

DRAFT CONDITIONS

Flex Building at 191, 195, 199, and 201 Riverneck Road, Chelmsford, MA

Proposed Conditions for Site Plan Approval

Date: As of January 17, 2023

General Condition

All conditions within this document are intended to be conditions of site plan approval and run with the land and shall be binding upon Developer and Owner, its heirs, successors, and assigns.

Use Restriction Conditions

- 1) Notwithstanding that “warehouse” use is permitted as of right in the IA Zoning District and defined in the Town’s Zoning Bylaws as “a building used primarily for the storage of goods and materials for distribution but not for sale on the premises”, the Developer agrees to prohibit the use of the Premises as a so-called “last mile distribution warehouse” which, although not defined in the Town’s Zoning Bylaws, is defined here as “any tenant and its affiliate who operates for the purpose of last mile, high volume, direct to personal residence deliveries.”

Affiliates – In this Decision, “Affiliate” of a Party shall mean any entity, which controls, is controlled by, or is under common control with that Party. In this context “control” means (i) ownership by one entity, directly or indirectly, of at least fifty percent (50%) of the voting stock of another entity; (ii) power of one entity to direct the management or policies of another entity by contract or otherwise; (iii) both entities to be directly or indirectly owned by the same party.

Traffic and Mitigation Conditions

Summary of Peer Reviewer Comments, as included in Appendix A:

PEER REVIEW COMMENT	STATUS
T1	No Further Response Required
T2	Addressed in Proposed Condition #2
T3	No Further Response Required
T4	No Further Response Required
T5	No Further Response Required
T6	No Further Response Required
T7	Addressed in Proposed Condition #3
T8	Addressed in Proposed Condition #7
T9.1	Addressed in Proposed Condition #2
T9.2	Addressed in Proposed Condition #2
T9.3	Addressed in Proposed Condition #4
T9.4	Addressed in Proposed Condition #10
S1	No Further Response Required
S2	Addressed in Proposed Condition #7
S3	Addressed in Proposed Condition #8
S4	No Further Response Required
S5	Addressed in Proposed Condition #9
S6	Addressed in Proposed Condition #9

Proposed Traffic Conditions. These conditions were previously sent to the Town and reviewed by Traffic Peer Reviewer.

- 1) The Applicant shall conduct post occupancy traffic monitoring to document the traffic characteristics, truck activity and travel patterns of the Project. The scope of the post occupancy monitoring program shall be approved by the Community Development Director and the Town Traffic Advisory Committee prior to the data collection effort. The post occupancy monitoring program shall be performed at twelve (12) months and at twenty-four (24) months after the issuance of a final certificate of occupancy, to confirm the conclusion set forth in the December 2021 Traffic Report and subsequent supporting documents (collectively the “Traffic Control Documents”), including: i) the total volume of traffic generated by the Project on an average weekday and during the weekday morning and evening peak-hour; ii) truck traffic during these periods; and iii) the directional distribution of employee/visitor trips and truck trips measured at the Project driveways. If the post occupancy monitoring demonstrates significant adverse impacts directly related to the Project as indicated by any of the following: a) the volume of

traffic associated with the Project as measured at the Project driveways exceeds 10 percent (10%) of the trip estimates that are presented in the Traffic Control Documents on an average weekday or during the weekday peak hours; ii) the volume of truck traffic exceeds 10 percent (10%) of the trip estimates that are presented in the Traffic Control Documents on an average weekday or during the weekday peak hours; and/or iii) the directional distribution of employee and/or truck trips measured at the Project driveways varies by more than 10% of the distribution patterns that are presented in the Traffic Control Documents; the Applicant shall consult with the Town to implement reasonable corrective traffic mitigation adjustments, which may include without limitation working with the user/tenant of the Project to implement traffic management strategies and improvements to address any adverse impacts. The results of the post occupancy monitoring program shall be submitted to the Community Development Director within two (2) months of the data collection effort that forms the basis of the monitoring program. The Town may retain an independent review consultant to review the results of the post occupancy monitoring program at the expense of the Applicant.

