

Tuesday, July 22, 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	REMOTE Participation	X	X	X

ALSO PRESENT:

Amy Sutherland, Meeting Recording Secretary
 Consultant, Gino Carlucci, PGC Associates
 Consultant, Brian Marchetti, Tetra Tech
 Consultant, Sean Reardon, Tetra Tech
 Susy Affleck-Childs, Planning and Economic Development Coordinator

Member Spiller-Walsh participated by speakerphone and a request for remote participation was presented and approved by the Chairman She is in receipt of the materials for the meeting.

Consultant Brian Marchetti from Tetra Tech informed the Board that he is leaving Tetra Tech. Sean Reardon will be taking over for the projects which Brian was working on. Steve Bouley will also continue doing the inspections. The Board wants to make sure that a Certified Engineer is present representing Tetra Tech at the meeting.

Mayland Woods Punch List

The Board is in receipt of the following items:

- A punch list from Tetra Tech dated August 28, 2013. **(See Attached)**
- Mayland Woods Definitive Subdivision Plan Cover Sheet **(See Attached)**

Mike Narducci was present for the meeting.

The discussion focused on the scope of work for Mayland Woods. Consultant Brian Marchetti communicated that Mr. Narducci met with the engineer on site. All items are completed except for the poor conditions of the pavement. There is cracking of pavement along Howe Street, Fern Path, Bramble Road and Field Road. Mr. Narducci does not feel it is his responsibility to fix the sections on Howe Street since they were already accepted by the Town. Mayland Woods has nothing to do with the damaged portion.

Consultant Marchetti responded that the roadway was defined in his subdivision and it was not paved initially. The area of pavement which is broken up is within the limits of his subdivision. The photos were noted on page 7 photo 13 & 14.

Susy does not believe that the Mayland Woods was approved to the edges of the road. The station numbers will need to be clarified.

The Redgate I subdivision has never been closed out.

Mr. Narducci said the name of the subdivision at the time was Howe Street. These were done in the 70's and Redgate was in the 80's.

The Board recommends that research be done to determine the language of how the warrant article was written regarding the acceptance of Howe Street.

Learning Tree Center Site Plan – Public Hearing Continuation:

The Board is in receipt of the following documents:

- Mullin's Rule Certification from Member Matthew Hayes for the July 8, 2014 meeting **(See Attached)**
- Mullin's Rule Certification from Member Tom Gay for the July 8, 2014 meeting **(See Attached)**
- Updated lighting Plan & Photometrics dated July 10, 2014 prepared by RAB Lighting. **(See Attached)**
- Draft Site Plan Decision dated July 15, 2014. **(See Attached)**

Finding:

On a motion made by Bob Tucker and seconded by Matthew Hayes, the Board voted by roll call vote to accept the findings for Learning Tree Center Site Plan as written.

Roll Call Vote:

Bob Tucker	aye
Tom Gay	aye
Matthew Hayes	aye
Andy Rodenhiser	aye
Karyl Spiller-Walsh	aye

Waiver Section:

The waivers were the next section reviewed. There was a recommendation to not waive #2 regarding the listing of the index of the sheets. This requirement for a cover sheet provides the locus and basic information. This is provided.

Waivers:

On a motion made by Matthew Hayes and seconded by Bob Tucker, the Board voted by roll call to waive all waivers except #2 for Learning Tree Center Site Plan as written.

Roll Call Vote:

Bob Tucker	aye
Tom Gay	aye
Matthew Hayes	aye

Andy Rodenhiser aye
Karyl Spiller-Walsh aye

Vote of Board on Decision and Conditions:

On a motion made by Bob Tucker and seconded by Matthew Hayes, the Board voted by roll call to approve the Learning Tree Center site plan decision with the approved waivers and conditions as written.

Roll Call Vote:

Bob Tucker aye
Tom Gay aye
Matthew Hayes aye
Andy Rodenhiser aye
Karyl Spiller-Walsh aye

Close Hearing:

On a motion made by Bob Tucker and seconded by Matthew Hayes, the Board voted by roll call to close the public hearing for Learning Tree Center Site Plan as written.

Roll Call Vote:

Bob Tucker aye
Tom Gay aye
Matthew Hayes aye
Andy Rodenhiser aye
Karyl Spiller-Walsh aye

The decision will be filed on July 23, 2014. The plans will then be signed at the next meeting after the 20 day appeal Period.

Consultant Engineers Report:

Middle School:

Consultant Marchetti informed the Board that the pavement will be completed by the end of the week. There will be no change to the drainage. It will be maintained with a swale and catch basin.

Cumberland Farms Construction Report

The Board is in receipt of a field observation report for Cumberland Farms performed by Steve Bouley from Tetra Tech dated July 21, 2014. (See Attached).

The installation of proposed sidewalk is completed along with the installation of the concrete mat adjacent to the pump islands. The Sewer Department inspected the installation of the sewer. The concrete retaining wall is also completed. The installation of the drainage will begin next week. The speed management sign is also in on Route 109/Milford Street

Charles River Village Construction Report:

The Board is in receipt of a field observation form for Charles River Village performed by Steve Bouley from Tetra Tech dated July 18, 2014. (See Attached).

The roof drain infiltration is being installed.

Susy reported that the Conservation Agent was on site and she is concerned that there was no Order of Conditions issued since there is runoff going out to Charles River Road and then may be going into the Charles River. Some of the stormwater design is a concern. The Conservation Agent will be contacting Consultant Bouley.

Susy recommended that DPS, Conservation and PEDB set up a meeting to discuss the roles of each department regarding stormwater.

Member Di Iulio indicated that there is a good amount of run-off which heads out to Massasoit and travels down.

Member Tucker communicates that we need to look at where the water is traveling.

Consultant Marchetti responded that the rules governing stormwater and the jurisdiction of it is very clear in the standards. DPS is usually in charge of managing water in the public right of way; and Conservation Commission is to take care of the resource zone while Planning Board addresses this at the construction/planning stage. The EPA also regulates this.

ANR Plan Nelson's Garage and Residence - 53/55 Milford ST:

The Board is in receipt of the following documents:

- ANR Application (See Attached)
- ANR Plan dated January 2014 (See Attached)
- ZBA Special Permit Decision dated June 27, 1973 (See Attached)
- PGC Associates ANR Plan Review Letter dated July 17, 2014 (See Attached)
- Attorney Felix J. Cerrato, JR. letter dated July 21, 2014 (See Attached)

Engineer Atwood from Guerriere & Halnon was present to explain the ANR Plan for Nelson's Garage and Residence at 53/55 Milford.

Consultant Carlucci communicated that the technical issues have been corrected.

ANR Endorsement:

On a motion made by Bob Tucker and seconded by Matthew Hayes, the Board voted by Roll Call Vote to endorse the ANR Plan for 53-55 Milford Street for Nelson's Garage and Family Residence as revised.

Roll Call Vote:

Bob Tucker	aye
Matt Hayes	aye

Tom Gay **aye**
Karyl Spiller-Walsh **aye**
Andy Rodenhiser **aye**

Tri-Valley Commons Site Plan:

The Board is in receipt of the following documents:

- Special Permit Petition documents dated July 7, 2014 (**See Attached**)
- Confidential email communication dated July 16 & 17 from Town Counsel Barbara Saint Andre.
- Proposed Public Hearing Schedule dated July 22, 2014. (**See Attached**)

The applicant for Tri Valley Commons has filed with the Zoning Board of Appeals for a Special Use Permit for a shopping center and vehicle repair use. The applicant will also need to file with the Planning Board for the site plan review process. The tentative date for the Zoning Board of Appeals hearing is August 20, 2014.

The Board discussed their concern with the prior special permit for the shopping center and drive-through use which was granted but not recorded. . The applicant has communicated that they have no intention of having a drive-thru. Currently, the applicant has nothing on the plans for a drive-thru. This application will need to go through site plan review. The decision by the Zoning Board could be conditioned so that no drive-thru can be constructed. There can be conditions for parking which can also be varied if applicant is willing to withdraw the drive thru.

The Zoning Board of Appeals Chairman David Cole was present indicted that it could be conditioned upon the withdrawal of the initial granting of the original special permit. This all needs to be discussed during the public hearing process.

There continues to be concern about the traffic in that area. The PEDB would like to forward information regarding any traffic studies to the Zoning Board for their hearing. The project does not currently comply with zoning, so the PEDB cannot issue a decision on this until the ZBA authorizes the uses. The proposal for the traffic light at the driveway and route 109 has been eliminated.

The ZBA could also put limits on the amount of square footage for restaurant use.

It was recommended that a joint meeting be held between the ZBA and the PEDB.

The Board was presented with a proposed public hearing schedule for Tri Valley Commons.

There could be a joint meeting with the ZBA and PEDB. The ZBA could introduce reports of minutes from other meetings.

The ZBA Chairman is hopeful that a decision could be rendered by September 3, 2014. He does not believe it would take three hearings.

The applicant has already met several times with the Design Review Committee.

Member Spiller-Walsh responded that the applicant has essentially ignored all the suggestions made to him over the last three DRC meetings. There continues to be concerns about traffic. The traffic needs to be discussed as it relates to site design. It is not clear on how this connects. There are no detention ponds only two basins underground. This needs further discussion.

The Chairman of the Design Review Committee will be contacted about the status of the Tri-Valley discussions. The applicant is prepared to do one more meeting with the Design Review Committee. The Board will need a letter from Design Review Committee with its recommendations.

It was suggested that the focus of the meeting discussion items be changed so that traffic/site access is discussed after site design. This will allow the Board to receive input from the Design Review Committee as soon as possible. The DRC has the assistance of the consultant.

Susy is in the process of getting a price estimate from GPI for consulting services to review the traffic study.

The Board discussed the scope of services GPI for Tri Valley. This will be broken into three aspect of vehicular movement.

1. Review site plan for traffic
2. Coordinate with Rt. 109 and
3. Review the traffic impact and access study.

The Board wants to make sure that there is no duplicating what has already been reviewed. Member Spiller-Walsh wanted to know if GPI can look at the previous traffic review comments from Tetra Tech (from 2013) regarding the turning.

Susy responded that GPI will not review the comments from another consultant from a prior project.

On a motion made by Bob Tucker and seconded by Matthew Hayes, the Board voted by roll call vote to retain the services of GPI for a traffic consultant for Tri Valley Commons.

Roll Call Vote:

Bob Tucker	aye
Matthew Hayes	aye
Tom Gay	aye
Karyl Spiller-Walsh	aye
Andy Rodenhiser	aye

Medway Garden Minor Site Plan Public Briefing

The Chairman opened the public briefing for Medway Garden Minor Site Plan.

On a motion made by Bob Tucker and seconded by Matthew Hayes, the Board voted by roll call vote to waive the reading of the Public Briefing notice.

Roll Call Vote:

Bob Tucker aye
Matthew Hayes aye
Tom Gay aye
Karyl Spiller-Walsh aye
Andy Rodenhiser aye

The Board entered into the record the following:

- Public Briefing notice dated July 1,2014 **(See Attached)**
- Minor Site Plan Application dated June 24,2014 **(See Attached)**
- Letter from Civil Design Group dated June 18, 2014 **(See Attached)**
- Tetra Tech review memo dated July 2, 2014 **(See Attached)**
- Review Memo from PGC dated July17, 2014 **(See Attached)**
- Letter from Civil Design Group dated July 22,2014 **(See Attached)**

Engineer Phil Henry provided an overview. He indicated that a meeting was held with Susy in June to discuss the scope of work and the Building Commissioner determined that this required a site plan review. The applicant indicated that they have received the review letters from PGC Associates and Tetra Tech. There were minor modifications made. The Engineer provided a response letter. There will be landscaping on the side lot line adjacent to Cumberland Farms. There will be one Evergreen tree every 20ft. along with vegetation in between.

The Board was made aware that the abutters for the public briefing have been notified and no comments have been received.

The applicant is seeking a waiver from having a bike rack.

The discussion moved to stormwater. The engineer indicated that when Cumberland Farms prepared its stormwater report. They took the entire site into consideration. The applicant has only added asphalt paving in front of the store and to the apron adjacent to the street. This was from discussion with the PEDB and request at the informal meeting in May. There will be no adverse impact. The runoff will travel toward in a south westerly direction which there is gravel, and it will infiltrate into the ground.

The Consultant would like the elevations added to the general notes.

There will be no outside lighting except for holidays when there are strings of holiday lights up.

There was concern about the running off of gravel on the west side to driveway to Summer Street and how steep the driveway is.

Engineer Henry indicated that a pavement stop can be put it. The slope is just under 10%.

The applicant will change to NaVDam, for the pavement.

The Board recommended that the dumpster area have a nice fence with shrubs. The Board is comfortable with the snow storage area.

The decision will be drafted up for the next meeting.

Continued Public Briefing:

On a motion made by Matthew Hayes and seconded by Bob Tucker, the Board voted by roll call vote to continue the public briefing to August 12, 2014 at 7:15 pm at which point the draft decision will be reviewed.

Roll Call Vote:

Bob Tucker	aye
Matthew Hayes	aye
Tom Gay	aye
Karyl Spiller-Walsh	aye
Andy Rodenhiser	aye

Minutes:

June 24, 2014 Executive Session:

On a motion made by Matthew Hayes and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the minutes from June 24, 2014 as written.

Roll Call Vote:

Bob Tucker	aye
Matthew Hayes	aye
Tom Gay	aye
Karyl Spiller-Walsh	aye
Andy Rodenhiser	aye

June 24, 2014 Regular:

On a motion made by Matthew Hayes and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the minutes from June 24, 2014 as written.

Roll Call Vote:

Bob Tucker	aye
Matthew Hayes	aye
Tom Gay	aye
Karyl Spiller-Walsh	aye
Andy Rodenhiser	aye

July 8, 2014

On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the minutes from July 8, 2014 as written.

Roll Call Vote:

Bob Tucker	aye
Matthew Hayes	no vote
Tom Gay	no vote
Karyl Spiller-Walsh	aye
Andy Rodenhiser	aye

Other Business:

- Judi Barrett will be at the meeting on July 29, 2014 to discuss recodification of the zoning bylaw
- The Bay Oaks plans will need endorsement
- Medway received the Green Communities Grant in the amount of \$200,000.
- Susy and Chairman Rodenhiser will be meeting with the business owners from the Medway Shopping Center to hopefully start the process for site plan application for pad sites. There are significant changes coming to the plaza. This could require some zoning changes. Member Karyl Spiller-Walsh commented that the DRC would be happy to assist with this.

Correspondence:

- There is a proposal in front of the Legislature which would amend the MA zoning act to exempt wireless cellular antennae from local zoning regulation. The Board would like to get a copy of the bill prior to writing a letter in opposition. An opposition letter from the Town of Hopkinton Board of Selectmen was supplied. (**See Attached.**)
- The ZBA has received a petition from Fox Run Farm to modify the subdivision plan by not constructing sidewalks or street lights. This petition is driven by the residents. The Zoning Board has not requested any input from the Planning Board.

Adjourn:

On a motion made by Karyl Spiller-Walsh and seconded by Matthew Hayes, the Board voted unanimously to adjourn the meeting at 9:30 pm.

Respectfully Submitted,


Amy Sutherland
Recording Secretary



TETRA TECH

MEMORANDUM

To: Susan Affleck-Childs – Medway Planning and Economic Development Board
Coordinator

Fr: Steven Bouley–Tetra Tech (TT)

Re: **Mayland Woods**
Subdivision Review (Punchlist)
Medway, MA

Dt: August 28, 2013

On August 14, 2013 at the request of the Medway Planning and Economic Development Board, Tetra Tech (TT) performed a Punch List inspection of the Mayland Woods Subdivision. The inspection was conducted based upon field observations of current conditions only, as an approved set of plans was not available. The following is a list of items and issues that should be repaired or resolved:

Roadway

1. The Fern Path street name sign at the intersection of Howe Street and Fern Path does not appear to be to the town standard. Refer to photo #1.
2. A stop sign/street name sign is not located at the intersection of Howe Street and Bramble Road. Refer to photo #2-3.
3. Cracking of the pavement is occurring along Howe Street, Fern Path, Bramble Road and Field Road. The cracks should be sealed to prevent further damage to the pavement structure. Refer to photo #4-7.
4. Settling of the pavement is occurring at many of the drainage/sewer structure locations throughout the subdivision. The settled areas should be repaired full depth to prevent further damage to the pavement structure. Refer to photo #8-11.
5. The pavement at the western edge of the subdivision on Howe Street is in poor condition with major cracking and breaking up of the pavement structure. The damaged areas should be repaired to prevent further damage to the pavement structure. Refer to photo #12-14.



TETRA TECH

Drainage

6. Catch basins do not contain hoods. It is unclear if they were required on the approved subdivision plans.
7. It appears that all catch basin pairs are in-line with one another. Discharge points from the catch basin structures could not be located.
8. Drainage manhole structures could not be located.

Water*

9. The main gate box at house #11 (west end) is the old type and is leaning. The hydrant gate is off center because of the existing berm.
10. The table and invert need to be flushed for the sewer at the intersection of Howe Street and Field Road.
11. The box of the hydrant gate at the intersection of Howe Street and Bramble Road is cracked and chipped at the lid.

*Comments received from the Town of Medway Water & Sewer Department.

If you have any questions or require additional information, please don't hesitate to contact me at (508) 903-2000.

Very truly yours,

Steven Bouley
Civil Engineer



TETRA TECH

Photo # 1



Photo # 2



TETRA TECH

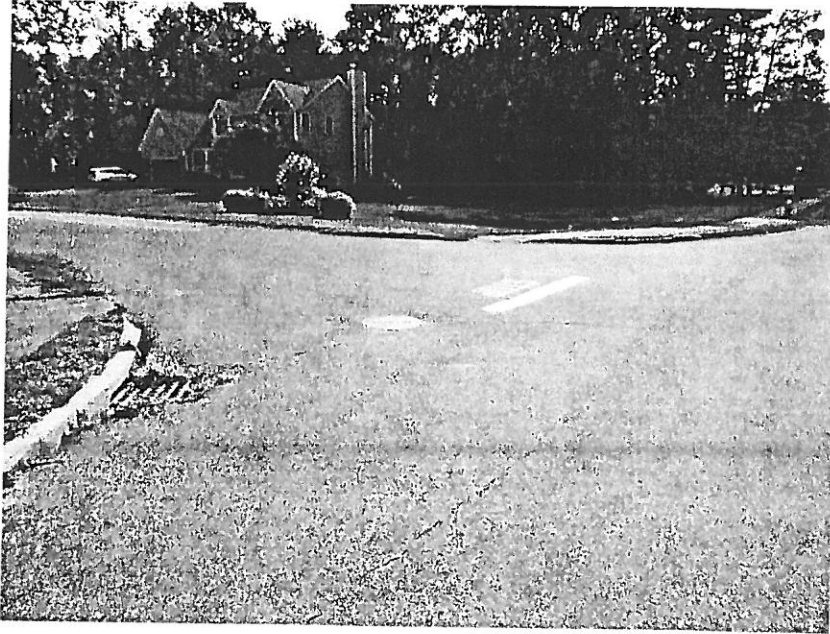


Photo # 3

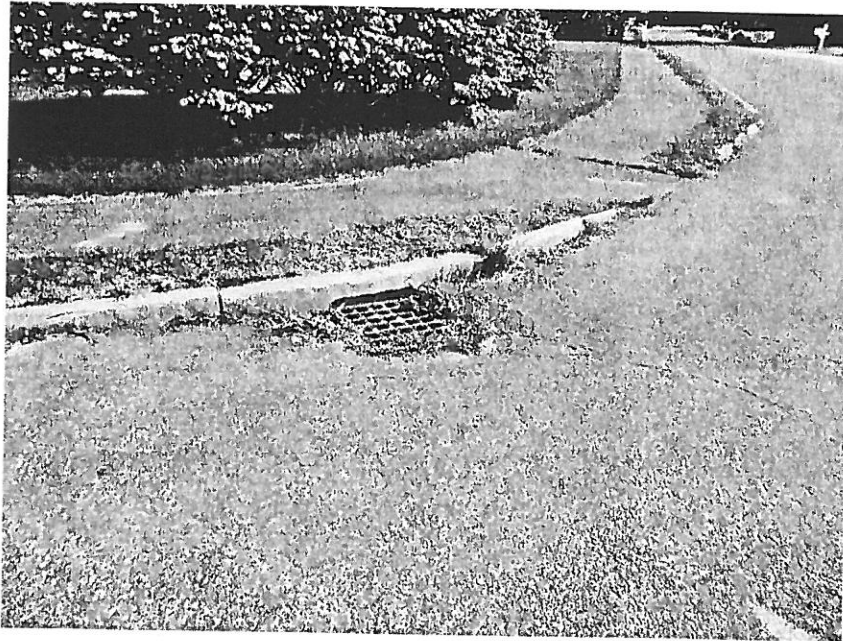
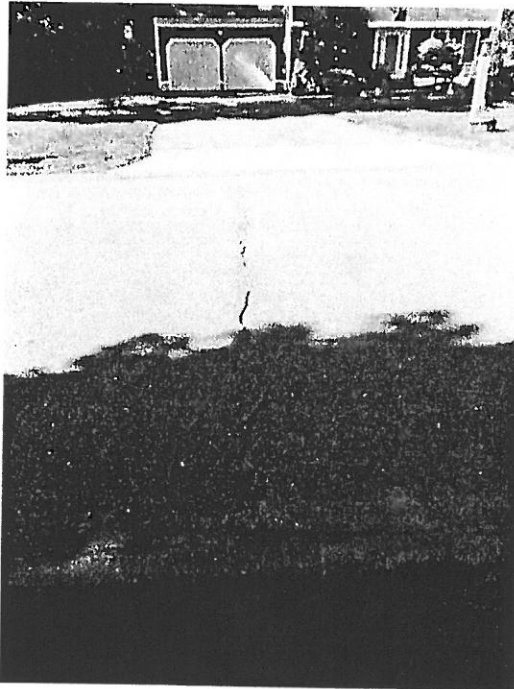


