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Medway Town Hall
155 Village Street
Medway, MA 02053
Telephone (508) 533-3291
Fax (508) 321-4987
Email: planningboard@townofmedway.org
www.townofmedway.org

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

April 7, 2020

**MULTI-FAMILY HOUSING SPECIAL PERMIT
and MAJOR SITE PLAN DECISION
Evergreen Village – 22 Evergreen Street
APPROVED with Waivers and Conditions**

Decision Date: April 7, 2020

Name of Applicant/Permittee: Sampson Pond, LLC

Address of Applicant: Sampson Pond, LLC
PO Box 5
Medway, MA 02053

Name/Address of Property Owners: John T. Shea III and Cynthia Shea
9 Pine Ridge Way
Carver, MA 02330

Site Plan: Evergreen Village
Dated September 2, 2019, last revised February 6, 2020
Prepared by Ron Tiberi, P.E.
To be further revised as specified herein

Location: 22 Evergreen Street

Assessors' Reference: Map 48, Parcel 51

Zoning District: Agricultural-Residential II
Multi-Family Housing Overlay District





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Multi-Family Housing Overlay District

I. PROJECT DESCRIPTION – The Applicant proposes to develop a 6-unit residential condominium community to be known as Evergreen Village on a 1.44 acre property at 22 Evergreen Street (Assessors Map 46, Parcel 51). The development will include construction of two 3-unit, townhouse style buildings; one affordable housing unit will be provided. Access to the development will be from a new, 150’ long permanent private roadway to be known as Balsam Way off of Evergreen Street. Two existing curb cuts will be removed. A total of 12 off-street garaged parking spaces (2 per dwelling unit) will be provided plus there will be additional driveway parking for two vehicles per unit for a total of 24 parking spaces. Sub-surface stormwater management facilities will be installed on site as will landscaping and lighting. Connections will be made to the existing Town sewer and water services in Evergreen Street. Evergreen Street is a designated Medway Scenic Road. Construction work in the Town’s Evergreen Street right of way to create the new curb cut involves reconstructing portions of the existing stone wall along Evergreen Street and pruning and grading around a 32” oak tree.

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”), site plan review and approval pursuant to Section 3.5 of the *Bylaw* and the Board’s *Site Plan Rules and Regulations* as amended December 3, 2002, and a Scenic Road Work Permit pursuant to the Board’s *Scenic Road Work Rules and Regulations*. The property includes wetland resources and is therefore under the jurisdiction of the Medway Conservation Commission for an Order of Conditions and a Land Disturbance Permit pursuant to Medway General Bylaws, Article XXVI.

II. VOTE OF THE BOARD – After reviewing the application and information gathered during the public hearing and review process, the Medway Planning and Economic Development Board (the “Board”), at a special meeting held on April 7, 2020, on a motion made by Richard Di Iulio and seconded by Robert Tucker, ***voted by roll call to APPROVE with CONDITIONS a Multi-Family Housing Special Permit to Sampson Pond, LLC of Medway, MA (hereafter referred to as the Applicant or the Permittee) and to APPROVE with WAIVERS and CONDITIONS as specified herein, a site plan for the development of a six unit, multi-family townhouse condominium community and associated site improvements on the property at 22 Evergreen Street as shown on the plan titled EVERGREEN VILLAGE, dated September 2, 2019, last revised February 6, 2020, to be further revised as specified herein before endorsement and recording.***

The motion was approved by a vote of four in favor and one opposed.

Planning & Economic Development Board Member	Vote
Richard Di Iulio	AYE
Matthew Hayes	AYE
Thomas A. Gay	AYE
Andy Rodenhiser	NAY
Robert Tucker	AYE

II. PROCEDURAL HISTORY

- A. September 4, 2019 – Scenic Road work permit application filed with the Town
- B. September 16, 2019 – Special permit and site plan applications and associated materials filed with the Board and the Medway Town Clerk.

- C. September 17, 2019 – Public hearing notice filed with the Town Clerk and posted at the Town of Medway web site.
- D. September 19, 2019 – Site plan information distributed to Town boards, committees and departments for review and comment.
- E. October 1, 2019 - Public hearing notice mailed to abutters by certified sent mail.
- F. September 23 and October 1, 2019 - Public hearing notice advertised in *Milford Daily News*.
- G. October 8, 2019 - Public hearing commenced. The public hearing was continued to November 12 and December 10, 2019 and to January 28, February 25, March 5, March 18, March 24, and April 7, 2020 when a decision was rendered, and the hearing was closed.

IV. INDEX OF SITE PLAN/SPECIAL PERMIT DOCUMENTS

- A. The various applications for the proposed multi-family development at 22 Evergreen Street included the following plans, studies and information that were provided to the Board at the time the application was filed:
 - 1. Multi-Family Housing Special Permit application dated September 4, 2019.
 - 2. Major Site Plan application dated September 4, 2019.
 - 3. Scenic Road Work Permit application dated September 2019
 - 4. Project Narrative received September 4, 2019
 - 5. Requests for Waivers from *Site Plan Rules and Regulations* dated September 4, 2019 prepared by Ron Tiberi, P.E. of Natick, MA
 - 6. *Evergreen Village* site plan dated September 5, 2019 prepared by Ron Tiberi, P.E. of Natick, MA
 - 7. Certified Abutters List from Medway Assessor's office dated August 27, 2019
- 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. REVISED Project Narrative dated November 2019, received November 26, 2019
 - 2. Additional Requests for Waivers from *Site Plan Rules and Regulations* dated November 20, 2019 prepared by Ron Tiberi, P.E.
 - 3. *Evergreen Village* site plan dated September 5, 2019, REVISED November 20, 2019 and February 6, 2020, prepared by Ron Tiberi, P.E. of Natick, MA
 - 4. Building Elevations dated September 23, 2019 by Daniel Lewis, Architect of Northborough, MA
 - 5. REVISED Building Elevations dated October 28, 2019 by Daniel Lewis, Architect
 - 6. REVISED Building Elevations and Floor Plans dated November 15, 2019 by Daniel Lewis, Architect
 - 7. Response letters dated December 17, 2019 and February 27, 2020 from project engineer Ron Tiberi to plan review letters from Tetra Tech
 - 8. Proposed Site Landscape Plan dated September 2, 2019 by WDA Design Group, Westborough, MA, last revised January 21, 2020

