

February 4, 2014
Medway Planning and Economic Development Board
155 Village Street
Medway, MA 02053

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

ALSO PRESENT:

Susy Affleck-Childs, Planning and Economic Development Coordinator

These minutes were transcribed from a digital audio recording.

The Chairman opened the meeting at 7:00pm.

There were no Citizen Comments.

The Board was made aware that the Town has hired an interim conservation agent. She is filling in and is also working in the Town of Sherborn.

Cumberland Farms:

The Chairman opened the continuation hearing for Cumberland Farms.

The Board is in recent of the draft decision dated January 31, 2014. **(See Attached)**

The applicant has been provided with the draft decision. This decision has incorporated the comments from Town counsel. Town Counsel suggested more elaboration for the findings on page 13 and 14.

Attorney Paulousky wanted to discuss the condition at the bottom of page 26 and top of page 27. There is a condition about wanting a plan to show consolidation of the various parcels. The Attorney informed all that there is a plan from 2005 which references the noted parcels. It has been recorded with the registry of deeds. The Board also has a copy of this document. The Attorney recommends removing this condition from the decision.

The Board is in agreement with removing condition (q).

The next condition discussed was traffic management and in particular item #3 the purchase and installation of pedestrian crossing devices at the lights at intersection.

Eric Markey from Tetra Tech was present to speak about the research and recommendation for the audio device for the traffic signal fixtures. This is a vibrating push button device. A photograph was shown. The unit is self-contained and the button has a vibrating button. It has to be placed on pole. The features have pulsating tone. Braille can also be added. It has many options. The volume of tones can also be regulated. This type of device is typically approved by Mass Dot. It would need to be installed by an approved contractor. The policy indicated that an evaluation for the need can be done, but if someone is going to step up and do it, Mass DOT is ok with this. These devices meet the ADA features for compliance.

Member Tucker is concerned that if we purchase and install this device at the intersection, we need to look for consistency and familiarity of use with these devices at all the intersections. This is not an issue for Cumberland Farms, it is more something that the Town needs to discuss and address.

Member Hayes asked if the posts located in such a way that they will meet the ADA requirements.

Consultant Markey believes that they do fulfill the requirement. He did provide photographs at all the corners. The access ramps and for the most part the poles are in good location. This was recently rebuilt by Mass Dot.

Member Gay is concerned that the equipment will be purchased and it will not be able to be installed for a period of time. MASS Dot wants to make sure the right equipment is approved and bought at the right time.

Member Tucker wanted to know if there is any reason why the installation of this would not be approved.

The Consultant did not see any reason why this would not be approved.

Cumberland Farms has no problem providing funds to the purchase of this equipment. They recommended modifying the language that if not approved by Mass Dot, then this condition would go away.

The Board discussed item #1 traffic management and when the signs should be installed. It was suggested prior to within 30 days of commencement.

A recommendation was made that on page 15, there needs should be a reference to the property owner along with lot and parcel number.

Cumberland Farms would like the section relative to deliveries to remain in the decision.

Findings:

On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted unanimously to accept the findings as amended on page 8.

Waivers:

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

Decision:

On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted unanimously to accept the decision as amended.

Conditions:

On a motion made by Matt Hayes and seconded by Bob Tucker, the Board voted unanimously to accept the conditions as amended.

The Board signed the decision.

The applicant was informed that the decision will be filed on Thursday February 6, 2014.

The Chairman asked the applicant that in an effort to look at permitting, he would like them to share their thoughts in an email about the process about what went well and what did not go well.

Close Hearing

On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted unanimously to close the hearing for Cumberland Farms.

Warrant Articles for Town Meeting

The Board further discussed the proposed amendments to the site plan section of the zoning bylaw. (**See Attached**). The Board would like the site plan warrant article submitted.

Susy let the Board know that she added a section about administrative review for minor site plans. Mini project was changed to “administrative review”. This is clearly identified.

The Board wants to make sure the definitions are in the appropriate sections.

The discussion then moved to setbacks.

The Chairman of the Design Review Committee, Matt Buckley, communicated that DRC members did discuss the setbacks. There is a concern about setting a maximum . . . that you would end up with a strip mall. By limiting the setback to 10 and 20 ft. this would encourage a corridor of buildings. We need to encourage some variation and should limit how long a building can be at any given setback. There was not a firm number that they came up with. We want flexibility with what they can do on the site.

Member Tucker recommends that we give a minimum and not provide a maximum. This should be application driven.

Consultant Carlucci responded that the purpose is so you do not get the Medway Shopping Center type of development. The draft allows variation by special permit so that the Board can be part of the design process.

The original setback was 50ft.

Member Gay left the meeting at 8:00 pm.

