



*To City Appeal  
March 17, 2020*

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

*Andy Rodenhiser, Chairman  
Robert K. Tucker, Vice-Chairman  
Thomas A. Gay, Clerk  
Matthew J. Hayes, P.E.  
Richard Di Iulio*

February 25, 2020

**MULTI-FAMILY HOUSING SPECIAL PERMIT, GROUNDWATER  
PROTECTION SPECIAL PERMIT, LAND DISTURBANCE SPECIAL  
PERMIT and SITE PLAN DECISION**  
**20 Broad Street**  
**Approved with Waivers and Conditions**

**Decision Date:** February 25, 2020

**Name of Applicant/Permittee:** Village District Development, LLC

**Address of Applicant:** Village District Development, LLC  
9A North Street  
Medway, MA 02053

**Name/Address of Property Owners:** Village District Development, LLC  
9A North Street  
Medway, MA 02053

**Site Plan:** *Site Development Plan – 20 Broad Street*  
Dated September 16, 2019, last revised November 22, 2019 by  
GLM Engineering Consultants, Inc.  
To be further revised as specified herein

**Location:** 20 Broad Street

**Assessors' Reference:** Map 60, Parcel 232

**Zoning District:** Village Commercial  
Multi-Family Housing Overlay District  
Groundwater Protection District

**I. PROJECT DESCRIPTION** – The Applicant proposes to develop a 6-unit residential apartment community at 20 Broad Street. The area of the site is .53 acres (23,109 sq. ft.). The project includes construction of one 3-unit building and the renovation of the existing three-family building with a 270 sq. ft. addition. All six apartment units will have 3 bedrooms.

Access to the development will be from a single curb cut from Broad Street. A total of 12 off-street parking spaces will be provided. 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 on Broad Street.

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, a groundwater protection special permit pursuant to Section 5.6.3 of the *Bylaw*, and a Land Disturbance Permit pursuant to Medway General Bylaws, Article XXVII.

**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 February 25, 2020, on a motion made by Matthew Hayes and seconded by Richard Di Iulio, *voted to APPROVE with CONDITIONS a Multi-Family Housing Special Permit, a groundwater protection special permit, and a land disturbance permit to Village District Development, 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, residential apartment community and associated site improvements on the property at 20 Broad Street as shown on the plan titled Site Development Plan for 20 Broad Street, dated September 16, 2019, last revised November 22, 2019 to be further revised as specified herein before endorsement and recording.*

The motion was approved by a vote of four in favor and none opposed.

<b>Planning &amp; Economic Development Board Member</b>	<b>Vote</b>
Richard Di Iulio	Yes
Matthew Hayes	Yes
Thomas A. Gay	Yes
Andy Rodenhiser	Absent
Robert Tucker	Yes

**III. PROCEDURAL HISTORY**

- A. September 19, 2019 – Special permit and site plan applications and associated materials filed with the Board.
- B. September 24, 2019 - Special permit and site plan applications and associated materials filed and the Medway Town Clerk
- C. October 1, 2019 – Public hearing notice filed with the Town Clerk and posted at the Town of Medway web site.
- D. October 1, 2019 - Public hearing notice mailed to abutters by certified sent mail.
- E. October 1, 2019 – Site plan information distributed to Town boards, committees and departments for review and comment.

- F. October 7 and 15, 2019 - Public hearing notice advertised in *Milford Daily News*.
- G. October 22, 2019 - Public hearing commenced. The public hearing was continued to November 26 and December 10, 2019, to January 28, 2020, to February 11 and 25, 2020 when the hearing was closed and a decision rendered.

