infiltration system and related infrastructure located within the roadway right of way and on Lot 10B.
  5. The Applicant shall convey the fee in the roadway and the drainage easement to the owner of Lot 10B.
  6. Prior to endorsement, the plan shall be revised to incorporate all conditions as specified in this Certificate of Action. The Applicant shall provide such revised plan to the Planning and Economic Development Board and the Town's Consulting Engineer for review and approval. All conditions of this Certificate of Action requiring changes to the definitive subdivision plan must be addressed to the satisfaction of the Town's Consulting Engineer and the Planning and Economic Development Board before the Board will endorse the definitive subdivision plan.
  7. *Declaration of Protective Covenants & Restrictions and Private Roadway Maintenance Agreement Governing the Hill View Estates subdivision* – The future owners of Lots 10A and 10B are subject to the *Declaration of Protective Covenants & Restrictions and Private Roadway Agreement Governing the Hill View Estates subdivision* to be executed and recorded with the definitive subdivision plan. Prior to endorsement, the Applicant shall provide a proposed *Declaration of Protective Covenants & Restrictions and Private Roadway Agreement Governing the Hill View Estates Subdivision* to be reviewed and approved by Town Counsel and the Planning and Economic Development Board. At a minimum, the *Declaration of Protective Covenants & Restrictions and Private Roadway Agreement Governing the Hill View Estates Subdivision* shall include language regarding the responsibility of the owner of Lot 10B for the upkeep, repair, and on-going maintenance of the roadway including snowplowing and sanding, and the operation and maintenance of the stormwater management system.
  8. *Lot Deeds* – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with copies of the proposed deed to convey or transfer each subdivision lot for review, comment, amendment and approval by Town Counsel. Each deed shall specifically

refer to any and all easements shown on the plan for that particular lot. The deed text shall include descriptive language specifying all easements, boundary delineations, specific usages and purpose. Each deed shall clearly state that Nirvana Way is a private way, not ever to be owned by the Town of Medway. Each deed shall refer to the Hill View Estates definitive subdivision plan. The deed shall refer to the *Declaration of Protective Covenants & Restrictions and the Private Roadway Maintenance Agreement Governing the Hill View Estates Subdivision*.

9. *Road Deed & Easements* – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed deed to convey Nirvana Way and all drainage easements shown on the plan to the owner of Lot 10B for review, comment, amendment and approval by Town Counsel.
10. *Road Easement* – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed easement document
11. *Document/Plan Recording* – Within thirty days of recording the endorsed MODIFIED definitive subdivision plan, the *Subdivision Covenant, the Declaration of Protective Covenants and Restrictions and Private Roadway agreement Governing the Hill View Estates subdivision* with the Norfolk County Registry of Deeds, the Applicant or his assign shall provide the Planning and Economic Development 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.
12. *Maintenance Responsibility During Construction* – The Applicant shall provide for snow plowing, sanding and full maintenance of Nirvana Way and all related stormwater management facilities throughout the entire construction process until the roadway is determined to be complete by the Board and is subsequently conveyed to the owner of Lot 10A.

### **B. General Conditions**

1. *Expiration of Appeal Period* – Prior to endorsement of the modified plan, the Planning and Economic Development Board must receive the statutory notification of the expiration of the twenty day appeal period from the Town Clerk's office.
2. *Payment of Balance of Fees/Taxes* – Prior to endorsement of the modified plan, the Applicant shall pay the balance of any outstanding plan review services by any outside consultants retained by the Planning and Economic Development Board and any other outstanding expenses, obligations, fees or taxes due the Town of Medway. Proof is required from the Medway Town Treasurer/ Collector that all real estate taxes are current for all property owned in Medway by the applicant.
3. *Subdivision Covenant* – Prior to endorsement of the modified plan, the Applicant shall sign a *Subdivision Covenant*, on a form acceptable to the Planning and Economic Development Board, to be reviewed and approved by Town Counsel, to secure construction of the ways and all related infrastructure and installation of utilities and services as specified in the approved modified subdivision plan. Reference to the *Subdivision Covenant* shall be noted on the cover sheet of the Definitive Subdivision Plan. The *Subdivision Covenant* shall specify that the

roadway and all relevant infrastructure including the stormwater management system shall be constructed and all utilities and services shall be installed to the satisfaction of the Planning and Economic Development Board within three years of the date of plan endorsement. The *Subdivision Covenant* shall apply to Lots 10A and 10B as shown on the plan.

4. *Replacement of Subdivision Surety* – At such time as the Applicant wishes to secure a building permit for any lot within the subdivision or convey either lot, the security provided by the *Subdivision Covenant* shall be replaced by a subdivision surety in compliance with General Laws chapter 41 §81U and the Board’s Regulations. Prior to the Planning and Economic Development Board’s approval of the *Release of Covenant* for any house-lot, the Applicant shall provide suitable performance security to the Town of Medway in an amount equal to 100% of the amount that would be required for the Town of Medway to complete construction improvements and infrastructure maintenance if the Applicant failed to do so. The surety amount shall be approved by the Planning and Economic Development Board based on an estimate provided by the Town’s Consulting Engineer. The applicant shall also enter into a surety agreement with the Planning and Economic Development Board as provided in the Regulations. Any company providing the surety shall be acceptable to the Medway Treasurer/Collector.
5. *Order of Conditions* – If applicable and prior to endorsement of the plan, the Applicant shall provide the Planning and Economic Development Board with a copy of any and all “*Order of Conditions*” as issued by the appropriate agency, and recorded by the Applicant, pursuant to the Massachusetts Wetlands Protection Act. Any changes to the definitive subdivision plan that may be required under the “*Order of Conditions*” shall be presented to the Planning and Economic Development Board by the Applicant, for review and approval as a further modification to the definitive subdivision plan. The Planning and Economic Development Board reserves the right to negotiate with the issuing authority any mutually acceptable modifications to the “*Order of Conditions*” that may be deemed appropriate by the Planning and Economic Development Board and the Town’s Consulting Engineer and acceptable to the applicant. After the public hearing and acceptance of the modifications to the plan, the Planning and Economic Development Board shall take action on the modified plan, reporting said action to the Town Clerk. The statutory notification of the expiration of the twenty day appeal period must be received from the Town Clerk’s office before the Planning and Economic Development Board endorses the plan modification.

Additionally, upon issuance of any “*Order of Conditions*” requiring further individual filings under the Massachusetts Wetlands Protection Act, the Applicant shall prepare an amended plan clearly identifying the lots requiring further action under the Wetlands Protection Act. The Applicant shall provide this plan for endorsement by the Planning and Economic Development Board and shall provide a receipt from the Registry of Deeds indicating that the endorsed amended plan has been duly recorded.

6. *Construction Observation* – Inspection of roadway and infrastructure construction by the Town’s Consulting Engineer is required. Prior to plan endorsement, the Applicant shall establish a construction observation account with the Medway Planning and Economic Development Board. The Applicant shall pay a construction observation fee to the Town of Medway for such inspections as determined by the Planning and Economic Development Board based on an estimate provided by the Town’s Consulting Engineer. As needed, the

Applicant shall provide supplemental payments to the Town of Medway for reasonable construction inspection services upon invoice from the Planning and Economic Development Board, until the road construction and stormwater drainage system are completed and the as-built plan has been reviewed and determined to be satisfactory for filing with the Town.

7. Within thirty days of endorsement of the plan, the Applicant shall provide the Town with a set of the approved plans in 11" x 17" paper format. The Applicant shall also provide the approved plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp).
8. *Pre-Construction Meeting* – At least seven days prior to the start of any construction on the site, a pre-construction meeting shall take place with the Town's Consulting Engineer, the Planning and Economic Development Coordinator, the Medway Department of Public Services, the Medway Conservation Agent, the developer and the primary contractor. The construction schedule shall be reviewed and the procedures for inspections discussed. A copy of the final Stormwater Pollution Prevention Plan (SWPP) as filed with the Massachusetts Department of Environmental Protection (DEP) shall be provided to the Town.
9. *Proof of Taxes Paid* – Prior to the Planning and Economic Development Board's approval of the *Release of Covenant* for Lot \_\_\_\_\_, proof is required from the Medway Town Treasurer/Collector that all real estate taxes and other municipal fees and charges are current for the property included in this subdivision and any other property owned by the applicant in Medway.
10. *As-Built Plans* - The Applicant agrees to prepare and provide as-built construction plans prepared in accordance with the approved subdivision plan and with the *Subdivision Rules and Regulations* in effect at the time the as-built plans are submitted, to the satisfaction of the Planning and Economic Development Board. The Applicant shall provide the final as-built plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp). The Applicant shall pay any reasonable associated costs, as may be determined by the Board of Selectmen, to update the Medway GIS/Assessor's maps relative to this subdivision.
11. *Compliance* - All construction shall be as specified in the approved definitive subdivision plan and in full compliance with the *Subdivision Rules and Regulations* and all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act, the NPDES permit requirements, the Massachusetts Department of Environmental Protection's Stormwater Management Policy requirements, MEPA requirements, the Massachusetts Wetland Protection Act (Chapter 131, Section 40, M.G.L.) and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.

###

**HILL VIEW ESTATES DEFINITIVE SUBDIVISION PLAN  
CERTIFICATE OF ACTION  
MEDWAY PLANNING AND ECONOMIC DEVELOPMENT BOARD**

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

\_\_\_\_\_

**AYE:**

**NAY:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Date Signed:**

\_\_\_\_\_

**Attest:**

\_\_\_\_\_  
Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

\_\_\_\_\_  
Date

**Date Filed with the Town Clerk:**

\_\_\_\_\_

**Copies To:** Stephanie Bacon, Health Agent  
David D'Amico, Public Services  
John Emidy, Building Commissioner  
Donna Greenwood, Assessor  
Thomas Holder, Public Services  
Suzanne Kennedy, Town Administrator  
Jeff Lynch, Fire Chief  
Melanie Phillips, Treasurer/Collector  
Barbara Saint Andre, Town Counsel  
Conservation Agent  
Sergeant Jeffrey Watson, Police Safety Officer  
Maryjane White, Town Clerk  
Gino Carlucci, PGC Associates  
Dave Pellegri, Tetra Tech  
Christine Price  
Tony Biocchi  
Colonial Engineering

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

1/26/14  
DATE

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

ANR (Approval Not Required/81P Plan)

Preliminary Subdivision Plan

Definitive Subdivision Plan

Site Plan Approval

Scenic Road Work Permit

for the development project known as: Hill View Estates

to the following date: 2/28/14

*Respectfully submitted,*


Name of Applicant or official representative: Anthony Brocchi

Signature of Applicant or official representative: 

\*\*\*\*\*

Date approved by Planning and Economic Development Board: 1-28-14

New Action Deadline Date: 2-28-14

ATTEST: 

Susan E. Affleck-Childs

Planning and Economic Development Coordinator

## Susan Affleck-Childs

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**From:** Tina Chemini <tina.chemini@gmail.com>  
**Sent:** Wednesday, January 08, 2014 4:25 PM  
**To:** Susan Affleck-Childs  
**Subject:** Resume - Tina Chemini  
**Attachments:** Tina Chemini 2013.doc

Here is my resume; I wish to be considered as a candidate for the Economic Development Committee. I believe that my experience of establishing and operating a small business here in Medway will add an interesting perspective to the committee's discussions.

Please let me know if you need anything else.

Thanks for your kind consideration,

Tina Chemini  
Owner, T.C. Scoops



**M. Christina Chemini**

"Tina"

94 Wilkins Road

Holliston, MA 01746

(508) 429-1868

**CAREER HIGHLIGHTS**

Small Business Owner and Manager

Over 20 years of Human Resources Experience in all aspects, including:

\* Employee Relations

\* Clear and Open Communication with all Employee Levels

\* Recruiting Exempt and Non-Exempt Employees

\* Employee Development

\* Candidate Sourcing and Retention

\* Program Development and Administration

\* Strategic Business Partner to Operations Management Team

**EXPERIENCE**

**T.C. Scoops**, Medway, MA

Owner and Manager May 2011 to present

- Established a neighborhood ice cream parlor
- Created business from the ground up, maintain and ensure its successful operation
- Handle all aspects of running a business including marketing and sales, inventory, purchasing, cash handling, hiring and training staff, and so on

**National Dentex Corporation**, Natick, MA

Human Resources Director June 2000 to January 2011 – Position Eliminated

- Manage all aspects of the Human Resources function for a decentralized organization which operates 47 locations in 31 states and one Canadian province and employs over 1900 employees.
- Research and implement new HR-related policies, procedures and processes
- Ensure compliance with all federal, state and local laws and regulations
- Handle all employee relations issues that reach the Corporate level
- Conduct internal investigations in relation to employee grievances
- Intimately involved in recruitment and hiring of exempt and non-exempt employees for Corporate office and laboratory locations
- Part of Acquisition Team which ensures smooth transition of new locations into the corporate environment
- Continue to research and recommend the addition of new benefits to the company's menu of benefit options
- Solicit, review and recommend the addition of vendors and third party administrators as necessary
- Work closely with consultant to ensure OSHA compliance and maintenance of safe working environments for all employees
- Created and administer e-learning program for remote managers
- Manage four staff members to ensure the successful administration of the company's benefit plans and processing of multiple payroll cycles
- Project Manager for Kronos HR, Payroll and TimeKeeper systems Implementation

Payroll and Benefits Supervisor, December 1989 through May 2000

- Supervised one Assistant in the processing of a bi-weekly payroll cycle
- Solely responsible for the payment of all payroll-related taxes
- Administered Company sponsored benefits package
- Researched and recommended the addition of new benefits to the company's menu of benefit options
- Solicit, review and recommend the addition of vendors and third party administrators as necessary

**Cambridge Eye Doctors**, Holliston, MA; September 1988 to December 1989

Human Resources Generalist

- Primary responsibilities included staffing of 20 retail store locations
- Benefits administration
- Worked closely with Optometrists, store managers and staff to ensure that all of their human resources needs were being met.

**Provident Financial Services**, West Newton, MA; April 1986 to June 1988

Human Resources Generalist

- Administered Company benefits
- Maintained department records
- Maintained postings for open positions
- Assisted in the recruitment, interviewing, hiring and orienting of new employees
- Placed temporary employees throughout Company
- Provided information to employees on payroll, benefits, policies and procedures issues

## EDUCATION

Framingham State College:

- Masters in Human Resources - Spring 2009

Saint Michael's College:

- Bachelor of Arts, Psychology

Bentley College: Certificates in

- Human Resources Administration
- Pension and Employee Benefits Administration
- Strategic Human Resources Administration

## PROFESSIONAL

- Member of The Dream Factory, women helping women achieve their life goals
- New England Human Resources Association
- Society for Human Resources Management
- Represent National Dentex Corporation in the MetroWest Chamber of Commerce
- Author of Employee Management articles in *Dental Lab Products* magazine
- Guest speaker at several industry trade shows

**Possible Parcels to Add to Industrial II zoning district (1-27-14 - sac)**

<b>East Side of West Street</b>									
<b>Parcel #</b>	<b>Address</b>	<b>Parcel Size</b>	<b>Owner</b>						<b>Current Zoning</b>
66-010	12 West ST	.2 acres	Sithe					has little bldgs on it	AR-II
66-011	30 West ST	.7 acres	New England Power					vacant - power lines	AR-II
66-012	34 West ST	48.78 acres	Sithe/EXCELON					vacant - power lines	split - AR-II & Ind II
66-013	9 Summer ST	36.5 acres	Sithe/EXCELON					utility building	split - AR-II & Ind II
55-026	0 West ST	6.7 acres	Boston Edison					vacant - power lines	AR-II
<b>West Side of West Street</b>									
<b>Parcel #</b>	<b>Address</b>	<b>Parcel Size</b>	<b>Owner</b>						
66-005	15 West ST	1.97 acres	William D'Innocenzo					Mobile Excavating & JW Equipment Service	AR-II
65-028	23 West ST	8.52 acres	New England Power					vacant - power lines	AR-II
66-004	27 West ST	.37 acres	New England Power					vacant - power lines	AR-II
65-027	29 West ST	12.97 acres	New England Power					vacant - power lines	AR-II



**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*

REVISED DRAFT – January 24, 2014

***SPECIAL PERMIT AND SITE PLAN DECISION***

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***Decision Date:*** TBD

***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, 2014

**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.

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 Pellegri, 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 Pellegri, 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 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.