Photo # 4



Photo # 5





TETRA TECH

Photo # 6

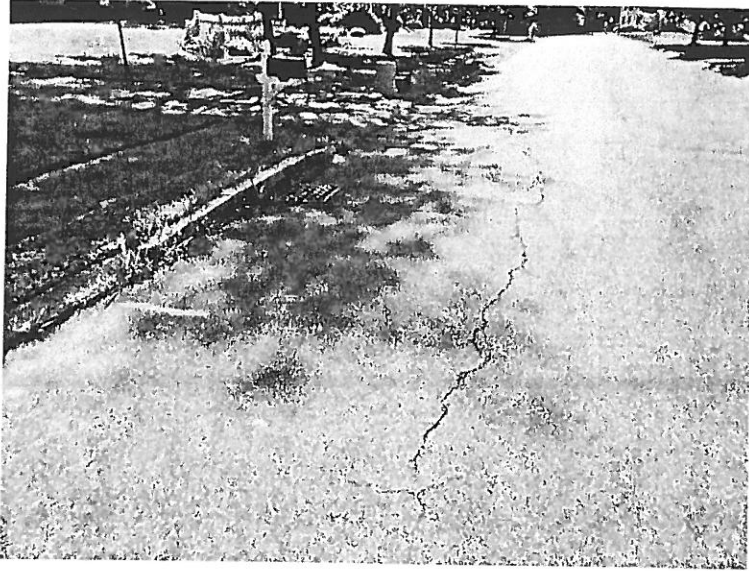


Photo # 7

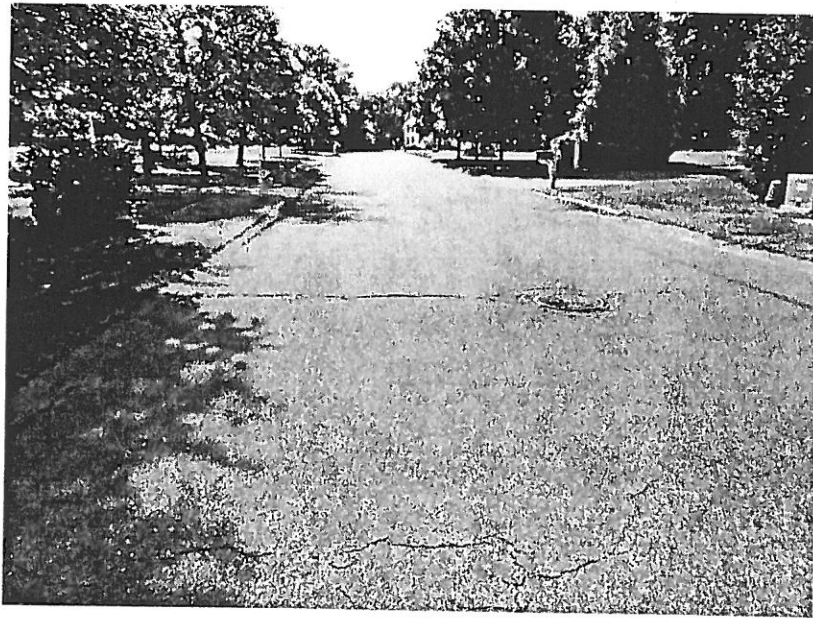


Photo # 8



TETRA TECH

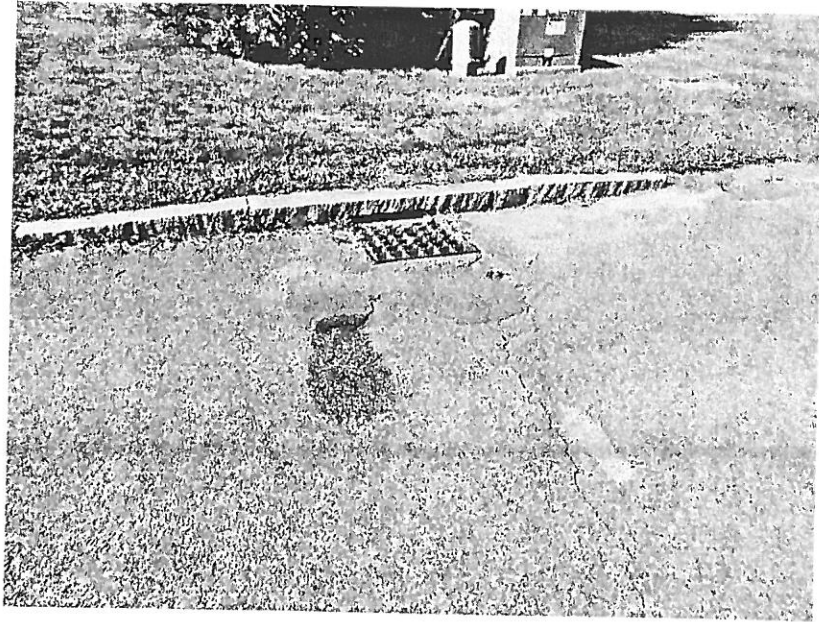


Photo # 9



Photo # 10



TETRA TECH

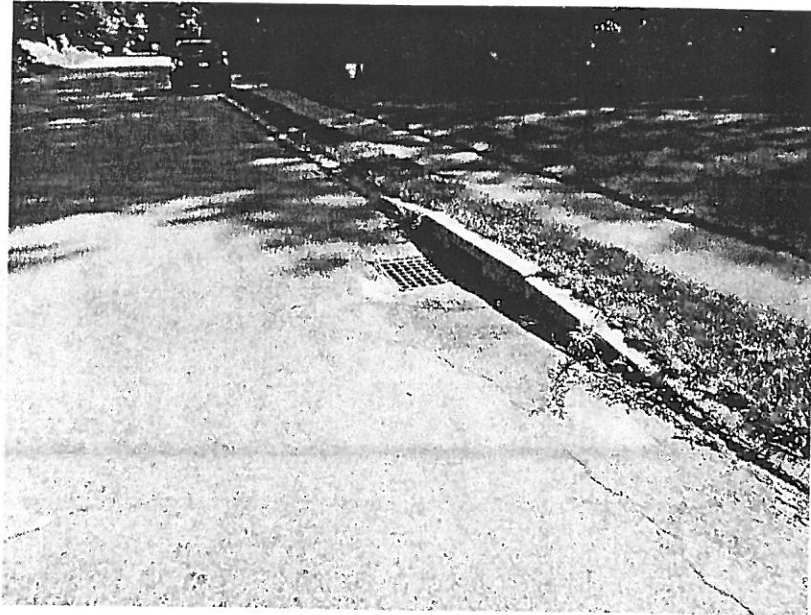


Photo # 11

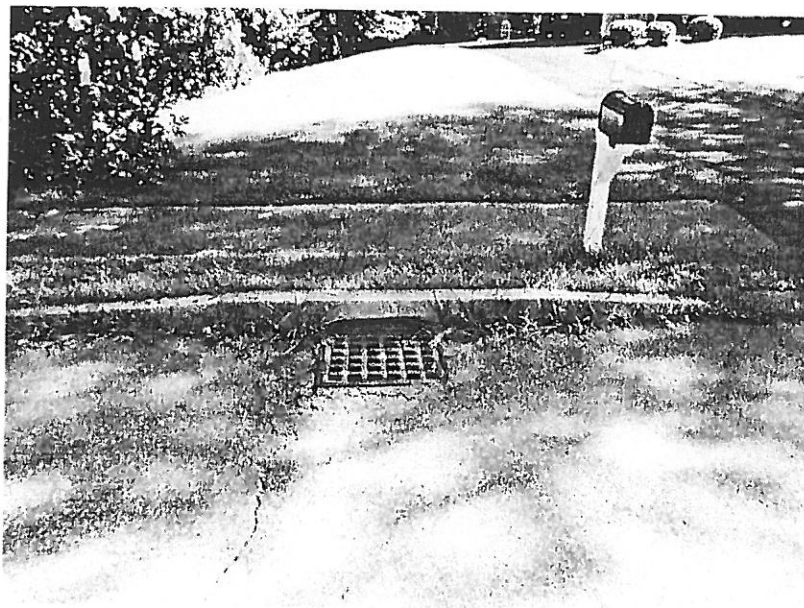


Photo # 12



TETRA TECH



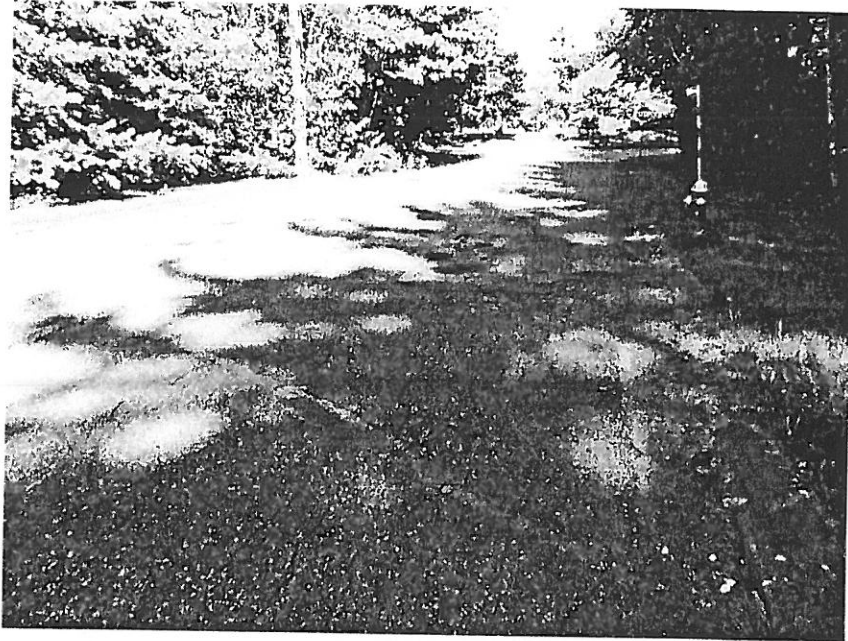
Photo # 13





TETRA TECH

Photo # 14



Town of Medway, Massachusetts

CERTIFICATION
PURSUANT TO G. L. c. 39, SECTION 23D
OF PARTICIPATION IN A SESSION OF AN
ADJUDCATORY HEARING
WHERE THE UNDERSIGNED MEMBER MISSED
A SINGLE HEARING SESSION

Note: This form can only be used for missing one single public hearing session.
This cannot be used for missing more than one hearing session.

I, THOMAS GAY (name), hereby certify under the pains and penalties of perjury as follows:

1. I am a member of PLANNING & ECONOMIC DEVELOPMENT Bd
2. I missed a public hearing session on the matter of
LEARNING TREE CENTER SITE PLAN
which was held on JULY 8, 2014
3. I have reviewed all the evidence introduced at the hearing session that I missed which included a review of (initial which one(s) applicable):
 - a. audio recording of the missed hearing session; or
 - b. _____ video recording of the missed hearing session; or
 - c. a transcript of the missed hearing session.

This certification shall become a part of the record of the proceedings in the above matter.

Signed under the pains and penalties of perjury this 21st day of JULY, 2014.

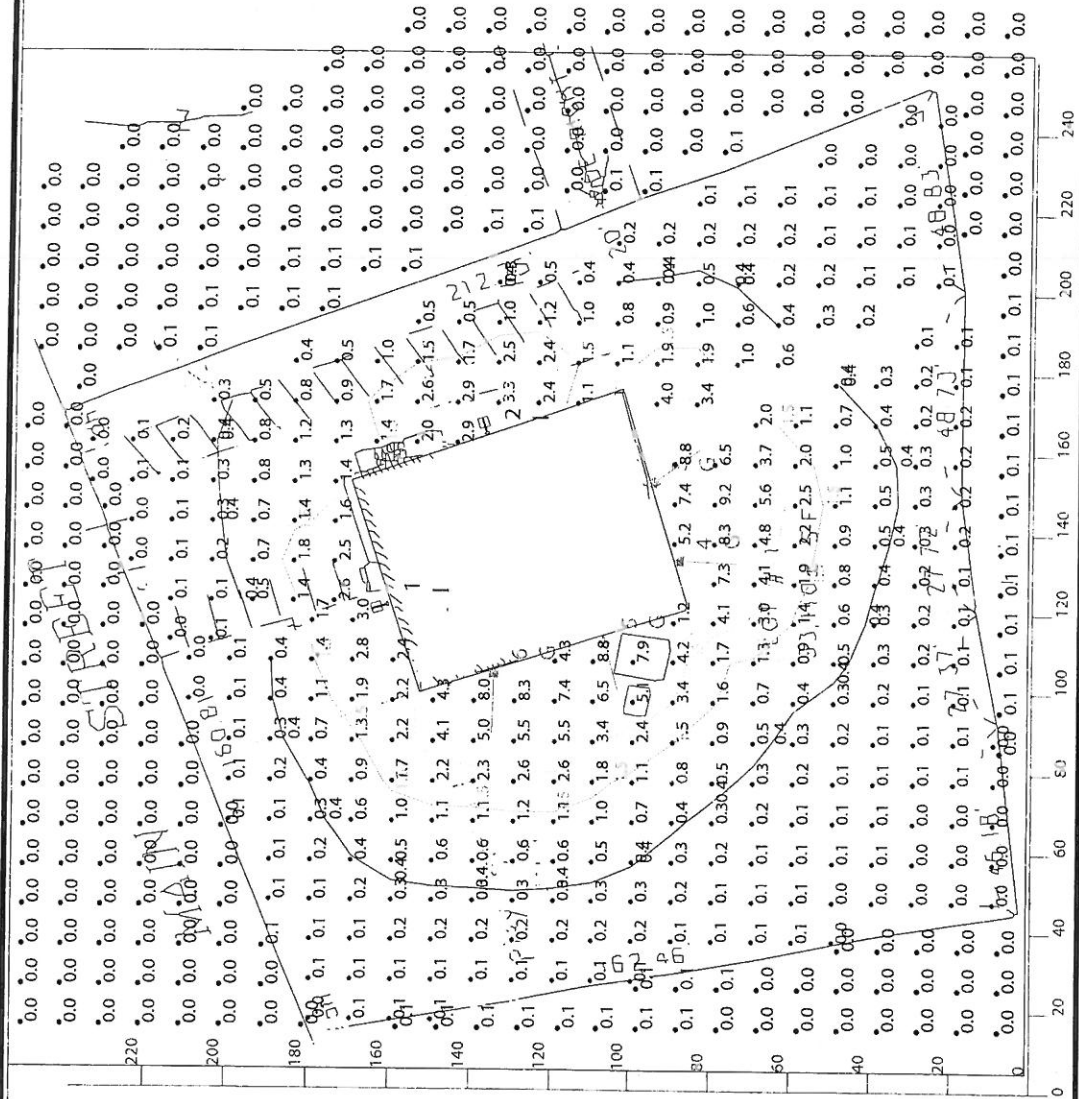

Signature of Board Member

Received as part of the record of the above matter:

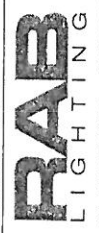
Date: _____

By: _____

Position: _____



Scale: 1 inch= 30 Ft.



Tel: (888) 722-1000 Fax: (888) 722-1232
WWW.RABWEB.COM

Prepared For:
Holbrook Associated
35 Reservoir Park Drive
Rockland, MA 02370

Job Name:
157 Main Street
Medway, MA 02053
Lighting Layout
Version A

Scale: as noted
Date: 7/10/2014
Drawn By: Nigel McGregor

Filename: I:\0655120405-1\0655120405\Applications\Engineering\Jobs\Facility\Holbrook_Assoc\Holbrook_Electrical\157 Main Street_Medway.dwg 157 Main Street Lighting Layout 0202 14C.dwg

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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 J. Hayes, P.E.
Karyl Spiller Walsh
Richard Di Iulio, Associate Member

DRAFT – July 10, 2014

SITE PLAN DECISION
Learning Tree Center – 157 Main Street
with Waivers and Conditions

Decision Date: July 22, 2014

Name/Address of Applicant: Stephen P. Hansen
24 Point Street
Natick, MA 01760

Name/Address of Property Owner: 157 Main Street Realty LLC
157 Main Street
Medway, MA 02053

Engineer: Sullivan Surveying Company
209 West Central Street
Natick MA 01760

Site Plan: 157 Main Street Site Plan, dated April 24, 2014

Location: 157 Main Street

Assessors' Reference: Map 48 Parcel 98

Zoning District: Agricultural Residential II

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

I. PROJECT DESCRIPTION - The applicant/property owner proposes to construct a two story, 52' x 40' addition (4,160 sq. ft.) to the back/south of the existing 1,352 sq. ft. child care facility. The addition will provide classroom space on the upper level and an indoor play area on the lower level. Planned site improvements include stormwater drainage, exterior lighting, landscaping, and measures to ensure protection of adjacent wetland resources. The site is .76 acres in size. The parcel has rights to use a 20 foot wide right of way on the adjacent property at 155 Main Street to Evergreen Street. The proposed use is a child care facility which is an exempt use under the Massachusetts Zoning Act so it is allowed in any zoning district in the community. However, it is subject to "reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements."

II. VOTE OF THE BOARD – After reviewing the application and information gathered during the public hearing and review process, the Medway Planning and Economic Development Board, on July 22, 2014, on a motion made by _____ and seconded by _____, voted to _____ **WAIVERS and CONDITIONS** as specified herein, the site plan application of Stephen Hansen of Natick, MA for an addition and site improvements at the Learning Tree Center at 157 Main Street. The vote was () in favor and () opposed.

Planning & Economic Development Board Member	Vote
Thomas Gay	
Matthew Hayes	
Andy Rodenhiser	
Karyl Spiller-Walsh	
Robert Tucker	

III. PROCEDURAL HISTORY

- A. May 21, 2014 - Site plan application and associated materials filed with the Medway Planning & Economic Development Board and the Medway Town Clerk
- B. June 5, 2014 – Public hearing notice posted with Town Clerk and posted at the Town of Medway web site
- C. June 9, 2014 – Site plan information distributed to Town boards, committees and departments for review and comment.
- D. May 7, 2014 - Public hearing notice mailed to abutters by certified sent mail.
- E. June 9 and 17, 2014 - Public hearing notice advertised in *Milford Daily News*.
- F. June 24, 2014 – Public hearing commenced. The public hearing was continued to July 8 and July 22, 2014 when the hearing was closed.

IV. INDEX OF SITE PLAN DOCUMENTS

- A. The site plan application for the Learning Tree Center at 157 Main Street included the following plans, studies and information that were provided to the Planning and Economic Development Board at the time the application was filed:

1. Site Plan of Land in Medway, MA, dated April 24, 2014 prepared by Sullivan Surveying Company, LLC of Natick MA.
 2. Landscape Inventory & Plan prepared by Steve Hansen
 3. Stormwater Management Report dated May 22, 2014 prepared by Creative Land and Water Engineering, LLC of Framingham, MA
 4. Lighting Layout Plan dated May 2, 2014 prepared by RAB Lighting
 5. Mortgage Inspection Plot Plan in Medway, MA dated May 28, 2013 prepared by P.N. Associates, Inc.
- B. During the course of the review, the Applicant and its representatives submitted revised plans and a variety of other materials to the Planning and Economic Development Board as follows:
1. Updated Site Plan of Land in Medway, MA, revised May 21, 2014 prepared by Sullivan Surveying Company, LLC of Natick, MA
 2. Letter dated May 27, 2014 from Medway Inspector of Buildings John Emidy confirming that the scope of proposed work at 157 Main Street constitutes a *major site plan* pursuant to the Medway Zoning Bylaw.
 3. Quitclaim Deed conveying 157 Main Street from Michael and Jeannie Buxbaum to 157 Main Street Realty LLC, dated June 17, 2013, recorded at Norfolk County Registry of Deeds June 17, 2013 in Book 31442, Page 467.
 4. *Requests for Waivers from the Site Plan Rules and Regulations*, dated June 23, 2014 prepared by applicant Stephen Hansen.
 5. Checklist for Stormwater Report/Mass DEP prepared by Desheng Wang, P.E. dated July 1, 2014
 6. Building Addition drawings dated June 13, 2014, prepared by D & B Construction
 7. Revised Landscape Inventory and Plan prepared by Stephen Hansen.
 8. Updated Lighting Layout Plan dated June 26, 2014 prepared by RAB Lighting
 9. Updated Lighting Layout Plan dated July 10, 2014 prepared by RAB Lighting
- C. During the course of the review, a variety of other materials were submitted to the Planning and Economic Development Board or entered into the record by the Board:
1. Review Letter with recommendations dated June 23, 2014 from Medway Design Review Committee
 2. Memorandum dated July 7, 2014 from Medway Police Sergeant/Safety Office Jeffrey Watson
 3. Email communication dated June 9, 2014 from Medway DPS Director Thomas Holder
 4. Email communication dated June 11, 2014 from Fire Chief Jeff Lynch.

5. Order of Conditions dated June 12, 2014 from the Medway Conservation Commission for 157 Main Street
6. Photo of non-enclosed dumpster at the back of the property.

V. TESTIMONY - In addition to the site plan application materials as submitted and provided during the course of our review, the Planning and Economic Development Board received written or verbal testimony from:

- Brian Marchetti, P.E., of Tetra Tech, Inc., the Town's Consulting Engineer – Site plan review letter dated June 18, 2014
- Gino Carlucci, PGC Associates, the Town's Consulting Planner – Site plan review letters dated June 19, 2014
- Email communication dated June 18, 2014 from Paul and Kathleen Yorkis, owners of adjacent property at 159 Main Street.
- Letter dated June 2014 from Christine Riccio, Medway
- Letter dated June 23, 2014 from Kara Gulla, Medway
- Kristy Smith, 7 Iarussi Way, Medway – Verbal testimony (June 24, 2014)
- Stephen Hansen and Lauren Nigro (owner of Learning Tree Center) – Verbal comments provided at public hearings on June 24, July 8 and July 22, 2014.

VI. FINDINGS – The Planning and Economic Development Board must determine whether the proposed project constitutes a suitable development based on conformance with the purposes of Site Plan Review as specified in the *Zoning Bylaw* and with the various site development standards and criteria set forth in the *Site Plan Rules and Regulations*. The preceding *Special and General Conditions* included in this Decision shall assure that the Planning Board's approval of this site plan is consistent with the *Site Plan Rules and Regulations*, that the comments of various Town boards and public officials have been adequately addressed, and that concerns of abutters and other town residents which were aired during the public hearing process have been carefully considered.

