

Board Members

Andy Rodenhiser, Chair
Sarah Raposa, A.I.C.P., Vice Chair
Timothy Harris, Clerk
Jessica Chabot, Member
John Parlee, Member
Alexandra Vinton, Associate
Member



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TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
PLANNING AND ECONOMIC
DEVELOPMENT BOARD

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Certificate of Action
37 Holliston Street Definitive Subdivision Plan

Date of Decision: April 23, 2024

Location: 37 Holliston Street, Assessors' Parcel

Applicant and property owner: Mark Bittrolff
37 Holliston Street, Medway

Engineer: Land Planning, Inc.
167 Hartford Ave.
Bellingham, MA 02019

Plan: "Definitive Subdivision Plan of 37 Holliston Street,
Medway, MA" prepared by Land Planning, Inc. dated
February 12, 2024, last revision April 2, 2024

Zoning District: Agricultural Residential II (AR-II)

Members Voting: Andy Rodenhiser, Sarah Raposa, Tim Harris, Jessica
Chabot, John Parlee

- I. PROJECT DESCRIPTION:** The applicant proposes to divide the existing lot at 37 Holliston into two lots. Lot 1 as shown on the definitive subdivision plan will meet all requirements of the Zoning Bylaw and is currently vacant. Lot 2, which includes an existing single-family house, will have only 107.27 feet of frontage, where 150 feet is required in the AR-II zone. The existing house is also nonconforming as to the front setback. On July 19, 2023, the Zoning Board of Appeals granted a variance from the frontage requirement to allow Lot 2 to have 107.27 feet of frontage. The applicant proposes to construct a single-family home on Lot 1 once the property has been subdivided.

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II. PROCEDURAL SUMMARY:

1. On February 16, 2024, the applicant filed an application for definitive subdivision plan approval. The public hearing notice was posted with the Medway Town Clerk and was mailed to parties in interest. The public hearing was duly noticed in the Milford Daily News on February 27, 2024, and March 5, 2024.
2. The public hearing was opened on March 12, 2024, and continued to April 9, 2024, and April 23, 2024, at which time the public hearing was closed.

III. PUBLIC HEARING SUMMARY

The following were submitted with the application for modification:

1. Application
2. Plan entitled “Definitive Subdivision Plan of 37 Holliston Street”, prepared by Land Planning, Inc. dated February 12, 2024
3. List of Requested Waivers from Subdivision Rules and Regulations
4. Soil Test Report

The following additional items were submitted by the applicant:

1. Revised plans, with revision date of March 6, 2024
2. Revised plans, with revision date of April 2, 2024
3. Revised list of requested waivers, dated April 2, 2024
4. Response letter to Tetra Tech comments, dated April 2, 2024

The Board received the following other documents:

1. Email from Nolan Lynch, Highway Superintendent, dated February 22, 2024
2. Email from Bridget Graziano, Conservation Agent, dated March 4, 2024
3. Email from Stephanie Carlisle, Sustainability Coordinator, dated March 5, 2024
4. Email from Stephanie Carlisle, Sustainability Coordinator, dated March 6, 2024
5. Email from Stephanie Carlisle, Sustainability Coordinator, dated March 7, 2024
5. Email from Stephanie Carlisle, Sustainability Coordinator, to Lauri Guisti-McSweeney dated March 6, 2024 with prior emails attached
6. Memo from Barbara J. Saint Andre, Director of CED, dated March 8, 2024
7. Email from resident Jeff Hodge dated March 11, 2024
8. Letter from Tetra Tech dated April 1, 2024
9. Certificate from Jessica Chabot under G.L. c. 39, §29D
10. Zoning Board of Appeals variance decision dated July 19, 2023
11. Memo from Barbara J. Saint Andre, Director of CED, dated April 10, 2024

IV. ACTION ON REQUESTS FOR WAIVERS OF SUBDIVISION RULES & REGULATIONS – The Applicant has requested waivers from the following sections of the Subdivision Rules and Regulations, dated April 26, 2005.

