



TOWN OF WARE

Planning & Community Development
126 Main Street, Ware, Massachusetts 01082
(413) 967-9648 ext. 120

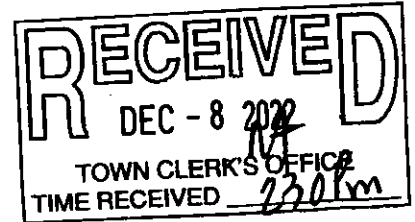
PLANNING BOARD

MEETING AGENDA

Location: Board of Selectmen's Meeting Room
Town Hall, 126 Main Street, Ware, MA 01082
Date & Time: Thursday, December 15th, 2022 @ 7:00 PM

Digital Participation:

Phone number: 929-205-6099
Meeting ID: 784 604 1861
Passcode: 01082



Instructions for call-in option: at or before 7pm call the phone number above and when prompted enter the Meeting ID number. The platform is Zoom Meetings. Join online: <https://zoom.us/join>

-
- **Pledge of Allegiance**
 - **Administrative**
 - Approval of minutes from December 1st, 2022
 - Approval of Planning Board Meeting schedule for 2023
 - **Public Hearings**
 - 7:05pm: SP-2022-11 (Pineapple Express, LLC.)
 - Applicant is requesting a Special Permit to operate a Marijuana Delivery Service at 124 C West Street. Deeded in the Hampshire County Registry of Deeds, Book 9606, Page 318. Assessor's Parcel 56-0-94. Zone Highway Commercial (HC).
 - **Old Business**
 - Review of newly proposed Subdivision Regulations
 - Sections 2.4.10 (Evidence of Performance and Release/Partial Release of Performance Guarantee) to Section 2.4.14 (Road Acceptance) [Pages 37-45]
 - **New Business**
 - *Any items that the Chairman did not anticipate adding before the creation of this agenda.*
 - **Town Planner Update**

The next Planning Board meeting will be held January 6th, 2023.



TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082

t. 413.967.9648 ext. 120

Planning Board

Meeting Minutes from

Thursday, December 1st, 2022

Selectboard Meeting Room

126 Main Street, Ware MA 01082

Planning Board Members in Attendance:

Rick Starodoj	Chair
Nancy Talbot	Vice Chair
Ken Crosby	
Ed Murphy	
Chris DiMarzio	Absent
Elizabeth	Alternate
Hancock	

Staff Members in Attendance:

Rob Watchilla	PCD Department Director
Anna Marques	Building Commissioner/Zoning Officer
Kristen Jacobsen	PCD Dept. Admin. Assistant
Nancy Talbot	Town Clerk
Stuart Beckley	Town Manager

Members of the Public in Attendance:

Jennifer Knight	Sadie Milner
Ira Cameron	Barbara Swiercz
Donald Frydryk	Tony Swiercz
Karen Hubaz	Kathleen Knight
	Josh Kusnierk

PLEDGE OF ALLEGIANCE

Chairman R. Starodoj called the meeting to order at 7:00pm and led the Pledge of Allegiance.

ADMINISTRATIVE

Approval of Minutes from November 17th, 2022

Motion made by N. Talbot to approve the minutes as submitted from Thursday, November 17, 2022. Seconded by E. Murphy. There was no additional discussion.

R. Starodoj	Aye
N. Talbot	Aye
E. Murphy	Aye

K. Crosby	Aye
C. DiMarzio	Absent
Four in favor. One Absent Approved 4/0/1.	

ANR-2022-12 (252 Belchertown Road)

- *Board will vote to decided that their approval is not required under the Subdivision Control Law*

R. Watchilla reviewed the site plan with the board and explained that the redrawing of this property line will help the parcel conform although the structure will remain non-conforming.

Motion made by E. Murphy to approve **ANR-2022-12 (252 Belchertown Road)**. Seconded by N. Talbot. There was no additional discussion.

R. Starodoj	Aye
N. Talbot	Aye
E. Murphy	Aye
K. Crosby	Aye
C. DiMarzio	Absent
Four in favor. One Absent Approved 4/0/1.	

Public Hearing SP-2022-10- Bond Construction – 219 Babcock Tavern Road

E. Hancock recused herself

R. Starodoj read the legal notice.

K. Hubaz spoke to the board and introduced the engineer D. Frydryk. D. Frydryk gave a presentation detailing the scope of the project. R. Watchilla read the permit summary and the comments submitted from Conservation Agent John Prenosil. The Building Department advised that the project encroaches on the 50' set back which the proponent said was for grading aesthetics and topography. The board asked for clarification on the amount of earth being removed (194,500 cubic yards) and the hours of operation which K. Hubacz stated that it is listed as Monday through Saturday from 7am-5pm. No earth removal or hauling would be done on Saturday as that day would only be for equipment maintenance. The Planning Board then opened the Public Hearing for public comments. Abutter E. Hancock stated her concerns of the project.

Motion by N. Talbot to continue the Public Hearing to January 5, 2023, at 7:30pm in the Selectmen's Meeting Room at Town Hall. Seconded by E. Murphy. The board clarified no additional abutters notices are required for the continuance of a Public Hearing.

R. Starodoj	Aye
N. Talbot	Aye
E. Murphy	Aye
K. Crosby	Aye
C. DiMarzio	Absent

Four in favor. One Absent Approved 4/0/1.	
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Motion made by E. Murphy to table the review of the subdivision regulations until December 15, 2022. Seconded by N. Talbot. No additional discussion.

R. Starodoj	Aye
N. Talbot	Aye
E. Murphy	Aye
K. Crosby	Aye
C. DiMarzio	Absent
Four in favor. One Absent Approved 4/0/1.	

Motion made by E. Murphy to adjourn the meeting at 8:40pm. Seconded by N. Talbot. No additional discussion.

R. Starodoj	Aye
N. Talbot	Aye
E. Murphy	Aye
K. Crosby	Aye
C. DiMarzio	Absent
Four in favor. One Absent Approved 4/0/1.	

NEXT PLANNING BOARD MEETING DATE:

Thursday, December 15th, at 7:00pm.

Minutes from Thursday, December 1st, 2022.

Respectfully submitted by,

Kristen Jacobsen
Administrative Assistant
Planning & Community Development

Minutes Approved on: _____

Starodoj _____

Murphy _____

Talbot _____

Crosby _____

DiMarzio _____



TOWN OF WARE

Planning and Community Development
126 Main Street, Ware, Massachusetts 01082
t. 413.967.9648 ext.120

PLANNING BOARD 2023 MEETING DATES

Location: Selectmen's Meeting Room, Town Hall, 126 Main Street, Ware, MA 01082
Time: 7:00 PM, 1st and 3rd Thursday of Each Month

January 5	July 6
January 19	July 20
February 2	August 3
February 16	August 17
March 2	September 7
March 16	September 21
April 6	October 5
April 20	October 19
May 4	November 2
May 18	November 16
June 1	December 7
June 15	December 21

The Ware Planning Board (PB) usually meets the first and third Thursday of each month, however, meeting dates are subject to change.

For actual dates and official meeting agenda postings, please visit the Town Clerk bulletin board at Town Hall or the website: townofware.com

Note: Agendas list items that are reasonably anticipated by the staff and Chairman to be discussed at the meeting. Other items may be brought up for discussion to the extent permitted by law. The general public is invited to attend any and all meetings of the Ware Planning Board.

Updated on Dec. 2, 2022



TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082
t. 413.967.9648 ext.118 rwatchilla@townofware.com

Notice of Public Hearing Planning Board

LEGAL NOTICE

to be published in the *Ware River News*
issues 12/1/2022 and 12/8/2022

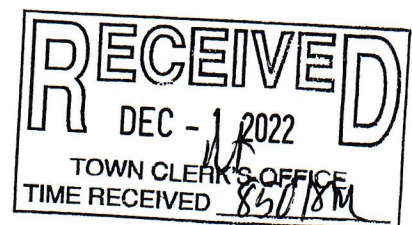
SP-2022-11 & SPR-2022-04

NOTICE is hereby given that the Ware Planning Board, acting as the Special Permit Granting and Site Plan Review Authority, will hold a Public Hearing on **THURSDAY, December 15th, 2022 at 7:05pm**, on the application of Pineapple Express, LLC., for a Special Permit and Minor Site Plan Review to operate as a Marijuana Delivery Operator under Section 4.8.8, of the Zoning Bylaw, and pursuant to MGL Chapter 40A. Pursuant to Chapter 22 of the Acts of 2022, this hearing will be conducted in person and via remote means, in accordance with applicable law. This means that members of the Planning Board as well as members of the public may access this meeting in person, or via virtual means. In person attendance will be held in the Board of Selectman's Meeting Room, 126 Main Street, Ware, MA. It is possible that any or all members of the public body may attend remotely, with in-person attendance consisting of members of public. The meeting may be accessed remotely via zoom. Go to <https://zoom.us/join> or join by phone. Phone Number: 929-205-6099; Meeting ID: 784 604 1861; Password: 01082.