#### **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 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

##### ***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 Hailey, 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 Ferraro, 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 Hatney, 6 Little Tree Road dated September 17, 2013

Email from resident Andrea Ken, 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 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 facade 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 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 # \_\_\_. 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/AB 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 also be used by Medway Gardens. While this new driveway has more impact on the abutters to the east than the existing driveway on 39 Milford Street, the PEDB finds that an adequate buffer to the abutters is provided in the form of 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 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 # \_\_\_\_). 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 \_\_ 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)**

- (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 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. 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, 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.*

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

(17) 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.*

(18) 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*

- (19) 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.*

- (20) 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.*

- (21) 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 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, the Board finds this criterion is met.*

- (22) 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:**

- (23) 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 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.*

- (24) 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.*

- (25) 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, the Board finds this criterion is met.*

- (26) 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.*

- (27) 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, the Board finds this criterion has been met.*

- (28) 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.*

- (29) 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.*

- (30) 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, the Board finds this criterion is met.*

- (31) 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**

- (32) 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.
- (33) 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 \_\_\_\_\_, 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

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 \_\_\_\_\_ 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. 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** – 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. 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 \_\_\_ 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 plan for the installation of landscaping along the western edge of the Bain property at 37 Milford Street
  - c) specifications for audio enhancements to pedestrian crossing signals at the intersection of Route 109 and 126 to be consistent with the Route 109 reconstruction as indicated in the 75% design plans.

B. **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, 39 and 41 Milford Streets.
3. Blasting shall be limited to occur between the hours of 9:00 am and 5:00 pm.

C. **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.
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** - 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 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. Except for an air machine, other machines or vending type devices 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 5 am or after 10 pm.

F. **Deliveries**

1. Fuel and product deliveries shall occur no earlier than 9:15 am and no later than 10 pm except 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**

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.

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 whether and which landscape items need replacement or removal and provide a report to the Board which may seek enforcement remedies with the Inspector of Buildings/Zoning Enforcement Officer to ensure that the comprehensive landscaping plan is maintained.

- 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 related to the outdoor dining area. Should it be determined that a safety problem exists due to loitering, the Board shall consider the matter at a public meeting and may direct that the outdoor seating 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. **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.

N. **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.

- O. **Site Consolidation** – Prior to the issuance of a demolition permit for the 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 Board for review and subsequent recording at the Norfolk County Registry of Deeds.

- P. **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. Cumberland Farms' product and fuel delivery vehicles shall use this easternmost driveway to egress the site.

- 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 at this location.

R. **Traffic Management**

**ALTERNATIVE LANGUAGE**

1. Prior to \_\_\_\_\_, 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 between Milford Street and Summer Street is not permitted. The sign locations are subject to approval of the Medway Department of Public Services.
2. Traffic shall not be allowed to exit the Cumberland Farms site turning left (westbound) out of the two Milford Street curb cuts.
3. The applicant shall install audio devices to the pedestrian cross walk signals currently located at the intersection of Routes 109/126 consistent with the Route 109 reconstruction 75% plans.

**PREVIOUSLY DRAFTED LANGUAGE – TO BE DELETED**

- 1 Supplemental baseline pre-construction traffic analyses
  - a. The applicant shall contract with a traffic consultant to perform the pre-construction traffic analyses (baseline traffic counts, cut-through traffic observations and queue observations) as described in the letter dated October 28, 2013 from Jason Plourde at Tighe and Bond, the applicant's traffic engineer, with the following additional stipulations:
    - 1) The pre-construction traffic analyses shall be completed prior to issuance of a building permit for the convenience store and/or gas canopy by the Medway Inspector of Buildings.
    - 2) The queue observations on Summer Street at Medway High School shall be performed as specified in the comment letter dated November 5, 2013 from Mike Hall of Tetra Tech, the Town's traffic engineer.
  - b. The Applicant shall bear the costs associated with the Board's review of the pre-construction traffic analyses by the Board's Consulting Traffic Engineer by providing funds to the project's Construction Account with the Town from which the Board will pay its Consulting Traffic Engineer. The amount shall be determined by the Board based on a cost estimate from its consultant.

- 2 Post-construction traffic analyses
  - a. The applicant shall contract with a traffic consultant to perform the post-construction traffic analyses as described in the letter dated October 28, 2013 from Jason Plourde at Tighe and Bond. The post-construction traffic analyses shall be performed approximately 6 months after occupancy of the Cumberland Farms (not including June, July, August and December) to determine what traffic changes have occurred as a result of the Cumberland Farms development. The schedule for conducting the traffic counts shall be approved by the Medway Department of Public Services.
  - b. The Applicant shall bear the costs associated with the Town's review of that traffic analysis by its Consulting Traffic Engineer by providing funds to the project's Construction Account with the Town from which the Board will pay its Consulting Traffic Engineer. The amount shall be determined by the Board based on a cost estimate from its consultant.
- 3 Mitigation – Based upon the results of the post construction analyses report, adjustments or upgrades may be needed to the operation and timing of the traffic signal and the intersection of Routes 109/126, the driveway to Medway High School on Summer Street, and traffic calming measures on Little Tree and Rustic Roads to mitigate the negative impacts of increased traffic generated by the Cumberland Farms operation on the functioning of the intersection, the level of drive-thru traffic in the Speroni Acres subdivision, and the operation of the entrance/egress at Medway High School. WHAT DO WITH THIS?? How to agree to what will be done . . .
- 4 Prior to \_\_\_\_\_, 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 between Milford Street and Summer Street is not permitted. The sign locations are subject to approval of the Medway Department of Public Services.
- 5 Traffic shall not be allowed to exit left (westbound) out of the two driveways on Milford Street.
6. 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. **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).

T. **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 following and 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, until the stormwater drainage system is completed, the utilities are installed, the site amenities are installed, the as-built plan is reviewed and all legal documents associated with this development have been reviewed and determined to be satisfactory.
  - 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.

#### **U. 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 Milford Street on the inside of the barrier fence that shall be also be installed along the property line. The fence shall have a wood grain texture in the color of natural wood and shall not be white vinyl. The shrubbery shall be as specified on the additional plan sheet required per Condition #\_\_\_ herein.
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.

## V. **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. **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. **Document/Plan Recording** - Within thirty (30) days of recording the decision and the associated site 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. **Other Town Permits** – This permit does not preclude the applicant or its assigns 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.
- E. **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 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.

F. **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 Inspector of Buildings/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.

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 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 site plan and any conditions and modifications thereto, including the construction of any required on and off-site improvements. The ***Certificate*** also serves to release any security/performance guarantee that has been provided to the Town of Medway

To secure a ***Certificate of Site Plan Completion*** 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.
- 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.

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.

**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.

###

DRAFT

**Medway Planning & Economic Development Board:**

**AYE:**

**NAY:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Susan E. Affleck-Childs  
Planning & Economic Development Coordinator

\_\_\_\_\_  
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

## Susan Affleck-Childs

---

**From:** Jason R. Plourde <JRPlourde@tigheBond.com>  
**Sent:** Wednesday, January 22, 2014 11:50 AM  
**To:** Susan Affleck-Childs  
**Cc:** AJ Barbato; Peter J. Paulousky; Philip R. Henry, P.E.  
**Subject:** Medway, MA - Cumberland Farms Audio Pedestrian Signal Devices  
**Attachments:** G0616 APS Installation Letter 011714.pdf; Accessible Ped Signal Installation Policy+Request Form.pdf

Hi Susy,

I hope all is well and you enjoyed the holidays.

I was informed that the Medway Planning and Economic Development Board is considering installing Accessible Pedestrian Signal (APS) devices into the Route 109 (Milford Street) and Route 126 (Summer Street) signalized intersection in the form of audible pedestrian signals. It is my understanding that the Town wishes to install these devices to be consistent with the Route 109 (Main Street) roadway reconstruction project.

I have prepared the attached letter regarding the practice of installing APS devices and whether the Milford Street and Summer Street intersection satisfies MassDOT and national guidelines for implementation of the APS. In addition, I have attached the MassDOT APS Policy and associated Request Form.

If you have any questions, please let me know.

Thank you,  
Jason

**Jason R. Plourde, P.E., PTP, NH LPA** | Project Manager

**Tighe & Bond** | 177 Corporate Drive | Portsmouth, NH 03801 | 603.433.8818 x53 | 603.801.4657 (cell)

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**Tighe&Bond**



G-0616-1  
January 17, 2014

Mr. AJ Barbato  
Vice President of Real Estate  
TMC CF New England, LLC  
14 Breakneck Hill Road, Suite 101  
Lincoln, RI 02865



Re: **Accessible Pedestrian Signal Installation  
Cumberland Farms – 38 Summer Street  
Medway, Massachusetts**

Dear AJ,

Based on email correspondence dated January 15 and 16, 2014 between Mr. Thomas Holder (Medway Department of Public Services Director), Ms. Susan Affleck-Childs (Medway Planning & Economic Development Coordinator), and Mr. Geoffrey Howie (Greenman-Pedersen, Inc.), the Town of Medway is considering the incorporation of audible pedestrian devices into the Milford Street (Route 109) and Summer Street (Route 126) signalized intersection. The installation of the audible pedestrian devices is to be consistent with the Massachusetts Department of Transportation (MassDOT) roadway reconstruction project along Main Street (Route 109).

Based on MassDOT's Accessible Pedestrian Signal Installation Policy, dated June 1, 2012, MassDOT follows the *National Cooperative Highway Research Program Guidelines for Accessible Pedestrian Signals*, NCHRP Project 3-62 (2007), "with respect to new construction, alterations/reconstruction and retrofit requests for the installation of Accessible Pedestrian Signals ("APS")." As stated within the referenced email correspondence, Mr. Howie is correct when he states that MassDOT is considering the installation of audible pedestrian devices into "all of their new projects." MassDOT's Accessible Pedestrian Signal Installation Policy suggests that major alteration or reconstruction of intersections to contain signalized pedestrian crossings would be evaluated for the inclusion of APS devices.

To retrofit an existing traffic signal with APS devices where the intersection is not under major alteration or reconstruction, however, MassDOT would require "a showing of demonstrated need" through a user request. This request would require a person to complete a request form certifying that the individual, someone in the household, or someone in direct care is "a qualified person with a disability as defined by the Americans with Disabilities Act of 1990 (ADA)" and that the "request is based upon individual need." Similarly, NCHRP Project 3-62 states that "APSs are typically installed upon request along a specific route of travel for a particular individual or group of individuals who are blind or visually impaired." In addition, the Manual on Uniform Traffic Control Devices (MUTCD), 2009 Edition, suggests APS devices could be considered based on the potential demand of individuals with visual disabilities who would be crossing a particular signalized intersection.



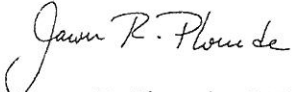


As part of the Cumberland Farms development to be located at 38 Summer Street, there are no major alteration or reconstruction measures proposed for the Route 109 and Route 126 signalized intersection. Upon review of the referenced email correspondence as well as attendance at a number of Medway Planning & Economic Development Board meetings for the proposed Cumberland Farms development, I am not aware of a person or persons with disabilities who has requested the incorporation of APS devices into this signalized intersection. As a result, the need for the inclusion of APS devices into the Route 109 and Route 126 signalized intersection has not been demonstrated in accordance with MassDOT policy, NCHRP guidelines, or MUTCD guidelines.

Should you have any questions or require additional information, please feel free contact me at (603) 433-8818.

Very truly yours,

**TIGHE & BOND, INC.**



Jason R. Plourde, P.E., PTP  
Project Manager

J:\G\G0616 Medway, MA Cumberland Farms\LTR\G0616 APS Installation Letter 011714.doc

**ACCESSIBLE PEDESTRIAN SIGNAL  
INSTALLATION POLICY**

**I. Introduction**

This policy is based on the *National Cooperative Highway Research Program Guidelines for Accessible Pedestrian Signals*, NCHRP Project 3-62 (2007). The Massachusetts Department of Transportation (“MassDOT” or “Department”) will follow this policy guidance with respect to new construction, alterations/reconstruction and retrofit requests for the installation of Accessible Pedestrian Signals (“APS”). It is anticipated that when further guidance materials, rules, and/or regulations are provided by the United States Department of Transportation (“USDOT”), the United States Department of Justice (“USDOJ”), and the United States Access Board this policy will be amended to be consistent with any required modifications. Updated guidelines concerning the installation of APS devices at new construction, major alteration/reconstruction, and existing traffic signals will be developed following finalization of the Public Rights-of-Way Accessibility Guidelines (“PROWAG”).

In the decision making process, the “Prioritization Tool” developed through the NCHRP Project 3-62, will be utilized to evaluate signalized intersections owned or maintained by the Department. The level of priority to install APS devices will also depend on whether the signalized intersection is considered to be part of a new construction project, part of a major alteration/reconstruction project, part of an existing traffic signal, or upon request following a showing of demonstrated need.

**II. Background**

The Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. § 12101, requires access to the public right-of-way for people with disabilities. Access to traffic and signal information is an important feature of accessible sidewalks and street crossings for pedestrians who have vision impairments. The Federal Highway Administration has strongly encouraged states to implement the draft PROWAG policy for APS installation pending approval of the final PROWAG guidelines. The national trend is to incorporate APS devices where feasible.

Section 4A.02 of the Manual on Uniform Traffic Control Devices (“MUTCD”) defines an Accessible Pedestrian Signal as a device that communicates information about pedestrian timing in a non-visual format such as audible tones, verbal messages, and/or vibrating surfaces. The draft PROWAG definition is similar; however, under PROWAG, APS devices must include both audible and vibrotactile functions. APS devices let pedestrians who are blind or visually impaired know when the WALK interval begins and terminates. Pedestrians who know when the crossing interval begins will be able to start a crossing before turning cars enter the intersection and can complete a crossing with less delay. Audible signals can also provide directional guidance, which is particularly useful at non-perpendicular intersections and at wide multi-lane crossings.

### **III. Design and Installation for New Construction and Major Alterations/Reconstruction**

The major Alteration/Reconstruction of intersections is considered to constitute a substantial modification of an existing traffic signal at an intersection. A major alteration or reconstruction involves physical relocation or replacement of traffic signal infrastructure (as an example, addition of turn lanes with accompanying protected turn phases). Routine and emergency maintenance or repairs of the equipment does not constitute a major alteration (as an example, replacement of the signal controller due to a lightning strike). For major alterations to existing pedestrian signals, the design will include the installation of APS devices where technically feasible.

New construction is considered the installation of a new pedestrian signal at a previously signalized or non-signalized intersection/crossing. For new construction where pedestrian signals are being added as part of the project, the design will include the installation of APS.

A traffic signal shall be designed and equipped with APS devices for all crosswalks that are to be equipped with pedestrian signals. Installation of APS devices will not be considered at intersection approaches where an engineering study has determined that pedestrian crossings are to be prohibited. However, the designer should take into consideration that a non-visual format to prohibit pedestrian crossing (some sort of physical means of prohibiting the crossing such as railing, heavy vegetation, etc.) be provided in addition to crossing prohibition signs. Minor signal modifications, such as installation of left-turn signal heads, modification of existing signal phasing, or installation of vehicle detection systems, etc., that do not require substantial reworking of the intersection signal poles or wiring would not require a redesign of the intersection as mentioned above.

### **IV. Installation of APS based on Demonstrated Need at Existing Traffic Signals**

MassDOT will consider requests to retrofit an existing traffic signal with APS devices to provide crossing assistance at MassDOT maintained signalized intersections upon a showing of demonstrated need. To be considered for APS, the location must first meet the following criteria: (1) the intersection must already be signalized and the existing infrastructure must be readily capable (i.e., not requiring major alteration/reconstruction), as determined by MassDOT, of being upgraded with APS devices; (2) the location must be suitable for the installation of APS devices in terms of safety; and (3) there must be a demonstrated need for an APS device (this need is demonstrated through a user request) (See Attachment 1). If APS can be added with minor changes (such as simply replacing the non APS pushbutton with an APS pushbutton), then this will be done under District Signal Betterment Contracts, generally within 90 days.

If APS installation requires changes to the signal or other infrastructure work (the installation of posts, pedestrian housings, conduit systems, significant changes to the traffic signal controller assembly, right-of-way impacts, utility relocation, drainage improvements, geometric modifications, etc.) then appropriate staff from the District, Traffic Engineering, and Construction sections will conduct an engineering study of the signalized intersection. This study should be completed by staff, generally within 90 days, utilizing the NCHRP Prioritization

Tool (See Attachment 2).<sup>1</sup> In performing the study, staff shall coordinate with the local jurisdiction to solicit community involvement and comments on the proposed request. The engineering evaluation will be used to determine a priority for the installation of APS devices by District. Where multiple requests requiring major alteration are pending, the scores should be arranged in order from the highest to the lowest. Locations with the highest scores and associated with a specific request should be considered highest priority. The goal is for all requests for APS installation to receive a fair and equal assessment and to ensure that available funds are expended in the most effective manner. The resulting prioritized schedule will be accomplished within a reasonable timeframe based on readiness of design and available funding.

The potential list (“Priority List”) of locations will be routinely updated based on additional requests and locations removed from the list (due to changes to signals via scheduled projects) and will be scored using the NCHRP Prioritization Tool. APS devices will be designed and installed in order of priority depending upon the availability of funding and the complexity of the work.

The Department will publish the Priority List once a year on its website and in the Central Register for public review and comment. The Department may also schedule meetings with concerned stakeholders, including the Massachusetts Commission for the Blind, local Disability Commissions and regional Independent Living Centers, to review and prioritize intersections from the Priority List and other intersections with construction opportunities. The final list will be used by the Department to request funding for design and construction of APS.

