

TOWN OF MEDFIELD

Office of the

Board of Appeals on Zoning

TOWN HOUSE, 459 MAIN STREET
MEDFIELD, MASSACHUSETTS 02052-2009

(508) 906-3027
(508) 359- 6182 Fax

NOTICE OF DECISION

APPLICANT: Medfield Holdings, LLC

DECISION DATE: March 2, 2022

DATE OF FILING DECISION: March 4, 2022

DECISION NUMBER: 1430

At a public hearing held on March 2, 2022 the Town of Medfield Zoning Board of Appeals, acting in the above referenced matter, approved with conditions the requested Comprehensive Permit, G.L. c. 40B, §§ 20-23 to construct a twenty-four (24) unit age-restricted home ownership development on property located off Ice House Road (known as "Hinkley South"), Medfield, Massachusetts, on Assessors Map 64, Parcel 001.

Appeals, if any, by any party other than the Applicant, shall be made pursuant to Massachusetts General Laws, Chapter 40A, s. 17, and shall also be filed within twenty (20) days after the filing of this notice in the Office of the Town Clerk, Town Hall, Medfield, Massachusetts. Any appeal by the Applicant shall be filed with the Housing Appeals Committee pursuant to G. L. c. 40B, § 23, within twenty (20) days after the filing of this notice in the Office of the Town Clerk.

Copies of the decision may be obtained at the office of the Board of Appeals in person, via email, or from the Town's website: www.town.medfield.net > Boards and Committee > Zoning Board of Appeals under "ZBA Decisions."

Sarah Raposa
Town Planner
(508) 906-3027
sraposa@medfield.net



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INSTRUCTIONS FOLLOWING THE RECEIPT OF A DECISION:

- Your decision was filed with the Town Clerk on: Friday, March 4, 2022
- Your 20-day appeal period ends: Thursday, March 24, 2022
- On Friday, March 25, 2022 or thereafter you should contact the Town Clerk's Office for the certified decision as well as a letter from the Town Clerk indicating that no appeals have been taken regarding the Board's decision.
 - Marion Bonoldi, Town Clerk (508) 906-3024 or mbonoldi@medfield.net
 - *Town Hall Hours:*
 - Monday 8:30 AM- 4:30 PM
 - Tuesday 8:30 AM to 7:30 PM
 - Wednesday 8:30 AM to 4:30 PM
 - Thursday 8:30 AM to 4:30 PM
 - Friday 8:30 AM to 1:00 PM
- Take the Town Clerk's letter & the decision to the Registry of Deeds in Dedham and record them.
(There is a fee of around \$106 according to recent filings.)
Norfolk County Registry of Deeds
649 High St, Dedham, MA
(781) 461-6101 norfolkdeeds.org
email: registerodonnell@norfolkdeeds.org

Directions from Town Hall, Medfield: - ***Call first, COVID procedures may be in place!***
 - Take 109 East to Dedham
 - Bear Right on High Street
 - Destination will be on the left in approximate ½ mile
 - Note: On street meter parking or parking in rear (w/ fee)
- **Save the numbers they will give you as proof of recording. Call or email my office with the Book and Page numbers. *This is a required part of the process!***
- When you apply to the Building Department for a permit, you will also need to upload a copy of your decision with the recording information.

Sarah Raposa, Town Planner
(508) 906-3027
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TOWN OF MEDFIELD

Office of the

BOARD OF APPEALS

TOWN HOUSE, 459 MAIN STREET
MEDFIELD, MASSACHUSETTS 02052-2009

No. 1430

March 2, 2022

**ZONING BOARD OF APPEALS OF THE TOWN OF MEDFIELD
DECISION ON THE APPLICATION OF
HINKLEY SOUTH, LLC
FOR A COMPREHENSIVE PERMIT**

RECEIVED
TOWN OF MEDFIELD, MASS
2022 MAR -4 A 9 4
OFFICE OF THE
TOWN CLERK

I. BACKGROUND

1. On November 8, 2021, Medfield Holdings, LLC, (the “Applicant”) submitted a comprehensive permit application to construct a twenty-four (24) unit age-restricted home ownership development on property located off Ice House Road/Hinkley South, Medfield, Massachusetts (the “Site” or the “Property”).
2. The Zoning Board of Appeals (“Board”) opened the public hearing on December 1, 2021, and held continued sessions of the public hearing on January 5, 2022, February 2, 2022, and March 2, 2022. The Board closed the public hearing on March 2, 2022. The Board voted to grant this Comprehensive Permit, with conditions, on March 2, 2022.
3. The Site is located in the Residential Town (RT) Zoning District. The Site is also located within the Aquifer Protection District – Primary Aquifer Zone. The Site contains wetland resource areas and/or buffer zones to wetland resource areas which required the issuance of an Order of Conditions from the Medfield Conservation Commission, which the Applicant has already obtained.
4. The Site is shown on Assessors Map 64, Parcel 001.
5. The Site does not have frontage on a public way. Access to the Site will be via an easement to Ice House Road, which is the sole proposed access to the Site.

