

Board Members

Andy Rodenhiser, Chair
Sarah Raposa, A.I.C.P. Vice
Chair
Timothy Harris, Clerk
John Parlee, Member



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TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS

**PLANNING AND ECONOMIC
DEVELOPMENT BOARD**

**39 ALDER STREET, SPECIAL PERMIT,
SITE PLAN DECISION
APPROVED WITH CONDITIONS**

Decision Date: November 19, 2024
Applicant/Permittee: East Hill Associates, LLC
49 Alder Street, Medway
Property Owner: East Hill Associates, LLC
Location: 39 Alder Street
Assessors' Reference: Map 63, Parcel 004

Applicable Plans: "Lawrence Waste Services Corp., Proposed Commercial Building,
#39 Alder Street, Medway, MA 02053," dated April 12, 2023, last revision date 11/1/2024,
prepared by CMG Environmental, Inc. of Sturbridge, MA

Zoning District: West Industrial
Groundwater Protection District

Board Members Voting: Andy Rodenhiser, Sarah Raposa, Timothy Harris, and John Parlee

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I. PROJECT DESCRIPTION

The original application from ETS Properties, LLC (ETS), 11 Airport Road Hopedale, Massachusetts requested: (1) a special permit for the use of the property as “construction equipment/machinery sales, leasing or rental”; (2) a special permit under the Groundwater Protection District, Section 5.6.3, of the Town of Medway Zoning Bylaw (the “Zoning Bylaw”), and (3) major site plan review and approval pursuant to Section 3.5 of the Zoning Bylaw. The original application sought approval for construction of a new 12,054 square foot building on the site, along with parking and loading facilities, office space, a fueling station, and wash bay.

ETS sold the property to East Hill Associates, LLC (East Hill) by deed recorded June 28, 2024. East Hill filed amended special permit and major site plan applications on September 17, 2024, along with updated plans. Although the basic layout proposed for the site remains the same, the size of the building has been reduced to 7,400 square feet building, and the originally proposed fueling station and wash bay were eliminated from the proposal. East Hill also owns the abutting property at 49 Alder Street, which is used by Lawrence Waste Services Corp. Lawrence Waste Services plans to use the property at 39 Alder Street in conjunction with the existing use of its property at 49 Alder Street. This will include storage of empty dumpsters, containers and compactors.

The application for a special permit for the use was withdrawn by ETS on October 2, 2024 as no longer necessary.

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”), on November 19, 2024, **voted to GRANT with CONDITIONS a special permit under the Groundwater Protection bylaw, to East Hill Associates, LLC (hereafter referred to as the Applicant or the Permittee),** the motion was approved by a vote of 4 in favor and 0 opposed.

and to GRANT with WAIVERS and CONDITIONS as specified herein, Major Site Plan approval for a site plan for the proposed building and associated site improvements on the property at 39 Alder Street as shown on a plan titled “Lawrence Waste Services Corp., Proposed Commercial Building, #39 Alder Street, Medway, MA 02053,” dated April 12, 2023, last revision date 11/1/2024, prepared by CMG Environmental, Inc. of Sturbridge, MA, consisting of 19 sheets (the Site Plan) to be further revised as specified herein before endorsement and recording.

The motion was approved by a vote of 4 in favor and 0 opposed.

III. PROCEDURAL HISTORY

A. Special permit and major site plan applications filed with the Medway Town Clerk and PEDB on April 20, 2023 by the original applicant, ETS Properties, LLC, 11 Airport Road Hopedale, Massachusetts. Modified special permit and major site plan applications filed with Board on September 17, 2024 by East Hill.

B. The public hearing notice was posted at the Town Hall and on the Town of Medway web site and mailed to parties of interest as required by chapter 40A and published in the MetroWest Daily News on May 8, 2023 and May 16, 2023.