SITE LOCATION: 124 C West Street, Ware, MA. Said premises being further described in deeds recorded in the Hampshire County Registry of Deeds, Book 9606, Page 318. Property is also identified as Assessor's Parcel 56-0-94. Zoned: Highway Commercial (HC).

A complete copy of the application can be found at the Town Clerk's office and on the Planning & Community Development Department website under Recent Filings. Anyone interested or wishing to be heard on the application should appear at the time and place designated.

WARE PLANNING BOARD





TOWN OF WARE
Planning & Community Development
126 Main Street, Ware, MA 01082
t. 413.967.9648 ext. 120

PERMIT SUMMARY REPORT

To: Planning Board
From: Robert A. Watchilla, Director of Planning & Community Development
Date: December 15, 2022
Permit: **Special Permit (SP-2022-11) and Site Plan Review (SPR-2022-04) for Pine Apple Express, LLC. – Marijuana Delivery at 124 C West Street**

The applicant is requesting a special permit and site plan review to operate a Marijuana Delivery Business out of 124 C West Street. The following materials were submitted to the Planning & Community Development Office on November 30, 2022:

- **Special Permit and Site Plan Review Applications**
 - Applicant is listed as “Kaily Hepburn, Managing Member of Pineapple Express, LLC.”
 - Owner is listed as “Aldrich Management Company” based out of 1975 Hempstead Turnpike, Suite 309, East Meadow, NY 11554.
 - Highway Commercial (HC)
 - Tax Parcel ID: 56-0-94.
 - Applicant stated that they intend on renovating the inside of the building.
- **Landowner Authorization Form**
 - Signed by Aldrich Management Company giving their permission for the applicant to pursue the Special Permit and Site Plan Review.
- **Application Packet which includes**
 - Community Host Agreement (applicant was unable to obtain the official signed copy from the Town Manager’s Office, but they do have an existing CHA with the Town).
 - GIS Map Print with list of abutters.
 - *They are more than 300 feet away from the nearest childcare or health facility.*
 - A summary of their security plan:
 - *Very detailed descriptions of Access, Limited Access Areas, Visitor Policy, Security & Alarm Requirements, Storage & Facility Security, Buffer Zone, Waste Disposal, Cash Handling & Transportation Requirements, Emergency Policies & Incident Reporting, Security Audits, and Delivery.*
 - Traffic Memorandum

- *Prepared by Stephen E. Poole and T.T. Chiang, P.E. of Lakeview Engineering Associates.*
- *Estimate that the proposed use would generate 36 vehicle trips per day.*
- *Do not see it further congesting West Street.*
- **Plans of the Proposed Project**
 - Prepared by Tsung Ting Chiang, P.E.
 - Include preexisting surveyed site plans of the entire property (drawn at 1" = 40').
 - Includes a second plan which shows the location of Pineapple Express, LLC., and the layout of the alley way behind the building (drawn at 1" = 10').

Comments from Other Departments

- *No comments have been received by other departments for the proposed use.*

END OF REPORT

Planning Board
Zoning Board of Appeals

Robert A. Watchilla
Director of Planning &
Community Development

Town of Ware

Planning & Community Development

Application for Special Permit



126 Main Street
Ware, MA 01082
413.967.9648 ext. 120
www.townofware.com

SP-20 22 - 11

Applicant
Name of Applicant (primary contact): Kaily Hepburn, Managing Member of Pineapple Express, LLC
Address: 124 C West Street, Ware, MA 01082
Phone: (413) 478-7878 Cell: (413) 478-7878
Email Address: KailyHepburn@KailyHepburnLaw.com

Owner
Name of Owner (primary contact): Aldrich Management Company
Address: 1975 Hempstead Turnpike, Suite 309, East Meadow, NY 11554
Phone: (516) 223-6200 Cell: _____
Email Address: ryan@upcli.com

Request
Choose applicable Zoning Bylaw Section: 4.3.23; 4.8.8; 7.2; 7.4
Will the project require a: **Site Plan Review:** ☒ Yes* ☐ No **Variance:** ☐ Yes* ☒ No *Explain in narrative

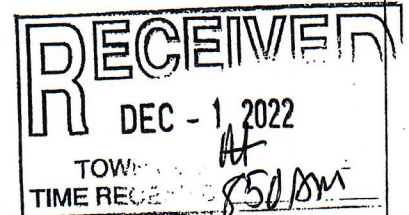
Property
Location of Property: 124 C West Street, Ware, MA 01082
Assessor's Tax Map/Parcel Number: 56 0-94
Deed Reference – Hampshire District Registry of Deeds Book/Page Number: Book 9606, Page 318
Plan Reference – Hampshire District Registry of Deeds Book/Plan Number: _____
Zoning District: Highway Commercial (HC) Acreage: 7 acres (entire parcel); 1900 sf (PEX)
Check all that apply: ☐ Wetlands ☐ Floodplain ☐ Aquifer

Proposal
Brief description of the proposal: Applicant applies for Site Plan Review and a Special Permit to operate a Delivery Operator Marijuana Establishment. Applicant plans to renovate the interior of the space.

Sign
Applicant's signature: Kaily S. Hepburn
Owner's signature: [Signature]
Date: 11/30/22

Town Clerk's stamp:

Official Use Only: Preliminary Review By: RW Date 11/30/22
Fee: \$ 173.00 Date Paid: 11/30/22 Check #: _____
Date of Public Hearing: 12/15/2022
Decision of Board: _____
Date of Decision: _____ Expiration Date: _____



Town of Ware

Planning Board

Robert A. Watchilla
Director of Planning &
Community Development

Planning & Community Development

Application for Site Plan



126 Main Street
Ware, MA 01082
413.967.9648 ext. 120
www.townofware.com

SPR-20 22 - 04

Applicant
Name of Applicant (primary contact): Kaily Hepburn, Managing Member of Pineapple Express, LLC
Address: 124 C West Street, Ware, MA 01082
Phone: _____ Cell: (413) 478-7878
Email Address: KailyHepburn@KailyHepburnLaw.com

Owner
Name of Owner (primary contact): Aldrich Management Company
Address: 1975 Hempstead Turnpike, Suite 309, East Meadow, NY 11554
Phone: (516) 223-6200 Cell: _____
Email Address: ryan@upcli.com

Request
Choose applicable Zoning Bylaw Section: 4.3.23; 4.8.8; 7.2; 7.4
Will the project require a: **Special Permit:** ☒ Yes* ☐ No **Variance:** ☐ Yes* ☒ No *Explain in narrative

Property
Location of Property: 124 C West Street, Ware, MA 01082
Assessor's Tax Map/Parcel Number: 56 0-94
Deed Reference – Hampshire District Registry of Deeds Book/Page Number: Book 9606, Page 318
Plan Reference – Hampshire District Registry of Deeds Book/Plan Number: _____
Zoning District: Highway Commercial (HC) Acreage: 7 acres (entire parcel); 1900 sf (PEX)
Check all that apply: ☐ Wetlands ☐ Floodplain ☐ Aquifer

Proposal
Proposed use (check applicable category and write in specific uses from Use Table, Section 4.2 of the Zoning Bylaw):
☐ Multi-family Residential ☐ Public/Civic ☐ Agricultural ☐ Office/Research ☐ Retail Business/Consumer Service
☐ Industrial ☐ Solar Specific Uses: Marijuana Establishment, Delivery Operator 4.3.23
Units: 1 # Square Feet (nonresidential): 1900 # Parking Spaces: 10

Sign
Applicant's signature: Kaily S. Hepburn
Owner's signature: _____
Date: 11/30/2022

Official Use Only: Preliminary Review By: RL Date 11/30/22
Fee: \$ 100.00 Date Paid: 11/30/22 Check #: _____
Date of Public Hearing: 12/15/2022
Decision of Board: _____
Date of Decision: _____ Expiration Date: _____