#### **V. NCHRP Prioritization Tool**

The NCHRP Prioritization Tool provides traffic engineers and other technical practitioners with the means to take measurable characteristics of a pedestrian crosswalk and produce a rating that reflects the relative crossing difficulty for pedestrians who are blind or otherwise sensory impaired. The system of scoring is based on the premise that it is the individual crosswalk that is critical, as opposed to the APS intersection as a whole. The crosswalks with the highest ratings will have the highest priority for APS installation, with greater emphasis placed on those crosswalks in which a retrofit request was submitted to the Department.

#### **VI. Changes to this Policy**

The Department will notify concerned stakeholders, including the Massachusetts Commission for the Blind, in writing of any proposed additions, amendments, or rescission to this policy. Such notice will be given at least 60 calendar days in advance of any such action to allow these organizations to discuss the proposed additions, amendments, or rescission with the Department prior to the addition, amendment, or rescission taking effect.

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<sup>1</sup> The study should also include consultation with or participation from (i) the community in the potentially affected area; (ii) mobility and orientation specialists, the Massachusetts Commission for the Blind, local Disability Commissions and regional Independent Living Centers; and (iii) any other individuals or organizations that may assist in developing the engineering study.

Attachments:

APS Installation Request Form and Prioritization Tool



**ACCESSIBLE PEDESTRIAN SIGNAL INSTALLATION REQUEST FORM FOR  
MASSDOT CONTROLLED INTERSECTIONS**

Date of Request:

Name of Person/Entity Making Request:

Address of Person/Entity Making Request:

Phone Number of Person/Entity Making Request:

Email of Person/Entity Making Request:

Intersection where APS has been requested:

- Character of the area (residential, urban, or rural):
- Unique characteristics of the intersection, if any:

City/Town where the intersection is located:

Reason for request:

---

I certify that I, someone in my household, or someone in my direct care is a qualified person with a disability as defined by the Americans with Disabilities Act of 1990 (ADA) and that my request is based upon individual need.

Name and signature of person making the request

Date

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An appropriate official for the City/Town in which the intersection is located, must review the proposal and indicate its approval or objection to the requested installation of APS at this location. If the appropriate official objects to the APS installation, the grounds for objection must be included with this request form. As such, the signature of City/Town official is required.

Name and Signature of Approval of City/Town Official

Date:

Please submit two copies of the signed forms: one copy to the MassDOT Highway Division State Traffic Engineer (Neil Boudreau, State Traffic Engineer, 10 Park Plaza, Room 7210, Boston, MA 02116) and one copy to the relevant District Traffic Engineer. For listing and addresses of District offices, refer to the [MassDOT website](#).

## Susan Affleck-Childs

---

**From:** Thomas Holder  
**Sent:** Thursday, January 16, 2014 11:43 AM  
**To:** Susan Affleck-Childs  
**Subject:** FW: Route 109 project  
**Attachments:** APS-Specs.pdf

Susy – Please see attached specifications for use in the Cumberland Farms project.

Thanks.  
Tom

---

**From:** Howie, Geoffrey [mailto:[ghowie@gpinet.com](mailto:ghowie@gpinet.com)]  
**Sent:** Thursday, January 16, 2014 10:06 AM  
**To:** Thomas Holder  
**Cc:** Diaz, John; Nguy, Thanh  
**Subject:** FW: Route 109 project

Tom,  
Please see the information as requested. Hopefully this is what you were looking for. Let us know.

See you tonight.



**Geoffrey J. Howie, PE**  
*Vice President / Director of Transportation*

**Greenman-Pedersen, Inc.**  
Engineering and Construction Services

181 Ballardvale Street, Suite 202, Wilmington, MA 01887  
d 978.570.2958 | f 978.658.3044 | c 781.296.7241  
[ghowie@gpinet.com](mailto:ghowie@gpinet.com) | [www.gpinet.com](http://www.gpinet.com)

*An Equal Opportunity Employer*

---

**From:** Nguy, Thanh  
**Sent:** Thursday, January 16, 2014 9:55 AM  
**To:** Howie, Geoffrey  
**Subject:** RE: Route 109 project

Geoff, here is a specs for the APS. Basically, it requires countdown pedestrian signal head and audible and vibro-tactile pushbutton and the standard language installation to meet ADA/AAB.



**Thanh**  
d 978.570.2971

---

**From:** Howie, Geoffrey  
**Sent:** Thursday, January 16, 2014 9:46 AM  
**To:** Nguy, Thanh

**Cc:** Diaz, John  
**Subject:** RE: Route 109 project

Thanks much Thanh.



**Geoffrey J. Howie, PE**  
d 978.570.2958

---

**From:** Nguy, Thanh  
**Sent:** Thursday, January 16, 2014 9:44 AM  
**To:** Howie, Geoffrey  
**Cc:** Diaz, John  
**Subject:** RE: Route 109 project

Geoff, I will send you a PDF of our APS specs.



**Thanh**  
d 978.570.2971

---

**From:** Howie, Geoffrey  
**Sent:** Thursday, January 16, 2014 9:08 AM  
**To:** Nguy, Thanh  
**Cc:** Diaz, John  
**Subject:** FW: Route 109 project

Thanh,  
Please see Tom's request below. Any chance this would be an easy task? Let me know.

Thanks.



**Geoffrey J. Howie, PE**  
d 978.570.2958

---

**From:** Thomas Holder [<mailto:tholder@townofmedway.org>]  
**Sent:** Thursday, January 16, 2014 8:01 AM  
**To:** Susan Affleck-Childs  
**Cc:** Howie, Geoffrey  
**Subject:** FW: Route 109 project

Susy – Please see response about audible signals below along with the MassDOT Policy Statement.

Geoff – If you get the chance, could you forward us the audible specification we are using for our project. In order to have consistency of signal technologies in Town, Cumberland Farms would design for the same units.

Thanks.  
Tom

---

**From:** Howie, Geoffrey [<mailto:ghowie@gpinet.com>]  
**Sent:** Wednesday, January 15, 2014 6:23 PM



**To:** Thomas Holder  
**Cc:** David Damico; Diaz, John; Nguy, Thanh  
**Subject:** RE: Route 109 project

Tom,  
We are installing the audible pedestrian devices as these are required by MassDOT on all of their new projects. I am honestly not sure whether these are ADA/AAB requirements. I would think if the PEDB required the applicant to install the devices similar to what we are proposing on Route 109, that would satisfy them.

I am also forwarding the Policy Directive from MassDOT that requires these devices.

Let me know if you need anything else.

Thanks.



**Geoffrey J. Howie, PE**  
*Vice President / Director of Transportation*

**Greenman-Pedersen, Inc.**  
Engineering and Construction Services

181 Ballardvale Street, Suite 202, Wilmington, MA 01887  
d 978.570.2958 | f 978.658.3044 | c 781.296.7241  
[ghowie@gpinet.com](mailto:ghowie@gpinet.com) | [www.gpinet.com](http://www.gpinet.com)

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**From:** Thomas Holder [<mailto:tholder@townofmedway.org>]  
**Sent:** Wednesday, January 15, 2014 4:29 PM  
**To:** Howie, Geoffrey  
**Cc:** David Damico  
**Subject:** FW: Route 109 project

Hi Geoff – any thought on the question below? Does ADA/AAB require audible?

Thanks.  
Tom

---

**From:** Susan Affleck-Childs  
**Sent:** Wednesday, January 15, 2014 4:28 PM  
**To:** Thomas Holder; David Damico  
**Subject:** Route 109 project

Hi,

At last night's PEDB mtg, we were working on the Cumberland Farms decision. During the course of the public hearing, a suggestion was made that the PEDB require the applicant to install audible pedestrian crossing devices on the traffic signals at the intersection of Routes 109/126.

As the PEDB considers whether to include this as a condition of the plan approval, the Board asked me to find out if this feature is going to be incorporated into the Route 109 reconstruction project as a standard element.

Any guidance you can provide would be appreciated.

Thanks.

Susy

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

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This communication and any attachments are intended only for the use of the individual or entity named as the addressee. It may contain information which is privileged and/or confidential under applicable law. If you are not the intended recipient or such recipient's employee or agent, you are hereby notified that any dissemination, copy or disclosure of this communication is strictly prohibited and to notify the sender immediately.

**ACCESSIBLE PEDESTRIAN SIGNAL  
INSTALLATION POLICY**

**I. Introduction**

This policy is based on the *National Cooperative Highway Research Program Guidelines for Accessible Pedestrian Signals*, NCHRP Project 3-62 (2007). The Massachusetts Department of Transportation (“MassDOT” or “Department”) will follow this policy guidance with respect to new construction, alterations/reconstruction and retrofit requests for the installation of Accessible Pedestrian Signals (“APS”). It is anticipated that when further guidance materials, rules, and/or regulations are provided by the United States Department of Transportation (“USDOT”), the United States Department of Justice (“USDOJ”), and the United States Access Board this policy will be amended to be consistent with any required modifications. Updated guidelines concerning the installation of APS devices at new construction, major alteration/reconstruction, and existing traffic signals will be developed following finalization of the Public Rights-of-Way Accessibility Guidelines (“PROWAG”).

In the decision making process, the “Prioritization Tool” developed through the NCHRP Project 3-62, will be utilized to evaluate signalized intersections owned or maintained by the Department. The level of priority to install APS devices will also depend on whether the signalized intersection is considered to be part of a new construction project, part of a major alteration/reconstruction project, part of an existing traffic signal, or upon request following a showing of demonstrated need.

**II. Background**

The Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. § 12101, requires access to the public right-of-way for people with disabilities. Access to traffic and signal information is an important feature of accessible sidewalks and street crossings for pedestrians who have vision impairments. The Federal Highway Administration has strongly encouraged states to implement the draft PROWAG policy for APS installation pending approval of the final PROWAG guidelines. The national trend is to incorporate APS devices where feasible.

Section 4A.02 of the Manual on Uniform Traffic Control Devices (“MUTCD”) defines an Accessible Pedestrian Signal as a device that communicates information about pedestrian timing in a non-visual format such as audible tones, verbal messages, and/or vibrating surfaces. The draft PROWAG definition is similar; however, under PROWAG, APS devices must include both audible and vibrotactile functions. APS devices let pedestrians who are blind or visually impaired know when the WALK interval begins and terminates. Pedestrians who know when the crossing interval begins will be able to start a crossing before turning cars enter the intersection and can complete a crossing with less delay. Audible signals can also provide directional guidance, which is particularly useful at non-perpendicular intersections and at wide multi-lane crossings.

### **III. Design and Installation for New Construction and Major Alterations/Reconstruction**

The major Alteration/Reconstruction of intersections is considered to constitute a substantial modification of an existing traffic signal at an intersection. A major alteration or reconstruction involves physical relocation or replacement of traffic signal infrastructure (as an example, addition of turn lanes with accompanying protected turn phases). Routine and emergency maintenance or repairs of the equipment does not constitute a major alteration (as an example, replacement of the signal controller due to a lightning strike). For major alterations to existing pedestrian signals, the design will include the installation of APS devices where technically feasible.

New construction is considered the installation of a new pedestrian signal at a previously signalized or non-signalized intersection/crossing. For new construction where pedestrian signals are being added as part of the project, the design will include the installation of APS.

A traffic signal shall be designed and equipped with APS devices for all crosswalks that are to be equipped with pedestrian signals. Installation of APS devices will not be considered at intersection approaches where an engineering study has determined that pedestrian crossings are to be prohibited. However, the designer should take into consideration that a non-visual format to prohibit pedestrian crossing (some sort of physical means of prohibiting the crossing such as railing, heavy vegetation, etc.) be provided in addition to crossing prohibition signs. Minor signal modifications, such as installation of left-turn signal heads, modification of existing signal phasing, or installation of vehicle detection systems, etc., that do not require substantial reworking of the intersection signal poles or wiring would not require a redesign of the intersection as mentioned above.

### **IV. Installation of APS based on Demonstrated Need at Existing Traffic Signals**

MassDOT will consider requests to retrofit an existing traffic signal with APS devices to provide crossing assistance at MassDOT maintained signalized intersections upon a showing of demonstrated need. To be considered for APS, the location must first meet the following criteria: (1) the intersection must already be signalized and the existing infrastructure must be readily capable (i.e., not requiring major alteration/reconstruction), as determined by MassDOT, of being upgraded with APS devices; (2) the location must be suitable for the installation of APS devices in terms of safety; and (3) there must be a demonstrated need for an APS device (this need is demonstrated through a user request) (See Attachment 1). If APS can be added with minor changes (such as simply replacing the non APS pushbutton with an APS pushbutton), then this will be done under District Signal Betterment Contracts, generally within 90 days.

If APS installation requires changes to the signal or other infrastructure work (the installation of posts, pedestrian housings, conduit systems, significant changes to the traffic signal controller assembly, right-of-way impacts, utility relocation, drainage improvements, geometric modifications, etc.) then appropriate staff from the District, Traffic Engineering, and Construction sections will conduct an engineering study of the signalized intersection. This study should be completed by staff, generally within 90 days, utilizing the NCHRP Prioritization

Tool (See Attachment 2).<sup>1</sup> In performing the study, staff shall coordinate with the local jurisdiction to solicit community involvement and comments on the proposed request. The engineering evaluation will be used to determine a priority for the installation of APS devices by District. Where multiple requests requiring major alteration are pending, the scores should be arranged in order from the highest to the lowest. Locations with the highest scores and associated with a specific request should be considered highest priority. The goal is for all requests for APS installation to receive a fair and equal assessment and to ensure that available funds are expended in the most effective manner. The resulting prioritized schedule will be accomplished within a reasonable timeframe based on readiness of design and available funding.

The potential list (“Priority List”) of locations will be routinely updated based on additional requests and locations removed from the list (due to changes to signals via scheduled projects) and will be scored using the NCHRP Prioritization Tool. APS devices will be designed and installed in order of priority depending upon the availability of funding and the complexity of the work.

The Department will publish the Priority List once a year on its website and in the Central Register for public review and comment. The Department may also schedule meetings with concerned stakeholders, including the Massachusetts Commission for the Blind, local Disability Commissions and regional Independent Living Centers, to review and prioritize intersections from the Priority List and other intersections with construction opportunities. The final list will be used by the Department to request funding for design and construction of APS.

#### **V. NCHRP Prioritization Tool**

The NCHRP Prioritization Tool provides traffic engineers and other technical practitioners with the means to take measurable characteristics of a pedestrian crosswalk and produce a rating that reflects the relative crossing difficulty for pedestrians who are blind or otherwise sensory impaired. The system of scoring is based on the premise that it is the individual crosswalk that is critical, as opposed to the APS intersection as a whole. The crosswalks with the highest ratings will have the highest priority for APS installation, with greater emphasis placed on those crosswalks in which a retrofit request was submitted to the Department.

#### **VI. Changes to this Policy**

The Department will notify concerned stakeholders, including the Massachusetts Commission for the Blind, in writing of any proposed additions, amendments, or rescission to this policy. Such notice will be given at least 60 calendar days in advance of any such action to allow these organizations to discuss the proposed additions, amendments, or rescission with the Department prior to the addition, amendment, or rescission taking effect.

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<sup>1</sup> The study should also include consultation with or participation from (i) the community in the potentially affected area; (ii) mobility and orientation specialists, the Massachusetts Commission for the Blind, local Disability Commissions and regional Independent Living Centers; and (iii) any other individuals or organizations that may assist in developing the engineering study.

Attachments:

APS Installation Request Form and Prioritization Tool

## **ACCESSIBLE PEDESTRIAN SIGNAL (APS)**

### **Pedestrian Heads**

Pedestrian head indications shall be illuminated L.E.D. type displaying the graphical symbols of a walking person and/or upraised hand. All LED indications on the pedestrian signal shall have an automatic dimming circuit for night illumination to reduce long-term degradation to the LEDs. Pedestrian heads shall be made of aluminum.

Each visual pedestrian indication shall be complemented by a time display indication. Each time display indication shall be self-programming and microprocessor based, with red LEDs used in the display. The time display will countdown the amount of time remaining in each flashing don't walk time interval for viewing by the ambulatory public.

### **Pedestrian Push Buttons**

Pedestrian push button controls shall be raised from or flush with their housings and shall be a minimum of 2" in the smallest dimension. The force required to activate the controls shall be no greater than 5lbs.

Each push button shall be complemented with an audible and vibro-tactile indication with LED confirmation light. Each separately phased pedestrian movement shall have its own distinctive audible emanation in order for visually impaired pedestrians to discriminate which phase is appropriate given his or her destination and/or direction of travel.

The audible emanation shall be a percussion type sound. No buzzer or ringing type sounds will be acceptable. The output level of the audible pedestrian signal shall vary in intensity with significant fluctuations in ambient noise conditions. At a minimum, the output level shall vary in intensity from daytime to nighttime operations.

Pedestrian push buttons shall be located as close as practicable to the sidewalk curb ramp serving the controlled crossing and shall permit operation from a clear ground space. If two crosswalks, oriented in different directions, end at or near the same location, the positioning of pedestrian push buttons and/or legends on the pedestrian push button signs should clearly indicate which crosswalk signal is actuated by each pedestrian push button.