6. The Site is currently undeveloped property owned by the Town of Medfield. The Project will be new construction. Proximate land uses are a mix of municipal uses and residential uses. The Site will be served by municipal water and sewer.
7. To evaluate the plans, documents, and testimony submitted by the Applicant's development team, the Board sought technical assistance and comments from Town staff and other boards and commissions. The Board received peer review comments from Steven M. Bouley, P.E., of Tetra Tech. Paul Haverty from Blatman, Bobrowski, & Haverty, LLC served as the Board's Chapter 40B consultant, pursuant to the Massachusetts Housing Partnership Technical Assistance Program.
8. Sitting for the Board and present for the public hearing process were John McNicholas, Chair, William McNiff, Member, and Jared Gustafson, Associate Member. Jared Spinelli also sat as an alternate member, but is not voting.
9. Exhibit A contains a list of documents the Board received during the public hearing process.

II. GOVERNING LAW

10. The law governing this application is the Comprehensive Permit Law, Massachusetts General Laws, Chapter 40B, §§ 20-23 (the "Act" or "Chapter 40B"), and the regulations promulgated by the Department of Housing and Community Development ("DHCD"), 760 CMR 56.00 et seq. (the "Regulations").
11. The Act promotes regional distribution of low or moderate income housing by preventing individual cities and towns from using exclusionary zoning to block construction of such housing. Toward these ends, the purposes of the Act are satisfied if: (a) a town has low or moderate income housing in excess of 10 percent of the total number of year-round housing units reported in the latest decennial census or (b) which is on sites comprising 1 ½ percent or more of the town's total land area zoned for residential, commercial, or industrial use, or (c) if the application results in the commencement of low and moderate income housing construction on sites comprising more than .3 percent of such total area or 10 acres, whichever is larger, in one year.
12. DHCD's Regulations expand the definition of what constitutes satisfaction of the statute to include regulatory safe harbors contained at 760 CMR 56.03(4) through 56.03(7).
13. The Board's decision on a comprehensive permit must balance the regional need for low- or moderate-income housing against the Town's long-range planning goals, local requirements and regulations to the extent that they are applied equally to subsidized and unsubsidized housing, and valid concerns about the health and safety of residents of the proposed housing, the surrounding neighborhood, or the Town as a whole.

III. FINDINGS:

The Board makes the following findings in connection with the application:

14. The Applicant has complied with all rules and regulations of the Town of Medfield as they pertain to the application for a Comprehensive Permit, or to the extent that the Applicant has not fully complied with the rules and regulations regarding submittal requirements, the Board finds that the requirements will be met as part of the submittal of Final Plans.
15. The Applicant has demonstrated its eligibility to submit an application for a Comprehensive Permit to the Board, and the development fulfills the minimum project eligibility requirements set forth in 760 CMR 56.04(1) as follows:
 - (a) The Applicant a limited dividend organization within the meaning of General Laws, Chapter 40B, is eligible to receive a subsidy under a state or federal affordable housing program after a Comprehensive Permit has been granted.
 - (b) The Applicant received a written determination of Project Eligibility from the Department of Housing and Community Development dated November 8, 2021, a copy of which was provided to the Board with the original application.
 - (c) By including with its application a copy of a Land Disposition Agreement dated August 25, 2021 between the Applicant and the Town of Medfield, the Applicant has shown evidence of site control sufficient to qualify as an applicant for a Comprehensive Permit.
 - (d) The Applicant will execute a Regulatory Agreement in accordance with Chapter 40B and the regulations and guidelines adopted thereunder by DHCD.
16. The Town of Medfield does not meet the statutory minima set forth in G.L. c. 40B § 20 or 760 CMR 56.03(3) to 56.03(7), with one exception discussed below:
 - (a) At the time of the filing of the application, according to the most-recently published Subsidized Housing Inventory (SHI) dated December 21, 2020, the number of low or moderate income housing units in the Town of Medfield constituted 9.6% of the total year-round units in the Town. Thus, the Town does not meet the ten percent (10%) statutory minimum.
 - (b) Existing affordable housing units are on sites which comprise less than one and one half percent of the total land area of the Town which is zoned for residential, commercial or industrial use (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof).
 - (c) The granting of this comprehensive permit will not result in the commencement of construction of low or moderate income housing units on a site comprising more than three tenths of one percent (.3%) of land area in the Town of Medfield

or ten acres, whichever is larger, zoned for residential, commercial or industrial uses (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof) in any one calendar year.

- (d) The Town of Medfield has an approved Housing Production Plan pursuant to 760 CMR 56.03(4), and has achieved certification of said Plan through May 7, 2022, and therefore has Safe Harbor protection pursuant to this provision.
- (e) The Town of Medfield has not achieved recent progress toward its housing unit minimum pursuant to 760 CMR 56.03(5).
- (f) The Project does not constitute a Large Project pursuant to 760 CMR 56.05(6).
- (g) The Applicant's comprehensive permit application does not constitute a Related Application pursuant to 760 CMR 56.03(7).

