

Board Members

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



Medway Town Hall
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Medway, MA 02053
Phone (508) 533-3291
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TOWN OF MEDWAY

COMMONWEALTH OF MASSACHUSETTS

PLANNING AND ECONOMIC DEVELOPMENT BOARD

DEVELOPMENT PLAN DECISION

39 West Street

Decision Date: November 18, 2025

Applicant: Steven Brody
39 West Street
Medway, MA 02053

Property Owner: same

Location: 39 West Street
Assessors' Reference: Map 55, Parcel 51

Applicable Plans: "Permit Site Plan 39 West Street Medway, Massachusetts, 02053"
prepared by Hancock Associates, dated August 15, 2025, last
revised, November 4, 2025

Zoning District: Agricultural-Residential II (AR-II)
Multi-Family Overlay District

Board Members Voting: Andy Rodenhiser, Timothy Harris, Janine Clifford

I. PROJECT DESCRIPTION

The Applicant proposes to demolish the existing structure on site, and construct in its place, a two-story, 24-unit residential condominium with at-grade parking under the building, and related infrastructure. The proposed use requires Development Plan Review approval from the Planning and Economic Development Board (the "Board") pursuant to Sections 5.6.5 of the Town of Medway Zoning Bylaw (the "Zoning Bylaw"). It will also require an Order of Conditions and Land Disturbance Permit from the Conservation Commission. The property is in subdistrict 3, Glen Brook, of the Multi-family Overlay district.

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20 Day Appeal:
12/9/25

TOWN OF MEDWAY COMMONWEALTH OF MASSACHUSETTS PLANNING AND ECONOMIC DEVELOPMENT BOARD

PAID BY THE TOWN OF MEDWAY
NOV 17 2025

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II. VOTE OF THE BOARD – After reviewing the application and information gathered during the public hearing and review process, the Board, on November 18, 2025 voted 3-0 to approve the application with conditions as set forth herein.

III. PROCEDURAL HISTORY

A. Development Plan application filed with the Medway Town Clerk and the Board on August 18, 2025.

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 August 26, 2025 and September 2, 2025.

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

D. The public hearing commenced on September 9, 2025, and was continued to September 23, 2025, October 14, 2025, October 28, 2025, and November 18, 2025 when the hearing was closed, and a decision rendered.

IV. INDEX OF DOCUMENTS

A. Information submitted on behalf of the applicant:

- Application
- “Permit Site Plan 39 West Street Medway, Massachusetts, 02053” prepared by Hancock Associates (herein “Hancock”), dated August 15, 2025
- Stormwater Report (Report) titled “Stormwater Report in Support of Permit Site Plan for 39 West Street” dated August 15, 2025, prepared by Hancock
- Transportation Impact Evaluation (Traffic Letter) dated August 15, 2025, prepared by Vanasse & Associates, Inc.
- Cut/Fill Analysis dated August 11, 2025, prepared by Hancock
- Project Narrative
- Architectural Plans

B. Other information submitted on behalf of applicant:

- Print dated 2/18/25
- Letter from Hancock dated September 30, 2025, responding to Tetra Tech comments
- Waiver Request letter dated October 1, 2025
- Revised Narrative
- Revised Plans dated October 1, 2025
- Revised Plans dated November 4, 2025
- Architectural floor plans prepared by Colwell Group, dated August 18, 2025, revised through October 1, 2025
- Plan entitled “SD-1 Fire Truck Maneuvering”, prepared by Hancock, dated 10/10/2025

C. Other documentation submitted to the Board during the course of the public hearing:

- Memo from Barbara Saint Andre, CED Director, dated August 20, 2025
- Emails from Nolan Lynch, Deputy Director, DPW, dated August 27, 2025 and September 4, 2025
- Email from Stephanie Carlisle, Sustainability Coordinator, dated September 4, 2025
- Emails from Deputy Fire Chief Molla dated 10/3/2024, 10/10/2025, 10/14/2025, 11/3/2025
- Plan entitled “R2-LMSPA Progress”, prepared by Hancock, dated 11/3/2025
- Design Review Committee letters dated September 18, 2025, and November 18, 2025
- Email from Barbara Saint Andre dated November 10, 2025
- Andy Rodenhiser G.L. c. 39, §23D certificate for September 9, 2025 meeting
- Tim Harris G.L. c. 39, §23D certificate for October 14, 2025 meeting
- Extension of time to November 21, 2025 for final action