9. Proposed Site Lighting Plan dated March 14, 2019 by WDA Design Group last revised November 25, 2019.
 10. March 25, 2020 email from Maria Varrichione agreeing to a \$7,874 payment (to the Town's Sidewalk Fund) in lieu of sidewalk construction along the project site's Evergreen Street frontage.
 11. April 4, 2020 email from Maria Varrichione regarding affordable housing requirements.
 12. Updated landscape design plans, Sheets L1 – L3 dated April 2, 2020 by McCarty Engineering of Leominster, MA.
- C. Other documentation submitted to the Board during the course of the public hearing:
1. PGC Associates plan review letters dated October 3 and December 4, 2019 and an email dated March 3, 2020
 2. Tetra Tech plan review letters dated October 7 and December 19, 2019 and March 3, 2020
 3. Email communication dated October 2, 2019 from Fire Chief Jeff Lynch
 4. Email and letter dated October 8, 2020 from Jessica and John Grimes of 1 Royal Heights Drive
 5. Email communications dated February 27, 2020 and March 17, 2020 from Medway Police Sergeant Jeffrey Watson
 6. Tree replacement calculation notes dated March 6, 2020 prepared by Planning and Economic Development Coordinator Susan Affleck-Childs
 7. Order of Conditions and Land Disturbance Permit issued by the Conservation Commission on February 17, 2020
 8. Sidewalk construction estimates prepared by Tetra Tech, dated March 19, 2020, revised March 25, 2020.
- 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.
 - Gino Carlucci, PGC Associates, the Town's Consulting Planner – Commentary provided throughout the public hearing process.
 - Ron Tiberi, PE, project engineer for the Applicant - Commentary provided throughout the public hearing process
 - Maria Varrichione, Applicant
- Abutter Comments During the public hearing**
- Resident at 7 Cottage Street
 - Shelley Pacitto, 19A Evergreen Street
 - Wallace and Christine Long, 19B Evergreen Street
 - Jessica Grimes, 1 Royal Heights Drive
 - Kathleen Murray, 17A Evergreen Street
 - Marcy Keith, 3 Cottage Street
 - Mr. Murray, 17B Evergreen Street

VI. FINDINGS - The Board, at its meeting on April 7, 2020, on a motion made by Robert Tucker and seconded by Tom Gay, voted to approve the following **FINDINGS** regarding the SPECIAL Permit, Site Plan, and Scenic Road Work Permit for the proposed multi-family development at 22 Evergreen Street. The motion was approved by a roll call vote of four in favor (Di Iulio, Gay, Hayes and Tucker) and one opposed (Rodenhiser)

MULTIFAMILY HOUSING SPECIAL PERMIT FINDINGS - 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 within the Multi-Family Housing Overlay District (Section 5.6.4) and thus is eligible for the multi-family housing proposal.*
- 2) Traffic capacity – *Evergreen Street is a local street connecting Pond Street with Cottage Street and has sufficient capacity to handle the traffic from the 6 units that are proposed. The 6 units do not rise to the level of triggering the requirement for preparation of a traffic study. Previously, the property included a two-family house so there is a net increase of 4 dwelling units.*
- 3) Parcel size & frontage – *The site consists of 1.44 acres (66,534 sq. ft.) which exceeds the minimum area requirement of 22,500 sq. ft. for the underlying Agricultural Residential II zoning district. The site has 171 ft. of frontage on Evergreen Street, so it meets the minimum 50-foot frontage requirement of Section 5.6.4.B(1) of the Bylaw.*

Dimensional Requirements

- 4) Dimensional Adjustments – *The dimensional requirements of the underlying Agricultural Residential II zoning district apply to the project, as set forth in Table 2 of Section 6 of the Bylaw. The revised plan dated February 6, 2020 shows a front building setback of 35 feet from Evergreen Street; the minimum front setback for the AR-II district is 35. The plan shows side and rear setbacks of 15 feet where the minimum required is 15 feet. The plan indicates that the project complies with maximum building coverage requirements (16.5% provided vs. 30% maximum allowed). There are no impervious standards for the AR-II district; the site will be 29% impervious upon completion of the building and site improvement construction. No dimensional adjustments are needed.*
- 5) Building Height - *The height of the six units will be approximately 38 feet, less than the maximum 40 feet allowed.*

Density

- 6) Density – *Pursuant to the Zoning Bylaw in effect at the time of applications, the maximum possible density for multi-family project is 12 units per whole acre. With 1.44 acres, the site could include a maximum possible 12 dwelling units. Because of the extent of wetland resources on the site, only 6 units are workable. Therefore, the project meets the allowed density.*

Special Regulations

- 7) Affordable housing – *With a project size of 6 units, the development must provide 1 affordable housing unit pursuant to Section 8.6.C. of the Bylaw.*

- 8) Open Space - *A minimum of 15% of the parcel must be open space or yard area. This requirement is met with 75% of the site remaining open due to the extent of the property's wetland resources.*
- 9) Parking spaces - *Two off-street spaces per unit (12 spaces) are the minimum required per Section 5.6.4 E. 3 of the Bylaw and 24 paved, off-street parking spaces are provided, 2 in each garage and the remaining in the driveways.*
- 10) Town water and sewer service - *The project will be served by Town water and sewer service presently located in Evergreen Street.*
- 11) Number of units - *The number of units proposed (6) is less than the 12-unit maximum possible number of units allowed under the Bylaw for a property of this size.*
- 12) Historic Properties – *At the time of this application, there was not a historic building on the site. However, prior to this application, the older 2-family building and barn were demolished following the completion of the 9-month demolition delay process imposed by the Medway Historical Commission.*

Decision Criteria

- 13) 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) provide a diversity of housing types in the form of townhouse style conditions; (2) promote pedestrian oriented development as the subject property is located within an older, walkable neighborhood. It also meets the purpose of the Site Plan Rules and Regulations. The site plan has been reviewed by Town officials, the Consulting Engineer and Consulting Planner 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.*
- 14) Consistent with the Medway Housing Production Plan - *The development meets the HPP's implementation strategy of encouraging the use of the Multifamily Housing special permit provision of the Bylaw and providing additional options for multi-family housing.*
- 15) Impact on abutting properties and adjacent neighborhoods - *The impact on abutting properties and adjacent neighborhoods has been addressed through vegetative screening, fencing, a rigorous stormwater management system, and the positive aesthetics of the buildings to be constructed.*
- 16) Variety of housing stock - *The development increases the variety of housing stock in the community by providing a total of six townhouse style condominiums to the town's predominantly single-family detached housing supply...*
- 17) Designed to be reflective of or compatible with the character of the surrounding neighborhood - *The surrounding neighborhood includes a mix of housing types including single family, two-family and multi-family residences. Therefore, the proposed development is compatible with the surrounding neighborhood.*

SPECIAL PERMIT DECISION CRITERIA FINDINGS – Unless otherwise specified herein, special permits shall be granted by the special permit granting authority only upon its written determination that the adverse effects of the proposed multifamily 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*. In making its determination, the special permit granting authority, in addition to any to any specific factors that may be set forth in other sections of the *Bylaw*, shall make findings on all of the applicable criteria specified below:

- 1) The proposed site is an appropriate location for the proposed use. *The proposed use is a multi-family development within the Multi-Family Housing Overlay District as approved by Town Meeting. Therefore, the proposed use is in an appropriate location.*
- 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 uses. Town officials, the Town's Consulting Engineer and Consulting Planner have all reviewed the proposed facilities. The project will be serviced by Town water and sewer systems. Private electric and gas utilities will be provided. The stormwater management system has been designed in accordance with the applicable regulations and been approved by the Conservation Commission.*
- 3) The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians or the environment. *The proposed use adds 6 residential units on a local street off of Main Street. The development has been reviewed by Police Sergeant Jeff Watson and modifications will be made. As conditioned herein, (Specific Condition J.2) the exit from the site has adequate sight distance and 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 the Conservation Commission and will not present a hazard to the environment.*
- 4) The proposed use will not cause undue traffic congestion or conflicts in the immediate area. *Evergreen Street has the capacity to handle the traffic from the additional 6 residential units. The entrance has been designed for maximum sight distance so the development will not cause undue traffic congestion or conflicts. As conditioned herein (Specific Condition O), the development is not permitted to have additional resident parking on Evergreen Street.*
- 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. A revised photometric plan documents that there is no light trespass off site. Household refuse will be disposed of by individual waste containers for each household. There will be no detrimental impact on abutters due to odors, dust, noise, vibration, refuse materials or other undesirable environmental impacts.*
- 6) The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district. *The proposed use is within the Multi-Family Housing Overlay District. The surrounding neighborhood includes other multi-family buildings in the neighborhood and thus this development will not alter the character of the neighborhood.*

- 7) The proposed use is in harmony with the general purpose and intent of the *Zoning Bylaw*. *The Multi-Family Housing provisions of the Bylaw were specifically established to encourage this type of use subject to certain conditions to limit adverse impacts. The proposed use is in harmony with the general purpose and intent of the Bylaw.*
- 8) The proposed use is consistent with the goals of the Medway Master Plan. *The proposed use is consistent with the Master Plan goals of identifying housing needs and implementing projects to meet those needs such as increasing 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 that the beneficial impacts of the proposed 6-unit townhouse condominium development at 22 Evergreen Street outweigh the effects of the proposed use on the Town and 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 *December 3, 2002*, 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, the Consulting Engineer and Consulting Planner. There is no backing onto a public way from the subject site, and Evergreen Street is adequate to safely handle the additional traffic from the 6 new housing units. 24 off-street parking spaces are provided.*
- 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 design and materials of the proposed residential buildings are suitable for the site and use. The designs have been reviewed by the Design Review Committee and modified based on its recommendations. The new buildings do not conflict with the other nearby buildings 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 buildings include a residential use so there is no outside storage or large intrusive parking lots. Appropriate vegetation is planned on the perimeter of the property to screen the development from abutting residences.*
- 4) Is adequate access to each structure for fire and service equipment provided? *The proposed structures are accessible from the driveway and are located close to the street. The Fire Chief has reviewed the plans which were modified to address his concerns for suitable turnaround at the end of Balsam Way.*

- 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 and the Conservation Commission. Appropriate soil pollution and erosion controls have been incorporated into the plan. No extraordinary noise will be generated by the residential development. The project has been reviewed for a Scenic Road Work Permit with suitable conditions imposed to preserve the scenic quality of Evergreen Street.

- 6) Is pedestrian and vehicular safety both on the site and egressing from it maximized? *The proposed use adds 6 residential units on a local street. As conditioned herein (Specific Conditions J.2 and O) the egress from the site has adequate sight distance and does not create a hazard to abutters, vehicle, or pedestrians.*
- 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 site includes historic stone walls along the Evergreen Street frontage which are subject to Scenic Road work permit review and protection. A pre-existing building on the premises was demolished prior to this application after completing the 9-month demolition delay order instituted by the Medway Historical Commission.*
- 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 Planner and Engineer. The planned site lighting is residential in scale and minimizes light pollution. Per the photometric plan, there is no light spillage off site.*
- 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. The size of the project has been reduced over the course of review from 7 to 6 dwelling units. The wetland resources are protected through an Order of Conditions issued by the Medway Conservation Commission.*

VII. WAIVERS – At its April 7, 2020 meeting, the Board, on a motion made by Robert Tucker and seconded by Matthew Hayes, voted by roll call to grant waivers from the following provisions of the *Rules and Regulations for the Submission and Approval of Site Plans, as amended December 3, 2002*. 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 vote of four in favor (Di Iulio, Gay, Hayes, and Tucker) and one opposed (Rodenhiser).

SITE PLAN SUBMITTAL REQUIREMENTS/PLAN CONTENTS

- 1) **Section 204 – 3. Planning Board Submittals A. 7.** - A written *Development Impact Statement* shall be provided which shall describe the potential and anticipated impacts of the proposed development, identify all positive and adverse impacts, and propose an acceptable program to prevent or mitigate adverse impacts.

*The Applicant did not submit a Development Impact Statement with the site plan application due to the relatively small size of the proposed 6-unit condominium development. The submitted Project Narrative provides a brief overview of the project's impacts on the community. A Traffic Impact Assessment is not needed as the small size of the development does not trigger this requirement. **The Board approves this waiver 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 – 4. Standards for Site Plan Preparation, B.** - The site plan shall be drawn at a scale of one (1) inch equals forty (40) feet or such other scale that has been approved in advance by the Planning Board and that clearly and adequately represents the proposed improvements. *The submitted plans are drawn at a scale of 1" = 20 feet. Although this does not meet the standard, the Board's consulting engineer has reviewed the plan and found it to be suitable and sufficient to adequately present the project. **The Board approves this waiver 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 204 – 5 Site Plan Contents. C. Existing Conditions. 3)** An *Existing Landscape Inventory* shall be prepared by a Professional Landscape Architect licensed in the Commonwealth of Massachusetts. This inventory shall include a "mapped" overview of existing landscape features and structures and a general inventory of major plant species including the specific identification of existing trees with a diameter of one (1) foot or greater at four (4) feet above grade. *As requested by the Board, a tree inventory was prepared to document the existence of 18 trees more than 18" in diameter scattered throughout the site. It was prepared by applicant Maria Varrichione with assistance from Steve Bevilacqua, a certified arborist with Tree Timber Corporation of Canton, MA. **The Board approves this waiver 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.***

SITE PLAN DEVELOPMENT STANDARDS

- 1) **Section 205-2 Design Standards**

G. Ground floor facades shall have arcades, display windows, entry areas, canopies, awnings or other such features with pleasing aesthetics along no less than sixty (60) percent of their horizontal length.

H. Buildings shall have architectural features that provide visual interest at the pedestrian scale and incorporate local character with detailing that is conservative in color and has a village feel, thus avoiding massive aesthetic effects.

*These particular design standards were established to apply primarily to commercial development. The building elevations show that the residential units have some of these features, but not along 60% of the façade. This standard is not possible to achieve as the garages comprise at least 50% of the width of each dwelling unit. **The Board approves this waiver 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 205 – 3 B. Internal Site Driveways 3.** - Driveways should intersect the road at an angle of ninety (90) degrees.