The Board provided the Applicant notice of the Safe Harbor status, including a copy of the July 9, 2020 certification letter from DHCD, by letter dated December 13, 2021, in compliance with the requirements of 760 CMR 56.03(8). DHCD was provided a copy of the December 13, 2021 letter via email. The Applicant did not file an appeal with DHCD pursuant to 760 CMR 56.03(8).

- 17. The development, if constructed and operated in conformance with the plans and conditions set forth hereunder, will adequately provide for stormwater drainage, sanitary sewer services and water services, and other appurtenant utilities and amenities, and it will not be a threat to the public health and safety of the occupants of the development, the neighborhood, or the Town.
- 18. The Board finds that the conditions imposed in Section V of this Decision are necessary in order to address Local Concerns. The Board finds that such conditions will not render the project uneconomic. To the extent that such conditions may render the project uneconomic (as defined in 760 CMR 56.02), the Board finds that the Local Concerns outweigh the potential benefits of the proposed affordable units.
- 19. The Board finds that granting certain waivers from local by-laws and regulations is acceptable even though granting any waivers may have an adverse impact on Local Concerns. Nevertheless, the Board finds that the Local Concerns affected thereby do not outweigh the regional need for affordable housing, especially given the mitigation that has been provided by the Applicant.
- 20. The Board finds that construction of twenty-four (24) age-restricted home-ownership units within twelve (12) duplex structures, will be consistent with local needs.

IV. DECISION

In consideration of all of the foregoing, including the plans, documents and testimony given during the public hearing, the Board hereby grants the Applicant a comprehensive permit

under Chapter 40B for the development described herein, subject to the conditions set forth below.

V. CONDITIONS

A. General

A.1 The holder of this Comprehensive Permit is defined as the Massachusetts Limited Liability Company, Medfield Holdings, LLC. The Site is the property located off Ice House Road, and shown as Assessor's Parcel Map 64, Lot 001, Medfield, Massachusetts. The Project is defined as all features shown on the plans listed below in Condition A.2 or as otherwise required by this Comprehensive Permit.

A.2 Except as may be provided for in the following conditions or in the Final Plans referenced below, the Project shall be constructed substantially in conformance with the plans and drawings listed below in this Condition A.2, which for purposes of this Comprehensive Permit shall be considered the Approved Plans for the Project ("Approved Plans"). Additional revisions of locations of structures which do not require additional waivers shall also be allowed as insubstantial changes pursuant to 760 CMR 56.05(11). If the Commissioner of Buildings determines that the proposed changes do not conform to the requirements of this Comprehensive Permit, he shall so notify the Applicant and the Applicant shall either bring the plans into conformance with this decision or seek modification in accordance with 760 CMR 56.05(11). Nothing within the preceding sentence places an obligation on the Building Commissioner to identify inconsistencies between the Approved Plans and the Final Plans, and notification any such changes is the sole obligation of the Applicant. The Approved Plans consist of the following:

i. Site Plan titled "Site Development Plan, a Comprehensive Permit M.G.L. c. 40B, 'Hinkley South', Medfield, Massachusetts", dated October 28, 2021, with revisions through January 25, 2022 prepared by GLM Engineering Consultants, Inc., consisting of sheets 1 through 15.

ii. Architectural Plans entitled "12 Unit Duplex Buildings", prepared by CME Architects, dated February 24, 2021, consisting of sheets DD1 through DD10.

Architectural Plans entitled "Affordable Duplex Marketing", prepared by CME Architects, dated August 13, 2021, consisting of sheets 1 through 5.

Landscaping Plan Sheet 5 submitted to the Board at its hearing on March 2, 2022 depicting additional arborvitae plantings.

A.3 The Applicant is a limited dividend organization within the meaning of General Laws, Chapter 40B as required by Chapter 40B and it and its successors and assigns, shall comply with all applicable requirements of Chapter 40B and the regulations adopted thereunder.

- A.4 The Project shall consist of not more than twenty-four (24) age-restricted home ownership units located on a single lot, and other related residential amenities, all as shown on the Approved Plans. Six (6) of the units are proposed as affordable units.
- A.5 There shall be a minimum of forty-eight (48) parking spaces (consisting of one garage space and one driveway space per unit).
- A.6 The Project shall consist of twenty-four (24) two-bedroom units.
- A.7 Pursuant to the Waiver List voted upon by the Board at the February 2, 2022 hearing, the Applicant has requested, and the Board has granted, waivers from the Medfield Zoning Bylaw and other local by-laws and regulations as specified in Exhibit A hereto. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§20-23. No waivers are granted from permit or inspection fees, with the exception of fifty percent (50%) of the water and sewer connection fees for the six (6) affordable units. Any subsequent revision to the Plans, including but not limited to revisions that are apparent in the Final Plans that require additional or more expansive waivers of any local by-laws or regulations (except as discussed above in A.2), must be approved by the Board in accordance with 760 CMR 56.05(11). To the extent that additional waivers are subsequently determined to be required with respect to improvements that are otherwise shown on the Approved Plans, such waivers shall be deemed an insubstantial change to the Comprehensive Permit under 760 CMR 56.05(11), and can be granted administratively by the Board.
- A.8 The Applicant shall comply with all local regulations of the Town of Medfield and its boards, commissions, and departments unless specifically waived herein or as otherwise addressed in these conditions.
- A.9 The Applicant shall copy the Board on all substantive correspondence between the Applicant and any federal, state, or Town official, board, or commission concerning the conditions set forth in this decision, including but not limited to all testing results, official filings, environmental approvals, and other permits issued for the Project.
- A.10 Except as otherwise specifically provided herein, where this Decision provides for the submission of plans or other documents for approval by the Building Commissioner or other Town Departments, the Building Commissioner or applicable Department Head will use reasonable efforts to review and provide a written response within thirty (30) days following submission.
- A.11 This Comprehensive Permit may be subsequently assigned or transferred pursuant to 760 CMR 56.05(12)(b). The pledging of the Property as security under any conventional loan construction financing terms as set forth in the financing entity's Loan Documents or any foreclosure sale pursuant to the same shall not constitute an assignment or transfer under this paragraph.