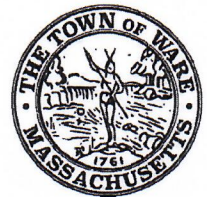
Town Clerk's stamp:

RECEIVED
DEC - 1 2022
TOWN CLERK
TIME RECEIVED <u>850 PM</u>

Planning Board &
Zoning Board of Appeals

Robert A. Watchilla
Director of Planning &
Community Development

Town of Ware
Planning &
Community Development
Land Owner
Authorization Form



126 Main Street
Ware, MA 01082
413.967.9648 ext. 120

Applicant

Name of Applicant (primary contact): Kaily Hepburn
Company: Pineapple Express, LLC
Address: 124 C West Street, Ware (Mailing: PO Box 895, West Springfield, MA 01089)
Phone: (413) 478-7878 Cell: (413) 478-7878
Email Address: KailyHepburn@KailyHepburnLaw.com

Owner

Name of Owner: Aldrich Management Company
Address: 1975 Hempstead Turnpike, Suite 309, East Meadow, NY 11554
Phone: (516) 223-6200 Cell: _____
Email: ryan@upcli.com

Property

Address of Property: 124 C West Street, Ware, MA 01082
Assessor's Tax Map/Parcel Number: 56 0-94

Proposal

Brief description of the proposed work: Applicant applies for Site Plan Review and a Special Permit to operate a Delivery Operator Marijuana Establishment. Applicant plans to renovate the interior of the space.

Authorization

As the owner or authorized agent of the property listed above, I hereby give permission to the Applicant as stated above to perform work at aforementioned property. Said permission includes, but is not limited to, acquiring all required permits and performing all work required to complete the project.

By signing this Form, I acknowledge and agree that I am not released from responsibility for:

- (a) the payment of any and all fees associated with the issuance of any: permits, orders, notices or other approvals ("Approvals") by the Town of Ware pursuant to any applications, including taxes, that effect said property;
- (b) the satisfactory completion of all work authorized by such Approvals in compliance with all applicable town, state and federal laws, codes, rules, regulations and requirements; and
- (c) correcting any violations of the terms and conditions of such Approvals issued by the Town of Ware pursuant to any application to effect my property.

Signature

Original Owner's Signature (Blue Ink Only): _____ Date: 11/30/22
Mailing Address: 1975 Hempstead Turnpike H309 Town/State/Zip: East Meadow, NY 11554
Phone Number: 516-223-6200 Email: spencer@upcli.com

SECURITY PLAN SUMMARY

Governed by 935 CMR 500.110

OVERVIEW

Pineapple Express, LLC's (PEX) security plan is being designed by Security Concepts and will implement policies and procedures to maintain a secure facility and to prevent diversion or other loss of marijuana products in accordance with 935 CMR 500.110. These policies are intended to protect the general public, employees, visitors and customers. PEX will identify each individual seeking entrance into the marijuana establishment to ensure that only licensed and permitted Marijuana Establishment Agents and such other individuals permitted by 935 CMR 500.000 are allowed access.

These policies will also provide for the proper storage and disposal of marijuana products. PEX will ensure that all excess marijuana is disposed of safely and will have in place the necessary storage areas and equipment for proper storage of marijuana, including established limited access areas. This equipment will include but is not limited to locked safes or vaults, keys, alarms, and cameras. In addition to these measures, PEX will ensure that all marijuana products are kept out of plain sight of public places outside of the marijuana establishment. We will also implement policies and procedures for situations following inadvertent diversion or loss of marijuana products. PEX will collaborate with law enforcement authorities and fire services and will share security plans, policies and procedures with those authorities.

ACCESS

PEX will implement security protocols and procedures to limit access to the licensed premises to only individuals that have been positively identified as 21 years of age or older. Loitering will be strictly prohibited. PEX will ensure that only individuals engaging in activity expressly or by necessary implication permitted by the Commission or applicable laws are allowed to remain on the premises. All entrances to the facility will be clearly marked and secured with commercial grade locks and alarms and will remain under clear 24/7 surveillance to prevent unauthorized access.

LIMITED ACCESS AREAS

PEX will designate limited access areas by posting clearly visible signs, no smaller than 12" x 12" which state: *"Do Not Enter-Limited Access Area-Access Limited to Authorized Personnel Only"* in lettering no smaller than one inch in height.

Limited access areas will only be accessible to specifically authorized personnel limited to include only the minimum number of employees essential for efficient operation. Furthermore, limited access areas will be restricted to employees, agents or volunteers specifically permitted by the PEX, agents of the Commission, Commission Delegates and state and local law enforcement acting within their lawful jurisdictions, police and fire departments and emergency medical services acting in the course of their official capacity. All limited access areas will be clearly described by the filing of a diagram of the premises reflecting entrances and exits, walls,

partitions, counters, propagation, vegetation, flowering, processing, production, storage, disposal and retail sales areas (as applicable).

PEX will require all employees to wear employee identification badges at all times while inside the marijuana establishment.

VISITOR POLICY

All outside vendors, contractors and visitors will be logged in and out, and PEX will maintain this log and make it available to the Commission for periodic inspection. Prior to entering a limited access area, vendors, contractors and visitors will obtain a visitor badge and will be escorted at all times by a Marijuana Establishment Agent authorized to enter the limited access area. Visitor badges will be visibly displayed at all times while the visitor is in any area. Agents will ensure that all visitor identification badges are collected before visitors leave the premises.

SECURITY & ALARM REQUIREMENTS

PEX shall have an adequate security system to prevent and detect diversion, theft or loss of marijuana or unauthorized intrusion, utilizing commercial grade equipment.

1. PEX will ensure that all outdoor areas of the facility are properly secured against unauthorized access. The facility will be equipped with a perimeter alarm on all building entry and exit points and perimeter windows.
2. The security alarm system will be continuously monitored by a third party and will alert employees of PEX within five minutes of a security system failure (either by telephone, email, or text message).
3. A duress, panic or hold up alarm connected directly to local public safety or law enforcement authorities will be installed in the vault and security surveillance area, at a minimum.
4. PEX will install video cameras in all areas that may contain marijuana or vaults or safes for the purpose of securing cash, at all points of entry and exit as well as in all parking lots which shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales areas, areas where marijuana is cultivated, harvested, processed, prepared, stored, handled or dispensed or where cash is kept and processed. Cameras will be angled so as to allow for the capture of clear and certain identification of any person entering or exiting the facility or area.
5. PEX will ensure that all video surveillance footage is maintained in accordance with 935 CMR 500.110 and can produce clear, color still photos, whether live or recorded, with a date and time stamp embedded in all recordings which shall be synchronized and set correctly at all times and not significantly obscure the picture. Recordings can be stored in a standard format. All recordings shall be erased or destroyed prior to disposal.
6. 24-hour recordings from all video cameras will be made available for immediate viewing by the Commission upon request. Recordings are retained for at least 90 calendar days or the duration of a request to preserve the recordings for a specified period of time made by the Commission (whichever is longer) and will not be destroyed or altered.

7. Recordings will be retained as long as necessary if PEx is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information.
8. PEx will ensure that the security equipment is in good working order and will be inspected and tested at regular intervals, not to exceed 30 calendar days from the last test.
9. PEx's security and alarm system will remain operational during a power outage for a minimum of four hours and, if it appears likely that the outage will last for more than four hours, PEx will take sufficient steps to ensure security on the premises in consultation with the Commission.
10. PEx will demonstrate to the Commission's satisfaction the safeguards that are in place to ensure continuous operation of a security system. All security system equipment and recordings will be maintained in a secure location to prevent theft, loss, destruction and alterations. Access to security system equipment and recordings will be limited to authorized agents requiring access in accordance with their operational responsibilities and those other individuals expressly allowed access pursuant to *935 CMR 500.000*.
11. PEx will have a back-up alarm system, with all the capabilities of the primary system, provided by a company supplying commercial grade equipment, which shall not be the same company supplying the primary security system, or shall demonstrate to the Commission's satisfaction alternate safeguards to ensure continuous operation of a security system.
12. Access to surveillance areas shall be limited to persons that are essential to surveillance operations, law enforcement authorities acting within their lawful jurisdiction, security system service personnel and the Commission. A current list of authorized employees and service personnel that have access to the surveillance room shall be made available to the Commission on request. If the surveillance room is onsite, it shall remain locked and shall not be used for any other function.