*The Applicant has requested a waiver from this requirement and plans instead to have Balsam Way intersect with Evergreen Street at a ninety-three degree angle. This size variation is slight, is more suitable to the shape of this particular parcel, and aligns better with the site configuration. This has been reviewed by the Board's Consulting Engineer who did not object to this variation. **The Board approves this waiver 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 205 – 3 D. Sidewalks** - Where no pedestrian ways exist, the applicant shall create pedestrian ways and connections between streets, the proposed development, surrounding neighborhoods, and other surrounding uses providing safe access to the nearest existing pedestrian facility or sidewalk.

*The Applicant has requested a waiver from this requirement because there are no sidewalks on Evergreen Street and the surrounding neighborhood does not have sidewalks. However, Section 3.5.4 Procedures for Site Plan Review, I. 3 of the Zoning Bylaw requires the provision of sidewalks along the entire frontage of properties subject to site plan review. As this is a Bylaw requirement and not a Site Plan Regulation, the Board does not have the authority to waive that requirement. Therefore, **the Board denies this Waiver Request. An alternative to sidewalk construction is a Payment in Lieu of sidewalk construction elsewhere in the community which is addressed in Specific Condition #H herein.***

- 4) **Section 205 – 4 Drainage and Stormwater Management. B.** Test pits and percolation tests must be performed to support infiltration calculations and assumptions related to the Stormwater Management Design.

*The Applicant has requested a waiver from the requirement for conducting percolation tests. Instead, test pits and soil evaluations have been performed as per MA Department of Environmental Protection stormwater policy standards and industry norms. Rawls infiltration rates were used for the drainage analysis and stormwater design. The Board's consulting engineer is satisfied that the analysis and design were appropriately developed. **The Board approves this waiver 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 205 – 6 H. Curbing** – The perimeter of the parking area shall be bounded with vertical granite curb or similar type of edge treatment to delineate the parking lot.

The Applicant has requested a waiver from the requirement for granite curbing for the roadway and driveways and has proposed the use of bituminous berm instead. This is a residential setting, not a commercial development. Granite curb will be used at the roundings of the new roadway (Balsam Way) into the site from Evergreen Street. The use of bituminous curbing is more compatible with the surrounding neighborhood. There is no curbing at all on adjacent Evergreen Street. ***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 205 – 6 I. Travel Lanes** - Travel lanes in the parking area shall be a minimum of twenty-four (24) feet wide.

The Applicant has requested a waiver from this requirement and proposes instead to have a 22' wide roadway (travel lane). A reduced roadway width will promote reduced vehicular speed, speed, reduce the amount of impervious surface, lessen the extent of site grading, and contribute to a more compact, village appearance. The Fire Chief has reviewed the plan and has not provided any comments or concerns about the roadway width. ***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 205 – 9 C. Parking Areas** - Internal landscape planted divisions (*islands and peninsulas*) shall be constructed within all parking lots to provide shading and buffering. At least one deciduous tree of a minimum two and one-half (2 1/2) inches caliper in diameter shall be provided for every six (6) parking spaces. Only trees providing shade to the parking area shall be counted as meeting this requirement. This requirement may be waived in lieu of the preservation of existing trees subject to approval by the Board.

The Applicant has requested a waiver from this regulation to not install shade trees over parking areas. In this project, the “parking areas” are the driveways to each individual dwelling unit. Instead, the Applicant will plant additional trees around the property and along the western boundary of the property as a buffer area as shown on the Landscape Plan. ***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 205-9. F. Landscaping - Tree Replacement** – The total diameter of all trees over ten (10) inches in diameter that are removed from the site shall be replaced with trees that equal the total breast height diameter of the removed trees. The replacement trees may be placed on or off site as recommended by the Board.

A tree inventory performed by applicant Maria Varrichione and Steve Bevilacqua of Tree Timber Corporation of Canton, MA found that there are 18 trees over 18” in diameter on the 1.44 acre site; one 22” diameter oak tree needs to be removed as part of site preparation. Using the standard formula of tree radius² x 3.14 to calculate the amount of tree area, removal of this tree triggers a required total of 380 sq. inches of tree replacement.

According to the revised landscape plan dated January 21, 2020, prepared by WDA Design Group of Westborough, MA, 29 new deciduous and evergreen trees of at least 3” caliper

will be planted. 29 three-inch caliper trees x 7 sq. inches per tree = 203 square inches of tree replacement plantings to be installed throughout the site including the area adjacent to the wetland resource portion of the property. In addition, 110 miscellaneous shrubs will be planted throughout the site along building foundations, in the front lawn area adjacent to Evergreen Street, and along the eastern and western boundaries with adjacent properties to provide suitable screening and buffering. **The Board approves this waiver 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 the *Site Plan Rules and Regulations*, that the comments of various Town boards and public officials have been adequately addressed, and that concerns of abutters and other town residents which were aired during the public hearing process have been carefully considered. The Board's issuance of a special permit and site plan approval is subject to the following conditions:

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 6. The maximum number of bedrooms for the development shall be 16.
 2. The tract(s) of land on which this multi-family development will be located shall not be altered or used except:
 - a) as granted by this special permit;
 - b) substantially as shown on the site plan entitled *Evergreen Village*, dated September 5, 2019, last revised February 6, 2020 prepared and compiled by Ronald Tiberi, P.E to be modified as specified herein; and
 - c) in accordance with subsequent approved plans or amendments to this special permit.
 3. The tract of land and buildings comprising the Evergreen Village development 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 sixty (60) days after the Board has filed its *Decision* with the Town Clerk, the site plan entitled *Evergreen Village*, dated September 5, 2019, last revised February 6, 2020 prepared and compiled by Ronald Tiberi, P.E including landscape plans by WDA Design Group of Westborough, MA as revised by McCarty Engineering of Leominster, MA, and architectural and building plans by Daniel Lewis Architect of Northborough, MA shall be further revised to reflect all Conditions and required revisions as specified herein, including those as follows, 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".) Upon approval, the