The Planning and Economic Development Board, at its meeting on July 22, 2014, on a motion made by _____ and seconded by _____ voted to approve the following **FINDINGS** regarding the site plan application for The Learning Tree Center at 157 Main Street. The motion was approved by a vote of () in favor and () against.

A. ZONING BYLAW – Section V. C - Site Plan Review & Approval

- (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 project is an addition to the rear of the existing building. It is properly located since it needs to be attached to the existing building and the location to the rear meets all setback requirements and does not interfere with existing site features such as driveways, parking and play areas.

- (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 design of the addition has been reviewed by the Design Review Committee (DRC) in light of the Design Guidelines, and the changes recommended by the DRC have been incorporated into the revised building and site design. Some of the changes include adding dormers, a cupola, and shutters and changing roof pitches.

- (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. No fumes (other than from automobiles) will be generated on site. The existing driveways will be used for access and egress so no new headlight glare problem is created. Also, abutting uses are commercial.

- (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 a previously-developed site, disturbance of natural features is minimal. There are wetlands to the rear of the property. These will not be disturbed, and an Order of Conditions has been obtained from the Conservation Commission ensuring that any impacts are minimal.

- (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?

As a child care facility, it is the loading and unloading of children that constitute the primary cause of concern. The facility has dedicated parking spaces for loading and unloading. Also, the parking spaces as well as the egress and ingress plan have been reviewed by the Town's Consulting Engineer and Safety Officer, and the Safety Officer has recommended that traffic enter the site from Evergreen Street and exit onto Main Street (with right turn only allowed onto Main Street) that will minimize safety concerns.

- (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 Town sewer so it is handled adequately. As conditioned (See Condition #4A), a dumpster will be located on the site and adequately screened.
- (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 Engineer and Consulting Planner. The access driveways, loading and parking facilities have been found to be adequately designed.
- (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 site provides access from two streets. The plan has been reviewed and approved by the Fire Chief and Safety Officer.
- (9) Are satisfactory methods for drainage of surface water to and from the development site provided?
The drainage plan has been reviewed by the Town's Consulting Engineer and has been found to meet applicable stormwater management standards, and is adequate for the site.
- (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 public ways and private drives serving the site are already in existence and have been used for this use for several years. While the intensity of the use will be increased, the ways and drives have been reviewed by the Town's Consulting Engineer, DPS Director, Fire Chief and Police Chief, including the impact of the redeveloped Route 109. The Safety Officer has recommended a one-way traffic pattern through the site with ingress from Evergreen Street and egress onto Main Street via right-turn only. The one-way pattern will accommodate the increased use of the site.
- (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?

Main Street (Route 109) and Evergreen Street are adequate for the proposed use. Municipal services are adequate to serve the proposed facility, which already exists but is being expanded. The quantity of on-site parking is adequate for the proposed use. Drainage is in compliance with Massachusetts Department of Environmental Protection Stormwater Management Guidelines for a redevelopment project. The site was designed to minimize impacts on environmental quality and water resources and the project has been issued an Order of Conditions from the Conservation Commission. No additional signage is proposed, but would be subject to review and compliance with the sign provisions of the Zoning Bylaw. 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 not have a detrimental impact on community economics and may have a positive impact by expanding the service it provides. The amenities and appearance of the site will improve with the addition. As an existing use, this development expanding the use will not detract from the character and values of the area.

- (12) Have site design modifications been proposed and evaluated to lessen the negative and harmful impacts?
The site plan has been reviewed by Town officials and the Town's Consulting Engineers and Consulting Planner. Modifications were suggested and the applicant has responded positively to those comments with a revised plan. The revised plan has been reviewed and the applicant has addressed each of the comments received.
- (13) Have reasonable conditions, limits, safeguards and mitigation measures been established?
Specific reasonable conditions have been included in Sections VIII and IX of this Site Plan Decision.
- (14) Is the applicant providing sidewalks along the entire frontage of the subject property along existing Town ways (Main Street)
The applicant is not providing a sidewalk along the frontage of the property. However, the sidewalks will be installed as part of the Route 109 redevelopment project so installing one now that does not connect to anything would serve no useful purpose and would be a waste of resources.

B. ZONING BYLAW – SECTION V. USE REGULATIONS. Sub-Section P. Exempt Uses. 1. Child Care Facility

- (14) The structure and lot containing the child care facility shall meet the dimensional requirements (lot area; lot width; building height; front, side and rear yard setbacks; and lot coverage) for the zoning district in which the facility is to be located unless the structure is a legally pre-existing, non-conforming building or structure.

The lot, existing structure and proposed addition meet the dimensional requirements of the Zoning Bylaw for the C-1 district.

- (15) Open Space – A fenced outdoor play area set back a minimum of fifteen (15) feet from any abutting land shall be provided.
A fenced play area suitably buffered from the abutting property already exists on the site. The abutting property owner has submitted a letter of no objection to this project.
- (16) Parking
- One off-street parking space with a minimum dimension of 8 x 18 feet shall be provided for every paid and unpaid employee, not resident on the premises so that there is no on-street parking for employees.
This requirement is met and there is no on-street parking proposed.
 - No space shall be considered available for parking which reduces the effective width of a driveway providing access to the site/building.
No spaces are considered available for parking that reduces the effective width of the driveway.
 - No parking area shall be located nearer than 15 feet of the property line of an adjoining residential lot
Parking spaces along the easterly side of the lot are less than 15 from the adjoining lot; however, the lot is not a residential lot.
 - The 15 buffer area of an off-street parking area shall be substantially screened from abutting properties through the installation of suitable landscaping and/or fencing materials.
As noted above, the off-street parking area does not abut a residential lot so this requirement is not applicable.
 - So as to not interfere with traffic patterns and flow, there shall be provided a separate on-site drop off and pick up parking area capable of accommodating at least the number of vehicles equal to 1/3 the licenses capacity of the child care facility. Such area shall be exclusive of drive aisles.
There is a separate on-site pick up and drop off area. The number of spaces provided is less than required to accommodate 1/3 of the projected license capacity of the expanded facility. However, Section P of the Zoning Bylaw provides the Board with the discretion to vary these requirements and the Board finds that the number of parking spaces provided for pick up and drop off is adequate.

- There shall be a separate entrance and exit areas for vehicles to access the parking and drop off/pick up areas.
The site plan, as conditioned (See Condition #__), provides for a one-way traffic pattern through the site with an entrance from Evergreen Street and an exit on Main Street (right turn only).

- (17) Adequate provisions for on-site retention and treatment of stormwater shall be provided.
The drainage system for the site has been reviewed and approved as adequate under the Massachusetts Stormwater Management rules for redevelopment projects.
- (18) Lighting used to illuminate a parking area shall meet the provisions of SECTION V. USE REGULATIONS, Sub-Section B. Area Standards, 3. B).
As conditioned (See Condition #__), the project meets the lighting standards of Section V. USE REGULATIONS, Sub-Section B. Area Standards, 3. B.

C. SITE PLAN RULES AND REGULATIONS – The Planning and Economic Development Board shall determine whether the proposed development is in conformance with the standards and criteria set forth in the *Rules and Regulations*, unless specifically waived. In making its decision, the Planning and Economic Development Board shall determine the following:

- (19) Has internal circulation, queuing and egress been designed such that traffic safety is protected, access via minor streets servicing residential areas is minimized, and traffic backing up into the public way is minimized?
As conditioned, internal circulation will be in the form of a one-way pattern with ingress from Evergreen Street and egress to Main Street as recommended by the Safety Officer. No backing onto a public way is required.
- (20) Does the site plan show designs that minimize any departure from the character, materials, and scale of buildings in the vicinity as viewed from public ways and places?
The design of the addition has been reviewed and approved by the Design Review Committee and is not a departure from the character, materials and scale of buildings in the vicinity.
- (21) 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.
The addition is located directly behind the existing building so the visual intrusion is minimal. The outdoor facilities are mostly already existing so the visual intrusion is minimal.

- (22) Is adequate access to each structure for fire and service equipment provided?
The Fire Chief has reviewed and approved the site design.
- (23) Will the design and construction minimize, to the extent reasonably possible, the following environmental impacts?
- a) the volume of cut and fill;
 - b) the number of trees to be removed with particular care taken with mature trees and root systems;
 - c) the visual prominence of man-made elements not necessary for safety;
 - d) the removal of existing stone walls;
 - e) the visibility of building sites from existing streets;
 - f) the impacts on waterways and environmental resource areas;
 - g) soil pollution and erosion;
 - h) noise.
- As a redevelopment project, the environmental impacts of the project are minimal. The most significant potential impacts have been addressed in the form of an Order of Conditions from the Conservation Commission. The stormwater management system has also been reviewed and approved by the Town's Consulting Engineer. Vary little visual impact will result since the addition is to the rear of the existing building and the outdoor elements already exist.*
- (24) Is pedestrian and vehicular safety both on the site and egressing from it maximized?
The plan has been reviewed by Town's Public Safety Officer as well as the Town's Consulting Engineer and Consulting Planner. The access driveways, loading and parking facilities have been found to be adequately designed, and will use a one-way pattern entering from Evergreen Street and exiting on Main Street. As conditioned, directional signage shall be added to the plan further enhancing safety.
- (25) Does the design and will the construction incorporate, to the maximum extent possible, the visual prominence of natural and historic features of the site?
The design incorporates the existing natural and man-made visual features by locating the addition to the rear of the existing building and retaining most of the outdoor features as they are.
- (26) Does the lighting of structures and parking area avoid glare on adjoining properties and minimize light pollution within the town?
As conditioned (See Condition #___), the project meets the lighting standards of Section V. USE REGULATIONS, Sub-Section B. Area Standards, 3. B., and there will be no glare on adjoining properties.

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

The Order of Conditions issued by the Conservation Commission ensures that the environmental resources of the site are protected. No cultural resources are impacted.

D. OTHER FINDINGS

- (28) *Due to the significant increase in capacity, the applicant agrees to manage the drop-off and pickup times for the children in order to minimize traffic backups that may impact Route 109. The one-way pattern will help this issue as well by ensuring that any queuing does not occur on Route 109.*
- (29) *Estimated new maximum capacity increase from 36 children to 80.*
- (30) *The existing building at 157 Main Street was constructed in 1983 as a child care facility and has been used exclusively for this purpose since then.*
- (31) *The Board finds that it is not practical to require the applicant to install sidewalks along the Main Street frontage because the sidewalks will be installed as part of the Route 109 redevelopment project so installing one now that does not connect to anything would serve no useful purpose and would be a waste of resources.*

VII. WAIVERS – At its July 22, 2014 meeting, the Planning and Economic Development Board, on a motion made by _____ and seconded by _____, voted to approve granting waivers from the following provisions of the *Rules and Regulations for the Submission and Approval of Site Plans, as amended December 3, 2002*. The Planning and Economic Development Board’s action and reasons for granting each waiver are listed below. All waivers are subject to the *Special and General Conditions of Approval*, which follow this section. The motion was approved by a vote of () in favor and () against.

SUBMITTAL REQUIREMENTS/PLAN CONTENTS

1. *204-3 A. 7) – A written Development Impact Statement shall be prepared. It shall describe the potential and anticipated impacts of the proposed development, identify all positive and adverse impacts, and propose an acceptable program to prevent or mitigate adverse impacts. The Development Impact Statement shall address traffic, environmental, community and parking impacts.*

The project is an expansion of an existing use on a site that is already developed. Increasing the building by 2080 square feet will have a minimal impact on the community so this requirement is waived.

2. *204-5 A. Site Plan Contents Cover Sheet – The Cover Sheet shall include the project name, name and address of owner, name and address of applicant, name and address of engineering and other professional firms responsible for the plan, current date, list of revision dates, project street address, project Assessor’s Map and parcel number, zoning district classification, list of requested waivers from the Site Plan Rules and Regulations, Planning Board signature block and a list of drawings/contents*
The information provided by the applicant includes most or all of the required information so it is not unreasonable to prepare a specific cover sheet with the required information. Therefore this waiver is hereby denied.
3. *204-5 B. Site Plan Contents Context Sheet – Items 1 – 6.*
The applicant provided sufficient information about the context of the development. Therefore, due to the scale of the project, the requirement for a Context Sheet is waived.
4. *204-5 C. Site Plan Contents Existing Condition Sheet(s) – Items 1 - 5*
The applicant provided sufficient information about existing conditions on the site such that the Board was able to fully understand what existing on site and how that was going to change. Therefore, due to the scale of the project, the requirement for an Existing Conditions Sheet is waived.
6. *204-5 D. 7) – Site Plan Contents Landscape Architectural Plan - A Landscape Architectural Plan shall be prepared by a Landscape Architect licensed in the Commonwealth of Massachusetts. This Plan shall be prepared as an overlay of the existing conditions sheets and shall incorporate, whenever possible, the significant features of the existing site and topography, particularly existing trees with a diameter of one (1) foot or greater at four (4) feet above grade. The Landscape Architectural Plan shall indicate the areas slated for excavation; any woodlands, trees or other existing features or structures to be retained; all new plantings by common and Latin name including their proposed locations and sizes at the time of installation. Plan graphics for tree canopies shall reflect, as closely as possible, the actual canopy dimension of proposed tree plantings at the time of installation with a “lesser” intensity graphic used to represent potential canopy at maturity.*
Very few trees are being disturbed by the addition which will be constructed in the current back yard of the existing building. Due to the scale of the project, a Landscape Architectural Plan prepared by a Landscape Architect would be of little use. The applicant did provide information about the existing and proposed vegetation on the site. Therefore, this requirement is waived.

7. 204-5 D. 12) – *Site Plan Contents Signage Plan* -The plan shall include the design, location, materials, dimensions and lighting for a) the proposed development and all building identification both freestanding and attached; and b) standards for tenant signs.
The applicant has stated that there would be no change in signage for this project. Therefore, there is no need for a signage plan and this requirement is waived.
8. 204-5 D. 14) – *Site Plan Contents Horizontal Sight Distances* – Horizontal Sight distances shall be shown on the public ways at all entrances in both directions.
The driveway that exits onto Route 109 has existed for many years and is not being changed. The sight distance at the driveway is clearly adequate based on a site visit so there is no need to document this with a traffic engineer. This requirement is waived.
9. 204-5 D. 16) *Site Plan Contents – Fire Equipment* – Locations of proposed fire hydrants, fire alarm boxes, fire lanes and access for equipment shall be provided to the satisfaction of the Fire Department.
No additional fire equipment is proposed and the Fire Department has approved the project so this requirement is waived.
10. 205-6 A. *Parking* – Parking lots should be located to the side or rear of the lot. Placement of parking areas should not be near a high volume of traffic where it can obstruct traffic flow. Parking should be hidden to the maximum extent possible and located near the side and rear of the site. Parking should not create a hazard to abutters, vehicles or pedestrians. Where or when parking does exist near the street, plantings or appropriate fences, i.e. picket or post and rail, should be incorporated into the design to screen parking areas and reduce their visual impact.
Some of the parking for this site is to the side but some is also in front of the site. However, this is an existing condition that is not being changed by this project. A stone wall across the front of site provides some screening of the parking. Due to the existing condition and the scale of the project, this requirement is waived.

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

- A. **Plan Revisions** - Prior to endorsement, the site plan set for The Learning Tree Center shall be further revised as follows and submitted to the Planning and Economic Development Board for review and approval.
 1. A Cover Sheet shall be provided to include all items specified in the Site Plan Rules and Regulations except that the signature box shall be for the Planning and Economic Development Board.

2. A detail showing an enclosure for the dumpster located behind the building shall be included in the final plan. The enclosure design shall be to the satisfaction of the Planning and Economic Development Board
3. The landscaping plan shall be further revised to specify the landscape plantings to be installed in the area behind the new addition and in the area located between the Main Street fencing and the stone wall. The landscape plantings shall provide 4 season, evergreen screening and shall be non-invasive species.
4. The site plan shall be revised to show the following:
 - a. A location for the dumpster shall be shown.
 - b. Location of on-site traffic directional signs
 - c.
5. The cover sheet, site plan, landscaping plan, lighting plan, and building elevation plans shall be combined into one plan set with all sheets being the same size.
- 6.
- 7.

B. Parking

1. Customers and employees shall not park in the right-of-way access driveway from Evergreen Street, Contingent upon approval of the owners of 155 Main Street, No Parking signs and one way inbound traffic signs for the Learning Tree Center shall be installed in the right of way area on their property.
2. Handicap parking spaces shall be specifically designated and shall be in compliance with current ADA and Mass Architectural Access Board requirements.
3. The parking area closest to the main entry for Learning Tree Center Drop off parking area shall be clearly designated.

C. Traffic Access/Egress

1. The right of way off of Evergreen Street across the back of 155 Main Street shall be used for vehicular access to The Learning Tree Center.
2. Egress from the site shall be by right turn (eastbound) only onto Main Street

- D. Signage* – Any changes in the free-standing signage for The Learning Tree Center and any proposal for additional signage shall be reviewed and approved by the Medway Design Review Committee before the Town issues any sign permit.

VIII. GENERAL CONDITIONS OF APPROVAL

- A. **Plan Endorsement** - Within thirty (30) days after the Planning and Economic Development Board has filed its *Decision* with the Town Clerk, the Applicant shall submit a final site plan modification reflecting all Conditions and required revisions, if any, to the Planning and Economic Development Board to review for compliance with the Board's *Decision*. The Applicant shall provide one 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 site plan endorsement by the Planning and Economic Development Board, the Applicant shall pay:
1. the balance of any outstanding plan review fees owed to the Town for review of the site plan by the Town's engineering, planning or other consultants; and
 2. any construction inspection fee required by the Planning and Economic Development Board; and
 3. any other outstanding expenses or obligations due the Town of Medway pertaining to this property, including real estate and personal property taxes and business licenses.

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

- C. **During Construction**
1. The applicant shall take all measures necessary to ensure that no excessive dust leaves the premises during construction.
 2. There shall be no tracking of construction materials onto any public way. Daily sweeping of roadways adjacent to the site shall be done to ensure that loose gravel/dirt does not create hazardous or deleterious conditions for vehicles, pedestrians or abutting residents. In the event construction debris is carried onto a public way, the Applicant shall be responsible for all clean-up of the roadway within twenty-four (24) hours of its occurrence.
 3. All erosion and siltation control measures shall be installed and observed by the Planning and Economic Development Board's consulting engineer or the Conservation Agent prior to the start of construction, and maintained in good repair throughout the construction period.
 4. **Construction Time** - Construction work at the site and in the building shall commence no earlier than 7 a.m. and shall cease no later than 7 p.m. No construction shall take place on Sundays or legal holidays.
 5. **Construction Traffic/Parking** - 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.

D. **Other Town Permits** - The contractor for the applicant or assigns shall obtain, pay and comply with all other required Town permits.

E. **Construction Inspection**

1. Planning and Economic Development Board members, its staff and consultants, and other designated Town agents and staff shall have the right to inspect the site at any time, for compliance with the endorsed site plan and the provisions of this Decision.
2. The applicant shall have a professional engineer licensed in the Commonwealth of Massachusetts conduct progress inspections of the approved plan. 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.
3. In the event the applicant seeks an occupancy permit from the Town of Medway before all site plan work is satisfactorily completed (see VIII. General Conditions of Approval G. 2 herein), the Applicant shall establish a construction inspection account with the Medway Planning and Economic Development Board. The Applicant shall pay a construction inspection fee to the Town of Medway in an amount to be determined by the Planning and Economic Development Board. The funds may be used at the Planning and Economic Development Board's discretion to retain professional outside consultants to:
 - inspect the site
 - identify what site plan work remains to be completed
 - prepare a bond estimate
 - conduct other reasonable inspections until the site work is completed and determined to be satisfactory
 - review as-built plans, and advise the Board as it prepares to issue a *Certificate of Site Plan Completion* (see VIII. General Condition G. 3 herein).

Depending on the scope of professional outside consultant assistance that the Planning and Economic Development Board may need, the Applicant shall be required to provide supplemental payments to the project's construction inspection account, upon invoice. Any funds remaining in the applicant's construction inspection account after the *Certificate of Site Plan Completion* is issued shall be returned to the applicant.

E. **Plan Modification**

1. This Site Plan Approval is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies or commissions. Any changes to the site plan that may be required by the decisions of other Town boards, agencies or commissions shall be submitted to the Planning and Economic Development Board for review as site plan modifications pursuant to SECTION V. C. 10 of the *Medway Zoning Bylaw*.

2. Any work that deviates from an approved site plan shall be a violation of the *Medway Zoning Bylaw*, unless the Applicant requests approval of a plan modification pursuant to SECTION V. C. 10 of the *Medway Zoning Bylaw* and such approval is provided in writing by the Planning and Economic Development Board.
3. Whenever additional reviews by the Planning and Economic Development Board, its staff or consultants are necessary due to proposed site plan modifications, the Applicant shall be billed and be responsible for all supplemental costs including filing fees, plan review fees and all costs associated with another public hearing including legal notice and abutter notification. If the proposed revisions affect only specific limited aspects of the site, the Planning and Economic Development Board may reduce the scope of the required review and waive part of the filing and review fees.

F. ***Plan Compliance***

1. The Applicant shall construct all improvements in compliance with the approved and endorsed site plan and any modifications thereto.
2. The Planning and Economic Development Board or its agent(s) shall use all legal options available to it, including referring any violation to the Building Commissioner/Zoning Enforcement Officer for appropriate enforcement action, to ensure compliance with the foregoing Conditions of Approval.
3. The Conditions of Approval are enforceable under Section. V. C. 12 of the *Medway Zoning Bylaw* (non-criminal disposition) and violations or non-compliance are subject to the appropriate fine.

