



# TOWN OF MEDFIELD

Office of the

## BOARD OF APPEALS

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

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

### INSTRUCTIONS FOLLOWING THE RECEIPT OF A DECISION:

- Your decision was filed with the Town Clerk on: Friday, May 8, 2020
- Your 20 day appeal period ends: Thursday, May 28, 2020
- ~~On Friday, May 29, 202 thereafter you should contact the Town Clerk 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.~~
- ~~Please call or email prior to coming in to make sure that the letter is ready.~~
  - Marion Bonoldi, Assistant Town Clerk, (508) 906-3024 or [mbonoldi@medfield.net](mailto:mbonoldi@medfield.net)
  - ~~Town Hall Hours (subject to change): M, W, Th: 8:30 am – 4:30 pm / T: 8:30 am – 7:30 pm / F: 8:30 am – 1:00 pm~~
  - **\*\* Due to the COVID-19 state of emergency, the decision will be mailed on Friday, May 28, 2020 to Attorney O'Brien for electronic filing at the Registry.**
- Take the Town Clerk's letter & the decision to the Registry of Deeds in Dedham and record them.  
(There is a fee of around \$76 according to recent filings.)  
Norfolk County Registry of Deeds  
649 High St, Dedham, MA  
(781) 461-6101 [norfolkdeeds.org](http://norfolkdeeds.org)

#### Directions from Town Hall, Medfield:

- 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 give them the Book and Page numbers.

Sarah Raposa, Town Planner  
(508) 906-3027  
[sraposa@medfield.net](mailto:sraposa@medfield.net)



# 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: Mayrock Development, LLC

DECISION DATE: April 29, 2020

DATE OF FILING DECISION: May 8, 2020

DECISION NUMBER: 1386

At a public hearing held on April 29, 2020 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 fifty-six (56) unit rental development on property located at 50 Peter Kristof Way, Medfield, Massachusetts, on Assessors Map 48, Parcel 029 in the RS zoning district.

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](http://www.town.medfield.net) > Boards and Committee > Zoning Board of Appeals under "ZBA Decisions."

*\*\* Due to the COVID-19 state of emergency, copies of the decision are only available by email or via the website. Please call or email with questions. \*\**

Sarah Raposa  
Town Planner  
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# TOWN OF MEDFIELD

Office of the

## BOARD OF APPEALS

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

(508) 906-3027

No. 1386

May 8, 2020

### DECISION ON THE APPLICATION OF MAYROCK DEVELOPMENT, LLC FOR A COMPREHENSIVE PERMIT

RECEIVED  
TOWN OF MEDFIELD, MASS  
2020 MAY - 8 A 8:31  
OFFICE OF THE  
TOWN CLERK

#### I. BACKGROUND

1. On October 31, 2019, Mayrock Development, LLC, (the “Applicant”) submitted a comprehensive permit application to construct a fifty-six (56) unit rental development on property located at 50 Peter Kristof Way, Medfield, Massachusetts (the “Site” or the “Property”).
2. The Zoning Board of Appeals (“Board”) opened the public hearing on November 25, 2019. The Board closed the public hearing on April 29, 2020. The Board voted to grant this Comprehensive Permit, with conditions, on April 29, 2020.
3. The Site is located in the Residential Suburban (RS) Zoning District. The Site is also located within (or partially within) the Watershed Protection District, the Flood Plain District and 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.
4. The Site is shown as 50 Peter Kristof Way, on Assessors Map 48, Parcel 029.
5. The Site has frontage on Peter Kristof Way and West Street (both public ways in the Town of Medfield). The sole access to the Site is proposed via Peter Kristof Way.
6. The existing use of the Site is for an American Legion facility. The Project will be new construction. Proximate land uses are mainly business with some abutting

