

Board Members

Mathew J. Hayes, P.E., Chair
Robert Tucker, Vice Chair
Richard Di Iulio, Clerk
Jessica Chabot, Member
Sarah Raposa, Member
Thomas A. Gay, Associate
Member



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TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
**PLANNING AND ECONOMIC
DEVELOPMENT BOARD**

February 1, 2022

**MULTI-FAMILY HOUSING SPECIAL PERMIT, MAJOR SITE PLAN, and
LAND DISTURBANCE PERMIT DECISION
Cutler Place – 6 Cutler Street
Approved with Waivers and Conditions**

Decision Date: January 31, 2022

Name of Applicant/Permittee: Cutler Place, LLC

Address of Applicant: 249 Village Street
Medway, MA 02053

Name/Address of Property Owners: Cutler Place, LLC
249 Village Street
Medway, MA 02053

Engineer: Ron Tiberi, P.E.
9 Massachusetts Avenue
Natick, MA

Site Plan: *Cutler Place*
Dated November 1, 2021, last revised December 27, 2021 by Ron Tiberi, P.E.
To be further revised as specified herein

Location: 6 Cutler Street

Assessors' Reference: Map 48, Parcel 70

Zoning District: Village Residential
Multi-Family Housing Overlay District

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Location: 6 Cutler Street

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Zoning District: Village Residential
Multi-Family Housing Overlay District

I. PROJECT DESCRIPTION – The Applicant sought a multi-family special permit, land disturbance permit, and major site plan approval to develop a 5-unit residential community at 6 Cutler Street, a 0.71 acre property and the site of the first Medway school house. The proposed development entails renovation of the existing 4,800 sq. ft. vintage building into three residential dwelling units and construction of a 3,000 sq. ft. addition for two residential dwelling units. The Applicant intends to develop and sell the units as condominiums. Thirteen off-street parking spaces are planned. Access and egress will be from a single curb cut from Cutler Street. Stormwater management will be provided by means of a rain garden retention system located at the front of the property to mitigate and treat runoff from the building and parking lot. Other improvements include landscaping and site lighting.

The proposed use requires a multi-family housing special permit pursuant to Sections 5.6.4 and 3.4 of the Town of Medway *Zoning Bylaw* (the “*Bylaw*”), and site plan review and approval pursuant to Section 3.5 of the *Bylaw*. The property is also subject to the provisions of Article XXVII of the Medway General Bylaws, Stormwater Management and Land Disturbance for a Land Disturbance Permit.

II. VOTES OF THE BOARD

A. **Multi-Family Housing Special Permit** - After reviewing the application and information gathered during the public hearing and review process, the Medway Planning and Economic Development Board (the “Board”), on January 31, 2022, on a motion made by Jessica Chabot and seconded by Richard Di Iulio, *voted to approve with CONDITIONS a Multi-Family Housing Special Permit to Cutler Place, LLC of Medway, MA (hereafter referred to as the Applicant or the Permittee) for a 5-unit residential development at 6 Cutler Street.*

The motion was approved by a roll call vote of 5 in favor and none opposed.

Planning & Economic Development Board Member	Vote
Jessica Chabot	YES
Richard Di Iulio	YES
Thomas A. Gay	YES
Matthew Hayes	YES
Robert Tucker	YES

B. **Site Plan** - After reviewing the application and information gathered during the public hearing and review process, the Medway Planning and Economic Development Board (the “Board”), on January 31, 2022, on a motion made by Jessica Chabot and seconded by Richard Di Iulio, *voted to approve with WAIVERS and CONDITIONS a site plan for the development of a five unit, multi-family development and associated site improvements at 6 Cutler Street, as shown on a plan titled Cutler Place, dated November 17, 2021, last revised December 27, 2021 by Ron Tiberi, P.E., to be further revised as specified herein before endorsement and recording.*

The motion was approved by a roll call vote of 4 in favor and none opposed.

Planning & Economic Development Board Member	Vote
Jessica Chabot	YES
Richard Di Iulio	YES
Matthew Hayes	YES
Robert Tucker	YES

- C. **Land Disturbance Permit** - After reviewing the application and information gathered during the public hearing and review process, the Medway Planning and Economic Development Board (the “Board”), on January 31, 2022, on a motion made by Jessica Chabot and seconded by Richard Di Iulio, *voted to approve with CONDITIONS a Land Disturbance Permit for 6 Cutler Street, Medway MA as shown on a plan titled Cutler Place, dated November 17, 2021, last revised December 27, 2021 by Ron Tiberi, P.E., to be further revised as specified herein before endorsement and recording.*

The motion was approved by a roll call vote of 4 in favor and none opposed.

Planning & Economic Development Board Member	Vote
Jessica Chabot	YES
Richard Di Iulio	YES
Matthew Hayes	YES
Robert Tucker	YES

III. PROCEDURAL HISTORY

- A. November 17, 2021 - Special permit, site plan, and land disturbance permit applications and associated materials filed with the Board.
- B. November 18, 2021 – Special permit, site plan, and land disturbance permit applications filed with the Medway Town Clerk
- C. November 18, 2021 – Public hearing notice filed with the Town Clerk and posted at the Town of Medway web site.
- D. November 19, 2021 - Public hearing notice mailed to abutters and parties of interest by certified sent mail.
- E. November 19, 2021 - Project documents and information loaded to PEDB web page.
- F. November 29, 2021 – Site plan information distributed to Town boards, committees and departments for review and comment.
- G. November 29, 2021 - Public hearing notice advertised in *Milford Daily News*.
- H. December 14, 2021 - Public hearing commenced. The public hearing was continued to January 11 and January 25, 2022 when the hearing was closed and a decision rendered. Public hearing continuation notices were filed with the Town Clerk and distributed to Town staff, boards and committees to request review comments.

IV. INDEX OF SITE PLAN/SPECIAL PERMIT DOCUMENTS

- A. The application package for the proposed Cutler Place condominium development included the following documents, plans, studies and information that were provided to the Board.
1. Multi-family Housing Special Permit application dated November 16, 2021
 2. Major Site Plan application dated November 16, 2021

3. Land Disturbance Permit application dated November 16, 2021
 4. *Cutler Place* site plan for 6 Cutler Street, dated November 17, 2021 prepared by Ron Tiberi, P.E. of Natick, MA including landscaping and lighting plans
 5. Certified Abutters List from Medway Assessor's office dated November 17, 2021
 6. Quit claim deed dated September 1, 2021 from Town of Medway Affordable Housing Trust to Cutler Place LLC.
 7. Building architectural plans including elevations and floor plans dated November 17, 2021 by Alex Siekierski, R.A. of Medway, MA
 8. Requests for waivers from the *Site Plan Rules and Regulations*, prepared by Ron Tiberi, P.E.
 9. *Project Description* received November 18, 2021
 10. *Storm Water Report for Cutler Place*, Medway, MA dated November 13, 2021 prepared by Ron Tiberi, P.E.
- B. During the course of the Board's review, revised plans and a variety of other materials were submitted to the Board by the Applicant and its representatives:
1. Response letter dated December 27, 2021 from project engineer Ron Tiberi, P.E. to the previous plan review comment letters from Tetra Tech and Town staff.
 2. *Cutler Place* site plan for 6 Cutler Street, dated November 17, 2021 prepared by Ron Tiberi, P.E. of Natick, MA including landscaping and lighting plans, revised December 28, 2021
 3. Revised *Project Description* received December 28, 2021
 4. *Simplified Development Impact Report* received December 28, 2021
 5. *Storm Water Report for Cutler Place*, Medway, MA dated November 13, 2021 prepared by Ron Tiberi, P.E., revised January 4, 2022.
- C. Other documentation submitted to the Board during the course of the public hearing:
1. Tetra Tech plan review letters dated December 14, 2021 and January 6, 2022.
 2. Design Review Committee comment memorandum dated December 8, 2021
 3. Plan review comments dated December 8, 2021 from Susan Affleck-Childs, Medway Planning and Economic Development Coordinator
 4. Email dated January 18, 2022 from Deputy Fire Chief Michael Fasolino
 5. Emailed dated January 20, 2022 from Conservation Agent Bridget Graziano
 6. Letter dated January 25, 2022 from Police Sergeant Jeff Watson
 7. Emails dated January 24, 2022 from DPW Water/Sewer Superintendent Barry Smith
 8. Mullins Rule certification for PEDB Associate Member Tom Gay for the January 11, 2022 hearing
 9. Email communication dated January 25, 2022 from Deputy Fire Chief Michael Fasolino