Mr. Buckley indicated that the signage which is permitted within each district needs to be relooked at. The formula in the bylaw does make it a challenge.

The Board agreed that this needs further discussion.

Adjourn Meeting:

On a motion made by Karyl Spiller-Walsh and seconded by Matt Hayes, the Board voted unanimously to adjourn the meeting at 8:17 pm.

Respectfully Submitted,



Amy Sutherland
Recording Secretary



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 31, 2014

Deleted: 29

SPECIAL PERMIT AND SITE PLAN DECISION

Decision Date: TBD

Name/Address of Applicant: GCE New England, LLC
600 East 95th Street
Indianapolis, IN 46240

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

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

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

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

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

Zoning District: Commercial V.

- 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 18, 2013 – Site plan distributed to Town boards, committees and departments for review and comment.
- D. July 22, 2013 – Public hearing notice mailed to abutters by certified sent mail.
- E. July 29 and August 6, 2013 – Public hearing notice advertised in *Milford Daily News*.
- F. August 13, 2013 – Public hearing commenced. The public hearing was continued to August 27, September 17, October 8 & 22, and to November 12, 2013 when the hearing was closed.
- G. August 22, 2013 - Applicant meets with the Design Review Committee as referred by the Planning and Economic Development Board. Additional meetings were held with the Design Review Committee on September 22 and October 17, 2013 and January 6, 2014.

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

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

- A. March 18, 2013 - 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 Affleato 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 Recommendations 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 Hainey, 6 Little Tree Road
- Paul G. Yorkis, 7 Independence Lane
- Audrey Alexander, 55 Summer Street
- Rod Condon, 1 Kustic Road
- John Flanagan, 42 Little Tree Road
- Resident, 13 Independence Lane
- Noreen Murphy, 13 Pulp 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

Deleted: 29

- 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

Deleted: 1

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 18, 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 Millford 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 Waterville 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 Michawaum dated September 17, 2013
Email from residents Andrew and Jennifer Myers, 4-4 Interview Drive dated September 17, 2013
Email from resident Jodi Ferrari, 2 Freedom Trail dated September 17, 2013
Email from resident John Lasaga, 12 Little Tree Road dated September 17, 2013
Email from resident Tanya Green, 1 Independence Way dated September 17, 2013
Email from resident Karen Grossman, 15 Slocum Place dated September 17, 2013
Email from residents Bob and Donna Hainey, 6 Little Tree Road dated September 17, 2013
Email from resident Andrew Keefe, 57 Wainwright 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 Myers, 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 Reviews 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 adjoining 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. Side walks are provided along the entire frontage of the site and pedestrian pathways consisting of walkways and crosswalks are provided within the site and are ADA/AAB compliant. Parking is provided adjacent to walkways across the front and side of the building and a bike rack is also provided. Therefore, this criterion is met.

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

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

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

The applicant's stormwater management plan has been reviewed by the Town's Consulting Engineer as well as by the Department of Public Services. It is in compliance with Massachusetts Department of Environmental Protection Stormwater Management Guidelines. A waiver was necessary from the requirement to recharge groundwater with swales and detention basins due to the existence of ledge at high elevations throughout the site. Due to this physical inability to recharge the stormwater runoff, and due to the lack of a suitable 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 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 106) 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 sign 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 impact?

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?

Deleted: 29

Specific reasonable conditions have been included in Sections and of this Site Plan Decision. Therefore, this criterion is met.

Deleted: 1

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

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

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

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

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

- (16) Gasoline canopy

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

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

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

The applicant has physically separated the convenience store and gasoline canopy to maximize public safety by enclosing the specialized fire suppression system for the gas pumps within the canopy structure thereby keeping it completely separate from the convenience store building.

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

(c) If the gasoline canopy and convenience store are not architecturally integrated, 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 located at 37 Milford Street, the closest lot used for residential purposes. Further, the eastern edge of the gas canopy is located approximately 150 feet from the western facade of the Bain's home. Therefore the Board finds this criterion is met.

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

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

Deleted: 29

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

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

Formatted: Font: Italic, Font color: Auto

Formatted: Font: Italic, Font color: Auto

Formatted: Indent: Left: 0.5"

Formatted: Font: Italic, Font color: Auto

Formatted: Font: Italic, Font color: Auto

Formatted: Font: Italic

Deleted: ¶

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

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

Deleted: 7

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

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

Deleted: 18

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

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

Deleted: 9

Deleted: 29

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

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

Deleted: 0

During the hearing, oral and written testimony was provided by Jesse and Logan 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 access Cumberland Farms and for deliveries for the continued operation of Medway Gardens to the southwest of the Bain's property. The site plan does comply with the requirement that there be at least a 15 ft. suitably landscaped buffer zone along the property line, and in fact, also includes additional mitigation in the form of the installation of an 8 ft. high wood grain vinyl fence running the entire length of the property line as well as adding shrubs on the Bain's property to provide additional screening and protection.