STORAGE & FACILITY SECURITY

All finished marijuana and marijuana products will be securely stored in a locked safe or vault accessible to a limited number of authorized individuals to prevent diversion, theft, or loss. PEx's safes and vaults and any other equipment or areas used for the storage of marijuana and marijuana products will be securely locked. In accordance with PEx's security policies and procedures, the safes, vaults and any other areas or equipment will be securely locked using commercial grade equipment and protected from entry, except for the actual time required to remove or replace marijuana. All entrances will be secured, loading areas will be secured and all Marijuana and Marijuana products will be kept out of plain sight and not visible from a public place.

PEx will keep all locks and security equipment in good working order. Keys, if utilized by PEx, will be prohibited from being left in locks and stored or placed in an area accessible to persons other than specifically authorized personnel. PEx will maintain a list of individuals with access to keys and a policy for key issuance and lock replacement.

Security measures will be strictly limited to specifically authorized marijuana establishment agents including accessibility of combination numbers, passcodes, electronic or biometric security systems.

The outside perimeter of the facility will be sufficiently lit to facilitate surveillance. All trees, bushes, and other foliage outside the establishment shall be maintained to prevent persons concealing themselves from sight. PEx will keep all marijuana products out of plain site and not visible from a public place without the use of binoculars, optical aids or aircraft.

BUFFER ZONE

The property where the facility will be located, at the time the license application is submitted to the Commission, is not located within 500 feet of a preexisting public or private school providing education in kindergarten or any of the grades one through twelve, unless the host community reduces the distance requirement. The distance shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the facility is located unless the host community measures otherwise.

WASTE DISPOSAL

In accordance with PEx's Waste Disposal Policies and Procedures, all waste will be disposed of in compliance with *935 CMR 500.105(12)*.

1. All recyclables and waste, including organic waste composed of or containing Finished Marijuana and Marijuana Products, shall be stored, secured and managed in accordance with applicable state and local statutes, ordinances and regulations. All exterior waste receptacles located on the Marijuana Establishment's Premises shall be locked and secured as to prevent unauthorized access.
2. Liquid waste containing marijuana or byproducts of marijuana processing will be disposed of in compliance with all applicable state and federal requirements, including but not limited to, for discharge of pollutants into surface water or groundwater (*Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53; 314 CMR 3.00: Surface Water Discharge Permit Program; 314 CMR 5.00: Groundwater Discharge Program; 314 CMR 12.00: Operation Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Dischargers; the Federal Clean Water Act, 33 U.S.C. 1251 et seq., the National Pollutant Discharge Elimination System Permit Regulations at 40 CFR Part 122, 314 CMR 7.00: Sewer System Extension and Connection Permit Program*), or stored pending disposal in an industrial wastewater holding tank in accordance with *314 CMR 18.00: Industrial Wastewater Holding Tanks and Containers, Construction, Operation, and Record Keeping Requirements*.
3. Organic material, recyclable material and solid waste generated at a Marijuana Establishment shall be redirected or disposed of as follows:

- i. Organic and recyclable material shall be redirected from disposal in accordance with the waste disposal bans described at 310 CMR 19.017: *Waste Bans*.
 - ii. To the greatest extent feasible:
 1. Any recyclable material as defined in 310 CMR 16.02: *Definitions* shall be recycled in a manner approved by the Commission; and
 2. Any Marijuana containing organic material as defined in 310 CMR 16.02: *Definitions* shall be ground up and mixed with other organic material as defined in 310 CMR 16.02: *Definitions* at the Marijuana Establishment such that the resulting mixture renders any Marijuana unusable for its original purpose. Once such Marijuana has been rendered unusable, the organic material may be composted or digested at an aerobic or anaerobic digester at an operation that is in compliance with the requirements of 310 CMR 16.00: *Site Assignment Regulations for Solid Waste Facilities*.
4. Solid waste containing marijuana will be ground up and mixed with solid wastes such that the resulting mixture renders the marijuana unusable for its original purposes. Once such marijuana waste has been rendered unusable, it will be brought to a solid waste transfer facility or a solid waste disposal facility that holds a valid permit issued by the Department of Environmental Protection or by the appropriate agency in the jurisdiction in which the facility is located.
5. No fewer than two Marijuana Establishment Agents must witness and document how the solid waste or organic material containing Marijuana is handled on-site, including, but not limited to, the grinding up, mixing, storage and removal from the Marijuana Establishment in accordance with 935 CMR 500.105(12). When Marijuana Products or waste is disposed or handled, the Marijuana Establishment must create and maintain an electronic record of the date, the type and quantity disposed or handled, the manner of disposal or other handling, the location of disposal or other handling, and the names of the two Marijuana Establishment Agents present during the disposal or other handling, with their signatures. A Marijuana Establishment shall keep these records for at least three years. This period shall automatically be extended for the duration of any enforcement action and may be extended by an order of the Commission.

CASH HANDLING & TRANSPORTATION REQUIREMENTS

PEx will implement the following security measures and procedures in accordance with 935 CMR 500.110(7) for safe cash handling and cash transportation to financial institutions or DOR facilities to prevent theft and loss, and to mitigate associated risks to the safety of employees, customers and the general public. Safety measures shall include:

1. An on-site secure locked safe or vault maintained in an area separate from retail sales areas used exclusively for the purpose of securing cash.
2. Video cameras directed to provide images of areas where cash is kept, handled and packaged for transport to financial institutions or DOR facilities. The cameras will be

motion-sensor activated and will be able to produce a clear, still image whether live or recorded.

3. A written process will be implemented for securing cash and ensuring transfers of deposits to PEX's financial institutions and DOR facilities on an incremental basis consistent with the requirements for deposit by the financial institution or DOR facilities.
4. Use of an armored transport provider licensed pursuant to *M.G.L. ch. 147, § 25* and approved by the financial institution or DOR facility.

Alternatively, PEX may request an alternative security provision under *935 CMR 500.110(2)* for purposes of cash transportation to financial institutions and DOR facilities. Any approved alternative security provision shall be included in the security plan shared with law enforcement in the municipality in which the Marijuana Establishment is licensed and periodically updated as required under *935 CMR 500.110(1)(q)*. To be determined to provide a sufficient alternative, any such alternative safeguard shall include, but may not be limited to:

1. Requiring the use of a locked bag for the transportation of cash from a Marijuana Establishment to a financial institution or DOR facility;
2. Requiring any transportation of cash be conducted in an unmarked vehicle;
3. Requiring two registered Marijuana Establishment Agents employed by PEX to be present in the vehicle at all times during transportation of deposits;
4. Requiring real-time GPS tracking of the vehicle at all times when transporting cash;
5. Requiring access to two-way communications between the transportation vehicle and the Marijuana Establishment;
6. Prohibiting the transportation of Marijuana or Marijuana Products at the same time that cash is being transported for deposit to a financial institution or DOR facility; and
7. Approval of the alternative safeguard by the financial institution or DOR facility.

All written safety and security measures developed under *935 CMR 500.105(7)* shall be treated as security planning documents, the public disclosure of which would jeopardize public safety.

EMERGENCY POLICIES & INCIDENT REPORTING

PEX will develop emergency policies and procedures for securing all product following any instance of diversion, theft or loss of marijuana, and conduct an assessment to determine whether additional safeguards are necessary. All security policies and procedures will be shared with local law enforcement authorities and fire services and periodically if the plans or procedures are modified in a material way.

PEX will immediately, and in no instances in more than 24 hours following discovery of the breach or incident, notify law enforcement authorities and the Commission of any security breach or other reportable incident defined in *935 CMR 500.110(9)* including, but not limited to:

1. Discovery of inventory discrepancies;
2. Diversion, theft or loss of any marijuana product;
3. Any criminal action involving or occurring on or in the premises or licensee or agent;

4. Any suspicious act involving the sale, cultivation, distribution, processing, or production of marijuana by any person;
5. Unauthorized destruction of marijuana;
6. Any loss or unauthorized alteration of records related to marijuana;
7. An alarm activation or other event that requires response by public safety personnel, including but not limited to local law enforcement, police and fire departments, public works or municipal sanitation departments, and municipal inspectional services departments or security personnel privately engaged by the Marijuana Establishment;
8. Failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last more than eight hours;
9. A significant motor vehicle crash that occurs while transporting or delivering Marijuana or Marijuana Products and would require the filing of a Motor Vehicle Crash Operator Report pursuant to *G.L. c. 90 § 26*, provided however that a motor vehicle crash that renders the Licensee's vehicle inoperable shall be reported immediately to state and local law enforcement so that Marijuana or Marijuana Products may be adequately secured; or
10. Any other breach of security.