D. Correspondence from Town’s consulting engineer, Tetra Tech:

- Review Letter dated September 12, 2025
- Updated Review Letters dated October 9, 2025, November 4, 2025

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

Joseph Peznola, P.E., Hancock Associates
Daniel J. Romero, E.I.T., Hancock Associates
Steven Brody, applicant
Marcelo Alves, builder, New Generation Custom Homes

VI. FINDINGS - The Board voted to approve the following findings regarding the multi-family application.

A. MULTIFAMILY HOUSING - The Board makes the following findings in relation to this development’s compliance with Section 5.6.5 Multi-family Overlay District.

1. Section 5.6.5.D: The proposed development includes a building with 3 or more residential units suitable for families as defined in Executive Office of Housing and Livable Communities (EOHLC) regulations.

2. Section 5.6.5.E: The dimensional and density requirements of the Glen Brook subdistrict have been met.

3. Section 5.6.5.F: Ten percent of the units must be affordable and comply with Section 8.6 of the Zoning Bylaw, with some exceptions as noted in Section 5.6.5.F. With 24 units, ten percent or two units must meet the affordability requirements, for a total of two affordable units.

4. Section 5.6.5.G: Parking must comply with Section 7.1.1 except as provided in this Section. A minimum of 1.5 off-street spaces per unit is required. With 24 units, a minimum of 36 off-street parking spaces are required. There are 38 parking spaces proposed, which fulfills this requirement. No parking spaces are proposed between the building and the street. Two EV spaces are provided which complies with 7.1.1.E.4.

5. Section 5.6.5.H:

1. Connectivity: Accessible walkways connect to building entrances and street.
2. Amenities: Applicant is providing bicycle and storage lockers.
3. Walkways: Walkways are located next to building.
4. Sight lines: Sight triangles are in compliance.
5. Vehicular Access: Only one curb cut is provided.
6. Plantings: Plantings will be non-invasive, native, drought and pest resistant.
7. Mechanicals: The transformer is screened as required.
8. Dumpsters: The proposed dumpster location will be screened as required.
9. Stormwater Management: The stormwater management system is being reviewed by the Conservation Commission as part of the applicant's Notice of Intent filing. It will be required to comply with the standards set forth in the bylaw.
- 10 Buildings: The building is located so as to comply with the zoning bylaw and to avoid encroaching on wetlands resource areas.
11. Outdoor Amenity Space: The site has a minimum of 20% Private Yard Outdoor Amenity Space.

B. DEVELOPMENT 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 Development Plan Rules and Regulations, Section 800 of the Board's regulations, unless specifically waived. For the reasons set forth in its findings above, the Board finds that the proposed development meets the following criteria of the Development Plan Rules and Regulations:

- 1) The site plan meets the requirements of the Zoning Bylaw and Development Plan Regulations, except to the extent any Rules and Regulations are waived by the Board.

VII. WAIVERS

The applicant has requested a waiver from the following sections of the Multi-family Overlay District Development Plan Rules and Regulations:

803-3-B: The Development Plan shall be drawn at a scale of one-inch equals forty feet or such other scale that is approved by the Board and that clearly and adequately represents the proposed improvements.

The Board voted 5 to 0 to grant 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 Conditions included in this Decision shall assure that the Board's approval of this Development Plan complies with the Zoning Bylaw and the Development Plan Rules and Regulations.