#### **IV. INDEX OF SITE PLAN/SPECIAL PERMIT DOCUMENTS**

- A. The various applications for the proposed multi-family development at 20 Broad Street included the following plans, studies and information that were provided to the Board at the time the application was filed:
  - 1. Multifamily Housing Special Permit application dated September 19, 2019.
  - 2. Major Site Plan application dated September 19, 2019.
  - 3. Groundwater Protection Special Permit application dated September 19, 2019
  - 4. Land Disturbance Permit application dated September 16, 2019
  - 5. *Site Development Plan, 20 Broad Street*, dated September 16, 2019 prepared by Paul Truax, P.E. and Joyce Hastings, PLS, of GLM Engineering Consultants, Inc. of Holliston, MA.
  - 6. Certified Abutters List from Medway Assessor's office dated September 12, 2019.
  - 7. Requests for Waivers from *Site Plan Rules and Regulations* dated September 16, 2019 prepared by GLM Engineering Consultants, Inc.
  - 8. Quit Claim deed dated December 16, 2017 conveying 20 Broad Street from Harold L. Adams to Village District Development, LLC of Medway, MA.
  - 9. *Stormwater Management Report for Site Plan of Land, 20 Broad Street* dated September 16, 2019, prepared by GLM Engineering Consultants, Inc.
  - 10. Building architectural plans including elevations and floor plan, dated August 15, 2018 and September 19, 2019, by Brett Thibault Architect, Mendon, MA
  - 11. Photometric plan dated September 19, 2019, by Brett Thibault Architect, Mendon, MA
- 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. Groundwater Protection District Description, letter dated October 1, 2019 from Rob Truax, GLM Engineering
  - 2. *Site Development Plan, 20 Broad Street*, dated September 16, 2019, revised November 22, 2019 prepared by Paul Truax, P.E. and Joyce Hastings, PLS, of GLM Engineering Consultants, Inc. of Holliston, MA.
  - 3. *Stormwater Management Report for Site Plan of Land, 20 Broad Street* dated September 16, 2019, revised November 22, 2019 prepared by GLM Engineering Consultants, Inc., including a Stormwater Operations and Maintenance Plan.
  - 4. Response and resubmission letter dated November 22, 2019 from Rob Truax, GLM Engineering to the plan review letters from Tetra Tech and PGC Associates.
  - 5. REVISED building architectural plans including elevations and floor plan, dated December 16, 2019 by Brett Thibault Architect, Mendon, MA

6. REVISED Landscape Plan dated February 20, 2020 by Village Limited.
  7. Email communication dated February 7, 2020 from Rob Truax, GLM Engineering, with information on the amount of designated open space on the property.
  8. Revised photometric plan Photometric Plan updated February 6, 2020 by Brett Thibault Architect, Mendon, MA
- C. Other documentation submitted to the Board during the course of the public hearing:
1. PGC Associates plan review letters dated October 16 and December 4, 2019
  2. Tetra Tech plan review letters dated October 18 and December 4, 2019
  3. Email dated October 2, 2019 from Fire Chief Jeff Lynch
  4. Design Review Committee comment memorandums dated October 24, 2019 and January 21, 2020.
  5. Emails dated November 5, 2019 and December 23, 2019 from Medway DPW Director Dave D'Amico
  6. Email dated December 23, 2019 from Medway DPW Deputy Director Pete Pelletier
  7. Emails dated November 24, 2019 and January 16, 2020 from abutter Lisa Mitchell, 25 Broad Street
  8. Memorandum dated February 25, 2020 from the Medway Design Review Committee regarding site landscape.
  9. Email communication dated February 3, 2020 from Fire Chief Jeff Lynch
  10. Notes dated February 25, 2020 from Planning and Economic Development Coordinator Susan Affleck-Childs regarding tree planting plan.
- 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.
  - Rob Truax, GLM Engineering Consultants, Inc. for the Applicant – Commentary provided throughout the public hearing process
  - Stephen Brody, Applicant
  - Jason Burns, 18 Broad Street
  - Scott Salvucci, 17 Broad Street
  - Tracy Batchelor, 24 Broad Street
  - Lisa Mitchell, 25 Broad Street

VI. **FINDINGS** - The Board, at its meeting on February 25, 2020, on a motion made by Matthew Hayes and seconded by Richard Di Iulio, voted to approve the following **FINDINGS** regarding the site plan, land disturbance application and special permit applications for the proposed multi-family development at 20 Broad Street. The motion was approved by a vote of four in favor and none opposed.