industrial (former landfill) and nearby residential use. 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 Sean P. Reardon, P.E., and 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, Michael Witcher, Member, and Jared Gustafson, Associate Member.
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 July 15, 2019, a copy of which was provided to the Board with the original application.
  - (c) By including with its application a copy of a Purchase and Sale Agreement dated October 2, 2018 between the Applicant and the owner of the Site, Beckwith Post No. 110, Inc., along with an Amendment to the Purchase and Sale Agreement dated September 30, 2019, 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 September 14, 2017, the number of low or moderate income housing units in the Town of Medfield constituted 8.29% 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 9, 2020.
- (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 June 10, 2019 certification letter from DHCD, by letter dated November 25, 2019, in compliance with the requirements of 760 CMR 56.03(8). DHCD was provided a copy of the November 25, 2019 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 fifty-six (56) rental units within a single four (4) story residential structure, 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, Mayrock Development, LLC. The Site is the property located at 50 Peter Kristoff Way, 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 “AURA AT MEDFIELD”, 50 Peter Kristof Way, Site Plan of Land, Medfield, MA, dated October 29, 2019 prepared by Legacy Engineering, with revisions through February 4, 2020, consisting of sheets C-0 through C-7.

ii. Architectural Plans entitled “Aura at Medfield”, 50 Peter Kristof Way –

Medfield, MA, prepared by CJC Architectural Design, dated October 24, 2019, with revisions through April 15, 2020, consisting of sheets T001, A101-105, A201-203, A210, A300-303, A310, A311, A320, A321, A350, A360, A401, A402, A501, 510, A511, A550, A610, A620, and A801-804.

- 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 fifty-six (56) apartment units for rent located on one (1) lot, and other related residential amenities, all as shown on the Approved Plans. Fourteen (14) of the units are proposed as affordable units.
- A.5 There shall be a minimum of ninety-six (96) parking spaces.
- A.6 The Project shall consist of thirty-one (31) one-bedroom units, nineteen (19) two-bedroom units, and six (6) three-bedroom units, as depicted on the Approved Plans.
- A.7 Pursuant to the Waiver List voted upon by the Board at the April 29, 2020 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. 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 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.
- 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.
- 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 fourteen (14) units in the Project shall be rented 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 rental 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 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, in consultation with the Board's engineer, 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 forty-five (45) 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 Board and 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 lot 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.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 no new fire hydrant locations are required 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.
- 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 a.m. and 7 p.m., Monday through Saturday. 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 A 6' fence shall be installed along the southeastern property line separating the site from the former landfill.
- E.17 Trash and recycling shall be via interior trash disposal and recycling center on the Property as shown on the Approved Plans.

**F. Traffic Safety Conditions**

- F.1 The area along Peter Kristof Way 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).

- F.3 The Applicant shall install MUTCD-compliant stop lines and stop signs at the intersection of Peter Kristof Way and West Street, and at the intersection of the proposed driveway and Peter Kristof Way.
- F.4 The Applicant shall install an ADA compliant sidewalk between the Property and the proposed bus stop on West Street. The Applicant must also indicate the location of the proposed bus stop on the Final Plans.
- F.5 No parking shall be allowed on West Street or Peter Kristof Way during construction or operation.
- F.6 The entrance radii shall be vertical granite curbing.

**G. Police, Fire, and Emergency Medical Conditions**

- G.1 Appropriate sight distance shall be maintained at the intersection of the Project Driveway and Peter Kristof Way. Site triangles areas must be kept free of objects greater than two feet (2') in height.
- 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.
- G.3 The Applicant shall coordinate with the Medfield Fire Department to ensure access to the rear of the proposed structure. The Fire Department shall review and provide administrative approval of Final Plans to ensure such access is adequate.

**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.
- H.4 The existing septic system on the Property is to be abandoned pursuant to the requirements of the Medfield Board of Health.

**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 April 29, 2020, 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 

  
\_\_\_\_\_  
Michael Whitcher, Member 

  
\_\_\_\_\_  
Jared Gustafson, Associate Member 

WILLIAM MCNIFF, MEMBER, JARED SPINELLI, ASSOCIATE 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.