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

1. This Decision shall apply to any successor in control or successor in interest of the subject property. The Permittee (sometimes referred to herein as the applicant or owner) 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 any applicable fees for, and comply with all other required federal, state and Town permits and approvals associated with this project. The contractor for the Permittee or assigns shall obtain, pay applicable fees for and comply with all other required Town permits.
2. Notwithstanding any future amendment of the Zoning Bylaw, G.L. c.40A, or any other legislative act:
 - A. The maximum number of dwelling units allowed on the site under this approval is 24. The applicant has indicated that the units will be rental units, and this permit has been appropriately conditioned for rental units. Any future conversion of the units to condominiums will require a modification of this decision.
 - B. The land on which this multi-family development will be located shall not be altered or used except:
 - 1) as granted by this decision;
 - 2) substantially as shown on the Plan to be modified as specified herein;
 - 3) in accordance with any subsequently approved modified plans or amendments to this decision.
 - C. The land and buildings comprising 39 West Street shall not be used, sold, transferred, or leased except in conformity with this decision and shall not be further divided.
3. **Plan Endorsement** - Within sixty days after the Board has filed its Decision with the Town Clerk, the Development 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 herein referred to as the Plan). Upon approval, the revised Plan in its final form will be presented 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. Cover Sheet – Provide list of approved waivers and signature block for Town Clerk no appeal certification. Section 803-3.E.
 - B. Add Board signature block, including decision date and plan endorsement date, to all plan sheets.
 - C. Add a note that the existing well on site will be decommissioned in accordance with Medway Board of Health Rules and Regulations for Private Wells.
 - D. The Plan Set with the revisions set forth in this decision, shall be recorded at the Norfolk County Registry of Deeds.

5. Affordable Housing

- A. In accordance with Section 8.6 Affordable Housing, two units within the development shall be “Affordable” and comply with the requirements for inclusion on the Town’s Subsidized Housing Inventory as maintained by the EOHLC. The units shall be maintained as affordable in perpetuity. The Applicant shall be responsible for maintaining records sufficient to comply with EOHLC guidelines for the occupancy of Affordable Units by income-eligible households.
- B. Within 180 days after the Decision and Plan are recorded at the Norfolk County Registry of Deeds, the Permittee shall apply to EOHLC’s Local Initiative Program (LIP) for inclusion of the proposed Affordable Housing Units as Local Action Units on the Town’s Subsidized Housing Inventory and thereafter shall diligently pursue EOHLC approval of the LIP/Local Action Unit Application. Prior to submitting the LIP Application, the Permittee shall secure the support of the Medway Select Board and the Medway Affordable Housing Committee and Trust for the LIP/LAU application including the proposed marketing plan and local preference guidelines.
- C. The development shall be subject to a perpetual affordable housing regulatory agreement, in a form acceptable to EOHLC to be recorded at the Norfolk County Registry of Deeds.
- D. The location of the affordable housing units shall comply with the provisions of Section 8.6.F the Zoning Bylaw. The unit location must be approved by EOHLC. The designation of the affordable units can be changed by the applicant with EOHLC approval, but the applicant must notify the Board and the Building Commissioner of any such changes. Upon direction by EOHLC or request of the Permittee (without effect to the Subsidized Housing Inventory eligibility), the Board shall permit a change in the location of the Affordable Housing Unit. In the event that EOHLC does not approve of the project’s eligibility under the Subsidized Housing Inventory, the Permittee shall work diligently with the Town to take any action necessary to ensure the unit is included on the Town’s Subsidized Housing Inventory.
- E. Affordable Housing Regulatory Agreement – If and to the extent that EOHLC approves the Affordable Housing Units pursuant to 760 CMR 56.04(7) and 56.05 (10)(b), the Permittee shall prepare or cause to be prepared and submit to EOHLC, before any occupancy permit is issued, an Affordable Housing Regulatory Agreement to be executed by the Town of Medway, the Permittee and EOHLC. After such submittal to EOHLC, the Permittee shall diligently pursue EOHLC approval of the Regulatory Agreement. Upon execution, the Regulatory Agreement shall be recorded at the Norfolk County Registry of Deeds.
- F. The Permittee shall select and compensate a Lottery Agent to prepare the LIP/Local Action unit application and Regulatory Agreement, and manage the marketing and initial sale of the Affordable Housing Unit. Any such Lottery Agent must meet EOHLC’s experience requirements so that the Affordable

Housing Units may be counted on the Town's Subsidized Housing Inventory. The Permittee shall identify such Lottery Agent to the Board and any changes thereto. The Applicant shall obtain approval by the Subsidizing Agency of an affirmative fair housing marketing plan prior to the rental of any Affordable Units, and shall ensure that the Project complies with the Subsidizing Agency's fair housing requirements