Note: The contractor is responsible for determining the correct arrow orientation of the "R10-3e" sign and or pedestrian push button.

A maximum mounting height of 42 inches above the finish sidewalk grade shall be used for pedestrian push buttons.

*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 Alleyato 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.*

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(c) If the gasoline canopy and convenience store are not architecturally integrated, 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.*

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

(17) 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.*

(18) 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



R. **Traffic Management**

**ALTERNATIVE LANGUAGE**

1. Prior to \_\_\_\_\_, 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 between Milford Street and Summer Street is not permitted. The sign locations 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 Board finds that though it has requested that the applicant, install audio devices to the pedestrian cross walk signals currently located at the intersection of Routes 109/126 consistent with the Route 109 reconstruction 75% plan; authority and conditions for application for said installation are solely determined by MASSDOT. Thus, the Board does not have the authority to condition an approval on the installation of the proposed audio signals.

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**PREVIOUSLY DRAFTED LANGUAGE – TO BE DELETED**

1. Supplemental to the pre-construction traffic analyses
  - a. The applicant shall contract with a traffic consultant to perform the pre-construction traffic analyses (baseline traffic counts, cut-through traffic observations and queue observations) as described in the letter dated October 28, 2013 from Jason Plourde at Tighe and Bond, the applicant's traffic engineer, with the following additional stipulations:
    - 1) The pre-construction traffic analyses shall be completed prior to issuance of a building permit for the convenience store and/or gas canopy by the Medway Inspector of Buildings.
    - 2) The queue observations on Summer Street at Medway High School shall be performed as specified in the comment letter dated November 5, 2013 from Mike Hall of Tetra Tech, the Town's traffic engineer.

January 15, 2014

Andy Rodenhiser, Chairman  
Town of Medway Planning Board  
155 Village Street  
Medway, MA 02053



Cc: Suzanne Kennedy, Town Administrator, Town of Medway  
Glenn Trindade, Chairman of the Board of Selectman, Town of Medway  
Maryjane White, Town Clerk, Town of Medway

Dear Mr. Rodenhiser,

I am writing in regards to last night's January 14, 2014 Planning Board meeting. Myself, my brother Richard and my mother Gail attended the meeting last night to listen to the discussion in regards to the over 55 development on the agenda for approval across from Clover Lane. However, we arrived early just in time to listen to the most upsetting, disrespectful discussion in regards to the audible crosswalk at the intersection of Summer Street and 109. As a 16 year resident of Medway, and a blind man who happened to be sitting in the audience, I was appalled by the conversation and the complete lack of respect given to the visually impaired people in general, let alone those residences of our town by two of your board members. Mr. Robert Tucker, your Vice-Chairman, insinuated that the audio crosswalk would be "annoying" to which one of your other board members advised that it would only go off when it is pushed. Mr. Tucker's concern also was "what about the kids at 2 am" that would go and push the button. Really? In front of the fire station we have kids hanging out at 2 AM? He then made a comment which said "all it would take is to disconnect one wire," insinuating that the audible signals could be disabled if they were annoying to area residents. That was upsetting enough, but the most unprofessional, horrifying event of the entire conversation, which I was informed of after the fact was when Ms. Karyl Spiller-Walsh made a gesture of cocking a gun and shooting, referring that someone living in that area (or perhaps she meant herself) and hearing the audible crosswalk would do that to the person pushing the button. With everything that is going on around the world with guns, I am stunned and sick that a public figure would choose to use that type of visual for any reason in a private meeting, let alone in front of the town's residents.

What members of your board basically told me and all the many, many visually impaired residence of Medway is that you just don't care about the safety factors involved with them crossing the street, but that your concern lies with the annoyance factor for that minute the audio is playing. If your board had done some investigation concerning these signals, you would learn that there are many different makers of these systems which use many different, non-intrusive sounds as well as haptic (vibrating button) feedback. This is not about whether it makes sense or not to have the audible signals, but more about respecting others that perhaps the issue you are addressing is important in their everyday lives. And it should not be just because of who is sitting in the audience, but respect for all residence attending or not attending. My family and I really expected better from the leaders of our town.

Regards,

Cory Kadlik  
2 Clover Lane  
Medway, MA 02053  
H: (508) 533-9977  
C: (774) 277-5075

## Susan Affleck-Childs

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**From:** Susan Affleck-Childs  
**Sent:** Wednesday, January 15, 2014 3:53 PM  
**To:** 'cory kad'  
**Cc:** T A; Board of Selectmen; Mary Jane White  
**Subject:** RE: letter of concern

Dear Mr. Kadlik,

I wanted to let you know that we have received your email communication and attached letter expressing your concerns about the conversation that occurred during the January 14th Planning and Economic Development Board meeting regarding audible pedestrian traffic signals at the proposed site for the Cumberland Farms. Thank you for your direct and forthright comments.

I have electronically forwarded your letter to Chairman Andy Rodenhiser and will discuss it with him as soon as possible. I will do my very best to speak with him this afternoon. Mr. Rodenhiser is not a Town employee; he serves as a volunteer, has a regular daytime job, and does not maintain an office here at Town Hall.

We will be back in touch.

Best regards,

Susy Affleck-Childs

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

-----Original Message-----

**From:** cory kad [mailto:ckadlik@gmail.com]  
**Sent:** Wednesday, January 15, 2014 1:05 PM  
**To:** Planning Board  
**Cc:** T A; Board of Selectmen; Mary Jane White  
**Subject:** letter of concern

Please note that the above addresses were the only addresses accessible to me on your website for Andy Rodenhiser, Suzanne Kennedy and Glenn Trindade.

Thank you

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

1 28 14  
DATE

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

ANR (Approval Not Required/81P Plan)

Preliminary Subdivision Plan

Definitive Subdivision Plan

Site Plan Approval + special permit

Scenic Road Work Permit

for the development project known as: Cambalud House

to the following date: Friday February 7, 2014

*Respectfully submitted,*

Name of Applicant or official representative: Peter Paulovsky  
owner of Applicant

Signature of Applicant or official representative: [Signature]

\*\*\*\*\*

Date approved by Planning and Economic Development Board: 1-28-14

New Action Deadline Date: February 7, 2014

ATTEST: Saffack Childs  
Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

## Susan Affleck-Childs

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**From:** Susan Affleck-Childs  
**Sent:** Thursday, January 23, 2014 11:04 AM  
**To:** Charlie Myers  
**Cc:** Suzanne Kennedy; Andy Rodenhiser ; Andy Rodenhiser; Gino Carlucci; Larry Ellsworth; Shelley Wieler  
**Subject:** FW: Medway Zoning / Building Considerations Energy Related  
**Attachments:** Medway Energy Language Considerations.docx

Hi Charlie,

Thanks for your note.

It ended up that we cancelled the PEDB meeting/zoning workshop on Tuesday night because of the weather.

Question - Are you forwarding these comments to me on behalf of the Energy Committee or as a private citizen?

The PEDB will be discussing draft zoning bylaw amendment articles at its next regular meeting on January 28, 2014, probably around 8 pm. I will provide your communication to the Board so they can review it Tuesday night. Of course, you are welcome to attend the meeting.

There is a lot the PEDB and I need to learn from you about your various recommendations before we can determine possible ways to amend the zoning bylaw. We are also readying several other substantial zoning bylaw amendments at this time. So, I don't want you to expect that we will be able to put forth energy related proposals for the 2014 town meeting. That being said, this gives us an excellent head start for future town meetings.

Cheers,

Susy

Susy Affleck-Childs  
Medway Planning and Economic Development Coordinator  
155 Village Street, Medway, MA 02053  
508-533-3291

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**From:** Charles Myers [mailto:cmyers@massh2.org]  
**Sent:** Thursday, January 23, 2014 9:42 AM  
**To:** Susan Affleck-Childs  
**Cc:** Suzanne Kennedy  
**Subject:** Medway Zoning / Building Considerations Energy Related

Suzy,

I was not able to attend Tuesday nights meeting. I could not make it back from Hartford in the weather in time.

If there is still a chance, I'd like to pass along things that I feel the Committee should look at and consider to cover energy related changes that I see coming to the State and Medway.

Should anyone have any questions please feel free to ask them.

Thanks,

Charlie

## Medway Energy Language Considerations – January 21, 2014

Energy Storage - As more renewables are connected and our demand for electricity grows energy storage will take an increasing role by providing frequency regulation, spinning reserve and grid resilience.

Allowance for the location of "energy storage". Energy storage can be in the form of a bank of batteries such as lithium ion or similar technology, flow batteries which operated using a rechargeable electrolyte solution, compressed air, hydrogen made from electrolysis or reformation fed back through a fuel cell.

Energy storage can be grid scale, support an industrial or commercial building, supports a wind or solar installation, support telecommunications, support EMS.

Add language to telecom back up power that prohibits use of diesel generators and instead substitute clean fuels such as natural gas (pipeline or CNG) or Fuel Cell technologies. Prohibition of diesel gen sets aides on the environmental side from both noise and emission perspectives. Prohibition on banks of lead acid batteries protects us from acid spills caused by battery breakage.

Similar language should be considered for industrial and commercial building backup generators.

Power generation for sale and/or return to the grid should be allowed in all zoning areas from solar, wind, hydroelectric, or fuel cell technologies.

### Transportation

EV – Electric vehicle

BEV – Battery electric vehicle

FCEV – Fuel cell electric vehicle

ZEV – Zero Emission Vehicle

CNG – Compressed Natural Gas

Chapter 177 – a federal agreement that select states have signed saying they will follow the California ZEV Vehicle Mandate. Massachusetts is a Chapter 177 state.

Massachusetts recently signed an 8 state MOU. Massachusetts share of that MOU is the sale of 307,000 BEV by 2025.

FCEV will be available in the state in small numbers starting in 2015 and in large numbers starting in 2017.

#### BEV Charging

Require the prep for BEV charging infrastructure (conduit, etc) for industrial, commercial and multifamily construction.

Give prominent positioning of BEV charging locations the same preferential treatment given to handicap spaces.

#### FCEV Fueling

Add hydrogen to all appropriate regulations to cover FCEV fueling and/or the process for it to be approved. The actual fueling will be gaseous hydrogen. The source of the hydrogen will be either delivered by a trailer, site generated using electrolysis or site generated using reformation of natural gas or bio gas.

Any new commercial fueling locations should be required to have expansion space available for hydrogen. Note FCEV fleets will start operation in the state in 2015 and be available to consumers by late 2017 to meet the requirements of Chapter 177.

## Other

Add provision for landfill / agricultural bio gas collection and processing. Doing so will allow for harvesting of methane gas for use as a bio fuel.

Anti idling should be enforceable for all vehicle types, not just over the road truck, but also medium duty delivery trucks and light duty vehicles. Zero emission APU's should be allowed to idle (battery, fuel cell), not hybrid unless running off battery power when idling.

Consider language that provides a review of nighttime delivery truck allowable time schedules and allow only trucks equipped with alternative power technologies that effectively silence the truck.

- One example is a medium duty delivery truck battery operated with a range extender technology. The truck would have an electric motor rather than a diesel motor. Fedex and UPS are both starting to deploy these types of vehicles.
- Another example would be a refrigerated trailer with either a battery or fuel cell powered refrigerator APU compressor system. The refrigeration system in such case would be silent. US DOE has commissioned deployment of this technology through Carrier and ThermoKing, the two major suppliers of refrigerated truck systems in the US.

Both examples currently exist in the market. Battery, hybrid and FCEV trash trucks are being piloted today in a number of locations around the US.

## New Building Construction (Residential, Commercial, Industrial)

Add provision requiring contractor to site prep for natural gas or hook the home up to natural gas thus allowing for distributed generation as well as clean fuel use.

Add provision requiring latest energy efficient appliances and lighting systems be installed.

Add provision requiring use of intelligent HVAC controls.

Add provision requiring electrical service and panels to be rated for fast chargers in support of BEV use.

Add provision requiring building orientation such that it is optimal for solar installation.

Add provision for commercial and industrial exterior lighting to be most efficient low energy use technology available (currently LED). Examples would be building flood lights, parking lot lights, exterior signs, sign boards, etc.



G. COMMERCIAL DISTRICT I

1. Purpose: The C1 district represents the primary retail and office center of Medway. The purpose of this Sub-section is to promote the continued development of the district in a manner that is sustainable, economically viable and functional in a manner that represents the qualities of a traditional New England Town Center by encouraging mixed uses, a pedestrian-friendly environment and the design traditions of the community. It is intended to reflect the goals and objectives of the 2009 Master Plan and to provide greater integration of land uses.

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2. Buildings, structures and premises may be used for any of the following purposes and uses customarily accessory thereto but no others, subject to the regulations and conditions enumerated herein:

- a) Municipal use.
- b) Retail Sales
- c) Offices for business or professional use.
- d) Salesroom for motor vehicles, trailers, boats, farm implements or machinery with repair services and storage permitted but not including auto body, welding or soldering shops.
- e) Undertaking establishment or funeral home.
- f) Restaurant or other establishment providing food and beverage within a building. Seasonal outdoor dining may be permitted by the Building Commissioner, upon a determination made in consultation with the Police Safety Officer that the location of the seating does not represent a safety hazard.
- g) Bank or other financial institution.
- h) Personal care services such as but not limited to barber shops, beauty parlors, and nail salons.
- i) Services such as but not limited to health care, education, amusement, membership organizations and other miscellaneous business and social services.
- j) Repair shops for small electronic equipment, appliances and tools.
- k) Schools.
- l) Any of the following uses if authorized by special permit from the Zoning Planning and Economic Development Board of Appeals:
  - 1) Restaurant or other establishment providing food and beverages and live entertainment within a building.
  - 2) Motel or hotel
  - 3) Commercial indoor amusement or recreation place or place of assembly
  - 4) Vehicle Fuel Station
  - 5) Automotive car wash
  - 6) Shopping center

(Revised May 14, 2012)

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- 7) Drive-thru facility
- 8) Kennel
- 9) Vehicle Repair

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k) Any of the following uses if authorized by a special permit from the Planning and Economic Development Board:

- 10) Assisted living residence facility as defined by M.G.L, chapter 19D.
- 11) Local Convenience Retail with Associated Vehicle Fuel Station
- 12) Mixed uses including a combination of any of the by right and special permit uses and/or multi-family dwelling units, provided however, that dwelling units shall only be allowed on the upper floor(s) of a single building project or shall not constitute more than 67% of the gross floor area of the buildings of a multi-building project. [Note: parking requirement for residential uses needs to be added to parking bylaw]

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Any of the above special permit uses may be applied for and considered concurrently with Site Plan Review and Approval.

23. Permitted and allowable uses shall comply with the following dimensional regulations:

- a) Minimum lot size: ~~20,000~~ 10,000 sq. ft.
- b) Maximum lot coverage, including accessory buildings: ~~30%~~ 40% or 50%
- c) Minimum continuous frontage: ~~100~~ 50 ft.  
*(Revised May 14, 2012)*
- d) Minimum Front-yard setback: Principle buildings shall be set back a minimum of 10 feet and a maximum of 20 feet from the front lot line. Architectural features such as bay windows, porches, balconies, porticos, canopies, etc. shall not be subject to the 10-foot minimum setback, 50 ft. of which the first 10 ft. nearest the street line shall not be used for the parking or storage of vehicles but shall be suitably landscaped, and the next 20 ft. shall be utilized for through traffic to adjoining lots unless an alternative location is approved by the Planning and Economic Development Board during the site plan review process.
- e) Minimum side-yard and rear-yard setback: For lot lines abutting a residential zoning district, 25 ft. of which the first 10 ft. nearest each lot line, if the adjacent use is residential in whole or in part, shall not be used for the parking or storage of vehicles but shall be suitably landscaped. There is no side-yard or rear-yard setback for properties abutting other properties within the C1 district.
- f) Maximum Building height: 40 ft. A height greater than 40 ft. up to a maximum of 60' may be allowed by special permit from the Planning and Economic Development Board. The front facade of one-story buildings shall be at least 20 feet in height, which may be achieved with a parapet or false facade.
- g) The above dimensional requirements may be varied by special permit from the Planning and Economic Development Board if it is deemed in the best interests of the Town due to site conditions, public safety issues, or [other reasons?]
- g) ~~Off-Street parking: NOTE – This section was deleted per action of the May 13, 2013 town meeting.~~

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Deleted: and no front facade shall exceed 50 feet in a straight line unless it incorporates one or more of the aforementioned architectural features.  
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- 1) For restaurants or other establishments providing food and beverages, at least one (1) off-street parking space for each employee and at least one (1) off-street parking space for every three seats.
- 2) For other uses allowed by right, at least one off-street parking space for every 300 sq. ft. of gross floor space.
- 3) The Zoning Board of Appeals may reduce or vary the foregoing parking requirements by special permit upon a finding that such a reduction or variation is adequate for the proposed use(s) and is in the best interests of the Town to do so.
- 4) For special permit uses, off-street parking spaces as required by the Special Permit Granting Authority, based on industry standards.