Dated: May 8, 2020  
Filed with the Town Clerk on May 8, 2020.

  
\_\_\_\_\_  
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. Board of Appeals 40A Rules and Regulations.

**Board Action: The Board's Rules and Regulations for hearings held pursuant to G. L. c. 40A are not applicable to a comprehensive permit application filed pursuant to G. L. c. 40B, §§ 20-23. Accordingly, this waiver is denied as unnecessary.**

2. Medfield Rules and Regulations Governing the Subdivision of Land.

**Board Action: The Applicant has not sought approval of a subdivision of land, therefore, pursuant to 760 CMR 56.05(7) a waiver of subdivision rules and regulation is not necessary. Accordingly, this waiver is denied as unnecessary.**

3. Medfield Wetlands Protection Bylaw Regulations Article IX, Section 6, 50-Foot Undisturbed Resource Area: To allow work up to 25 feet from the wetland within the 50-foot wetland buffer as shown on the Approved Plans

**Board Action: Waiver Granted.**

4. Modified Site Plan Review Rules.

**Board Action: Because this is a comprehensive permit, Site Plan Review Rules are not applicable. Accordingly, this waiver is denied as unnecessary.**

5. Medfield Stormwater Management Bylaw (Chapter 235).

- a. Section 235-10 To not require surety.

**Board Action: Waiver Granted. Any surety requirements for the Project are contained within the conditions of this comprehensive permit.**

b. Section 235-16 To not require compliance with Section 310-5.2.C with respect to Stormwater Management System design. Specifically, from Section 310-5.2.C(1)(h) to not require any 100-foot "no-disturb buffer zone" (extending 100 feet from the maximum high water level in the proposed enclosed leaching system); and from Section 310-5.2.C(2)(b) to allow the use of HDPE pipe in lieu of Class III RCP.

**Board Action: Waiver Granted.**

6. Medfield Board of Health Regulations for Stormwater and Runoff Management.

- a. To allow a decrease in the total volume and rate of runoff and to analyze

the 2-year, 10-year and 100-year storms instead of the 1-year, 10-year, 50-year and 100-year storms.

**Board Action: Wavier Granted.**

b. To use TP-40 rainfall data, which is acceptable to MassDEP, in lieu of NRCC rainfall data.

**Board Action: Waiver Granted.**

7. Town of Medfield's Fee Schedules. The Applicant has requested a waiver of fees related to the Bylaws and Rules and Regulations of the Board of Selectmen, Board of Health, Planning Board, Zoning Board of Appeals, Water Department, Highway Department and the Building Department.

**Board Action: To the extent that the Applicant requests the waiver of application fees for approvals which are subsumed as part of the comprehensive permit process (such as for site plan approval, approval under the local wetlands bylaw, etc.), such waiver request is denied as unnecessary. The Applicant is not required to file separate applications for these local permits, and thus is not subject to filing fees for such permits. To the extent that the Applicant is seeking waivers of other fees, such as building permit fees or connection fees, such request is denied.**

8. Zoning Bylaw Section 300- 2.1: Requiring parking spaces to be 9.5' x 18', to allow spaces which are 9' x 18'.

**Board Action: Waiver Granted.**

9. Zoning Bylaw Section 300-5.1: Prohibiting use or occupation of building except for purposes permitted in its district. The Applicant seeks to allow a multi-family use in the RS Zoning District.

**Board Action: Waiver Granted.**

10. Zoning Bylaw Section 300-5.3A: Requiring Uses permitted by right or by special permit shall be subject to all provisions of the Bylaw.

**Board Action: Waiver Granted, to the extent that specific waivers providing relief from the requirements of the Bylaw have been granted. All other provisions of the Bylaw remain applicable.**

11. Section 300-5.3F: This section requires a sewer connection system in compliance with the rules of the Water and Sewerage Board. The Applicant requests a connection which may be inconsistent with the rules of the Water and Sewerage Board (although no specific inconsistencies were noted).