Applicant 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 February 6, 2020 Evergreen Village site plan set shall be revised as follows:
1. Include the list of APPROVED Requests for Waivers. Revise the text size and/or line weight to ensure the Waiver language can be properly read. Remove reference to waivers from Adaptive Use Overlay District regulations.
 2. Revise the signature box to include a line for plan endorsement date
 3. Add a reference to the Stormwater Pollution and Prevention Plan (O & M plan) for Construction to the Plan Index
 4. Include a new plan revision date
 5. Add a Registry box and incorporate whatever other formatting is needed for the plan to be recordable at the Norfolk County Registry of Deeds.
 6. Add language that the development is subject to a performance security Covenant to be executed by the Board and recorded with the special permit and plan.
 7. Add language for the Town Clerk to document that no appeals were filed.
 8. Add reference to McCarty Engineering of Leominster, MA for landscape plan.
- D. **Other Plan Revisions** – Prior to plan endorsement, the following plan revisions shall be made to the February 6, 2020 Evergreen Village site plan set.
1. Include a sheet providing the Stormwater Pollution Prevention Plan (O & M plan) for Construction.
 2. Detail and notes shall be provided to describe the dimensions and composition of the Garden Path at the end of Balsam Way.
 3. Add a datum reference (NAVD 88) to the plan set.
 4. Depict the location of the official “open space” areas.
 5. Add a Registry box and whatever other formatting is needed on each sheet for the full plan set to be recordable at the Norfolk County Registry of Deeds.
 6. The Cheney Engineering Existing Conditions shall be updated to specify the NAVD 88 benchmark information in NOTES and a revised date.
 7. Information to depict regrading of the land to the west of the proposed roadway to establish better sight distance for egressing traffic.
 8. Add a detail to Sheet D-2 for the stone wall/fence to be installed along the western boundary of the property.
 9. Detail Sheet D-3 shall be revised to delete the detail for bituminous machined berm and replace it with a detail for Cape Cod berm.
 10. The notes on Sheets S-3 and S-4 regarding proposed retaining wall shall be revised to refer to the wall section detail included on Sheet L-1.
 11. The Existing Conditions Plan Sheet S-1 originally dated March 2, 2019 shall be revised to remove the building and barn which have been razed and are no longer located on the premises. The date on Sheet S-1 shall be revised accordingly.
 12. Remove reference to split rail fence wherever it appears in the plan set.

13. Remove the ornamental wall shown for installation on the east side of Balsam Way entrance off of Evergreen Street.
 14. Add the Storm Water Pollution Plan within the Storm Water Report for Evergreen Village, 22 Evergreen Street, Medway, MA by Ronald Tiberi, dated February 6, 2020 as a sheet in the plan set. Add this item to the Plan Index on the cover sheet of the plan set.
- E. ***Other Documentation*** - Prior to plan endorsement, the Applicant shall provide the following additional documentation to the Board:
1. Copy of the Performance Security Covenant to be executed by the Permittee and the Board in a form acceptable to the Board and suitable for recording at the Registry of Deeds or Land Court, as may be applicable, for review, comment, amendment and approval by Town Counsel.
 2. Copy of a sample deed to be used to convey each dwelling unit for review, comment, amendment and approval by Town Counsel. The deed shall clearly state that the Evergreen Village Condominium Trust shall own and be responsible for the maintenance and upkeep of development's private roadway (Balsam Way), the stormwater management system, and all other infrastructure.
- F. ***Recording of Plans and Documents***
1. The Plan of Record associated with this special permit is titled *Evergreen Village*, dated September 5, 2019, last revised February 6, 2020 prepared and compiled by Ronald Tiberi, P.E including landscape plans by WDA Design Group of Westborough, MA and architectural and building plans by Daniel Lewis Architect., of Northborough, MA to be further revised as specified herein.
 2. No site preparation shall begin on the site and no building permit shall be issued before the following documents are recorded at the Norfolk County Registry of Deeds:
 - a) This special permit decision with the Plan of Record endorsed by the Board
 - b) Performance Security Covenant with 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) Evergreen Village Condominium Master Deed
 - b) Declaration of Trust of the Evergreen Village 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. ***Open Space/Yard Area***

1. At least 15% of the site shall be retained as open space and/or yard area in perpetuity. This is an ongoing obligation of the Evergreen Village 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.
- H. ***Sidewalk Construction/Replacement on Evergreen 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 Evergreen 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 \$7,874 as calculated by the Board’s Consulting Engineer as the amount needed for the Town to construct 135 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 before any occupancy permit is issued by the Building Department.
- I. ***Affordable Housing***
1. In accordance with the *Bylaw*, Section 8.6 Affordable Housing, 1 dwelling unit within Evergreen Village shall be “Affordable” and comply with the requirements for inclusion on the Town’s Subsidized Housing Inventory as maintained by the MA Department of Housing and Community Development (DHCD). All provisions of Section 8.6 shall apply to Evergreen Village. To fulfill its affordable housing responsibilities under the *Bylaw*, the Permittee shall provide one affordable housing unit to be located within the first triplex building to be constructed.
 2. Within 180 days after the Decision and Plan are recorded at the Norfolk County Registry of Deeds, the Permittee shall apply to DHCD’s Local Initiative Program (LIP) for inclusion of the proposed Affordable Housing Unit as a Local Action Unit on the Town’s Subsidized Housing Inventory and thereafter shall diligently pursue DHCD approval of the LIP/Local Action Unit Application. Prior to submitting the LIP Application to DHCD, the Permittee shall meet with the Medway Board of Selectmen and the Medway Affordable Housing Committee and Trust for purposes of securing their support for the LIP/LAU application including the proposed marketing plan and local preference guidelines.
 3. The Affordable Housing Unit shall be subject to a perpetual affordable housing deed rider, in a form acceptable to DHCD, to be recorded at the Norfolk County Registry of Deeds with the deed for the affordable housing unit as required by LIP. The Affordable Housing Unit shall be sold and resold in accordance with the provisions of the affordable housing deed rider.
 4. One Affordable Housing Unit shall to be located within the development’s

first triplex building to be constructed as required by DHCD for approval of the project's LIP application. The location of the affordable housing unit shall comply with the provisions of Section 8.6 Affordable Housing of the *Bylaw*, F. Location and Comparability of Affordable Housing Units. The location and size of the affordable housing unit must be approved by DHCD. Upon direction by DHCD or request of the Permittee (*without effect to the Subsidized Housing Inventory eligibility*), the Board shall permit a change in the location of the Affordable Housing Unit. In the event that DHCD does not approve of the project's eligibility under the Subsidized Housing Inventory, the Permittee shall work diligently with the Town to take any action necessary to ensure the unit is included on the Town's Subsidized Housing Inventory.