**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 Multifamily Housing Overlay District (Section 5.6.4) and thus is eligible for the multifamily housing proposal.*
- 2) Traffic capacity – *Broad Street is a local street off of Village Street, one of Medway's major east/west streets, and has sufficient capacity to handle the traffic from the 6 units that are proposed. This is an increase of 3 units beyond the current 3 family structure on the property. The 6 units do not rise to the level of triggering the requirement for preparation of a traffic study.*
- 3) Parcel size & frontage – *The site consists of .53 acres (23,109 sq. ft.) which exceeds the minimum area requirement of 10,000 square feet for the Village Commercial zoning district. The site has 184.29 feet of frontage on Broad Street, so it meets the minimum 50 foot frontage requirement of Section 5.6.4.B(1) of the Bylaw.*

Dimensional

- 4) Dimension adjustments – *The dimensional requirements of the underlying Village Commercial District apply to the project, as set forth in Table 2 of Section 6 of the Bylaw. The plan shows a front building setback of 21 feet from Broad Street; the minimum front setback for the VC district is 20 feet. The plan shows a side setback of 13.7 feet where the minimum required is 10 feet. The plan shows a rear setback of 25 feet where a 10 foot minimum is required. The plans indicate that the project complies with maximum building coverage requirements (17.5% provided vs. 80% maximum allowed). There are no impervious standards for the VC district; the site will be 40.9% impervious upon completion of the building and site improvement construction.*
- 5) Building Height - *As noted on the plans, the height of the six buildings will be approximately 30.8 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 projects is 12 units per whole acre. With .53 acres, the site could include a maximum possible 6 dwelling units. With 6 units proposed, the project meets the allowed density.*

Special Regulations

- 7) Affordable housing - *At 6 units total including only 3 new units, the project is not required to provide an 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 29 % open space provided.*
- 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 12 paved, off-street parking spaces are provided.*
- 10) Town water and sewer service - *The project will be served by Town water and sewer service presently located in Broad Street*

- 11) Number of units - *The number of units proposed (6) equals the 6 unit maximum possible allowed under the Bylaw.*
- 12) Historic Properties – *The existing 1880 building on the site will be renovated as part of the development plan and will include 3 apartment units.*

#### 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) It provides a diversity of housing types in the form of apartment units; (2) promotes pedestrian oriented development as the subject property is located within an older, walkable neighborhood; (3) encourages the preservation of older and architecturally significant properties. 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, and the positive aesthetics of the building to be renovated and the building 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 rental apartments to the town's housing stock.*
- 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.*

**GROUNDWATER PROTECTION FINDINGS** – The subject property at 20 Broad Street is located within the Groundwater Protection District which is an overlay district superimposed on the underlying zoning districts. Therefore, it is subject to the requirements of Section 5.6.3 of the *Bylaw*. The overlay district requirements apply to all new construction, reconstruction of existing buildings and new or expanded uses.

**E. 1. Permitted Uses** – *The proposed use shown on the site plan is an expansion of the existing residential use of the premises which includes a 3-family residential building which will be renovated and have a modest addition built onto it. Additionally, a new building will be constructed to create 3 residential apartments. Enlargement of an existing structure and new construction are permitted uses, subject to certain restrictions, within the Groundwater Protection District. As conditioned herein, the project will comply with those restrictions.*

**E.3. Uses and Activities Requiring a Special Permit** – Specific to this project, the following uses and activities are allowed only upon the issuance of a special permit.