**Board Action: Waiver Request Withdrawn.**

12. Zoning Bylaw Section 300 5.3H: This provision requires Site Plan Approval from the Planning Board for multifamily uses. The Applicant seeks a waiver to allow a multi-family use without Site Plan Approval.

**Board Action: Waiver Denied as unnecessary, because a comprehensive permit subsumes the need for Site Plan Approval. The Board acknowledges that the Project does not require Site Plan Approval.**

13. Zoning Bylaw Section 300-5.2, 5.4 and Attachment 1: This section addresses limitations of Uses set forth in the Table of Use Regulations and Area Regulation. The Applicant requests that a waiver be granted allowing a multifamily building in the RS district, contrary to the Table of Uses, which does not allow a multifamily building in the RS district.

**Board Action: Waiver Granted.**

14. Zoning Bylaw Section 300-6.1 and 300 Attachment 3: Area, Height, and Bulk Regulations. The Applicant requests the following waivers:

	<b>Allowed</b>	<b>Requested</b>
Maximum Height (feet)	35'	55'*
Lot Coverage	20%	32%
Permitted Height (stories)	2 ½	4
Floor Area Ration (FAR)	0.35	0.46
Multifamily Dwelling	Not Permitted	To Be Permitted

*\* Included the 52.0' height of the structure plus the difference in average existing grade vs. average proposed grade around the building.*

**Board Action: Waivers Granted.**

15. Zoning Bylaw Section 300- 6.2F: Requires building with the Open Space Residential zoning district to be subject to the requirements of Article 7 of the Bylaw, within the Floodplain District to be subject to the requirements of Article 10 of the Bylaw, within the Watershed Protection District to be subject to the requirements of Article 11 of the Bylaw, and within the Aquifer Protection District to be subject to Article 16. The Applicant requests a blanket waiver of these requirements.

**Board Action: To the extent the Applicant requests a waiver of the permitting requirements of Sections 7, 10, 11 and 16 of the Bylaw, such request is denied as unnecessary, as such permitting processes are subsumed within the comprehensive permit process. To the extent the Applicant seeks waivers of substantive provisions of Sections 7, 10, 11 and 16, such waivers are granted only as specifically set forth herein.**

16. Zoning Bylaw Section 300- 6.2O: Requires all R and A uses shall conform to R

and A District Regulations. The Applicant seeks a waiver to allow a multi-family building that does not comply with all of the requirements of the RS Zoning District.

**Board Action: Waiver Granted, to the extent that specific waivers of the requirements of the RS Zoning District have been granted herein. To the extent that waivers have been granted for specific provisions of the Bylaw, the Project shall not be required to comply with such requirements to comply with Section 300-6.2O.**

17. Zoning Bylaw Section 300-6.3A:

**Board Action: Waiver Request Withdrawn.**

18. Zoning Bylaw Section 300- 6.3D: This section contains the Lot Coverage requirement, limiting the amount of impervious area on a property to 20%. The Applicant requests a waiver to allow a maximum lot coverage of 32%.

**Board Action: Waiver Granted.**

19. Zoning Bylaw Article 8 Sections 300-8.1: This section contains the parking regulations, requiring a minimum 2 spaces per unit. The Applicant requests a waiver to allow 1.7 parking spaces per unit.

**Board Action: Waiver Granted.**

20. Zoning Bylaw Article 8 Sections 300-8.2F: This section prohibits off-street parking within the required front yard or side yard. The Applicant seeks to have off-street parking allowed as shown on the Approved Plans.

**Board Action: Waiver Granted.**

21. Zoning Bylaw Article 8, Section 300-8.2I: Requires drainage for parking and loading spaces to be reviewed and approved by the Planning Board and inspected by the Zoning Enforcement Officer, and requires approval of the same by the Planning Board before Certificates of Occupancy may be issued.