- 2) To the extent that the Applicant seeks a Certificate of Occupancy prior to commencement of the MassDOT improvements at the Route 110/Steadman Street intersection, the Applicant shall review and adjust the traffic signal timing and phasing at the intersection, with a particular emphasis on the “yellow” and “all-red” clearance intervals, and pedestrian phase timings. In addition, the vehicle detection system on the Stedman Street approaches shall be reviewed and repaired/replaced as necessary to ensure that the system is functioning properly, and existing signs and pavement markings should be reviewed and replaced or supplemented where necessary to improve motorist guidance and safety. The requirement to perform these improvements is subject to MassDOT review and favorable approval, and the receipt of all necessary rights, permits and approvals to perform these approvals.
- 3) Prior to the issuance of the first Certificate of Occupancy for the Project, the Applicant shall design and implement an optimal traffic signal timing, phasing and coordination (if applicable) plan for the following intersections subject to receipt of all necessary rights, permits and approvals:
 - Route 129 at Turnpike Road and Golden Cove Road
 - Route 129 at the Route 3 Northbound Ramps
 - Route 129 at the Route 3 Southbound Ramps
- 4) The Applicant shall make a contribution to the Town prior to the issuance of the first Certificate of Occupancy in an amount not to exceed \$100,000 for: (i) the preparation of a traffic safety study in the general area of the site; and (ii) for the installation of traffic calming measures recommended as a result of the aforementioned study, such as speed radar feedback signs, crosswalks, or bus stops. The appropriate locations for these traffic calming measures will be determined by a committee comprised of direct residential

abutters, the Applicant and a member of the Planning Board and Community Development Department Staff. Measures may be installed prior to or after issuance of the Certificate of Occupancy, pending final determination of scope by the committee, the Town Traffic Advisory Committee and the Public Works Department.

- 5) To provide adequate sight lines, the Applicant shall, as appropriate, trim vegetation and landscaping within the sight line triangles looking east and west from the site driveway onto Riverneck Road. Any new plantings (shrubs, bushes or trees) or physical landscape features to be located within the driveway sight lines shall be maintained to ensure unobstructed lines of sight.
- 6) [VOID]
- 7) The Applicant commits to installing signage at the exit of the property directing all trucks to exit to the right upon leaving the site. This will direct all trucks to Route 129, I-495 and Route 3. Additionally, a stop sign and stop line will be located at the exit of the property.
- 8) A sidewalk shall run along the property line adjacent to Riverneck Road and extend along driveways to join other sidewalks on the site adjacent to parking areas and the building, as shown in the site plan.
- 9) The Applicant shall provide EV charging stations at up to 5% of the parking spaces constructed as shown in the approved site plans. The applicant shall provide bicycle parking to accommodate up to 5% of the future building occupants, as coordinated with future building tenants.
- 10) The Applicant shall develop and implement a comprehensive Transportation Demand Management (TDM) plan in consultation with tenant(s), once identified, to reduce single-occupancy vehicle trips to and from the Project Site. The TDM plan will be catered to the specific tenant operations, and will include the following strategies subject to tenant lease requirements:
 - A transportation coordinator for the Project to coordinate the TDM program;
 - Information regarding commuting options posted in a central location and/or otherwise made available to employees of the project;
 - A rideshare matching program for employees to encourage carpooling;
 - A “welcome packet” for employees detailing available commuter options including the contact information for the transportation coordinator and information to enroll in the employee rideshare program;
 - An Emergency Ride Home program for employees that car/vanpool or that arrive to the Project site by means other than in a single-occupant (SOV);

- Specific amenities provided to discourage off-site trips, including a break-room equipped with a microwave and refrigerator; direct deposit of paychecks; dry-cleaning service for on-site pick-up and delivery; offering telecommuting or flexible work schedules; and other such measures to reduce overall traffic volumes and travel during peak traffic volume periods;
- Pedestrian accommodations within the Project site to link the employee parking areas to the warehouse building and to Riverneck Road; and
- Secure bicycle parking provided at an appropriate location within the Project site.