5. Affordable Housing Regulatory Agreement – If and to the extent that DHCD approves the Affordable Housing Unit pursuant to 760 CMR 56.04(7) and 56.05 (10)(b), the Permittee shall prepare or cause to be prepared and submit to DHCD, before an occupancy permit is issued for the first dwelling unit, an Affordable Housing Regulatory Agreement to be executed by the Town of Medway, the Permittee (DTRT, LLC or its successors/assigns) and the Massachusetts DHCD. After such submittal to DHCD, the Permittee shall diligently pursue DHCD approval of the Regulatory Agreement. Upon execution, the Regulatory Agreement shall be recorded at the Norfolk County Registry of Deeds. To the extent approved by DHCD, the Affordable Housing Unit shall be subject to the Regulatory Agreement and shall be sold and resold in accordance with its provisions.
6. The Permittee shall select and compensate a Lottery Agent to prepare the LIP/Local Action unit application and Regulatory Agreement and manage the marketing and initial sale of the Affordable Housing Unit. Any such Lottery Agent must meet DHCD's experience requirements so that the Affordable Housing Unit may be counted on the Town's Subsidized Housing Inventory. The Permittee and/or the Evergreen Village Condominium Trust shall identify such Lottery Agent to the Board and any changes thereto.
7. DHCD shall oversee the initial sale of the Affordable Housing Unit pursuant to the LIP/LAU program in conjunction with the selected Lottery Agent.
8. The ongoing Monitoring Agent for the affordable unit shall be DHCD. The Board hereby names the Town of Medway Affordable Housing Trust, if approved by DHCD, as an additional Monitoring Agent for the sale and resale of the Affordable Housing Unit.
9. The Evergreen Village Condominium Master Deed and all legal documents related to the Affordable Housing Unit shall include language to specify:
 - a) the unit number of the designated Affordable Housing Unit;
 - b) that the Affordable Housing Unit shall be sold to income eligible persons or households that meet the income restrictions;
 - c) that the local preference criteria for the sale and re-sale of the Affordable Housing Unit shall be in accordance with the

Massachusetts Department of Housing and Community Development Local Initiative Program or other applicable state housing program

- d) that the Affordable Housing Unit is eligible for inclusion on the Town's Subsidized Housing Inventory;
- e) that the Affordable Housing Unit is subject to a use restriction; and
- f) that the Affordable Housing Unit shall not be encumbered for any financing purposes beyond the original mortgage amount without the express advance written permission of the Monitoring Agent.

10. Timing of construction of affordable unit

- a) No building permit for the second building shall be issued until the Board of Selectmen has approved the Affordable Housing Regulatory Agreement and the Permittee has submitted it to DHCD.
- b) The occupancy permit for the 4th market rate unit shall not be issued until the Affordable Housing Regulatory Agreement is approved by DHCD and recorded with the Norfolk County Registry of Deeds and before the affordable unit is determined to be occupiable by the Building Commissioner.

11. Comparability of construction of affordable housing units

- a) The Permittee shall construct the affordable housing unit to be indistinguishable from other units in the development from the exterior including the provision of garages and parking spaces. The units shall be equivalent to the market-rate units in terms of design, quality of construction and workmanship, mechanical, plumbing, heating and cooling systems, roofing, insulation, windows and energy efficiency.
- b) The affordable housing units shall contain complete living facilities and include an equivalent quantity of cabinets, countertops, appliances, lighting, kitchen and bathroom plumbing fixtures, closets, and washer/dryer hookups, and heating and air conditioning equipment to those provided for market rate units. The affordable units shall contain good quality and highly durable interior finishes, flooring, lighting and plumbing fixtures that are consistent with contemporary standards for new housing and installed with equivalent workmanship to the market rate units.
- c) Product and system warranties for the affordable housing units shall be equivalent to those supplied for market rate units.

J. **Tree Preservation** – The tree inventory included on the Existing Conditions plan identified a total of 18 trees of 18” or larger in diameter located on the subject property; one 22” tree is approved for removal during construction.

- 1. The Applicant and its contractors shall not remove any of the remaining 17 trees during site preparation and construction of infrastructure and the buildings.

- a) The 17 trees shall be clearly identified in the field and verified by the Town's consulting engineer before site preparation and construction commences.
 - b) If any of the 17 identified trees are removed or damaged during construction, the applicant shall be responsible for tree restoration by replacing the removed or damaged trees with nursery grade trees on a one (1) square inch per two (2) square inch replacement basis within (1) year after the tree removal or damage has occurred. The one (1) square inch per two (2) square inch replacement amount is calculated by squaring 1/2 the established diameter of each tree that is removed or damaged and multiplying that amount by 3.14 to determine its trunk area (tree radius squared x pi rounded to 3.14). The resulting figure is halved, and that square inch total is the amount of required square inches of the replacement tree(s). A 3" caliper tree equals seven (7) sq. ft. The location of the replacement trees shall be recommended by the applicant and approved by the Planning and Economic Development Board and Tree Warden and may be located off site of the subject premises including on adjacent properties. The restoration shall be verified by the Tree Warden as being fully and skillfully performed. The species of replacement tree(s) shall be reviewed and approved by the Tree Warden, or otherwise will be consistent with the species of the removed *tree(s)*.
 - c) In lieu of tree planting, the applicant may contribute to the Medway Tree Fund in an amount to be determined by the Board upon consultation with the Medway Tree Warden and based on wholesale pricing for 3-inch caliper trees from a reputable area landscape supplier.
2. The Applicant has agreed to prune the 32" tree in the Town's right of way on Evergreen Street. Such pruning shall occur under the guidance of the Medway Tree Warden and Police Department Safety Officer.
- K. **Community Mailbox** - It is anticipated that the U.S. Postal Service will require the use of a standard community mailbox kiosk vs. mail delivery to each individual dwelling unit. Before installation, the Applicant is required to provide the Board with information on the proposed location for such a community mailbox change and the design for a shed enclosure for the kiosk, to be reviewed and approved by the Design Review Committee.
- L. **Ownership/Maintenance of Site Improvements**
1. The stormwater drainage facilities, and all other infrastructure shall be owned and maintained by the property owner. It is the intent of the Board that these facilities shall 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) Internal Sidewalks
 - d) Snowplowing/sanding
 - e) Landscaping
 - f) Light posts
- M. **Building Permits** - The Board authorizes the Building Department to issue a building permit for the triplex building comprised of units 4, 5 and 6 so that construction can occur during construction of the approved roadway and site infrastructure improvements.
- N. **Occupancy Permits** - Before the Board will authorize an occupancy permit for any of the units in the first triplex building (Units 4, 5 and 6), the following items, at a minimum, must be installed and inspected and approved by the Board:
- a) Roadway area gravel sub-base
 - b) Roadway 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 basin and forebay and all critical elevations and details of the associated structures, pipes and headwalls.
 - e) All regulatory signs as specified on the approved Plan.
 - f) Stop line pavement markings if required
 - g) Provisions for fire prevention and protection. Private water main/ service to be constructed, installed and functional.
- O. **Patios** – To not increase stormwater runoff, any future patios shall be fabricated with pervious paving materials.
- P. **Parking** – The plan includes two off-street parking spaces per unit (12 spaces total). Regular on-street parking of the occupants of the dwelling units on Balsam Way and Cottage Street shall not be permitted.
- Q. **Scenic Road Work Permit** – This project is also subject to a Scenic Road Work Permit issued by the Board. As a condition of this Decision, the Permittee shall comply fully with the requirements of that Scenic Road Work Permit.
- R. **Underground Utilities** - All electric, telephone, cable TV, and other utilities shall be located underground.
- S. **Water Use and Conservation**
1. The development is relying on the Town’s public water system and the Town is being held to its Water Management Act Permit with the MA Department of Environmental Protection. The Permittee shall incorporate the following water conservation measures for construction of the development:
 - a. private well water for landscape irrigation
 - b. rain-gauge controlled irrigation systems
 - c. low flow household fixtures
 - d. water efficient appliances (dishwashers, washer/dryers, toilets, etc.)
 2. The Permittee shall not use Town water for irrigation of the site’s lawn and

landscaping. A private well may be installed pursuant to application and receipt of necessary permits from the Board of Health.