V. TESTIMONY - In addition to the special permit and site plan review application materials as submitted and provided during the course of its review, the Board heard and received verbal testimony from:

- Steve Bouley, P.E. of Tetra Tech, Inc., the Town’s Consulting Engineer – Commentary provided throughout the public hearing process.
- Anthony Varrichione, Applicant
- Ron Tiberi, P.E., project engineer for the Applicant
- Alex Siekierski, R.A., project architect for the Applicant
- Resident Chris Meo, 16 Cottage Street
- Resident Kristen Alexander, 3 Phillips Street
- Resident Shea, 4 Phillips Street
- Resident Jessica Kirby, 1 Phillips Street
- Resident Ann Wells, 17 Cottage Street
- Resident Liam Shea, 4 Phillips Street

Additionally, the following written comments were provided and entered into the record during the public hearing:

- Memo dated 12-5-21 from Chris and Kathleen Meo, 16 Cottage Street
- Email dated 12-14-21 from Julie Harrington, 5 Phillips Street
- Letter dated 12-14-21 from Ann Wells, 17 Cottage Street
- Email dated 1-7-22 from Chris and Kathleen Meo, 16 Cottage Street

VI. FINDINGS - The Board, at its meeting on January 31, 2022, on a motion made by Richard Di Iulio and seconded by Jessica Chabot, voted to approve the following **FINDINGS** regarding the multi-family special permit, site plan, and land disturbance permit applications for the proposed Cutler Place development to be located at 6 Cutler Street. The motion was approved by a roll call vote of 5 in favor and none opposed.

Planning & Economic Development Board Member	Vote
Jessica Chabot	YES
Richard Di Iulio	YES
Thomas A. Gay	YES
Matthew Hayes	YES
Robert Tucker	YES

MULTIFAMILY HOUSING SPECIAL PERMIT - The Board makes the following Findings in relation to this development’s compliance with Section 5.6.4 Multifamily Housing of the *Bylaw*.

Applicability

- 1) **Location** - *The site is located within the Multifamily Housing Overlay District (Section 5.6.4) and thus is eligible for a multi-family housing special permit.*
- 2) **Traffic capacity** – *Cutler Street is a short, local street. Based on the ITE Trip Generation tables, each residential dwelling unit is expected to generate 5.81 daily trips for a total of 29 vehicle trips per day, heading the sort distance to Coffee Street, and then on to Main Street. The 5 units do not rise to the level of triggering the requirement for the submittal and review of a traffic study.*
- 3) **Parcel size & frontage** – *The site consists of 0.71 acres which exceeds the minimum area requirement of 22,500 square feet for the Village Residential zoning district. The*

site has 189 feet of frontage on Cutler Street, so it meets the minimum 50-foot frontage requirement of Section 5.6.4.B (1) of the Bylaw.

Dimensional Regulations

- 4) **Minimum Dimensional Requirements** – *The dimensional requirements of the underlying VR zoning district apply to the project, as set forth in Table 2 of Section 6 of the Bylaw. The combined existing building with addition is set back approximately 61.2 feet from Cutler Street; the minimum front setback for the VR district is 20 feet. The plan shows a side setback of 22' from the west property line where the minimum required is 10'. The plan shows a rear setback of 42' where a 10' minimum is required. The plan demonstrates that the completed project will comply with maximum building coverage requirements (15.5% provided vs. 30% maximum allowed) and the maximum impervious surface standards (33% provided vs. 40% allowed). It is noted that the project provides for a substantial reduction in impervious surface from 72% in the existing, pre-development condition to 33%.*
- 5) **Non-Conforming Buildings** – *There are no non-conforming buildings on the property.*
- 6) **Building Height** - *As indicated on the site plan, the building height is 33', less than the maximum 40' height allowed.*

Density

- 7) **Density** - *The maximum density for multifamily projects is 8 units per whole acre. With 0.71 acres, the maximum possible number of dwelling units is 5.7. With 5 units, the project is under the allowed maximum.*

Special Regulations

- 8) **Affordable Housing** – *With only a proposed net increase of 5 dwelling units, the provisions of Section 8.6 Affordable Housing of the Zoning Bylaw do not apply to the proposed development project.*
- 9) **Open Space** - *A minimum of 15% of the parcel must be open space or yard area. This requirement is met with 27% open space being provided which includes the front and back yards of the property.*
- 10) **Parking spaces** - *Two off-street spaces per unit (10 spaces) are the minimum required per Section 5.6.4 E. 3 of the Bylaw and 13 off-street parking spaces are provided.*
- 11) **Town water and sewer service** - *The project will be served by Town water and sewer.*
- 12) **Number of units** - *The total number of units proposed (5) is less than the 40 maximum possible number of units allowed under the Bylaw for a multi-family development (without consideration of density limits).*
- 13) **Historic Properties** – *Section 5.6.4 E. 7 requires that historic properties determined to be “historically significant” by the Medway Historical Commission cannot be demolished unless certain criteria are met. The property includes the existing building built in 1882 which the Applicant will renovate as part of the project. Accordingly, this provision does not apply.*

Decision Criteria

- 14) **Meets purposes of Multi-Family Housing section of the Bylaw (Section 5.6.4) and the Site Plan Rules and Regulations** - *The project meets the following purposes of the Multifamily Housing section of the Bylaw: (1) It provides a diversity of housing types in the form of attached units; (2) It encourages the preservation of older properties with the renovation of the existing historic building on the property.*

It also meets the purpose of the Site Plan Rules and Regulations which is to provide for a uniform procedural and substantive requirements of Section 3.5 Site Plan Review of the Zoning Bylaw. The plans have been reviewed by Town officials and the Board's Consulting Engineer to ensure that the health, safety and welfare of Town residents is protected. Impacts on traffic, parking, drainage, environmental quality, community economics and community character were considered and changes were made during the course of the hearing to improve the project.
- 15) **Consistent with the Medway Housing Production Plan** - *The development meets the implementation strategies of the Housing Production Plan by providing additional multi-family housing.*
- 16) **Impact on abutting properties and adjacent neighborhoods** - *The impact on abutting properties and adjacent neighborhoods has been addressed through vegetative screening and a comprehensive landscaping plan, an increase in the number of on-site parking spaces beyond what was originally proposed, and the outstanding aesthetics of the renovation and newly constructed addition as reviewed by the Design Review Committee. Further, as noted in Specific Condition O, two No Parking signs will be installed along the north side of Cutler Street adjacent to the subject property and the condominium documents will include a requirement that residents are allowed to only park on the 6 Cutler Street premises and not on the street.*
- 17) **Variety of housing stock** - *The development increases the variety of housing stock in the community by providing a multi-family building.*
- 18) **Designed to be reflective of or compatible with the character of the surrounding neighborhood** - *The project retains and renovates the existing vintage building which fronts on Cutler Street. The new construction will be in the form of an addition to the existing building and will be set back approximately 60 feet from Cutler Street and is well screened from adjacent properties to the east, north and west. The architectural design of the renovation and new addition has been thoroughly reviewed by the Design Review Committee and is thoughtfully designed and compatible. Therefore, the proposed development is compatible with the character of the surrounding neighborhood.*

SPECIAL PERMIT DECISION CRITERIA – Special permits shall be granted only upon the Board's written determination that the adverse effects of the proposed multi-family housing use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. The Board makes the following Findings in accordance with Section 3.4 of the *Bylaw*.