Additional Proposed Traffic Condition:

- 11) The Applicant agrees to limit the number of “Tractor Trailers” (as defined below) entering and exiting the Site and on the “Access Road”, as defined herein, to a number no greater than an average daily number of 40 round trips per day (in and out equals one round trip) (“Tractor Trailer Limit”), which shall be calculated in the manner set forth below. For purposes of this condition, “Tractor Trailer” shall be defined as “a truck classified as Class 8 or above, consisting of a tractor attached to a semitrailer or trailer with four or more axles as defined by the Federal Highway Administration (FHWA) used for transporting loads” and “day” shall be defined as that period from 5:00 AM to 12:00 AM. The average daily number of Tractor Trailers shall be determined by means of a continuous automatic monitoring system located at the Site entrance drive and counted over consecutive twenty-one (21) day periods and the rolling average shall not exceed the Tractor Trailer Limit. The Applicant shall also include a provision in all tenant leases containing the Tractor Trailer Limit and, as appropriate, Tractor Trailer maximum average daily trips associated with each tenancy. In the event of a violation of the Tractor Trailer Limit, the Town shall provide the Applicant with written notice of said violation and the Applicant shall have thirty (30) days to initiate corrective action. If the Applicant fails to rectify said violation within such thirty (30) day period or such longer period of time as may be reasonably required to implement corrective measures so long as such cure is diligently prosecuted to completion, the Town shall have the right to exercise all of its rights and remedies in law and in equity to address said violation, including, but not limited to, revocation of this special permit.
- 12) The Applicant shall work with the Town, to provide a site monitoring system that will permit the Town as well as the Applicant to monitor traffic leaving the site project as well as travelling on the Access Road. This system shall provide prompt access to the Town/Applicant for verification of existing traffic conditions. The Town and Applicant shall reasonably agree on protocols to permit verification of existing traffic conditions at the site and on the Access Road and for the prompt resolution of any issues. These protocols may include financial penalties for repeated and /or continuing violations of the traffic limit conditions set forth in this permit as the condition may be amended from time to time. Any lease for the building or part thereof to be constructed at the premises shall

include provisions governing truck traffic circulation reflecting the provisions of this permit.

- 13) In connection with the upgrade of the Access Road in accordance with the Road Plan, the Applicant shall modify or work with Town to improve the site access onto the Access Road as well as the access point on Route 129 and Apollo Drive. The Town shall cooperate with the Applicant in granting any necessary permits, consents and approvals required from the Town to perform any required access enhancements.
- 14) In the event that the Town elects to accept the Access Road as a public road, the Applicant shall cooperate with the Town in connection with such action and will permit the Town's taking of such road pursuant to a so-called "low value taking". The prosecution of such taking action and the redesign of the Access Road after such taking and construction shall be solely the responsibility of the Town. Such taking shall include the easement areas noted on the Access Plan.
- 15) There shall be no utilization of the Access Road on a daily basis between the hours of 12:00 AM and 5:00 AM. To the extent required, the Applicant shall install security devices to prevent access from Riverneck Road onto the Access Road during this time period subject to appropriate public safety considerations. Such measures shall be in form and substance reasonably satisfactory to the Town acting by and through its Planning Board and other public safety authorities.
- 16) The Applicant, upon request by the Town shall reasonably cooperate with the Town in:
 - (i) submitting funding applications to Federal and State agencies to improve the Access Road provided that such actions impose no financial obligations (direct or indirect) on the Applicant; and
 - (ii) obtaining state approvals imposing a truck exclusion restriction on Riverneck Road provided that such actions impose no financial obligations (direct or indirect) on the Applicant.