- A.12 The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the successors and assigns of the Applicant, and the obligations shall run with the land. In the event that the Applicant sells, transfers, or assigns its interest in the development, this Comprehensive Permit shall be binding upon the purchaser, transferee, or assignee and any successor purchasers, transferees or assignees. The limited dividend restrictions shall apply to the owner of the project regardless of sale, transfer, or assignment of the project. The limited dividend provisions are not applicable to individual unit owners.
- A.13 The sidewalks, driveways, roads, utilities, drainage systems, and all other infrastructure shown on the Approved Plans as serving the Project shall remain private and the Town of Medfield shall not have any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal and landscape maintenance, unless and until such infrastructure is accepted by Medfield Town Meeting as a public way.
- A.14 Unless otherwise indicated herein, the Board may designate an agent to review and approve matters on the Board's behalf subsequent to this Decision.

B. Affordability Requirements

- B.1 The Applicant has proposed that six (6) units in the Project shall be sold to households whose income is no more than eighty percent (80%) of the area median income, as determined by the United States Department of Housing and Urban Development ("HUD") and DHCD.
- B.2 Upon completion of the Project and in perpetuity, all the affordable units shall meet the criteria for inclusion in DHCD's "Subsidized Housing Inventory" (SHI).
- B.3 The Applicant shall obtain approval by the Subsidizing Agency of an affirmative fair housing marketing plan prior to sale of any units, and shall ensure that the Project complies with the Subsidizing Agency's fair housing requirements.

At the approval of the applicable subsidy program, the maximum number of affordable units allowed by law and applicable subsidy program, but no more than seventy percent (70%) percent of the units, shall be reserved for current residents of the Town of Medfield, municipal employees of the town of Medfield, employees of businesses located in the Town of Medfield and households with children attending Medfield's schools. A lottery shall be established in a form approved by the Subsidizing Agency and/or the Project's monitoring agent to effectuate this local preference, with an approved secondary lottery for all other applicants. The Applicant shall assist the Town in the submittal of any evidence required by the Subsidizing Agency to support this local preference requirement.

C. Submission Requirements

- C.1 Prior to any construction on the Site, whether or not pursuant to a building permit, the Applicant shall:

- a. Obtain a National Pollution Discharge Elimination System (NPDES) Permit from the U.S. Environmental Protection Agency (EPA), if necessary. The Board shall also be provided a copy of the Stormwater Pollution Prevention Plan (SWPPP) submitted along with the NPDES filing.
- b. Submit to the Board for review and administrative approval Final Engineering Drawings and Plans ("Final Plans") that conform to the requirements of this Comprehensive Permit and incorporate the conditions herein. The Final Plans shall also incorporate all conditions and requirements of permitting agencies having jurisdiction. Applicable sheets of the Final Plans shall be signed and sealed by the Professional Land Surveyor, the Registered (Civil) Engineer of record, and, if applicable, the Registered Landscape Architect of record. The Final Plans shall be submitted to the Board at least twenty-one (21) days prior to the anticipated date of commencement of building construction or submission of an application for building permits, whichever is earlier (the "Final Site Plan Submission Date").

The Final Plans shall address the following additional issues:

- i. Submit to the Building Commissioner a construction mitigation plan including, but not limited to, dust control measures, fill delivery schedules, stockpiling areas, and like matters. Other than site work and such other work as may be authorized in writing by the Building Commissioner, no other construction of units shall commence and no building permits shall issue under this Comprehensive Permit until the Building Commissioner, has approved the Final Plans as being in conformance with this Decision. If no written response or comments have been given to the Applicant by the Building Commissioner concerning the Final Site Plans within thirty (30) days after the Final Site Plan Submission Date, the Final Plans, as delivered, will be deemed to have been approved.
- c. Submit to the Board and the Building Commissioner a landscaping plan with the Final Plans, depicting the following:
 - (1) Overall planting plan that includes a demarcation of clearing and the limits of work;
 - (2) Planting plans for drives showing shade trees and lighting fixture locations;
 - (3) Prototype planting plans for each building that include shade trees, ornamental trees, shrubs, and groundcovers;
 - (4) Planting details for coniferous and deciduous shade trees, ornamental trees, and shrubs;
 - (5) Planting schedules listing the quantity, size, height, caliper,

species, variety, and form of trees, shrubs, and groundcovers;

- (6) Tree protection and preservation plans; and
- (7) Construction details.