As conditioned herein (Condition # ___), 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.

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

Deleted: 1

Deleted: 29

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.

- (24) The proposed use is consistent with the Medway Master Plan. Deleted: 2

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

Site Plan Rules and Regulations - In making its recommendation, the Board shall find whether the proposed development is in conformance with the standards and criteria set forth in the Site Plan Rules and Regulations, unless specifically waived. In its recommendation, the Planning Board shall determine the following:

- (25) Has internal circulation, including on-site access, 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? Deleted: 3

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.

- (26) Does the site plan show designs that minimize any departure from the character, materials, and scale of buildings in the vicinity as viewed from public ways and places? Deleted: 4

Deleted: 29

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

- (27) Is reasonable use made of building location, grading and vegetation to reduce the visible intrusion of structures, parking areas, outside storage or other outdoor service areas (e.g. waste removal) from public views or from (nearby) premises residentially used and zoned.

Deleted: 5

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 site 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 erosion control plan that requires the regular monitoring and removal of silt 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 amenities are properly located. Therefore, the Board finds this criterion is met.

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

Deleted: 6

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

- (29) Will the design and construction minimize, to the extent reasonably possible, the following environmental impacts?

Deleted: 7

- 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;

Deleted: 29

- 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.

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

Deleted: 28

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

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

Deleted: 29

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

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

Deleted: 0

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.

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

Deleted: 1

Deleted: 29

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

Other Findings

(34) Considerable citizen opposition to the proposal was evidenced by a citizens' petition, numerous emails and testimony at public hearings. Concerns were expressed about the proposed use, the anticipated traffic congestion at the intersection of Routes 109/126 resulting from the development, the scale of the project, impacts of site blasting during construction on nearby properties, and the impact of the development on both livability and property values of nearby residential neighborhoods.

Deleted: 2

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

Deleted: 3

VI. VOTE OF THE BOARD - After review of 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 CCCF 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 Spitzer-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.

Deleted: 29

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 ().

Deleted: ¶
v ¶

Formatted: Indent: Left: 0", First line: 0"

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 re-development 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 marginally 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.

Deleted: 29

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 serious 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** – Within sixty (60) days after the Board has filed its Decision with the Town Clerk, the site plan set for Cumberland Farms dated June 28, 2013 last revised October 30, 2013 shall be further revised to reflect all Conditions and

Deleted: -

Deleted: Prior to endorsement,

Deleted: 29

required revisions, including those as follows and submitted to the Planning and Economic Development Board for review and approval. (Said plan hereinafter referred to as the Plan). Upon approval, the Applicant shall provide a Mylar set of the revised site plan in its final form to the Board for signature/endorsement. All plan sheets shall be bound together in a complete set.

1. Cover Sheet
 - a. All waivers from the *Site Plan Rules and Regulations* that have been granted as specified herein shall be listed on the cover sheet of the 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.

Formatted: Not Highlight

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

Moved (insertion) [1]

Formatted: Font: (Default) Times New Roman, Not Italic

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.

Deleted: 29

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. **Blasting**

Deleted: B

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, Monday through Saturday only. No blasting to occur on Sundays or legal holidays.

Deleted:

E. **Restrictions on Construction Activities** – During construction, all local, state and federal laws shall be followed regarding noise, vibration, dust and blocking of town roads. The applicant and its contractors shall at all times use all reasonable means to minimize inconvenience to abutters and residents in the general area. The following specific restrictions on construction activity shall apply.

Deleted: C

1. **Construction Time** - Construction work at the site and in the building and the operation of construction equipment including truck/vehicular and machine start-up and movement shall commence no earlier than 7 a.m. and shall cease no later than 6 p.m., Monday – Saturday. No construction shall take place on Sundays or legal holidays without the advance approval of the Inspector of Buildings.
2. The applicant shall take all measures necessary to ensure that no excessive dust leaves the premises during construction including use of water spray to wet down dusty surfaces.
3. There shall be no tracking of construction materials onto any public way. Daily sweeping of roadways adjacent to the site shall be done to ensure that any loose gravel/dirt is removed from the roadways and does not create hazardous or deleterious conditions for vehicles, pedestrians or abutting residents. In the event construction debris is carried onto a public way, the Applicant shall be responsible for all clean-up of the roadway which shall

Deleted:

Formatted: Indent: Left: 1", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.25" + Tab after: 1.5" + Indent at: 1.5", Tab stops: 1.25", List tab + Not at 1.5"

Deleted: ¶

Deleted: 29

occur as soon as possible and in any event within twelve (12) hours of its occurrence.