- T. **Fire Protection** – This project is subject to local, state and federal fire codes.
- U. **Addresses** – The Balsam Way addresses for the 6 condominium dwellings shall be as determined by the Medway Assessor’s office upon consultation with the Medway Fire and Police Departments.
- V. **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.
- W. **Stormwater Management During Construction** – Construction is subject to the Storm Water Pollution Plan within the Storm Water Report for Evergreen Village, 22 Evergreen Street, Medway, MA by Ronald Tiberi, dated February 6, 2020.
 - 1. This document shall be included in all construction contracts, subcontracts and specifications dealing with the proposed work. The applicant shall ensure that all contractors, subcontractors and other personnel performing the permitted work are fully aware of the Construction Period Operation and Maintenance Plan.
 - 2. No clearing of vegetation, including trees, or disturbance of soil shall occur prior to the Pre-Construction Meeting.
 - 3. Prior to the Pre-Construction Meeting and 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.
 - 4. Immediately after installation of erosion controls, the Applicant 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.
 - 5. It shall be the responsibility of the Applicant 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 site plan shall be considered a minimum standard for compliance.
 - 6. 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.
- X. **Stormwater Management - Post Construction**
 - 1. The Applicant 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 the Board.

2. The stormwater drainage system, water and sewer systems shall be maintained by the Applicant, its successors and assigns, and shall not be dedicated to the Town. It is the intent of the Board and the Applicant that these systems shall not be accepted by the Town.
3. The Permittee and its successors and assigns shall maintain the stormwater management system in accordance with the Operations and Maintenance Plan within the Storm Water Report for Evergreen Village, 22 Evergreen Street, Medway, MA by Ronald Tiberi, dated February 6, 2020.
4. The applicant shall submit annual reports of inspections and maintenance of all stormwater management structures included in the site plan to the Board and the Medway Department of Public Works Compliance Officer starting one year after the Certificate of Site Plan Completion is issued.
5. In the event a management company is engaged by the owner, the stormwater maintenance and operation plan shall be incorporated by reference in the management contract.
6. In the event that the Applicant, its successors and assigns, or its agent fail to maintain the stormwater management system in accordance with the applicable guidelines for operation and maintenance, the Town may conduct such maintenance or repairs as the Town determines in its sole discretion are reasonably necessary, and the Applicant hereby consents to allow the Town and its agents, employees and contractors entry onto the Property to implement the measures set forth in such guidelines. In the event the Town conducts such maintenance or repairs, the Applicant shall promptly reimburse the Town for all reasonable expenses associated therewith; if the Applicant fails to so reimburse the Town, the Town may place a lien on the site or any unit therein to secure such payment.

Y. **Order of Conditions** – As a component of this development, the Permittee shall comply fully with the Order of Conditions and the associated Land Disturbance Permit issued by the Medway Conservation Commission on March 17, 2020.

GENERAL CONDITIONS OF APPROVAL

- A. The term “Applicant” and “Permittee” as used in this decision and permit refers to the owner, any successor in interest, title or successor in control of the property referenced in the applications, supporting documents and this decision and permit. The Board shall be notified in writing within 30 days of all transfers of title of any portion of the property that take place prior to issuance of a Certificate of Site Plan Completion.
- 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. 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*** - Construction work at the site and in the building and the operation of construction equipment including truck/vehicular and machine start-up and movement and construction deliveries shall commence no earlier than 7 a.m. and shall cease no later than 6 p.m. Monday – Saturday. No construction shall take place on Sundays and federal and/or state legal holidays without the advance approval of the Building Commissioner. These rules do not apply to interior construction work such as painting, installation of drywall, flooring, etc.
 2. Prior to commencing any work on the 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 averaging 1" to 4".
 3. 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.
 4. There shall be no tracking of construction materials onto any public way. Daily sweeping of roadways adjacent to the site shall be done to ensure that any loose gravel/dirt is removed from the roadways and does not create hazardous or deleterious conditions for vehicles, pedestrians or abutting residents. In the event construction debris is carried onto a public way, the Permittee shall be responsible for all clean-up of the roadway which shall occur as soon as possible and in any event within twelve (12) hours of its occurrence.

5. 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.
6. All erosion and siltation control measures shall be installed by the Permittee prior to the start of construction and observed by the Board's consulting engineer and maintained in good repair throughout the construction period.
7. *Construction Traffic/Parking* – During construction, adequate provisions shall be made on-site for the parking, storing, and stacking of construction materials and vehicles. All parking for construction vehicles and construction related traffic shall be maintained on site. No parking of construction and construction related vehicles shall take place on adjacent public or private ways or interfere with the safe movement of persons and vehicles on adjacent properties or roadways.
8. *Noise* - Construction noise shall not exceed the noise standards as specified in the Medway General Bylaws and the *Bylaw*, 7.3 Environmental Standards, as may be amended.
9. *Stormwater Management* – During construction, the Applicant shall maintain the site and installed stormwater management facilities in accordance with Storm Water Pollution Plan within the Storm Water Report for Evergreen Village, 22 Evergreen Street, Medway, MA by Ronald Tiberi, dated February 6, 2020.

E. *Landscape Maintenance*

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 endorsed Plan. Any shrubs, trees, bushes or other landscaping features shown on the Plan that die shall be replaced by the following spring.
2. Within 60 days after two years after the last occupancy permit is issued, the Town's Consulting Engineer or the Building Commissioner shall conduct an initial inspection of the landscaping to determine whether and which landscape items need replacement or removal and provide a report to the Board. At any time subsequent to this initial inspection, the Town's Consulting Engineer 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/Zoning Enforcement Officer to ensure that the comprehensive landscaping plan is maintained.

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 Applicant shall inform snow removal operators of the approved locations for on-site snow storage.