G. ***Project Completion/Performance Security***

1. Site plan approval shall lapse after one (1) year of the grant thereof if substantial use has not commenced except for good cause. Approved site plans shall be completed by the applicant or its assignees within two (2) years of the date of plan endorsement. Upon receipt of a written request by the applicant filed at least thirty (30) days prior to the date of expiration, the Planning and Economic Development Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested. If no request for extension is filed and approved, the site plan approval shall lapse and may be reestablished only after a new filing, hearing and decision.
2. No occupancy permit shall be granted until the Planning and Economic Development Board has provided a written communication to the Inspector of Buildings to verify 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 satisfactorily completed OR that suitable security/performance guarantee has been provided to the Town of Medway, to the Planning and Economic Development Board's satisfaction, to cover the costs of all remaining work.

3. Prior to issuance of a final occupancy permit, the Applicant shall secure a ***Certificate of Site Plan Completion*** from the Planning and Economic Development Board and provide the ***Certificate*** to the Inspector of Buildings. The ***Certificate*** serves as the Planning and Economic Development Board's confirmation that the completed work conforms to the approved site plan and any conditions and modifications thereto, including the construction of any required on and off-site improvements. The ***Certificate*** also serves to release any security/performance guarantee that has been provided to the Town of Medway. To secure a ***Certificate of Site Plan Completion***, the applicant shall:
 - a) provide the Planning and Economic Development Board with written certification from a Professional Engineer registered in the Commonwealth of Massachusetts that all building and site work has been completed in strict compliance with the approved and endorsed site plan, and any modifications thereto; and
 - b) submit an electronic version 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 its review and approval. The As-Built Plan shall show actual as-built locations and conditions of all work shown on the original site plan and any modifications thereto. The final As-Built Plan shall also be provided to the Town in an electronic format as may be specified by the Board of Assessors.
- H. ***Construction Standards*** - All construction shall be completed in full compliance with all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.
- I. ***Conflicts*** – If there is a conflict between the site plan and the Decision's Conditions of Approval, the Decision shall rule. If there is a conflict between this Decision and/or site plan and the Medway Zoning Bylaw, the Bylaw shall apply.

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

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

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Medway Planning and Economic Development Board
SITE PLAN MODIFICATION DECISION
Learning Tree Center Site Plan – 157 Main Street

Approved by the Medway Planning & Economic Development Board:

AYE:

NAY:

ATTEST:

Susan E. Affleck-Childs
Planning & Economic Development Coordinator

Date

DRAFT

Town of Medway, Massachusetts

CERTIFICATION
PURSUANT TO G. L. c. 39, SECTION 23D
OF PARTICIPATION IN A SESSION OF AN
ADJUDCATORY HEARING
WHERE THE UNDERSIGNED MEMBER MISSED
A SINGLE HEARING SESSION

Note: This form can only be used for missing one single public hearing session.
This cannot be used for missing more than one hearing session.

I, MATTHEW HAYES (name), hereby certify under the pains and penalties of perjury as follows:

1. I am a member of PLANNING AND ECONOMIC DEVELOPMENT BOARD.
2. I missed a public hearing session on the matter of

THE LEARNING TREE CENTER SITE PLAN FOR 157 MAIN STREET

which was held on JULY 8, 2014.

3. I have reviewed all the evidence introduced at the hearing session that I missed which included a review of (initial which one(s) applicable):

- a. MJH audio recording of the missed hearing session; or
- b. _____ video recording of the missed hearing session; or
- c. _____ a transcript of the missed hearing session.

This certification shall become a part of the record of the proceedings in the above matter.

Signed under the pains and penalties of perjury this 21 day of JULY, 2014



Signature of Board Member

Received as part of the record of the above matter:

Date: _____

By: _____

Position: _____

Tetra Tech
 One Grant Street
 Framingham, MA 01701

Project Cumberland Farms	Date 07-21-14	Report No. 05
Location Milford St. (Rt. 109)/Summer St. (Rt. 126)	Project No. 143-21583-14007	Sheet 1 of 2
Contractor Highland Development/J.B. Lanagan Kevin Leverone/John Lanagan	Weather A.M. SUNNY P.M.	Temperature A.M. 75° P.M.

FIELD OBSERVATIONS

On Monday, July 21, 2014 Steven Bouley from Tetra Tech (TT) visited the project site to inspect the current condition of the site and construction progress. The following observations were made:

1. Observations

- A. TT was on-site to observe the installation of proposed sidewalk adjacent to the proposed building. The sidewalk appears to be installed per plan. Since our last inspection the contractor has installed the concrete mat adjacent to the pump islands, the proposed concrete retaining wall and SMH-1 which was inspected by the town sewer department. All sewer to date has been inspected by the sewer department. TT spoke with the site contractor regarding the installation of the drainage and he stated he may be installing drainage later this week.

CONTRACTOR'S FORCE AND EQUIPMENT

WORK DONE BY OTHERS

Sup't					Dept. or Company	Description of Work
Foreman		Bulldozer		Asphalt Paver		
Laborers	1	Backhoe		Asphalt Reclaimer		
Drivers		Loader	1	Vib. Roller		
Oper. Engr.		Rubber Tire Backhoe/Loader		Static Roller		
Carpenters	1	Bobcat		Vib. Walk Comp.		
Masons		Hoeram		Compressor		
Iron Workers		Excavator	2	Jack Hammer		
Electricians		Grader		Power Saw		
Flag persons		Crane		Conc. Vib.		
Surveyors		Scraper		Tree Remover		
		Conc. Mixer		Chipper		
		Conc. Truck		Screener		
		Pickup Truck		Drill Rig		
		Dump Truck 6 Whl		Boom Lift		
		Dump Truck 10 Whl		Water Tank		
		Dump Truck 14 Whl		Lull		
		Dump Truck 18 Whl		Gradall		

OFFICIAL VISITORS TO JOB

Police Details:	RESIDENT REPRESENTATIVE FORCE	
Time on site: 8:30 A.M. – 10:00 A.M.	Name	Name
CONTRACTOR'S Hours of Work:		
	Resident Representative: Steve Bouley	

Project Cumberland Farms	Date 07-21-14	Report No. 05
Location Milford St. (Rt. 109)/Summer St. (Rt. 126)	Project No. 143-21583-14007	Sheet 2 of 2
Contractor Highland Development/J.B. Lanagan Kevin Leverone/John Lanagan	Weather A.M. SUNNY P.M.	Temperature A.M. 75° P.M.

FIELD OBSERVATIONS CONTINUED

2. Schedule

A. The site contractor plans to install drainage later this week.

3. New Action Items

A. N/A

4. Previous Open Action Items

A. The Design Review Committee shall inspect and choose 5 largest boulders for use as rock outcropping. All other boulders will be crushed and used as gravel.

5. Materials Delivered to Site Since Last Inspection:

A. N/A

Tetra Tech
 One Grant Street
 Framingham, MA 01701

Project Charles River Village	Date 7-18-2014	Report No. 51
Location Neelon Lane, Medway, MA	Project No. 143-21583-13014	Sheet 1 of 2
Contractor Canesi Bros.	Weather A.M. SUNNY P.M.	Temperature A.M. 85 P.M.

FIELD OBSERVATIONS

On Friday, July 21, 2014 Steve Bouley from Tetra Tech (TT) visited the project site to observe the construction process. The following observations were made while on-site:

1. Observations

- A. The contractor was in the process of installing the proposed Roof Drain Infiltration Trench #2 while on-site. The contractor was installing the stone per detail and stated that he expected to have the pipe installed sometime next week.

CONTRACTOR'S FORCE AND EQUIPMENT

WORK DONE BY OTHERS

Sup't		Bulldozer	Asphalt Paver	Dept. or Company	Description of Work
Foreman		Backhoe	Asphalt Reclaimer		
Laborers	1	Loader	Vib. Roller		
Drivers		Rubber Tire Backhoe/Loader	Static Roller		
Oper. Engr.	2	Bobcat	Vib. Walk Comp.		
Carpenters		Hoeram	Compressor		
Masons		Excavator	Jack Hammer		
Iron Workers		Grader	Power Saw		
Electricians		Crane	Conc. Vib.		
Flag persons		Scraper	Tree Remover		
Surveyors		Conc. Mixer	Chipper		
Owner		Conc. Truck	Screener	OFFICIAL VISITORS TO JOB	
		Pickup Truck	Drill Rig		
		Dump Truck 6 Whl	Boom Lift		
		Dump Truck 10 Whl	Water Tank		
		Dump Truck 14 Whl	Lull		
		Dump Truck 18 Whl	Gradall		

Police Details: n/a

RESIDENT REPRESENTATIVE FORCE

Time on site: 8:30 A.M-9:00 AM

Name

Name

CONTRACTOR'S Hours of Work:

Resident Representative: Steve Bouley

Project Charles River Village	Date 7-18-2014	Report No. 51
Location Neelon Lane, Medway, MA	Project No. 143-21583-13014	Sheet 2 of 2
Contractor Canesi Bros.	Weather A.M. SUNNY P.M.	Temperature A.M. 85 P.M.

FIELD OBSERVATIONS CONTINUED

2. Schedule

- A. The contractor is expected to install the 8" perforated pipe in Roof Drain Infiltration Trench #2 next week.

3. New Action Items

- A. A few drainage items should be addressed including installation of additional rip-rap in the basin adjacent to building 4, rip-rap at the outlet pipe on Cherokee Lane, and modification of the swale on Cherokee Lane.

4. Previous Open Action Items

- A. We discussed on-site the surface treatment of Cherokee Lane. The project conditions and plans require the applicant to provide a design for the roadway which supports the weight of a fire truck. I reminded the applicant that this was a requirement through e-mails and their engineer contacted me to discuss. We will continue to coordinate on this issue. *The Applicant and I discussed the surface treatment again and decided that the installation of crushed stone over a typical roadway subbase may be a good solution to meet the requirements of project conditions as well as the desires of the planning board, public services, and the fire department. We will continue with that approach and present to the interested parties.*
- B. Now that the sanitary sewer line has been completely installed along with the services, a pressure test shall be conducted per the regulations. *The pressure test of both the water and sewer has been completed. We will keep it as an action item until we receive the reports from the subcontractor and can verify the test results. A sieve test shall be supplied for both the gravel borrow and the dense graded crushed stone proposed below the pavement. The contractor has provided the positive pressure and chlorination tests for the water line however we are waiting for the pressure test results for the sewer.*
- C. Upon completion of paving, the contractor shall sweep adjacent roadways including Village Street, Cherokee Lane, and Charles River. *Complete*
- D. There were a few items that should be completed prior to house construction. They include the installation of the "No Parking" signs along Neelon, rip-rap at pipe ends (outside of basins), sweeping of Cherokee Lane. *These items have been addressed. There is one sign (20 MPH) that has not been installed because it may conflict with the private utilities. It will be installed after the utilities to ensure proper clearance.*

5. Materials Delivered to Site Since Last Inspection:

LAND SUBDIVISION – FORM A

RECEIVED

Application for Endorsement of Plan
Believed Not to Require Subdivision Approval (ANR)

JUL 15 2014

Planning Board - Town of Medway, MA

TOWN CLERK

INSTRUCTIONS TO APPLICANT/OWNER

This Application is made pursuant to the Medway Planning Board Subdivision Rules and Regulations. Please complete this entire Application. Submit two signed originals of this Application and one copy of the ANR Plan to the Town Clerk who will date stamp the Applications. Provide one (1) original ANR Application date stamped by the Town Clerk, one (1) Project Explanation, seven (7) copies of the ANR Plan, and the appropriate ANR Filing Fee to the Medway Planning Board.

The Applicant certifies that the information included in this Application is a true, complete and accurate representation of the facts regarding the property under consideration.

In submitting this application, the Applicant authorizes the Planning Board and its agents to access the site during the plan review process.

The Town's Planning Consultant will review the Application and ANR plan. You or your duly authorized agent will be expected to attend the Planning Board meeting at which your Application will be considered to answer any questions and/or submit such additional information as the Board may request in connection with this Application. Your absence may result in a delay in its review.

___ July 15, ____, 2014

TO: The Planning Board of the Town of Medway, MA

The undersigned, wishing to record the accompanying plan of property in the Town of Medway and believing that the plan does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submits this Application and ANR Plan to the Planning Board and requests its determination and endorsement that Planning Board approval under the Subdivision Control Law is not required.

ANR PLAN INFORMATION

Title: Plan of Land in Medway Mass, Scale: 20 Feet to an Inch, Owners: Nelson Funding Trust

Prepared by: Guerriere & Halnon, Inc, Paul B. Atwood, PLS

P.E. or P.L.S registration #: MA PLS #36854

Plan Date: January 27, 2014

APPLICANT INFORMATION

Applicant's Name: Terese Nelson
Dennis Nelson

Applicant's Signature: Terese Nelson

Applicant's Address: 55 Milford Street, Medway, MA 02053

Applicant's Telephone: 508-533-8862

PROPERTY OWNER INFORMATION (if not Applicant)

Property Owner Name: Nelson Funding Trust

Address: 55 Milford Street, Medway, MA 02053

The Owner hereby appoints _____ to act as its Agent for purposes of submitting and processing this Application for endorsement of an ANR Plan.

Date: _____
Owner's Signature

PROPERTY INFORMATION

ANR Location Address: 53 & 55 Milford Street

The land shown on the plan is shown on Medway Assessor's Map # 46 Parcel # 56, 57, 58

Total Acreage of Land to be Divided: 2.22 +/- Acres (96,552 +/- S.F.)

Subdivision Name (if applicable): N/A

The owner's title to the land that is the subject matter of this application is derived under deed from: Thelma A. Nelson to Nelson Funding Trust dated August 19, 1996 and recorded in Norfolk County Registry of Deeds, Book 11490 Page 105 or Land Court Certificate of Title Number _____, Land Court Case Number _____, registered in the Norfolk County Land Registry District Volume _____, Page _____.

Medway Zoning District Classification: Agricultural-Residential II, AR-II

Frontage Requirement: 150 feet Area Requirement: 22,500 S.F.

PROJECT EXPLANATION

Provide a cover letter or attach an additional sheet with a detailed explanation of why the land is being divided and what land transaction/reconfiguration will result from the endorsement and recording of this ANR Plan.

APPROVAL NOT REQUIRED JUSTIFICATION

The Applicant believes that Planning Board approval under the Subdivision Control Law is not required for the following reasons: (Check all that apply.)

- 1. The accompanying plan does not show a division of land.
- 2. Every lot shown on the plan has frontage as required by the Medway Zoning Bylaw. The frontage required by the Zoning Bylaw is located on Milford Street (name of way(s), which is:
 - a. A public way. Date of street acceptance: 1919 County Layout
 - b. A way certified by the Town Clerk as being maintained and used as a public way. (Attach Town Clerk's certification)
 - c. A way shown on a definitive subdivision plan entitled _____ that was previously endorsed as an approved plan by the Planning Board on _____ subject to the following conditions _____

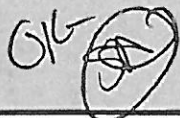
_____ d. A private way in existence on the ground before 1952 when the Subdivision Control Law was adopted in the Town of Medway, having, in the opinion of the Planning Board, adequate width, suitable grades, and adequate construction to provide vehicular access to the lot(s) for their intended purpose of

_____ and to permit the installation of municipal services to serve the lot(s) and any buildings thereon.

_____ 3. The division of land shown on the accompanying plan is not a "subdivision" for the following reasons: _____

ANR PLAN FILING FEE

\$250 plus \$100/lot or parcel for a plan involving three (3) or more lots/parcels, not to exceed a maximum of \$750

G/L  Check to be made payable to: Town of Medway

Fee approved 11-2-06

APPLICATION CHECKLIST

_____	2 signed original ANR applications (FORM A)
_____	7 prints of ANR plan
_____	Project Explanation
_____	Application/Filing Fee

RECEIVED

JUL 15 2014

PLANNING

Date Form A and ANR Plan Received by Planning Board: 7-15-2014

ANR Application/Filing Fee Paid: Amount: \$ 150 Check # 113

\$ 100 Date Form A and ANR Plan Received by Town Clerk check # 112

NEELSON

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

ZONING BOARD OF APPEALS

MEDWAY, MASSACHUSETTS

In the Matter of)
)
 Walter R. Nelson and)
 Thelma A. Nelson)
)
 Petitioners)

REQUEST FOR SPECIAL PERMIT

Hearing : June 27, 1973

Decision: July 27, 1973

OPINION OF THE BOARD

Members Present:

Richard D. Maciolek, Chairman
 Paul G. Merrill, Acting Clerk
 Louis S. Tanczer

THE OPINION WAS DELIVERED BY MR. MACIOLEK

**Town of Medway
 Zoning Board
 Of Appeals**

The Zoning Board of Appeals will hold a public hearing on Wednesday, June 27, 1973, at 8:00 PM, in the Hearing Room of the Medway Town Hall, to hear the following petitions:

That of: USM Corporation, by John B. Mullaney, 162 Main Street, Medway, for a variance to be allowed to build an industrial steel structured building, 6,000 square feet in size, at the USM Corporation location at 162 Main Street, Medway.

That of: Walter R. and Thelma A. Nelson, by their Attorney P. Joseph Donney, 179 Village Street, Medway, for a Special Permit for the enlargement of a pre-existing non-conforming use to allow construction of an addition to the existing commercial building at the business location of 179 Village Street, Medway.

Any person aggrieved by the decision on these petitions may appeal to the Zoning Board of Appeals on the date and time noted.

ZONING BOARD OF APPEALS
 Medway, Mass.
 13-70

TOWN OF MEDWAY
RECEIVED

AUG 2 1973

.....A.M. 3.....P.M.

TOWN CLERK
[Signature]

OPINION OF THE BOARD

This is a proceeding of the Zoning Board of Appeals of the Town of Medway, Mass., acting under the Zoning By-Law of the Town of Medway and G.L. c. 40A, as amended, in which the owners of land and buildings located on Milford Street in said Medway seek a special permit to enlarge a pre-existing, non-conforming use. The proposed enlargement would be the construction of an addition to the existing commercial building presently on the premises.

Following the giving of notice as required by law, a public hearing was held by the Zoning Board of Appeals (hereinafter the Board) in the Hearing Room, Medway Town Hall, on June 27, 1973. In the absence of the Clerk, an Alternate Member, Mr. Louis S. Tanczer, sat as a member of the Board for this hearing, and Mr. Merrill was appointed Acting Clerk.

The petitioners were represented by P. Joseph Kenney, Esq., of Medway. Mr. Nelson was also present in support of the petition.

Briefly, Mr. Kenney stated that Mr. Nelson had been engaged in his present business, on the premises, continuously from 1951 to the present; that the business consists of a tire distributorship, used car lot, gasoline sales and a garage for the repair of motor vehicles; that in the recent past a permit was granted for the storage and sale of diesel fuel on the premises, and that because of the increase in business the present facilities are inadequate to properly and efficiently conduct the petitioners' business. It was also pointed out that Mr. Nelson's married son is employed on a full time basis and, therefore, the business supports two families.

The proposed new addition will be a one-story, steel and concrete building similar to the existing building. It will house an office, restrooms, storage space and two bays for motor vehicle repairs. It will be approximately 56 feet long by 30 feet wide, and set back more than 73 feet from the street line. The present building apparently does not have any restrooms, inadequate office space and one of the three repair bays is presently being used as storage space.

It was also pointed out that no additional signs or gasoline pumps were being requested, and that no change in the hours of operation will be made.

Several interested citizens were present at the hearing and spoke in favor of the petition stating that Mr. Nelson was a well known and reputable businessman who has proven his value to the town. It was also pointed out that the tax base of the town would be increased with the addition of the proposed new building.

Several abutters appeared in opposition to the petition. Basically, this opposition centered on what was described as excessive noise on the premises after business hours since the deisel fuel permit was granted, the unsightliness of the entire area and the potential increase in noise and traffic. All of the abutters apparently feel that the deisel fuel permit has been abused and that future abuses would develop if the petition is allowed. By way of rebuttal, it was pointed out that all of the abutters' homes were built many years after the present business had been established and in operation.

At the close of the public hearing the Board met in private session to consider the subject matter of the petition.

It was noted that, as pointed out by Mr. Kenney, Section V, Paragraph D of the Zoning By-Law gives the Board specific authority to grant the relief sought by this petition. That is, a pre-existing, non-conforming use, such as the one described in this petition and hearing, may be enlarged (or changed to a specific new use) if authorized by this Board.

The Board unanimously found that the enlargement sought by this petition would not be detrimental to the established or future character of the neighborhood or the town as the present use has long been established and its present owner clearly intends to operate it for the foreseeable future, whether or not this petition is allowed. Further, the Board feels that the granting of the petition will enable the petitioners to improve the property and to add to the tax base of the town.

Accordingly, the Board unanimously decided that the petition be allowed and that a Special Permit issued to allow the petitioners to construct an addition to the existing commercial building on the premises.

However, such permit is subject to and conditioned upon the following.

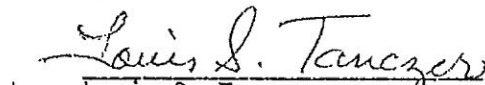
1. No additional signs or outdoor advertisements shall be erected.
2. The hours during which business is presently conducted shall not be increased.
3. Adequate provision shall be made for surface water drainage in the area adjacent to the new addition.

The Building Inspector is hereby authorized to issue the necessary permits in accordance with this decision and other pertinent laws, regulations and rulings.

The Board hereby makes a detailed record of all of its proceedings relative to this petition; incorporates by reference all plans and written material received by it at the hearing; sets forth its reasons for its decision and findings; directs that this decision be filed in the Office of the Town Clerk and be made a public record, and that notice of this decision be made forthwith to each party in interest.


Richard D. Maciolek, Chairman


Paul G. Merrill, Acting Clerk


Louis S. Tanczer

PGC ASSOCIATES, INC.

1 Toni Lane
Franklin, MA 02038-2648
508.533.8106
gino@pgcassociates.com

MEMO TO: Medway Planning and Economic Development Board

FROM: Gino D. Carlucci, Jr.

DATE: July 17, 2014

RE: Nelson property lot on Milford Street

I have reviewed the ANR plan submitted for endorsement by Nelson Funding Trust of Medway. . The plan was prepared by Guerriere and Halnon, Inc., of Milford, and is dated January 27, 2014. The plan proposes to re-divide three Assessor's Map parcels totaling 96,552 square feet into a lot of 58,948 square feet with an existing residential building on it and a second lot of 37,604 square feet with an existing commercial building on it. The property is within the AR-II district and the commercial property is a pre-existing, nonconforming use that was granted a special permit to expand in 1973.