**Board Action: Waiver Denied. This is a procedural waiver that is subsumed by the comprehensive permit, and is thus unnecessary. For the purpose of clarity, the issuance of the comprehensive permit (and subsequent review of Final Plans) satisfies the requirements of Section 300-8.2A, and no approval by the Planning Board is required for the issuance of occupancy permits.**

22. Zoning Bylaw Article 8, Section 8.3A.1: This provision prohibits vehicle parking or loading spaces within five feet (5') of any front, side or rear lot line.

**Board Action: Waiver Granted to allow parking spaces as shown on the Approved Plans.**

23. Zoning Bylaw Article 8, Section 8.3B.1: This section requires screening for parking areas consistent with the requirements of Article 6, Sections 300-6.2I and J.

**Board Action: Waiver Granted to allow screening as shown on the Approved Plans.**

24. Zoning Bylaw Article 8, Section 8.3B.2: This section requires a substantial bumper of masonry, steel, heavy timber or concrete curb stop to be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks.

**Board Action: Waiver Granted to allow curbing as shown on the Approved Plans.**

25. Zoning Bylaw Article 10, Sections 300-10.3A1 and 10.4: These provisions require the issuance of a special permit for uses within the Flood Plain District. The Applicant requests that no such special permit be required.

**Board Action: Waiver Denied as unnecessary. This is a procedural requirement which is subsumed as part of the issuance of the comprehensive permit, accordingly, no waiver is required.**

26. Zoning Bylaw Article 10, Section 10.5.D: This provision requires a determination from the Board of Appeals, Building Inspector, Board of Health, Conservation Commission and Planning Board that all requirements of all permits have been satisfied before a Certificate of Occupancy may be issued.

**Board Action: Waiver Granted to the extent that this provision requires certification of compliance with local rules and requirements by boards/commissions other than the Board or the Building Commissioner. This waiver does not relieve the Applicant from departmental sign-offs prior to the issuance of Certificates of Occupancy for issues relating to state permits such as the Wetlands Protection Act, Title 5 or other state requirements administered locally.**

27. Zoning Bylaw Article 12 Sections 300-12: This section requires Board of Selectmen approval for Earth Removal. The Applicant requests a waiver to allow approval for any earth removal to be granted as part of the issuance of the comprehensive permit.

**Board Action: Waiver request denied as unnecessary. The issuance of a comprehensive permit subsumes all other local permitting processes, therefore waiver of the requirement for approval of the Board of Selectmen for earth removal is unnecessary. The Board acknowledges that no permit from the Board of Selectmen is necessary for the earth removal associated with the Project.**

28. Zoning Bylaw Article 12, Section 300-12.8(D): This section requires approval of the earth removal to contours approved by the Board of Selectmen. The Applicant requests that the earth removal be allowed to the contours shown on the Approved Plans.

**Board Action: Waiver denied as unnecessary. The issuance of a comprehensive permit subsumes all other local permitting processes, therefore waiver of the requirement for approval of the Board of Selectmen for earth removal is unnecessary. The Board acknowledges that no permit from the Board of Selectmen approving the contours for earth removal is necessary.**

29. Zoning Bylaw Article 12, Section 300-12.8(F): Requires areas where earth removal occurs to be seeded with rye grass at a rate of 200 pounds per acre. The Applicant requests that landscaping be allowed consistent with the Approved Plans.

**Board Action: Waiver Granted.**

30. Zoning Bylaw Article 12, Section 300-12.8(G): Requires areas disturbed by earth removal to be planted with fingerling fir, white pine or other approved trees, five to six feet on centers. The Applicant requests that the tree planting be allowed consistent with the Approved Plans.

**Board Action: Waiver Granted.**

31. Zoning Bylaw Article 14, Section 300-14.2: This section requires required permits to be issued prior to construction of structures. The Applicant requests this requirement be waived to allow all local approvals to be issued by the Board.