- G. The ongoing Monitoring Agent for the affordable unit shall be EOHLC. The Board hereby names the Town of Medway Affordable Housing Trust, if approved by EOHLC, as an additional Monitoring Agent.
- H. Timing of construction of affordable units
 - 1) No building permit shall be issued until the Select Board has approved the Affordable Housing Regulatory Agreement and the Permittee has submitted it to EOHLC.
 - 2) No occupancy permit shall be issued until the Affordable Housing Regulatory Agreement has been approved by EOHLC and recorded with the Norfolk County Registry of Deeds.
- I. For the initial rent-up of the Project, the maximum number of affordable units allowed by law and the applicable subsidy program, but not more than seventy percent of the units, shall be reserved for households that qualify under a local preference definition approved by the Subsidizing Agency. A lottery shall be established in a form approved by the Subsidizing Agency to effectuate this local preference, with an approved secondary lottery for all other Applicants. The Applicant shall provide reasonable and timely assistance to the Town with the Town's submittal of any evidence required by the Subsidizing Agency to support this local preference requirement. The Board acknowledges that it will be required to provide evidence satisfactory to the Subsidizing Agency of the need for the foregoing local preference and to obtain approval of the categories of persons qualifying for the same, and in no event shall the Applicant be in violation of the terms of this Comprehensive Permit to the extent the Subsidizing Agency disapproves the local preference requirement or any aspect thereof. If the Board or its designee does not provide such information within sixty days of a written request by the Applicant, its Lottery Agent, the Subsidizing Agency or DHCD, then this condition shall be void unless the Applicant has failed to provide reasonable and timely assistance as described above.

6. Recording of Plans and Documents

- A. No construction shall begin on the site and no building permit shall be issued before this Decision, the endorsed Plan, and Operation and Maintenance Plan are recorded at the Norfolk County Registry of Deeds and proof of such recording is provided to the Board.
- B. Within thirty days of recording, the Permittee 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.

7. **Open Space** - At least 30% of the site shall be retained and function as open space in perpetuity, as defined in the Zoning Bylaw. 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 Outdoor Amenity space, subject to plan modification requirements.
8. **Outdoor Amenity Space** - A minimum of 20% of the lot shall be dedicated to Outdoor Amenity Space. The Outdoor Amenity Space may consist of any of the Outdoor Amenity Space types in Table 9.6.B.1 of this Bylaw other than Pedestrian Passage or Outdoor Dining. The Outdoor Amenity Space shall also comply with the Description and Design Standards of Table 9.6.B.1.
9. **Ownership and Maintenance**
The driveway, 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 will not be accepted by the Town of Medway. 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) Driveway and parking areas
 - 2) Stormwater management facilities
 - 3) Snowplowing and sanding
 - 4) Landscaping
 - 5) lights
 - 6) Sewer and water
 - 7) trash removal and recycling
10. **Rubbish Removal** –Trash pick-up will be the responsibility of the owner, and shall be done by a single company and scheduled for at least once per week. Trash pick-up shall provide for recycling of paper, cardboard, glass, cans, plastic, and other commonly recyclable materials.
13. **Soil Management Plan** – Applicant proposes a net fill of approximately 1000 cubic yards. The applicant shall comply with Section 207-8 of the Site Plan Regulations. Fill must be from an approved site or be tested as provided in site plan regulations. Applicant must comply with requirements of Section 207-8 of the Site Plan Regulations.
14. **DPW** – 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 (DPW) before the final occupancy permit. All signage and pavement markings shall comply with Mass. Uniform Traffic Control Device guidelines and Medway DPW requirements. Applicant shall obtain street opening and any other required permits from DPW and comply with all DPW requirements for utility work and work within the Town right of way. Any markings disturbed on West Street shall be replicated. The existing water service will be abandoned in accordance with DPW requirements. Sewer connection shall be made to West Street, and the existing sewer connection abandoned in accordance with DPW requirements.

15. **Trees** – The removal of trees within the required zoning bylaw setbacks may require a permit from the Conservation Commission under Article 31 of the Town’s General Bylaws, Tree Preservation.
16. **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.)
17. **Stormwater Management and Land Disturbance**
 - A. No construction, clearing of vegetation, or any site work shall commence until after the 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 Applicant shall provide proof of coverage under the NPDES CGP and provide a copy of the approved Stormwater Pollution Prevention Plan (SWPPP) prior to commencement of construction.
 - 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 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.
18. **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.

- 19. 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.
- 20. 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.