Deleted: twenty-four (24)

4. The Applicant is responsible for having the contractor clean-up the construction site and the adjacent properties onto which construction debris may fall on a daily basis.

Deleted: On a daily basis, t

Deleted: (2)

Deleted:

5. All erosion and siltation control measures shall be installed by the Applicant prior to the start of construction and observed by the Planning and Economic Development Board's consulting engineer and maintained in good repair throughout the construction period.

6. *Construction Traffic/Parking* – During construction, adequate provisions shall be made on-site for the parking, storing, and stacking of construction materials and vehicles. All parking for construction vehicles and construction related traffic shall be maintained on site. No parking of construction and construction related vehicles shall take place on adjacent public or private ways or interfere with the safe movement of persons and vehicles on adjacent properties or roadways.

7. *Noise* - Construction noise shall not exceed the noise standards as specified in the *Medway Zoning Bylaw*, SECTION V. USE REGULATIONS, Sub-Section B. Area Standards, Paragraph 2.6.

- F. *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.

Deleted: D

1. Outside displays and storage of materials and products including but not limited to firewood, beverages, propane, etc.

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, vending machine or self-serve kiosk dispensing food, beverages, DVD's or any other item.

Deleted: or Redbox kiosk.

3. Shipping and packaging materials unless stored within the dumpster enclosure.
Promotional/advertising banners/signs, etc.

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

Deleted: E

- H. *Deliveries*

Deleted: F

1. Fuel and product deliveries shall occur no earlier than 9:15 am and no later than 10 pm and are also prohibited in the afternoon from 2:30 – 3:30 pm. On days when the Medway public schools are in session.

Deleted: except

2. Fuel and product delivery trucks shall access the site only from Summer Street.

Deleted: during the Medway High School dismissal time period

Deleted: 29

J. Lighting

Deleted: G

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 require adjustment of the number and/or intensity of the exterior light fixtures if it determines that spill-over onto adjacent properties is occurring.

Deleted: .
 Formatted: Indent: Left: 1"
 Deleted: .
 Deleted: .
 Deleted: .
 Deleted: ment
 Deleted: .
 Deleted: illumination is not sufficient for . security purposes or if
 Deleted: H

I. Site Maintenance

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

K. Landscape Maintenance

1. The site's landscaping shall be maintained in good condition throughout the life of the convenience store and vehicular fueling facility and to the same extent as shown on the endorsed Plan. Any shrubs, trees, bushes or other landscaping features shown on the Plan that die shall be replaced by the following Spring.
2. Within 60 days after two years after the occupancy permit is issued for the convenience store, the Town's Consulting Engineer shall conduct an initial inspection of the landscaping to determine whether and which landscape items need replacement or removal and provide a report to the Board. At any time subsequent to this initial inspection, the Town's Consulting Engineer may conduct further inspections of the landscaping to determine whether and which landscaping items need replacement or removal and provide a report to the Board. The Board may seek enforcement remedies with the Inspector of Buildings/Zoning Enforcement Officer to ensure that the comprehensive landscaping plan is maintained.

Deleted: I
 Deleted: .
 Formatted: Indent: Left: 1"
 Deleted: .
 Deleted: .
 Deleted: Plan
 Deleted: or
 Deleted: .

Deleted: which

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

Deleted: 29

Deleted: J

Deleted: gasoline

M. Outdoor Seating

1. The request for outdoor seating is granted on a trial basis for 6 months after an occupancy permit is issued for the convenience store.
2. Before the conclusion of that period, the Applicant shall contact the Medway Police Safety Officer to evaluate the performance of the outdoor seating area to determine if there are safety or other problems related to the outdoor dining area such as trash, noise, or other disturbance to the neighboring properties. Should it be determined that a safety or other problem exists due to the outdoor seating, the Board shall consider the matter at a public meeting after 48 hours notice to the Applicant and parties in interest and may direct that the outdoor seating be removed.

Deleted: K

Deleted: .

Formatted: Indent: Left: 1"

Deleted: allowance

Deleted: .

Deleted: /loitering

Deleted: .

Deleted: determined

Deleted: loitering.

N. Snow Storage and Removal

1. On-site snow storage shall not encroach upon nor prohibit the use of any parking spaces required by the zoning bylaw.
2. Accumulated snow which exceeds the capacity of the designated snow storage areas on-site shall be removed from the premises within 24 hours after the conclusion of the storm event.

Deleted: L

O. Sidewalks and Crosswalks

1. The applicant shall coordinate with the Medway Department of Public Services regarding easements as may be necessary for the sections of public sidewalk along Route 199 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.