All plantings shall consist of non-invasive, drought-tolerant species.
Plantings installed along drives and walkways shall also be salt-tolerant.

C.2 Prior to the issuance of a building permit for the project, the Applicant shall:

- a. Record this Comprehensive Permit with the Norfolk County Registry of Deeds, at the Applicant's expense, and provide proof of the same to the Building Commissioner. Any subsequent modifications shall also be recorded at the Norfolk County Registry of Deeds.
- b. Submit to the Board and the Building Commissioner evidence of Final Approval from the Subsidizing Agency (DHCD), as required by the Project Eligibility letter and the Chapter 40B regulations.
- c. Submit to the Board and the Building Commissioner a copy of the Regulatory Agreement for the Project. Execution and recording of such Regulatory Agreement shall be complete prior to the issuance of any building permit.
- d. Submit to the Building Commissioner final Architectural Plans prepared and sealed by an architect with a valid registration in the Commonwealth of Massachusetts ("Architectural Plans"). The Architectural Plans shall be submitted in such form as the Building Commissioner may request.
- e. The Board's engineer shall approve the maintenance schedule for the stormwater system.
- f. Obtain and file with the Building Commissioner a copy of all federal, state, and local permits and approvals required for the Project.

D. Construction Completion; Certificate of Occupancy

D.1 Prior to issuance of a certificate of occupancy for any unit in the Project, the Applicant shall:

- a. Submit interim engineer's certification of compliance with utilities plan and profiles to the Department of Public Works.
- b. Provide a letter to the Board, signed by the Applicant's civil engineer, certifying that the Project has been constructed in compliance with the Final Plans.

- c. Obtain acceptance from the Building Department and/or Fire Department of testing of all fire protection systems, fire alarm systems, fire sprinkler systems, and local smoke alarms within the dwelling units.
- d. Provide surety for the completion of all project infrastructure, not to exceed \$1,000,000, in a form to be approved by Town Counsel.

D.2 Prior to issuance of the final certificate of occupancy, the Applicant shall:

- a. Submit to the Building Department, in digital file format, final as-built plans showing rim and invert elevations, roadway, and associated construction. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet.
- b. Submit to the Building Commissioner as-built plans for all buildings in the Project.

E. Project Design and Construction

- E.1 The Applicant and the site general contractor shall attend a preconstruction conference with the Building Commissioner and Town Planner as may be determined. The Applicant shall provide a construction management plan to the Building Commissioner and Town Planner prior to such preconstruction conference. The Applicant shall coordinate with the Building Commissioner the requirements of such construction management plan, but it should address, at minimum, the sequencing of construction activities relating to construction vehicle traffic, dust, noise and heavy equipment movement, hours of operation, and emergency contact information.
- E.2 The proposed construction shall be in accordance with applicable federal and state laws, rules and regulations.
- E.3 The Applicant shall confirm with the Medfield Fire Department that the three new fire hydrant locations shown on the Plans are sufficient to serve the Project.
- E.4 All site retaining walls four (4) feet or greater in height shall be designed by a Massachusetts Professional Structural Engineer. This applies only to free-standing retaining walls, and is not applicable to unit construction.
- E.5 During construction, the Applicant shall conform to all local, state, and federal laws regarding noise, vibration, dust, and blocking of Town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents and businesses in the general area. Adequate provisions shall be made by the Applicant

to control and minimize dust on the site during construction in accordance with the construction mitigation plan.

- E.6 Appropriate signage shall be shown on the Final Plans.
- E.7 The location of all utilities, including but not limited to electric, telephone, and cable, shall be shown on the Final Plans. All transformers and other electric and telecommunication system components shall be included on the Final Plans. The location of features shown on the approved design including but not limited to fill pipes, vents, bollards, connections between tanks (if applicable) etc., shall be shown on the Final Plans.
- E.8 If natural gas is proposed, gas service locations shall be included on the Final Plans.
- E.9 Soil material used as backfill for access drives shall be certified by the Project Engineer to the Building Commissioner as meeting design specifications, as applicable.
- E.10 Construction activities shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and 8:00 a.m. to 4:00 p.m. on Saturdays (interior work is still allowed on Saturdays between 7:00 a.m. and 7:00 p.m.). For purposes of this condition, construction activities shall be defined as: start-up of equipment or machinery, delivery of building materials and supplies; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; removal of stumps and debris; and erection of new structures. All off-site utility work shall be coordinated and approved by the Department of Public Works and shall not be subject to the timing restrictions set forth above. Parking of all vehicles and equipment must be on site during construction.
- E.11 Burning or burial of construction or demolition debris on the site is strictly prohibited. All such materials are to be removed from the site in accordance with applicable law. All construction materials shall be stored or stockpiled in a safe manner. Any floodlights used during the construction period shall be located and directed so as to prevent spillover or illumination onto adjacent properties. All construction activities are to be conducted in a workmanlike manner.
- E.12 No building areas shall be left in an open, unstabilized condition. If construction ceases for a period of more than sixty days, temporary stabilization shall be accomplished by hay bales, hay coverings or matting. Final stabilization shall be accomplished by loaming and seeding exposed areas.
- E.13 All retaining walls shall be constructed in an aesthetic manner, specifically, retaining walls shall avoid the use of exposed concrete to the greatest extent practicable.
- E.14 Snow removal shall be the obligation of the Applicant, until such time, if ever, that the Town agrees to accept responsibility for snow removal.