(Commercial District I and II were consolidated and revised - June 2, 2009. Paragraph 2 h) was deleted June 15, 2009)

4. **Design Requirements**

- a) **Buildings shall be pedestrian-oriented through the placement of doors and windows.**
- b) **All facades of a building that are visible from a public way or an internal pedestrian or vehicular way shall be designed in accordance with the *Medway Design Review Guidelines* and the Design Standards included in the *Site Plan Rules and Regulations*.**
- c) **The front facade of any building shall not exceed 50 feet in a straight line unless it incorporates one or more of the architectural features specified in 3. D herein.**
- d) **All sites shall include pedestrian linkage(s) to connect to abutting properties that is (are) well defined and of a design and quality that will encourage significant use.**
- e) **Vehicular connections to abutting sites shall be provided where practical as determined by the Planning and Economic Development Board as part of a site plan review.**

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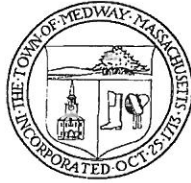
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**TOWN OF MEDWAY**  
**Planning & Economic Development**  
155 Village Street  
Medway, Massachusetts 02053

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***MEMORANDUM***

January 23, 2014

TO: Planning and Economic Development Board

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

RE: Review of Medway Zoning Bylaw

Attached is the contract and scope of work approved by the BOS at its 1/21/14 meeting to contract with RKG Associates/Judi Barrett to review the Medway Zoning Bylaw and provide some recommendations.

Judi contacted me on Tuesday to ask about scheduling a work session with the PEDB to discuss the bylaw. I suggested we schedule a special meeting on February 18<sup>th</sup>.

Authorized @ 1-21-14 BOS mte

CONTRACT BETWEEN THE TOWN OF MEDWAY  
and  
RKG ASSOCIATES, INC.

This Agreement is made on this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_,  
between the Town of Medway, acting by and through its duly elected Board of Selectmen  
(hereinafter, the "Town") and RKG Associates, Inc. (hereinafter, "Contractor") whereby  
the Town and Contractor contract for *services* under the terms and conditions set forth  
herein.

**I. SERVICES**

Contractor shall provide a Zoning Bylaw review and assessment, focusing on  
matters such as structure, format, organization, clarity, consistency, and permitting  
procedures. Contractor's report shall include recommendations to address issues  
identified during the review. The Contract Documents consist of the following, and in the  
event of conflicts or discrepancies among them, they shall be interpreted on the basis of  
the following priorities:

- 1) This agreement between the Town and Contractor
- 2) Contractor's bid or proposal
- 3) Invitation for bids, bid specifications, request for proposals or purchase  
description
- 4) Copies of all required certificates of insurance required under the contract,

EACH OF WHICH IS ATTACHED HERETO. These documents form the entire  
Agreement between the parties and there are no other agreements between the parties.  
Any amendment or modification to this Agreement must be in writing and signed by an  
official with the authority to bind the Town.

**II. COMPENSATION**

The Town agrees to pay the Contractor \$7,500 for the *services* delivered pursuant  
to this contract. Upon delivery of the *services* contained in paragraph one, the Contractor  
shall submit an invoice to the Town with any reasonable supporting documentation  
requested by the Town. Upon satisfactory review of said *services*, invoice and  
documentation, the Town shall remit payment to the Contractor within forty-five days  
after receipt by the Town as stamped in by the appropriate Town office.

**III. TIME FOR PERFORMANCE**

All *services* pursuant to this contract shall be delivered by the Contractor no later  
than \_\_\_\_\_.

**IV. INDEMNIFICATION**

The Contractor hereby indemnifies and agrees to hold harmless and defend the  
Town and its employees, officials and agents from and against all claims and liability,  
including all claims for bodily injury or property damage that may arise out of the  
Contractor's performance of its obligations under this contract. The Contractor hereby

releases the Town from any claim for liability by itself or a subcontractor, officer, agent or employee.

**V. INSURANCE**

(a) The Contractor shall, at its own expense, obtain and maintain general liability and motor vehicle liability insurance policies protecting the Town in connection with any operations included in this Contract, and shall have the Town as an additional insured on the policies. General liability coverage shall be in the amount of at least \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury liability and property damage liability.

(b) The Contractor shall, before commencing performance of this Contract, provide by insurance for the payment of compensation and the furnishing of other benefits in accordance with Mass. Gen. L. Ch. 152, as amended, to all employed under the Contract and shall continue such insurance in full force and effect during the term of the Contract.

(c) All insurance coverage shall be in force from the time of the contract to the date when all work under the Contract is completed and accepted by the Town. Certificates and any and all renewals substantiating that required insurance coverage is in effect shall be filed with the Town and shall list the Town as additional insured for each policy. Any cancellation of insurance required by this contract, whether by the insurers or the insured, shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to the Town at least fifteen days prior to the intended effective date thereof, which date should be expressed in said notice. The Contractor shall provide a copy of additional insured endorsements for all policies that require the Town to be listed as an additional insured.

**V. TERMINATION**

This contract may be terminated by the Town upon ten days advance written notice by certified mail to Contractor.

**VI. NOTICES**

All notices required to be given under this Agreement shall be in writing and shall be effective upon receipt by hand delivery or certified mail to:

**Town of Medway:**  
Town Administrator  
Town of Medway  
155 Village Street  
Medway, MA 02053

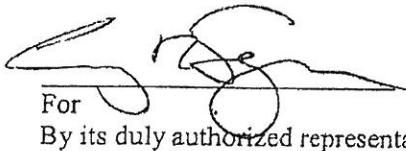
**Contractor:**  
RKG Associates, Inc.  
Craig R. Seymour, President  
634 Central Avenue  
Dover, NH 03820

**VII. GOVERNING LAW**

This Agreement and performance thereunder are governed by the laws of the Commonwealth of Massachusetts and all other applicable by-laws and administrative rules, regulations and orders.

**VIII. BINDING AGREEMENT AND ASSIGNMENT OF INTEREST**

This Agreement shall be binding upon the Town and the Contractor and the partners, successors, heirs, executors, administrators, assigns and legal representatives of the Town and the Contractor. Neither the Town nor the Contractor shall assign, sublet or transfer any interest in this Agreement without the written consent of each other, and such consent shall not be unreasonably withheld.



For  
By its duly authorized representative

Town of Medway by its  
Board of Selectmen

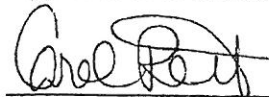
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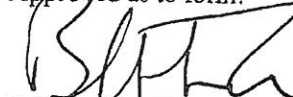
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Approved as to availability of funds:

Approved as to form:



1/13/14  
Town Accountant



Town Counsel

0217600) 5305

January 3, 2014

Ms. Suzanne Kennedy  
Town Administrator  
Town of Medway  
155 Village Street  
Medway, MA 02053

Dear Ms. Kennedy:

RKG Associates, Inc., is pleased to assist you with a review and assessment of the Town of Medway Zoning Bylaw. Our proposed scope of work includes the following tasks:

- 1) Review the Zoning Bylaw for structure and organization, ease of use, clarity, consistency, application and decision procedures, and potential duplication with other bylaws and regulations, e.g., the Medway Wetlands Bylaw.
- 2) Interview the Planning Coordinator, Building Inspector, and the Planning and Economic Development's planning consultant (Gino Carlucci). Other staff or consultant interviews may be conducted if necessary. The purpose will be to identify Zoning Bylaw issues from the perspective of staff and agents of the boards.
- 3) Conduct one or two small-group interviews with local developers, engineers/architects, attorneys, and others in order to identify Zoning Bylaw issues (if any) from the perspective of user groups.
- 4) Provide a draft zoning diagnostic memorandum for review by the Town Administrator and others as determined by the Town.
- 5) Meet with the Planning and Economic Development Commission, Town Counsel, and the Town Administrator to discuss issues identified with the Zoning Bylaw and options to address them.
- 6) Provide a final zoning diagnostic memorandum, with recommendations for the Town.

For these services, we will charge a not-to-exceed fee of \$7,500, which we will bill once a month on an hourly basis at \$150/hour. Per our normal billing policies, we will also invoice the Town for out-of-pocket expenses, e.g., mileage.

Our fee proposal assumes that the Town will assist with logistical tasks such as scheduling interviews for us. It has been most helpful to work with your office to schedule interviews for our present engagement with the Town. As always, we will work with you to arrive at the best possible arrangements for all concerned.



Pursuant to General Laws Chapter 62C Section 49A, the undersigned certifies under the pains and penalties of perjury that **RKG Associates, Inc.** is in compliance with the laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

A handwritten signature in black ink, appearing to be 'RKG', written over a horizontal line.

For RKG Associates, Inc.  
By their duly authorized representative

Social Security number or Tax Identification number: 02-0357052

*General Contract for Goods-Services*

**Ideas to Amend the Site Plan Section of the Zoning Bylaw**

**DRAFT - December 10, 2012**

**Further Revised December 30, 2013**

**Further Revised January 14, 2014**

**C. SITE PLAN REVIEW and APPROVAL**

1. **Purpose** – The purpose of site plan review and approval is to:

- a) Protect the health, safety, convenience and general welfare of the inhabitants of the Town of Medway;
- b) Promote functional and aesthetic design, construction and improvement of all development projects;
- c) Minimize harmful effects on surrounding areas;
- d) Regulate uses through the imposition of reasonable conditions concerning location of buildings, open space, landscaping, parking, lighting, storage areas, access and egress, drainage, sewage, water supply, waste disposal, safety and site amenities;
- e) Promote and encourage desired community characteristics as expressed in the Medway Master Plan

by providing for a comprehensive process to review and approve the development plans for uses and structures which may have impacts on traffic, parking, drainage, environmental quality, community character, and community economics.

It is intended that the site plan review and approval process will ensure compliance with all aspects of the Medway Zoning Bylaw.

2. **Definitions**

*Alteration of Existing Parking Area* - Includes installation, removal or relocation of any curbing, traffic channelization island, driveway, travel lanes, storm drainage, lighting or similar facilities, and includes resurfacing, striping or restriping pavement markings on existing parking or storage areas.

*Board* – The Planning and Economic Development Board of the Town of Medway

*Office* – The Planning and Economic Development office of the Town of Medway

*Design Guidelines* – A written document produced by the Design Review Committee and adopted by the Medway Planning and Economic Development Board.

NOTE – RELOCATE the definition for gross floor area to the General Definitions section of the Zoning bylaw because that term is used in other sections of the ZBL.

*Major Site Plan Project* – Any multi-family building with dwelling units or more, commercial, industrial, institutional, or municipal project which involves:

- a) New construction or improvements to land, or

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1) . The buildings, uses and site amenities are properly located on the development site in relation to the terrain and scale of other buildings in the vicinity and adjacent neighborhoods; ¶

2) . The construction and renovation of buildings and installation of site amenities are thoughtfully designed to reflect or be compatible with Medway's New England architectural style as further detailed in the *Design Guidelines*; ¶

3) . Adjacent and neighboring properties are 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; ¶

4) . 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) are preserved with as minimal site disturbance as possible. ¶

5) . 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 are conveniently and safely provided while the visual intrusion thereof is appropriately screened from public view; ¶

6) . 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 are provided and adequately screened from public view; ¶

7) . Pedestrian ways, access driveways, loading and parking facilities are properly designed for the convenience and safety of customers, employees and the general public; ¶

8) . Convenient and safe access for fire-fighting and emergency rescue vehicles is provided to and within the development site in relation to adjacent streets; ¶

9) . Satisfactory methods for drainage of surface water to and from the development site are provided; ¶

10) . Public ways and private drives are properly designed and constructed to serve the intended use and provide an adequate level of service in relation to the traffic to be generated by the development site; ¶

11) . 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 econom... [1] ¶

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**Deleted:** *Gross Floor Area* – The sum of the gross horizontal areas of all floors of a building or structure as measured from the exterior face of exterior walls, but excluding any floors determined to be not occupiable.

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- b) Alteration, reconstruction, renovation work that will result in a change in the outside appearance of an existing building or premises, visible from a public or private street or way; or
- c) A substantial change in use of a building or buildings or premises as determined by the Zoning Enforcement Officer;

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and which includes one or more of the following:

- d) Construction of 2,500 ~~5,000~~ or more square feet of gross floor area; or
- e) A change in use in an existing building requiring the creation of fifteen (15) or more additional parking spaces;
- f) Construction of a new building or addition requiring the creation of fifteen (15) or more additional parking spaces; or
- g) Construction, expansion, redesign or alteration of an existing parking area involving the creation of fifteen (15) or more additional parking spaces; or
- h) Large scale ground mounted solar photovoltaic installation with a rated name plate capacity of 250 kW (DC) or more.
- i) An increase in impervious surface of more than 25% of the existing impervious coverage
- j) Any use or structure, or expansion thereof, exempt under MGL, c. 40A, s. 3, but only if one or more of the above criteria d - g also apply, and only to the extent allowed by MGL, chapter 40A, s. 3.

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*Minor Site Plan Project* – Any construction, alteration, reconstruction or renovation project, improvements to land, or a change of use, not included within the definition of a Major Site Plan Project, which requires a building permit and which involves one or more of the following:

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- a) A change in the outside appearance of an existing building or premises, visible from a public or private street or way; or
- b) Construction of 2,000 – 4,999 square feet of gross floor area, or
- c) Façade/renovation/reconstruction/replacement
- d) A change in use in an existing building requiring the creation of five (5) or more but less than fifteen (15) additional parking spaces; or
- e) Construction of a new building or addition requiring the creation of five (5) or more but less than fifteen (15) additional parking spaces; or
- f) Construction, expansion, redesign or alteration of a parking area involving the creation of five (5) or more but less than fifteen (15) additional parking spaces; or
- g) An increase in impervious surface of more than 10% but less than 25% of the existing impervious coverage
- h) A change in the vehicular access to the site from a public way
- i) A site, which through continuous or proposed use may be detrimental to municipal infrastructure or to public safety, as determined by the Inspector of Buildings/Zoning

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Enforcement Officer after consultation with the Police Department Public Safety Officer and/or the Department of Public Services.

- j) ~~Any use or structure, or expansion thereof, exempt under MGL, c. 40A, s. 3, but only if one or more of the above criteria a – e also apply, and only to the extent allowed by MGL, chapter 40A, section 3.~~

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~~*Mini-Site Plan Project* - Any construction, alteration, reconstruction or renovation project, improvements to land, or a change of use, not included within the definition of a *Major or Minor Site Plan Project*, which involves one or more of the following:~~

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- a) ~~A building constructed prior to 1955, the date of original Zoning Bylaw approval by the Town of Medway~~
- b) ~~construction of 1,000 – 1,999 sq. ft of gross floor area~~
- c) ~~window/door replacement;~~
- d) ~~installation of exterior siding or other exterior surface treatment;~~
- e) ~~installation of awnings;~~
- f) ~~roofing if such is a distinctive and integral architectural element of the structure's design;~~
- g) ~~alteration of existing parking areas as defined herein;~~
- h) ~~alteration of landscaping in buffer areas;~~
- i) ~~construction of or conversion/alteration/enlargement of an existing building for 3 or more residential dwelling units;~~

3. ~~*Overview* – The site plan review and approval process requires a filing of the site plan application, review by town departments/boards/outside consultants, public review, issuance of a *Decision*, and plan endorsement.~~

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4. *Exemptions*

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a) In all zoning districts, site plan review and approval is required for any ~~*Major, Minor, or Mini Site Plan Project*~~ as defined herein except that the requirement for site plan review and approval shall not apply to:

- 1) ~~Single-family homes, including additions or enlargements and structures accessory thereto;~~
- 2) ~~Two-family homes, including additions or enlargements,~~
- 3) ~~Proposed residential subdivisions, which are permitted in the Agricultural and Residential Districts I and II as a matter of right;~~
- 4) ~~Projects that have received an Adult Retirement Community Planned Unit Development (ARCPUD) Special Permit, an Adaptive Use Overlay District (AUOD) Special Permit, an *Open Space Residential Development (OSRD) Special Permit* or other special permit from the Planning and Economic Development Board, in which case, site plan review and approval shall be incorporated into those special permit review and approval procedures.~~

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- 5) Projects in which the only change in the outside appearance of an existing building or premises visible from a public or private street or way, pertains to:
- a. Building renovation work required to provide handicap accessibility to the structure to comply with the Americans with Disabilities Act (ADA) or the regulations of the Massachusetts Architectural Access Board. (AAB); and/or
  - b. ~~Installation of awnings; and or~~ Relocating less than 30% of the total approved parking spaces or moving of Handicapped Parking pursuant to 521 CMR as most recently amended and/or
  - c. ~~Window and/or door replacement; Increasing and/or replacing landscaping with the exception of landscaping approved for buffer areas;~~
  - d. ~~Installation of exterior siding~~ Changes to infrastructure and utility provisions and/or
  - e. Installation of roofing ~~which is not a distinctive and integral architectural element of the structure's design~~
- 6) Other projects, which as a result of extremely unusual circumstances or location, or which are so insignificant that the rigor of even ~~Administrative Site Plan Review~~ would be excessively burdensome to the applicant, or the construction of which will have no significant detriment to the achievement of any of the purposes of site plan review and approval as set forth in paragraph 1 herein, as may determined by the ~~Building Commissioner~~.