- 1) **The proposed site is an appropriate location for the proposed use.** *The proposed use is a small, multi-family development on a property located on Cutler Street within the Multi-Family Housing Overlay District. The property is located .3 miles from Main Street*

and then is about ¼ mile to the Medway Mill complex and Choate Park, home to Choate Pond, Thayer Homestead, a multi-age playground, and the beginning of Medway's trail system.

- 2) **Adequate and appropriate facilities will be provided for the operation of the proposed use.** *As documented in the plans and associated materials, and conditioned herein, adequate and appropriate facilities will be provided for the operation of the proposed residential use. Town officials and the Town's Consulting Engineer have reviewed the proposed facilities and site improvements. The project will be serviced by Town water and sewer systems. Private electric and gas utilities will be provided. And the stormwater management system has been designed in accordance with the applicable local and State regulations.*
- 3) **The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians or the environment.** *The proposed use adds 5 residential units on a minor local street. It is estimated that the development will generate minimal traffic. The entrance to the site has 132' of sight distance easterly toward Cottage Street. The project does not create a hazard to abutters, vehicles, or pedestrians. The proposed stormwater management system has been reviewed by the Town's Consulting Engineer and has been modified during the course of review. There are no wetland resources located on the property. The abutting property to the north and west is Evergreen Cemetery. Further, as noted in Specific Condition O, two No Parking signs will be installed along the north side of Cutler Street adjacent to the subject property and the condominium documents will include a requirement that residents are allowed to only park on the 6 Cutler Street premises and not on the street.*
- 4) **The proposed use will not cause undue traffic congestion or conflicts in the immediate area.** *The roadway entrance/exit for Cutler Place has been adjusted to a single curb cut to simplify access/egress from the site. The estimate of 29 vehicle trips per day will not cause undue traffic congestion or conflicts.*
- 5) **The proposed use will not be detrimental to the adjoining properties due to lighting, flooding, odors, dust, noise, vibration, refuse materials or other undesirable visual, site or operational attributes of the proposed use.** *The Applicant has provided documentation reviewed by the Town's Consulting Engineer that its stormwater management plan is adequate to prevent flooding. The development will utilize residential style driveway lanterns instead of traditional parking lot lighting and street lights. The plans also document that there is no light trespass. Household refuse will be disposed of using a shared dumpster, to be enclosed for screening purposes. A substantial landscaping plan will be implemented to enhance the property's aesthetics. There will be no detrimental impact on abutters due to odors, dust, noise, vibration, refuse materials or other undesirable impacts.*
- 6) **The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district.** *The project retains and renovates the existing structure for 3 units and constructs an addition for 2 residences. The building is set back 61' from Cutler Street; the front yard will be landscaped to enhance the property's aesthetics. The architectural design of the renovation and new dwelling units has been thoroughly reviewed by the Design Review Committee and modified to better blend with the architecture of the existing houses.*

- 7) **The proposed use is in harmony with the general purpose and intent of the Zoning Bylaw.** *The Multi-Family Housing Overlay District was established to accommodate this type of use subject to certain conditions to limit adverse impacts. The project includes construction of 5 attached style dwelling units which will help to diversify Medway's housing supply. Its location serves to promote pedestrian oriented development, and the project scope includes the retention and renovation of the existing, historic building which will provide compatibility with the adjacent neighborhood.*
- 8) **The proposed use is consistent with the goals of the Medway Master Plan.** *The proposed multi-family use is consistent with the Master Plan goal of implementing projects to increase housing diversity.*
- 9) **The proposed use will not be detrimental to the public good.** *As documented in the plans and application, and the Findings and Conditions of this decision, the proposed use is in accordance with the goals of the Master Plan while protecting against potential adverse impacts. The proposed development has reasonable and appropriate density in a suitable location.*

For all of the above reasons, the Board finds the adverse effects of the proposed Cutler Place multi-family use will not outweigh the beneficial impacts of the proposed Cutler Place multi-family development to the town or neighborhood.

SITE PLAN RULES AND REGULATIONS FINDINGS – The Board shall determine whether the proposed development is in conformance with the standards and criteria set forth in the *Site Plan Rules and Regulations*, unless specifically waived. In making its decision, the Board makes the following Findings in accordance with Section 204-8 of the *Site Plan Rules and Regulations*, as amended October 8, 2019, and Section 3.5 of the *Bylaw*:

- 1) 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? *The plan has been thoroughly reviewed by Town officials and the Board's Consulting Engineer. There is no backing onto a public way, and Cutler Street is adequate to safely handle the traffic from the 5 new housing units.*
- 2) 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 proposed building is residential and its scale and materials are suitable for the site and use. The design has been reviewed by the Design Review Committee and is acceptable for its location. There are no distinguishing buildings in the vicinity with which the proposed buildings would conflict in terms of character, materials and scale.*
- 3) 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 site will include a parking area that will be screened from abutters by fencing and landscaping. The shared dumpster for solid waste will be screened from view. The front yard of the property will be substantially landscaped for stormwater management and aesthetics.*

- 4) Is adequate access to each structure for fire and service equipment provided? *The proposed residences are accessible from the driveway and are located relatively close to Cutler Street. The Fire Department has reviewed the site plan and has determined that Fire Department apparatus will be able to access the development's parking lot. An existing fire hydrant is located in front of the property. The building will have sprinklers throughout installed as part of the renovation and construction.*
- 5) Will the design and construction minimize, to the extent reasonably possible, the following environmental impacts?
- a) the volume of cut and fill;
 - b) the number of trees to be removed with particular care taken with mature trees and root systems;
 - c) the visual prominence of man-made elements not necessary for safety;
 - d) the removal of existing stone walls;
 - e) the visibility of building sites from existing streets;
 - f) the impacts on waterways and environmental resource areas;
 - g) soil pollution and erosion;
 - h) noise.

The proposed stormwater drainage system has been reviewed by the Town's Consulting Engineer. Appropriate soil pollution and erosion controls have been incorporated into the plan. No extraordinary noise will be generated by the residential neighborhood. No stone walls are being removed. A robust landscaping plan will be implemented. A significant reduction in impervious surface will occur as a result of this project; stormwater will be managed on site instead of running off to Cutler Street. The subject site was previously disturbed so the impact on the environment is minimal. There are no wetland resources on the property.

- 6) Is pedestrian and vehicular safety both on the site and egressing from it maximized? *The proposed development adds 5 residential units. The number of daily vehicle trips is estimated to be 29 for the development. The entrance/exit to the site has adequate sight distance and does not create a hazard to abutters, vehicles, or pedestrians. Sidewalks will be installed to connect the parking area to the entrances of all dwelling units.*
- 7) 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 designs for the building renovation and new construction were prepared by a licensed architect and were guided by the historic architecture of the existing building.*
- 8) Does the lighting of structures and parking area avoid glare on adjoining properties and minimize light pollution within the town? *The lighting plan was reviewed by the Board's Consulting Engineer and has been revised to comply with the Zoning Bylaw. The planned site lighting is residential in scale and minimizes light pollution.*
- 9) Is the proposed limit of work area reasonable and does it protect sensitive environmental and/or cultural resources? *The site plan as designed should not cause substantial or irrevocable damage to the environment, which damage could be avoided or ameliorated through an alternative development plan or mitigation measures. The limit of work is reasonable. There are no sensitive environmental resources on the subject property.*

LAND DISTURBANCE PERMIT FINDINGS - The Board finds that the work proposed for construction of a residential development with the associated stormwater management system, utilities and landscaping was presented at a public hearing where the Applicant has presented evidence sufficient to demonstrate that the proposed activity meets the provisions under Medway General Bylaw Article XXVI Stormwater Management and Land Disturbance.