I have comments as follows:

1. The plan clearly meets the substantive and technical requirements for ANR endorsement.
2. Section 3.2.3 requires that the minimum lot area and setbacks for the applicable zoning district be shown on the plan. This was not done.
3. Section 3.2.4 requires that former lot lines be clearly shown on the plan. This was not done.
4. Section 3.2.6 requires that abutters, including those across adjoining ways, be shown. The abutters across Milford Street are not provided.
5. Section 3.2.11 requires a statement of whether a property is classified as Chapter 61A or 61B be provided. This was not done.
6. Section 3.2.12 requires that a statement indicating that "Planning Board endorsement does not constitute a determination of compliance with the Medway Zoning Bylaw" be included in the signature block. This was not done.
7. The indicated references to the Assessor's Map and parcel numbers do not match those shown on the SimpliCITY map of the town. The applicant should verify that the references are correct.

I recommend that the technical deficiencies in the plan be corrected prior to endorsement by the Board.

FELIX J. CERRATO, JR.
ATTORNEY-AT-LAW

12 Church Street
North Attleborough, MA 02760
Tel: (508) 695-3554
Fax: (508) 695-2523
E-mail: stephenclapp@newebmail.com

July 21, 2014

Andy Rodenhiser, Chairman
Medway Planning and Economic Development Board
Municipal Building
155 Village Street
Medway, MA 02053

Re: ANR Plan – Nelson Funding Trust
53-55 Milford Street, Medway

Dear Chairman Rodenhiser,

I have been requested by Paul S. Atwood of Guerriere & Hanlon, Inc. to provide you, and through you, to the members of your board, an analysis of the reasoning behind my opinion that the endorsement of an Approval Not Required Plan is within the authority of your board

The plan is now before you is a reconfiguration of three contiguous lots in the common ownership of the Nelson Funding Trust, upon which there are now located existing buildings. On one of the new lots, specifically Lot 1, is an existing commercial building, an expansion of which was completed in 1973 pursuant to a special permit issued by the Medway Zoning Board of Appeals, and on the second lot, specifically lot 2, is an existing dwelling, barn, shed and patio with an existing structure attached thereto.

ENDORSEMENT:

Reference is made to Massachusetts General Laws, c. 41, s. 81L in which the definition of "subdivision" is made:

"(1) 'Subdivision' shall mean the division of a tract of land into two or more lots and shall include resubdivision, and, when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided' (2) provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law if, at the time when it is made, every lot within the tract so divided has frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or (c) in existence when the subdivision control law became effective in the city or town in which the land lies ... (3) Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by law, if any, of said city or town for erection of a building thereon ... Conveyances or other instruments addition to, or taking away from, or changing the size and shape of, lots in such a manner as not to leave any lot so affected without the frontage above set forth, or (4) the division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect in the city or town in which the land lies into separate lots on each of which one such building remains standing, shall not constitute a subdivision."

Further, pursuant to MGL c. 41, s. 81P a planning board is required to endorse an ANR plan, "unless such plan shows a subdivision." Such endorsement cannot be refused if each lot shown thereon possesses the requisite frontage under the zoning ordinance or by-law.

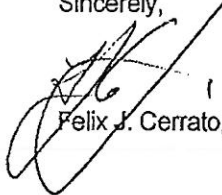
July 21, 2014

The two lots being created by the plan before you creates two lots, both of which:

- a) have frontage on a public way (Milford Street having been laid out the County of Norfolk in 1919);
- b) The frontage and area requirements of both lots complies with the current requirements of zoning for the Agricultural / Residential 2, which is a minimum of 150 feet of frontage and 22,500 square feet. Lot 1 has 215+ feet of frontage and an area of 37,606 square feet and Lot 2 has 341+ feet of frontage and an area of 58,948 square feet.
- c) The plan is a division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect in the city or town in which the land lies into separate lots on each of which one such building remains standing.

Based upon my review of the plan and the provisions of MGL c. 41, s. 81L and s. 81P, as noted above, it is my opinion that the endorsement being sought is warranted.

Sincerely,



Felix J. Cerrato, Jr.

FELIX J. CERRATO, JR.
ATTORNEY-AT-LAW

12 Church Street
North Attleborough, MA 02760
Tel: (508) 695-3554
Fax: (508) 695-2523
E-mail: stephenclapp@newebmail.com

July 21, 2014

Andy Rodenhiser, Chairman
Medway Planning and Economic Development Board
Municipal Building
155 Village Street
Medway, MA 02053



Re: ANR Plan – Nelson Funing Trust
53-55 Milford Street, Medway

Dear Chairman Rodenhiser,

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"(1) 'Subdivision' shall mean the division of a tract of land into two or more lots and shall include resubdivision, and, when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided' (2) provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law if, at the time when it is made, every lot within the tract so divided has frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or (c) in existence when the subdivision control law became effective in the city or town in which the land lies ... (3) Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by law, if any, of said city or town for erection of a building thereon ... Conveyances or other instruments addition to, or taking away from, or changing the size and shape of, lots in such a manner as not to leave any lot so affected without the frontage above set forth, or (4) the division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect in the city or town in which the land lies into separate lots on each of which one such building remains standing, shall not constitute a subdivision."

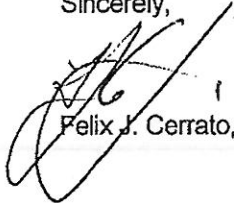
Further, pursuant to MGL c. 41, s. 81P a planning board is required to endorse an ANR plan, "unless such plan shows a subdivision." Such endorsement cannot be refused if each lot shown thereon possesses the requisite frontage under the zoning ordinance or by-law.

The two lots being created by the plan before you creates two lots, both of which:

- a) have frontage on a public way (Milford Street having been laid out the County of Norfolk in 1919);
- b) The frontage and area requirements of both lots complies with the current requirements of zoning for the Agricultural / Residential 2, which is a minimum of 150 feet of frontage and 22,500 square feet. Lot 1 has 215+ feet of frontage and an area of 37,606 square feet and Lot 2 has 341+ feet of frontage and an area of 58,948 square feet.
- c) The plan is a division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect in the city or town in which the land lies into separate lots on each of which one such building remains standing.

Based upon my review of the plan and the provisions of MGL c. 41, s. 81L and s. 81P, as noted above, it is my opinion that the endorsement being sought is warranted.

Sincerely,



Felix J. Cerrato, Jr.



July 22, 2014

**Medway Planning & Economic Development Board
Meeting**

Agenda Item #1

**Discussion re: Special Permit petition to the
ZBA for Tri Valley Commons**

- Special Permit Petition documents dated July 7, 2014
- CONFIDENTIAL email communications dated July 16 & 17, 2014 from Town Counsel Barbara Saint Andre.

LAW OFFICES
CORNETTA, FICCO & SIMMLER, P.C.
ATTORNEYS AT LAW
4 WEST STREET
FRANKLIN, MASSACHUSETTS 02038

RICHARD R. CORNETTA, JR.

VOICE (508) 528-5300
FAX (508) 528-5555

July 7, 2014

Mr. David Cole, Chairman
Zoning Board of Appeals
Town of Medway
155 Village Street
Medway, MA 02053
ATTN: Ms. Maryjane White, Town Clerk

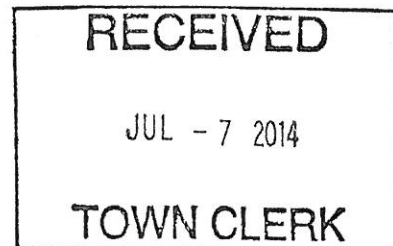
Re: **Petitioner: Thurken III, LLC**
72 Main Street (74 Main St.), Medway, Massachusetts

Dear Mr. Cole:

This firm is legal counsel to the above-entitled applicant, Thurken III, LLC, in the aforementioned petition for relief filed before the Board pertaining to the above entitled property.

Enclosed please find the following in connection with this petition, along with eight (8) copies of the same, to wit:

1. Petition For Relief seeking a Special Permit to allow development of a Shopping Center pursuant to Section V.G.1.j.6 of the Medway Zoning Bylaw; and Special Permit to allow Vehicle Repair pursuant to Section V.G.1.j.9 of the Medway Zoning Bylaw;
2. Copy of Quitclaim Deed of Federal Deposit Insurance Corporation to MECOBA PROPERTIES, INC. dated March 28, 1995 and recorded with the Norfolk County Registry of Deeds at Book 10850, Page 278;
3. Copy of Quitclaim Deed of Dennis F. Marguerite, et al. to Joyce Ryan, Trustee, et al. of NAGOG KNOLL REALTY TRUST dated July 14, 1998 and recorded with the Norfolk County Registry of Deeds at Book 8372, Page 317;



4. Memorandum in Support of Request for Special Permit for Allowance of a Shopping Center;
5. Memorandum in Support of Request for Special Permit for Allowance of Vehicle Repair;
6. Copy of Request for Abutters List (filed with Medway Assessor's of even date);
7. Plan entitled, "TRI VALLEY COMMONS" "SPECIAL PERMIT" PLAN OF LAND IN MEDWAY, MA, prepared by Guerriere & Halnon, Inc., dated May 20, 2014;
8. Schematic Color Elevations prepared by Landry Architects dated December 31, 2013 (3 Sheets);
9. A draft in the sum of \$175.00 which represents the filing fee

Kindly place this matter on the next available agenda of the Zoning Board of Appeals. I would respectfully request that you provide an advance copy of the Notice of Public Hearing to this office prior to publication.

All communication and correspondence pertaining to this matter may be made directly through this office.

Respectfully submitted,
Thurken III, LLC,
By its Attorney,



Richard R. Cornetta, Jr.

Encls.

cc: Richard Landry
Robert Poxon



PETITION FOR RELIEF
MEDWAY ZONING BOARD OF APPEALS
 155 VILLAGE STREET, MEDWAY, MA 02053

Be sure all questions are answered fully. If more space is necessary, attach additional sheets. Attach plans showing parcel, building locations, dimensions, and proposed relief. Return to Town Clerk along with \$175.00 filing fee.

Petitioner Name(s) Thurken III, LLC		Petitioner Address & Telephone 389 Main St., Salem, MA 03079 (857)472-3827	
Attorney (if any) Name Cornetta Ficco & Simmler, PC		Attorney (if any) Address & Telephone 4 West St., Franklin, MA 02038 (508)528-5300	
Premises Owner Name MECOBA Properties, Inc. NAGOG Knoll Realty Trust		Premises Owner Address & Telephone 70 Main St., Medway, MA 02053 260 Great Road, Acton, MA 01720	
Tenant (if any) Name N/A		Tenant (if any) Address & Telephone N/A	
Location of Premises 72 Main St. (74 Main St.), Medway, Massachusetts		Zoning District(s) Containing Premises Commercial I	
Registry of Deeds Book Page Number and Date: or Land Court Certificate Number and Date: of Current Title Book 10850, Page 278; (Book 8372, Page 317)		Does a relevant executory option, lease, or Purchase & Sale Agreement exist? Yes	
State present use Of premises Undeveloped	State proposed use of premises Shopping Center	Have you applied for a bldg. permit? No	Has permit been refused? No

Give extent of proposed alterations (if any)

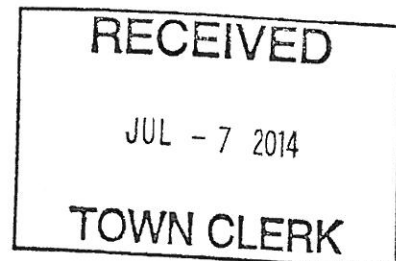
The applicant proposes that the parcels be developed, in two (2) phases, to establish a commercial/retail shopping center consisting of six (6) detached commercial/retail structures with associated paved access drive and bituminous paved parking area to facilitate the parking of 114 motor vehicles, as shown on the plan entitled, "TRI VALLEY COMMONS", A SITE PLAN IN MEDWAY, MASSACHUSETTS, 72 MAIN STREET, prepared by Guerriere & Halnon, Inc., dated May 20, 2014, as may be amended, (the "Plan") a copy of which has been filed along herewith.

Requested Relief (check all that apply)

XX Special Permit as provided in Section(s) V.G.I.j.6 and 9 of the Medway Zoning By-Laws.
 Variance from requirements of Section(s) _____ of the Medway Zoning By-Laws.
 Appeal of Building Inspector's decision. (Attach copy of decision.)

State why you believe the grant of Relief will not cause substantial detriment to the Public Good

The Applicant submits that the proposed project development will not cause substantial detriment to the Public Good or otherwise be 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. The Applicant has proposed the development of the project site which is located in a critical commercial area within the Town of Medway. The buildings are to be served by municipal sewer to minimize the degradation of the groundwater by nitrates and phosphates. The Applicant submits that the project development would not result in abutting properties being deprived of light or fresh air circulation. The proposed buildings have been located on the site meeting all minimum site distances and set back requirements, and do not exceed any maximum height restrictions all as set forth in the Zoning Bylaw of the town of Medway. Further, that abutting properties will not be exposed to flooding or subjected to excessive noise, odor, light, vibrations or airborne particulates. The Applicant has incorporated Best Management Practices (BMP's) into the project development to meet the Department of Environmental Protection Stormwater Management runoff quality requirements. See Memorandum In Support of Request for Special Permit which has been attached and made apart hereto.



(Appeal Only)
State the basis of
your appeal

(Variance Only) Give the proposed limits of the requested relief (e.g., front setback to 22.5 feet; lot shape factor to 2.1)

(Variance Only) Give the distances from the property lines of buildings on abutting premises

(Variance Only)
What circumstances
exist, relating to the
shape, topography,
or soil conditions of
the subject premises,
which do not
generally affect
otherland in the
=oning district?
(See MGL 40A §10.)

(Variance Only)

What substantial
hardship is caused
by the circum-
stances listed above,
when the Medway
Zoning By-Law is
applied?
(See MGL 40d §10.)

(Variance Only) State

why you believe the
grant of relief would
not nullify or derogate
from the intent of the
Zoning By Law.

I hereby certify that the above statements and all testimony to be given by me during the Zoning Board of Appeals hearing associated with this application are true to the best of my knowledge and belief.

Signature of Petitioner

Signature of Owner (if other than Petitioner)

Signature of Officer (if other than Petitioner)

Date

7/3/14

Date

6/27/14

Date

(Appeal Only)
State the basis of
your appeal

(Variance Only) Give the proposed limits of the requested relief (e.g., front setback to 32.5 feet for shape factor to 2.4)

(Variances Only) Give the distances from the property lines of buildings on abutting premises

(Variance Only)
What circumstances
exist, relating to the
shape, topography,
or soil conditions of
the subject premises,
which do not
generally affect
other land in the
-oning district?
(See MGL 40A §10.)

(Variance Only)
What substantial
hardship is caused
by the circum-
stances listed above,
when the Midway
Zoning By-Law is
applied?
(See MGL 40A §10.)

(Variance Only) State
why you believe the
grant of relief would
not nullify or derogate
from the intent of the
Zoning By-Law.

I hereby certify that the above statements and all testimony to be given by me during the Zoning Board of Appeals hearing associated with this application are true to the best of my knowledge and belief.

Signature of Petitioner	<i>Lester Gould</i>	Date	<i>6/25/14</i>
Signature of Owner (if other than Petitioner)		Date	
Signature of Owner (if other than Petitioner)		Date	

A

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HL

Quitclaim Deed

ENTRY *[Signature]*

The undersigned, FEDERAL DEPOSIT INSURANCE CORPORATION IN ITS CORPORATE CAPACITY AS THE ASSIGNEE OF THE RECEIVER OF THE HOME NATIONAL BANK OF MILFORD (herein called "Grantor"), for and in consideration of the sum of Six Hundred Fifty Thousand and No/100 Dollars (\$650,000.00) and other good and valuable consideration in hand paid to Grantor, the receipt and sufficiency of which is hereby acknowledged, by these presents does hereby GRANT, SELL and CONVEY unto MECOBA PROPERTIES, INC. (herein called "Grantee"), whose mailing address is 165 Village Street, P.O. Box 543, Medway, Massachusetts 02053, with Quitclaim Covenants:

- (i) that certain tract or parcel of land situated in Medway, Norfolk County, Massachusetts, more fully described in Exhibit "A" attached hereto and incorporated herein for all purposes, together with all rights and appurtenances pertaining thereto, including, but not limited to, any right, title and interest of Grantor in and to adjacent streets, alleys or rights-of-way (the "Land"), and
- (ii) all buildings and other improvements situated on the premises, together with all fixtures and other property attached thereto (hereinafter collectively called the "Improvements")

(all of the foregoing Land and Improvements being hereinafter together called the "Subject Property"), subject to general real estate taxes on the Subject Property for the current year and subsequent assessments for prior years due to change in land usage or ownership, zoning laws, regulations and ordinances of municipal and other governmental authorities, if any, affecting the Subject Property (all of the foregoing hereinafter called the "Permitted Encumbrances").

The conveyance is made upon the following terms and conditions:

(A) For purposes of this Deed, the following terms shall have the definitions indicated:

(1) "Environmental Law" shall mean any federal, state or local laws, ordinances, permits or regulations, or any common law, regarding health, safety, radioactive materials, or the environment, including, but not limited to, the following federal statutes: Clean Air Act (42 U.S.C. §§7401 et seq.) ("CAA"), Clean Water Act (33 U.S.C. §§1251 et seq.) ("CWA"), Resource Conservation and Recovery Act (42 U.S.C. §§6901 et seq.) ("RCRA"), Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§9601 et seq.) ("CERCLA"), Emergency Planning and Community Right-to-Know Act

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NORFOLK COUNTY

(42 U.S.C. §§11001 et seq.) ("EPCRA"), Safe Drinking Water Act (42 U.S.C. §§300f et seq.) ("SDWA"), Toxic Substances Control Act (15 U.S.C. §§2601 et seq.) ("TSCA"), Endangered Species Act of 1973 (16 U.S.C. §§1531 et seq.) ("ESA"), Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§136 et seq.) ("FIFRA"), and the Occupational Safety and Health Act (29 U.S.C. §§651 et seq.) ("OSHA"), each as amended, and any regulations promulgated thereunder, guidances and directives issued with respect thereto, or policies adopted by authority thereunder.

(2) "Release" shall mean the discharge, disposal, deposit, injection, dumping, spilling, leaking, leaching, placing, presence, pumping, pouring, emitting, emptying, escaping or other release of any Hazardous Material.

(3) "Hazardous Material" shall mean: (a) any radioactive materials; (b) any substance or material the transportation, storage, treatment, handling, use, removal or Release of which is subject to any Environmental Law; or (c) any substance or material for which standards of conduct are imposed under any Environmental Law. Without limiting the generality of the foregoing, "Hazardous Materials" shall include: asbestos and asbestos-containing materials (whether or not friable); urea-formaldehyde in any of its forms; polychlorinated biphenyls; oil; used oil; petroleum products and their by-products; lead based paint; radon; and any substances defined as "hazardous waste", "hazardous substances", "pollutants or contaminants", "toxic substances", "hazardous chemicals", "hazardous air pollutants", or "toxic chemicals" under the CAA, CWA, RCRA, CERCLA, EPCRA, SDWA, TSCA, or OSHA.

(4) "Environmental Matter" shall mean any of the following: (a) the Release of any Hazardous Material on or at the Subject Property or any other property; (b) the migration of any Hazardous Material onto or from the Subject Property; (c) the environmental, health or safety aspects of the transportation, storage, treatment, handling, use or Release, whether any of the foregoing occurs on or off the Subject Property, of Hazardous Materials in connection with the operations or past operations of the Subject Property; (d) the violation, or alleged violation with respect to the Subject Property, of any Environmental Law, order, permit or license of or from any governmental authority, agency or court relating to environmental, health or safety matters; (e) the presence of any underground storage tanks within the confines of the Subject Property; (f) the presence of wetlands within the confines of the Land; (g) the presence of any endangered species on, in or around the Land; (h) the characterization of the Subject Property as historical in nature in any way; or (i) soil, groundwater and surface conditions on, in or around the Subject Property which may have an adverse affect upon the use or value of the Subject Property.

(5) "Released Parties" shall mean, collectively, all of the following (to the extent applicable):

(a) The Federal Deposit Insurance Corporation ("FDIC") in any and all of its various capacities; including as Receiver or Liquidating Agent of a financial institution.

(b) Grantor and all of the directors, officers, employees, agents, contractors, representatives, successors and assigns of Grantor and of each of the parties referenced above in this Paragraph (A)(5).

(B) Grantee acknowledges that Grantor has acquired the Subject Property due solely to the failure of a financial institution for which Grantor has the responsibility for liquidation, and consequently has little or no knowledge of the condition of the Subject Property and the surrounding areas. ACCORDINGLY, GRANTEE ACKNOWLEDGES AND AGREES THAT GRANTEE IS PURCHASING THE SUBJECT PROPERTY "AS-IS", "WHERE-IS", AND "WITH ALL FAULTS", GRANTEE ACCEPTS THE SUBJECT PROPERTY "AS-IS", "WHERE-IS" AND "WITH ALL FAULTS," AND GRANTEE FURTHER ACKNOWLEDGES AND AGREES THAT GRANTOR HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES CONCERNING THE CONDITION OF THE SUBJECT PROPERTY AND ANY PORTIONS THEREOF, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(C) Grantee acknowledges and agrees that Grantee has not relied upon any representations or warranties (oral or written) made by or purportedly on behalf of Grantor unless expressly set forth herein, and has not relied upon any documents or other information (oral or written) supplied by or purportedly on behalf of Grantor.

(1) GRANTEE UNDERSTANDS AND AGREES THAT ANY DOCUMENTS OR INFORMATION PROVIDED TO GRANTEE BY GRANTOR OR ON GRANTOR'S BEHALF HAVE BEEN OBTAINED FROM A VARIETY OF SOURCES, HAVE NOT BEEN INDEPENDENTLY INVESTIGATED OR VERIFIED BY GRANTOR, AND ARE NOT TO BE RELIED UPON BY GRANTEE IN PURCHASING THE SUBJECT PROPERTY. GRANTOR MAKES NO EXPRESS REPRESENTATIONS OR WARRANTIES, AND DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, CONCERNING THE TRUTH, ACCURACY AND COMPLETENESS OF ANY DOCUMENTS OR INFORMATION INCLUDING, WITHOUT LIMITATION, ANY AUCTION BROCHURE OR CATALOG, SUPPLIED TO GRANTEE BY GRANTOR OR ANYONE ACTING OR PURPORTING TO ACT ON GRANTOR'S BEHALF.