Formatted: Font: (Default) Times New Roman, Not Bold, Not Italic

Formatted: Font: (Default) Arial, Bold, Italic

Formatted: Normal, Indent: Left: 0.5", Hanging: 0.5", No bullets or numbering

Formatted: Font: Not Bold, Not Italic

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.

Deleted: N

Q. 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

Deleted: O

and endorsement under G.L. c. 41, 81P and subsequent recording at the Norfolk County Registry of Deeds.

Deleted: 29

R. 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.

Deleted: P

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

Deleted: Cumberland Farms' p

S. 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.

Deleted: Q

T. Traffic Management

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 (unaccepted streets) between Milford Street and Summer Street is not permitted. The sign locations and content are subject to approval of the Medway Department of Public Services.
2. Traffic shall be directed not to exit the Cumberland Farms site turning left (westbound) out of the two Milford Street curb cuts.
3. The applicant has agreed to purchase and install audio devices on the pedestrian cross walk signals currently located at the intersection of Routes 109/126 consistent with the Route 109 reconstruction 75% plan, if authorized to do so by Mass DOT. Said installation shall occur within two years after an occupancy permit is issued and shall be coordinated with the Medway Department of Public Services.

Deleted: ¶
¶
¶

Deleted: R

Deleted: _

Deleted: be allowed

Formatted: List Paragraph, Indent: Left: 1", Hanging: 0.5", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1" + Indent at: 1.25"

Deleted: Board finds that though it has requested that t

Deleted: T

Deleted: he a

Deleted: shall

Deleted: to

Deleted: ;

Deleted: s

Deleted: authority and conditions for application for said installation are solely determined by MASSDOT

Deleted: Thus, the Board does not have the authority to condition an approval on the installation of the proposed audio signals. ¶

Deleted: 29

U. **Site Amenities**

Deleted: S

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).

V. **Construction Oversight**

Deleted: T

1. **Construction Account**

Inspection of infrastructure and utility construction, installation of site amenities including landscaping, the review of post construction traffic analyses by the Town’s Consulting Engineer, and the review of legal documents by Town Counsel is required. Prior to plan endorsement, the applicant shall establish a construction account with the Planning and Economic Development Board. The funds may be used at the Board’s discretion to retain professional outside consultants to perform the items listed above as well as the following other tasks - inspect the site during construction/installation, identify what site plan work remains to be completed, prepare a bond estimate, conduct other reasonable inspections until the site work is completed and determined to be satisfactory, review as-built plans, and advise the Board as it prepares to issue a *Certificate of Site Plan Completion*).

Deleted: and

- 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.

Deleted: 29

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.

Formatted: List Paragraph, Indent: Left: 1.5", Hanging: 0.5", Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.81" + Indent at: 2.06", Tab stops: 2", Left + 2.5", Left + 3", Left + 3.5", Left + 4", Left + 4.5", Left + 5", Left + 5.5", Left + 6", Left

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.

Deleted: , 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. ¶

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.

Formatted: Indent: Left: 2", No bullets or numbering

U. **Off-site Mitigation**

To establish a more complete sound and visual buffer, the applicant has agreed to and shall install a barrier fence along the property line between the site and the property of Jesse and Teigan Bain at 37 Milford Street. The fence shall have a wood grain texture in the color of natural wood and shall not be white vinyl. The applicant shall also install shrubbery on the inside of the barrier fence on the property of Jesse and Teigan Bain at 37 Milford Street. The shrubbery shall be as specified on the additional plan sheet required per Condition # ___ herein.

Deleted: property of Jesse and Teigan Bain at 37 Milford Street on the

Deleted: fence

Deleted: 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.

2. The applicant has agreed to and shall install a solar power electronic driver feedback traffic speed signal on westbound Route 109 east of Route 126. The signal shall be installed prior to Town's issuance of the occupancy permit for the convenience store. Prior to installation, the applicant shall provide the Board, Tetra Tech, Police Department and the Department of Public Services with the plans/specifications for the feedback sign for review and approval.

Deleted: for

Deleted: Cumberland Farms.

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.

Deleted: 29

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

VIII. GENERAL CONDITIONS OF APPROVAL

A. Other Town Permits – This permit does not relieve the applicant from its responsibility to obtain, pay, and comply with all other required federal, state and Town permits, including but not limited to a Street Opening/Roadway Access Permit from the Department of Public Services, a Common Victualler’s License and Underground Storage Tank Permit from the Board of Selectmen, and Food Establishment and Tobacco Sales permits from the Board of Health.