- E.15 Site lighting shall be coordinated with the Town to avoid glare and unnecessary light spillage offsite.
- E.16 Trash and recycling shall be the responsibility of the individual unit owners.

F. Traffic Safety Conditions

- F.1 The area along the access to Ice House Road shall include low profile landscaping along the perimeter (small shrubs, no trees) to facilitate emergency vehicles onto the property.
- F.2 The Final Plans must depict the horizontal sight triangles for both Stopping Sight Distance (SSD) and Intersection Sight Distance (ISD). No landscaping or fencing shall be located within the required sight triangles in excess of two feet (2') in height.
- F.3 The Applicant shall install MUTCD-compliant stop lines and stop signs at the intersection of the proposed driveway and Ice House Road.
- F.4 No parking shall be allowed on Ice House Road or any other public way during construction or operation.
- F.5 Appropriate signage shall be added to the end of the access road, past the entrance to the Project. Such signage shall allow for authorized vehicles only, and placards shall be installed to signify the end of the roadway.
- F.6 Parking along the internal roadway shall be allowed on only one side of the way. The Applicant shall consult with the Police Department to determine which side of the roadway parking will be allowed.

G. Police, Fire, and Emergency Medical Conditions

- G.1 Appropriate sight distance shall be maintained at the intersection of the Project Driveway and Ice House Road.
- G.2 The Applicant shall provide the Medfield Fire Department plans depicting an auto-turn analysis for their review and administrative approval. Where necessary, on-site islands must be constructed with mountable curbing, to accommodate emergency vehicle circulation.

H. Water, Septic, and Utilities

- H.1 The water, sewer, and drainage utilities servicing the Project shall be installed and tested in accordance with applicable Town of Medfield requirements and protocols, except as may be waived herein.

- H.2 Utilities shall be installed as shown on the plans using methods standard to those installations. Utilities shall be defined as electric service lines, telephone lines, water service lines, CATV lines, municipal conduit and the like.
- H.3 Final sewer plans must be submitted to the Medfield DPW for review and administrative approval.

I. Other General Conditions

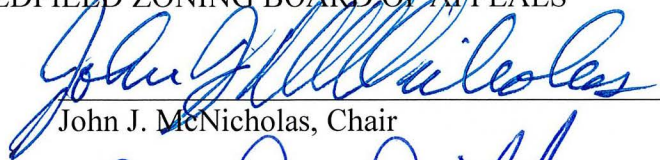
- I.1 Material storage areas, equipment storage areas and fueling locations must be located outside of applicable wetlands buffer zone areas.
- I.2 The proposed structures shall be constructed in accordance with the approved Site Plans and Architectural Plans. Any changes to the structures from the approved Site Plans and Architectural Plans prior to initial occupancy must comply with the procedures set forth in 760 CMR 56.05(11).
- I.3 This decision will be deemed to be final upon the expiration of the appeal period with no appeal having been filed or upon the final judicial decision following the filing of any appeal, whichever is later. In accordance with 760 CMR 56.05(12)(c), this Comprehensive Permit shall expire three (3) years from the date that the permit becomes final, unless (i) prior to that time substantial use of the Comprehensive Permit has commenced or (ii) the time period is otherwise tolled in accordance with law. The Applicant may timely apply to the Board for extensions to the Comprehensive Permit as permitted by law.
- I.4 The Applicant shall be responsible for the operation and regular maintenance of all pedestrian walkways, parking areas, and other common facilities shown or described in the Approved Plans and materials, including, but not limited to, regular snow plowing, until such time, if ever, the roadway is accepted by the Town of Medfield.
- I.5 If any default, violation or breach of these conditions by the Applicant is not cured within thirty (30) days after notice thereof (or such longer period of time as is reasonably necessary to cure such a default so long as the Applicant is diligently and continuously prosecuting such a cure), then the Town may take one or more of the following steps: (a) by mandamus or other suit, action or other proceeding at law or in equity, require the Applicant to perform its obligations under these conditions; (b) have access to, and inspect, examine and make copies of all of the books and records of the Applicant pertaining to the project; or (c) take such other action at law or in equity as may appear necessary or desirable to enforce these conditions. If the Town brings any claim to enforce these conditions, and the Town finally prevails in such claim, the Applicant shall reimburse the Town for its reasonable attorneys' fees and expenses incurred in connection with such claim.