WAIVER REQUEST INVENTORY

WAIVER #	SECTION	REQUIREMENT	JUSTIFICATION
1	5.5.5	Fee in streets	No streets are being proposed
2	5.5.9	Stormwater Management	No streets are being proposed
3	5.5.10	Long term Operation and Maintenance	No streets are being proposed
4	5.5.10.1	Soil test pits with percolation tests	Soil test pit data provided is sufficient for project scope
5	5.5.11	Development Impact Report (Form F)	No streets are being proposed
6	5.5.12	Traffic Study	No streets are being proposed
7	5.5.13	Sight Distance	No streets are being proposed
8	5.5.14	ANRAD determination	No protect resource areas or buffer zones on the project site
9	5.6.3	Plan scale shall be 1"=40'	The scale provided (1"=20') shows the extents of the site and construction activities
10	5.7.2	Show property lines and buildings within 500 feet	Not applicable due to scale of subdivision
11	5.7.7	Show resource areas & buffer zones	No protect resource areas or buffer zones on the project site
12	5.7.9	Show existing wells & septic systems within 100' of Locus	Adjacent parcels are connected to Municipal water and sanitary sewer systems
13	5.7.10	Provide sufficient data to determine proposed street location	No streets are being proposed
14	5.7.12	Location of streets, etc. within 700 feet	Not applicable due to scale of subdivision
15	5.7.14	Zoning setback shown as a fine dashed line	Plan indicates setback line as a different line type
16	5.7.17	Note Mass Land Court Case Number and other case related information	No portion of the Locus property has been examined, approved, and confirmed by Mass Land Court
17	5.7.19	Layout of street construction, etc.	No streets are being proposed
18	5.7.20	Road Profiles	No streets are being proposed
19	5.7.22	Site Testing	No changes in soil are being proposed
20	5.7.23	Stormwater Management	No stormwater proposed - below applicability threshold
21	5.7.24	Trees	No changes in trees are proposed for the subdivision
22	5.7.25	Cross Section	No streets are being proposed
23	5.7.27	Street signs	No streets are being proposed
24	5.7.28	Street lights	No streets are being proposed
25	5.7.29	Side walks	No streets are being proposed
26	5.7.30	Driveway	Driveways generated from a new right-of-way cannot be shown as no new streets are being proposed
27	5.7.31	Open Space	Not applicable
28	5.7.32	Cul-de-sac Island Landscaping	No cul-de-sac is proposed
29	5.7.33	Stormwater Pollution Prevention Plan	No changes in stormwater runoff is proposed
30	5.7.34	Handicap Accessibility	No streets are being proposed
31	5.7.36	Show 40' by 80' building footprint	Building footprint per Architectural design plans
32	7.0.0	Design and Construction Standards (entire	Not applicable due to scale of subdivision

This is a two lot subdivision, with both lots having frontage on Holliston Street, an existing public way. No streets are being created, the reason a subdivision plan is required is because one of the lots does not have the length of frontage required by the Zoning Bylaw. The Zoning Board of Appeals granted a variance from the frontage requirement, and the Board is now required to grant subdivision approval. Because no new streets are being created, and only one new lot which will be accessed from Holliston Street, many of the provisions of the Board's Rules and Regulations are not applicable. Granting waivers from many of the regulations is in the public interest by not creating more unnecessary hardscape to minimize potential stormwater management impacts.

For the foregoing reasons, the Board approves the waiver requests as being consistent with the purpose and intent of the Subdivision Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of subdivision review and approval.

The Board also finds that a waiver of the frontage requirement set forth in the Zoning Bylaw is consistent with the purpose and intent of the Subdivision Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of subdivision review and approval.

V. FINDINGS

Before taking action on a definitive subdivision plan, the Board shall evaluate the proposed subdivision according to the criteria as specified in Section 5.16 of the Subdivision Rules and Regulations. The Board approved the findings noted below.

5.16.1 Completeness and technical accuracy of all submissions.

FINDINGS – All submissions were reviewed by Town staff and/or the Town's Consulting Engineer. Missing or technical inaccuracies were identified and have been remedied through the submittal of a revised plan or requests for waivers from the Subdivision Rules and Regulations.

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

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

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

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

the inadequacy of the proposed access or of any ways adjacent to or providing access to the subdivision.

FINDINGS – This subdivision plan shows the subdivision of one lot into two lots on Holliston Street, which has sufficient capacity for the additional traffic from one additional single-family home. No new roads are being created. The Board finds that all of the above criteria have been met.

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

FINDINGS – The Board finds that the Zoning Board of Appeals granted a variance to allow Lot 2 with the existing house to have less than the frontage required by the Zoning Bylaw. In all other respects, the lots created by this plan conform to all applicable requirements of the Medway Zoning Bylaw. The Board finds this criterion is met.

5.16.7 Consistency with the purposes of the Subdivision Control Law.

FINDINGS – The Board finds that the proposed subdivision is consistent with the purposes of the Subdivision Control Law in that there is adequate access to the lots and any potential adverse impacts have been addressed.