VII. WAIVERS – At its January 31, 2022 meeting, the Board, on a motion made by Richard Di Iulio and seconded by Jessica Chabot, voted to grant waivers from the following provisions of the *Rules and Regulations for the Submission and Approval of Site Plans, as amended October 8, 2019*. The Board’s action and reasons for granting each waiver request 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 roll call vote of 4 in favor and none opposed.

Planning & Economic Development Board Member	Vote
Jessica Chabot	YES
Richard Di Iulio	YES
Matthew Hayes	YES
Robert Tucker	YES

SITE PLAN RULES AND REGULATIONS

- 1) **Section 204-3 Planning Board Submittals. K. An Order of Resource Area Delineation depicting the approved wetland resources affecting the proposed project from the Conservation Commission, or an Order of Conditions issued within the past 3 years, or a Determination of Applicability with a finding from the Conservation Commission that the proposed project is not within its jurisdiction.**

The Applicant has requested a waiver from this standard. The site plan depicts delineated wetlands in Evergreen Cemetery, the adjacent property to the west and north of 6 Cutler Street. The 100’ buffer area around the wetland resource does not extend into the 6 Cutler Street property. None of the above noted documents have been provided, however Conservation Agent Bridget Graziano has provided a communication to indicate that there are no resources on the site under the Commission’s jurisdiction. *For these reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.*

- 2) **Section 204-5 D. Site Plan Information Sheets. 10) Color Renderings of the project and buildings shall be provided.**

The Applicant has requested a waiver from this standard. The Applicant has provided architectural drawings prepared by a registered architect which include detailed building elevations which have been reviewed by the Design Review Committee and found to be appropriate, successfully designed, and aligned with the *Medway Design Review Guidelines*. *For these reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.*

3) **Section 207-9 B. Sidewalks – Five foot sidewalks shall be provided within parking areas.**

The Applicant has requested a waiver from this standard. A sidewalk is not proposed within the parking area. As the development site is small in terms of area (0.71 acres) and the number of dwelling units (5), and the number of parking spaces (13), pedestrian circulation can be readily accommodated by the 22' internal driveway. Not constructing sidewalks also reduces the amount of impervious surfaces for which stormwater management would be needed. Sidewalks are provided on the property to connect the parking area to the unit entrances. *For these reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.*

3) **Section 207-11 B. 2 – Internal Site Circulation and Parking Lot Drive Aisles – The perimeter of drive aisles shall be bounded with vertical granite curb.**

The Applicant has requested a waiver from the standard to install granite curbing along the perimeter of the drive aisle and proposes to use modified Cape Cod berm instead. As this is a small residential development, not a commercial center, the use of modified Cape Cod berm is suitable. However, granite curbing shall be used for the roundings where the drive aisle connects to Cutler Street. *For this reason, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.*

4) **Section 207-11 B. 3 – Internal Site Circulation and Parking Lot Drive Aisles – Two-way drive aisles shall be twenty-four feet wide.**

The Applicant has requested a waiver from the 24-foot drive aisle standard width and has proposed a width of 22-feet instead. Deputy Fire Chief Mike Fasolino was consulted and has determined that the reduced width is acceptable as it meets the Fire Department's 20' width requirement. He has also noted the location of an existing fire hydrant in front of the property which provides ready access to water for fire-fighting if ever needed. A 22' wide roadway is quite workable for a small, multi-family development on a 0.71 acre property with 189 feet of frontage on Cutler Street. *For these reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.*

5) **Section 207-12. G. Parking Spaces 3) b) Parking spaces shall not be located within fifteen feet of the front, side and rear property lines**

The Applicant has requested a waiver from this standard as it applies to the side setback from the eastern adjacent property at 14 Cottage Street. The parking spaces are proposed to be set back 11.5 feet from that property line instead of 15'. The reduced setback is needed to provide adequate drive aisle space within the site. It is noted that the abutting property at 14 Cottage Street includes an existing fence along the full length (approximately 165 linear feet) of its western boundary with 6 Cutler Street, as depicted on the site plan. As the 14 Cottage Street property is fully screened from the Cutler Place development by this fence, the need for a 15' setback for parking is not compelling. *For*

these reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.

- 6) **Section 207 – 16 Utilities. A. All electric, telephone, cable TV, and other utilities shall be located underground.**

The Applicant has requested a waiver from this standard. The electric, telephone, and cable are proposed to come from an existing utility pole at the southwest corner of the property. Given the modest size of the project, this is a reasonable adjustment. *For this reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.*

- 7) **Section 207-19 Landscaping. B. Buffers. 2. Perimeter landscaping shall be provided around the entire site. Four season evergreen landscape buffers between the site and adjoining properties are required, particularly to protect adjacent residential uses to the greatest extent possible. Landscaped buffer areas shall be a minimum of fifteen feet in depth and may be comprised of existing woodlands and native vegetation supplemented by new landscape plantings. Vegetation in buffer areas may also be augmented with earth berms of a reasonable height and high quality and durable fencing using materials approximately wood.**

The Applicant has requested a waiver from this standard as 15' of landscape buffering is not provided around the full perimeter of the entire site. A limited buffering treatment is proposed along the eastern boundary, however the adjacent property to the east at 14 Cottage Street already includes a fence that runs the full depth of the property and provides a suitable buffer for those residents to 6 Cutler Street. The adjacent property to the north and west is Evergreen Cemetery. A four-season landscaping installation is planned to screen the property to the north. *For these reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.*

- 8) **Section 207-19 Landscaping. C. Parking Areas. 1) Internal landscape planted divisions (islands and peninsulas) shall be constructed within all parking areas containing ten or more parking spaces to provide visual relief from expanses of pavement and vehicles and provide shade. a) A minimum of ten percent of the total internal parking area shall be provided as landscaped island areas, exclusive of perimeter landscaping.**

The Applicant has requested a waiver from this standard. Both the Board and neighbors were concerned about the prospect of overflow parking onto Cutler Street if enough parking spaces were not provided on site. Over the course of the public hearing, the total number of proposed parking spaces was increased from 10 to 13 to accommodate resident and visitor parking for the 5 dwellings. Consequently, this has eliminated the Applicant's ability to include the noted landscaped islands or peninsulas within the parking area. *For these reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which*

will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.

- 9) **Section 207-19 K. Landscaping. K. Irrigation – On-site wells, cisterns to capture rainfall, or private watering service is required to maintain landscaping installations. The Town does not permit connection to the Town’s water service for landscape irrigation. Well locations shall be shown on the site plan and are subject to approval of the Medway Board of Health.**

The Applicant has requested a waiver from this standard. Due to the small size of the site and development, there are no plans to install a private irrigation system for the landscaping. The landscaping plan incorporates drought resistant plant materials. This decision includes Specific Condition T. which requires the Permittee and assigns and the future Cutler Place Condominium Association to maintain the landscape installations and water the plantings in accordance with the Town’s water conservation restrictions. ***For these reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.***

VIII. CONDITIONS - The *Special and General Conditions* included in this Decision shall assure that the Board’s approval of this site plan complies with the *Bylaw*, Section 3.4 (Special Permits) and Section 5.6.4 (Multi-Family Housing), is consistent with *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 Board’s issuance of a multi-family housing special permit, land disturbance permit, and site plan approval is subject to the following Conditions of Approval:

SPECIFIC CONDITIONS OF APPROVAL

- A. Notwithstanding any future amendment of the *Bylaw*, G.L. c.40A, or any other legislative act:
1. The maximum number of dwelling units to be developed under this special permit shall be five; three in the existing building and two in the new addition.
 2. The tract(s) of land on which this multi-family development will be located at 6 Cutler Street shall not be altered or used except:
 - a) as granted by this special permit;
 - b) substantially as shown on the site plan entitled *Cutler Place, 6 Cutler Street, Medway, MA*, last revised December 28, 2021 by Ron Tiberi, P.E. to be modified as specified herein;
 - c) in accordance with any subsequently approved field changes, modified plans or amendments to this special permit/site plan decision; and
 - d) in accordance with the *Stormwater Management Operations and Maintenance Plan for Cutler Place, 6 Cutler Street, Medway, MA* revised December 26, 2021, prepared by Ron Tiberi, P.E. of Natick, MA
 3. The tract of land and buildings comprising Cutler Place shall not be used, sold, transferred or leased except in conformity with this special permit and shall not be

further divided.