(2) GRANTEE AGREES THAT IT HAS INVESTIGATED THE SUBJECT PROPERTY AND IS SATISFIED WITH ITS CONDITION, AND HAS INDEPENDENTLY VERIFIED ANY INFORMATION PROVIDED BY GRANTOR, OR IF GRANTEE HAS FAILED TO SO INVESTIGATE THE SUBJECT PROPERTY AND/OR HAS FAILED OR BEEN UNABLE TO INDEPENDENTLY VERIFY ANY OF THE INFORMATION PROVIDED BY GRANTOR, GRANTEE AGREES THAT ITS FAILURE TO INVESTIGATE AND/OR VERIFY INFORMATION IS AT ITS OWN RISK AND IS ITS OWN DECISION FOR WHICH IT IS SOLELY

RESPONSIBLE.

(D) GRANTOR MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING ANY MATTERS INVOLVING THE SUBJECT PROPERTY, EXCEPT TO THE EXTENT EXPRESSLY PROVIDED HEREIN. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, GRANTOR HEREBY AFFIRMATIVELY DISCLAIMS ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES CONCERNING ANY OF THE FOLLOWING MATTERS:

(1) EXCEPT AS EXPRESSLY SET FORTH HEREIN, ANY MATTERS AFFECTING TITLE TO THE SUBJECT PROPERTY;

(2) THE COMPLIANCE OF THE SUBJECT PROPERTY OR ANY PORTION THEREOF WITH ANY AND ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS, ORDINANCES, PERMITS, RULES, REGULATIONS OR REQUIREMENTS, INCLUDING, BUT NOT LIMITED TO, ENVIRONMENTAL LAWS;

(3) THE SUITABILITY OR APPROPRIATENESS OF THE SUBJECT PROPERTY OR ANY PORTION THEREOF FOR FUTURE DEVELOPMENT OR RENOVATION, INCLUDING, WITHOUT LIMITATION, THE AREA, SIZE, CAPACITY, CASH FLOW, EXPENSES, DEVELOPABLE AREA, OR FOR THE CONDUCT OF ANY USES OR ACTIVITIES THAT GRANTEE MAY ELECT TO CONDUCT THEREON;

(4) THE CONDITION OF THE SUBJECT PROPERTY OR ANY PORTION THEREOF INCLUDING WITHOUT LIMITATION, THE NATURE OR QUALITY OF CONSTRUCTION, DESIGN, OR ENGINEERING OF ANY IMPROVEMENTS; AND

(5) THE PRESENCE OR ABSENCE OF ANY ENVIRONMENTAL MATTERS.

(E) GRANTEE, FOR ITSELF AND ITS HEIRS, SUCCESSORS AND ASSIGNS AND ANYONE ELSE CLAIMING BY, THROUGH OR UNDER GRANTOR, HEREBY EXPRESSLY WAIVES THE CLAIMS AND CAUSES OF ACTION DESCRIBED BELOW IN THIS PARAGRAPH (E) AS AGAINST GRANTOR OR THE RELEASED PARTIES (WHETHER OR NOT SUCH CLAIMS OR CAUSES OF ACTION ARE KNOWN OR DISCOVERABLE AS OF THE DATE HEREOF) AND EXPRESSLY RELEASES GRANTOR AND ALL RELEASED PARTIES, JOINTLY AND SEVERALLY, FROM ANY AND ALL LIABILITY BASED IN WHOLE OR IN PART UPON ANY SUCH CLAIMS OR CAUSES OF ACTION:

(1) CLAIMS OR CAUSES OF ACTION BASED UPON ANY OF THE MATTERS DESCRIBED IN PARAGRAPH (B), SUBPARAGRAPHS (1) AND (2) OF PARAGRAPH (C) OR SUBPARAGRAPHS (1) THROUGH (5) OF PARAGRAPH (D) ABOVE; AND

(2) CLAIMS OR CAUSES OF ACTION BASED UPON ANY ACTUAL OR ALLEGED FAILURE BY GRANTOR TO SATISFY A DUTY TO DISCLOSE INFORMATION TO GRANTEE CONCERNING THE SUBJECT PROPERTY, INCLUDING, BUT NOT LIMITED TO, INFORMATION CONCERNING THE PRESENCE OF ANY PATENT OR LATENT DEFECTS, DEFICIENCIES IN OR AFFECTING THE SUBJECT PROPERTY, OR THE PRESENCE OF ANY PATENT OR LATENT ENVIRONMENTAL MATTERS.

(3) CLAIMS OR CAUSES OF ACTION BASED UPON GRANTOR HAVING INACCURATELY STATED ANY INFORMATION CONCERNING THE SUBJECT PROPERTY.

(F) Notwithstanding the parties' intent that the waiver and release provisions contained in Paragraph (E) above bar all claims and causes of action by Grantee and Grantee's heirs, successors and assigns and anyone else claiming by, through or under Grantee, should a court of competent jurisdiction deem otherwise, Grantee agrees that the presence of the waiver and release provisions in Paragraph (E) above should serve as the overwhelming, primary factor in any equitable apportionment of response costs under applicable federal, state or local laws, ordinances or regulations.

(G) Grantee acknowledges and agrees that the waiver and release provisions contained in Paragraph (E) above are an essential component of the consideration for the sale of the Subject Property.

Being the same premises conveyed to the Grantor by deed dated March ____, 1995 recorded with the Norfolk County Registry of Deeds as instrument number _____.

EXECUTED this 28th day of March, 1995.

By: *Jack B. Alexander*
Name: Jack B. Alexander
Title: Attorney-in-fact

ACKNOWLEDGEMENT

COMMONWEALTH OF MASSACHUSETTS

Norfolk County, SS.

March 28, 1995

Then personally appeared the above named Jack B. Alexander, Attorney-in-Fact, by virtue of that power of attorney dated January 12, 1990 and recorded at the Norfolk County Registry of Deeds at Book 8842, Page 491, and acknowledged the foregoing to be the free act and deed of the FEDERAL DEPOSIT INSURANCE CORPORATION IN ITS CORPORATE CAPACITY AS THE ASSIGNEE OF THE RECEIVER OF THE HOME NATIONAL BANK OF MILFORD before me,

Shary S. Skon
Notary Public
My commission Expires: 2/12/99

BK 10850PG283

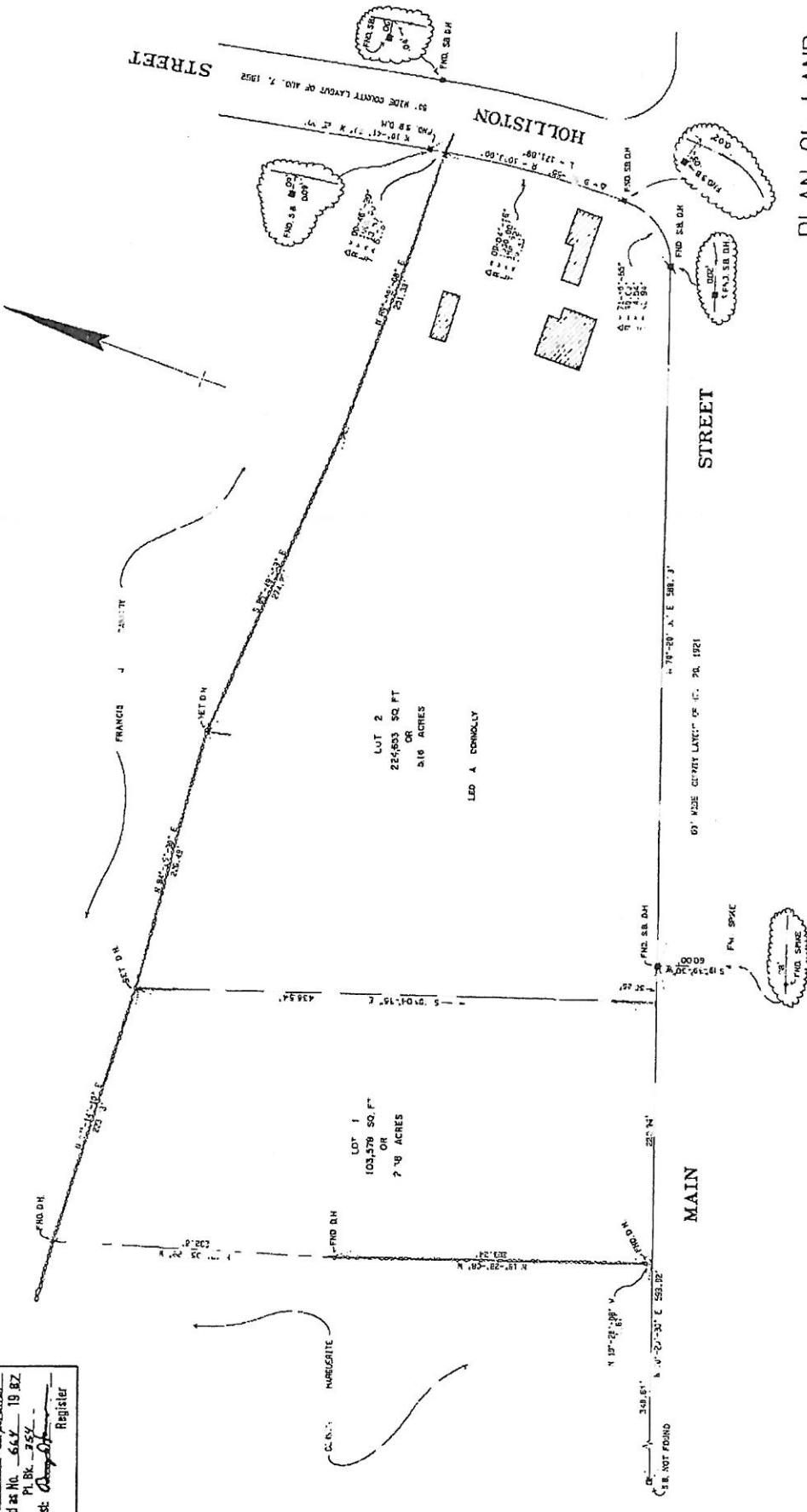
EXHIBIT "A"

Legal Description

The land in Medway, Norfolk County, Massachusetts, together with the buildings thereon, situated on the Northerly side of Main Street and the Westerly side of Holliston Street, shown as Lots 1 and 2 on a plan entitled "Plan of Land, Medway, Mass. Prepared for: Glenmore Corp. Scale: 1"-40' March 25, 1987 Survey By: G L M Engineering Consultants, Inc." filed with Norfolk Deeds as Plan No. 664 of 1987, Plan Book 354, to which reference may be had for a more particular description of the mortgaged premises.

Said Lot 1 contains 103,578 square feet or 2.38 Acres and said Lot 2 contains 224,653 square feet or 5.16 Acres according to said plan.

North Registry of Deeds
 Dedham, Mass.
 Received June 16, 19 87
 With Deed
 Leo A. Connolly &
 Catherine Corporation
 Filed as No. 664-19 87
 Pl. Bk. 354
 Abstract *Chapman*
 Register



PLAN OF LAND
 MEDWAY, MASS.
 PREPARED FOR :

LENNORE LUMPKIN
 SCALE: 1" = 40'
 MARCH 25, 1987
 SURVEY BY:
 GLM ENGINEERING CONSULTANTS, INC
 1750 WASHINGTON ST. HOLLISTON, MASS.

I HEREBY CERTIFY THAT THIS PLAN, MAP, SURVEY, AND THE RELATIONS OF THE BOUNDARIES AND MEASUREMENTS THEREON TO THE CORNERAL MARKERS AND TO THE ADJACENT LOTS, ARE TRUE AND CORRECT.
 Lennore Lumpkin
 P.L.P. D. LUMPKIN, R.L.S. DATE

I HEREBY CERTIFY THAT THIS PLAN, MAP, SURVEY, AND THE RELATIONS OF THE BOUNDARIES AND MEASUREMENTS THEREON TO THE CORNERAL MARKERS AND TO THE ADJACENT LOTS, ARE TRUE AND CORRECT.
 Leo A. Connolly & Catherine Corporation
 P.L.P. D. LUMPKIN, R.L.S. DATE

1040 OF M. 441, 535-SEORS MAP 6
 PARCELS 317 & 317A
 DATE

I HEREBY CERTIFY THAT THE PROPERTY LINES ON THIS PLAN ARE THE LINES DIVIDING EXISTING LANDS AND ARE NOT TO BE CONSIDERED AS A BASIS FOR THE ESTABLISHMENT OF NEW PROPERTY LINES, UNLESS THE DIVISION OF EXISTING OWNERSHIP IS FIRST MADE BY A DEED.
 Lennore Lumpkin
 P.L.P. D. LUMPKIN, R.L.S. DATE



Unofficial Property Record Card - Medway, MA

General Property Data

Parcel ID 40-051	Account Number 6-317A
Prior Parcel ID 6-317A-	
Property Owner MECOBA PROPERTIES, INC.	Property Location 72 MAIN ST
	Property Use DEV-LAND
Mailing Address 70 MAIN ST.	Most Recent Sale Date 1/13/1999
	Legal Reference 13151-403
City MEDWAY	Grantor MEDWAY CO-OPERATIVE BANK
Mailing State MA Zip 02053	Sale Price 1
Parcel Zoning C-1	Land Area 4.537 acres

Current Property Assessment

Card 1 Value	Building Value 0	Xtra Features Value 0	Land Value 389,200	Total Value 389,200
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Building Description

Building Style N/A	Foundation Type N/A	Flooring Type N/A
# of Living Units N/A	Frame Type N/A	Basement Floor N/A
Year Built N/A	Roof Structure N/A	Heating Type N/A
Building Grade N/A	Roof Cover N/A	Heating Fuel N/A
Building Condition Average	Siding N/A	Air Conditioning 0%
Finished Area (SF) N/A	Interior Walls N/A	# of Bsmt Garages 0
Number Rooms 0	# of Bedrooms 0	# of Full Baths 0
# of 3/4 Baths 0	# of 1/2 Baths 0	# of Other Fixtures 0

Legal Description

Narrative Description of Property

This property contains 4.537 acres of land mainly classified as DEV-LAND with a(n) N/A style building, built about N/A , having N/A exterior and N/A roof cover, with N/A unit(s), 0 room(s), 0 bedroom(s), 0 bath(s), 0 half bath(s).

Property Images

No Sketch Available	No Map Available	No Picture Available
------------------------	---------------------	-------------------------

Disclaimer: This information is believed to be correct but is subject to change and is not warranted.

56694

QUITCLAIM DEED

26-

DENNIS F. MARGUERITE of Franklin, Norfolk County, Massachusetts, and LEONARD M. DeLOIA of Milford, Worcester County, Massachusetts, doing business as Co-Partners of L & D Realty Partnership, for consideration paid and in full consideration of Two Million Seven Hundred Fifty Thousand Dollars (\$2,750,000.00), grant to JOYCE RYAN, MARVIN H. GOULD, ARTHUR J. GOULD, SPENCER A. GOULD AND LESTER N. GOULD, TRUSTEES OF NAGOG KNOLL REALTY TRUST, under a written Declaration of Trust dated August 22, 1972, recorded with Middlesex South District Registry of Deeds, Book 12382, Page 666, as amended of record, having a principal place of business at 15 South Street, Hudson, Massachusetts 01749, with QUITCLAIM COVENANTS, the following described premises:

A certain parcel of land with the buildings thereon situated on Main Street, Medway, Norfolk County, Massachusetts, being shown as "4.97± Acres" on a plan entitled "Plan of Land in Medway, Massachusetts, Estate of Aaron Hobart" dated November 22, 1978, drawn by William J. Rossetti, R.L.S., recorded with Norfolk County Registry of Deeds, Plan No. 27 of 1979, Book 5561, Page 140.

Being the same premises conveyed to grantors by deed of Dennis Marguerite and Leonard DeLoia, dated April 2, 1985, recorded with Norfolk County Registry of Deeds, Book 6642, Page 369.

The undersigned acknowledge and represent that they are all of the partners of said L & D Realty Partnership.

WITNESS our hands and seals this 14th day of July, 1989.

L & D REALTY PARTNERSHIP

By Dennis F. Marguerite
Dennis F. Marguerite, Co-Partner

By Leonard M. DeLoia
Leonard M. DeLoia, Co-Partner

CANCELLED
JUL 17 1989
07:55/89

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

July 14, 1989

Then personally appeared the above-named Dennis F. Marguerite and Leonard M. DeLoia, and acknowledged the foregoing instrument to be their free act and deed and the free act and deed of L & D Realty Partnership, before me

Neil J. Roche
Neil J. Roche, Notary Public
My commission expires: May 11, 1995

1481R

Unofficial Property Record Card - Medway, MA

General Property Data

Parcel ID 40-052	Account Number 6-318X
Prior Parcel ID 6 -318X-	
Property Owner NAGOG KNOLL REALTY TRUST J RYAN/M.A.S. & L GOULD/TRS	Property Location 74 MAIN ST Property Use RESTAUR/BAR
Mailing Address 260 GREAT RD	Most Recent Sale Date 1/1/1900 Legal Reference 8372-317 Grantor N/A
City ACTON	Sale Price 0
Mailing State MA Zip 01720	Land Area 0.126 acres
Parcel Zoning C-1	

Current Property Assessment

Card 1 Value	Building Value 449,600	Xtra Features Value 4,500	Land Value 279,000	Total Value 733,100
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Building Description

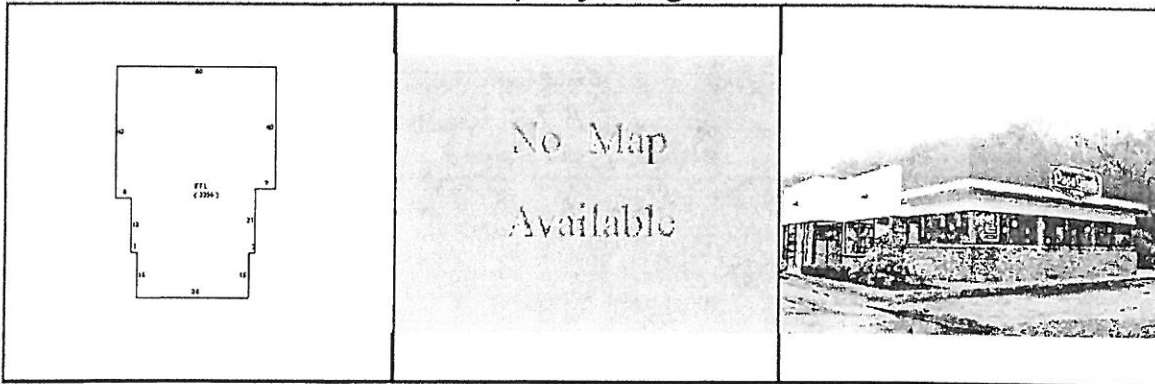
Building Style FAST FOOD # of Living Units 1 Year Built 1986 Building Grade Good (-) Building Condition Average Finished Area (SF) 3359 Number Rooms 0 # of 3/4 Baths 0	Foundation Type SLAB Frame Type Masonry Roof Structure FLAT Roof Cover MEMBRANE Siding Brick Veneer Interior Walls DRYWALL # of Bedrooms 0 # of 1/2 Baths 2	Flooring Type Tile Paver Basement Floor N/A Heating Type HTWTR/CAIR Heating Fuel GAS Air Conditioning 100% # of Bsmt Garages 0 # of Full Baths 0 # of Other Fixtures 6
--	--	---

Legal Description

Narrative Description of Property

This property contains 0.126 acres of land mainly classified as RESTAUR/BAR with a(n) FAST FOOD style building, built about 1986 , having Brick Veneer exterior and MEMBRANE roof cover, with 1 unit(s), 0 room(s), 0 bedroom(s), 0 bath(s), 2 half bath(s).

Property Images



Disclaimer: This information is believed to be correct but is subject to change and is not warranted.

COMMONWEALTH OF MASSACHUSETTS
TOWN OF MEDWAY
ZONING BOARD OF APPEALS

NORFOLK, ss.

IN RE: Request for Special Permit for Allowance of a Shopping Center
LOCUS: 72 and 74 Main Street, Medway, Massachusetts 02053

MEMORANDUM IN SUPPORT OF REQUEST FOR SPECIAL PERMIT

LOCUS HISTORY

1. **Relevant District.** The Locus is wholly located within the Commercial I zoning district.
2. **Location.** The Locus consists of two parcels of land with an approximate area of $\pm 200,000$ square feet, located along the northerly side of Main Street (Route 109), Medway, Massachusetts.
3. **Current Use.** The first parcel, being more particularly identified as 72 Main Street (Medway Assessor's Map 040, Parcel 051), consisting of an area of ± 4.54 acres of undeveloped land is presently owned by MECOBA PROPERTIES, INC. The second parcel, being a portion of the property more particularly identified as 74 Main Street (Medway Assessor's Map 040, Parcel 052) presently owned NAGOG KNOLL REALTY TRUST is a small portion of land along the easterly boundary of the Gould's Plaza, which contains several retail/commercial buildings and associated travel and parking areas.
4. **Proposed Use/Construction.** The Petitioner proposes that the parcels be developed, in two (2) phases, to establish a commercial/retail shopping center consisting of six (6) detached commercial/retail structures with associated paved access drive and bituminous paved parking area to facilitate the parking of 114 motor vehicles, as shown on the plan entitled, "TRI VALLEY COMMONS" "SPECIAL PERMIT" PLAN OF LAND IN MEDWAY, MA, prepared by Guerriere & Halnon, Inc., dated May 20, 2014, as may be amended, (the "Plan") a copy of which has been filed along herewith.