B. Plan Modification

1. This Approval is subject to all subsequent conditions that may be imposed by other Town boards, agencies or commissions. Any change to the Plan that may be required by the decisions of other boards, agencies or commissions shall be submitted to the Planning and Economic Development Board for review as plan modifications pursuant to SECTION V. C. 16 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. 16 of the *Medway Zoning Bylaw* and such approval is provided in writing to the Planning and Economic Development Board.
3. Whenever additional reviews by the Planning and Economic Development Board, its staff or consultants are necessary due to proposed site plan modifications, the Applicant shall be billed and be responsible for all supplemental costs including filing fees, plan review fees and all costs associated with another public hearing including legal notice and abutter notification. If the proposed revisions affect only specific limited aspects of the site, the Planning and Economic Development Board may reduce the scope of the required review and waive part of the filing and review fees.

C. Plan Compliance

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

Deleted: 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:¶ 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 ¶ any construction inspection fee required by the Planning and Economic Development Board; and ¶ 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. ¶

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 ¶

Moved up [1]: Fees - Prior to plan endorsement by the Planning and Economic Development Board, the Applicant shall pay:¶ 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 ¶ any construction inspection fee required by the Planning and Economic Development Board; and ¶ 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. ¶

Deleted: D

Deleted: preclude

Deleted: or its assigns

Deleted:

Deleted: E

Deleted: site p

Deleted: re

Deleted: p

Deleted: d

Deleted: F

Deleted: p

Deleted: shall

Deleted: 29

enforcement action, to ensure compliance with the foregoing Conditions of Approval.

D. Project Completion

1. Site plan approval shall lapse after one year of the grant thereof if substantial use has not commenced except for good cause. All improvement shown on the Plan shall be completed by the applicant, within two years of the date of plan endorsement. Upon receipt of a written request by the applicant filed at least thirty days prior to the date of expiration, the Planning and Economic Development Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested. If no request for extension is filed and approved, the site plan approval shall lapse and may be reestablished only after a new hearing, hearing and decision.

Deleted: 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. ¶
 Deleted: G
 Deleted: (1)
 Deleted: Approved site plans
 Deleted: or its assignees
 Deleted: (2)
 Deleted: (30)

2. Prior to issuance of a final occupancy permit, the Board shall provide a **Certificate of Site Plan Completion** to the Inspector of Buildings/Zoning Enforcement Officer. The **Certificate** serves as the Planning and Economic Development Board's confirmation that the completed work conforms to the approved Plan and any conditions and modifications thereto, including the construction of any required on and off-site improvements.

Deleted: site p

Deleted: 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 Plan, and any modifications thereto; and

Deleted: site p

b. submit six copies of an **As-Built Plan**, prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts, to the Planning and Economic Development Board for review by the Town's Consulting Engineer and the Board's approval. The **As-Built Plan** shall show actual as-built locations and conditions of all work shown on the original site plan and any modifications thereto. The final **As-Built Plan** shall also be provided to the Town in an electronic format as may be specified by the Board of Assessors.

Deleted: (6)

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.

Deleted: 29

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

Deleted: H

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

Deleted: I

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

Ideas to Amend the Site Plan Section of the Zoning Bylaw

DRAFT - December 10, 2012
Revised December 30, 2013
Revised January 14, 2014
Revised January 31, 2014

ARTICLE:

To see if the Town will vote to amend the Medway Zoning Bylaw by deleting in its entirety Sub-Section C. Site Plan Review and Approval in SECTION V. USE REGULATIONS and replacing it as follows:

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; and
 - e) Promote and encourage desired community characteristics as expressed in the Medway Master Plan.

by providing 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.

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

- a) New construction or improvements to land, or

Deleted: ¶

Formatted: Indent: Left: 1", No bullets or numbering

Deleted: Provide

Deleted: review

Deleted: 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; ¶

... [1]

Deleted: but does not

Formatted: Font: Italic

Deleted: ¶

Deleted:

Deleted: ;

- 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;

Deleted: or

Deleted: ;

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 (d) – i) also apply, and only to the extent allowed by MGL, chapter 40A, s. 3.