- b. Any use which will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. *The proposed building expansion and site improvements at 20 Broad Street would increase the extent of impervious surface from 4,035 sq. ft. (17.5% of the site) to 9,446 sq. ft. (40.9% of the site), thus triggering the need for a Groundwater Protection special permit.*

**F. Special Permits**

1. *The Board of Appeals is the designated special permit granting authority for the Groundwater Protection District. However, the Bylaw (Section 3.5. Site Plan Review, 4. a.) transfers that authority to the Planning and Economic Development Board when both site plan approval and a special permit are needed so as to consolidate the review process. The Board has notified the Board of Health, the Conservation Commission, and the Medway Department of Public Works of the groundwater special permit application and sought their counsel and input as required by the Bylaw.*

1. a. The proposed use must not adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District.

*The project has been reviewed by the Town's Consulting Engineer to ensure that the planned stormwater management facilities and the associated groundwater recharge does not degrade groundwater quality. This decision includes suitable measures to protect groundwater. A comprehensive stormwater management system has been designed for this site where there are currently no stormwater management facilities whatsoever. The stormwater design provides for the required reduction of total suspended solids off of the paved surfaces through the use of proprietary treatment units, i.e. stormceptors and infiltration system for groundwater recharge; the total suspended solids removal rate will be 95%."*

*Peak stormwater flows will now be managed for all peak storm events. This is a considerable improvement over current conditions where untreated stormwater is presently flowing off the property out to Broad Street.*

*To further protect groundwater, the project is conditioned as included herein; see Special Condition U.*

1. b. The proposed use shall be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

*The location of the proposed addition to the existing building and the location of the new building are in areas that have been used primarily as a yard for the existing residential building. 59.1% of the site will be impervious after construction which complies with the Dimensional Regulations represented in Table 2 of the Bylaw.*

2. *The Board finds that the Applicant has provided sufficiently detailed, definite, and credible information to support positive findings in relation to the standards for a Groundwater Protection special permit as documented in the application materials and additional information provided during the course of the public hearing including a redesign of the stormwater system. The proposed stormwater drainage system will provide groundwater recharge through the use of underground infiltration systems to capture roof runoff. The runoff from the paved surfaces will be directed to subsurface stormwater facilities to provide treatment before recharge.*

3. *The submission requirements and public hearing procedures have been conducted in accordance with Section 3.4 of the Bylaw and the Board's Site Plan Rules and Regulations including the posting of a public hearing notice with the Town Clerk, abutter notification, and legal advertisement. Information about the project has also been posted to the Board's web page and review and comments have been sought from the Board of Health, Conservation Commission, Sewer and Water Commission and the Department of Public Works.*

*The Board finds that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or 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. And the stormwater management system has been designed in accordance with the applicable regulations.*
- 3) *The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians or the environment. The proposed use adds 3 residential units on a local street off of Village Street, a major through street. The entrance to the site has adequate sight distance and does not create a hazard to abutters, vehicles, or pedestrians. Sidewalk facilities in front of the subject site exist, although they are not in superb condition. The proposed stormwater management system has been reviewed by the Town's Consulting Engineer 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. *Broad Street has the capacity to handle the traffic from the additional 3 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 (Special Condition L), the development is not permitted to have additional resident parking on Broad 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 an on-site dumpster that will be enclosed and collected by a private service. 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. The new building has been designed to be compatible with and reflective of the architecture of the existing building.*
- 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 apartment development for 20 Broad 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 Broad Street is adequate to safely handle the additional traffic from the 3 new housing units.*
- 2) Does the site plan show designs that minimize any departure from the character, materials, and scale of buildings in the vicinity as viewed from public ways and places? *The proposed building is residential and its scale and materials are suitable for the site and use. The design of the new building has been guided by the architecture of the existing building on the site and has been reviewed by the Design Review Committee and is acceptable for its location. The new building does 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. An on-site dumpster for household trash will have an enclosure constructed around it. 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 and not identified any access issues.*
- 5) Will the design and construction minimize, to the extent reasonably possible, the following environmental impacts?
  - a) the volume of cut and fill;
  - b) the number of trees to be removed with particular care taken with mature trees and root systems;
  - c) the visual prominence of man-made elements not necessary for safety;
  - d) the removal of existing stone walls;
  - e) the visibility of building sites from existing streets;
  - f) the impacts on waterways and environmental resource areas;
  - g) soil pollution and erosion;
  - h) noise.