C. The Board notified Town departments, boards and committees of this application and requested review and comment.

D. The public hearing commenced on May 23, 2023, and was continued to June 27, 2023 (no evidence taken), July 25, 2023 (no evidence taken), August 22, 2023 (no evidence taken), September 26, 2023 (no evidence taken), November 14, 2023, February 13, 2024, March 12, 2024 (no evidence taken), April 23, 2024 (no evidence taken), June 11, 2024 (no evidence taken), July 23, 2024 (no evidence taken), August 27, 2024; September 24, 2024, October 8, 2024 (no evidence taken), October 22, 2024, and November 19, 2024, when the hearing was closed, and a decision rendered.

E. Member Tim Harris filed a certificate pursuant to G.L. c. 39, §23D with respect to the September 24, 2024, public hearing date.

IV. INDEX OF DOCUMENTS

A. Information regarding the original application by ETS:

1. Information in original ETS filing:
 - Special permit and site plan applications received April 20, 2023
 - Project Narrative & Development Impact Statement
 - Stormwater Report dated April 12, 2023, provided by CMG Environmental, Inc.
 - Site Plan: “Proposed Commercial Building, ETS Equipment Rental, Inc. 39 Alder Street, Medway, MA 02053,” dated April 12, 2023, prepared by CMG Environmental, Inc. of Sturbridge, MA.
 - Architectural elevations and renderings from Millennium Design Associates, Inc. dated April 12, 2023
2. Other documentation submitted to the Board during the course of the public hearing:
 - Email from Nolan Lynch, DPW, dated May 4, 2023
 - Email from Derek Kwok, Health Agent, dated May 3, 2023
 - Memo from Barbara J. Saint Andre, Director, Community and Economic Development, dated May 19, 2023
 - Project review letter from Tetra Tech dated June 2, 2023
 - Email from Joanne Russo, Treasurer, dated September 11, 2024
3. Note: on or about March 7, 2024, ETS filed modified plans for a proposed use of the site as a lumber yard. That proposed use was not pursued, therefore, for the sake of clarity, a list of those documents is not included.

B. Information regarding modified application filed by East Hill on Sept. 17, 2024:

1. Information in East Hill filing
 - Modified Special permit and site plan applications dated 9/4/2024
 - Project Narrative & Development Impact Statement dated 9/16/2024
 - Waiver Request letter dated 9/16/2024
 - Stormwater Report revised 9/16/2024 prepared by CMG Environmental, Inc.
 - Site Plan: “Lawrence Waste Services Corp., Proposed Commercial Building, #39 Alder Street, Medway, MA 02053,” dated April 12, 2023, last revision date 9/4/2024, prepared by CMG Environmental, Inc. of Sturbridge, MA.
 - Architectural elevations and renderings entitled “Lawrence Waste Services” prepared by Group 7 Design dated 8/13/2024
2. Other documentation submitted to the Board during the course of the public hearing:
 - Project review letter from Tetra Tech to PEDB dated October 24, 2024

- Letter from CMG 11.11.24 response to Tetra Tech letter
- Letter from CMG 11.11.24 response to staff comments
- Updated Waiver request letter from CMG 11.11.24
- Letter from CMG 11.11.24 response to Tetra Tech Conservation Commission letter
- Site Plan: “Lawrence Waste Services Corp., Proposed Commercial Building, #39 Alder Street, Medway, MA 02053,” dated April 12, 2023, last revision date 11/1/2024, prepared by CMG Environmental, Inc. of Sturbridge, MA.
- Updated Stormwater Report from CMG 11.11.24
- Emails from Derek Kwok, Health Agent, dated October 1, 2024, and November 6, 2024
- Email from Nolan Lynch, DPW, dated October 1, 2024
- Email from Bridget Graziano, Conservation Agent, dated September 30, 2024

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:

- David Faist, P.E. for the applicant
- Steve Bouley, P.E. of Tetra Tech, Inc., the Town’s Consulting Engineer

VI. FINDINGS - The Board voted to approve the following findings regarding the special permit by a vote of 4 in favor and 0 opposed.