VI. DECISION – The Board voted to 5 – 0 to approve the Definitive Subdivision Plan prepared by Land Planning, Inc., dated February 12, 2024, last revised April 2, 2024, subject to the Conditions as specified and approved herein and with Waivers from the Subdivision Rules and Regulations dated April 25, 2005, also as specified and approved herein.

VII. CONDITIONS

The following conditions shall apply to the Permittee, its executors, administrators, devisees, heirs, successors and assigns:

1. The 37 Holliston Street subdivision is authorized for no more than two residential house lots. As a permanent condition of the approval of this plan, no further subdivision of the property beyond these two lots is allowed. This subdivision is subject to the provisions of the variance granted by the Zoning Board of Appeals on July 19, 2023, recorded at Norfolk Registry of Deeds at Book 41362, page 582.

2. Completion Schedule - The Permittee or its Assignee shall construct all required infrastructure including the stormwater management system, and install all utilities as shown on the endorsed Definitive Subdivision Plan, to the satisfaction of the Planning and Economic Development Board, within three years of the date of endorsement of the plan. The time for such construction and/or installation may be extended upon the written request of the applicant, for good cause shown, prior to the expiration of the three-year period, upon a vote of the majority of the Planning and Economic Development Board then present.

3. Plan Revisions – Prior to plan endorsement, the Definitive Subdivision Plan, last revised April 2, 2024, shall be further revised as follows: not applicable.

4. Plan Endorsement

- a. Within sixty days but no sooner than twenty days after the Board has filed this decision with the Town Clerk, the Permittee shall submit the subdivision plan reflecting all Conditions and required revisions as specified herein, to the Planning and Economic Development Board and the Town's Consulting Engineer, for review and approval prior to plan endorsement. Any conditions of this Certificate of Action requiring changes to the definitive subdivision plan must be addressed to the satisfaction of the Town's Consulting Engineer and the Planning and Economic Development Board before the Board will endorse the definitive subdivision plan.
- b. The endorsed plan shall bear the certification of the Town Clerk that twenty days have elapsed after the decision was filed in the Town Clerk's office and no appeal has been filed within said twenty-day period.
- c. Prior to Plan Endorsement, the Permittee shall pay the balance of any outstanding plan review services by any outside consultants retained by the Planning and Economic Development Board.
- d. Within thirty days after plan endorsement, the Permittee shall provide the Town with two sets of the approved plan in 24" x 36" paper format. The Permittee shall also provide the approved plan in pdf format and CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp).

5. Recording – The Permittee shall record this decision and the endorsed definitive subdivision plan at the Norfolk County Registry of Deeds. Within thirty days of such recording, the Permittee shall provide proof of recording to the Planning and Economic Development Board. No construction shall begin on the site and no building permit shall be issued before these documents are recorded. The fee for recording or registering shall be paid by the Permittee.

6. DPW – Any damage to the roadway of Holliston Street along the subject site's frontage resulting from site infrastructure and building construction work, shall be repaired or replaced to the satisfaction of the Medway Department of Public Works (DPW) before the occupancy permit is issued for Lot 1. Applicant shall obtain street opening and any other required permits from DPW and comply with all DPW requirements for utility work and work within the Town right of way. Applicant is required to obtain an MS-4 permit from DPW prior to issuance of building permit.

7. Maintenance Responsibility During Construction

- a. No clearing of vegetation, including trees, or disturbance of soil shall occur prior to the installation of erosion controls.
- b. Prior to the commencement of any activity on the site, the erosion control plan included in the endorsed plan set and the limit of work lines shall be staked. The location of erosion controls shall be adjusted, if necessary, during the first erosion control inspection.
- c. Immediately after installation of erosion controls, the Permittee shall notify the Board's consulting engineer to schedule a follow-up inspection to ensure that erosion controls and limits of work have been properly located and installed. No work shall be conducted

until the Board's consulting engineer has inspected and approved the installation of the erosion controls.