- B. **Plan Endorsement** - Within one-hundred and twenty days after the Board has filed its *Decision* with the Town Clerk, the site plan set for Cutler Place including building elevations, floor plans and renderings, landscaping plan, and lighting plan shall be further revised to reflect all Conditions and required revisions as specified herein and shall be submitted to the Board to review for compliance with the Board's *Decision*. (*Said plan is hereinafter referred to as the Plan of Record*). Upon approval, the Permittee shall provide the revised Plan in its final form to the Board for its endorsement prior to recording at the Norfolk County Registry of Deeds along with this decision. All Plan sheets shall be bound together in a complete set.
- C. **Cover Sheet Revisions** – Prior to plan endorsement, the cover sheet of the November 12, 2020 Plan shall be revised as follows:
1. Include the list of APPROVED Waivers from the *Site Plan Rules and Regulations*
 2. Add reference to the Stormwater Operations and Maintenance plan (sheet to be added to the plan set) to the Plan Index
 3. Add the plan revision date
- D. **Other Plan Revisions** – Prior to plan endorsement, the following plan revisions and/or notes shall be made to the December 27, 2021 plan:
1. A sheet shall be added to the Plan set to display the property's *Stormwater Operations and Maintenance Plan*.
 2. The earth removal calculations provided in the 12-27-21 response letter from Ron Tiberi, P.E., shall be included on the Erosion Control Plan (Sheet S-4)
 3. Replacement of existing sanitary sewer line from Cutler Street to the building
 4. Granite curbing at driveway access/egress roundings with Cutler Street shall be shown.
 5. The dimensions of the handicap parking space and adjacent loading area shall be shown on the plan.
 6. Adjust grading of first 20 feet +/- of the driveway to ensure stormwater runoff from the driveway is treated on-site and does not flow down and out to Cutler Street.
 7. Revise elevations for the bottom of the rain garden and the rip-rap weir to match the HydroCAD analysis.
 8. Add the following to the endorsement area on each plan sheet:
PLAN ENDORSEMENT DATE: _____
 9. Revise “Approved by Planning Board” to read: “Approved by Medway Planning and Economic Development Board” in the endorsement area on each plan sheet.
 10. Revise detail on dumpster to indicate the enclosure shall be fabricated of non-glossy, wood-grain appearing material of a natural wood color. Add a bollard detail for the bollards associated with the dumpster enclosure.
 11. Add note and detail to indicate that the parking area will be wired to accommodate future electric vehicle charging devices.
 12. The use of modified Cape Cod berm shall be called out on the plan and a detail shall be added to the plan set.
- E. **Other Documentation** - Prior to plan endorsement, the Permittee shall provide a sample deed to be used to convey each dwelling unit for review, comment, amendment and approval by Town Counsel. The deed shall reference the recorded Multi-Family Housing

Special Permit and Plan. The deed shall clearly state that the Cutler Place Condominium Association shall own and be responsible for the maintenance and upkeep of development's parking area, the stormwater management system, and all other infrastructure and common space.

F. *Recording of Plans and Documents*

1. The Plan of Record associated with this special permit, land disturbance permit, and site plan approval is titled: *Cutler Place, 6 Cutler Street, Medway, MA*, last revised December 28, 2021 by Ron Tiberi, P.E. with an additional sheet for Stormwater Operations and Maintenance Plan, to be further revised as specified herein.
2. No construction shall begin on the site and no building permit for any work shall be issued before this Multi-Family Housing Special Permit, Site Plan Decision, Land Disturbance Permit, and the Plan of Record by the Board are recorded at the Norfolk County Registry of Deeds and proof of such recording is provided to the Board.
3. The following documents which shall be in compliance with the Conditions of this decision shall be recorded at the Norfolk County Registry of Deeds prior to the issuance of the first occupancy permit for the development.
 - a) Cutler Place Condominium Master Deed
 - b) Declaration of Trust of Cutler Place Condominium Association
4. Within thirty days of recording, the Permittee or its assigns or successors shall provide the Board with a receipt from the Norfolk County Registry of Deeds indicating that the specified documents have been duly recorded, or supply another alternative verification that such recording has occurred.

G. *Sidewalk Construction on Cutler Street* – Pursuant to Section 3.5.4. I. Procedures for Site Plan Review of the *Zoning Bylaw*, sidewalks shall be provided along the entire frontage of properties subject to site plan review. The property's frontage along Cutler Street does not presently include sidewalks and the roadway's narrow width limits its capability to include sidewalks. In lieu of sidewalk construction, the Applicant has agreed to make a payment to the Town's Sidewalk Fund in the amount of \$10,037 as calculated by the Board's Consulting Engineer for the Town to construct 170 linear feet of 5' wide asphalt sidewalk with Cape Cod berm and accessible ramps. The funds shall be held in the Town's Sidewalk Fund for use to construct sidewalks elsewhere in the community. The funds shall be paid to the Town by the Permittee before any occupancy permit is issued by the Building Department.

H. *Open Space/Yard Area* - At least 15% of the site shall be retained and function as open space and/or yard area in perpetuity. This is an ongoing obligation of the Cutler Place Condominium Association. This area shall be unpaved but may be landscaped or left natural, with the balance being trees, shrubs and grass suitable for the site. This area may include a play area or other communal recreational space, subject to plan modification requirements.

I. *Ownership and Maintenance of Common Areas*

1. The property's stormwater drainage facilities, common areas, landscaping, and all other infrastructure shall be owned and maintained by the Cutler Place

Condominium Association. It is the intent of the Board that these facilities will not be accepted by the Town of Medway.

2. The Board requires that the following aspects of the development shall be and shall remain forever private, and that the Town of Medway shall not have, now or ever, any legal responsibility for operation or maintenance of same:
 - a) Parking areas
 - b) Stormwater management facilities
 - c) Snowplowing and sanding
 - d) Landscaping
 - e) Light posts
 - f) Sewer and water infrastructure on the property

- J. **Occupancy Permits** - No occupancy permit may be issued for any unit until the following items, at a minimum, are installed in compliance with this Decision, the Plan of Record, and applicable by-laws and regulations and approved by the Board's consulting engineer.
 - a) Driveway and parking area gravel sub-base
 - b) Driveway area and parking area binder course
 - c) Drainage system completed to the proposed outfall with frame and grates set to binder grade, as well as stormwater basins, swales, infiltrations systems or any other stormwater management facilities.
 - d) As-built plan of each stormwater facility with all critical elevations and details.
 - e) Stop line pavement markings and stop sign.
 - g) Provisions for fire prevention and protection. Private water main/service to be constructed, installed and functional.
 - h) No Parking signs to be installed on Cutler Street pursuant to Specific Condition O.

See General Condition L. for further performance security requirements.

- K. The **Master Deed for the Cutler Place Condominium** shall include the following language: *"The construction and operation of the Cutler Place condominium is authorized by a Multi-Family Housing Special Permit, Site Plan Approval, and Land Disturbance Permit granted by the Medway Planning and Economic Development Board on January 31, 2022, which is available for inspection at the Town Clerk's office and which is recorded at the Norfolk County Registry of Deeds."*

- L. **Water Conservation** – The development will be connected to the Town's public water system, and the Town is subject to its Water Management Act Permit with the Massachusetts Department of Environmental Protection (DEP). The Permittee and the future condominium association shall incorporate the following water conservation measures for construction of the development:
 1. any landscape irrigation may not be connected to municipal water supply.
 2. rain-gauge controlled irrigation systems only
 3. low flow household fixtures
 4. water efficient appliances (dishwashers, washers, toilets, etc.)