*The proposed stormwater drainage system has been reviewed by the Town's Consulting Engineer. Appropriate soil pollution and erosion controls have been incorporated into the plan. No extraordinary noise will be generated by the residential development. No stone walls are being removed. There are no wetland resources on the premises. The subject site was previously disturbed so the impact on the environment is minimal.*

- 6) Is pedestrian and vehicular safety both on the site and egressing from it maximized? *The proposed use adds 3 residential units on a local street. The entrance to the site has adequate sight distance and does not create a hazard to abutters, vehicle, or pedestrians. There is sidewalk along the east side of Broad Street adjacent to the subject property.*
- 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? *There are no visually prominent natural features on site. The existing building, built circa 1880, will be renovated as part of the project.*
- 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 revised 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. There are no sensitive environmental or cultural resources on the site.*

#### **LAND DISTURBANCE PERMIT FINDINGS – Medway General By-Laws, Article XXVI**

- 1) The Board finds that the work proposed for the 6 unit multi-family housing development with associated parking, landscaping and stormwater management facilities was presented at a public hearing where the applicant presented evidence sufficient to demonstrate that the proposed activity meets the provisions of Medway General By-Laws, Article XXVI – Stormwater Management and Land Disturbance. Further, this decision includes conditions pertaining to stormwater management practices during both the construction and post-construction period.

**VII. WAIVERS** – At its February 25, 2020 meeting, the Board, on a motion made by Tom Gay and seconded by Matthew Hayes, voted 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 and none opposed.

#### **SITE PLAN SUBMITTAL REQUIREMENTS/PLAN CONTENTS**

- 1) **Section 204 – 3.A. 7. - A Development Impact Statement**

*The Applicant has requested a waiver from this requirement due to the relatively small size of this proposed development (6 residential apartments). A traffic impact assessment is not needed as the project scope does not trigger this requirement. There are no wetland resources on the property. The Board approves this waiver request as being consistent with the purpose and intent of the Site Plan Rules and*

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

- 2) **Section 204-4.D** – All existing and proposed elevations shall refer to the North American Vertical Datum of 1988 (NAVD88).

*The Applicant's plans reference the National Geodetic Vertical Datum of 1929 (NGVD29). The Applicant's engineer has documented on Sheet 2 of the plan set that the difference between the two versions is .80 feet. 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 D.7** – The landscape plan shall be prepared by a Licensed Landscape Architect.

*The Applicant has requested a waiver from this requirement. Personnel from GLM Engineering have considerable experience in landscape design. Further, the applicant is an experienced landscape contractor with considerable knowledge of landscape materials. 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.*

## **SITE PLAN DEVELOPMENT STANDARDS**

- 1) **Section 205-6 Parking G. 3. a) Parking Spaces/Stalls** - Car parking spaces/stalls shall be ten (10) feet by twenty (20) feet.

*A waiver is needed from this requirement as the Applicant plans to include 9' x 18' parking spaces. This size complies with the parking space size provisions of the Bylaw and results in less impervious surface area. The Board approves this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.*

- 2) **Section 205-6 Parking 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 this requirement and proposes to construct the paved parking area with no curbing. Granite curbing shall be retained for use at the roundings of the driveway to the site. The Board approves this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.*

- 3) **Section 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 GLM Engineering found that there are three existing trees over 10" in diameter at breast height that need to be cleared from the site to construct the new building and site improvements. The approximate total diameter of those trees is 93". (NOTE - This calculation does NOT include a 24" dead maple tree located at the eastern edge of the property nor the 19" evergreen tree located in the front yard of the existing building that was already removed by NSTAR.*