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c. Window and/or door replacement; and/or

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d. Installation of exterior siding; and/or

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5. **General Requirements**

- a) Major Site Plan Projects shall be subject to Complete Site Plan Review. Minor Site Plan Projects shall be subject to Limited Site Plan Review. Mini Site Plan Projects shall be subject to Administrative Site Plan Review.
- b) The Inspector of Buildings shall not issue a building permit for any project subject to this Sub-Section unless an application for site plan approval has been prepared for the proposed development in accordance with the requirements of the *Site Plan Rules and Regulations*, and unless the Board has approved or conditionally approved and endorsed a site plan and provided such to the Inspector of Buildings, or has allowed ~~90-120~~ calendar days (in the instance of a major site plan project) or sixty (60) calendar days (in the instance of a minor site plan project) or 30 calendar days (in the instance of a mini site plan project) to elapse from the official site plan submission date unless the applicant has requested an extension in writing.
- c) Site plan approval shall lapse after ~~1, 2 years of the grant thereof~~ endorsement of an approved site plan if substantial use has not commenced except for good cause. Approved site plans shall be completed by the applicant or its assignees within ~~2, 3 years~~ of the date of plan endorsement. Upon receipt of a written request by the applicant filed prior to the date of expiration, the Board may grant an extension for good case.
- d) Approval of a site plan under this sub-section shall not substitute for the requirement of obtaining a special permit or other forms of relief as required by the Zoning By-Law, except as specifically exempted in 4. a) 4. of this sub-section.

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- e) Sidewalks shall be provided along the entire frontage of the subject property along existing Town ways, including the frontage of any lots held in common ownership with the parcel(s) within five (5) years prior to the submission of the application for site plan review and approval. In those instances where sidewalk construction is not feasible or practical as determined by the Planning and Economic Development Board, the Board shall require that the applicant support sidewalk construction elsewhere in the community. This may be accomplished either by constructing an equivalent length of sidewalk elsewhere in the community as recommended by the Department of Public Works or by making a payment in lieu of sidewalk construction to the Town of Medway's Sidewalk Special Account in an amount determined by the Planning and Economic Development Board at the recommendation of the Town's Consulting Engineer.

(Added June 14, 2010)

#### 6. Rules and Regulations

- a) The Board shall adopt and may periodically amend *Site Plan Rules and Regulations* to administer Site Plan Review and Approval. The Board and Town staff shall be guided by these *Regulations* in conducting its review, making its *Decisions*, and monitoring the implementation of all approved site plan projects.
- b) In exercising its jurisdiction regarding the adoption and amendment of *Site Plan Rules and Regulations*, the Board shall conform to the requirements for the advertisement of public hearing legal notices required by M.G.L., chapter 40A, section 11.
- c) The *Site Plan Rules and Regulations* shall include but not be limited to the following provisions:
- 1) Required documents for site plan submission;
  - 2) Contents of a site plan application;
  - 3) Standards for preparation of site plan documents;
  - 4) Application submittal procedures;
  - 5) Application filing, plan review and construction inspection/observation fees;
  - 6) Plan review process;
  - 7) Use of outside consultants;
  - 8) Design guidelines;
  - 9) Site development standards;
  - 10) ~~Review and approval criteria;~~
  - 11) Development impact standards;
  - 12) Project conditions, limitations, safeguards and mitigation measures;
  - 13) Waivers from *Site Plan Rules and Regulations*
  - 14) Plan compliance mechanisms;
  - 15) ~~Performance security measures~~
  - 16) Process for plan modifications.
- d) The *Site Plan Rules and Regulations* shall provide for differentiated application requirements and review procedures for Major, ~~Minor, and Mini~~ Site Plan Projects.

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#### 7. Application Procedure - ~~All Site Plans~~

- a) Before submitting a formal site plan application, prospective applicants for a Major Site Plan Project shall and prospective applicants for a Minor Site Plan Project may contact the Board to schedule an informal, pre-application meeting to review conceptual plans and discuss permitting procedures.
- b) Any applicant desiring approval of a major or minor site plan under this Sub-Section shall submit one (1) copy of the site plan documents with an application directly to the Town Clerk. Additional copies of the application, site plan documents, all supporting

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information, and the required application and review fees shall be submitted to the Board in accordance with the *Site Plan Rules and Regulations*.

c) ~~Any applicant desiring approval of a mini site plan under this Sub-Section shall submit one (1) copy of the site plan documents with an application directly to the Town Clerk and the Planning and Economic Development Office. Additional copies of the application, site plan documents, all supporting information, and the required application and review fees shall be submitted to the Office in accordance with the *Site Plan Rules and Regulations*.~~

e d) The official site plan submission date is the date the site plan application is filed with the Town Clerk and the Board, ~~or the Planning and Economic Development Office in the case of a mini site plan~~ unless the applicant is notified by the Planning and Economic Development office within twenty-one (21) days of submission that the application is incomplete. In such a case, the application will not be deemed to have been submitted.

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de) A project shall be considered to be a *Major Site Plan Project* as defined herein unless determined by the Inspector of Buildings to be a *Minor or Mini Site Plan Project*. To claim *Minor or Mini Site Plan Project* status, an applicant shall secure a written determination of the Inspector of Buildings and submit such with the site plan application. ~~to the Board.~~

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ef) Site plan applications shall be prepared in accordance with the provisions and requirements of the *Site Plan Rules and Regulations*

8. **Major Site Plan Project – Complete Site Plan Review**

a) *Town Staff & Board Review* - The Board shall, within fourteen (14) days of the official site plan submission date, transmit one (1) copy of the site plan to each of the following agencies: Board of Health; Board of Selectmen, Conservation Commission; Design Review Committee, Department of Public Services, Fire Department, Inspector of Buildings/Zoning Enforcement Officer; Police Department; ~~Water/Sewer Board~~, and such other agencies, boards, committees, or departments as the Board determines may be helpful to the review of the respective application. These agencies may, at their discretion, evaluate the site plan and submit an advisory report to the Board. The Board shall not close the public hearing or issue its *Decision* until it has received reports from the aforementioned agencies or until such agencies have been allowed thirty (30) days to submit a written report. All such reports shall be entered into the public record during the public hearing.

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b) *Development Review Coordination* – Within thirty (30) days of receipt of the application, the Board ~~may schedule a meeting with the applicant and representatives of the various town boards/departments/committees.~~ The purpose of such meeting is for the applicant to brief town boards/departments/committees on the project and to help the applicant better understand the permitting procedures of various Town agencies. This meeting also allows the Town to identify project issues and opportunities, which may benefit from further municipal attention, coordination or assistance.

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c) *Public Hearing* - Within sixty-five (65) calendar days of the official site plan submission date, the Board shall ~~hold~~ begin a public hearing on the proposed site plan. The public hearing shall be held in conformance with the requirements for public hearings and notice as specified in M.G.L, chapter 40A, section 11, and as further described in the *Site Plan Rules and Regulations*. All costs of the public notice requirements shall be at the expense of the applicant.

d) *Decision*

- 1) Following the Board's review and after the close of the public hearing, the Board shall prepare and file its written *Site Plan Decision* with the Town Clerk and the Inspector of Buildings. The Board's *Decision* shall be filed within thirty (30) calendar days after the close of the public hearing and within ~~ninety (90)~~ one hundred and twenty (120) calendar days from the official site plan submission date. The deadline by which the Board must file its *Decision* may be extended upon mutual agreement when the applicant requests such an extension and the Board agrees thereto. Failure of the Board to take final action by filing its *Decision* with the Town Clerk within such thirty (30) day period shall be deemed constructive approval of the application.
- 2) The Board may approve, approve with the conditions, or disapprove the site plan application. An affirmative vote of a simple majority of the full membership of the Board shall be sufficient for the Board's *Decision*.
- 3) In reviewing the application and making its *Decision*, the Board shall consider the information presented in the application and all supplemental information provided by the applicant during the course of the review; all reports of town departments/boards and outside consultants; and any additional information available to the Board, submitted to the Board by any person, official or agency, or acquired by the Board on its own initiative or research.
- 4) *Findings* - The Board shall determine whether the proposed project will constitute a suitable development based on conformance with the purposes of this Sub-Section and the various standards and criteria as set forth in the *Site Plan Rules and Regulations*. In making its *Decision*, the Board shall consider the project's impacts and the proposed methods of mitigating such impacts.
- 5) *Approval* - Depending on the nature of the particular site plan project, the Planning and Economic Development Board's approval *Decision* may include: waivers from the *Site Plan Rules and Regulations*; conditions, limitations and safeguards; requirements for construction observation/inspection, bonding or other performance guarantees, plan compliance measures and the submittal of as-built plans; and reasonable mitigation measures which the Board believes are in the Town's best interests.
  - a. *Waivers* - The Planning and Economic Development Board may authorize waivers from the *Site Plan Rules and Regulations* if it determines that that the *Regulations* are excessively burdensome to the applicant and that a waiver would permit a superior design or that a waiver would allow construction which will have no significant detriment to the achievement of any of the purposes of site plan review and approval as set forth herein, and that a waiver is in the best interests of the Town.
  - b. *Conditions, Limitations and Safeguards* - The Planning and Economic Development Board may require conditions, limitations and safeguards to promote the health, safety, convenience and general welfare of the community including, but not limited to, the following:
    - (1) Plan revisions and design modifications to preserve property values, preserve aesthetic or historic features, maintain

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compatibility with existing uses, and promote the attractiveness of the community.

- (2) Controls on the location and type of access to the site;
- (3) Controls on the number, type and time that service and delivery vehicles access the site;
- (4) Provision for open space or preservation of views
- (5) Limitations on the hours of operation;
- (6) Conditions to minimize off-site impacts and environmental quality during construction.
- (7) Requirements to screen parking facilities from adjoining premises or from the street by walls, fences, plantings or other devices to mitigate adverse impacts;
- (8) Conditions to minimize the adverse impacts of the development on abutters and the adjacent neighborhood, including but not limited to adverse impacts caused by noise, dust, fumes, odors, lighting, headlight glare, hours of operation, or snow storage.

c. *Mitigation Measures* – The Planning and Economic Development Board may require reasonable mitigation measures to offset adverse impacts of the development on the community, including but not limited to:

- (1) requirements for off-site improvements up to a maximum value of six percent (6%) of the *total development cost* of the proposed project to improve the capacity and safety of roads, intersections, bridges, pedestrian access, water, sewer, drainage, and other public facilities and infrastructure including traffic signals/controls, or municipal services, sufficient to service the development project. The *total development cost* shall mean the total of the cost or value of land and all development related improvements and shall be determined on the basis of standard building or construction costs published in the *Engineering News Record* or other source acceptable to the Planning and Economic Development Board, for the relevant type of structure(s) and use (s).
- (2) Donation and/or dedication of land for right-of-way to provide for roadway and/or intersection widening or improvements.

*(Revised November 10, 2008)*

- 6) *Disapproval* - The Board may disapprove a site plan application that fails to furnish adequate information as required by the *Site Plan Rules and Regulations*. The Board may also disapprove a site plan where, although proper in form, the project fails to meet the bylaws, regulations, guidelines or standards of the Town of Medway, or where the plan depicts a use or structure so intrusive or contrary to the health, safety and welfare of the public in one regulated aspect or another, or where no form of reasonable conditions could be devised to address the problems with the plan, and the community does not possess the capacity to

handle the proposed use, that disapproval by the Board would be tenable. The Board's *Decision* to disapprove a site plan shall state the reasons for such disapproval.

e) *Plan Endorsement*

- 1) In cases where the Board has approved or conditionally approved the proposed site plan, the applicant, within thirty (30) days after the Board has filed its *Decision* with the Town Clerk, shall revise and submit a final site plan reflecting all required changes, if any, to the Board to review for compliance with the Board's *Decision*, before endorsement.
- 2) The applicant shall provide an original and six (6) copies of the revised site plan for endorsement by the Board.
- 3) The Board shall not endorse the site plan until it is brought into compliance with the provisions of the Board's *Decision* and a twenty (20) day appeal period has elapsed following the filing of the Board's *Decision* with the Town Clerk and said Clerk has notified the Board that no appeal has been filed. If appeal is made, endorsement shall not occur until after the court's decision sustaining the Board's decision.
- 4) The Board shall retain a copy of the endorsed site plan and shall distribute copies to the Town Clerk, the Inspector of Buildings, the Department of Public Services, the Assessor's office, and the Town's Consulting Engineer.

- f) *Appeal* - Any person aggrieved by the Board's *Site Plan Decision* for a Major Site Plan Project may appeal such Decision to the court within twenty (20) days of the date the *Decision* is filed with the Town Clerk and Inspector of Buildings as provided for in MGL, chapter 40A, section 17.

9. *Minor Site Plan Project – Limited Site Plan Review*

- a) *Town Staff & Board Review* - The Board shall, within fourteen (14) days of the official site plan submission date, transmit one (1) copy of the site plan application and documents to each of the following agencies: Design Review Committee, Department of Public Services, Fire Department, Inspector of Buildings/Zoning Enforcement Officer; Police Department; and such other agencies, boards, committees, or departments as the ~~Planning and Economic Development~~ Board determines may be helpful to the review of the respective application. These agencies may, at their discretion, evaluate the site plan and submit an advisory report to the Board. The Board shall not issue its *Decision* until it has received reports from the aforementioned agencies or until such agencies have been allowed fifteen (15) days to submit a written report. All such reports shall be entered into the public record during the Board's meeting to consider the *Minor Site Plan* application.
- b) *Development Review Coordination* – The Board may schedule a meeting with the applicant and representatives of the various town boards/departments/ committees. The purpose of such meeting is for the applicant to brief town boards/departments/ committees on the project and to help the applicant better understand the permitting procedures of various Town agencies. This meeting also allows the Town to identify project issues and opportunities, which may benefit from further municipal attention, coordination or assistance.
- c) *Public Discussion Meeting* - Within thirty (30) calendar days of the official site plan submission date, the Board shall begin to consider the application as an agenda item at a duly posted open meeting. Public notice to abutters and parties of interest shall be provided as described in the *Site Plan Rules and Regulations*.

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d) *Decision*

- 1) Following the Board's review, the Board shall prepare and file its *Site Plan Decision* with the Town Clerk and the Inspector of Buildings. The Board's *Decision* shall be filed within ~~sixty (60)~~ 75 calendar days from the official site plan submission date. The deadline by which the Board must file its *Decision* may be extended upon mutual agreement when the applicant requests such an extension and the Board agrees thereto. Failure of the Board to take its final action by filing its decision within such ~~sixty (60)~~ 75 day period shall be deemed constructive approval of said application.
- 2) The Board may approve, approve with the conditions, or disapprove the site plan application. An affirmative vote of a simple majority of the full membership of the Board shall be sufficient for the Board's *Decision*.
- 3) In reviewing the application and making its *Decision*, the Board shall consider the information presented in the application and all supplemental information provided by the applicant during the course of the review; all reports of town departments/boards and outside consultants; and any additional information available to the Board, submitted to the Board by any person, official or agency, or acquired by the Board on its own initiative or research.
- 4) *Findings* - The Board shall determine whether the proposed project will constitute a suitable development based on conformance with the purposes of this Sub-Section and the various standards and criteria as set forth in the *Site Plan Rules and Regulations*. In making its *Decision*, the Board shall consider the project's impacts and the proposed methods of mitigating such impacts.
- 5) *Approval* - A *Decision* to approve may include but is not limited to the following provisions: waivers; conditions; limitations and safeguards including required plan revisions, design modifications, access controls, off-site improvements, construction observation/inspection, bonding or other performance guarantees, as-built plan submittals, site plan compliance mechanisms, and reasonable mitigation measures which the Planning and Economic Development Board believes are in the Town's best interests.
- 6) *Disapproval* - The Board may disapprove a site plan application that fails to furnish adequate information as required by the *Site Plan Rules and Regulations*. The Board may disapprove a site plan where, although proper in form, the project fails to meet the bylaws, regulations, guidelines or standards of the Town of Medway, or where the plan depicts a use or structure so intrusive or contrary to the health, safety and welfare of the public in one regulated aspect or another, or where no form of reasonable conditions could be devised to address the problems with the plan, and the community does not possess the capacity to handle the proposed use, that disapproval by the Board would be tenable. The Board's *Decision* to disapprove a site plan shall state the reasons for such disapproval.

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e) *Plan Endorsement*

- 1) In cases where the Board has approved or conditionally approved the proposed site plan, the applicant, within thirty (30) days after the Board has filed its *Decision* with the Town Clerk, shall revise and submit final site plans reflecting all required changes, if any, to the Board to review for compliance with the Board's *Decision*, before endorsement.