PEX will provide written notice in the form of an incident report to the Commission within ten calendar days of any incident described in *935 CMR 500.110(9)(a)*. Such report shall detail the circumstances of the event, any corrective action taken and confirmation that the appropriate Law Enforcement Authorities were notified. PEX will maintain all records and documentation of any reportable incident for not less than one year or the duration of an open investigation, whichever is longer, and made available to the Commission and Law Enforcement Authorities within their lawful jurisdiction on request.

SECURITY AUDITS

On an annual basis, PEX will obtain, at PEX's expense, a security system audit by a vendor approved by the Commission. The security audit report will be provided to the Commission within 30 days of conducting the audit. If the audit identifies concerns related to the establishment's security system, the PEX will also submit a plan to mitigate those concerns within ten (10) business days of submitting the audit.

DELIVERY

PEX shall implement adequate security measures to ensure that each vehicle used for transportation of Marijuana and Marijuana Products is not readily accessible to unauthorized individuals and to prevent and detect diversion, theft or loss of Marijuana. Security measures shall, at a minimum, include for each operational delivery vehicle:

1. A vehicle security system that includes an exterior alarm;
2. A secure, locked storage compartment in each vehicle and not easily removable for the purpose of transporting the Marijuana or Marijuana Products;

3. A secure, locked storage compartment in each vehicle that is not easily removable for the purpose of transporting and securing cash used as payment for deliveries of Marijuana or Marijuana Products;
4. A means of secure communication between each vehicle and the Marijuana Establishment's dispatching location which shall be capable of being monitored at all times that a vehicle is performing a delivery route. Means of communication shall include:
 - a. Two-way digital or analog radio (UHF or VHF);
 - b. Cellular phone; or
 - c. Satellite phone.
5. A global positioning system (GPS) monitoring device that is:
 - a. Not a mobile device and that is attached to the vehicle at all times that the vehicle contains Marijuana or Marijuana Products; and
 - b. Monitored by PEx at a fixed location during the transportation of Marijuana or Marijuana Products for the purpose of home delivery with location checks occurring at least every 30 minutes. PEx may delegate monitoring of the GPS to the Third-party Technology Platform Provider with which PEx has a contract, provided that PEx shall be responsible for ensuring that monitoring occurs as required under 935 CMR 500.110(8).
6. A video system that includes one or more video cameras in the storage area of the vehicle and one or more video cameras in the driver area of the vehicle and which shall remain operational at all times during the entire transportation process and which shall have:
 - a. The ability to produce a clear color still photo whether live or recorded; and
 - b. A date and time stamp embedded in all recordings which shall be synchronized and set correctly at all times and may not significantly obscure the picture.
7. All security equipment in each vehicle shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test.

Agents engaged in the delivery of Marijuana or Marijuana Products to a Consumer shall have on their person an operational body camera during all times that the Marijuana Establishment Agent is outside of the delivery vehicle for the purpose of transacting a delivery

1. The body camera shall record all deliveries.
2. Consumers shall be notified of the use of body cameras to record delivery transactions at the time of order, on the proof of order and by the Marijuana Establishment agent on arrival at the Residence.
3. In addition to providing notice, body cameras shall be displayed conspicuously on the Marijuana Establishment Agent's person.
4. PEx shall maintain video from body cameras confidentially and protected from disclosure to the full extent allowed by law. The Licensee shall implement data security, records retention, and record destruction policies for body camera video in compliance with applicable federal and state privacy laws including, but not limited to, the *Driver Privacy Protection Act*, 18 USC § 2721, the *Massachusetts Identify Theft Act*, M.G.L. c. 93H, 201 CMR 17.00: *Standards for the Protection of Personal Information of Residents of the Commonwealth*, and the *Fair Information Practices Act*, M.G.L. c. 66A.

5. Video of deliveries shall be retained for a minimum of 30 days, or, with notice to PEx, for the duration of an investigation by the Commission or by law enforcement, whichever is longer. To obtain video from a Licensee as part of an investigation, Commission staff shall consult with the Executive Director and to the extent possible, view the video at the place of storage.
6. PEx will not share or disclose any portion of the information or video footage collected as the result of the use of a body camera pursuant to *935 CMR 500.110(8)(b)* to any third party not explicitly authorized by *935 CMR 500.000* to have access to that video footage, subject to the exceptions in *935 CMR 500.110(8)(b)6.a.* and *b.*
 - a. A Licensee or Marijuana Establishment shall make video footage available to law enforcement officers acting in his or her official capacity pursuant to a validly issued court order or search warrant demonstrating probable cause.
 - b. Nothing in *935 CMR 500.110(8)6.* shall prohibit law enforcement from performing a constitutionally valid search or seizure including, but not limited to, circumstances that present an imminent danger to safety, and other exceptional or emergency circumstances where time or opportunity to apply for a warrant is lacking.
7. Unless retained for investigative purposes, the Licensee shall erase or otherwise destroy videos after the 30-day retention period.

PEx shall ensure that all vehicles used for deliveries are staffed with a minimum of two Marijuana Establishment Agents. At least one Marijuana Establishment Agent shall remain with the vehicle at all times that the vehicle contains Marijuana or Marijuana Products.

All Marijuana Establishment Agents acting as delivery employees of PEx must have attended and successfully completed Responsible Vendor Training Basic Core Curriculum and Delivery Core Curriculum courses in accordance with *935 CMR 500.105(2)(b)* prior to making a delivery.

A Marijuana Establishment Agent shall document and report any unusual discrepancy in inventory to the Commission and the local Law Enforcement Authorities in which the establishment is licensed within 24 hours of the discovery of such a discrepancy.

PEx shall report to the Commission and local law enforcement any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport immediately and, under no circumstances, more than 24 hours of becoming aware of any accidents, diversions, losses, or other reportable incidents and shall otherwise comply with the incident reporting requirements set forth under *935 CMR 500.110(9)*.

The following individuals shall have access to PEx operations and vehicles, including video recordings:

1. Representatives of the Commission in the course of responsibilities authorized by *M.G.L. c. 94G* or *935 CMR 500.000*;
2. Representatives of other state agencies acting within their jurisdiction; and
3. Law Enforcement Authorities and emergency medical services in the course of responding to an emergency.

935 CMR 500.000 shall not be construed to prohibit access to authorized state or local Law Enforcement Authorities or public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction.

All vehicles used by PEx for home delivery are subject to inspection and approval by the Commission prior being put into use. It shall be PEx's responsibility to make the Commission aware of its intent to introduce a new vehicle into operation and ensure an inspection of the vehicle prior to commencing operation.

Firearms are strictly prohibited from PEx vehicles and from Marijuana Establishment Agents performing home deliveries.