A. SPECIAL PERMIT DECISION CRITERIA – The Board makes the following findings in accordance with Section 3.4 of the Zoning 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 Zoning 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 site is in the West Industrial Park, and will be used by Lawrence Waste Services, which owns the abutting property at 49 Alder Street where it currently conducts its business, to further expand its use.
- 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 use. The project will be serviced by Town water and sewer systems. 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.** It is estimated that the development will generate minimal additional traffic. The entrance to the site will not create a hazard to abutters, vehicles, or pedestrians. Suitable sidewalk facilities exist on Alder Street.
- 4) **The proposed use will not cause undue traffic congestion or conflicts in the immediate area.** Alder Street has the capacity to handle the additional traffic to be generated by the proposed use.

- 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 that its stormwater management plan is adequate. Additional shrubs and trees will be planted in accordance with the landscaping plan. The site is located in an industrial and commercial park, with various commercial and industrial uses surrounding it. 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 architectural design has been reviewed by the Design Review Committee.
- 7) **The proposed use is in harmony with the general purpose and intent of the Zoning Bylaw.** This area is zoned for industrial and commercial uses.
- 8) **The proposed use is consistent with the goals of the Medway Master Plan.** The proposed use is consistent with the Master Plan goal of broadening the town's tax base by commercial development in the industrial zoning districts.
- 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 development 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 development outweigh the effects of the proposed use on the Town and neighborhood.

B. GROUNDWATER PROTECTION DISTRICT SPECIAL PERMIT

The applicant requires a Groundwater Protection District special permit pursuant to Section 5.6.3.E.3 of the Zoning Bylaw:

Any use that will render impervious more than 15 percent or 2,500 square feet of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quantity. For non-residential uses, recharge shall be by stormwater infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

In addition to meeting the general special permit criteria set forth in Section 3.4, the Groundwater Protection District special permit must meet these additional criteria:

F. Special Permits

1...Specifically, the proposed use must:

- a. In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District, and
- b. Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

2. The Board ... shall not grant a special permit under this Section 5.6.3 unless the applicant's submission includes, in the Board's opinion, sufficiently detailed, definite, and credible information to support positive findings in relations to the standards given herein.

C. 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 Rules and Regulations for Submission, Review and Approval of Site Plans (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, and Section 3.5 of the Zoning Bylaw:

- 1) The site plan meets the requirements of the Zoning Bylaw and the Site Plan Rules and Regulations, except to the extent any Rules and Regulations are waived by the Board.
- 2) The construction and/or renovation of buildings and site improvements and amenities are designed to reflect or be compatible with the Medway Design Review Guidelines.
- 3) Reasonable use is made of building location, grading, and landscaping and other site features and improvements to reduce the visible intrusion of structures, parking areas, loading and off-loading areas, and outside facilities for the storage, handling, and disposal of sewage, refuse and other solid wastes from public views or from adjacent residential properties.
- 4) Private Roads and driveways are properly designed and constructed to serve the intended use and provide an adequate level of service in relation to the traffic to be generated by the development.
- 5) Internal circulation, queuing and egress promote traffic safety, access via minor streets servicing residential areas is minimized, and traffic backing up into the public way is avoided.
- 6) Convenient and adequate access for fire-fighting and emergency vehicles is provided to each structure and use throughout the site.
- 7) Design and construction minimize, to the extent reasonably practical, the following 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 impacts on waterways and environmental resource areas;
 - f) impacts on natural features such as hills, wooded areas, rock outcrops, wildlife habitat;
 - g) soil erosion and pollution
- 8) Pedestrian ways, access driveways, loading and unloading areas and facilities, and vehicular and bicycle parking facilities are properly designed for public convenience, accessibility, and safety of customers, employees, and the general public.
- 9) The proposed limit of work area is reasonable and protects sensitive environmental and/or cultural resources on the site and on adjacent parcels. The project as designed will not

cause substantial or irrevocable damage to the environment, which damage could be avoided or ameliorated through an alternative development plan or mitigation measures.

10) The project's impact on abutting residential neighborhoods has been adequately mitigated with various on-site and off-site measures. Adjacent and neighboring properties are protected from nuisance and harmful effects caused by noise, traffic, noxious or harmful fumes, and the glare of headlights and other light sources generated by uses on the development site.