- 2) The applicant shall provide an original ~~and six (6) copies~~ of the revised site plans for endorsement by the Board.
  - 3) The Board shall not endorse the site plan until it is brought into compliance with the provisions of the Board's *Decision* and until a twenty (20) day appeal period has elapsed following the filing of the Board's *Decision* with the Town Clerk and said Clerk has notified the Board that no appeal has been filed. If appeal is made, endorsement shall not occur until after the court's decision sustaining the Board's decision.
  - 4) The Board shall retain a copy of the endorsed plan and shall distribute copies to the Town Clerk, the Inspector of Buildings, the Department of Public Services, the Assessor's office, and the Town's Consulting Engineer.
- f) *Appeal* - Any person aggrieved by the Board's *Site Plan Decision*, for a *Minor Site Plan Project* may appeal such *Decision* to the court within twenty (20) days of the date the *Decision* is filed with the Town Clerk and Inspector of Buildings, as provided for in MGL, Chapter 40A, Section 17.

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10. Mini Site Plan Project – Administrative Site Plan Review

a) Review Process - The Planning and Economic Development Coordinator shall, within eight (8) days of the official site plan submission date, transmit one (1) copy of the site plan application and documents to each of the following agencies: Design Review Committee, Department of Public Services, Fire Department, Inspector of Buildings/Zoning Enforcement Officer, Police Department; and such other agencies, boards, committees, or departments which are determined may be helpful in reviewing mini site plan projects. These agencies may, at their discretion, evaluate the site plan and submit an advisory report to the PED Coordinator. A *Decision* shall not be issued until such agencies have been allowed eight (8) days to submit a written report.

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b) Development Review Coordination – The Planning and Economic Development Coordinator and the Inspector of Buildings shall review any mini site plan project application.

c) Decision

- 1) Following the review, the Planning and Economic Development Coordinator and the Inspector of Buildings shall prepare and file a *Site Plan Decision* with the Town Clerk. The *Decision* shall be filed within 30 calendar days from the official site plan submission date. The deadline by which the *Decision* must be filed may be extended upon mutual agreement when the applicant requests such an extension. Failure of the Planning and Economic Development Coordinator and the Inspector of Buildings to take final action by filing its decision within the 30 day period shall be deemed constructive approval of said application.
- 2) The Planning and Economic Development Coordinator and the Inspector of Buildings may approve, approve with the conditions, or disapprove the application for a mini-site plan project.
- 3) In reviewing the application and making its *Decision*, the Planning and Economic Development Coordinator and the Inspector of Buildings shall consider the information presented in the application and all supplemental information provided by the applicant during the course of the review; all reports of town departments/boards and outside consultants; and any additional information

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available, submitted or acquired by the Planning and Economic Development Coordinator and the Inspector of Buildings on their own initiative or research.

5) Approval – A Decision to approve may include but is not limited to the following provisions: waivers; conditions; limitations and safeguards including required plan revisions, design modifications, access controls, off-site improvements, construction observation/inspection, bonding or other performance guarantees, as-built plan submittals, site plan compliance mechanisms, and reasonable mitigation measures which the Planning and Economic Development Coordinator and the Inspector of Buildings believes are in the Town’s best interests.

6) Disapproval - The Planning and Economic Development Coordinator and the Inspector of Buildings may disapprove a mini site plan application that fails to furnish adequate information as required by the Site Plan Rules and Regulations. The Board may disapprove a site plan where, although proper in form, the project fails to meet the bylaws, regulations, guidelines or standards of the Town of Medway, or where the plan depicts a use or structure so intrusive or contrary to the health, safety and welfare of the public in one regulated aspect or another, or where no form of reasonable conditions could be devised to address the problems with the plan, and the community does not possess the capacity to handle the proposed use, that disapproval by the Board would be tenable. The Board’s Decision to disapprove a site plan shall state the reasons for such disapproval.

d) Plan Endorsement -

1) In cases where the mini site plan has been approved or conditionally approved, the applicant, within thirty (30) days after the Decision is filed with the Town Clerk, shall revise and submit final site plans reflecting all required changes, if any, to the Office for review for compliance with the Decision, before endorsement.

2) The applicant shall provide an original of the revised site plans for endorsement.

3) The office shall retain a copy of the endorsed plans and shall distribute copies to the Town Clerk, the Inspector of Buildings, the Department of Public Services, the Assessor’s office, and the Town’s Consulting Engineer.

e) Appeal – Any person aggrieved by the Site Plan Decision for a Mini Site Plan Project may appeal such Decision to the Planning and Economic Development Board within twenty (20) days of the date the Decision is filed with the Town Clerk.

11. Modification of Approved Site Plans – Any construction work that deviates from an approved site plan shall be a violation of the Zoning By-Law unless the applicant requests and secures approval of a plan modification pursuant to any one of the three methods specified below and such approval is provided in writing by the Board or the Planning and Economic Development Coordinator and the Inspector of Buildings before the changes are commenced.

a) On-Site Construction Changes for Minor and Major Site Plan Projects shall be subject to Administrative Site Plan Review. The Planning and Economic Development Board Coordinator and the Inspector of Buildings may authorize applicants to make very limited on-site changes to an approved site plan based on unforeseen conditions, situations or emergencies necessitated by field conditions. Prior to undertaking any such on-site alteration, the applicant shall submit a letter to the Inspector of Buildings and the Board.

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Planning and Economic Development Coordinator describing the proposed changes and what conditions, situations or emergencies necessitate such changes. The Board Inspector of Buildings and the Planning and Economic Development Coordinator shall review such letter at its next meeting and determine whether the proposed changes are acceptable based on the unforeseen conditions, situations or emergencies and whether other options to address the unforeseen conditions are feasible. The Board shall provide a written determination whether the change is authorized and submit it to the applicant and the Inspector of Buildings shall be provided to the applicant. Any approved on-site construction changes authorized by the Board shall be made a permanent part of the approved site plan documents and shall be shown on the final as-built plans.

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b) *Previously Approved Mini Site Plan Projects* - Proposed modifications to a previously approved mini site plan project shall be subject to Administrative Site Plan Review. The applicant shall follow the same application and review process as provided herein for a Mini Site Plan Project and as described in the Site Plan Rules and Regulations including the payment of fees. Any approved modifications shall be made a permanent part of the approved site plan documents and shall be shown on the final as-built plans.

b.c) *Previously Approved Minor Site Plan Projects*

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1) Proposed modifications to a previously approved site plan for a development that meets the criteria specified herein for a *Minor Site Plan Project* shall be reviewed and acted upon by the Board at a public meeting but without a formal public hearing. The Board shall issue its Decision and file such with the Town Clerk and the Inspector of Buildings. subject to Administrative Site Plan Review. The applicant shall follow the same application and review process as provided herein for a *Minor Mini Site Plan Project* and as described in the *Site Plan Rules and Regulations*, including the payment of fees. Any approved modifications approved by the Board shall be made a permanent part of the approved site plan documents and shall be shown on the final as-built plans.

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2) If a proposed modification to a previously approved minor site plan project is such that the change would result in the development meeting the criteria specified herein for a *Major Site Plan Project*, the modification shall be handled in accordance with the provisions for reviewing and approving a *Substantial Modification* to *Major Site Plan Project* as specified in item e d) below.

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d) *Previously Approved Major Site Plan Projects* -

1) Proposed modifications to a previously approved site plan for a development which meet the criteria specified herein for a *Major Site Plan Project* shall be acted upon by the Planning and Economic Development Board. The applicant/developer or its representative shall submit a letter to the Inspector of Buildings and the Planning and Economic Development Board Coordinator describing all proposed changes and the reasons for the modifications. The Inspector of Buildings shall provide a written determination to the applicant/developer and the Planning and Economic Development Board whether the proposed changes are *Substantial* or *Non-Substantial*. *Substantial Modifications* require a formal public hearing before the Board. *Non-Substantial Modifications* shall be reviewed and acted upon by the Planning and Economic Development Board at a public meeting but without a formal public hearing. are subject to Administrative Site Plan Review.

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*Substantial Modification* – The Inspector of Buildings shall determine whether the scope of proposed changes is *Substantial*. To make that determination, the Inspector of Buildings will consider a variety of project elements including but not limited to:

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- an increase in the height of the building
- an increase in the size of the building footprint in excess of ten percent (10%)
- the location of the building on the site
- the location and quantity of access and exits/curb cuts
- the layout and quantity of parking
- the location, dimensions and composition of buffer areas or screening devices
- the composition and quantity of landscaped areas and materials
- the location and design of site amenities
- overall appearance of the building including materials, fenestration, and distinctive architectural elements
- type or intensity of use, or
- if the proposed changes pertain to specific conditions of approval in the original *Site Plan Decision*,

The Inspector of Buildings may determine that the number of proposed *Non-Substantial Modifications* is such that the overall scope of changes constitutes a *Substantial Modification*.

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For a *Substantial Modification*, the applicant shall follow the same application and review process as provided herein for a *Major Site Plan Project* and as described in the *Site Plan Rules and Regulations*, including the payment of fees.

The Board shall issue its *Decision* and file such with the Town Clerk and the Inspector of Buildings. Any modifications approved by the Board shall be made a permanent part of the approved site plan documents and shall be shown on the final as-built plans.

(NOTE - Paragraph 10 was replaced in its entirety November 10, 2008)

12. Criteria for Site Plan Approval - A Site Plan shall be approved only upon determination of the following.

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- 1) The buildings, uses and site amenities are properly and legally located on the development site in relation to the terrain and scale of other buildings in the vicinity and adjacent neighborhoods;
- 2) The construction and renovation of buildings and installation of site amenities are thoughtfully designed to reflect or be compatible with Medway's New England architectural style as further detailed in the *Design Guidelines*;
- 3) Adjacent and neighboring properties are protected from nuisance and harmful effects caused by noise, traffic, noxious or harmful fumes, and the glare of headlights and other light sources generated by uses on the development site;
- 4) Significant historic and 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) are preserved with as minimal site disturbance as possible.
- 5) 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 are conveniently and safely provided while the visual intrusion thereof is appropriately screened from public view;

- 6) Reasonable use is made of building location, grading, landscaping and other site amenities to reduce the visible intrusion of outside 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
- 7) Pedestrian ways, access driveways, loading areas and parking facilities are properly designed and operated for public convenience, universal accessibility and public safety of customers, employees and the general public;
- 8) Convenient and safe access for fire-fighting and emergency rescue vehicles is provided to each structure and within the development site in relation to adjacent streets;
- 9) Satisfactory methods for drainage of surface water to and from the development site are provided;
- 10) Public ways and private drives are properly designed and constructed to serve the intended use and provide an adequate level of service in relation to the traffic to be generated by the development site;
- 11) 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 are identified and evaluated;
- 12) Site design modifications to lessen negative and harmful impacts are incorporated.
- 13) Reasonable conditions, limits, safeguards and mitigation measures are established.
- 14) The proposed limit of work is reasonable and protects sensitive environmental and or cultural resources located on site or an adjacent parcels.
- 15) The development will not cause substantial or irrevocable damage to the environment, which could be avoided or mitigated through an alternative plan.
- 16) Internal circulation, queuing, entrances and egress are such that traffic safety is protected, access via secondary streets servicing residential neighborhoods is minimized, and traffic backing out onto the public way is minimized.
- 17) All other requirements of the Medway Zoning Bylaw are satisfied including but not limited to lighting and parking provisions.

NOTE – The above criteria used to be included under Paragraph 2.

13. *Plan Compliance*

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- a) An applicant shall construct improvements in compliance with the approved and endorsed site plan. No occupancy permit shall be granted by the Inspector of Buildings for any project subject to site plan review and approval until:



- 1) The Board has given its written determination in the instance of a major site plan project that the project, as constructed, conforms to the approved site plan and any conditions, including construction of any required on and off-site improvements have been completed or suitable security/performance guarantee is provided to the Town of Medway, to the Board's satisfaction, to cover the costs of the remaining work and ensure site plan compliance, and
  - 2) the Inspector of Buildings verifies that all construction has been completed in accordance with the approved site plan and that all conditions of the approved site plan are met.
- b) Developers of *Major Site Plan Projects* shall prepare an as-built plan stamped by a Professional Land Surveyor registered in the Commonwealth of Massachusetts, which shows actual as-built locations and conditions and any plan modifications authorized by the Board. The requirements for as-built plans shall be included in the *Site Plan Rules and Regulations*.
  - c) Other measures to secure plan compliance, including construction inspection and performance security, may be included in the *Site Plan Rules and Regulations*.

14. Severability - The invalidity of one or more provisions or clauses of this Sub-Section C. shall not invalidate or impair the Sub-Section as a whole or any other part hereof.

*(Sub-Section C. was replaced in its entirety June 6, 2005)*

**Question???** - What standards should be used to review improvements to an existing structure or an already improved site vs. a vacant site where full compliance with all standards is required?

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Deleted: 12. *Penalties* - Any applicant, individual, property owner or business entity who violates or permits a violation of this By-Law shall be subject to a fine as follows.¶  
 ¶ . . . Maximum fine allowed: . . . \$100.00¶  
 ¶ . . . Enforcement Agent: . . . Inspector of Buildings¶  
 ¶ . . . Fine Schedule:¶  
 First Offense: . . . Warning¶  
 . . . Second Offense: . . . \$ 25.00¶  
 . . . Third Offense: . . . \$ 50.00¶  
 . . . Fourth and each subsequent offense: . \$100.00¶  
 . . . Maximum per day each day to constitute a separate violation.¶

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addressing the following issues to determine whether a proposed development complies with the Zoning By-Law and the site development standards as specified in the *Site Plan Rules and Regulations*:

- 1) The buildings, uses and site amenities are properly located on the development site in relation to the terrain and scale of other buildings in the vicinity and adjacent neighborhoods;
- 2) The construction and renovation of buildings and installation of site amenities are thoughtfully designed to reflect or be compatible with Medway's New England architectural style as further detailed in the *Design Guidelines*;
- 3) Adjacent and neighboring properties are 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;
- 4) 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*) are preserved with as minimal site disturbance as possible.
- 5) 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 are conveniently and safely provided while the visual intrusion thereof is appropriately screened from public view;
- 6) 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 are provided and adequately screened from public view;
- 7) Pedestrian ways, access driveways, loading and parking facilities are properly designed for the convenience and safety of customers, employees and the general public;
- 8) Convenient and safe access for fire-fighting and emergency rescue vehicles is provided to and within the development site in relation to adjacent streets;
- 9) Satisfactory methods for drainage of surface water to and from the development site are provided;
- 10) Public ways and private drives are properly designed and constructed to serve the intended use and provide an adequate level of service in relation to the traffic to be generated by the development site;
- 11) 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 are identified and evaluated;

- 12) Site design modifications to lessen the negative and harmful impacts are proposed and evaluated; and
- 13) Reasonable conditions, limits, safeguards and mitigation measures are established.

Desired community characteristics as expressed in the Medway Master Plan shall be protected and encouraged through the site plan review and approval process.

**BB. REGISTERED MARIJUANA DISPENSARY**

1. *Purposes*

- a) To address possible adverse public health and safety consequences and impacts on the quality of life of the Town of Medway related to the passage of Question 3 on the November 6, 2012 State Referendum.
- b) To provide for the limited establishment of a Registered Marijuana Dispensary (RMD) in an appropriate place and under strict conditions in accordance with Chapter 369 of the Acts of 2012, and 105 CMR 725.000.
- c) To minimize the adverse impacts of a RMD on adjacent properties, residential neighborhoods, schools, playgrounds and other land uses potentially incompatible with such a facility.
- d) To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of RMD's.
- e) To limit the overall number of RMD's in the community to what is essential to serve the public necessity.

2. *Applicability*

- a) The commercial cultivation [unless it meets the requirements for an agricultural exemption under Chapter 40A Section 3], production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a RMD under this Sub-Section.
- b) No RMD shall be established except in compliance with the provisions of this Sub-Section.
- c) Nothing in this Bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.
- d) If any provision of this Sub-Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Sub-Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Sub-Section are severable.

3. *Definitions*

*Marijuana* – The same substance defined as “marijuana” under 105 CMR 725.004.

*Marijuana for Medical Use* – Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients as defined in 105 CMR 725.004.

*Registered Marijuana Dispensary (RMD)*– Shall mean a not-for-profit entity, as defined by Massachusetts law only, registered by the Massachusetts Department of Public Health under 105 CMR 725.000 that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their registered personal caregiver as determined by 105 CMR 725.000.