Proposed Condition for Public Amenity

The Town is desirous of providing a public amenity to the abutting residents. Within one hundred eighty (180) days after the date of this decision, the Applicant shall negotiate in good faith, an easement with the Town on a portion of the Site fronting Riverneck Road, or on an alternate Town-owned parcel, to construct a recreational public amenity of approximately 10,000 square feet (the "Public Amenity") provided the Town grants any zoning relief required to not adversely impact the development of the Project. The form and substance of said easement shall be reasonably satisfactory to the Applicant, the Applicant's mortgagee and the Town and shall include, without limitation, provisions with respect to location, security, liability, signage, usage (daylight hours only), termination and relocation and acknowledgement of the Town's obligation to construct and maintain the Public Amenity, if established. The Town shall be solely responsible for obtaining all necessary permits, approvals and consents required to construct and

use the Public Amenity. The Applicant shall, however, reasonably cooperate with the Town in connection with the permitting of said Public Amenity by signing any applications and consents necessary to prosecute regulatory approval of the establishment of such Public Amenity provided the same does not impose any financial obligation to Applicant and Applicant is accorded the protection from liability provided under M.G.L. Chapter 21, Section 17c.

Site Plan Conditions

Summary of Peer Reviewer Comments, as included in Appendix B:

Comment	Status
General Engineering	
Comment 1	Issue resolved
Comment 2	Waiver submitted in initial filing. TDC considers issue resolved.
Comment 3	Signature added. TDC considers issue resolved.
Comment 11	Issue resolved
Comment 14	Issue resolved
Comment 20	Issue resolved
Comment 22	See site plan condition #1
Comment 31	Issue resolved
Comment 32	Issue resolved
Comment 35	Issue resolved

Site Design

G1	See site plan condition #2
G2	Issue resolved
G3	See site plan condition #3
G4	Issue resolved

Stormwater Management

SW1	Issue resolved
SW2	Issue resolved
SW3	Issue resolved
SW4	See site plan condition #9
SW5	Issue resolved
SW6	Issue resolved
SW7	See site plan condition #4
SW8	Issue resolved
SW9	Issue resolved
SW10	See site plan condition #5
SW11	See site plan condition #6
SW12	Issue resolved

SW13	Issue resolved
SW14	See site plan condition #7
SW15	Issue resolved
SW16	Issue resolved
SW17	Issue resolved
SW18	Issue resolved
SW19	Issue resolved
SW20	Issue resolved
SW21	Issue resolved
SW22	Issue resolved
SW23	Issue resolved
SW24	Issue resolved
SW25	Issue resolved
SW26	The Applicant has provided an appropriate seed mix as specified on C-302. Alternate plantings can be provided if deemed necessary. TDC considers issue resolved.
SW27	Detail (CDS2020-5-C) was previously provided on C-605. TDC considers issue resolved.
SW28	Issue resolved
SW29	Issue resolved
SW30	Issue resolved
SW31	Issue resolved
SW32	Issue resolved
SW33	Issue resolved
SW34	See site plan condition #8

Proposed Site Plan Conditions related to Town Peer Review Comments:

- 1) In response to Town Peer Review General Engineering comment 22, the Applicant will submit to Town Engineer details and locations of floor drain MDC traps after completion of plumbing drawings.
- 2) In response to Town Peer Review Site Design comment G1, the Applicant agrees to work with the Town to obtain the necessary permits and approvals in order to remove paving, curbing, light poles, septic tank, and berm, and replant with native grasses to improve the stormwater management outside our site and on town land adjacent to wetlands.

- 3) In response to Town Peer Review Site Design comment G3, the Applicant agrees to submit final retaining wall design plans to Town Engineer for review.
- 4) In response to Town Peer Review Stormwater comment SW7, the Applicant agrees to obtain necessary approvals and/or easements to allow for maintaining the existing stormwater outfall locations for drainage off the subject site.
- 5) In response to Town Peer Review Stormwater comment SW10, the Applicant agrees to submit a copy of the EPA NOI and signed SWPPP to the Town Engineer prior to start of construction.
- 6) In response to Town Peer Review Stormwater comment SW11, the Applicant agrees to submit a construction trucking route and conduct a survey of existing Riverneck Road to monitor for potential damage during construction and repair mitigation.
- 7) In response to Town Peer Review Stormwater comment SW14, the Applicant agrees to submit the final signed O&M plan to the Town Engineer.
- 8) In response to Town Peer Review Stormwater comment SW34, the Applicant agrees to submit a signed illicit discharge statement to the Town Engineer prior to construction.
- 9) In response to Town Peer Review Stormwater comment SW4, the Applicant agrees to perform additional test pits at each infiltration system, coordinated with and witnessed by Town personnel, prior to commencement of construction activities.