11) The extent of building and site design features to promote energy conservation, low-impact development practices, and sustainability.

12) Project compliance with the requirements of Medway General Bylaws, Article 26, Stormwater Management and Land Disturbance; the Town's Land Disturbance Permit Rules and Regulations, the Massachusetts DEP Stormwater Handbook, and EPA's National Pollution Discharge Elimination System requirements, will be determined by the Conservation Commission, as part of its review of the Notice of Intent and Land Disturbance Bylaw application.

VII. WAIVERS – The applicant requested that the Board waive certain provisions of the Site Plan Rules and Regulations.

The Board found that the documents, plans, correspondence, and other information submitted were sufficient for the purposes of the Site Plan review process and voted to grant the waivers by a vote of 4 in favor and 0 opposed.

1. **§204-5.C.3: Applicant is requesting a waiver from the requirement to provide an existing landscape inventory.** CMG quantified the number of trees to be removed as part of this application to satisfy requirements associated with the Medway Conservation Commission application process. Approximately 20 trees with a diameter greater than 15 inches will be removed. CMG is currently coordinating mitigation efforts with the Conservation Commission.
2. **§207-9.E: Applicant requests a waiver from the requirement to provide a pedestrian walkway.** Alder Street currently contains a pedestrian sidewalk located on the opposite side of the street as the subject parcel. Per the Tetra Tech Peer Review Letter, dated 6/2/2023, the peer reviewer requested a sidewalk and crosswalk connection from the subject parcel to the existing sidewalk. Due to the industrial nature of the abutting parcels and the proposed development, there does not appear to be a significant need for pedestrian access to the site. Additionally, there is very limited space to construct a sidewalk along the site access driveway due to the presence of wetlands and an existing stormwater basin associated with the Alder Street drainage system. The proposed use will not generate significant pedestrian traffic.
3. **§207-12.B: Applicant is requesting a waiver from the requirement to provide parking to the side or rear of the Site.** The proposed parking area, which is located in the front of the proposed building, is located in close proximity to the main entrance of the building. Additionally, the parking is located away from the rear paved storage area (which is screened by the building) in order to deter business operations from interfering with potential customer or employee pedestrian traffic. The proposed plan set proposes maintaining a limited area of existing woods in addition to landscaping at the front of the Site.

4. **§207-12.G.3.a: Applicant is requesting a waiver from the requirement that parking spaces should not be within 20 FT of the building entrance.** The proposed handicap accessible space and associated striped aisle is located in close proximity to the front entrance of the proposed building to comply with federal and State ADA / AAB requirements. CMG believes the proposed location for the space provides the best accessibility to the building. Pushing the parking space further away from the building's main entrance would create additional distance for the accessible route.
5. **§207-12.G.3.b: Applicant is requesting a waiver for parking to be within the 15 foot side yard setback.** The proposed parking area is located in the front of the site and is within 10 feet of the northeasterly side property line. The proposed parking layout allows an oversized drive aisle which is consistent with an industrial development to allow safe traffic circulation for potential larger commercial vehicles. In addition, there is limited space at the front of the Site due to the presence of wetlands and the existing stormwater basin associated with the Alder Street drainage system. A majority of the existing mature vegetation will remain which will continue to create a buffer to the abutting industrial building.
6. **§204-3.F.1: Applicant is requesting a waiver from requirement to provide a Traffic Impact Assessment** – Applicant is expanding its business located on the adjacent property at 49 Alder Street and does not anticipate a significant change in current traffic. requesting a waiver of this requirement as the proposed new building will generate only minimal additional traffic.
7. **§204-4.B.: Applicant is requesting a waiver from the requirement that the site plan be drawn at a scale of one inch equals 40 feet.** CMG's plans are drawn on a scale of 1"=20' which is easier to read and consistent with standard engineering practices.

The Board voted 4 to 0 to grant these waiver requests 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 Conditions included in this Decision shall assure that the Board's approval of these applications complies with the Zoning Bylaw, Section 3.4 (Special Permits) and Section 5.6.3 (Groundwater Protection District), 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.