LAKEVIEW ENGINEERING ASSOCIATES

P.O. Box 787
Hudson, MA 01749
508-232-8302

PROJECT MEMORANDUM

To: Kaily S. Hepburn, Esq.
Pineapple Express

From: Stephen E. Poole / T.T. Chiang, PE

Date: November 10, 2022

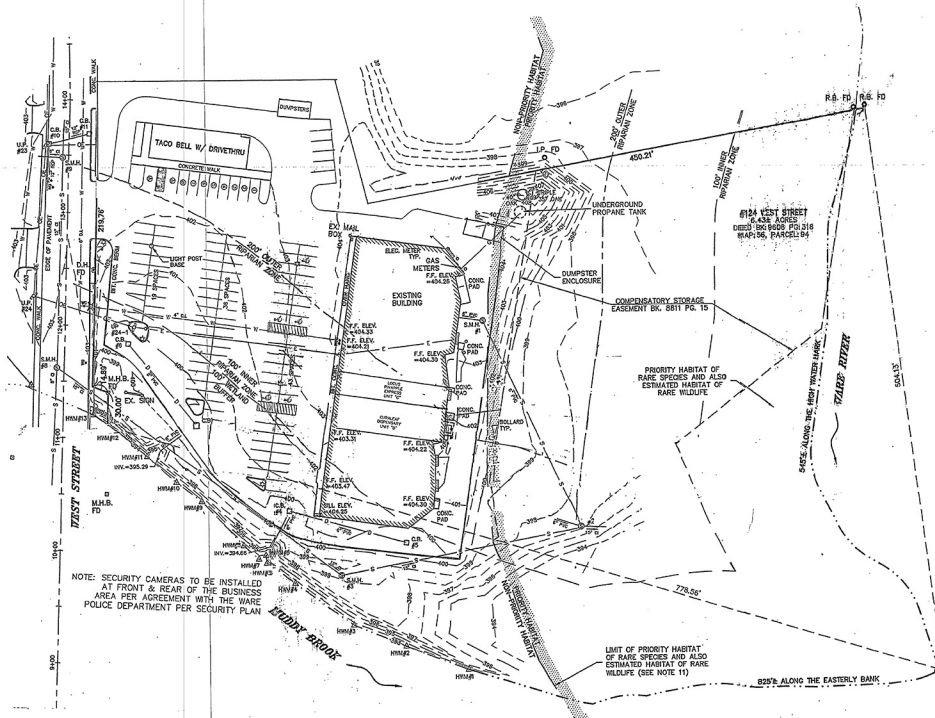
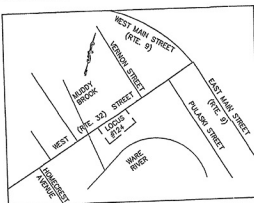
Re: 124C West Street, Ware, MA

As per your request, we have reviewed the project site and discussed your current & future plans for the business, with especial regard to the product delivery plan. We have also reviewed the VHB traffic study that was produced for the Taco Bell facility that is located within the same retail complex as your proposed activity. This study was conducted in 2016 and determined that 15,700 vehicle trips per day, based on automated traffic counters) occurred on West Street at the site location. It was determined that this level would only increase slightly through the seven year study period as there were no major projects planned in the area. The study determined that traffic conditions on West Street in general were good with the signalized condition at Vernon Street operating at a high level of service. The study did project minor delays at the project site intersection with West Street in the AM & PM peak traffic times due to the Taco Bell development.

Your projections for the business call for an initial staff of two delivery drivers to provide customer drop off of product within Ware and surrounding locals. Product deliveries are proposed to be organized & loaded by 8:30 AM of each business day, with each of the drivers conducting two, four hour delivery routes per day. This would generate six trips per day per driver or a total of twelve trips related to the delivery operations during the startup of the business. It is projected that the delivery operations could double after a year of operation and be constant after that time. Assuming that there would be an average of four employees operating the business per shift, out of the premises, there would be a minimum of sixteen additional daily trips related to the project. It can be assumed that two of the site employees, assuming eight hour shifts over the twelve hour operating time and the two drivers would arrive during the morning peak traffic time (7AM to 9AM) and that the two drivers would return & exit for the day after their second delivery route during the afternoon peak traffic time (4PM to 6PM). The initial shift of site workers would be exiting just before peak PM traffic and the second

shift of site workers would arrive and exit outside peak traffic hours. This would yield six AM peak hour trips initially & ten peak hour trips after full build out. PM peak hour trips would be four initially and eight after full build out. The remainder of the eighteen staff and non-peak delivery trips would be spaced out over the non-peak hours of the day. Overall, the project could result in a total of 36 trips per day versus the 2016 volume of 15,700 trips per day on West Street or an increase of 0.2% in traffic volume. The study indicated that the evening peak hour traffic exiting the site was the most congested which is typical for an un-signalized intersection during peak traffic flow. The addition of two to four exiting trips generated by the project is not anticipated to negatively impact the congestion at this intersection.

Overall, West Street operates at a high level of service with minor delays at signalized intersections and lower than average accident levels. The site distance at the project site exit is more than adequate in both directions for exiting traffic and the increase in exiting traffic from the project is minimal as noted. It is not anticipated that the level of your operations will have any impact on the traffic flow on West Street or at the project site intersection with West Street.



NOTE: SECURITY CAMERAS TO BE INSTALLED AT FRONT & REAR OF THE BUSINESS AREA PER AGREEMENT WITH THE WARE POLICE DEPARTMENT PER SECURITY PLAN

NOTE: THIS PLAN IS BASED ON AN EXISTING CONDITIONS PLAN BY SHERMAN & FRYDRYK, LLC LAND SURVEYING AND ENGINEERING, DATED SEPTEMBER 16, 2016

NOTE: ALL UNDERGROUND UTILITY LOCATIONS AND ELEVATIONS ARE APPROXIMATE AND MUST BE VERIFIED AT TIME OF CONSTRUCTION.
CALL DIG SAFE 1-800-344-7233

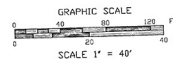
PROPERTY & ZONING REFERENCE

ASSESSORS MAP 56, PARCEL 94

ZONING DISTRICT: HIGHWAY COMMERCIAL

PROPERTY DATA

PROPERTY REFERENCE: BK 9606, PAGE 318
HAMPSHIRE DISTRICT REGISTRY OF DEEDS



Page 24

OWNER: ALDRICH MANAGEMENT COMPANY, LLC
1975 HEMPSTEAD TURNPIKE, SUITE 309
EAST MEADOW, NEW YORK 11554-1703

APPLICANT: PINAPPLE EXPRESS, LLC
124C WEST STREET
WARE, MASSACHUSETTS 01082

EXISTING SITE PLAN 124C WEST STREET WARE, MASSACHUSETTS

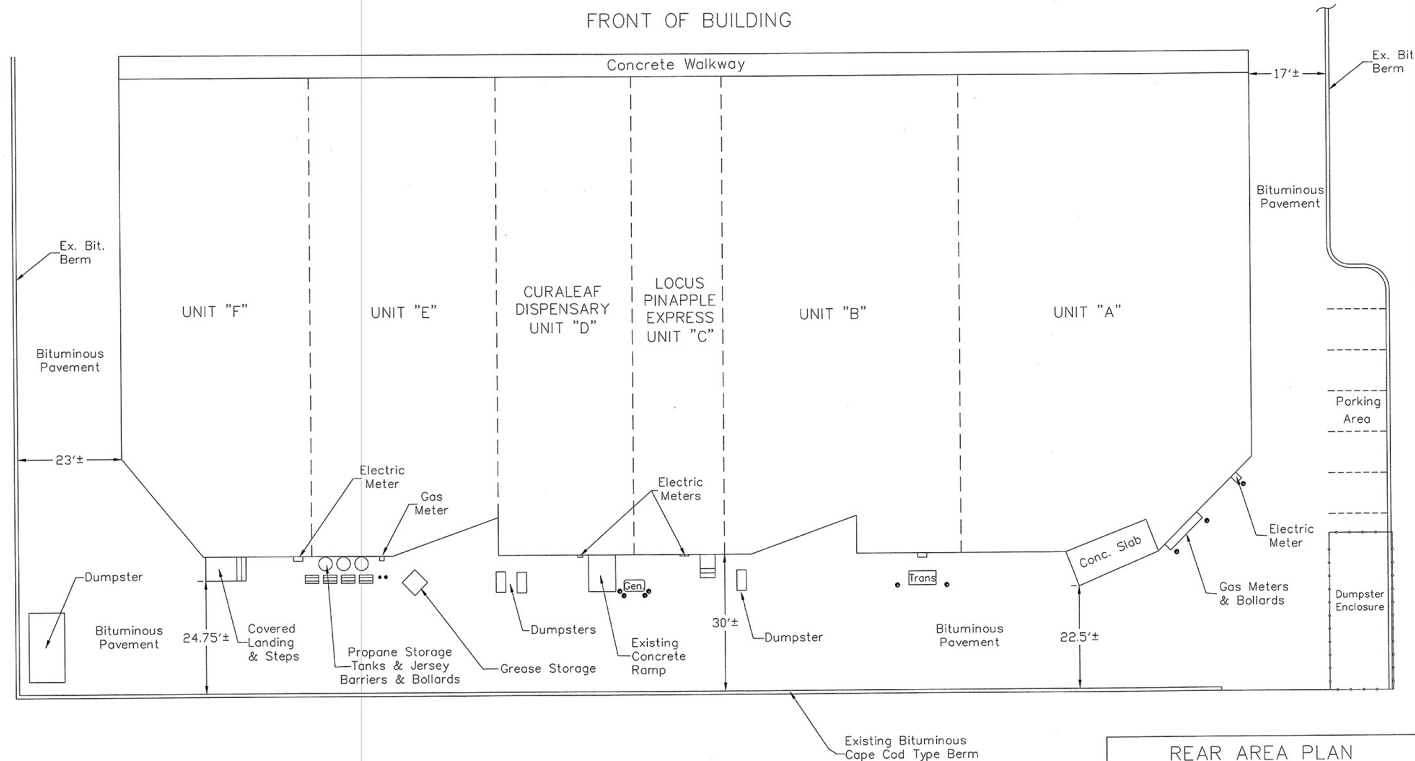
SCALE: 1"=40' DATE: NOVEMBER 3, 2022

PREPARED BY:
LAKEVIEW ENGINEERING ASSOCIATES
CIVIL ENGINEERING & ENVIRONMENTAL PERMITTING
P.O. BOX 787 HUDSON, MA 01749
(508) 232-8302