5. Zoning Tabulation CBD District: Required/Existing/Proposed.

OVERALL LOT INFORMATION	Required	Existing	Proposed
Required Lot Area (sq.ft.)	20,000 s.f.	+197,670 s.f.	+197,670 s.f.
Required Lot Frontage (feet)	100'	482.47'	482.47'
Max. Lot Coverage by Structures/Paving	30%	>1.0%	16.90%
Max Building Height	40'	n/a	40'
Lot Width	100'	431.85'	431.85'
Front Yard Setback	50'	n/a	50.04'
Side Yard Setback	25'	n/a	43.00'
Rear Yard Setback	25'	n/a	25.70'

PRESENT PETITIONER/OWNER/REQUESTED ACTION

6. **Petitioner/Owner.** The present Petitioner is THURKEN III, LLC, a limited liability company with a usual place of business at 389 Main Street, Salem, NH, 03079; the present owner of 72 Main Street, Medway, Norfolk County, Massachusetts is MECOBA PROPERTIES, INC with a principal mailing address at 70 Main Street, Medway, MA 02053; the present owner of 74 Main Street, Medway, Norfolk County, Massachusetts is NAGOG KNOLL REALTY TRUST with a principal mailing address at 260 Great Road, Acton, MA 01720.

7. **Requested Action.** The present petition before the Board requests approval of a special permit to allow the development of a Shopping Center as shown on the Plan, as may be amended, pursuant to Section V.G.1.j.6 of Zoning Bylaw of the Town of Medway.

SPECIAL PERMIT APPROVAL

8. **Special Permit Approval Requirements under Section III.J.** Section III.J of the Zoning Bylaw, states in part:

J. *Special Permit Criteria.*

Unless otherwise provided elsewhere in this Bylaw, all special permit granting authorities, shall before granting a special permit, find that in its judgment, all of the following criteria for the granting of a special permit are met.

1. *The use is in harmony with the general purpose and intent of the bylaw.*
2. *The use in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.*
3. *Adequate and appropriate facilities will be provided for the operation of the proposed use.*
4. *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.*
5. *The proposed use will not cause undue traffic congestion in the immediate area.*
6. *The proposed use is consistent with the 1999 Master Plan, as may be updated.*

CONDITIONS FOR APPROVAL UNDER SECTION III.J

9. **Satisfaction of Condition for Approval under Section III.J.1.**

(a) The use is in harmony with the general purpose and intent of the bylaw.

The Petitioner submits that the proposed project development will satisfy this condition, as the proposed development would be consistent with the commercial land that is predominant in this area. The planned two phased development of the project site would create six (6) individual detached buildings each structure with varied size, shape and situation within the development. All of the buildings within the proposed development would share a single common access drive to Main Street, along with internal travel aisles and parking areas which will promote the appearance of a traditional New England town center. The location of the commercial and retail uses at this site will provide such products and services to residents in the eastern part of the community and those individuals patronizing the existing commercial uses in this area thus alleviating possible vehicular traffic into the town's alternate commercial areas. The introduction of an additional commercial and retail uses into the community will provide the residents with consumer options and convenience while promoting competition in the marketplace which generally results in benefits to the consumer in the form of decreased prices and increased services.

10. **Satisfaction of Condition for Approval under Section III.J.2.**

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

The project site is located along the commercial/business corridor of Main Street (Route 109) where there are numerous curb cuts along Main Street that provide access for the predominantly commercial land use in this area of the town. The Petitioner has proposed the termination of the current access to 72 Main Street,

along with the termination of the current access drive to 74 Main Street (serving the Papa Gino's within the Gould's Plaza) with the establishment of a new a full access/egress drive at the western boundary of the project site which will not only serve as an access/egress drive for the proposed development at 72 Main Street, but will also serve as an access/egress drive for the neighboring Gould's Plaza property at 74 Main Street. Additionally, the Petitioner has proposed extending this access/egress drive to the northern boundary of the project site which may provide future access and utility connection to any future development of the neighboring property to the north.

11. Satisfaction of Condition for Approval under Section III.J.3.

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

The Petitioner submits that proposed project development satisfies this condition as the layout of the proposed driveways have been designed to accommodate all emergency and service vehicles. The full access/egress drive entering the project development would be a minimum of 24 feet in width and the internal travel aisle widths would be a minimum of 24 feet providing access to all sides of the proposed buildings. As new utilities are planned, the proposed project development would have access to the public water (12") service and sewer (24") service, natural gas and telephone. The proposed drainage serving the project development has been designed to attenuate peak flows for up to the 100-year storm event and infiltrate, at a minimum, the 1/2-inch water quality volume after appropriate water quality pre-treatment, and shall handle the post construction storm water runoff and storm water recharge.

12. Satisfaction of Condition for Approval under Section III.J.4.

(d) 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.

The Petitioner submits that the proposed project development 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. The project site is located in a critical commercial area within the Town of Medway. The buildings are to be served by municipal sewer to minimize the degradation of the groundwater by nitrates and phosphates. The Petitioner submits that the project development would not result in abutting properties being deprived of light or fresh air circulation. The

proposed buildings have been located on the site meeting all minimum site distances and set back requirements, and do not exceed any maximum height restrictions all as set forth in the Zoning Bylaw of the town of Medway. Further, that abutting properties will not be exposed to flooding or subjected to excessive noise, odor, light, vibrations or airborne particulates. The Petitioner has incorporated Best Management Practices (BMP's) into the project development to meet the Department of Environmental Protection Stormwater Management runoff quality requirements. The proposed drainage serving the project development has been designed to attenuate peak flows for up to the 100-year storm event and infiltrate, at a minimum, the 1/2-inch water quality volume after appropriate water quality pre-treatment, and shall handle the post construction storm water runoff and storm water recharge. A complete Drainage Report prepared by Guerriere & Halnon, Inc. has been submitted with the Medway Planning Board for review and compliance with the Major Site Plan Approval process. According to the Drainage Report, the project development would result in an increase in the present amount of impervious coverage on project site. The resulting increase in runoff would be mitigated by the construction of underground infiltration basins. The basins would serve to attenuate post-development peak runoff rates to less than the pre-development condition while also providing additional treatment and groundwater recharge by way of filtering stormwater through the underlying native soil material. The infiltration systems have been designed such that the 1/2-inch water quality volume will be infiltrated on-site after appropriate water quality pre-treatment. The 1/2-inch water quality volume generally represents the runoff that contains the vast majority of potential stormwater pollutants generated during storm events. Additional upstream water quality BMPs are incorporated into the design to further enhance the system's treatment effectiveness. Those measures include deep sump/hooded catch basins, proprietary hydrodynamic separators, and isolator rows included with the sub-surface infiltration system. The stormwater management system has been designed to meet or exceed the requirements established in the Massachusetts Stormwater Handbook and by the Town of Medway. All exterior lighting being proposed for the project development has been designed so as to comply with all regulations restricting the projection of light off of the premises. As the planned use of the project development is for general commercial and retail use, there are no anticipated odors or airborne particulates that would be ancillary to such expected uses. As all mechanical equipment servicing the buildings are to be located on the roof of each building, with the use of proper shielding and insulating materials so as to minimize, or in some cases, eliminate any visual appearance or associated sound from the use of such equipment.

13. Satisfaction of Condition for Approval under Section III.J.5.

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

The planned clearing of vegetation, re-grading, installation of a retaining wall as planned by the Petitioner, the site distance at the proposed site driveway either meet or exceed the minimum and desirable requirements for safe operation of the proposed site driveway and the intersections adjacent to the Site. Two-way traffic flow anticipated for the project development shall be accommodated by 24" internal travel corridors surrounding all sides of the buildings.

14. Satisfaction of Condition for Approval under Section III.J.6.

(f) The proposed use is consistent with the 1999 Master Plan, as may be updated.

The Petitioner submits that the proposed project development is consistent with the 1999 Master Plan for the town of Medway. The planned two phased development of individual detached buildings oriented to the street with shared common access drive and internal travel aisles, and parking areas which are located to the rear of the site will promote the appearance of a traditional New England town center. The proposed project development would be consistent with one of the principal goals of the 1999 Master Plan in the development (and redevelopment) of commercial properties along Route 109 in an effort to increase the commercial tax base for the Town of Medway.

WHEREFORE, the Petitioner respectfully requests that the Board grant a SPECIAL PERMIT, pursuant to Section V.G.1.j.6 of Zoning Bylaw of the Town of Medway, to allow the development of a Shopping Center as shown on the plan entitled "TRI VALLEY COMMONS" "SPECIAL PERMIT" PLAN OF LAND IN MEDWAY, MA, prepared by Guerriere & Halnon, Inc., dated May 20, 2014, as may be amended.

Dated: July 3, 2014

Respectfully submitted,
THURKEN III, LLC
By its Attorneys,



Richard R. Cornetta, Jr., Esquire
Cornetta, Ficco & Simmler, PC
Four West Street
Franklin, MA 02038
Tel: (508)528-5300
Fax: (508)528-5555

COMMONWEALTH OF MASSACHUSETTS
TOWN OF MEDWAY
ZONING BOARD OF APPEALS

NORFOLK, ss.

IN RE: Request for Special Permit for Allowance of Vehicle Repair
LOCUS: 72 and 74 Main Street, Medway, Massachusetts 02053

MEMORANDUM IN SUPPORT OF REQUEST FOR SPECIAL PERMIT

LOCUS HISTORY

1. **Relevant District.** The Locus is wholly located within the Commercial I zoning district.
2. **Location.** The Locus consists of two parcels of land with an approximate area of $\pm 200,000$ square feet, located along the northerly side of Main Street (Route 109), Medway, Massachusetts.
3. **Current Use.** The first parcel, being more particularly identified as 72 Main Street (Medway Assessor's Map 040, Parcel 051), consisting of an area of ± 4.54 acres of undeveloped land is presently owned by MECOBA PROPERTIES, INC. The second parcel, being a portion of the property more particularly identified as 74 Main Street (Medway Assessor's Map 040, Parcel 052) presently owned NAGOG KNOLL REALTY TRUST is a small portion of land along the easterly boundary of the Gould's Plaza, which contains several retail/commercial buildings and associated travel and parking areas.
4. **Proposed Use/Construction.** The Petitioner proposes that the parcels be developed, in two (2) phases, to establish a commercial/retail shopping center consisting of six (6) detached commercial/retail structures with associated paved access drive and bituminous paved parking area to facilitate the parking of 114 motor vehicles, as shown on the plan entitled, "TRI VALLEY COMMONS" "SPECIAL PERMIT" PLAN OF LAND IN MEDWAY, MA, prepared by Guerriere & Halnon, Inc., dated May 20, 2014, as may be amended, (the "Plan") a copy of which has been filed along herewith. The Petitioner requests that the proposed use for Building A as shown on the Plan be for Vehicle Repair.

5. **Zoning Tabulation CBD District: Required/Existing/Proposed.**

OVERALL LOT INFORMATION	Required	Existing	Proposed
Required Lot Area (sq.ft.)	20,000 s.f.	±197,670 s.f.	±197,670 s.f.
Required Lot Frontage (feet)	100'	482.47'	482.47'
Max. Lot Coverage by Structures/Paving	30%	>1.0%	16.90%
Max Building Height	40'	n/a	40'
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PRESENT PETITIONER/OWNER/REQUESTED ACTION

6. **Petitioner/Owner.** The present Petitioner is THURKEN III, LLC, a limited liability company with a usual place of business at 389 Main Street, Salem, NH, 03079; the present owner of 72 Main Street, Medway, Norfolk County, Massachusetts is MECOBA PROPERTIES, INC with a principal mailing address at 70 Main Street, Medway, MA 02053; the present owner of 74 Main Street, Medway, Norfolk County, Massachusetts is NAGOG KNOLL REALTY TRUST with a principal mailing address at 260 Great Road, Acton, MA 01720.

7. **Requested Action.** The present petition before the Board requests approval of a special permit to allow the use of Vehicle Repair within the Shopping Center as shown on the Plan, as may be amended, pursuant to Section V.G.1.j.9 of Zoning Bylaw of the Town of Medway.

SPECIAL PERMIT APPROVAL

8. **Special Permit Approval Requirements under Section III.J.** Section III.J of the Zoning Bylaw, states in part:

J. *Special Permit Criteria.*

Unless otherwise provided elsewhere in this Bylaw, all special permit granting authorities, shall before granting a special permit, find that in its judgment, all of the following criteria for the granting of a special permit are met.

1. *The use is in harmony with the general purpose and intent of the bylaw.*
2. *The use in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.*
3. *Adequate and appropriate facilities will be provided for the operation of the proposed use.*
4. *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.*
5. *The proposed use will not cause undue traffic congestion in the immediate area.*
6. *The proposed use is consistent with the 1999 Master Plan, as may be updated.*

CONDITIONS FOR APPROVAL UNDER SECTION III.J

9. **Satisfaction of Condition for Approval under Section III.J.1.**

(a) The use is in harmony with the general purpose and intent of the bylaw.

The Petitioner submits that the proposed use of Vehicle Repair will satisfy this condition, as this use would be consistent and complimentary to the various commercial and retail uses that are predominant in this area. By allowing such a varied use as Vehicle Repair within the well traveled commercial/business corridor of Main Street (Route 109), would provide a higher level of convenience and service to those individuals patronizing the other commercial/retail enterprises in the area.

10. **Satisfaction of Condition for Approval under Section III.J.2.**

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

The project site is located along the commercial/business corridor of Main Street (Route 109) where there are numerous curb cuts along Main Street that provide access for the predominantly commercial land use in this area of the town. The Petitioner has proposed the use of Vehicle Repair within the proposed Shopping Center development which would not only be consistent with the other commercial/retail uses in the local vicinity, to allow such varied use would provide added convenience and service to those individuals patronizing the other commercial/retail enterprises in the area.

11. **Satisfaction of Condition for Approval under Section III.J.3.**

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

The most prevalent risk associated with the use of Vehicle Repair being proposed by the Petitioner, would be in the handling and removal of liquid motor oil. As a matter of course and procedure, the proposed operator of the motor vehicle service and repair activity would be required to purchase all liquid motor oil from a duly licensed and approved. In each instance, delivery of the liquid motor oil would be delivered to the Locus in a specially engineered vehicle that has the capacity to safely load its contents directly into above ground, sealed, double-walled steel storage tanks surrounded by concrete containment bollards to negate any possible breach. From these storage tanks, the liquid motor oil would be pumped directly into the vehicle being serviced. The waste liquid motor oil from the vehicle would be withdrawn and trapped in a pump device that is directly emptied into a separate sealed double-walled steel storage tank surrounded by concrete containment bollards to negate any possible breach. The waste liquid motor oil would be collected by Clean Harbors and disposed of at a legal facility sanctioned by the Commonwealth of Massachusetts. Any small spills when filling a vehicle with liquid motor oil, would be immediately remediated with the use of Speedi Dri, a granular, absorbent substance or small cloth mats which are designed specifically for liquid motor oil absorption. Any such substances once used would be disposed in an environmentally approved way. Any incident that may result in an unusually large release, would result in immediate contact being made to the Clean Harbors Waste Oil Emergency Response Team for appropriately sanctioned measures to address any such event. Additionally, the Petitioner submits that proposed project development has proposed driveways designed to accommodate all emergency and service vehicles. The full access/egress drive entering the project development would be a minimum of 24 feet in width and the internal travel aisle widths would be a minimum of 24 feet providing access to all sides of the proposed buildings. As new utilities are planned, the proposed project development would have access to the public water (12") service and sewer (24") service, natural gas and telephone. The proposed drainage serving the project development has been designed to attenuate peak flows for up to the 100-year storm event and infiltrate, at a minimum, the 1/2-inch water quality volume after appropriate water quality pre-treatment, and shall handle the post construction storm water runoff and storm water recharge. A complete Drainage Report prepared by Guerriere & Halnon, Inc. has been submitted with the Medway Planning Board for review and compliance with the Major Site Plan Approval process.

12. Satisfaction of Condition for Approval under Section III.J.4.

(d) 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.

The Petitioner submits that the proposed use of Vehicle Repair 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. The project site is located in a critical commercial area within the Town of Medway. The buildings are to be served by municipal sewer to minimize the degradation of the groundwater by nitrates and phosphates. The Petitioner submits that the project development would not result in abutting properties being deprived of light or fresh air circulation. The proposed buildings have been located on the site meeting all minimum site distances and set back requirements, and do not exceed any maximum height restrictions all as set forth in the Zoning Bylaw of the town of Medway. Further, that abutting properties will not be exposed to flooding or subjected to excessive noise, odor, light, vibrations or airborne particulates, as the predominant activity associated with Vehicle Repair will be conducted within the building. The waste liquid motor oil from the proposed Vehicle Repair activity would be stored in an above ground, sealed double-walled steel storage tank surrounded by concrete containment bollards to negate any possible breach, and any used liquid motor oil will be collected by Clean Harbors and disposed of at a legal facility sanctioned by the Commonwealth of Massachusetts.

13. Satisfaction of Condition for Approval under Section III.J.5.

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

The planned clearing of vegetation, re-grading, installation of a retaining wall as planned by the Petitioner, the site distance at the proposed site driveway either meet or exceed the minimum and desirable requirements for safe operation of the proposed site driveway and the intersections adjacent to the Site. Two-way traffic flow anticipated for the project development shall be accommodated by 24" internal travel corridors surrounding all sides of the buildings.

14. Satisfaction of Condition for Approval under Section III.J.6.

(f) The proposed use is consistent with the 1999 Master Plan, as may be updated.

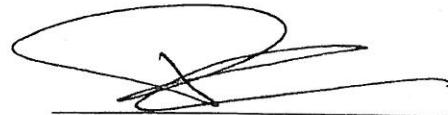
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(and redevelopment) of commercial properties along Route 109 in an effort to increase the commercial tax base for the Town of Medway.

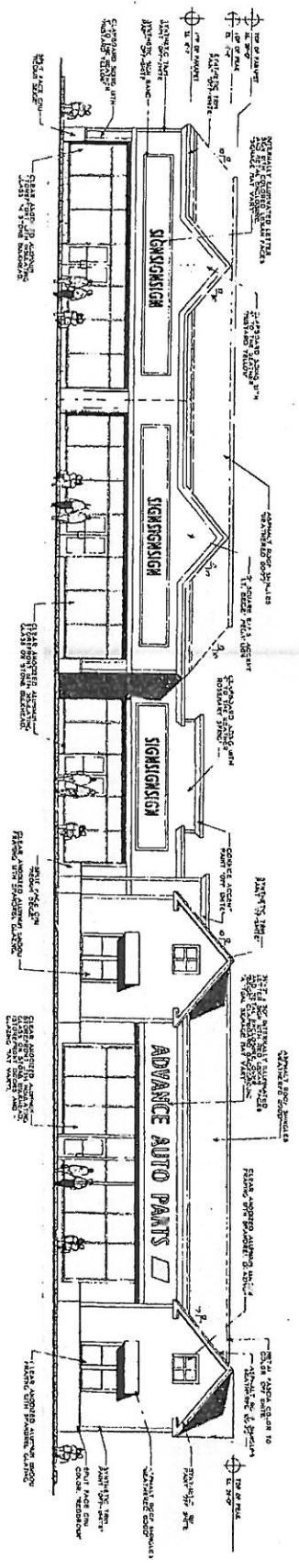
WHEREFORE, the Petitioner respectfully requests that the Board grant a SPECIAL PERMIT, pursuant to Section V.G.1.j.9 of Zoning Bylaw of the Town of Medway, to allow the use of Vehicle Repair within the Shopping Center as shown on the plan entitled "TRI VALLEY COMMONS" "SPECIAL PERMIT" PLAN OF LAND IN MEDWAY, MA, prepared by Guerriere & Halnon, Inc., dated May 20, 2014, as may be amended.

Dated: July 3, 2014

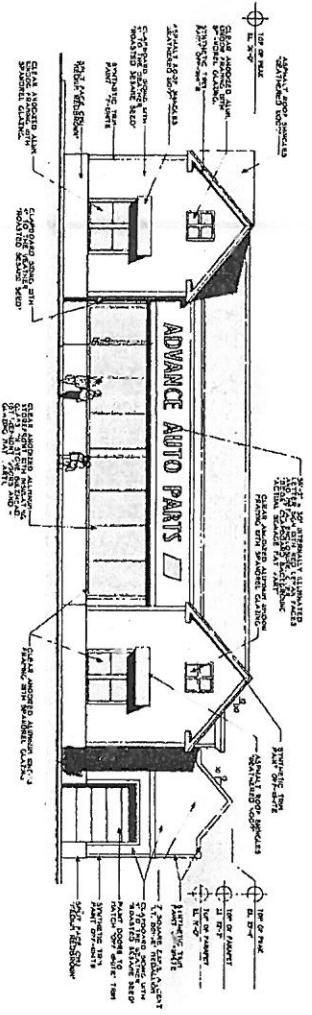
Respectfully submitted,
THURKEN III, LLC
By its Attorneys,



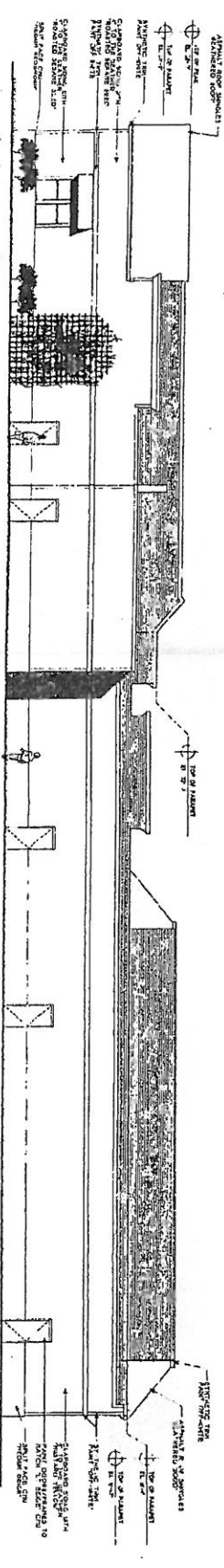
Richard R. Cornetta, Jr., Esquire
Cornetta, Ficco & Simmler, PC
Four West Street
Franklin, MA 02038
Tel: (508)528-5300
Fax: (508)528-5555



LEFTSIDE ELEVATION



FRONT ELEVATION



RIGHTSIDE ELEVATION

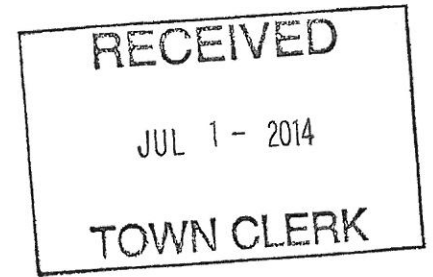
PROPOSED FRONT ELEVATIONS
RETAIL BUILDING "CDE"
 TRI VALLEY COMMONS
 MEDWAY, MA



NO.	DATE	DESCRIPTION
1	11-11-11	ISSUED FOR PERMITS
2	11-11-11	ISSUED FOR PERMITS
3	11-11-11	ISSUED FOR PERMITS
4	11-11-11	ISSUED FOR PERMITS
5	11-11-11	ISSUED FOR PERMITS
6	11-11-11	ISSUED FOR PERMITS
7	11-11-11	ISSUED FOR PERMITS
8	11-11-11	ISSUED FOR PERMITS
9	11-11-11	ISSUED FOR PERMITS
10	11-11-11	ISSUED FOR PERMITS



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



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

July 1, 2014

PUBLIC BRIEFING NOTICE
Medway Gardens – 34 Summer Street
Minor Site Plan Public Presentation & Discussion

In accordance with the Medway Zoning By-Law, Section V. Use Regulations, Subsection C. Site Plan Review and Approval and the provisions of Chapter 40A, Massachusetts General Laws, notice is given that ***the Medway Planning and Economic Development Board will have a public discussion during the Board's meeting on Tuesday, July 22, 2014 at 7:15 p.m. in the Sanford Room of Medway Town Hall, 155 Village St., Medway, MA*** to review the an application for approval of a *minor site plan* for Medway Gardens located at 34 Summer Street.