- M. **Addresses** – The addresses for the Cutler Place residences shall be as determined by the Medway Assessor's office upon consultation with the Medway Fire and Police Departments.

- N. **Development Signage** – Any future development signage for this project shall comply with the sign regulations of the *Bylaw* and is subject to review by the Design Review Committee.
- O. **Parking** – The plan includes two off-street parking spaces per unit (10 spaces) plus 3 additional spaces for visitors, for a total of 13 parking spaces.
1. The Permittee shall specify in the condominium deeds and association documents that resident parking shall occur only on the 6 Cutler Street premises.
 2. Prior to the Town's issuance of any occupancy permit, the Permittee shall install two No Parking signs in the Town's right-of-way along the 6 Cutler Street frontage, one at the Southeast corner of the property to the east of the driveway entrance/egress and one along the westerly portion of the property's frontage.
- P. **Design Details** - Prior to applying for any building permit, the Permittee will provide final design details of the position of proposed site lighting and locations of planned chimney stacks, vents and related building systems to the Design Review Committee for review and comment.
- Q. **Stormwater Management and Land Disturbance – Pre-Construction**
1. See General Condition H.2 regarding the required Pre-Construction Meeting.
 2. No clearing of vegetation, including tree cutting or disturbance of soil, shall occur prior to the Permittee's Pre-Construction Meeting with Town staff and the Board's consulting engineer.
 3. Prior to the Pre-Construction Meeting and commencement of any work on the site, the erosion control plan included in the Plan of Record set and the limit of work lines shall be staked. The Permittee shall notify the Board's consulting engineer to schedule an inspection to ensure that erosion controls and limits of work have been properly located and installed. The location of erosion controls and limits of work lines shall be adjusted, if necessary, during this inspection. No site work shall be conducted until the Board's consulting engineer has inspected and approved the installation of the erosion controls and limits of works.
 4. Immediately after the Pre-Construction meeting, all erosion controls and limits of work lines shall be installed along the approved and staked lines. Such installation shall occur with the least possible disturbance to vegetation. Erosion controls should be placed around trees, shrubs and other vegetation, on the uphill side. The installed erosion control measures shall be inspected, adjusted if needed, and approved by the Board's consulting engineer to ensure they have been properly installed.
 5. At least 5 business days prior to construction activity, the Permittee shall advise the Board of the name(s) and contact information of the person(s) responsible on site for compliance with this Permit. This person shall serve as Clerk of the Works and shall supervise the contractor and inspect the site regularly. The Permittee shall be responsible for immediately notifying the Board of any change in the identify or contact information for the on-site person responsible for compliance.

6. Prior to construction, the general contractor shall designate a construction staging area within designed location as depicted on the approved site plan. All construction trailers, portable sanitary facilities, material storage and overnight parking of equipment shall be located in the staging area. The perimeter of the staging area shall be protected as necessary with silt fence and the ground surface shall be protected with washed stone or another suitable non-erosive material.
7. Prior to construction, an area for cleanup and/or maintenance of construction equipment shall be designated. Prior to commencement of work, the Permittee shall designate a location for a concrete washout and other washout areas which shall be surrounded by siltation controls. The locations and form of siltation controls shall be approved by the Board's consulting engineer.
8. Prior to commencing any work on site, the Permittee shall install a stone construction entrance (tracking pad) not less than 20' wide and not less than 30' in length of a stone size, on the average of 1" to 4".

R. ***Stormwater Management and Land Disturbance During Construction*** – Construction is subject to the Stormwater Operations and Maintenance Plan within the Storm Water Report for Cutler Place, by Ron Tiberi, P.E. dated December 26, 2021.

1. The Permittee shall ensure that all contractors, subcontractors and other personnel performing the authorized work are fully aware of the Permit's terms and Conditions and the stormwater operations and maintenance plan for construction. This decision document shall be included in all construction contracts, subcontracts, and specifications dealing with the planned work.
2. Copies of this decision, the Plan of Record, the stormwater report including the stormwater operations and maintenance plan shall be kept on site at all times while the site is under construction.
3. Erosion Control - It is the Permittee's responsibility to conduct monitoring, maintenance, reporting, and repair of erosion control measures, and to take any additional measures necessary to control erosion from the site. The erosion control measures specified in the Plan of Record shall be considered to be the minimum standard for compliance.
 - a) The Permittee shall designate an Erosion Control Inspector who shall be responsible for these duties.
 - b) Erosion Control Measures shall be placed to ensure that no sedimentation will reach the Town's right-of-way (Cutler Street) or abutting properties. Choice of suitable silt fence materials shall be in accordance with the approved plan and details.
 - c) Maintenance of Erosion Control Measures - Appropriate erosion control devices shall be maintained during construction. The erosion control specifications provided in the Land Disturbance Application and the erosion control provision in the Permit and approved site plan will be the minimum standards for this project; additional measures may be required by the Board. These will be maintained until the Permittee's Erosion Control Inspector and the Board's consulting engineer agree that they are no longer needed, at which time they will be removed, using removal procedures that the Board's

consulting engineer finds satisfactory. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. During construction, the Permittee or its designee shall inspect the erosion controls on a daily basis and shall remove all sediment when accumulated to a depth of two inches or greater. The Permittee shall immediately control all erosion on the site, and shall immediately notify the Board of any breaches of the erosion control barriers by sediment or silt-laden water.

- d) Any runoff resulting from the washing of trucks or construction equipment shall neither be directed to, nor dumped into, any on-site drainage system. Any such washing shall occur only in the designated washout areas. All construction vehicles exiting the property shall be cleaned of soil prior to traveling on public streets within the Town of Medway.
 - e) All construction equipment shall be inspected regularly and properly maintained and precautions shall be taken to prevent any leakage or spilling of oil, gasoline, hydraulic fluid, and other pollutants. Any leakages shall be repaired immediately. Any such leakage or spilling must be cleaned up immediately and disposed of off-site. The Board's consulting engineer shall be notified immediately in the event of any leakage or spillage.
5. Reporting – The Permittee's Erosion Control Inspector shall conduct and document inspections of all erosion control measures no less than bi-weekly during construction and immediately after any storm event resulting in 0.25 inches of precipitation or more within twenty-four hours and provide such reports to the Board and the Board's consulting engineer. The purpose of such inspections will be to determine the overall effectiveness of the erosion control plan and the need for maintenance or additional control measures.
 6. Throughout construction and until the development is transferred to the Cutler Place Condominium Association, the Permittee shall be responsible for keeping the constructed stormwater drainage system in a clean and well-functioning condition, and shall do nothing which would alter the drainage patterns or characteristics as indicated on the Plan approved herein without the express written approval of a field change by the Board.
 7. Throughout construction, the Board's consulting engineer shall regularly inspect the site to determine if the site and erosion controls are being maintained and shall provide corrective guidance to the Permittee for actions needed to address any stormwater management and erosion control deficiencies. Failure to adequately maintain the site shall be grounds for the Town to withhold building and/or occupancy permits.
 8. 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.
 9. All stockpiles shall be positioned within the limit of work area as depicted on the approved plan or as authorized by the Board's consulting engineer.

10. Fill – Any fill being brought onto the site from any off-property sources shall be free of trash, invasive species, deleterious material, and chemical contaminants in excess of the Massachusetts Contingency Plan (MCP 310 CMR 40.0000) RCS-1 Reportable Concentrations. Prior to delivering fill to the project site, the soil shall be sampled at its source and a certification provided to the Board and. The certification shall include a letter signed by a Licensed Site Professional (LSP) describing the site history of the originating soil location and certifying sampling collection procedures, quality control, results, compliance with RCS-1 Standards, and compliance with the requirements of this Condition. Sampling and classification of soils shall also be consistent with MassDEP Policy # COMM-97-001.