- d. It shall be the responsibility of the Permittee to conduct monitoring, maintenance and repair of erosion control measures, as well as to take any other additional measures necessary to control erosion from the site. The erosion control measures designated on the subdivision plan shall be considered a minimum standard for compliance.
 - e. All waste products, refuse, debris, grubbed stumps, slash, excavate, construction materials, etc. associated with the planned construction shall be contained and ultimately deposited at an appropriate off-site facility and shall not be incorporated in any manner into the project site.
- 8. Water Conservation** – The Permittee shall incorporate the following water conservation measures for construction of the house on Lot 1.
- a. any irrigation systems will be rain-gauge controlled
 - b. low flow household fixtures
 - c. water efficient appliances (dishwashers, washing machines, toilets, etc.)
- 9. Proof of Taxes Paid** – Prior to the Planning and Economic Development Board's endorsement of the plan, proof is required from the Medway Town Treasurer/Collector that all real estate taxes and other municipal fees and charges are current for the properties included in this subdivision and for all property owned in Medway by the Permittee.
- 10. Site Access** - Planning and Economic Development Board members, its staff, consultants or other designated Town agents and staff shall have the right to inspect the site during construction for compliance with the endorsed subdivision plan and the provisions of this Decision.

11. Construction Oversight

- a. Construction Account
 - 1) Inspection of infrastructure and utility construction, and installation of site amenities including landscaping may be required to be performed by the Town's Consulting Engineer. Prior to plan endorsement the Permittee shall pay a construction services fee to the Town of Medway to establish a construction services account for such inspections. The amount shall be determined by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer based on the scope of the project. The funds may be used at the Board's discretion to retain professional outside consultants to perform the items listed above as well as the following other tasks - inspect the site during construction/installation, identify what site work remains to be completed, 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 authorize project completion.
 - 2) Depending on the scope of professional outside consultant assistance that the Board may need, the Permittee shall provide supplemental payments to the project's construction inspection account, upon invoice from the Board, for reasonable

additional construction services until the road construction and stormwater drainage system and other utilities are completed and the as-built plan has been reviewed and determined to be satisfactory.

- 3) Any funds remaining in the Permittee's construction inspection account after project completion shall be returned to the Permittee.
 - b. Any construction work occurring in the Town's right-of way in conjunction with the Town of Medway Street Opening/Roadway Access Permit and any utility connection permits must comply with Department of Public Works requirements, and is subject to DPW inspection.
- 12. Other Permits** – This permit does not relieve the Permittee from its responsibility to obtain, pay and comply with all other required federal, state and Town permits. The contractor for the Permittee or assigns shall obtain, pay and comply with all other required Town permits.
- 13. Pre-Construction** – At least seven days prior to the start of any site preparation or construction, the Permittee shall provide the Town's Community and Economic Development staff, the Medway Department of Public Works, and other Town staff as appropriate, a list of contacts with contact information for contractors, those responsible for compliance with this permit (Clerk of the Works), and on-site management.
- 14. Restrictions on Construction Activities** – During construction, all local, state and federal laws shall be followed regarding noise, vibration, dust and blocking of Town roads. The Permittee and its contractors shall, at all times, use all reasonable means to minimize inconvenience to abutters and residents in the general area. The following specific restrictions on construction activity shall apply.
- a. **Construction Time** – Construction work at the site and in the operation of construction equipment including start-up and movement of trucks, vehicles, and machines shall commence no earlier than 7:00 a.m. and shall cease no later than 7:00 p.m. Monday through Saturday. No construction shall take place on Sundays, federal holidays or state legal holidays without the advance written approval of the Building Commissioner. These rules do not apply to interior construction work such as painting, installation of drywall, flooring, and similar work.
 - b. The Permittee shall take all measures necessary to ensure that no excessive dust leaves the premises during construction including use of water spray to wet down dusty surfaces.
 - c. There shall be no tracking of construction materials onto any public way. Sweeping of roadways adjacent to the site shall be done to ensure that any loose gravel/dirt is removed from the roadways and does not create hazardous or deleterious conditions for vehicles, pedestrians or abutting residents. In the event construction debris is carried onto a public way, the Permittee shall be responsible for all clean-up of the roadway which shall occur as soon as possible and in any event within twelve hours of its occurrence.
 - d. The Permittee is responsible for having the contractor clean-up the construction site and the adjacent properties onto which construction debris may fall on a daily basis.

- e. All erosion and siltation control measures shall be installed by the Permittee prior to the start of construction and observed by the Planning and Economic Development Board's consulting engineer and maintained in good repair throughout the construction period.
- f. During construction, adequate provisions shall be made on-site for the parking, storing, and stacking of construction materials and vehicles. All parking for construction vehicles and construction related traffic shall be maintained on site. No parking of construction and construction related vehicles shall take place on adjacent public or private ways or interfere with the safe movement of persons and vehicles on adjacent properties or roadways.