**Board Action: Waiver Denied. To the extent that Article 14, Section 300-14.2 addresses the issuance of state permits, such as a building permit under the State Building Code, the Board has no authority to grant a waiver. To the extent this waiver request addresses only the issuance of local permits, such waiver is unnecessary, as the comprehensive permit subsumes all local permits without the need for the issuance of a specific waiver.**

32. Zoning Bylaw Article 14, Section 300-14.5: This section states that fees shall be established by the Board of Selectmen. The Applicant requests that the Board be allowed to waive certain (unspecified) fees.

**Board Action: Waiver Denied. To the extent that the Board chooses to waiver specific fees, such waiver does not require a specific waiver of this section.**

33. Zoning Bylaw Article 14, Section 300-14.10: This section sets forth the special permit procedures for special permits issued by the Board. The Applicant requests that this provision be waived to allow all local approvals to be issued by the Board under Chapter 40B.

**Board Action: Waiver Denied as unnecessary. The issuance of a comprehensive permit subsumes all local approval requirements, such as special permits. The Board acknowledges that no special permit requirements may be made applicable to**

**the Project.**

34. Zoning Bylaw Article 14, Section 300-14.12: This section contains the site plan approval requirements of the Planning Board. The Applicant requests a waiver of this section to allow all approvals to be issued by the Board.

**Board Action: Waiver Denied as unnecessary. The issuance of a comprehensive permit subsumes all local approval requirements, such as site plan approval. The Board acknowledges that site plan approval is not required for this Project.**

35. Zoning Bylaw Article 14, Section 300-14.15: This section sets forth the special permit procedures for special permits issued by the Planning Board. The Applicant requests that this provision be waived to allow all local approvals to be issued by the Board under Chapter 40B.

**Board Action: Waiver Denied as unnecessary. The issuance of a comprehensive permit subsumes all local approval requirements, such as special permits. The Board acknowledges that no special permit requirements may be made applicable to the Project.**

36. Zoning Bylaw Article 14, Section 300-14.16: This section contains the Town's Inclusionary Zoning Bylaw, requiring compliance for projects containing six or more dwellings. The Applicant requests that the affordable housing requirements contained in this section be waived in favor of compliance with the affordable housing requirements of Chapter 40B.

**Board Action: Waiver Granted, to allow compliance with the affordable housing requirements of the Subsidizing Agency pursuant to Chapter 40B.**

37. Zoning Bylaw Article 16, 300-16.6(A)(4): This section allows residential developments permitted in the underlying district to be constructed in the Aquifer Protection District if allowed in the underlying zoning district. The Applicant requests that multi-family housing be allowed in the Aquifer Protection District even though not allowed in the underlying zoning district.

**Board Action: Waiver Granted.**

38. Zoning Bylaw Article 16, 300-16.6(B)(2): This section prohibits injection wells of any kind in the Aquifer Protection District. The Applicant requests a waiver to allow the proposed underground infiltration field, a Class V injection well.

**Board Action: Waiver Granted.**

39. Zoning Bylaw Article 16, 300-16.8(A): This section requires a special permit from the Board of Appeals for any use with the Aquifer Protection District. The Applicant requests a waiver of the special permit requirement.

**Board Action: Waiver Denied as unnecessary. The issuance of a comprehensive permit subsumes all local approval requirements, such as special permits. The Board acknowledges that no special permit requirement is required to authorize the construction of the Project within the Aquifer Protection District.**

**Exhibit A: Materials Submitted to the Board**

- Aura Application Submission 10/31/19
- Aura Revised Submission 02/06/20
- Revised Architectural Plans 04/15/20
- Department Comments
  - Board of Health
  - Conservation Commission
  - Fire Department
  - Building Commissioner
  - Department of Public Works
  - Police Department
- Tetra Tech Review Letters
  - 01/03/20
  - 3/5/20
  - 3/20/20