Required soil testing is outlined below:

One soil sample shall be collected from material at each originating location or soil type. One soil sample shall be collected for every 500 cubic yards of soil.

- Volatile Organic Compounds (VOCs) by EPA Method 8260
- SemiVolatile Organic Compounds (SVOCs) by EPA 8270
- Polychlorinated Biphenyls (PCBs) by EPA Method 8082
- Total Petroleum Hydrocarbons (TPH) by EPA Method 8015 or 8100M.
- Substitute MassDEP VPH/EPH) for TPH allowed
- pH
- Priority Pollutant 13 Metals (total) Sb, As, BA, Be, Cd, Cr, Pb, Ni, Se, Ag, Ti, V, Zn.
- Any other analyses determined by the Conservation Commission, MassDEP, or the LSP necessary to properly characterize the soil for relocation.

Washed stone materials are exempt from testing.

The Board may consider alternative sampling plans or soil materials at its discretion. Approval of the Board is required for alternative plans. These may include management of soils consistent with MASSDEP WSC#-13-500, Similar Soils Provision Guidance.

11. If unforeseen problems occur during construction which may affect abutting properties, Town roadways and/or the Town’s stormwater infrastructure, upon discovery by either the Board, its consulting engineer, or the Permittee, the Board shall be notified immediately, and an immediate meeting shall be held with the Permittee and its agents and the Board’s consulting engineer and other concerned parties to determine the corrective measures to be employed. The Permittee shall then act to correct the problems using the corrective measures agreed upon and in accordance with General Condition I. Field Changes, if necessary. Subsequent to resolution, the activity and resulting actions shall be documented in writing.

S. Stormwater Management and Land Disturbance – Post Construction

1. The stormwater drainage system shall be maintained by the Permittee, its successors and assigns, and the Cutler Place Condominium Association to keep

the constructed stormwater drainage system in a clean and well-functioning condition and to do nothing that would alter the drainage patterns or system as represented on the approved and the Plan of Record.

2. The Permittee, its successors and assigns, and the Cutler Place Condominium Association shall maintain the stormwater management system in accordance with long term *Stormwater Operations and Maintenance Plan for Cutler Place, 6 Cutler Street, Medway, MA*, last revised December 26, 2021, prepared by Ron Tiberi, P.E., as may be further revised prior to plan endorsement and after project completion.
3. Ongoing enforcement of compliance with the long term *Stormwater Operations and Maintenance Plan* is the responsibility of the Medway Department of Public Works (DPW). The plan may be amended by mutual agreement of the DPW and the Cutler Place Condominium Association.
4. In the event a management company is engaged by the Permittee, assigns or the Condominium Association, the above noted long term *Stormwater Operations and Maintenance Plan* shall be incorporated by reference in the management contract.
5. The Permittee and its successors shall submit an annual report of inspections and maintenance of all stormwater management structures as prescribed in *Stormwater Operations and Maintenance Plan* to the Board and the Medway Department of Public Works starting one year after the Certificate of Site Plan Completion is issued. The annual report shall be submitted no later than December 1st of every year. The inspections shall be conducted in accordance with the approved *Stormwater Operations and Maintenance Plan*.
6. In the event that the Permittee, its successors and assigns, its agent, or the Cutler Place condominium association fail to maintain the stormwater management system in accordance with the long term *Stormwater Operations and Maintenance Plan* and take needed corrective measures, the Town may conduct such maintenance or repairs as the Town determines in its sole discretion are reasonably necessary, and the Permittee hereby consents to allow the Town and its agents, employees and contractors entry onto the Property to implement the measures set forth in the referenced Plan. In the event the Town conducts such maintenance or repairs, the Permittee shall promptly reimburse the Town for all reasonable expenses associated therewith; if the Permittee fails to so reimburse the Town, the Town may use any and all available legal remedies to secure such payment including charging a fee for the services through the sewer utility for the property.

T. ***Landscape Maintenance and Irrigation***

1. The site's landscaping shall be maintained in good condition throughout the life of the facility and to the same extent as shown on the Plan of Record. Any shrubs, trees, bushes or other landscaping features shown on the Plan that die shall be replaced by the following spring.
2. Within 60 days after two years after the last 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.

3. The permittee, assigns and the Cutler Place Condominium Association shall comply with Town of Medway water restrictions issued by the Department of Public Works as such apply to the watering of plant materials located on the property.

- U. **Site Preparation** – As directed by the Medway Fire Department, there are two 100 lb. propane tanks located behind the building. These tanks shall be properly removed during construction in accordance with Medway Fire Department requirements and procedures.

GENERAL CONDITIONS OF APPROVAL

- A. **Applicability** – This permit shall apply to any successor in control or successor in interest of the subject property.
- B. **Fees** - Prior to plan endorsement by the Board, the Permittee 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 that may be required by the 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 Permittee’s failure to pay these fees in their entirety shall be reason for the Board to withhold plan endorsement.

- C. **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 and approvals associated with this project. The contractor for the Permittee or assigns shall obtain, pay and comply with all other required Town permits.
- D. **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.
1. **Construction Time** - Work at the construction 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.

2. 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.
 3. There shall be no tracking of construction materials onto any public way. Daily sweeping of roadways adjacent to the site shall be done to ensure that any loose gravel or 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.
 4. 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. All waste products, refuse, debris, and construction materials shall be contained and deposited post construction at an appropriate off-site facility.
 5. *Construction Traffic and Parking* – During construction, adequate provisions shall be made on-site for the parking, storing, and stacking of construction materials and vehicles. All parking for construction vehicles and construction related traffic shall be maintained on site. No parking of construction and construction related vehicles shall take place on adjacent public or private ways or interfere with the safe movement of persons and vehicles on adjacent properties or roadways.
- F. ***Snow Storage and Removal***
1. On-site snow storage shall not encroach upon nor prohibit the use of any parking spaces required by the *Bylaw*.
 2. The Permittee and the future condominium association shall inform snow removal operators of the approved locations for on-site snow storage.
 3. Accumulated snow which exceeds the capacity of the designated on-site snow storage areas shall be removed from the premises within 24 hours after the storm event has concluded.
- G. ***Right to Enter Property*** – Board members, its staff, consultants or other designated agents of the Town shall have the right to enter upon the common areas of the Cutler Place site at reasonable times during construction to inspect the site to evaluate for compliance with the terms and Conditions of this permit and the Plan of Record and while on site, may acquire any information, measurements, photographs, observations and/or materials deemed necessary for that evaluation.
- H. ***Construction Oversight*** - Inspection by the Town’s consulting engineer of infrastructure and utility construction, installation of site amenities including landscaping, and erosion controls and review of legal documents by Town Counsel is required.
1. ***Construction Account***
 - a. Prior to plan endorsement, the Permittee shall establish a construction account with the Board. The funds may be used at the Board’s discretion to retain professional outside consultants to perform the items listed above as well as the following other tasks - inspect the site during construction and installation,