If there is a conflict between the Site Plan and the Decision's Conditions of approval, the Decision shall apply. If there is a conflict between this Decision and/or Site Plan and the Zoning Bylaw, the Zoning Bylaw shall apply. The Board's issuance of a special permit and site plan approval is subject to the following conditions:

1. This permit shall apply to any successor in control or successor in interest of the subject property. The Permittee shall construct all improvements in compliance with the approved and endorsed plan and any modifications thereto. This permit does not relieve the Permittee from its responsibility to obtain, pay for and comply with all other required federal, state and Town permits and approvals associated with this project.
2. Notwithstanding any future amendment of the Zoning Bylaw, G.L. c.40A, or any other

legislative act:

- A. The land on which this development will be located shall not be altered or used except:
 - 1) as granted by this site plan and special permit;
 - 2) substantially as shown on (a) “Lawrence Waste Services Corp., Proposed Commercial Building, #39 Alder Street, Medway, MA 02053,” dated April 12, 2023, last revision date 11/1/2024, prepared by CMG Environmental, Inc. of Sturbridge, MA (the Site Plan); (2) Architectural elevations and renderings entitled “Lawrence Waste Systems” prepared by Group 7 Design dated 8/13/2024 (Architectural Plans); said Site Plan to be modified as specified herein;
 - 3) in accordance with any subsequently approved modified plans or amendments to this site plan and special permit.
 - B. The tracts of land and buildings comprising 39 Alder Street shall not be used, sold, transferred, or leased except in conformity with this site plan and special permit and shall not be further divided.
3. **Plan Endorsement** - Within sixty days after the Board has filed its Decision with the Town Clerk, the Site 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). 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.
4. **Plan Revisions** – Prior to plan endorsement, the following revisions will be made to the Site Plan:
- A. Dumpster storage locations to be outlined as recommended by fire department.
 - B. Include any revisions required by Conservation Commission.
 - C. The Cover Sheet, along with the site plan and detail sheets dated 11.1.2024 with the revisions set forth in this decision, and the Landscape Plan, shall be the plans to be recorded at the Registry of Deeds.
5. **Recording of Plans and Documents** – No construction shall begin on the site and no building permit shall be issued before this Special Permit and Site Plan Decision, and endorsed Plan, are recorded at the Norfolk County Registry of Deeds and proof of such recording is provided to the Board.
6. **Use of Site** – Washing of trucks or fueling of trucks on the site is prohibited. No storage of waste materials is allowed on this property. Outdoor storage of materials shall comply with the requirements of the Zoning Bylaw (Section 7.1.3).
7. **Open Space and 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 owner. 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.
8. **Ownership and Maintenance**

A. The Board requires that the following aspects of the development shall be and shall remain forever privately owned, and that the Town of Medway shall not have, now or ever, any legal responsibility for operation or maintenance of same:

- 1) parking areas
- 2) Stormwater management facilities
- 3) Snowplowing and sanding
- 4) Landscaping
- 5) lights
- 6) Sewer and water

9. **Occupancy Permits** – No occupancy permit may be issued until the following items, at a minimum, are installed in compliance with this Decision, the endorsed Plan, and applicable by-laws and regulations and approved by the Board’s consulting engineer.

- A. 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.
- B. As-built plan of each stormwater basin and forebay and all critical elevations and details of the associated structures, pipes, and headwalls.

10. **Easement** – In 1999, the Town recorded a plan altering the layout of Alder Street, and providing for certain drainage easements on some parcels, including 39 Alder Street. Recorded at Norfolk County Registry of Deeds as Plan 180 of 1999. The Town constructed a stormwater detention basin and associated infrastructure on the site. However, the basin and infrastructure are located partially outside of the easement area shown on the 1999 plan. The Applicant has agreed to provide town with a modified easement for the existing town stormwater system along the Alder Street frontage, as shown on the Proposed Drainage Easement Sketch dated 11.13.24. The Applicant has agreed to provide the Town with a recordable plan showing the modified easement. The Applicant will not be responsible for preparing any other documents necessary to accept the modified easement. If required by the DPW, the fire hydrant located adjacent to the easement shall be relocated.