The application pertains to a new greenhouse and various site improvements including a reorganized parking arrangement, perimeter landscaping, and merchandise display. Medway Gardens is located on 2.27 acres on the east side of Summer Street, south of Route 109/Milford Street in the Commercial V zoning district. It is a portion of Medway parcel 56-40. The applicant and property owner is Onilleva Realty, LLC of Medway, MA.

The application and plans depicting the proposed scope of work are on file with the Medway Town Clerk at the Medway Town Hall, 155 Village Street, Medway, MA and may be inspected Mondays from 7:30 a.m. to 5:30 p.m., Tuesday – Thursday from 7:30 a.m. to 4:30 p.m., and Fridays from 7:30 a.m. to 12:30 p.m. They are also available for review at the Planning and Economic Development office at Town Hall. Additional information is posted at the Planning and Economic Development Board's web page at www.townofmedway.org.

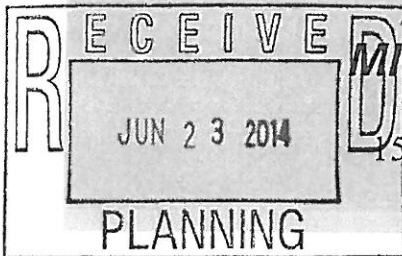
Interested persons or parties are invited to review the plans, attend the public meeting and express their views at the designated time and place. Written comments are encouraged and may be sent to the Medway Planning and Economic Development Board, 155 Village Street, Medway, MA 02053 or emailed to: planningboard@townofmedway.org. For further information, please contact the Planning & Economic Development office at 508-533-3291.

Andy Rodenhiser, Chairman

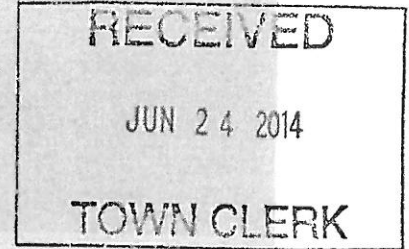
Telephone: 508-533-3291

Fax: 508-321-4987

planningboard@townofmedway.org



Application for Review and Approval
MINOR SITE PLAN PROJECT
 Planning Board – Town of Medway
 155 Village Street - Medway, MA 02053
 (508) 533-3291



This application for Site Plan Review and Approval is made pursuant to the Medway Zoning By-Law, Section V. USE REGULATIONS, Sub-Section C. SITE PLAN REVIEW & APPROVAL.

Date: 06/20/2014

The undersigned, being the applicant and the owner of all land included within the proposed site shown on the accompanying Site Plan entitled Site Plan, 1 dated 06/18/2014 prepared by Civil Design Group LLC, of North Andover, MA herewith submits this application to the Medway Planning Board for Review and Approval of a *Minor Site Plan Project*.

PROPERTY/SITE INFORMATION

1. Property Location Address: 34 Summer Street, Medway MA
2. Assessor=s Information: Map: 56 Parcel: 40
3. Zoning District: CV
4. The owner's title to the land is derived under a deed from: _____

Onilleva Realty Trust, LLC dated December 21, 2005 and recorded in Norfolk County Registry of Deeds, Book 547, Page 67/2005 or Land Court Certificate of Title # _____ registered in Norfolk County District Book _____ Page _____.

5. Frontage: 833.4 LF

Yard Depth: Front _____ Side _____ Side _____ Rear _____

6. Is any portion of the site within a flood plain area? _____ Yes x No
 If Yes, is it clearly shown on the plan? _____ Yes _____ No
7. Is any portion of the site within a wetland resource area? _____ Yes x No
 If Yes, is it clearly shown on the plan? _____ Yes _____ No
8. Does any portion of the site have frontage on a Scenic Road? _____ Yes x No

CONTACT INFORMATION

9a) Property Owner: See above
Address: 34 Summer Street
Medway, MA 02053
Primary Contact: Joseph Avellino
Telephone: 506-533-6591 FAX: _____
E-mail: _____

9b) Applicant (if other than property owner): _____
Address: _____
Primary Contact: _____
Telephone: _____ FAX: _____
E-Mail: _____

_____ Please check here if you are the equitable owner (purchaser on a purchase and sales agreement.)

9c) **NOTE** – If someone other than the property owner or the equitable owner is the applicant or will be representing the applicant, then the property owner or equitable owner must designate an Official Representative below:

Official Representative: Civil Design Group, LLC
Address: 21 High Street, Suite 300A
North Andover, MA 01845
Primary Contact: Philip Henry, P.E.
Telephone: 978-794-5400 Fax: _____
E-Mail: phil.henry@cdgengineering.com

10. Engineer: See above
Address: _____
Primary Contact: _____
Telephone: _____ FAX: _____
E-Mail: _____

11. Surveyor: N/A
Address: _____
Primary Contact: _____
Telephone: _____ FAX: _____

12. Architect: N/A
Address: _____
Primary Contact: _____
Telephone: _____ FAX: _____

PROJECT INFORMATION - Type of Project

13. A Minor Site Plan Project is defined as any construction, alteration, reconstruction or renovation project 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:

PLEASE CHECK (X) ALL THAT APPLY

Exterior Alteration – A change in the outside appearance of an existing building or premises, visible from a public or private street or way.

Building Dimensions: _____ Gross Floor Area _____

Change in Use – A change in use of an existing building requiring five (5) or more but less than fifteen (15) parking spaces

Building Dimensions: _____ Gross Floor Area _____

New Construction – Construction of a new building or an addition to an existing structure requiring five (5) or more but less than fifteen (15) parking spaces

Building Dimensions: _____ Gross Floor Area _____

Change in Parking Area – Construction, expansion, redesign or alteration of a parking area involving the addition of five (5) or more but less than fifteen (15) new parking spaces

Other – A site, which through continuous or proposed use, may be detrimental to municipal infrastructure or public safety

Building Dimensions: _____ Gross Floor Area _____

Other – Any use or structure, or expansion thereof, exempt under MGL, c. 40A, s. 3, but only if one or more of the above criteria is met

NOTE – Gross Floor Area includes the existing building and proposed addition if any, and/or proposed new building.

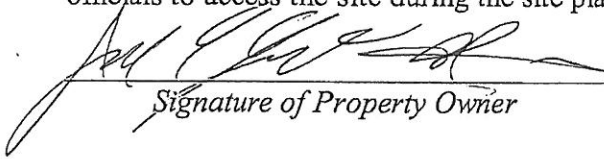
14. *Project Description* as specified in the Application Guidelines.
15. *Development Impact Report* as specified in the Application Guidelines.

SIGNATURES

I hereby certify, under the pains and penalties of perjury, that the information contained in this application is true and complete to the best of my knowledge and belief.

If applicable, I hereby authorize CIVIL DESIGN GROUP, LLC c/o PHILIP HENRY, P.E. to serve as my OFFICIAL REPRESENTATIVE to represent my interests before the Town of Medway with respect to this application for site plan review and approval.

In submitting this application, I also authorize the Planning Board, its agents, and other Town officials to access the site during the site plan review process.




Signature of Property Owner

6/13/14

Date

Signature of Applicant (if other than Property Owner)

Date



Signature of Official Representative

6/13/14

Date

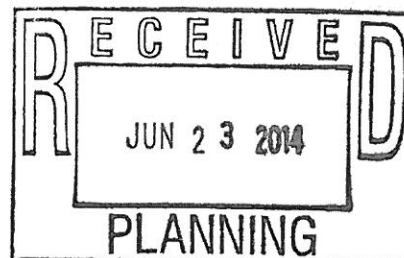
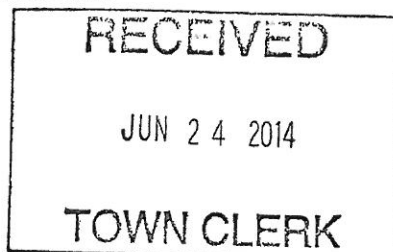
CIVIL DESIGN GROUP, LLC

ENGINEERING. LAND USE. PLANNING. PERMITTING.

21 High Street, Suite 300A
North Andover, MA 01845
Tel 978.794.5400
www.cdgeengineering.com

June 18, 2014

Planning and Economic Development Board
Town of Medway
155 Village Street
Medway, MA 02053



Re: Medway Garden Center
Minor Site Plan Project

Dear Board Members:

On behalf of Onilleva Realty, LLC (Owner), Civil Design Group, LLC (CDG) respectfully submits the following items pursuant to an application for Minor Site Plan Project for the Medway Garden Center located at 34 Summer Street, Medway, Massachusetts.

- One (1) original and six (6) copies of the Application for Minor Site Plan Project.
- One (1) original and six (6) full size copies of the Site Plan.
- One (1) certified list of abutters.
- Minor Site Plan Project filing fee.
- Minor Site Plan Project review fee.

The ±3.60 acre site located at the intersection of Summer Street (Route-126) and Milford Street (Route-109) and has been operating as a garden center since 1979. Earlier this year, a Cumberland Farms convenience store and gas station was approved along the northerly portion of the lot on a ±1.33 acre lease area, as such, the remaining ±2.27 acres is proposed to continue to operate as the Medway Garden Center. Subsequent to the Cumberland Farms approval, the Owner applied for and obtained a building permit from the Building Commissioner to relocate a portion of the greenhouse that was demolished and to construct an outdoor pergola and stripe the gravel parking lot with 52 parking spaces. Upon completing the reconstruction, the Building Commissioner conducted a site visit on May 1, 2014, and determined that the scope of work exceeded the amount of work typically performed without site plan approval and therefore; required minor site plan project approval. On May 13, 2014, the Owner attended a Planning and Economic Development Board (PEDB) hearing to obtain initial feedback regarding items to be incorporated into the Site Plan prior to submitting an application for minor site plan project approval. Below is an itemized list of site improvements that have either been constructed or will be incorporated into the project and are reflected on the enclosed site plan:

- Constructed a 62'x56' greenhouse.
- Constructed a 56'x20' outdoor wooden pergola.
- Striped 52 parking spaces within the existing gravel parking area (to be stripe 4 times/year).

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- Demarked three (3) ADA spaces.
- Identified outdoor merchandise/stock area.
- Identified snow storage area.
- Identified rubbish area.
- Identified areas of landscape enhancement including perimeter buffering as depicted.
- Relocated existing 'Medway Garden Center' sign.
- There are no existing permanent outdoor lights nor are any proposed for the site. The Medway Garden Center has historically operated during daylight hours with the exception of the Christmas season, where temporary parking lot lights will be utilized.

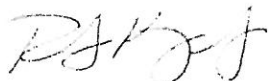
Due to the limited scope of the project, a waiver from the 'Development Impact Statement', pursuant to Section A.7 as outlined in the *Minor Site Plan Projects Application Guidelines* is hereby requested for your consideration.

A comprehensive stormwater report for the entire ±3.60 acre site was included in the Cumberland Farms submission and outlines existing and proposed stormwater drainage patterns throughout the site. In addition, the stormwater report identified the proposed impacts to the existing street drainage system and concluded that there will be no adverse impacts to downstream areas. Furthermore, the addition of the relocated greenhouse and the requested pavement at the accessible parking area and site entrance will not cause any downstream adverse impacts because these areas are primarily considered *unconnected* impervious areas, whereby runoff precipitating onto or flowing through these areas are not connected to offsite impervious areas. Therefore, overland flow from these nominal impervious areas will have an opportunity to infiltrate into downstream pervious areas prior to discharging offsite.

Thank you in advance for your time and consideration and please feel free to contact me via email at phil.henry@cdengineering.com or via phone at 978-794-5400.

Sincerely,

CIVIL DESIGN GROUP, LLC



Philip R. Henry, P.E.
Principal

CC: Mr. Joe Avellino, Owner

Enclosures



July 2, 2014

Ms. Susan E. Affleck-Childs - Medway Planning and Economic Development Coordinator
Medway Town Hall
155 Village Street
Medway, MA 02053

**Re: 34 Summer Street
Medway Gardens Minor Site Plan Review
Medway, Massachusetts**

Dear Ms. Affleck-Childs,

Tetra Tech (TT) has performed a review of the proposed Minor Site Plan for the above mentioned project. The project includes the relocation of a portion of the green house that was demolished and construction of an outdoor pergola, as well as striping the gravel parking lot with 52 spaces. This scope of work exceeded the amount of work typically performed without site plan approval as deemed so by the Building Commissioner.

TT is in receipt of the following materials:

- A plan (Plans) set entitled "Medway Gardens, 38 Summer Street (Route-126), Medway, MA 02053" dated June 18, 2014, prepared by Civil Design Group, LLC (CDG).
- A letter (Letter) entitled "Medway Garden Center" dated June 18, 2014, prepared by CDG
- A letter (Notice Letter) entitled "Official Notice, Site Improvements at 38 Summer Street" dated May 2, 2014, prepared by Town of Medway Building Department (MBD).
- A form (Application Forms) set entitled "Application for Review and Approval, Minor Site Plan Project", dated June 20, 2014, prepared by CDG.

The Plans and Drainage Report were reviewed for conformance with the Town of Medway, Massachusetts Planning Board Regulations, the MA DEP Storm Water Management Standards (Revised January 2008), Town of Medway Water/Sewer Department Rules and Regulations, and good engineering practice. The following is a list of comments generated during the review of the design documents. Reference to the applicable regulation requirement is given in parentheses following the comments.

Conformance with Planning Board Rules and Regulations for Submission and Review of Site Plans (Chapter 200):

1. The site plan shall be drawn at a scale of one (1) inch equals forty (40) feet or such other scale that has been approved in advance by the Planning Board and that clearly and adequately represents the proposed improvements. (Ch. 200 §204-4.B)

2. The applicant shall verify that all existing and proposed elevations shall refer to the North American Vertical Datum of 1988 (NAVD88) (Ch. 200 §204-4.D)
3. All site plan sheets shall contain a Board of Selectmen's endorsement signature block and other appropriate information. (Ch. 200 §204-4.F)
4. The Applicant shall provide list of requested waivers from these Rules and Regulations. (Ch. 200 §204-5.A)
5. A site context sheet should be provided. The site context sheet shall include a locus plan showing the site and its boundaries in relation to all surrounding streets within two thousand (2,000) feet of the perimeter of the site. The plan shall be at a maximum scale of one (1) inch equals one thousand (1,000) feet. Scenic roads shall be noted. (Ch. 200 §204-5.B-1)
6. A table outlining the proposal's conformance with zoning requirements including lot area, continuous frontage, lot depth, lot width, front, side, and rear setbacks, buildings heights, lot coverage, gross floor area, maximum seating capacity, number of employees, and number of parking spaces including handicapped and employee spaces, and other items as appropriate for the zone and proposed uses shall be included on the site plan. (Ch. 200 §204-5.D.15)

Conformance with the MA DEP Storm Water Management Standards

7. TT has no comment.

Conformance with the Town of Medway Water/Sewer Department Rules & Regulations

8. TT has no comment.

General Comments

9. TT has no comment.

These comments are offered as guides for use during the Town's review. If you have any questions or comments, please feel free to contact us at (508) 903-2000.

Very truly yours,



Brian R. Marchetti, P.E.
Project Manager

PGC ASSOCIATES, INC.

1 Toni Lane
Franklin, MA 02038-2648
508.533.8106
gino@pgcassociates.com

July 17, 2014

Mr. Andy Rodenhiser, Chairman
Medway Planning Board
155 Village Street
Medway, MA 02053

Re: Medway Gardens Minor Site Plan Review

Dear Mr. Rodenhiser:

I have reviewed the proposed site plan submitted by Joseph Avellino of Medway, to modify the Medway Gardens portion of the site following the construction of a Cumberland Farm on part of the site. The property is owned by Onilleva Realty Trust of Medway. The plan was prepared by Civil Design Group, LLC. Of North Andover, and is dated June 18, 2014. The property is located at 34 Summer Street, Assessor's Map 56, Parcel 40.

I have comments as follows:

Zoning

1. The property is located within the C-V district. This district specifically allows by right greenhouse and florist uses as well as retail sales.
2. The proposed development meets all dimensional requirements of the C-V district.
3. Except for the 7 spaces in front of the main building, the parking is not proposed to be paved. This is an existing condition. The 23 spaces along the perimeter and the 7 spaces in front of the building will have wheel stops. The gravel spaces are also proposed to be painted with stripes 4 times per year.
4. Regarding numbers, a total of 52 spaces are proposed. Due to the nature of the business, it is difficult to calculate a required number. However, the total space of the two buildings open to the public is 8,558 sq. ft. That would require 29 spaces. There are also outdoor display areas. Based on past history of this business, the 52 spaces are sufficient with the possible exception of certain peak times. No spaces are proposed between the buildings and the Summer Street right-of-way.
5. The Zoning Bylaw requires a bicycle rack space for every 20 parking spaces. No bicycle space is proposed. The Board has the authority to reduce this number based on individual site considerations.

6. No additional signage is proposed (other than for handicapped spaces). The existing "Medway Garden Center" sign is proposed to be moved. Any signage would need to conform to the sign requirements of the Zoning Bylaw.

Site Plan Rules and Regulations

7. Due to the limited nature of the proposed project, most of the Site Plan Rules and Regulations are not applicable. A waiver is requested for the requirement for a Development Impact Statement. Additional waivers should be requested for Existing Landscape Inventory, Landscape Architectural Plan, and Building Layout/Floor plan. All of these requests would be appropriate for this project given that most of the features on the site are already in place.
8. The plans indicate landscape screening around the perimeter of the parking lot as well as snow storage areas and a screened dumpster location. No additional lighting is proposed other than temporary parking lot lighting during the Christmas peak season.
9. A detailed and specific narrative statement is provided, which, combined with the plans, provides adequate information to determine that the proposal meets the criteria of Section 203-9 C.

If there are any questions about these comments, please call or e-mail me.

Sincerely,



Gino D. Carlucci, Jr.



TOWN OF HOPKINTON

OFFICE OF
THE PLANNING BOARD
TOWN HALL
18 MAIN STREET
HOPKINTON, MASSACHUSETTS 01748
(508) 497-9755

RECEIVED
JUL 14 2014

MEDWAY
TOWN ADMINISTRATOR

July 10, 2014

The Honorable Karen E. Spilka
Senator
State House, Room 320
Boston, MA 02133

Re: Oppose the Removal of Local Authority in Siting of Wireless Antennas and Equipment

Dear Senator Spilka,

The Hopkinton Planning Board is very concerned about certain provisions of the Economic Development Bill (H. 4181), specifically Sections 74 and 75, which would amend the Zoning Act (M.G.L. c.40A) by exempting many wireless telecommunications antennas and equipment from local zoning control. Similar language is contained in S.2183, "An Act Upgrading Mobile Broadband Coverage in the Commonwealth". The proposals would not allow a community to "prohibit, regulate or restrict" the collocation of wireless facilities on buildings and structures, giving this use a blanket exemption from all zoning regulations. This is more protection than religious and educational uses enjoy under the Zoning Act. While the Zoning Act allows communities to subject religious and educational uses to reasonable regulations concerning the bulk and height of structures, dimensional requirements and the like, reasonable regulations could not be imposed on wireless communications facilities. The Board strongly opposes these proposals.

Technology is changing all the time, and what might seem to be a minor change in 2014 – the replacement of one antenna with a similar antenna – might not be the kind of collocation changes we see 3 years from now. Since the original Telecommunications Act, wireless communications facilities have been installed and components replaced many times as technology has changed. Granting a blanket exemption for future facilities is asking for trouble, because we cannot foresee what those new facilities might be. It would be far better to retain local control so that unforeseen situations can be addressed and the impacts, if any, mitigated.

Our communities need to provide for a good quality of life for our residents and a secure environment for our businesses to flourish and grow. Municipalities enjoy the benefits of Home Rule authority, in that we can zone for appropriate land uses based on the needs and desires of the community. Further erosion of local control by removing regulation of certain wireless communications facilities is unacceptable. Please oppose any attempt to pass S. 2183 or the

Economic Development Bill's provisions that would remove the ability for cities and towns to regulate wireless antennas.

Sincerely,

A handwritten signature in cursive script that reads "Kenneth Weismantel".

Kenneth Weismantel
Chairman

Cc: Representative Carolyn Dykema
Hopkinton Board of Selectmen
Boards of Selectmen - Ashland, Framingham, Franklin, Holliston, Medway and Natick