4. ***Eligible Locations for Registered Marijuana Dispensaries*** – Registered Marijuana Dispensaries, other than agricultural operations meeting exemption standards under Chapter 40A Section 3, may be allowed by special permit from the Planning and Economic Development Board in the following zoning districts, provided the facility meets the requirements of this Sub-Section:

- a) Industrial I
- b) Industrial II
- c) Industrial III
- d) Business/Industrial
- e) Commercial I

5. ***General Requirements and Conditions for all Registered Marijuana Dispensaries***

- a) All non-exempt RMD's shall be contained within a permanent building or structure. No RMD shall be located inside a building containing residential units or inside a movable or mobile structure such as a van, trailer, cargo container or truck.
- b) Size standards:
  - 1) A standalone dispensary shall not exceed 3,500 sq. ft. for product display, client dispensary, and patient consultation area.
  - 2) A standalone cultivation facility shall not exceed 25,000 sq. ft.
  - 3) A facility to manufacture/process marijuana infused products shall not exceed 5,000 sq. ft.
  - 4) Any combination of the above three facilities shall not exceed 30,000 sq. ft.
  - 5) The RMD shall be of adequate interior space to accommodate all activities inside the building so as not to have outside patient queuing on sidewalks, in parking areas, or in other areas outside the RMD.
- c) A RMD shall not be located in a building that contains any medical doctors' offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
- d) The hours of operation of RMD's shall be set by the Special Permit Granting Authority, but in no event shall any RMD be open and/or operating between the hours of 8:00 PM and 8:00 AM.
- e) No RMD shall be located on a lot within 500 linear feet of any lot with the following:
  - 1) residence
  - 2) public school
  - 3) private educational entity that provides instruction to children and youth in an ongoing organized basis
  - 4) licensed registered childcare facility
  - 5) library

- 6) religious facility
- 7) playground, public park, or ball field
- 8) recreation center
- 9) Registered Marijuana Dispensary
- 10) halfway house or similar facility
- 11) drug or alcohol rehabilitation facility.

The distance requirement may be reduced by the SPGA if the applicant demonstrates that the RMD would otherwise be effectively prohibited from locating within the municipality and that adequate security measures will be employed to prevent the diversion of medical marijuana to minors who are not qualifying patients.

Distances shall be calculated by direct measurement in a straight line without regard for intervening structures from the nearest property line of the land used as noted above to the nearest portion of the building in which the RMD is located.

- f) No smoking, burning or consumption of any product containing marijuana or marijuana-infused products shall be permitted on the premises of a RMD.
- g) A RMD may not have a drive-thru service.
- h) Signage
  - 1) Signage for the RMD shall include the following language:  
 "Registration card issued by the MA Department of Public Health required."  
 The required text shall be a minimum of two inches in height.
  - 2) No permitted RMD shall use any advertising material or graphics that are misleading, deceptive, or false, or that is designed to appeal to minors.
  - 3) A RMD shall not display on the exterior of the facility any advertisement for medical marijuana or any brand name.
  - 4) Off-site signage or advertising in any form, including billboards shall not be allowed.
- i) The RMD shall provide the Medway Police Department, Building Commissioner and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key holders to whom the Town can provide notice if there are operating problems associated with the establishment.
- j) Prohibition Against Nuisances – No RMD shall create a nuisance to abutters or to the surrounding area, or create any hazard, including but not limited to fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.
- k) Openness of Premises
  - 1) Any and all cultivation, distribution, possession, storage, display, sales or other distribution of medical marijuana shall occur only within the restricted interior area

of the RMD.

- 2) The RMD shall be designed and constructed such that no area or portion where marijuana is processed or stored is visible from the exterior of the building.
  - 3) The front of the building which shall include the public entrance to the RMD shall be fully visible from the public street or building frontage.
  - 4) Marijuana, marijuana infused products, and products that facilitate the use of medical marijuana shall not be displayed or clearly visible to a person from the exterior of the RMD.
- l) No marijuana or marijuana based products shall be sold, grown or cultivated, interior or exterior to a residential dwelling unit except if a Harship Cultivation Registration is granted by the Mass Department of Public Health according to 105 CMF 725.035.

6. ***Special Permit Requirements***

- a) A RMD shall only be allowed by special permit from the Medway Planning and Economic Development Board in accordance with G.L. c. 40A, §9, subject to the following statements, regulations, requirements, conditions and limitations.
- b) A RMD is subject to site plan review and approval by the Planning and Economic Development Board pursuant to SECTION V. C. of the Medway Zoning Bylaw which shall be coordinated with the special permit application process.
- c) A special permit for a RMD shall be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority:
  - 1) cultivation of Marijuana for Medical Use (horticulture) except that sites protected under Chapter 40A Section 3 shall not require a special permit;
  - 2) processing and packaging of Marijuana for Medical Use, including marijuana that is in the form of smoking materials, food products, tinctures, oils, aerosols, ointments, and other marijuana infused products;
  - 3) retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;
  - 4) retail sale of products that facilitate the use of marijuana for medical purposes and of patient educational materials.
- d) A special permit application for a RMD shall include the following:
  - 1) the name and address of each owner of the facility;
  - 2) copies of all required licenses and permits issued for the RMD to the applicant by the Commonwealth of Massachusetts and any of its agencies;
  - 3) evidence of the Applicant's right to use the site of the RMD for the RMD, such as a deed, or lease;
  - 4) a statement under oath disclosing all of the Applicant's owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;

- 5) a certified list of all parties in interest entitled to receive notice of the hearing for the special permit application, taken from the most recent tax list of the town and certified by the Town Assessor;
- 6) a detailed site plan that includes the following information:
  - a. a detailed floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the facility including but not limited to sales, storage, cultivation, processing, food preparation, etc.
  - b. proposed security measures for the RMD, including lighting, fencing, gates and alarms, etc., to ensure the safety of qualifying patients, their caregivers, and facility employees and to protect the premises from theft.
- 7) a copy of the policies/procedures for the transfer, acquisition, or sale of medical marijuana between approved RMD's in compliance with 105 CMR 725.105(B)(2).
- 8) a copy of the policies/procedures for patient or personal caregiver home-delivery.

7. ***Special Permit Procedure***

- a) The special permit application and public hearing procedure for a RMD shall be that as provided in G.L. c. 40A.

8. ***Mandatory Findings*** - The Special Permit Granting Authority shall not issue a special permit for a RMD unless it finds that:

- a) the RMD is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, §11;
- b) the RMD demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
- c) the applicant has satisfied all of the conditions and requirements of this Sub-Section and SECTION III. Sub-Section J. Special Permit Criteria.

9. ***Conditions*** – In issuing its decision, the Special Permit Granting Authority shall impose conditions, limitations and safeguards that are reasonably appropriate to:

- a) improve site design, traffic flow, and public safety;
- b) protect water quality, air quality and significant environmental resources;
- c) preserve the character of the surrounding area.

These conditions, limitations and safeguards may address but are not limited to:

- d) hours of operation
- e) landscaping and site amenities

10. ***Annual Reporting*** - Each RMD permitted under this Bylaw shall as a condition of its special permit file an annual report with the Special Permit Granting Authority, the Building Inspector, the Health Agent, and the Police Chief no later than January 31<sup>st</sup> of each year, providing a copy of all current applicable state licenses for the RMD and/or its owners and demonstrate continued



compliance with the conditions of the special permit.

11. ***Duration of Special Permit***

- a) A special permit shall lapse if not exercised within two years from the grant thereof if a substantial use has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.
- b) A special permit granted under this Sub-Section shall remain exclusively with the applicant which shall be the owner or lessee of the premises described in the application. The special permit shall terminate automatically on the date the applicant alienates that title or leasehold interest in the premises.

12. ***Abandonment or Discontinuance of Use*** - A RMD shall be required to remove all material, plants, equipment and other paraphernalia:

- a) prior to surrendering its state issued licenses or permits; or
- b) within six months of ceasing operations; whichever comes first.

13. Receipt of a special use permit from the Medway Planning and Economic Development Board for a RMD does not preclude an applicant from having to secure other required local permits from other Town boards/departments including but not limited to the Board of Health, Conservation Commission or the Department of Public Services.

DRAFT

Draft 12/31/2013 – sac  
Land Clearance

To see if the Town of Medway will vote to amend the Medway Zoning Bylaw as follows:

By adding item 3. in Sub-Section B. Permits in SECTION III Administration as follows:

3. No land clearing, clear cutting of trees, or excavation shall be conducted on a property in anticipation of developing said property which requires action and/or approval of the Building Department, Planning and Economic Development Board, Conservation Commission, or Zoning Board of Appeals prior to said action or approval other than that necessary for engineering or testing for a plan to be submitted to the aforementioned permitting entities.

DEFINITIONS – 12/30/2013

To see if the Town of Medway will vote to amend the Medway Zoning Bylaw by adding the following definitions in alphabetical order to SECTION. II Definitions

***Building Height***

The vertical distance measured from the mean of the finished ground level adjoining the entire building at each exterior wall to the ridge on the highest point of the roof (Sudbury)

The vertical distance from the average finished grade of the adjacent ground to the top of the highest roof beams of a flat roof, the deck of a mansard roof, or the mean level of the highest gable or slope of a hip roof. (Walpole) *NOTE – John Emidy prefers this definition.*

***Gross Floor Area*** – The sum of the gross horizontal area of all floors of a building or structure as measured from the exterior face of exterior walls, but excluding any floor determined to be not occupiable. *NOTE – We already have this same definition in the Site Plan section of the zoning bylaw. This would move it from there to this section.*

***School*** – Any building or part thereof which is designed, constructed or used for education or instruction in any branch of knowledge or experience. Includes public and private schools; business, trade and vocational schools; and schools/studios for dance, fitness, gymnastics, yoga, martial arts, music, art, and other similar recreational or personal enrichment activities.

*Comments from John*

ZONING AMENDMENTS for 2014 ATM						
SECTION of ZBL	Synopsis	Requested/ Suggested by	Status - 12/30/13	Input from John Emidy would be valuable		
Definitions	Building Height	Susy	drafted 12/30	yes		Prefer Walpole's definition practical. Definitions for S for consideration.
Sign Regulations	Remove paragraph re: notification of sign violation by certified mail	John	done	yes		I requested a change in th its remedies are not effec required to be sent out by Enforcement section (k) is defined in Section III Adm
ZBL Enforcement	Remove enforcement language from signage and site plan sections and consolidate into one section (ADM); clarify language and increase fines/penalties	Susy and John	draft sent to BSA	yes		See comment above: enf consistency. The penalties; thereafter until complianc violations are sent orders escalating fee for faster 30 days of order.

Sign Regulations	temporary special event lawn signs - exempt these signs from needing a permit but limit their size and length of time they can stay up	John and Susy	done	yes	The issue has been an enf way or on telephone pole event and 3 day following
Home-Based-Businesses	Prohibit businesses with Class 2 licenses from operating from residential properties-	John Emidy-	Note - John decided to remedy without changing the ZBL	no longer applicable	Withdrawn. Language ma resident buying used cars
Affordable Housing	Revise text so that the "payment in lieu of providing on site affordable housing units" is a less attractive option for developers	Doug Havens	sent to BSA to draft	yes	Consultation with Town C
Medical Marijuana	Revoke present moratorium and replace with locational standards	Town Administrator	draft completed - under review by Susy, Steph, Chief Tingley and Town Counsel		Consultation with Town C
Purpose	Include text - "to conserve energy resources and promote sustainability"	Energy Committee	done		

Commercial I	change special permit authority from ZBA to PEDB	Susy and Gino	draft completed - coordinated with next item		(1) A change from ZBA to like to know rationale for dining - building commissi police safety officer. The building official per state ; further investigated. This Kennels as defined includi establishment that will be
Commercial I	substantive changes re: setbacks, mixed uses, etc.	PEDB	sac edited Gino's draft from August	yes	Section G 3 (d) allows for into the street lot line. It c may be constructed to th require the parking to be building for ingress being right of way. Also, (f). dis measure the front from th reason is that the differer out basement proposed. T or Judy Barrett take a lool changes.
Commercial V	fix poor language	PEDB	draft completed		This new language clarifie

<p>Site Plan</p>	<p>Add text to provide for an administrative site plan review process to be used for minor projects and modifications to minor site plan projects to be administered by John and Susy</p>	<p>PEDB</p>	<p>draft completed - emailed to Gino</p>	<p>yes</p>	<p>Should limit the Planning plan. Currently, minor changes take more time and the owners' time additional site plan review as landscaping. Site plan v and multi-family uses. Th than a full hearing. As pro process. Recommend Tow</p>
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Schedule					
1/21/2014 - Tuesday	Special PEDB workshop meeting on zoning articles	Senior center			
2/3/2014 - Monday	Submit DRAFT zoning articles to TA office				
2/12/2014 - Wed	File PH Notice with Town Clerk and submit legal ad to MDN for 3/4/13 public hearing				
3/4/2013 - Tuesday	PEDB public hearing on zoning articles - SPECIAL MTG				
3/11/2013 - Tuesday	PEDB develops its recommendations - REGULAR MTG				
3/17/2013 - Monday	BOS mtg - PEDB provides its recommendations to BOS				
<i>revised draft - sac - 12/30/2013</i>					



**Partial Proposed Zoning Change**

*Building Height* The vertical distance measured from the mean of the finished ground level adjoining the entire building at each exterior wall to the ridge on the highest point of the roof (Sudbury) The vertical distance from the average finished grade of the adjacent ground to the top of the highest roof beams of a flat roof, the deck of a mansard roof, or the mean level of the highest gable or slope of a hip roof.

*(Walpole) Gross Floor Area* – The sum of the gross horizontal area of all floors of a building or structure as measured from the exterior face of exterior walls, but excluding any floor determined to be not occupiable. School – Any building or part thereof which is designed, constructed or used for education or instruction in any branch of knowledge or experience. Includes public and private schools; business, trade and vocational schools; and schools/studios for dance, fitness, gymnastics, martial arts, music, art, and other similar activities.

To see if the Town of Medway will vote to amend the Medway Zoning Bylaw as follows: By deleting Sub-Section C. Bylaw Enforcement in SECTION III ADMINISTRATION and replacing it as follows: . BYLAW ENFORCEMENT 1. Violations of this bylaw are punishable by a fine not to exceed \$300 per day for each offense. 2. Violations of this bylaw may be enforced via the noncriminal disposition provisions set forth in Article XX of the Medway General Bylaws in which case the penalty for any such violation shall be \$50. 3. Each day, or portion of a day, that any violation continues shall constitute a separate offense. 4. This bylaw shall be enforced by the Inspector of Buildings /Zoning Enforcement Officer. AND by deleting in their entirety Paragraph 12 in Sub-Section C. Site Plan Review and Approval and items k, m, and n in Paragraph 9. in Sub-Section R. Sign Regulations in SECTION V. USE REGULATIONS and relabeling the subsequent paragraphs accordingly.



f) Restaurant or other establishment providing food and beverage within a building. Seasonal outdoor dining may be permitted by the Building Commissioner Inspector upon a determination made in consultation with the Police Safety Officer that the location of the seating does not represent a safety hazard. 4. Design Requirementsb) All facades of a building that are visible from a public way or internal pedestrian or vehicular way shall be designed in accordance with the Medway Design Review Guidelines and the Design Standards included in the Site Plan Rules and Regulations. Any of the following uses if authorized by special permit from the Zoning Planning and Economic Development Board of Appeals:

- 1) Restaurant or other establishment providing food and beverages and live entertainment within a building.
- 2) Motel or hotel
- 3) Commercial indoor amusement or recreation place or place of assembly
- 4) Vehicle Fuel Station
- 5) Automotive car wash
- 6) Shopping center
- 7) Drive-thru facility
- 8) Kennel (removed)
- 9) Vehicle Repair

3) Permitted and allowable uses shall comply with the following dimensional regulations:

(d) Minimum Front-yard setback: Principle buildings shall be set back a minimum of 10 feet and a maximum of 20 feet from the front lot line. Architectural features such as bay windows, porches, balconies, porticos, canopies, etc. shall not be subject to the 10-foot minimum. ) (f) Maximum Building height: 40 ft. A height greater than 40 ft. up to a maximum of 60' may be allowed by special permit from the Planning and Economic Development Board. The front facade of one-story buildings shall be at least 20 feet in height, which may be achieved with a parapet or false facade.

b. Any canopy over the gasoline pumps shall not exceed 2,200 sq. ft. in area and shall not exceed 60 feet in length unless a greater length is otherwise authorized by the Planning and Economic Development Board. The canopy design shall be either an architecturally integral part integrated with the local convenience retail store building, physically connected to the local convenience retail store building, or a separate structure located to the rear or side of the local convenience retail store's main customer entrance.. No separate canopy shall be located closer to the an intersection of Milford Street/Route 109 and Summer Street/Route 126 than any part of the convenience store building, nor closer than fifty feet

Mini-Site Plan Project- Any construction, alteration, reconstruction or renovation project, improvements to land, or a change of use, not included within the definition of a Major or Minor Site Plan Project, which involves one or more of the following: a) A building constructed prior to 1955, the date of original Zoning Bylaw approval by the Town of Medway b) construction of 1,000 – 1,999 sq. ft of gross floor area c) window/door replacement;d) installation of exterior siding or other exterior surface treatment;e) installation of awnings; f) roofing if such is a distinctive and integral architectural element of the structure's design;g) alteration of existing parking areas as defined herein;h) alteration of landscaping in buffer areas; i) construction of or conversion/alteration/enlargement of an existing building for 3 or more residential dwelling units;) The Building Commissioner shall not issue an occupancy for any project subject to site plan review and approval until the Commissioner verifies that all construction has been completed in accordance with the approved site plan and that all conditions of the approved site plan are met.