11. **Sidewalk** – Any damage to the existing sidewalks along the subject site’s frontage resulting from site infrastructure and building construction work, shall be repaired or replaced to the satisfaction of the Medway Department of Public Works before the final occupancy permit.

12. **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. The Permittee shall incorporate the following water conservation measures for construction of the development:

1. any landscape irrigation may not be connected to municipal water supply, private well water only
2. rain-gauge controlled irrigation systems only
3. low flow household fixtures
4. water efficient appliances (dishwashers, washers, toilets, etc.)

13. **Stormwater Management and Land Disturbance**

- A. At least 48 hours prior to the commencement of any construction, clearing of vegetation, or any site work, the Permittee shall notify the Medway Community and Economic Development Department, the Town’s consulting engineer, and

the Building Department of the anticipated commencement of work. In lieu of a pre-construction meeting, the Permittee agrees to provide the Board's consulting engineer with advance notice (48 hours preferred) of all required inspections of the stormwater system or other site work that requires inspection. The tree shown on the Landscape Plan over the proposed stormwater management recharge area shall be relocated during construction so as not to interfere with the stormwater management system or the snow storage area.

- B. Throughout construction 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.
- C. 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.

14. Stormwater Management and Land Disturbance – Post Construction

- A. The stormwater drainage system shall be maintained by the Permittee, its successors and assigns. It is the intent of the Board and the Permittee that the stormwater management system shall not be accepted by the Town.
- B. The Permittee and its successors shall submit an annual report of inspections of all stormwater management structures as prescribed in the Stormwater Management Operations and Maintenance Plan to the DPW. 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 Management Operations and Maintenance Plan.

15. Fees - Prior to plan endorsement by the Board, the Permittee shall pay:

- A. 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
- B. any construction inspection fee that may be required by the Board; and
- C. 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.
- D. The Permittee's failure to pay these fees in their entirety shall be reason for the Board to withhold plan endorsement.

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

- A. Work at construction sites and in the operation of construction equipment including start-up and movement of trucks, vehicles, and machines shall commence no earlier than 7 a.m. and shall cease no later than 7 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. The limits in this subsection do not apply to interior construction work such as painting, installation of drywall, flooring, and similar work.

- B. The Permittee shall take all measures necessary to ensure that no excessive dust leaves the premises during construction including use of water spray to wet down dusty surfaces.
- C. There shall be no tracking of construction materials onto any public way. 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.
- D. The Permittee is responsible for having the contractor clean-up the construction site and the adjacent properties onto which construction debris may fall on a daily basis. All waste products, refuse, debris, and construction materials shall be contained and deposited post construction at an appropriate off-site facility.
- E. 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.

17. Landscape Maintenance

- A. 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.
- B. 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.

18. Snow Storage and Removal

- A. On-site snow storage shall not encroach upon nor prohibit the use of any parking spaces required by the Zoning Bylaw.
- B. The Permittee and future owners shall inform snow removal operators of the approved locations for on-site snow storage.
- C. 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.

19. **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 site at reasonable times during construction to inspect the site to evaluate for compliance with the terms and conditions of this permit and the endorsed site plan and may acquire any information, measurements, photographs, and/or observations deemed necessary for that evaluation.
20. **Construction Oversight**
- A. Construction Account
- 1) Inspection of infrastructure and utility construction, installation of site amenities including landscaping, and erosion controls by the Town's consulting engineer is required. 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.
 - 2) 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.
 - 3) 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.
 - 4) 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.
- B. At least seven days prior to the start of any site preparation or construction, the Permittee shall provide the Town's consulting engineer, Community and Economic Development staff, the Medway Department of Public Works, other Town staff as appropriate, a list of contacts with contact information for contractors, those responsible for compliance with this permit (Clerk of the Works), and on-site management.
- C. Any construction work occurring in the Town's right-of way in conjunction with the Town of Medway Street Opening/Roadway Access Permit and any utility connection permits must meet the requirements of the Medway Department of Public Works and is subject to inspection by the Department of Public Works.
- D. 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. 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.