Additional Proposed Site Plan Conditions:

- 10) The Site Plan referenced above and submitted as part of the Applicant's special permit application is incorporated herein by reference and made a part hereof.
- 11) Modifications to the Site Plan which impact the layout of the building footprint but do not result in an increase in gross floor area may be permitted subject to an administrative plan review procedure.
- 12) The project includes a cap of 25 dock doors in operation at any single time. The Applicant may relocate dock doors to alternate locations within the building at their discretion to accommodate tenant needs, but the project is restricted to 25 dock doors in operation at any single time. If a dock door is no longer in use, the dock door will be removed and exterior wall infilled, or the dock door will be electrically decommissioned and blocked with fixed obstructions to render the opening unusable. To the extent additional loading docks are required, the Application shall submit a request to the Planning Board with a report stating that no significant impacts will result for the

additional loading docks and such plan will be considered and approved administratively by the Community Development Director.

- 13) All existing and/or proposed utilities should be clearly and accurately labeled (size, materials, existing/proposed, rim, invert, etc.) on the drawing, reflecting the most updated utility connections and sizing.
- 14) All handicap parking signs must adhere to the requirements of M.G.L., Part I, Title VII, Chapter 40, Section 22A, and clearly and legibly display the following message: "Handicapped Parking, Special Plate Required. Unauthorized Vehicles May Be Removed at Owner's Expense."
- 15) Prior to the issuance of a final certificate of occupancy, for the newly constructed building, all plans approved through the Planning Board for Site Plan Review, with comments from all departments, shall be verified through "As-Built" Plans. Said plans shall include all required landscaping, utilities, lighting, plot plan, site improvements and/or other requirements as specified in the approved decision. As-Built Plans shall be approved through the Town's Engineering, Building and/or appropriate department to verify the "As-Built Plans", prior to issuance of the certificate of occupancy.
- 16) There shall be no parking or standing of construction vehicles or construction worker vehicles on Riverneck Road at any time. All vehicles shall be parked interior to the Project site.
- 17) All activities involving loading or off-loading of materials shall be conducted interior to the Project site.
- 18) Outdoor lighting owned and maintained by the Applicant shall conform to the requirements of the Chelmsford Zoning Bylaw and as represented in the plans. The illumination levels of these outdoor lights shall not exceed the State or town maximum specified for parking areas, whichever is more stringent.
- 19) There shall be no footcandle spillover of light beyond property lines as calculated by lighting professionals.
- 20) The light source component of new lighting installations in the parking area shall not exceed a maximum of 25 feet in height, including the installation base. The lighting fixture shall be a cut-off design so as to limit light spilling outside of the parking area.
- 21) Lighting mounted on the exterior of the building shall be shielded and focused downward to limit upward bounce or spill onto adjacent properties.
- 22) The Stormwater Management Plan, Operations and Management plan shall show where snow will be stockpiled.

- 23) In the event that weather conditions prevent the installation of landscape materials as shown on the plans prior to a request for occupancy, the Applicant may request that the Planning Board accept a cash security bond or other performance guarantee reasonably acceptable to the Planning Board to guarantee completion of the landscape elements. The Planning Board will determine the reasonable value of this security.
- 24) The hours of construction operations, including demolition and materials processing activities, for the project site shall be limited to the hours between 7:00 A.M. and 6:00 P.M., Monday through Friday; and 7:00 A.M. to 12:00 P.M. on Saturday. This includes the starting and idling of vehicles and machinery. Sundays and Legal Holidays shall be days of no operation. Operation of construction equipment by a contractor outside the hours specified above may be allowed only by written permission of the Building Commissioner.
- 25) The Applicant shall comply with all applicable federal, state, and local regulations, including but not limited to, CMR Chapter 90, Section 16A governing vehicle idling at the site.
- 26) During construction on the Site, the Applicant shall police the area adjacent to Riverneck Road to keep it free and clear of construction debris and materials (and in other locations along Riverneck Road as may be necessary due to the construction activities at the Site) by means of a street sweeper with a dust control water feature.