21. Landscape Maintenance

- A. The site's landscaping shall be maintained in good condition throughout the life of the development 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 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.
- 22. 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.
- 23. Right to Enter Property** – To the maximum extent allowed by law, 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 Plan and may acquire any information, measurements, photographs, and/or observations deemed necessary for that evaluation.
- 24. 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 Development 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 driveway, stormwater system and other infrastructure are completed, and the as-built plan and Certificate of Development Plan Completion has been granted.
 - 4) Any funds remaining in the Permittee's construction inspection account after the Certificate of Development Plan Completion is issued shall be returned to the Permittee.
- B. Pre-Construction Meeting – At least seven days prior to the start of any site preparation or construction, the Permittee shall meet with the Town's consulting engineer, Community and Economic Development staff, the Department of Public Works staff, other Town staff as appropriate, the site contractors, and the Permittee's project engineer for a pre-construction meeting. At or before the pre-construction meeting, the Permittee shall provide the following information:
- a Construction Management Plan as specified in Section 805-1 of the Development Plan Rules and Regulations,
 - earth removal calculations
 - earth fill estimates
 - copies of its National Pollutant Discharge Elimination System (NPDES) permit and its Stormwater Pollution Prevention Plan (SWPPP) for this project as filed with the U.S. EPA.
 - list of contacts with contact information for contractors, those responsible for compliance with this permit (Clerk of the Works), on-site management, and erosion control inspector.
- 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.
- 25. 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.

26. 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 Development 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. 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.

27. Performance Security

- A. In accordance with Section 805-6 of the Development Plan Regulations, a final certificate of occupancy shall not be issued until the project has been completed in accordance with the approved and endorsed plan and the applicant has complied with or satisfied all conditions of this Decision. 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.

28. Project Completion

- A. As provided in Section 5.6.5.I of the Zoning Bylaw, Development plan approval shall lapse within three 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 construction has not sooner commenced 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. Prior to issuance of the final occupancy permit, the Permittee shall request and secure a Certificate of Development Plan Completion from the Board in accordance with Section 805-7.C of the Development Plan Regulations. The Certificate serves as the Board's confirmation that, in its opinion, the completed work conforms to the approved 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 or performance guarantee that has been provided to the Town of Medway. To secure a Certificate of Development 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 decision, 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 including landscaping and trees 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.

[remainder of page intentionally left blank; signature page follows]

**Medway Planning and Economic Development Board
Development Plan Decision
39 West Street**

Date of Action by the Planning and Economic Development Board: ____

_____ Andy Rodenhiser, Chair	_____ Date
_____ Sarah Raposa, AICP, Vice-Chair	_____ Date
_____ Timothy Harris, Clerk	_____ Date
_____ John Parlee, Member	_____ Date
_____ Janine Clifford, Member	_____ Date

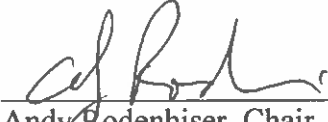
The Board and the Applicant have complied with all statutory requirements for the issuance of this Decision on the terms set forth herein. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Permittee, and notice will be mailed to all parties in interest as provided in G.L. c. 40A §15.

Any person aggrieved by the Development 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.

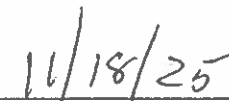
In accordance with Section 5.6.5 of the Zoning Bylaw, and Section 803-10 of the Board's regulations, this decision shall be recorded in the Norfolk County Registry of Deeds, bearing the certification of the Town Clerk that twenty days have elapsed after the Decision has been filed in the office of the 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 decision 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
Development Plan Decision
39 West Street

Date of Action by the Planning and Economic Development Board: _____



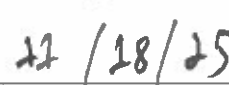
Andy Rodenhiser, Chair



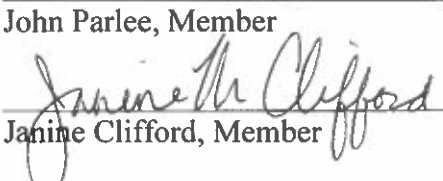
Date

Sarah Raposa, AICP, Vice-Chair

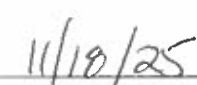

Timothy Harris, Clerk

Date


Date

John Parlee, Member


Janine Clifford, Member

Date


Date

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