*Based on the revised landscape plan dated February 20, 2020 prepared by Village Limited of Medway, MA, eight new deciduous trees (5 maples at 2.5" caliper and 3 river birches of unspecified caliper) and 3 blue spruce evergreen trees of unspecified caliper will be planted. In addition, 92 shrubs are planned throughout the site. During the Board's discussion with the applicant at the 2-25-20 hearing, the applicant agreed to plant one more deciduous tree in the lawn area north of the existing building. This is noted in Specific Condition D 6. **The Board approves this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.***

**VIII. CONDITIONS** The *Special and General Conditions* included in this Decision shall assure that the Board's approval of this site plan complies with the *Bylaw*, Section 3.4 (Special Permits), Section 5.6.4 (Multi-Family Housing), and Section 5.6.3 (Groundwater Protection) and is consistent with *Site Plan Rules and Regulations*, that the comments of various Town boards and public officials have been adequately addressed, and that concerns of abutters and other town residents which were aired during the public hearing process have been carefully considered. The Board's issuance of a 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 six (3 units in the existing building and 3 units in one new building).
  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 *Site Development Plan – 20 Broad Street*, dated September 16, 2019, last revised November 22, 2019 by GLM Engineering Consultants, Inc. to be modified as referenced herein; and
    - c) in accordance with subsequent approved plans or amendments to this special permit.
  3. The tract of land and buildings comprising the 20 Broad Street 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 Development Plan for 20 Broad Street* dated

September 16, 2019, last revised November 22, 2019, prepared by GLM Engineering Consultants, Inc. and architectural drawings by Brett Thibault Architect including building elevations, floor plans and renderings, shall be further revised to reflect all Conditions and required revisions, 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 November 22, 2019 site plan shall be revised as follows:
1. Include the list of APPROVED Requests for Waivers
  2. Add reference to a Site Context Sheet to the Sheet Index
  3. Add reference to the architectural elevations, floor plans, and renderings to the Sheet Index
  4. Add reference to the updated photometric plan to the Sheet Index
  5. Add a reference to the Stormwater Pollution and Prevention Plan (O & M plan) for Construction to the Sheet Index
  6. Include a new plan revision date
  7. Add a Registry box and whatever other formatting is needed for the plan to be recordable at the Norfolk County Registry of Deeds.
  8. 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.
  9. Add language for the Town Clerk to document that no appeals were filed.
  10. Add open space requirement calculations to the Zoning Table
  11. Add reference to the revised landscape plan.
- D. **Other Plan Revisions** – Prior to plan endorsement, the following plan revisions shall be made to the *Site Development Plan for 20 Broad Street* dated September 16, 2019, last revised November 22, 2019.
1. The updated photometric plan showing no light trespass off the subject property to comply with Section 7.1.2 (Outdoor Lighting) of the *Bylaw* shall be added to the plan set.
  2. Include a sheet providing the Stormwater Pollution Prevention Plan (O & M plan) for Construction.
  3. Provide a Site Context sheet in accordance with Section 204-5 B. 1 of the *Site Plan Rules and Regulations*.
  4. Subsurface stormwater infiltration system shall be revised to include a separator row with an appropriate access manhole to ensure the system can be actively maintained.
  5. Change the detail for the type of fencing planned for the dumpster enclosure from a stockade style to be vinyl with a natural color and non-reflective surface, and be of a height to completely conceal the entire dumpster.
  6. An updated and detailed landscaping plan shall be incorporated into the site plan set for endorsement. The landscaping plan shall be revised to include one additional deciduous tree (12' tall, 2 ½ to 3" caliper) to be installed on

the lawn north of the existing building. Tree species to be approved by Town staff.