Deleted: 2,500

Formatted: Indent: Left: 0.5", Hanging: 0.5", Tab stops: 1", List tab

Deleted: addition

Deleted: new

Formatted: Indent: Left: 1", No bullets or numbering

Formatted: Indent: Left: 1", No bullets or numbering

Minor Site Plan Project – Any construction, alteration, reconstruction or renovation project, improvements to land, or 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:

Deleted: or

- 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; or
- b) 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) 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
- d) f) Construction, expansion, redesign or alteration of a an existing 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; or
- h) A change in curb cuts/vehicular access to the site from a public way; or
- i) Alteration of landscaping in buffer areas; or

Formatted: Indent: Left: 1", No bullets or numbering

Deleted: revision

Formatted: Indent: Left: 1", No bullets or numbering

Formatted: Indent: Left: 0.5", Hanging: 0.5", No bullets or numbering, Tab stops: Not at 1.5"

Formatted: Indent: Left: 0.5", Hanging: 0.5", No bullets or numbering, Tab stops: 0.5", Left

Deleted: ¶
¶

Deleted: addition

Deleted: new

Formatted: Indent: Left: 0", Hanging: 1", No bullets or numbering, Tab stops: 0.5", Left

Deleted: ¶

Formatted: No bullets or numbering, Tab stops: 0.5", Left

Formatted: Indent: Left: 0.5", No bullets or numbering

- j) Installation of sidewalks and other pedestrian access improvements; or
- k) Installation or changes to awnings; or
- l) Installation of roofing which is a distinctive and integral architectural element of the structure's design; or
- m) Construction of or conversion/alteration/enlargement of an existing building for use as three or more residential dwelling units or;
- e) n) 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 Enforcement Officer after consultation with the Police Department Public Safety Officer and/or the Department of Public Services.
- ñ) o) 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.

Formatted: No bullets or numbering
Deleted: A

Deleted: ¶
¶

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.

Deleted: j) . modification to a previously approved site plan or decision authorized by the Board of Selectmen or the Planning and Economic Development Board within the past ___ years. ¶
¶

4. **Exemptions**

a) In all zoning districts, site plan review and approval is required for any *Major or Minor Site Plan Project* as defined herein except that the requirement for Site Plan Review and Approval by the Planning and Economic Development Board shall not apply to:

Deleted: with the Board
Deleted: by the Board
Deleted: or

1) Single-family homes, including additions or enlargements and structures accessory thereto.

Formatted: Indent: Left: 0.5", Hanging: 1"
Deleted: ;

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.

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:

Deleted: requiring a building permit,

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; and/or
 - d. Installation of exterior siding; and/or
 - e. Installation of roofing which is not a distinctive and integral architectural element of the structure's design; and/or
 - f. Changes to infrastructure and utility provisions; and/or
 - g. Increasing and/or replacing landscaping with the exception of landscaping approved for buffer areas.
- 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 be determined by the Building Commissioner.

Deleted: .

Deleted: 1
c. Window and/or door replacement; and/or

Deleted: 1
d. Installation of exterior siding; and/or

Deleted: Limited

Deleted: Planning and Economic Development Board.

Deleted: .

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.
- b) a) 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 administrative review) to elapse from the official site plan submission date unless the applicant has requested an extension in writing.
- b) 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 cause.
- c) 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.
- d) 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

Deleted: Inspector of s

Deleted: Board

Deleted: a site plan

Deleted: such

Deleted: ninety (90)

Deleted: one (1)

Deleted: grant thereof

Deleted: two (2)

Deleted:

Deleted: the Board may grant

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 standard;
 - 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.~~

Deleted: its

Deleted: Review and approval criteria;

The *Site Plan Rules and Regulations* shall provide for differentiated application requirements and review procedures for Major and Minor Site Plan Projects and for administrative review.

Deleted: and

7. **~~Application Procedure~~ All Site Plans**

Formatted: Strikethrough

- 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 information, and the required application and review fees shall be submitted to the Board in accordance with the *Site Plan Rules and Regulations*.
- c) The official site plan submission date is the date the site plan application is filed with the Town Clerk and the Board, 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.

Deleted: Board

d) 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 Site Plan Project*. To claim *Minor 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.

Deleted: Inspector of s

Deleted: Inspector of

Deleted: s

Deleted: to the Board.

e) 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.

Deleted: Water/Sewer Board

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/committee. 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.

Deleted: shall

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.

Deleted: ninety (90)

- 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 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 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*.
- 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) 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) day period shall be deemed constructive approval of said application.

Deleted: Planning and Economic Development

Deleted: Discussion

Deleted: conducted

Deleted: sixty (60)

- 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.

c) *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.

Deleted: a
Deleted: of Site Plan Review by the Board

10. *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 the options 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.

Deleted: 0

a) *On-Site Construction Changes for Minor and Major Site Plan Projects* shall be subject to *Administrative 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, 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.

Formatted: Font: Italic
Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 1"
Formatted: Font: Italic, Highlight
Deleted: On-Site Construction Changes - The Planning and Economic Development Board
Deleted: Inspector of Buildings
Deleted: Board
Deleted: office
Deleted: office Board
Deleted: review such letter at its next meeting and
Deleted: The Board shall provide a
Deleted: and submit
Deleted: it to
Deleted: and the Inspector of Buildings
Deleted: on-site construction
Deleted: authorized by the Board

b) *Previously Approved Minor Site Plan Projects*

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 Review*. The applicant shall follow the same application and review process as provided herein for a Minor 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.