3. Accumulated snow which exceeds the capacity of the designated snow storage areas on-site shall be removed from the premises within 24 hours after the conclusion of the storm event.
- G. **Right to Enter Property** – To the extent permitted by law, Board members, its staff, consultants or other designated agents of the Town shall have the right to enter upon the subject property to inspect the site at any time, to ensure continued compliance with the terms and conditions of this special permit and the endorsed plan.
- H. **Construction Oversight** - Inspection of infrastructure and utility construction, installation of site amenities including landscaping by the Town’s Consulting Engineer 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/installation, identify what site plan work remains to be completed, prepare bond 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) 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.
 - c) Any funds remaining in the Permittee’s construction inspection account after the *Certificate of Site Plan Completion* is issued shall be returned to the Applicant.
 2. Pre-Construction Meeting – At least seven days prior to the start of any site preparation or construction, the Applicant shall meet with the Town’s Consulting Engineer, the Planning and Economic Development Coordinator, the Medway Department of Public Works, the Medway Conservation Agent, the site contractors, and Applicant’s project engineer for a pre-construction meeting. The construction schedule and procedures for inspections shall be reviewed.
 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 and the sewer and water connection permits.
 4. The Permittee shall have a professional engineer licensed in the Commonwealth of Massachusetts conduct progress inspections of the construction of the approved site improvements. Inspections shall occur at least on a monthly basis. The engineer shall prepare a written report of each inspection and provide a copy to the Board within 5 days of inspection.

Failure of the Permittee to provide these reports may be reason to withhold building or occupancy permits.

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 endorsed site plan.
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 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.

J. *Plan Modification*

1. Proposed modifications (not including on-site field changes) to the endorsed plan 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 an approved site plan shall 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 a previously approved plan shall be subject to the same application and review process including a public hearing including 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 approved and endorsed plan and any modifications thereto.
2. The Board or its agent(s) shall use all legal options available to it, including referring any violation to the Building Commissioner/Zoning Enforcement Officer for appropriate enforcement action, to ensure compliance with the foregoing Conditions of Approval.
3. The Conditions of Approval are enforceable under Section 3.1. F. of the *Bylaw* (non-criminal disposition).

L. Performance Security

1. *Covenant* - Prior to plan endorsement, the Permittee shall sign a *Covenant*, on a form provided by the Board, to be reviewed and approved by Town Counsel, to secure construction of the roadway, stormwater management facilities and related infrastructure and site improvements as specified in the approved Plan. Reference to the *Covenant* shall be noted on the cover sheet of the Plan. The *Covenant* shall specify that no unit may secure a building permit until such services are completed or an alternative form of security is provided. The *Covenant* shall specify that the roadway (excluding unit driveways) and all infrastructure including the stormwater management system shall be constructed and all utilities and services shall be installed to the satisfaction of the Board within three years of the date of plan endorsement. The *Covenant* shall be recorded at the Norfolk County Registry of Deeds at the same time the Decision and Plan are recorded.
2. *Alternative Performance Security*
 - a) At such time as the Permittee wishes to secure a building permit, the security provided by the *Covenant* shall be replaced by one of the types of performance guarantees set forth in M.G.L. Ch. 41, Section 81U, which method or combination of methods may be selected and from time to time varied by the Applicant, in a sufficient amount, source and form acceptable to the Board, the Treasurer/Collector and Town Counsel. The performance guarantee shall be accompanied by an agreement which shall define the obligations of the Permittee and the performance guarantee company including:
 - 1) the date by which the Permittee shall complete construction
 - 2) a statement that the agreement does not expire until released in full by the Board
 - 3) procedures for collection upon default.
 - b) *Amount* - The amount of the performance guarantee shall be equal to 100% of the amount that would be required for the Town of Medway to complete construction of the roadway and installation of stormwater management facilities, utilities, services, pedestrian facilities and all site amenities as specified in the Decision and Plan that remain unfinished at the time the performance guarantee estimate is prepared if the Permittee failed to do so. The security amount shall be approved by the Board based on an estimate

provided by the Town's Consulting Engineer based on the latest weighted average bid prices issued by the Mass Department of Transportation. The estimate shall reflect the cost for the Town to complete the work as a public works project which may necessitate additional engineering, inspection, legal and administrative services, staff time and public bidding procedures. The estimate shall also include the cost to maintain the roadway and infrastructure in the event the Permittee fails to adequately perform such. In determining the amount, the Board shall be guided by the following formula in setting the sum: estimate of the Town's Consulting Engineer of the cost to complete the work plus a 30% contingency. A performance security agreement shall be executed by the Permittee, the Board and the selected surety.

3. *Adjustment of Performance Guarantee* – At the Permittee's written request, the amount of the performance guarantee may be reduced from time to time over the course of the construction project by vote of the Board upon the partial completion of the roadway and infrastructure improvements as defined herein. In order to establish the amount to adjust the performance guarantee, the Town's Consulting Engineer shall prepare an estimate of the current cost for the Town to complete all work as specified on the approved Plan that remains unfinished at the time the estimate is submitted to the Board. The estimate shall be based on unit prices in the latest Weighted Average Bid Prices issued by the Mass Department of Transportation. 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. The estimate shall also include the cost to maintain the roadway and infrastructure in the event the Permittee fails to adequately perform such. In determining the amount of the adjustment of the performance guarantee, the Board shall be guided by the following formula to determine the reduction amount: the estimate of the Town's Consulting Engineer of the cost to complete the work; plus a 30% contingency. The Board may authorize up to three reductions in the amount of performance security however, the Board shall not reduce the performance security below \$40,000.
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.
2. 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 (30) days prior to the date of expiration, the Board may grant an extension for good cause. The request shall state the reasons for the extension and 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.

3. Prior to issuance of the occupancy permit for the sixth 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 the approved and endorsed site plan, and any modifications thereto; and
 - b) submit an electronic version of an As-Built Plan, prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts, to the 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.
- N. ***Construction Standards*** - All construction shall be completed in full compliance with all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.
- O. ***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 Applicant, and notice will be mailed to all parties in interest as provided in G.L. c. 40A §15.

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, Chapter 40A, §17, and 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 Applicant. A copy of the recorded Decision, and notification by the Applicant of the recording, shall be furnished to the Board.

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**Medway Planning and Economic Development Board
Evergreen Village MULTI-FAMILY SPECIAL PERMIT, MAJOR SITE PLAN DECISION
and SCENIC ROAD WORK PERMIT
22 Evergreen Street**

Approved by the Medway Planning & Economic Development Board: April 7, 2020

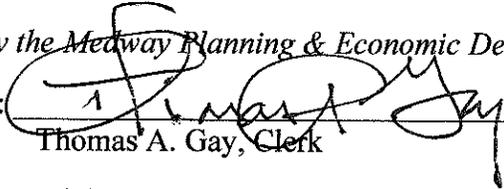
Certified by: _____
Thomas A. Gay, Clerk

Copies to: Michael Boynton, Town Administrator
Stephanie Carlisle, DPW Compliance Officer
David D’Amico, Department of Public Works
Mike 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
Erika Robertson, Building Department Compliance Officer
Joanne Russo, Treasurer/Collector
Barbara Saint Andre, Director of Community and Economic Development
Jeff Watson, Police Department
Maria Varrichione, Sampson Pond LLC
John and Cynthia Shea
Ron Tiberi, P.E.
Steven Bouley, Tetra Tech
Gino Carlucci, PGC Associates

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