DESIGNED BY: SEP	DRAWN BY: SEP	CHECKED BY:
NO.	DESCRIPTION	DATE

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NOTE: ALL UTILITY & STRUCTURE LOCATIONS ARE APPROXIMATE AND WERE BASED ON A TAPE SURVEY OF THE AREA

Page 25

<p>REAR AREA PLAN 124 WEST STREET WARE, MASSACHUSETTS</p>		
SCALE: 1"=10'	DATE: NOVEMBER 3, 2022	
<p>PREPARED BY: LAKEVIEW ENGINEERING ASSOCIATES CIVIL ENGINEERING & ENVIRONMENTAL PERMITTING P.O. BOX 787 HUDSON, MA 01749 (508) 232-8302</p>		
DESIGNED BY: S.E.P.	DRAWN BY: S.E.P.	CHECKED BY:
No.	DESCRIPTION REVISIONS	DATE
<p>© 2022 PROJ. 124 WEST ST. / DWG. / DETAIL SHEET 2 OF 2</p>		

- b) In the case of a surety company bond, such an agreement for an extension shall not be effective until the surety delivers to the Planning Board a written statement that the surety agrees to the proposed alteration of the completion schedule and that such alteration shall not relieve or affect the liability of the surety company.
- c) In the case of a covenant, the Board may grant final approval of the Definitive Plan conditional upon the completion of the construction of all ways and installation of utilities within specified time period from date of said covenant. Failure to complete such improvements shall automatically rescind approval of the plan.
- d) Failure to complete all improvements as required by these rules and regulations within the time allotted shall cause the Planning Board to draw upon the performance guarantee (surety bond, deposit of money, letter of credit) in order to complete said improvements and/or schedule a public hearing in order to rescind approval of the subdivision in accordance with appropriate sections of MGL c. 41, § 81.
- e) If the specified subdivision improvements in accordance with the Rules and Regulations are not completed within five (5) years of the date of the bond, deposit of money, lender's agreement or covenant, the Planning Board may require an estimate of the costs of the remaining work, increase the amount of the performance guarantee proportionately, and establish a new date for completion of said required improvements. Failure of the developer to complete the improvements within said five (5) year period, or any extension thereof, shall not relieve the developer from his/her obligation to pay for increased costs for completing the improvements in excess of his/her performance guarantee and shall be grounds for rescission of the approval of the plan pursuant to G.1., Ch.41, Sec. 81 W.

Commented [WR5]: Is there better language that can be used here?

2.4.10 Evidence of Performance and Release/Partial Release of Performance Guarantee

- a) Procedures for partial release

The developer may, upon partial completion and installation of required improvements in a subdivision, the security for the performance of which was given by bond, deposit of money, letter of credit, or covenant, make formal application, in writing either by hand delivery or certified mail, to the Planning Board for partial release of his/her/their performance guarantee, in accordance with the procedures set forth herein. It is up to the discretion of

the Planning Board whether to approve such request. The Planning Board may deny, approve or partially approve such request. The Planning Board shall determine/approve the actual dollar amount (where applicable). The Planning Board may require a change in the form/method and amount of the Performance Guarantee when a partial release is requested by the applicant.

1. Financial performance guarantee

The amount of such a bond, or deposit of money, or letter of credit or three-party agreement for lender fund retention held may, from time to time, be reduced by the Planning Board. The applicant shall present to the Planning Board a list of all construction items performed and/or completed, said list to be based on the subdivision approval, and the subdivision regulations in their entirety. The amount to be reduced by the Planning Board, after consultation with the Highway Superintendent, shall be based upon federal or state prevailing wage construction costs at the time the application for reduction is made. The Planning Board shall withhold adequate funds to complete the project, but shall withhold no less than 20% of the original approved cost estimate. At the completion of the project (based on a written acceptance from the Planning Board that the project has been completed) and a one-year warranty period, the amount withheld shall be released under section 2.4.10.a.

2. Covenant

The developer may request a release of conditions for lots where the required improvements have been completed for that section of roadway beginning at any intersection with a Town road and abutting lots up through the last lot to be released. Lots may only be released if they abut the functionally (in the opinion of the Planning Board) completed portion of the road. No partial release from the covenants will be approved if the total length of roadway, including a temporary turnaround, abutting said designated lots, exceeds the Town's maximum allowable length for dead-end streets unless the Planning Board has already approved within the limits of the development a dead-end street exceeding said limits. In the absence

of financial performance guarantees, adequate covenants will be held to ensure completion of the project, including record plans, street acceptance plans, site inspections, and legal work. In addition, a covenant on one lot which can be built on will be held until either a) the Town has acceptance all of the Definitive Plan's roadways a Town streets, or b) said covenant has been exchanged in lieu of the cash value (as determined by the Planning Board) of the lot. Covenant shall be inscribed on the Definitive Plan or in a separate document referred to on the Plan, and delivered to the Planning Board.

- i. The subdivider may request a Release of lots from covenant, in exchange for a bond, deposit of money or surety provided that:
 - A revised Construction Cost Estimate (see Section 2.4.8.1.i) for all of the work remaining to be completed in accordance with the approved plans has been submitted.
 - Lots will be released in area of the subdivision where all the required improvements have been completed.
 - The lots run consecutively and are released on both sides of the road simultaneously, beginning with the lots nearest any intersection of the subdivision road and a Town road.
 - The amount of the surety of Bond shall be determined by the Planning Board, based on the submitted revised Construction Cost Estimate and their estimates for constructing the road within existing approval. The amount of the Surety or Bond shall be determined on a request-by-request basis, and each request shall be judged on its own merits.
 - The amount of the Surety or bond on existing lots for which prior Surety or Bond has been given may be increased by the Planning Board should the specified Subdivision improvements in accordance with these rules and regulations not be completed within the allotted time period as specified and such increase would take into consideration increased construction costs.

- Such a covenant shall be inscribed on the Definitive Plan or in a separate document referred to on the Plan, and delivered to the Planning Board. The Planning Board shall turn over the covenant to the Town Counsel who shall review its contents.
3. All requests for a partial release of the performance guarantee must be accompanied by:
- i. A revised Construction Cost Estimate (see Section 2.4.8.1.i) for all of the work remaining to be completed in accordance with the approved plans.
 - ii. A certification from the project's engineer that all work and systems have been completed in accordance with the approved plans and are functioning as designed and intended.
 - iii. Proof that all fees to cover inspections for the release of the performance guarantee have been paid in full by the applicant.
 - iv. "As-Built" plans for that portion of the roadway for which a partial release is being requested.

b) Procedures for full/final release.

The developer may, upon completion and installation of required improvements in a subdivision, the completion of record plans and street acceptance plans, as specified in these rules and regulations, and the completion of a one-year labor and materials warranty period make formal application, in writing either by hand delivery or certified mail, to the Planning Board for full release of any outstanding performance guarantee.

1. Before the Planning Board releases the full interest of the Town in said performance guarantee, the Planning Board shall:
- i. Receive a certification from the project's engineer that all work and systems have been completed in accordance with the approved plans and are functioning as designed and intended.

The sanitary sewer and public water systems must be pressure tested and videotaped and comply with the municipality's

standards. Documentation of such testing and videotaping must be submitted.

In no instance shall bonding or covenants be released for the final road course and sidewalks until said work has withstood one full winter season. Partial or final release for this work may be requested of the Planning Board no sooner than April 1st of the calendar year subsequent to completion of way and walks.