Formatted: List Paragraph, Indent: First line: 0"
Formatted: Indent: Left: 0.5", Hanging: 0.5", No bullets or numbering, Tab stops: 1", Left
Deleted: ¶
Deleted: 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.
Deleted: Minor
Deleted: approved by the Board

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.

Deleted: Board
Deleted: process the modification request

d) *Previously Approved Major Site Plan Projects* -

Formatted: Indent: Left: 1", No bullets or numbering

1) The Inspector of Buildings shall make a written determination if 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 are *Substantial or Non-Substantial*. The applicant/developer or its representative shall submit a letter to the Inspector of Buildings and the Planning and Economic Development Board 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 Review*.

Formatted: Indent: Left: 1", Hanging: 0.5", No bullets or numbering, Tab stops: 1.5", Left + Not at 0" + 0.5"

Deleted: Substant

Deleted: Planning and Economic Development

Deleted: Inspector of s

Deleted: Planning and Economic Development

Deleted: Inspector of

Deleted: s

Deleted: Planning and Economic Development

Deleted: Planning and Economic Development

Deleted: reviewed and acted upon by the Planning and Economic Development Board at a public meeting but without a formal public hearing

Deleted: Inspector of s

Deleted: Inspector of s

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:

- 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*.

Deleted: The Inspector of

Deleted: s

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.

11. Administrative Review

- a) *Applicability* - Administrative Review is to be used for Site Plan Modifications:
- 1) on-site construction changes
 - 2) review of proposed modifications to previously approved Minor Site Plans
 - 3) review of Non-Substantial modifications to previously approved Major Site Plans.

b) Review Process

- 1) The Planning and Economic Development Coordinator and the Inspector of Buildings shall review the application for site plan modification.
- 2) Depending on the scope of the proposed changes, the Planning and Economic Development Coordinator may, within eight (8) days of the site plan modification application date, transmit one (1) copy of the site plan modification application and documents to each of the following agencies: Design Review Committee, Department of Public Services, Fire Department, Police Department; and such other agencies, boards, committees, or departments as may be determined to be helpful. These agencies may, at their discretion, evaluate the proposed site plan modification 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.

Deleted: ¶

Formatted: Indent: Hanging: 1", Tab stops: 0.5", Left + Not at 1" + 1"

Formatted: Font: Italic, Highlight

c) Decision

- 1) Following the review, the Planning and Economic Development Coordinator and the Inspector of Buildings shall prepare and file a Site Plan Modification Decision with the Town Clerk. The Decision shall be filed within 30 calendar days from the date which the Site Plan Modification application was filed. 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. The deadline by which the Decision must be filed may be extended upon mutual agreement when the applicant requests such an extension.
- 2) The Planning and Economic Development Coordinator and the Inspector of Buildings may approve, approve with the conditions, or disapprove the application for site plan modification.
- 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; any reports of town departments/boards and outside consultants; and any additional information 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 Site Plan modification application that fails to furnish adequate information as required by the Site Plan Rules and Regulations. A site plan modification may be disapproved where, although proper in form, the project fails to meet the bylaws, regulations, guidelines or

Formatted: Indent: First line: 0"

Deleted: ¶
b

Deleted: Decision

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 *Decision* to disapprove a site plan shall state the reasons for such disapproval.

7. *Appeal* – Appeal of a Site Plan Modification subject to Administrative Review may be made to the Planning and Economic Development Board within twenty (20) days the decision is filed with the Town Clerk.

d) *Plan Endorsement*

- 1) In cases where the site plan modification 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 modified site plan reflecting all required changes, if any, to the Planning and Economic Development office for review for compliance with the *Decision*, before endorsement.
- 2) The applicant shall provide an original of the modified site plan for endorsement by the Inspector of Buildings and the Planning and Economic Development Coordinator.
- 3) The office shall retain a copy of the endorsed modified site plan and shall distribute copies to the Town Clerk, the Assessor's office, and other Town departments as may be appropriate depending on the nature of the plan modification.

Formatted: Indent: Hanging: 1", Tab stops: 1", Left + Not at 1.5" + 1.5"

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

- 1) The buildings, structures 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;

Formatted: Indent: Hanging: 0.5", Tab stops: 1", Left + Not at 0"

Formatted: Tab stops: Not at 0"

- 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 economic 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 development 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) Other requirements of the Medway Zoning Bylaw are satisfied including but not limited to lighting and parking provisions.

13. **Plan Compliance**

Deleted: 1

- 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.

DRAFT

Deleted: ,

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.¶

Deleted: 3

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.