7. Depict the location and quantity of the official “open space” areas.
8. A light post specification and detail shall be added to the plan set.
9. A sidewalk paver and detail shall be added to the plan set.
10. Add a Registry box and whatever other formatting is needed on each sheet for the plan to be recordable at the Norfolk County Registry of Deeds.
11. Include the updated building elevation drawings.

E. ***Other Documentation*** - Prior to plan endorsement, the Applicant shall provide the following additional documentation to the Board:

1. Third party testing of the proposed proprietary stormwater units for review and approval of the Board’s Consulting Engineer.
2. 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.

F. ***Recording of Plans and Documents***

1. The Plan of Record associated with this special permit is titled: *Site Development Plan – 20 Broad Street*, dated September 16, 2019, last revised November 22, 2019 by GLM Engineering Consultants, Inc. and the corresponding architectural drawings by Bret Thibault Architects to be further revised as specified herein, with additional sheets provided by other building, design and landscape architectural consultants.
2. No site improvement construction shall begin on the site and no building permit for the new building 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. 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 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.

H. ***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
- I. **Building Permits** - The Board authorizes the Applicant to apply for a building permit to begin renovation of the existing building prior to installation of the approved site infrastructure improvements.
- J. **Occupancy Permits** - Before the Board will authorize an occupancy permit for the renovations of the existing building, the following items, at a minimum must be installed and inspected and approved by the Board:
  - a) Driveway way and parking area gravel sub-base
  - b) Driveway and parking area binder course
  - c) Drainage system completed to the proposed outfall with frame and grates set to binder grade, as well as stormwater basins, swales, infiltrations systems or any other stormwater management facilities.
  - d) As-built plan of each stormwater 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.
- K. **Patios** – To not increase stormwater runoff, any future patios shall be fabricated with pervious paving materials as patio surface areas are not included in the impervious coverage calculations for stormwater.
- L. **Parking** – The plan includes two off-street parking spaces per unit (12 spaces total). The Permittee shall limit occupants of the apartment units to a maximum of two vehicles per unit, throughout contractual apartment unit lease agreements. On-street parking of the occupants of the apartment units shall not be permitted.
- M. **Sidewalk Construction/Replacement on Broad 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 condition of the sidewalk in front of 20 Broad Street is in serious disrepair and it is not practical for the Applicant to replace this portion of sidewalk on Broad Street when the rest of the street is not being addressed. In lieu of sidewalk construction, the Applicant will make a payment to the Town’s Sidewalk Fund in the amount of \$7,819 as calculated by the Board’s Consulting Engineer as the amount needed to fund 165 linear feet of 5’ wide asphalt sidewalk with Cape Cod berm and accessible ramps. The funds shall be held in reserve within the Sidewalk Fund for the expected near

future sidewalk improvements on Broad Street to be undertaken by the Town of Medway. The funds shall be paid to the Town before any occupancy permit is issued for the existing or new buildings or by November 20, 2020, whichever occurs sooner.

- N. ***Underground Utilities*** - All electric, telephone, cable TV, and other utilities shall be located underground.
- O. ***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.
- P. ***Fire Protection*** – This project is subject to local, state and federal fire codes.
- Q. ***Addresses*** – The addresses for the 20 Broad Street apartments shall be as determined by the Medway Assessor's office upon consultation with the Medway Fire and Police Departments.
- R. ***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.
- S. ***Stormwater Management During Construction*** – The project is subject to the *Construction Period Operation and Maintenance plan* included in the Stormwater Management Operation and Maintenance Plan prepared by GLM Engineering, dated September 16, 2019, last revised November 22, 2019.
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.

**T. 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 *Post Construction Period Operations and Maintenance Plan* dated September 16, 2019, last revised November 22, 2019, prepared by GLM Engineering.
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.