21. On-Site Field Changes

- A. During construction, the Permittee may be authorized to make limited, minor, on-site field changes to the approved plan based on unforeseen site or job conditions, situations, or emergencies necessitated by field conditions or due to practical considerations. These field changes shall not alter items which may affect the site's compliance with this decision and the Zoning Bylaw nor conflict with a specific condition of the decision. Field changes shall not substantially alter the intent, layout or design of the endorsed site plan.
- B. Prior to undertaking such field changes, the Permittee and/or contractor shall discuss the possible field changes with the Town's consulting engineer and submit a letter and drawings to the Planning and Economic Development Coordinator and the Building Commissioner describing the proposed changes and what conditions, situations, or emergencies necessitate such changes. In accordance with Section 3.5.2.C of the Zoning 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 field change. Any approved field change shall be reflected in the as-built plan to be provided at project completion.

22. Plan Modification

- A. Proposed modifications (not including on-site field changes) to the endorsed plan shall be subject to review by the Board.
- B. This Special Permit and 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.
- C. Any work that deviates from an approved site plan may be a violation of the Zoning Bylaw unless the Permittee requests approval of a plan modification and such approval is provided in writing by the Board.
- D. The request for a modification to a previously approved plan 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's decision on the modification application will be filed with the Town Clerk, with copies to the Permittee and others as provided in Chapter 40A. 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.

23. Performance Security

- A. Prior to grant of a final occupancy permit, the Board shall provide a Certificate of Site Plan Completion to the Building Commissioner. For a temporary or partial occupancy permit, the Permittee may request that the Board accept suitable

performance security, to the Board's satisfaction, to cover the cost of all remaining site work, and that the Board so notify the Building Commissioner.

- B. 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.
- C. The performance security shall be accompanied by a performance security agreement executed by the Permittee, the Board, and the performance guarantee company, in a form acceptable to the Board, the Town Treasurer/Collector, and Town Counsel, which shall define the obligations of the Permittee and the performance security company. It shall include:
 - 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.
- D. Final Release of Performance Security - Final release of performance security is contingent on project completion.

24. Project Completion

- A. As provided in Section 3.4.E of the Zoning Bylaw, special permits shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L. c. 40A, §17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or, in the case of a special permit for construction, if construction has not begun by such date, except for good cause. Upon receipt of a written request by the applicant filed at least 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 also the length of time requested.
- B. 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 applicant filed at least 30 days prior to the required date of completion, the Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested.
- C. Prior to issuance of the final occupancy permit, the Permittee shall request and secure a Certificate of Site Plan Completion from the Board. The Certificate serves as the Board's confirmation that, in its opinion, 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:

- 1) 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 approved and endorsed site plan, and any modifications thereto; and
- 2) 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.

**Medway Planning and Economic Development Board
SITE PLAN and SPECIAL PERMIT DECISION
39 Alder Street**

Member:

Vote:

Signature:

Andy Rodenhiser, Chair

Sarah Raposa, AICP, Vice-
Chair

Timothy Harris, Clerk

John Parlee, Member

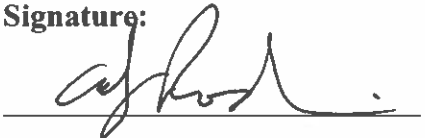
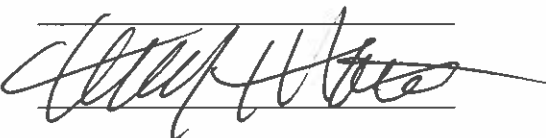

Date Signed: _____

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.

**Medway Planning and Economic Development Board
SITE PLAN and SPECIAL PERMIT DECISION
39 Alder Street**

Member:	Vote:	Signature:
Andy Rodenhiser, Chair	Aye	
Sarah Raposa, AICP, Vice-Chair	Aye	
Timothy Harris, Clerk	Aye	
John Parlee, Member	Aye	

Date Signed: 11/19/24

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