- ii. That the streets and drainage system have functioned as designed and intended and been in use for through one full winter.
- iii. Obtain in writing from the Director of Public Works, or from a registered professional engineer chosen by the Planning Board (and paid for by the applicant), a certificate of statement that all work and systems required by these rules and regulations has been constructed in conformance with the approved construction plans. In the case where roadways will remain under private ownership, the above-mentioned certificate or statement shall be supplied by the project's registered professional engineer.
- iv. Receive from the applicant written evidence from the electric, telephone, gas and cable TV companies and all other public and private utilities stating that their respective underground systems have been installed and are functioning to their satisfaction.
- v. Receive from the applicant written evidence from a Registered Land Surveyor that all permanent bounds and monuments on all street lines and on the lot or lots within the subdivision are in place and are accurately located in accordance with the approved Definitive Plan.
- vi. Find that all fees to cover inspections for the release of the performance guarantee have been paid in full by the applicant.
- vii. Obtain from the applicant a set of record "as-built" construction plans. Approval of said plans by the Planning Board shall take place after review of the former by the Director of Public Works.

- viii. Receive from the applicant street acceptance plan or plans and necessary documents. Said plans and documents, after approval by the Planning Board and the Director of Public Works, shall be presented by the Planning Board to the Town Meeting for a formal street acceptance in accordance with the Town Street Acceptance Policy.
 - ix. Copies of all of the recorded lot deeds showing that the applicant has retained their rights to the subdivision road(s) right-of-way, or Certification from developer's lawyer that all deeds to lots contained phrasing which retained his rights to the right-of-way(s).
 - x. All "as-built" Definitive Subdivision Plan information pertaining to the creation of the lots (including annotation of frontage, dimensions, acreage, etc.) shall also be submitted in a digital format acceptable to the Town using drawing interchange files (AutoCAD compatible files). Horizontal and vertical control shall have at least two (2) points tied (in feet) into the most recent Massachusetts State Plane Coordinate System using municipal GIS monuments stationed throughout the Town. Horizontal control shall have a closure of 1:12,000 or better. Vertical control must be of second order D Class 2 accuracy or better and be tied to USGS datum. All records of control shall be delivered to and reviewed by the Town.
 - xi. All "as-built" Definitive Subdivision Plan, Record and Street Acceptance Plan information shall also be submitted in pdf and AutoCAD compatible format or in another digital format acceptable to the Town.
- 2. If the Planning Board determines that all improvements as shown on the endorsed definitive plan and all required plans and legal documents have been completed satisfactorily, it shall release all the interest of the Town in such performance guarantee and return the bond to the person who furnished the same, or release the covenant, by appropriate instrument, duly acknowledged, which may be recorded.
 - 3. If the Planning Board determines after inspection that said construction or installation has not been completed, or wherein said construction or installation fails to comply with these rules and regulations, the Planning Board shall send by registered mail to the

applicant and to the Town Clerk the details wherein said construction or installation fails to comply with its rules.

4. The applicant shall have 30 days after receipt of such notice to correct all problems mentioned in the above. Failure of the applicant to finish all the necessary work within said 30 days shall cause the Planning Board to draw upon the bond or deposit of money as mentioned below.
5. Any such bond may be enforced and any such deposit may be applied by the Planning Board for the benefit of the Town of Ware, as provided in MGL c. 41, § 81, upon failure of the performance for which any bond or deposit was given to the extent of the reasonable cost to the Town of completing such construction and installation.

2.4.11 Recording of plan

The developer shall, within 10 days after the definitive plan has been endorsed, record said plan, required forms and, whenever applicable, the Planning Board's order of conditions, public easements (plans and documents), restrictive covenants, master deeds, etc., at the Hampshire County Registry of Deeds, and in the case of registered land with the Recorder of the Land Court. Within seven (7) days of said recording the applicant shall provide the Board with a copy of the Registry's receipt of said recording including the book, page number, and date of recording. The cost of said recording shall be borne by the developer.

2.4.12 Rescinding Approval of the Plan

Failure of the applicant to record the Definitive Plan at the Hampshire County Registry of Deeds within six (6) months of its endorsement or to comply with the construction schedule of the performance agreement shall constitute sufficient cause for the Board to rescind such approval, in accordance with the requirements of section 81-W of Chapter 41 of the General Laws as amended.

Commented [WR6]: Going back to the earlier question, is there better language to use here than "rescinding approval of the plan"?

2.4.13 Preconstruction Conference

Prior to commencement of construction, the developer and the contractor must meet with the Director of Public Works and other relevant Town officials (preferably at a single meeting) to review the subdivision permit and conditions. The applicant must provide evidence that all required documents

have been recorded and all required fees paid. Subsequent to said recording and prior to any building permit being issued, the project applicant shall file within seven calendar days one print of the definitive plan with the Building Inspector. Further, in accordance with the statute, where approval with covenant is noted thereon, the Inspector shall issue no permit for the construction of a building on any lot within the subdivision, except upon receipt from the Planning Board of a copy of the certificate of performance releasing the lot in question.

2.4.14 Road Acceptance

Commented [WR7]: See earlier question regarding generic transfer of title deed for private roadways.

When a road or way in a subdivision has been completed in a manner fulfilling the requirements of the Planning Board, the Applicant may request the Planning Board or their designee to inspect the road or way in order to give a recommendation to Town Meeting, on whether the road or way should be accepted.

Process for road acceptance can be found in the Town of Ware Road Acceptance Policy.

The Planning Board shall require the following information before making a recommendation to the Town Meeting:

- a) Two (2) copies of a plan of the road or way "as built," at a scale of one inch equals forty (1" = 40') feet to the inch at size 24" x 36". Said plan to show a center line profile (4 feet per inch on the vertical scale and 40 feet per inch on a horizontal scale) taken at fifty (50) foot intervals along the road or way as it has been completed. All utilities, public and private, above and below grade shall be shown on the plan as they exist. Said plan shall also be submitted in an electronic format acceptable to the Planning Board.
- b) Two (2) copies of the description by metes and bounds of each road and easement considered for acceptance by the Town. After acceptance by the Town Meeting of a road or way in an approved subdivision, the "as built" plan referred to above, the vote of the Town Meeting and the description of the road or way shall be recorded with the Hampshire County Registry of Deeds by the Town Clerk.
- c) A release of liens under oath from all contractors and subcontractors approved for work on the road or way, attesting to the fact that all

payments due them for labor and materials have been received, and that payments for all materials have been rendered.

- d) A plan for maintenance of the subdivision right-of-ways, easements, roads, and sidewalks for the time after acceptance by the Town and continuing for 20 years. The maintenance plan should include provision for the maintenance of road pavement, sidewalks, soil settling problems, street sweeping, snowplowing, maintaining vegetative stabilization of all rights-of-way and easements, erosion controls, Fall leaf cleanup, catch basin and drainage system cleaning and maintenance, all stormwater management systems, and other provisions as determined to be necessary by the Board.
- e) A Roadway Conveyance Plan showing the overall boundary of the proposed roadway to be conveyed to the Town. This plan must include the bearing and distance descriptions of the roadway right-of-way.
- f) A Roadway Conveyance Instrument prepared by an attorney and in a form suitable for execution by the Board of Selectmen after acceptance of the roadway at Town Meeting. This instrument must include a legal description of the right-of-way and include reference to any easement documents.
- g) An Easement Conveyance Plan showing overall boundary of any proposed easements to be conveyed to the Town. This plan must include the bearing and distance description of the easement tied to the roadway right-of-way.
- h) An Easement Conveyance Instrument prepared by an attorney and in a form suitable for execution by the Board of Selectmen after acceptance of the easement at Town Meeting. This instrument must include a legal description of the easement as well as a description of the Town's rights within the easement

Town Planner Update: December 15th, 2022

- **The Deadline for the “Request for Qualifications” for the Mary Lane Hospital Feasibility and Adaptive Re-Use Study was today (December 15th, 2022).**
 - We will begin the formal review process of applications.
 - The Hospital Committee will be involved in the interviewing and selection process.
- **The Pioneer Valley Planning Commission had submitted to the Town it’s first draft of proposed zoning language for Battery Storage Facilities:**
 - The PCD Department had review this document and submitted comments to PVPC.
 - Substantial progress has been made and will likely meet our deadline before Annual Town Meeting.
- **The Town has recently been awarded the following grants:**
 - Community Compact Grant
 - Around \$7,500 for purchase of a drone for inspectional services and training for seven individuals from the following departments: PCD, Building, Conservation, Fire, and Police.
 - \$35,000 for funding an Economic Development Strategic Plan with help from the Pioneer Valley Planning Commission (PVPC).