**U. *Conditions Pertaining to Groundwater Protection District Special Permit***

1. Storage of hazardous materials and other hazardous materials is prohibited unless in a free-standing container within a building. Any hazardous materials that will be used at the facility shall be identified and a list provided to the Board. Any accidental spillage shall also be contained within the building and any that enters the sewer system shall be treated prior to being discharged to the municipal sewer system.
2. Any fertilizers used on landscape material anywhere on the site shall be the slow-release organic granular type, and only the absolute minimum necessary. All storage of fertilizers must be in a free-standing container within a building, have adequate secondary storage capacity or be within a facility designed to prevent the generation and escape of contaminated runoff or leachate. Application of fertilizers on site must be done in a manner to minimize adverse impacts on groundwater.
3. Outdoor storage anywhere on the site shall consist only of non-hazardous materials. Metal materials stored outside shall be under cover of a building or structure to prevent leaching of the metal into the groundwater.
4. There shall be no outdoor storage of pesticides, herbicides, fungicides or insecticides anywhere on the site. Any such products shall be stored inside.
5. Deicing materials shall be limited to calcium chloride or other deicer material approved by the Medway Department of Public Works.
6. Plowed snow for the site shall be stored only in the designated areas shown on the plan or taken off site in times of substantial storms. No snow shall be disposed of in the stormwater detention basin.
7. All vehicles shall be parked/stored on the paved surface to ensure treatment of any leaks of fluids from the vehicles. There shall be no outdoor maintenance or cleaning of vehicles.
8. There shall be no earth removal within six feet of the historical high groundwater level.
9. The Town reserves the right to periodically inspect the site to ensure compliance with these conditions.

**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 the *Construction Period Operations and Maintenance Plan* dated November 22, 2019 prepared by GLM Engineering.

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**
1. 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 (if applicable), the contractors and Applicant’s project engineer for a pre-construction meeting. The construction schedule shall be reviewed and the procedures for inspections discussed.
  2. Construction Account
    - a) Inspection of infrastructure and utility construction, installation of site amenities including landscaping, and the review of legal documents by Town Counsel 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/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) Prior to plan endorsement, the Permittee shall pay an advance toward the cost of these services to the Town of Medway. The advance amount shall be determined by the Board based on an estimate provided by the Town’s Consulting Engineer.
    - c) Depending on the scope of professional outside consultant assistance that the Board may need, the Permittee shall provide supplemental payments to the project’s construction inspection account, upon invoice from the Board.
    - d) Any funds remaining in the Permittee’s construction inspection account after the *Certificate of Site Plan Completion* is issued shall be returned to the Applicant.
  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 driveway, parking area, 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 be occupied until such services are completed or an alternative form of security is provided. The *Covenant* shall specify that the roadway and parking area (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 for the second building within the development, or secure an occupancy permit for any dwelling unit, 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

**Medway Planning and Economic Development Board  
20 Broad Street MULTI-FAMILY and GROUNDWATER PROTECTION SPECIAL  
PERMITS, LAND DISTURBANCE PERMIT and SITE PLAN DECISION  
20 Broad Street**

Approved by the Medway Planning & Economic Development Board: \_\_\_\_\_

**AYE:**

**NAY:**

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**ATTEST:**

\_\_\_\_\_  
Susan E. Affleck-Childs  
Planning & Economic Development Coordinator

\_\_\_\_\_  
Date

- COPIES TO:** Michael Boynton, Town Administrator  
David D'Amico, Department of Public Works  
Bridget Graziano, Conservation Agent  
Donna Greenwood, Assessor  
Beth Hallal, Health Agent  
Jeff Lynch, Fire Chief  
Jack Mee, Building Commissioner and Zoning Enforcement Officer  
Joanne Russo, Treasurer/Collector  
Barbara Saint Andre, Director of Community and Economic Development  
Jeff Watson, Police Department  
Stephen Brody  
Rob Truax, GLM Engineering Consultants  
Steven Bouley, Tetra Tech  
Gino Carlucci, PGC Associates