RECORD OF VOTE

The Board of Appeals voted 3-0, at its public meeting on March 2, 2022, to unanimously grant a Comprehensive Permit subject to the above-stated Conditions, with this decision as attested by the signatures below.

THE VOTE WAS UNANIMOUS:

MEDFIELD ZONING BOARD OF APPEALS


John J. McNicholas, Chair


William McNiff, Member


Jared Gustafson, Associate Member

Dated: March 2, 2022

MICHAEL WHITCHER, MEMBER, AND CHARLES H. PECK, ASSOCIATE MEMBER, DID NOT SIT ON THE BOARD AT THE PUBLIC HEARING CONCERNING THIS MATTER NOR DID THEY PARTICIPATE IN THE DELIBERATIONS OF THE BOARD OR IN THIS DECISION. JARED SPINELLI, ASSOCIATE MEMBER, PARTICIPATED IN THE PUBLIC HEARING CONCERNING THE MATTER BUT DID NOT PARTICIPATE IN THE VOTE.

Filed with the Town Clerk:

Town Clerk

Notice: Appeals, if any, by any party other than the Applicant, shall be made pursuant to Massachusetts General Laws, Chapter 40A, s. 17, and shall be filed within twenty (20) days after the filing of this notice in the Office of the Town Clerk, Town Hall, Medfield, Massachusetts. Any appeal by the Applicant shall be filed with the Housing Appeals Committee pursuant to G. L. c. 40B, § 23, within twenty (20) days after the filing of this notice in the Office of the Town Clerk.

DECISION ON WAIVERS

The Board takes the following action on the waiver requests of local rules and regulations submitted by the Applicant as it has determined necessary for the construction of the Project as approved by the Board:

1. The Applicant in its list of requested waivers included a request from “each and every provision or requirement of all Local Requirements and Regulations issued by a local Medfield Board or Commission to the extent inconsistent with the submitted Plans sought to be approved, including, but not limited to any local by-law adopted by the Medfield Conservation Commission that imposes greater restrictions, obligations, limits, controls or setbacks than are required under the Massachusetts Wetlands Protection Act.

Board Action: Waiver Denied. In order to avoid a determination upon judicial review of this comprehensive permit that the Board has acted in a manner which is arbitrary and capricious by granting waivers of local bylaw provisions without specific information relating to the nature of such waiver, the Board denies any blanket waiver requests of local bylaws.

2. Zoning Bylaws Section 300-4.1: This section requires the more restrictive regulations in the bylaws to apply when more than one bylaw provision is applicable.

Board Action: Waiver Granted.

3. Zoning Bylaws Section 300-5.1: This section prohibits the use or occupation of a building except for purposes permitted in the underlying zoning district. The Applicant requests a waiver to allow the use as twenty-four (24) condominium units in twelve (12) structures, which is not an allowed use under the Bylaws.

Board Action: Waiver Granted.

4. Zoning Bylaws Section 300-5.3A: This section states that “[u]ses permitted by right or by special permit shall be subject to all provisions of this Bylaw.” The Applicant requests a waiver to the extent necessary.

Board Action: Waiver Denied as unnecessary. Since the use is not an allowed use under the Bylaws, this provision is not applicable. To the extent that this provision is deemed applicable, a waiver is granted.

5. Zoning Bylaws Section 300-5.4: This section sets forth allowed uses pursuant to the Table of Use Regulations. The Applicant requests a waiver to allow the use of the Property as a twenty-four (24) unit condominium development in twelve (12) structures.

Board Action: Waiver Granted.

6. Zoning Bylaws Section 300-6.1 and 6.2: These sections include setback requirements and buffer requirements. Because the Property does not have any legal street frontage, it is

impossible to determine compliance with other requirements such as lot width, depth, front yard, side yard and rear yard. The Applicant requests a waiver of these sections.

Board Action: Waiver Granted. The Board notes that it appears that the Project meets the 40,000 s.f. lot area requirement, the 142 x 142 perfect square requirement and the 150' depth requirement. Waivers of the 50' rear yard setback, and the front yard setback appear necessary, to allow structures as close as 20' to the property line and/or roadway.

7. Zoning Bylaws Section 300-6.2(i): This section requires a 150' screening and buffering requirement along boundary lines in the Industrial-Extensive District that adjoin a residential use or district. The Applicant requests a waiver of this provision.

Board Action: Waiver Granted.

8. Zoning Bylaws Section 300-6.2(j): This section requires a twenty-five foot (25') buffer strip along the boundary of adjoining residential lots. The Applicant proposes a five foot (5') vegetated buffer in some areas along the Femino and Scier property lines, as shown on the landscaping plans, and no vegetated buffer along other property lines.

Board Action: Waiver Granted consistent with the Approved Plans, subject to invasive species removal required by the Order of Conditions issued by the Medfield Conservation Commission.