- identify what site plan work remains to be completed, prepare surety estimates, conduct other reasonable inspections until the site work is completed and determined to be satisfactory, review as-built plans, and advise the Board as it prepares to issue a *Certificate of Site Plan Completion*.
- b. Prior to plan endorsement, the Permittee shall pay an advance toward the cost of these services to the Town of Medway. The advance amount shall be determined by the Board based on an estimate provided by the Town's consulting engineer.
 - c) Depending on the scope of professional outside consultant assistance that the Board may need, the Permittee shall provide supplemental payments to the project's construction inspection account, upon invoice from the Board, until the road, stormwater system and other infrastructure are completed and the as-built plan and Certificate of Site Plan Completion has been granted.
 - d) Any funds remaining in the Permittee's construction inspection account after the *Certificate of Site Plan Completion* is issued shall be returned to the Permittee.
2. ***Pre-Construction Meeting*** – At least seven days prior to the start of any site preparation or construction, the Permittee shall meet with the Town's consulting engineer, the Planning and Economic Development Coordinator, the Medway Department of Public Works, other Town staff as appropriate, the site contractors, and the Permittee's project engineer for a pre-construction meeting. At or before the pre-construction meeting, the Permittee shall provide the following information:
- a Construction Management Plan as specified in Section 204-3 H. of the *Site Plan Rules and Regulations*,
 - earth removal calculations
 - earth fill estimates
 - copies of its National Pollutant Discharge Elimination System (NPDES) permit and its Stormwater Pollution Prevention Plan (SWPPP) for this project as filed with the U.S. EPA.
 - list of contacts with contact information for contractors, those responsible for compliance with this permit (Clerk of the Works), on-site management, and erosion control inspector.
3. The Department of Public Works will conduct inspections for any construction work occurring in the Town's right-of way in conjunction with the Town of Medway Street Opening/Roadway Access Permit, the sewer and water connection permits, and any other applicable DPW permits associated with this project.
 4. The Permittee shall retain its own professional engineer licensed in the Commonwealth of Massachusetts to conduct progress inspections of the construction of the approved plan and improvements. Inspections shall occur at least on a monthly basis and shall start immediately once any work begins on the property. The Permittee's engineer shall prepare a written report of each inspection, including photographs, and provide a copy to the Board within five days of inspection.

I. On-Site Field Changes

1. 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 *Bylaw* nor conflict with a specific Condition of the decision. Field changes shall not substantially alter the intent, layout or design of the Plan of Record.
2. 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. In accordance with Section 3.5.2.C of the *Bylaw*, 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 change at a public meeting and determine whether the proposed field change is reasonable and acceptable based on the unforeseen conditions, situations, or emergencies and whether other options are feasible or more suitable. The Board will provide a written authorization of an approved field change. Any approved field change shall be reflected in the as-built plan to be provided at project completion.

J. Plan Modification

1. Proposed modifications (not including on-site field changes) to the Plan of Record shall be subject to review by the Board.
2. 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 Board for review as site plan modifications.
3. Any work that deviates from the Plan of Record may be a violation of the *Bylaw*, unless the Permittee requests approval of a plan modification and such approval is provided in writing by the Board.
4. The request for a *Modification* to Plan of Record shall be subject to the same application and review process, including a public hearing, the payment of plan modification filing fee and plan review fee and all costs associated with another public hearing including legal notice advertising. 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 site plan project documents and shall be shown on the final as-built plan.

K. Plan Compliance

1. The Permittee shall construct all improvements in compliance with the Plan of Record and any modifications thereto.

2. The Board or its agent(s) may 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 3.1. F. of the *Bylaw* (non-criminal disposition) and violations or non-compliance are subject to the appropriate fine.

L. *Performance Security*

1. If the Permittee seeks an occupancy permit before completion of the approved site improvements, the Permittee may request that the Board accept a deposit of funds or other form of security acceptable to the Board and the Treasurer/Collector sufficient to assure the satisfactory completion of site improvements, landscaping and amenities, and all off-site mitigation measures as shown on the approved plan. Whether to accept such security in lieu of completion of the project shall be determined by the Board in its sole discretion.
2. The Board shall determine a reasonable and sufficient amount to cover the Town's cost to complete the work if the Permittee fails to do so. The Town's consulting engineer shall prepare an estimate of the current cost to complete the work that remains unfinished at the time the occupancy permit is requested. The estimate shall be based on unit prices in the latest Weighted Average Bid Prices by the Massachusetts Department of Transportation. The estimate shall also include the cost to maintain the infrastructure, site improvements and amenities, and off-site mitigation measures in the event the Permittee fails to adequately perform such. The estimate shall reflect the cost for the Town to complete the work as a public works project, which may necessitate additional engineering, inspection, legal and administrative fees, staff time and public bidding procedures. A contingency of up to thirty percent shall be added to the total estimate. The Board shall approve the estimate and notify the Town Treasurer/Collector and the Building Commissioner of the approved amount.
3. The performance security shall be accompanied by a performance security agreement executed by the Permittee, the Board, and the performance guarantee company. It shall include:
 - a) the date by which the Permittee shall complete construction
 - b) a statement that the agreement does not expire until released in full by the Board
 - c) procedures for collection upon default.
4. *Final Release of Performance Security* - Final release of performance security is contingent on project completion.

M. *Project Completion*

1. Special permit approval shall lapse after two years of the grant thereof if substantial use has not commenced except for good cause. The approved site plan shall be completed by the Permittee or its assignees within three years of the date of plan endorsement. Upon receipt of a written request by the Permittee filed at least thirty days prior to the date of expiration, the Board may grant an extension for good cause. The Permittee's request shall state the reasons for the extension

and also the length of time requested. If no request for extension is filed and approved, the site plan approval shall lapse and may be reestablished only after a new filing, hearing and decision.

2. Prior to issuance of the occupancy permit for the fifth dwelling unit, the Permittee shall request a *Certificate of Site Plan Completion* from the Board. The *Certificate* serves as the 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 Permittee shall:
 - a) provide the Board with written certification from a Professional Engineer registered in the Commonwealth of Massachusetts that all building and site work has been completed in substantial compliance with this permit, the Plan of Record 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 Board for its review and approval. The As-Built Plan shall show actual as-built locations and conditions of all buildings and site work shown on the original site plan and any modifications thereto. The final As-Built Plan shall also be provided to the Town in CAD/GIS file format per MASS GIS specifications.
3. Stormwater Illicit Discharge Compliance Statement – The Permittee shall submit an Illicit Discharge Compliance Statement to the Board as part of the project completion process. This shall be submitted prior to the discharge of stormwater runoff to the post-construction stormwater best management practice (BMP).

N. **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 *Bylaw*, the *Bylaw* shall apply.

IX. APPEAL

The Board and the Applicant 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 will be mailed to all parties in interest as provided in G.L. c. 40A §15.

Any person aggrieved by the Special Permit or Site Plan Decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, Chapter 40A, §17, which shall be filed within twenty days after the filing of this decision in the office of the Medway Town Clerk.

In accordance with G.L. c. 40A, §11, no special permit shall take effect until a copy of the Decision is recorded in the Norfolk County Registry of Deeds, and indexed in the grantor index under the name of the owner of record, or is recorded and noted on the owner's certificate of title, bearing the certification of the Town Clerk that twenty days have elapsed after the Decision has been filed in the office of the Town Clerk and no appeal has been filed within said twenty day period, or that an appeal has been filed. The person exercising rights under a duly appealed

special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. The fee for recording or registering shall be paid by the Permittee. A copy of the recorded Decision, and notification by the Permittee of the recording, shall be furnished to the Board.

An appeal may be taken from the Land Disturbance Permit under the Medway General Bylaws in accordance with the provision of Massachusetts General Laws chapter 249 within sixty days of the issuance of this decision.

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Approved by the Medway Planning & Economic Development Board: January 31, 2022

AYE:

Matthew J. Hayes

Robert K. Tucker

Jessica Chabot

Richard Di Iulio

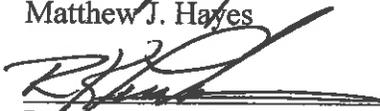
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Michael Fasolino, Deputy Fire Chief
Bridget Graziano, Conservation Agent
Donna Greenwood, Assessor
Beth Hallal, Health Agent
Jeff Lynch, Fire Chief
Jack Mee, Building Commissioner and Zoning Enforcement Officer
Pete Pelletier, Department of Public Works
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