15. Compliance with Plan and Decision

- a. All construction shall be as specified in the approved definitive subdivision plan and any modifications thereto and in full compliance with the Subdivision Rules and Regulations except as waived by this Certificate of Action, and all applicable local, state and federal laws, which may include but not limited to the Americans with Disabilities Act, the NPDES permit requirements, the Massachusetts Department of Environmental Protection Stormwater Management Policy requirements, MEPA requirements, the Massachusetts Wetland Protection Act (Chapter 131, Section 40, M.G.L.) and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.
- b. 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 this Decision.

16. On-Site Field Changes

- a. During construction, the Permittee may be authorized to make limited, minor, on-site field changes to the approved plan based on unforeseen site or job conditions, situations, or emergencies necessitated by field conditions or due to practical considerations. These field changes shall not alter items which may affect the site's compliance with this decision and the Zoning Bylaw nor conflict with a specific condition of the decision. Field changes shall not substantially alter the intent, layout or design of the endorsed plan.
- b. Prior to undertaking such field changes, the Permittee and/or contractor shall discuss the possible field changes with the Town's Consulting Engineer and submit a letter and drawings to the Planning and Economic Development Coordinator and the Building Commissioner describing the proposed changes and what conditions, situations, or emergencies necessitate such changes. The Building Commissioner may determine that the field change is insubstantial, authorize the change, and so notify the Board. Otherwise, the Board shall review the proposed field changes at a public meeting and determine whether the proposed field changes are reasonable and acceptable based on the unforeseen conditions, situations, or emergencies and whether other options are feasible or more suitable. A written authorization of field change will be provided. Any approved field change shall be reflected in the as-built plan to be provided at project completion.

17. Modification of Plan and/or Decision

- a. Proposed modifications to the plan or decision, not included on-site field changes, shall be subject to review by the Board.
- b. This approval is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies or commissions. Any changes to the 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 a subdivision plan modification.
- c. Whenever additional reviews by the Planning and Economic Development Board, its staff or consultants are necessary due to proposed subdivision plan modifications, the Permittee 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.
- d. The Board shall issue its Modification Decision, file such with the Town Clerk and provide copies to the Building Commissioner, other Town officials and the Permittee. Any modifications approved by the Board shall be made a permanent part of the approved project. Any plan modifications shall be shown on the final as-built plan.

18. Landscape Maintenance

- a. Any shrubs, trees, bushes or other landscaping features shown on the Plan that die shall be replaced by the following spring.
- b. Within 60 days after two years after the occupancy permit is issued, the Town's Consulting Engineer or the Building Commissioner may conduct an initial inspection of the landscaping to determine whether and which landscape items need replacement or removal and provide a report to the Board. At any time, subsequent to this initial inspection, the Town's Consulting Engineer or the Building Commissioner may conduct further inspections of the landscaping to determine whether and which landscaping items need replacement or removal and provide a report to the Board. The Board may seek enforcement remedies with the Building Commissioner to ensure that the comprehensive landscaping plan is maintained.

19. Project Completion – The Board shall determine project completion once the Permittee has completed the following tasks to the Board's satisfaction:

- a. provided the Board with written certification from a Professional Engineer registered in the Commonwealth of Massachusetts that all site work has been completed in substantial compliance with the approved and endorsed Plan, and any modifications thereto; and
- b. submitted an As-Built Construction Plan prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts in accordance with the Subdivision Rules and Regulations in effect at the time the plans are submitted to the Board for review by the Town's Consulting Engineer and the Board's approval. The Permittee shall provide the final as-built plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp).

- c. paid the Town of Medway for any taxes/fees associated with these parcels or other property owned by the Permittee in the Town of Medway; and
- d. completed any mitigation measures specified in the subdivision certificate of action to the satisfaction of the Board.

The Board finds that the proposed subdivision does comply with the Subdivision Control Law and the Board's Regulations as conditioned and with the Waivers granted by the Board.

The Board voted to GRANT the application for definitive subdivision approval with Conditions and with Waivers as specified herein.

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Medway Planning and Economic Development Board**

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Andy Rodenhiser, Chair

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Sarah Raposa, AICP, Vice-Chair

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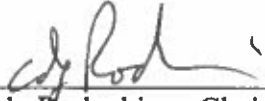
Date

The Board and the Permittee have complied with all statutory requirements for the issuance of this Decision on the terms set forth herein. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Permittee and notice of the Decision will be mailed to all parties in interest.

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, chapter 41, §81BB, which shall be filed within twenty days after the filing of this decision in the office of the Medway Town Clerk.


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Date of Action by the Planning and Economic Development Board: April 23, 2024




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4/23/24
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