9. Zoning Bylaws Section 300-8.3(B)(6): This section requires a twenty-four foot (24') wide access/egress drive. The Applicant proposes a twenty foot (20') wide access/egress drive.

Board Action: Waiver Granted.

10. Zoning Bylaws Section 300-6.3: This section contains limitations on inhabitation of basement areas, and includes maximum lot coverage requirements of ninety percent (90%) in the IE Zoning District and fifteen percent (15%) in the RT Zoning District. The Applicant requests a waiver to allow for a lot coverage (between buildings and parking areas) of 30.3%.

Board Action: Waiver Granted.

11. Zoning Bylaws Section 300 Attachment 1: This attachment includes use regulations for the RT Zoning District. The Applicant requests a waiver to allow the construction of twenty-four (24) condominium units in twelve (12) structures.

Board Action: Waiver Granted.

12. Zoning Bylaws Section 300 Attachment 2: This attachment includes lot area and setback requirements for the RT Zoning District. The Applicant requests a waiver to allow for construction of the Project as shown on the Approved Plans.

Board Action: Waiver Granted.

13. Zoning Bylaws Section 300 Attachment 3: This section includes use regulations prohibiting multi-family uses, a Maximum Lot coverage of 15%. The Applicant requests a waiver to allow multi-family housing, and a waiver to allow a lot coverage of 30.3%.

Board Action: Waiver Granted.

14. Zoning Bylaws Section 300-8.2 and 8.3: This section requires review by the Planning Board of all parking and loading spaces and drainage, and inspection by the Zoning Enforcement Officer. These sections impose parking, buffer and curb requirements, and require a standard of “no puddling of surface water”. The Applicant requests that review be done by the Board rather than the Planning Board, and that rather than a requirement that no puddling of surface water be allowed, that a condition be imposed requiring reasonable maintenance of the roadway.

Board Action: Waiver Denied as to the procedural waiver of Board review rather than Planning Board review. All reviews under a comprehensive permit are within the purview of the Board, therefore no formal waiver is required. Waiver Granted from the substantive requirement of “no puddling of surface water.”

15. Zoning Bylaws Article 14.12: This article requires Site Plan Approval by the Planning Board. The Applicant requests a waiver to note that Site Plan Approval is not required.

Board Action: Waiver Denied as unnecessary. Because a comprehensive permit subsumes all other local permitting, no formal waiver of this requirement is needed.

16. Zoning Bylaws Article 16.6(a): This section lists uses permitted in the Primary Aquifer Zone, which does not include multi-family dwellings. The Applicant requests a waiver to allow multi-family dwellings in a Primary Aquifer Zone.

Board Action: Waiver Granted.

17. Medfield Wetlands Bylaws: The Applicant requested a blanket waiver of the Medfield Wetlands Bylaws.

Board Action: Waiver Denied. As discussed above, the Board does not grant blanket waivers of local bylaws. Furthermore, the Applicant has noted that it has undergone review by the Medfield Conservation Commission, and no local requirements were identified that would prohibit the development pursuant to the Approved Plans.

18. Chapter 235 Stormwater Management: The Applicant requested a blanket waiver of the Medfield Board of Health Stormwater Management regulations.

Board Action: Waiver Denied. As discussed above, the Board does not grant blanket waivers of local bylaws. Furthermore, the Applicant has informed the Board that this waiver request is no longer required.

19. Waiver of building permit fees, water and sewer hook-up fees for the affordable units equal to fifty percent (50%) of the fees applicable to the market-rate units.

Board Action: Waiver Granted as relating to the water and sewer fees, and Denied as relating to the building permit fees.

EXHIBIT A: MATERIALS SUBMITTED TO THE BOARD

- Application Submission 11/8/21
- Stormwater Management Report 10/28/21 rev. 12/23/21
- Traffic Review Memo, Ron Miller & Associates 1/17/22
- Plans of Record:
 - “Site Development Plan, a Comprehensive Permit M.G.L. c. 40B, ‘Hinkley South’, Medfield, Massachusetts”, dated October 28, 2021, with revisions through January 25, 2022 prepared by GLM Engineering Consultants, Inc., consisting of sheets 1 through 15.
 - Architectural Plans entitled “12 Unit Duplex Buildings”, prepared by CME Architects, dated February 24, 2021, consisting of sheets DD1 through DD10.
 - Architectural Plans entitled “Affordable Duplex Marketing”, prepared by CME Architects, dated August 13, 2021, consisting of sheets 1 through 5.
 - Landscaping Plan Sheet 5 submitted to the Board at its hearing on March 2, 2022
- Department Comments
 - Board of Health
 - Medfield Council on Aging
 - Conservation Commission
 - Fire Department
 - School Department
 - Building Commissioner
 - Department of Public Works
 - Police Department
 - Medfield Energy Committee
- Tetra Tech Review Letters 11/30/21, 1/5/22, and 2/1/22
- Tetra Tech Bond Value Estimate 2/11/22
- Abutter’s Correspondence: Scier 12/15/21, 2/27/22, Peterson 12/15/21, Bero 2/2/22